

# LYNX Board Agenda


Central Florida Regional Transportation Authority  
455 N. Garland Ave.  
2nd Floor Board Room  
Orlando, FL 32801

Meeting Date: 9/23/2021  
Meeting Time: 2:00 PM

As a courtesy to others, please silence all electronic devices during the meeting.

## 1. Call to Order

## 2. Approval of Minutes

-  Board of Directors Meeting Minutes 8.26.21

Pg 4

## 3. Public Comments


- Citizens who would like to speak under Public Comments shall submit a request form to the Assistant Secretary prior to the meeting. Forms are available at the door.

## 4. Chief Executive Officer's Report









## 5. Oversight Committee Report

## 6. Consent Agenda


### A. Request for Proposal (RFP)

- i.  Authorization to Release a Request for Proposal (RFP) for General Planning Consulting Services Pg 8






















### B. Award Contracts

- i.  Authorization to Negotiate and Award Contract #22-C09 to Mansfield Oil Company for Fuel Delivery of 87 Octane Unleaded Gasoline Through the End of FY2022 Pg 10
- ii.  Authorization to Negotiate and Award Contract #22-C10 to Colonial Oil Industries for Fuel Delivery of Ultra Low Sulfur Diesel Through the End of FY2022 Pg 12
- iii.  Authorization to Negotiate and Award Contract #21-B06 to Jobbers Equipment Warehouse, Inc. for Rotary MOD30 Bus Lift Cylinder Replacement at the LYNX Operations Center (LOC) Maintenance Facility Pg 14
- iv.  Authorization to Negotiate and Award Contract #22-C07 to Aero Groundtek, LLC for Lawn Maintenance & Trash Removal Services at LYNX Bus Stops/Shelters Pg 16
- v.  Authorization to Negotiate and Award Contract #22-C08 to FaithWorks Total Ground Maintenance, LLC for Bus Stop Pressure Washing & Steam Cleaning Pg 18
- vi.  Authorization to Award Contract #21-C45 to AECOM Technical Services, Inc. for Architecture and Engineering Services for Facilities Pg 21
- vii.  Authorization to Award Contract #21-C46 to Kimley-Horn and Associates, Inc. for Architecture and Engineering Services for Shelters, Transfer Centers and LYMMO Pg 23
- viii.  Authorization to Award Contract #21-C48 to WSP USA, Inc. for Construction Engineering and Inspections Services (CEI) for the Pine Hills Bus Transfer Station Pg 25

### C. Extension of Contracts








- i.  Authorization to Exercise the First Option Year of the Bulk Motor Oil and Fluids Contracts Pg 27

### D. Miscellaneous




- i.  Authorization to Submit Grant Applications to the Florida Department of Transportation (FDOT) for the Enhanced Mobility of Seniors and Individuals with Disabilities Section 5310 Program and for Rural Areas 5311 Program under the 2021 Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) and the American Rescue Plan Act (ARPA) in the total amount of approximately \$7,835,000  
Pg 29  
  
-Attachments 
- ii.  Authorization for LYNX Insurance Broker to Negotiate and Bind Coverage for the Preferred Governmental Insurance Trust (PGIT) Package Renewal, Standalone Public Officials and Standalone Cyber Liability Pg 33
- iii.  Authorization to Execute Transportation Disadvantaged Coordination Contract between Central Florida Regional Transportation Authority, d/b/a LYNX, and Human Service Agencies for FY2022 Pg 35
- iv.  Authorization to Initiate Public Outreach for Fiscal Year 2022 Proposed Service Changes Pg 37
- v.  Authorization to Enter into a Cooperative Purchase Contract with Proterra, Inc. for Procurement of Six (6) Proterra 35' Battery Electric Buses and Related Items from Proterra, Inc. for a Not to Exceed Amount of \$5,300,000 Pg 39
- vi.  Authorization to Auction Surplus Capital Items Pg 41
- vii.  Authorization to Dispose of Items Accumulated Through the Lost and Found Process Pg 45
- viii.  Authorization to Amend and Restate the LYNX Defined Contribution Plan for BU Employees Governing Documents Pg 47  
  
-Attachments  
- ix.  Authorization to Amend and Restate the LYNX Deferred Compensation Plan and Trust Governing Documents Pg 157  
  
-Attachments   
- x.  Authorization to Amend and Restate the LYNX Money Purchase Plan and Trust Governing Documents Pg 310  
  
-Attachments     

## 7. Action Agenda

- A.  Approval of the FY2022 Proposed Operating and Capital Budgets Pg 516
- B.  Authorization to Enter into the FY2022 Service Funding Agreements with the Regional Funding Partners Pg 520  
  
-Attachments   
- C.  Authorization to Enter into the FY2022 Service Funding Agreements with the Municipal Funding Partners Pg 607  
  
-Attachments   

- D.  Authorization to Enter into the FY2022 Bus Service Agreements Pg 671  
 -Attachments    
- E.  Approval of the Amended and Restated Labor Agreement with Amalgamated Transit Union (ATU) AFL-CIO Local Chapter 1596 Pg 720
- F.  Approval of the Amended and Restated Labor Agreement with Amalgamated Transit Union (ATU) AFL-CIO Local Chapter 1749 Pg 722

## 8. Information Items

- A.  Notification of Settlement Agreements Pursuant to Administrative Rule 6 Pg 724
- B.  Notification of Sole Source Procurements Pursuant to Administrative Rule 4 Pg 725  
 -Attachments 

## 9. Other Business

## 10. Monthly Reports

- A.  Communications Report - August 2021 Pg 728
- B.  Monthly Financial Report - July 2021 Pg 734  
 -Attachments 
- C.  Planning and Development Report Pg 736
- D.  Ridership Report - June 2021 Pg 737  
 -Attachments 

## 11. Adjourned

Section 286.0105, Florida Statutes states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a meeting or hearing, he will need a record of the proceedings, and that, for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans With Disabilities Act of 1990, persons needing a special accommodation at this meeting because of a disability or physical impairment should contact Benjamin Gonzalez at 455 N. Garland Ave, Orlando, FL 32801 (407) 254-6038, not later than three business days prior to the meeting. If hearing impaired, contact LYNX at (407) 423-0787(TDD).

**LYNX**  
**Central Florida Regional Transportation Authority**  
**Board of Directors' Meeting Minutes**

**PLACE:** LYNX Central Station  
455 N. Garland Avenue  
Virtual and Board Room, 2<sup>nd</sup> Floor  
Orlando, FL 32801

**DATE:** August 26, 2021

**TIME:** 1:00 p.m.

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**Members in Attendance:**

Buddy Dyer, Mayor, City of Orlando, Chair

Jared Perdue, Secretary, Florida Department of Transportation – District 5, Secretary

Viviana Janer, Commissioner, Osceola County BoCC

Lee Constantine, Commissioner, Seminole County BoCC

**1. Call to Order**

Chair Dyer called the meeting to order at 1:00 p.m.

Chair Dyer asked Commissioner Janer to lead the Pledge of Allegiance.

**2. Approval of Minutes**

Commissioner Janer moved to approve the Board of Directors meeting minutes of July 22, 2021. Commissioner Constantine seconded. The minutes were unanimously approved as presented.

**3. Public Comments**

Jose Navarro – Kissimmee, FL

Mr. Navarro spoke about issues with ACCESSLYNX.

**4. Chief Executive Officer's Report**

Jim Harrison, Chief Executive Officer, stated that ridership has been increasing to levels not seen since before the pandemic. Paratransit ridership continues to remain steady.

LYNX hosted a virtual job fair on August 25. Ten offers were sent out, and if accepted, there will be twenty individuals in the September class. This will not address the entire driver shortage, but it is a good start.

The Transportation Security Administration extended the mask mandate until the middle of January. LYNX has continued with safety and disinfecting protocols for the welfare of employees and passengers. The disinfecting protocols now include our bus disinfecting system which has been installed on eighty percent of the fixed-route fleet.

LYNX has hosted pop-up vaccination sites in conjunction with the Department of Health at some of its facilities. LYNX will begin offering a wellness incentive for employees through the healthcare insurance for vaccinations.

In accordance with the Mayor Dyer's guidance and request for water conservation, LYNX employees and vendors are preserving water through September 7.

LYNX continues to work with APTA to bring the national conference to the Orange County Convention Center. APTA will be inviting the LYNX Board members to attend. Staff members will volunteer and attend.

On the agenda is the RFP for the Major Transit Development Plan Update. This major update is an opportunity to evaluate our services and plan ahead for the next 5 years. LYNX staff will work closely with our funding partners and their staffs to identify services and projects for the next 5 years.

## **5. Oversight Committee Report**

Commissioner Janer, Chair of the Oversight Committee provided her report on the Oversight Committee meeting that met earlier. She stated that the committee approved the minutes from the July 22, 2021, Oversight meeting. Amanda Clavijo, Finance and Audit Committee Chair, gave a report on the August 19, 2021 Finance & Audit Committee meeting. The Finance Committee recommends approval of all Consent Agenda items.

The Committee received two detailed presentations on the FY2022 Operating and Capital budgets. There was also a presentation on the third quarter operating results.

The Oversight Committee recommends approval of all Action and Consent Agenda items.

## **6. Consent Agenda:**

Chair Dyer asked if there were any changes to the Consent Agenda before there is a motion to approve consent agenda items 6.A.i. through 6.C.i. Mr. Harrison stated that he recommends the entire Consent Agenda for approval.

### **A. Request for Proposal (RFP)**

- i. Authorization to Release a Request for Proposal (RFP) for Landscape Maintenance Services at LYNX Facilities
- ii. Authorization to Release a Request for Proposal (RFP) for Consulting Services for LYNX's Transit Development Plan Major Update

- iii. Authorization to Release a Request for Proposal (RFP) for the Manufacturing of Commercial Style Transit Shelters
- B. Extension of Contracts
  - i. Authorization to Exercise the First Option Year of Contract #19-C35 with Employers Choice Online, Inc. for Pre-Employment Background Screening & Related Services
  - ii. Authorization to Exercise the First Option Year of the Executive Search and Recruiting Firm's Contracts
  - iii. Authorization to Exercise the Second Option Year of Contract #19-C151 with Standard Insurance Co. for Group Life, Long & Short-Term Disability and Accidental Death & Dismemberment
  - iv. Authorization to Exercise the Third and Final Option Year of Contract #18-C130 & #18-C128 with City Cab Company of Orlando LLC d/b/a Mears & UZURV Holdings, Inc. for the Purchase of Transportation Services Provided by Taxi and Transportation Network Company (TNC) Suppliers
- C. Miscellaneous
  - i. Authorization to Execute Resolution #21-005 for a Public Transit Grant Agreement with the Florida Department of Transportation for FY2022 Block Grant Funding in the Amount of \$12,823,048

Commissioner Janer made a motion to approve Consent Agenda items 6.A.i through 6.C.i. Seconded by Commissioner Constantine. Motion passed unanimously.

## 7. Work Session

### A. Work Session on FY2022 Operating and Capital Budgets

Chair Dyer recognized Lenny Antmann, Chief Financial Officer, to make the presentation. Mr. Antmann stated that in FY2022 LYNX will return to the funding model. Total county contributions remain the same as last year.

No fare increases are expected, with fixed-route ridership expected at seventy-five percent of pre-pandemic levels. Paratransit ridership is expected to be ninety-five percent of pre-pandemic levels.

Operating revenues and expenses are decreasing from last year totals. This is due to a decrease in availability of stimulus funds.

The Capital assumptions include vehicle replacement, technological improvements, and facility improvements at LYNX Central Station and LYNX Operations Center. Other assumptions include enhanced security at facilities and SuperStops, construction of the Pine Hills Transfer Center, completion of Rosemont and Florida Mall SuperStop improvements, and the development of a Southern Operations facility.

**8. Information Items**

There were two items for review purposes only, no action was requested.

- A. FY2018-2023 Transportation Disadvantaged Service Plan (TDSP) minor update for 2021
- B. Notification of Settlement Agreements Pursuant to Administrative Rule 6

**9. Other Business**

No other business was discussed.

**10. Monthly Reports: (For review purposes only)**

There were four reports in the packets for review purposes only. No action was required.

- A. Communications Report
- B. Monthly Financial Report – June 2021
- C. Planning and Development Report
- D. Ridership Report

**11. Adjourned:**

The meeting adjourned at 1:33 p.m.

**Certification of Minutes:**

I certify that the foregoing minutes of the August 26, 2021 LYNX Board of Director's meeting are true and correct, approved by the Board of Directors.

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Assistant

# LYNX Board Agenda

## Consent Agenda Item #6.A. i

**To:** LYNX Board of Directors

**From:** Bruce Detweiler  
Interim Director Of Planning And Development  
Myles O'Keefe  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6136

**Item Name:** Authorization to Release a Request for Proposal (RFP) for General Planning Consulting Services

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or Designee to release a Request for Proposal (RFP) for General Planning Consulting services for a period of three (3) years, with two (2) one (1) year renewal options.

### **BACKGROUND:**

The purpose of the general planning consulting services contract is to provide LYNX with the expertise and technical capacity in a full array of professional services. The General Planning Consultants will serve as an extension of LYNX staff with the additional technical, financial and operational expertise to support the agency's plans and programs. Staff seeks the services of up to three consultant teams to provide support for the agency's general planning activities for a period of three years, with two (2) one (1) year renewal options.

The professional services being procured include the following categories:

1. Planning and Program Administration:
  - a. Tasks under this category may include comprehensive transit system analysis, feasibility studies and conceptual designs, grant program administration, Transit Asset Management (TAM) program administration and initiatives for customer experience improvements as well as development of short- and long-term transit planning initiatives and associated documentation.



# LYNX Board Agenda

## 2. Public Engagement and Outreach:

- a. Tasks under this category may include development of outreach strategies, developing graphic reports not only for LYNX existing and proposed services, but also complex analysis, provide graphic and digital project communication support, and staffing for outreach events such as public hearings, customer surveys and focus groups.

## 3. Geographical Information Systems (GIS):

- a. Tasks under this category may support maintenance and advancement of LYNX's GIS program, through data management and geospatial analysis and production services.

## 4. Technical Analysis:

- a. Tasks under this category may include completion of technical analyses transit performance, ridership modeling and forecasting, facility and bus stop analysis, and economic impact analysis.

### **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

### **FISCAL IMPACT:**

The Proposed FY2022 Operating Budget includes \$120,000 for General Planning services.

# LYNX Board Agenda

## Consent Agenda Item #6.B. i

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Christopher Plummer  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Negotiate and Award Contract #22-C09 to Mansfield Oil Company for Fuel Delivery of 87 Octane Unleaded Gasoline Through the End of FY2022

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to award contract #22-C09 to Mansfield Oil Company for fuel delivery of 87 Octane Unleaded Gasoline through the end of FY2022.

### **BACKGROUND:**

On August 6, 2021 LYNX staff released an Invitation for Bid (IFB) for the delivery of Ultra Low Sulfur Diesel and 87 Octane Unleaded. The bids were due back on September 3, 2021, with five (5) suppliers' submitted bids received.

The current Contract expires on September 30, 2021. The bid required suppliers to provide a fixed fee cost per gallon known as an "Adder Fee" to deliver the fuel. The "Adder Fee" is added to the cost of the fuel. The fuel cost is set based on the daily rack average of U.S. Gulf Coast Platts (USGC) index. Other charges include a standard freight rate per gallon, plus a fixed pump off fee for above ground tanks as required.

This is a contract to supply the services on an as-needed basis. LYNX shall not be obligated to purchase any minimum quantity of fuel. LYNX averages an annual fuel consumption of 1.3 million gallons 87 Octane Unleaded gasoline.

# LYNX Board Agenda

The bid results were tabulated as follows:

<b>87 Octane Gasoline</b>	
<b>Company</b>	<b>87 Oct Gasoline Transportation</b>
Mansfield Oil Company	0.0383
Colonial Oil Industries	0.0447
World Fuel Services	0.1017
Campbell Oil & Gas Company	0.1308
Indigo Energy Partners	0.141

The ordinal ranking for the 87 Octane Unleaded gasoline bidders:

<b>87 Octane Gasoline</b>	
<b>Company</b>	<b>Ordinal Ranking</b>
Mansfield Oil Company	1
Colonial Oil Industries	2
World Fuel Services	3
Campbell Oil & Gas Company	4
Indigo Energy Partners	5

LYNX recommends awarding the contract for 87 Octane Unleaded Gasoline Fuel Transportation Services to Mansfield Oil Company for the period of October 1, 2021 – September 30, 2022.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

The FY2022 Proposed Operating Budget includes \$8,658,746 for unleaded and diesel fuel purchases.

# LYNX Board Agenda

## Consent Agenda Item #6.B. ii

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Christopher Plummer  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Negotiate and Award Contract #22-C10 to Colonial Oil Industries for Fuel Delivery of Ultra Low Sulfur Diesel Through the End of FY2022

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to negotiate and award contract #22-C10 to Colonial Oil Industries for fuel delivery of Ultra Low Sulfur Diesel through the end of FY2022.

### **BACKGROUND:**

On August 6, 2021 LYNX staff released an Invitation for Bid (IFB) for the delivery of Ultra Low Sulfur Diesel and 87 Octane Unleaded. The bids were due back on September 3, 2021, with six (6) suppliers' submitted bids received.

The current Contract expires on September 30, 2021. The bid required suppliers to provide a fixed fee cost per gallon known as an "Adder Fee" to deliver the fuel. The "Adder Fee" is added to the cost of the fuel. The fuel cost is set based on the daily rack average of U.S. Gulf Coast Platts (USGC) index. Other charges include a standard freight rate per gallon, plus a fixed pump off fee for above ground tanks as required.

This is a contract to supply the services on an as-needed basis. LYNX shall not be obligated to purchase any minimum quantity of fuel. LYNX averages an annual fuel consumption of 2.2 million gallons Ultra Low Sulfur Diesel.

# LYNX Board Agenda

The bid results were tabulated as follows:

Ultra Low Sulfur Diesel	
Company	ULSD Transportation Adder
Colonial Oil Industries	0.1335
Indigo Energy Partners	0.1349
Mansfield Oil Company	0.1368
Petroleum Traders	0.1404
Campbell Oil & Gas Company	0.1408
World Fuel Services	0.1536

The ordinal ranking for the Ultra-Low Sulfur Diesel bidders was:

Ultra Low Sulfur Diesel	
Company	Ordinal Ranking
Colonial Oil Industries	1
Indigo Energy Partners	2
Mansfield Oil Company	3
Petroleum Traders	4
Campbell Oil & Gas Company	5
World Fuel Services	6

LYNX recommends awarding the contract for Ultra Low Sulfur Diesel (ULSD) Fuel Transportation Services to Colonial Oil Industries for the period of October 1, 2021 – September 30, 2022.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

FY2022 Proposed Operating Budget includes \$8,658,746 for unleaded and diesel fuel purchases.

# LYNX Board Agenda

## Consent Agenda Item #6.B. iii

**To:** LYNX Board of Directors

**From:** Elvis Dovalles  
Director Of Maintenance  
Ricky Gonzalez  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6239

**Item Name:** Authorization to Negotiate and Award Contract #21-B06 to Jobbers Equipment Warehouse, Inc. for Rotary MOD30 Bus Lift Cylinder Replacement at the LYNX Operations Center (LOC) Maintenance Facility

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to negotiate and award a contract to Jobbers Equipment Warehouse, Inc. for Rotary MOD30 Lift Cylinder Replacement of Bus Lifts at the LYNX Operations Center (LOC) Maintenance Facility in an amount not to exceed \$315,119.

### **BACKGROUND:**

The LYNX Vehicle Maintenance Facility (LOC) was constructed in 2007, at that time 12 Rotary MOD30 two post in-ground hydraulic bus lifts were installed for the purpose of maintaining the bus fleet. The LOC Maintenance facility is the only facility LYNX operates that is capable of supporting repair operations for heavy duty transit buses. The lifts in the facility are now over 12 years old and have become unreliable and failure prone. The most frequent failures are with the hydraulic lift cylinders (posts), the original cylinders and repair parts such as seals are no longer available from the Original Equipment Manufacturer (OEM) or aftermarket suppliers.

The purpose of this project is to replace all the cylinders with new upgraded cylinders from the OEM or an authorized supplier of OEM parts. The new cylinders will have the protection of a warranty and readily available replacement parts. Performing the replacement of the lift cylinders (posts) will increase the reliability of the lifts and decrease lift downtime related to cylinder failures. This will result in decreased operating costs related to facility repairs, increased shop productivity and reduced revenue fleet vehicle downtime. This is a LYNX Capital Improvement Project funded through Federal FTA 5307 grant funds.

# LYNX Board Agenda

The LYNX Board of Directors on February 25, 2021 with Consent Agenda item #6.A.iii granted LYNX staff the authorization to release a Request for Proposal (RFP) for Rotary MOD30 Lift Cylinder Replacement of the Bus Lifts.

The procurement was released as an Invitation for Bid (IFB) #21-B06 on July 6, 2021. Proposals were due to LYNX by 11:00 AM EST on August 11, 2021.

Three (3) responses were received from the following firms:

- Jobbers Equipment Warehouse, Inc.
- Flamingo Shop Services
- Sunshine State Sales

After evaluation of the bid responses the contract was awarded to the lowest bidder Jobbers Equipment Warehouse, Inc.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

No DBE Goal has been established for this contract. LYNX encourages the Contractor to make every attempt to obtain participation of certified DBEs and other small businesses in the completion of this contract (Race Neutral).

## **FISCAL IMPACT:**

The FY2022 Proposed Capital Budget includes \$864,000 for lifts. This project will be funded 100% with Federal FTA 5307 grant funds.

# LYNX Board Agenda

## Consent Agenda Item #6.B. iv

**To:** LYNX Board of Directors

**From:** Elvis Dovalés  
Director Of Maintenance  
Ricky Gonzalez  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6239

**Item Name:** Authorization to Negotiate and Award Contract #22-C07 to Aero Groundtek, LLC for Lawn Maintenance & Trash Removal Services at LYNX Bus Stops/Shelters

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to negotiate and award a contract to Aero Groundtek, LLC for Lawn Maintenance & Trash Removal Services at LYNX Bus Stops/Shelters in an amount not to exceed \$1,523,490 for the initial term. The initial term of the Contract is for three (3) years, with two (2) one (1) year options, starting October 1, 2021.

### **BACKGROUND:**

LYNX has approximately 1183 bus stops and shelters located within the boundaries of Orange, Osceola, Seminole, Southeastern Lake, and Northern Polk Counties. Bus stops are the primary point of customer access to LYNX fixed route bus service. Shelters provide an enhanced experience for customers by providing shelter from the elements. These stops and shelters are highly visible to the community and provide a clean, safe area for customers to wait, to board, and to alight LYNX buses.

The LYNX Board of Directors on February 25, 2021 with Consent Agenda item #6.A.i granted LYNX staff the authorization to release a Request for Proposal (RFP) for Lawn Maintenance & Trash Removal Services at LYNX Bus Stops/Shelters.

The Request for Proposal (RFP) #21-R21 was released on April 21, 2021. Proposals were due to LYNX by 2:00 PM EST on May 21, 2021.



# LYNX Board Agenda

Two responses were received from the following firms:

- Aero Groundtek, LLC.
- American Janitorial, Inc.

The scoring and ordinal ranking occurred as follows:

Firm	Score	Ordinal Ranking
Aero Groundtek, LLC	256	4
American Janitorial, Inc.	277	5

After evaluation and ranking, the Source Evaluation Committee (SEC), made a recommendation to award the contract to Aero Groundtek, LLC.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

No DBE Goal has been established for this contract. LYNX encourages the Contractor to make every attempt to obtain participation of certified DBEs and other small businesses in the completion of this contract (Race Neutral).

## **FISCAL IMPACT:**

The Proposed FY2022 Operating Budget includes \$602,000 for lawn and trash services at the bus stops and shelters.

# LYNX Board Agenda

## Consent Agenda Item #6.B. v

**To:** LYNX Board of Directors

**From:** Elvis Dovalles  
Director Of Maintenance  
Ricky Gonzalez  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6239

**Item Name:** Authorization to Negotiate and Award Contract #22-C08 to FaithWorks Total Ground Maintenance, LLC for Bus Stop Pressure Washing & Steam Cleaning

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Director's authorization for the Chief Executive Officer (CEO) or designee to negotiate and award contract #22-C08 to FaithWorks Total Ground Maintenance, LLC for Bus Stop Pressure Washing & Steam Cleaning in the amount not to exceed \$360,546 for the initial term. The initial term of the Contract is for three (3) years, with two (2) one (1) year options, starting October 1, 2021.

### **BACKGROUND:**

The LYNX Board of Directors on February 25, 2021 with Consent Agenda item #6.A.ii granted LYNX staff authorization to release a Request for Proposal (RFP) for Bus Stop Pressure Washing & Steam Cleaning.

LYNX has approximately 1,231 hard surface bus stops located within the boundaries of Orange, Osceola, Seminole, Southeastern Lake, and Northern Polk Counties. Bus stops are the primary point of customer access to LYNX fixed route bus service. Bus stops and shelters are highly visible to the community and provide a clean, safe area for customers to wait, to board, and to alight LYNX buses.

# LYNX Board Agenda

The cleaning of bus stops and shelters is required once per month and includes the following services:

- Pressure cleaning of concrete pads
- Pressure cleaning of the exterior and interior of the shelter
- Removal of graffiti and stains
- Cleaning/picking up trash in a 15-foot radius
- Cleaning of the solar panel, bus stop pole and blades

The Request for Proposal (RFP) #21-R22 was released on May 4, 2021. Proposals were due to LYNX by 2:00 PM EST on June 4, 2021.

Three responses were received from the following firms:

- American Janitorial, Inc.
- FaithWorks Total Ground Maintenance, LLC
- National Interior Solutions, LLC

The scoring and ordinal ranking occurred as follows:

Firm	Score	Ordinal Ranking
American Janitorial, Inc.	237	5
FaithWorks Total Ground Maintenance, LLC	253	5
National Interior Solutions, LLC	192	8

After evaluation and ranking, the Source Evaluation Committee (SEC), made a recommendation to request additional information and a presentation from the two lowest ranked firms. On August 24, 2021 the Source Evaluation Committee (SEC) met and re-evaluated the firms, the ordinal ranking was as follows:

Firm	Ordinal Ranking
American Janitorial, Inc.	6
FaithWorks Total Ground Maintenance, LLC	3

After evaluation and ranking, the Source Evaluation Committee (SEC), made a recommendation to award the contract to FaithWorks Total Ground Maintenance, LLC.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

# LYNX Board Agenda

## **FISCAL IMPACT:**

The Proposed FY2022 Operating Budget includes \$212,000 for steam cleaning and pressure washing services.

# LYNX Board Agenda

## Consent Agenda Item #6.B. vi

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Jeffrey Reine  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Award Contract #21-C45 to AECOM Technical Services, Inc. for Architecture and Engineering Services for Facilities

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to award Contract #21-C45 to AECOM Technical Services, Inc. for Architecture and Engineering Services for Facilities in an amount not to exceed \$3.5 million for the first three (3) years. The contract will be for three (3) years with two (2) one (1) year options.

### **BACKGROUND:**

On October 20, 2020, the LYNX Board of Directors granted permission to proceed with a Request for Proposal (RFP) for Architecture and Engineering Services. This permission was to allow for the award of two contracts: one for facilities and one for bus shelters, transfer centers and LYMMO. This will cover all associated design, permitting and engineering inspection as described in the RFP documents.

In July 2021, the LYNX Board of Directors authorized the Chief Executive Officer (CEO) or designee to approve the Source Evaluation Committee ranking and initiate negotiations with AECOM Technical Services, Inc. In accordance with Fla. Stat. 287.055, the award of contract is the final step in this process.

The contract will be for three (3) years with two (2) two option years. The total cost not to exceed for the first three years will be \$3.5 million.

### **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

# LYNX Board Agenda

## **FISCAL IMPACT:**

The FY2022 Proposed Capital Budget includes \$7,912,663 in facility related projects. Each project will be evaluated if A&E Services would be needed. These projects are funded with 100% Federal grants.

# LYNX Board Agenda

## Consent Agenda Item #6.B. vii

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Jeffrey Reine  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Award Contract #21-C46 to Kimley-Horn and Associates, Inc. for Architecture and Engineering Services for Shelters, Transfer Centers and LYMMO

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to negotiate and award Contract #21-C46 to Kimley-Horn and Associates, Inc. for architecture and engineering services for Shelters, Transfer Centers and LYMMO in an amount not to exceed \$3.2 million for the first three (3) years. The contract will be for three (3) years with two (2) one (1) year options.

### **BACKGROUND:**

On October 20, 2020, the LYNX Board of Directors granted permission to proceed with a Request for Proposal (RFP) for Architecture and Engineering Services. This permission was to allow for the award of two contracts: one for facilities and one for bus shelters, transfer centers and LYMMO. This will cover all associated design, permitting and engineering inspection as described in the RFP documents.

In July 2021, the LYNX Board of Directors authorized the Chief Executive Officer (CEO) or designee to approve the Source Evaluation Committee ranking and initiate negotiations with Kimley-Horn and Associates, Inc. In accordance with Fla. Stat. 287.055, the award of contract is the final step in this process.

The contract will be for three (3) years with two (2) one (1) year options. The total cost not to exceed for the first three years will be \$3.2 million.

# LYNX Board Agenda

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

No DBE Goal has been established for this contract. LYNX encourages the Contractor to make every attempt to obtain participation of certified DBEs and other small businesses in the completion of this contract (Race Neutral).

## **FISCAL IMPACT:**

The FY2022 Proposed Capital Budget includes \$2,047,735 in projects for shelters, transfer centers and LYMMO. Each project will be evaluated for A&E Services as needed. These projects are funded with 100% Federal grants.



# LYNX Board Agenda

## Consent Agenda Item #6.B. viii

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Jeffrey Reine  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Award Contract #21-C48 to WSP USA, Inc. for Construction Engineering and Inspections Services (CEI) for the Pine Hills Bus Transfer Station

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to award Contract #21-C48 to WSP USA, Inc. for Construction Engineering and Inspection Services (CEI) for the Pine Hills Bus Transfer Station in an amount not to exceed \$750,000 for the length of the three (3) year contract.

### **BACKGROUND:**

In March 2021, the LYNX Board of Directors granted permission to proceed with a Request for Proposal (RFP) for Construction Engineering and Inspection Services (CEI) for the Pine Hills Bus Transfer Station.

In July 2021, the LYNX Board of Directors authorized the Chief Executive Officer (CEO) or designee to approve the Source Evaluation Committee ranking and initiate negotiations with WSP USA, Inc. In accordance with Fla. Stat. 287.055, the award of contract is the final step in this process.

The contract will be for a period of three years with a not to exceed cost of \$750,000.

### **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

# LYNX Board Agenda

## **FISCAL IMPACT:**

The Approved FY2021 Capital Budget includes \$8,175,000 for the Pine Hills Bus Transfer Station construction project, which includes \$750,000 for CEI services. Of the \$8,033,259 total, \$199,752 is encumbered. This project is 100% funded with a mix of Federal, State, and local dollars and will carry over into FY2022.

# LYNX Board Agenda

## Consent Agenda Item #6.C. i

**To:** LYNX Board of Directors

**From:** Elvis Dovalles  
Director Of Maintenance  
Elvis Dovalles  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6239

**Item Name:** Authorization to Exercise the First Option Year of the Bulk Motor Oil and Fluids Contracts

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to exercise the first option year for Bulk Motor Oil and Fluids with RelaDyne Florida, LLC and Palmdale Oil Company, Inc. The combined Not to Exceed amount will be \$385,065 dollars for both contracts.

### **BACKGROUND:**

On September 27, 2018, the LYNX Board of Directors authorized the award of Contract #18-C140 with Palmdale Oil Company, Inc. and #18-C123 with Seaboard Distribution, Inc., now named RelaDyne Florida, LLC, for Bulk Motor Oil and Fluids. The initial term of the contract was for a period of three (3) years with the option to extend for two (2) one (1) year terms.

The LYNX Fleet Maintenance Division adopts a strict preventative maintenance policy for the LYNX fleet of 313 transit buses. LYNX operates 313 buses on fixed routes and maintains a fleet of 103 support vehicles to include 23 sedans, 29 trucks, and 51 vans. The purchase of motor oil in bulk provides secured pricing, maintains consistency and provides for just in time delivery on an as needed basis.

### **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

# LYNX Board Agenda

## **FISCAL IMPACT:**

The Proposed FY2022 Operating Budget includes \$368,013 for oil and lubricants expense.

# LYNX Board Agenda

## Consent Agenda Item #6.D. i

**To:** LYNX Board of Directors

**From:** Tiffany Homler Hawkins  
Chief Administrative Officer  
Prahallad Vijayvargiya  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6064

**Item Name:** Authorization to Submit Grant Applications to the Florida Department of Transportation (FDOT) for the Enhanced Mobility of Seniors and Individuals with Disabilities Section 5310 Program and for Rural Areas 5311 Program under the 2021 Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) and the American Rescue Plan Act (ARPA) in the total amount of approximately \$7,835,000

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to submit grant applications to the Florida Department of Transportation (FDOT) and authorize the Chairman to execute Resolution #21-006, attached hereto. This action also includes authorization for the Chief Executive Officer (CEO) or designee to execute Public Transportation Grant Agreements (PTGA) from FDOT originating from this funding opportunity, as well as any future amendments to the PTGA.

### **BACKGROUND:**

On September 14, 2021, the Florida Department of Transportation conducted a webinar announcing its funding solicitation and guidance for Sections 5310 and 5311 Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) and American Rescue Plan Act (ARPA).

These funds will help prevent service cuts, protect employees from layoffs, keep riders and workers safe, and strengthen our economy. Transportation workers are serving on the front lines of this pandemic: delivering the vaccine, getting people to essential jobs, healthcare and vaccine appointments and providing goods and services to people who need them.

# LYNX Board Agenda

Section 5310 funds may be used for operating expense of transit services to seniors and/or individuals with disabilities. Section 5311 funds may be used for the operating expenses of transit services to the general public in rural areas. Funding may be used to pay for the operational costs of providing essential services through the incidental use of transit assets.

- Essential services are services that help provide the community with safety and security or access to food, water, shelter, social services/ medical care, and communications infrastructure.
- CRRSAA and ARPA funds may be used for operating expenses, including the operational costs of providing essential services, at 100% Federal share.

LYNX intends to apply for operating assistance for Section 5310; approximately \$435,000 for contracted services for specialized transportation under the Mobility Management brokerage model; and approximately \$7,400,000 of 49 U.S.C. 5311 to maintain provision of services in the rural areas.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

LYNX staff will include the award for this program in the appropriate LYNX fiscal year budget upon confirmation of award.

**CFRTA RESOLUTION NO. 21-006**

**A RESOLUTION OF THE CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY (d/b/a/ LYNX) AUTHORIZING THE CHIEF EXECUTIVE OFFICER (CEO) TO EXECUTE AND SUBMIT GRANT APPLICATIONS WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE FEDERAL PROGRAM UNDER U.S.C. SECTION 5310 AND 5311, AS SUPPLEMENTED BY CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT (CRRSAA) AND AMERICAN RESCUE PLAN ACT (ARPA) OF 2021, IN THE AMOUNT OF APPROXIMATELY \$7,835,0000 DOLLARS.**

**WHEREAS**, the LYNX Board of Directors has the authority and believes it is in the best interest of LYNX to authorize the CEO, or designee, to file and execute these grant applications and all supporting documents, agreements and assurances which may be required in connection with the applications as authorized by Chapter 341, Florida Statutes and/or by the Federal Transit Administration Act of 1964, as amended;

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The LYNX Board of Directors has the authority to authorize the submission of grant applications to the Florida Department of Transportation.
2. The Board of Directors has the authority to authorize the execution of Public Transportation Grant Agreements to be issued by FDOT in FY2022-2023.
4. The Board of Directors authorizes James E. Harrison, Esq., P.E., Chief Executive Officer, or designee, to submit grant applications to the Florida Department of Transportation for fiscal year 2022-2023 in the amount of approximately \$7,835,000 dollars on behalf of LYNX and the ability for the CEO to execute the application, amendments, warranties, certifications, assurances, reimbursement invoices and any other documents in connection with the grant applications.
5. The Board of Directors authorizes James E. Harrison, Esq., P.E., Chief Executive Officer, or designee, to sign any and all agreements or contracts, which may be required in connection with the application, and subsequent agreements, with the Florida Department of Transportation for operating assistance for rural transportation services (5311), and transportation services for elderly persons and persons with disabilities program funds (5310).
6. The Board of Directors authorizes James E. Harrison, Esq., P.E., Chief Executive Officer, or designee, to make purchases and/or expend funds pursuant to grant awards made by the Florida Department of Transportation authorized by Chapter 341, Florida Statutes and/or by the Federal Transit Administration Act of 1964, as amended.
7. The above authorization shall be continuing in nature until revoked by the Chairman of the Governing Board.

**CERTIFICATION OF THE ADOPTION OF THE PROPOSED RESOLUTION OF THE CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY (d/b/a/ LYNX) AUTHORIZING THE CHIEF EXECUTIVE OFFICER (CEO) TO EXECUTE AND SUBMIT GRANT APPLICATIONS WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE FEDERAL PROGRAM UNDER U.S.C. SECTION 5310 AND 5311, AS SUPPLEMENTED BY CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT (CRRSAA) AND AMERICAN RESCUE PLAN ACT (ARPA) OF 2021, IN THE AMOUNT OF APPROXIMATELY \$7,835,000 DOLLARS.**

**APPROVED AND ADOPTED** this 23<sup>rd</sup> day of September 2021 by the Governing Board of the Central Florida Regional Transportation Authority.

CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY

By: Governing Board

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Assistant Secretary



# LYNX Board Agenda

## Consent Agenda Item #6.D. ii

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Tamara Enders  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization for LYNX Insurance Broker to Negotiate and Bind Coverage for the Preferred Governmental Insurance Trust (PGIT) Package Renewal, Standalone Public Officials and Standalone Cyber Liability

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to negotiate and bind coverage and premium for its Preferred Governmental Insurance Trust (PGIT) Liability Renewal, Standalone Public Officials and Standalone Cyber Liability Insurance Program and Fiduciary Liability Insurance Program, with the assistance of Arthur J. Gallagher, Broker. The annual premium is \$584,257.

### **BACKGROUND:**

At the Board of Director's meetings on August 26, 2020, the Board of Director's authorized the Chief Executive Officer (CEO) to negotiate and bind coverage and premiums for its PGIT Liability Renewal, Standalone Public Officials and Standalone Cyber Liability Insurance Program. This was executed for one year, beginning October 1, 2020 through October 1, 2021.

<b>Premiums</b>	<b>2020</b>	<b>2021</b>	<b>Change</b>	<b>% Change</b>
General Liability	\$65,458	\$71,883	\$6,425	10%
Crime	\$1,175	\$1,293	\$118	10%
Cyber	\$23,642	\$21,912	-\$1,730	-7%
Public Officials & EPL	\$58,369	\$58,369	\$0	0%
APD	\$299,965	\$350,861	\$50,896	17%
Road Ranger Auto Liability	\$61,056	\$52,659	-\$8,397	-14%
Road Ranger APD	\$33,077	\$27,280	-\$5,797	-18%
<b>TOTAL</b>	<b>\$542,742</b>	<b>\$584,257</b>	<b>\$41,515</b>	<b>8%</b>

# LYNX ard Agenda

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

The FY2022 Proposed Operating Budget includes \$869,232 for insurance expense. There are several policies that renew in April and the remaining budget will cover those anticipated premiums.

# LYNX Board Agenda

## Consent Agenda Item #6.D. iii

**To:** LYNX Board of Directors

**From:** Norman Hickling  
Director Of Operations  
Selita Stubbs  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6169

**Item Name:** Authorization to Execute Transportation Disadvantaged Coordination Contracts between Central Florida Regional Transportation Authority, d/b/a LYNX, and Human Service Agencies for FY2022

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO), those designated by the CEO, and members of the Mobility Services Department be authorized to enter into Transportation Disadvantaged Coordination Contracts with human services agencies, local public bodies, non-profit agencies and other eligible providers pursuant to the LYNX Transportation Disadvantaged Service Plan (TDSP).

### **BACKGROUND:**

The Central Florida Regional Transportation Authority, dba LYNX serves as the Community Transportation Coordinator (CTC) for Orange, Osceola, and Seminole Counties. As referenced in the TDSP, LYNX has the responsibility to coordinate transportation through human service agencies with available resources to assist in providing direct transportation to the disadvantaged community within the tri-county service area. Transportation Disadvantaged Coordination Contracts are provided to these agencies as evidence of their participation in the coordinated system which allows them to directly invoice state and federal funding sources for transportation services, when authorized by and in full compliance with state and federal funding source.

# LYNX Board Agenda

## **Coordinated Agencies:**

Aspire Health Partners, Inc.	Pachot Group Home
Crystal Lake Supportive Environments Inc. (Attain Inc.)	Primrose Center, Inc.
Central Florida Group Homes, LLC	Life Concepts, Inc. - Quest Inc.
Elquanah Group Homes Inc.	Seniors First Inc.
National Mentor Healthcare -- (Florida Mentor)	The Opportunity Center, Inc.
Good Samaritan Society - Kissimmee Village	Osceola Council On Aging
Meals on Wheels, Etc.	Trinity Home Care

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

The Transportation Disadvantaged Coordination Contracts have no monetary value and there is no fiscal impact to the Authority.

# LYNX Board Agenda

## Consent Agenda Item #6.D. iv

**To:** LYNX Board of Directors

**From:** Bruce Detweiler  
Interim Director Of Planning And Development  
Bruce Detweiler  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6136

**Item Name:** Authorization to Initiate Public Outreach for Fiscal Year 2022 Proposed Service Changes

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to initiate the public outreach and participation process for the proposed service changes scheduled to occur in Fiscal Year 2022.

### **BACKGROUND:**

Three times per year, LYNX conducts service changes. LYNX proactively informs and involves the Central Florida community in the planning and implementation of LYNX's new services, routing adjustments, passenger fare adjustments, new facility construction, capital projects, and planning activities in accordance with Federal and State regulations. In Fiscal Year 2022, these service changes are tentatively scheduled to occur in December, April and August.

The LYNX Public Participation Program includes utilizing a continuous communication program with various outreach techniques appropriate to both the proposed action and the affected public. LYNX staff members inform customers and members of the public of proposed changes through the LYNX website, social media, newspaper advertisements, posted flyers, as well as public meetings and workshops.

LYNX's Public Participation Program mandates public notice and public hearings for any service reductions impacting more than 25% percent of an individual route's total revenue hours or revenue miles and any proposed route eliminations. The exception to this reduction of service threshold are routes that have existed less than two years or have been introduced as service development or experimental service.

# LYNX ard Agenda

Public notices and public hearings are also required for any proposed alternatives that have the potential to create a disparate impact or disproportionate burden of plus or minus 10% percent, if implemented, on minority or lower income populations in LYNX's service area.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

All proposed service changes are expected to be budget neutral and will be supported with funds included in the FY2022 Operating Budget.

# LYNX Board Agenda

## Consent Agenda Item #6.D. v

**To:** LYNX Board of Directors

**From:** Elvis Dovalés  
Director Of Maintenance  
Kenneth Jamison  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6239

**Item Name:** Authorization to Enter into a Cooperative Purchase Contract with Proterra, Inc. for Procurement of Six (6) Proterra 35' Battery Electric Buses and Related Items from Proterra, Inc. for a Not to Exceed Amount of \$5,300,000

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to enter into a Cooperative Purchase contract with Proterra, Inc. for procurement of six (6) 35' battery electric buses and related items at a not to exceed amount of \$5,300,000.

### **BACKGROUND:**

Staff is requesting authorization to purchase six (6) 35-foot electric buses, including related items from Proterra, Inc. Staff has verified with the Georgia Department of Administrative Services that LYNX can purchase off of their competitively bid contract number 99999-001-SPD0000138-0007. After the passage of the FAST Act in 2015, transit agencies are able to use state purchasing schedules located outside of the state in which they are located.

At the April 23, 2020, Board of Director's meeting, staff received authorization under Consent Agenda Item 6.D.xiii. to submit an application to the Federal Transit Administration (FTA) for the FY2020 Competitive Funding Opportunity, Section 5339 Bus and Bus Facilities Program for six (6) electric buses and charging infrastructure.

# LYNX Board Agenda

The grant application has the following budget items:

6 Electric Buses and support items			\$ 5,150,000
Chargers, approximately			\$ 150,000
Total			\$ 5,300,000
FTA 5339 Share		54%	\$ 2,840,000
Other Federal		19%	\$ 1,000,000
Local Share		28%	\$ 1,460,000
Total		100%	\$ 5,300,000

The City of Orlando has committed \$1,168,824 towards the local share for the buses. The Orlando Utilities Commission has also committed up to \$291,176 toward this program for buses and charging infrastructure. This funding will be able to increase the capacity of the existing charging station to provide charging for these additional six (6) buses. LYNX will work with the Orlando Utilities Commission to identify the vendor for the upgrade equipment for the charging equipment.

The FTA announced on Tuesday, August 18, 2020 the allocation of \$463,848,929 to projects under the Fiscal Year (FY) 2020 Grants for Buses and Bus Facilities Program selections, including \$2,840,000 for LYNX. This amount fully funds the LYNX request in the submission.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

DBE regulations require FTA recipients to report transit vehicle procurement awards (49 CFR 26.49). FTA grantees are required to submit, within 30 days of making an award, the name of the successful bidder and the total dollar value of the contract. Only eligible TVMs may bid on FTA-assisted transit vehicle procurements. Transit vehicle manufacturers that have submitted a goal methodology to FTA that has been approved, or has not been disapproved, at the time of solicitation are eligible to bid (49 CFR 26.49(a)(1)). Proterra has submitted their DBE goal methodology to FTA with a DBE goal of 1%.

## **FISCAL IMPACT:**

The Approved FY2022 Capital Budget includes \$5,350,000 for the purchase of six (6) Electric Vehicles. The funding for this project includes local contributions of \$1,460,000 from the City of Orlando (\$1,168,824) and Orlando Utilities Commission (\$291,176). The Federal funding is \$2,840,000 from the 5339 Grant Award and the remainder from Federal 5307 Capital funding.



# LYNX Board Agenda

## Consent Agenda Item #6.D. vi

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Warren Hersh  
(Technical Contact)  
Edward Velez  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Auction Surplus Capital Items

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to retire, transfer, recycle or sell, at public auction, surplus and obsolete capital items as identified in the following detailed list.

### **BACKGROUND:**

It is LYNX's policy to hold a quarterly auction to dispose of Board approved surplus and obsolete items. This year's auction is scheduled for September 2021. The following surplus items require authorization for retirement and disposal at the public auction pursuant to Administrative Rule 4.16.2.A:

#### **Computer Equipment:**

Surplus Computer Equipment with a total net book value of \$0.

- Included under this category are obsolete battery backup, desktops and laptops computers.

#### **Other Vehicles**

Other Vehicles with a total net book value of \$0

- There are 7 Other Vehicles that have reached their useful life and exceeding the FTA mileage requirement. Additionally, all would require significant repair and overhaul.

# LYNX Board Agenda

## Revenue Vehicles

Paratransit buses with a total net book value of \$0

- There are 9 Paratransit Vehicles that have reached their useful life and exceeding the FTA mileage requirement. Additionally, all would require significant repair and overhaul.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

No DBE participation goal is applicable for this activity.

## **FISCAL IMPACT:**

The total net book value of the surplus items is \$0. The higher of the net book value or the net proceeds from the sale of any item may be due to the Federal Transit Administration (FTA) in FY2022.

# LYNX Board Agenda

## Categorical Totals

Category	Acquisition Value	Net Book Value
Computer Equipment	\$50,524	0
Other Vehicles	\$194,146	0
Revenue Vehicles	\$652,143	0
<b>GRAND TOTAL</b>	<b>\$896,813</b>	<b>\$ 0</b>

## Surplus Equipment

System Number	Asset ID	Acquisition Date	Class	Description	Estimated Life	Acquisition Value	Net Book Value
18623	13075	8/11/2015	CE	Dell Toughbook	5	\$5,842	\$0
17336	11999	3/31/2014	CE	Dell Toughbook	5	\$3,761	\$0
17338	11997	3/31/2014	CE	Dell Toughbook	5	\$3,761	\$0
16963	11255	11/30/2013	CE	Del Xps Ultrabook	5	\$2,556	\$0
16392	11197	8/26/2013	CE	APC BACKUP 3000	5	\$1,850	\$0
18455	12829	2/19/2015	CE	Dell OptiPlex Computer	5	\$1,768	\$0
18456	12830	2/19/2015	CE	Dell OptiPlex Computer	5	\$1,768	\$0
18459	12833	2/19/2015	CE	Dell OptiPlex Computer	5	\$1,768	\$0
18466	12840	2/19/2015	CE	Dell OptiPlex Computer	5	\$1,768	\$0
17300	11983	3/31/2014	CE	Dell Computer 9020	5	\$1,598	\$0
18192	12669	10/31/2014	CE	Dell OptiPlex Computer	5	\$1,568	\$0
17327	12067	3/31/2014	CE	Dell Computer 9020	5	\$1,529	\$0
18502	12930	3/17/2015	CE	Dell Computer 9020	5	\$1,398	\$0
17095	11862	2/28/2014	CE	Dell Computer 9020	5	\$1,354	\$0
17100	11867	2/28/2014	CE	Dell Computer 9020	5	\$1,354	\$0
17101	11868	2/28/2014	CE	Dell Computer 9020	5	\$1,354	\$0
16411	11201	8/6/2013	CE	Dell Computer 9010	5	\$1,324	\$0
15452	10695	3/20/2013	CE	Dell Computer 9010	5	\$1,214	\$0
15453	10696	3/20/2013	CE	Dell Computer 9010	5	\$1,214	\$0
15457	10700	3/20/2013	CE	Dell Computer 9010	5	\$1,214	\$0
15459	10702	3/20/2013	CE	Dell Computer 9010	5	\$1,214	\$0
15476	10718	3/20/2013	CE	Dell Computer 9010	5	\$1,214	\$0
15498	10740	3/20/2013	CE	Dell Computer 9010	5	\$1,214	\$0
13718	9625	3/23/2011	CE	Dell Computer 980	5	\$1,158	\$0
18881	13594	10/14/2015	CE	Dell Computer 9020M	5	\$907	\$0
18882	13595	10/14/2015	CE	Dell Computer 9020M	5	\$907	\$0
18883	13596	10/14/2015	CE	Dell Computer 9020M	5	\$907	\$0
18884	13597	10/14/2015	CE	Dell Computer 9020M	5	\$907	\$0

# LYNX Board Agenda

System Number	Asset ID	Acquisition Date	Class	Description	Estimated Life	Acquisition Value	Net Book Value
18216	12647	10/31/2014	CE	Dell OptiPlex Computer	5	\$711	\$0
18217	12648	10/31/2014	CE	Dell OptiPlex Computer	5	\$711	\$0
18219	12650	10/31/2014	CE	Dell OptiPlex Computer	5	\$711	\$0
				<b>Subtotal Computer Equipment</b>		<b>\$50,524</b>	
17273	289-114	3/31/2014	OV	2014 Ford E350	4	\$30,496	\$0
14685	35751	9/30/2012	OV	2012 Ford E350	5	\$29,979	\$0
15866	36255	6/7/2013	OV	2013 Ford E350	4	\$29,168	\$0
15871	36252	6/7/2013	OV	2013 Ford E350	4	\$29,168	\$0
12560	28243	1/31/2008	OV	Ford E350	4	\$27,000	\$0
11185	26292	9/30/2006	OV	Ford E-350	4	\$25,077	\$0
14602	35742	8/1/2012	OV	2012 Dodge Caravan	4	\$23,258	\$0
				<b>Subtotal Other Vehicles</b>		<b>\$194,146</b>	
18326	141084	12/31/2014	RV	Turtle Paratransit Bus	4	\$73,030	\$0
18328	141087	12/31/2014	RV	Turtle Paratransit Bus	4	\$73,030	\$0
18329	141090	12/31/2014	RV	Turtle Paratransit Bus	4	\$73,030	\$0
17798	140021	7/31/2014	RV	Turtle Paratransit Bus	5	\$72,328	\$0
17800	140023	7/31/2014	RV	Turtle Paratransit Bus	5	\$72,328	\$0
17869	140031	8/31/2014	RV	Turtle Paratransit Bus	5	\$72,328	\$0
16940	131399	12/31/2013	RV	Turtle Paratransit Bus	5	\$72,023	\$0
16941	131400	12/31/2013	RV	Turtle Paratransit Bus	5	\$72,023	\$0
17195	131398	1/31/2014	RV	Turtle Paratransit Bus	4	\$72,023	\$0
				<b>Subtotal Revenue Vehicles</b>		<b>\$652,143</b>	
				<b>Grand Totals</b>		<b>\$896,813</b>	

# LYNX Board Agenda

## Consent Agenda Item #6.D. vii

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Warren Hersh  
(Technical Contact)  
Edward Velez  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Dispose of Items Accumulated Through the Lost and Found Process

**Date:** 9/23/2021

---

### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to retire, transfer, discard, donate, recycle or sell at public auction, surplus Lost and Found items such as: handbags, books, phones, keys, backpacks, etc.

### **BACKGROUND:**

LYNX makes a reasonable attempt to find the rightful owner of any lost or abandoned property patrons leaves on its buses and/or facilities. If the articles are unclaimed after a 90-day holding period, the articles become property of LYNX per Chapter 705, Florida Statutes.

It is LYNX's policy to hold a quarterly auction to dispose of Board approved surplus assets. Prior to being auctioned, all electronic devices and cell phones are deleted or erased of personal data by the Auctioneer per contract. Electronic devices and cell phones which cannot be deleted or erased are recycled and shredded by the auctioneer in accordance to all local, state and federal regulations at no cost to LYNX.

See below for a summary of the Lost and Found Articles. A detailed listing of the items being auctioned is available upon request.

### **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

No DBE participation goal is applicable for this activity

# LYNX Board Agenda

## FISCAL IMPACT:

The net proceeds from this sale will be included in LYNX's FY2022 non-operating revenue.

### **Lost and Found Articles Items to Donate or Auction**

<b>Article</b>	<b>Quantity</b>
Apron	3
Baby Stroller	4
Backpack	98
Bag	206
Bible	6
Bike	140
Books	28
Cane	17
Card	110
Case	29
Cellphone	300
Clothing	30
Electronic Device	138
Envelope	5
Folder/Binder	10
Footwear	12
Glasses	156
Gloves	16
Hat	47
Jacket/Hoodie	57
Jewelry	13
Luggage	6
Lunch Bag	31
Other	103
Purse	13
Sweater/Sweatshirt	10
Thermos/Mug	20
Tools	13
Toy	14
Umbrella	44
Watch	7
<b>Total</b>	<b>1,686</b>

# LYNX Board Agenda

## Consent Agenda Item #6.D. viii

**To:** LYNX Board of Directors

**From:** Terri Settington  
Director Of Human Resources  
Brian Anderson  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6106

**Item Name:** Authorization to Amend and Restate the LYNX Defined Contribution Plan for BU Employees Governing Documents

**Date:** 9/23/2021

---

### **ACTION REQUESTED:**

Staff is seeking the Board of Directors' adoption of Resolution No. 21-009 ("Resolution") to amend the governing documents for the LYNX Defined Contribution Plan for BU Employees.

### **BACKGROUND:**

The LYNX Defined Contribution Plan for BU Employees ("Plan") provides tax-qualified retirement benefits to certain of LYNX's employees represented by the Amalgamated Transit Union Local 1596.

LYNX has the right to amend the Plan's governing documents, provided that any amendment that is specifically governed by the terms of an applicable collective bargaining agreement must be compliance therewith.

From time to time it is necessary or desirable to amend the Plan's governing documents to reflect Plan terms to be put into operation.

The Plan's governing documents currently allow for the possibility of investment of Plan funds in a collective investment trust, for which a trust company is acting as trustee, when the instrument establishing the collective investment trust is made a part of the Plan's governing documents.

The Plan's Board of Trustees has selected one or more VantageTrust Company, LLC ("VantageTrust") funds as a new investment menu offering for the Plan's participants and in connection therewith, has recommended that the VantageTrust declaration of trust be adopted as

# LYNX ard Agenda

a governing Plan document and that VantageTrust be appointed as a trustee for the Plan with respect to the VantageTrust fund(s), via the form of the Participation Agreement and related collective investment trust fund documents attached as composite Exhibit "A" to the Resolution.

The adoption of the VantageTrust declaration of trust, and the appointment of VantageTrust as a trustee for the Plan with respect to the VantageTrust fund(s), is not specifically governed by the terms of any applicable collective bargaining agreement.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

There is no fiscal impact.



**CFRTA RESOLUTION NO. 21-009**

**RESOLUTION OF THE CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY (d/b/a/ LYNX) TO AMEND THE  
GOVERNING DOCUMENTS FOR THE LYNX DEFINED CONTRIBUTION  
PLAN FOR BU EMPLOYEES**

**WHEREAS**, LYNX, as the sponsoring employer, previously established the LYNX Defined Contribution Plan for BU Employees ("Plan") effective March 1, 2014, last amended and restated the Plan's governing documents effective January 1, 2016, and subsequently amended the Plan effective April 26, 2020; and

**WHEREAS**, LYNX has the right to further amend the Plan's governing documents, provided that any amendment that is specifically governed by the terms of an applicable collective bargaining agreement must be compliance therewith; and

**WHEREAS**, from time to time it is necessary or desirable to amend the Plan's governing documents to reflect Plan terms to be put into operation; and

**WHEREAS**, the Plan's governing documents currently allow for the possibility of investment of Plan funds in a collective investment trust, for which a trust company is acting as trustee, when the instrument establishing the collective investment trust is made a part of the Plan's governing documents; and

**WHEREAS**, the Plan's Board of Trustees has selected one or more VantageTrust Company, LLC ("VantageTrust") funds as a new investment menu offering for the Plan's participants and in connection therewith, has recommended that the VantageTrust declaration of trust be adopted as a governing Plan document and that VantageTrust be appointed as a trustee for the Plan with respect to the VantageTrust fund(s), via the form of the Participation Agreement and related collective investment trust fund documents attached hereto as composite Exhibit "A"; and

**WHEREAS**, the adoption of the VantageTrust declaration of trust, and the appointment of VantageTrust as a trustee for the Plan with respect to the VantageTrust fund(s), is not specifically governed by the terms of any applicable collective bargaining agreement; and

**WHEREAS**, LYNX wishes to adopt the VantageTrust declaration of trust, and appoint VantageTrust as a trustee for the Plan with respect to the VantageTrust fund(s), via the documents attached hereto as composite Exhibit "A".

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The adoption of the VantageTrust Company, LLC declaration of trust as a governing document for the LYNX Defined Contribution Plan for BU Employees and the appointment of VantageTrust Company, LLC as a trustee for the LYNX Defined Contribution Plan for BU Employees with respect to the VantageTrust Company, LLC fund(s), in the form of the Participation Agreement and related documents attached hereto as composite Exhibit "A", are hereby approved.
2. The LYNX CEO is hereby authorized to execute the VantageTrust Company, LLC Participation Agreement in the form attached hereto as part of composite Exhibit "A", for and on behalf of LYNX.
3. The LYNX CEO, with such assistance as he may require from the Plan's Administrative Committee, the Plan's Board of Trustees, and/or LYNX Human Resources, Finance, or Accounting personnel, is authorized and directed to take all other action as he determines necessary or desirable to effectuate these resolutions.
4. Any and all actions heretofore or hereinafter taken by the Plan's Administrative Committee, the Plan's Board of Trustees, the LYNX CEO, and/or LYNX Human Resources, Finance, or Accounting personnel in connection with any and all of the matters addressed in these resolutions are hereby confirmed and ratified as properly authorized acts of LYNX.

[THIS SPACE IS INTENTIONALLY LEFT BLANK. RESOLUTION CONTINUES  
ON FOLLOWING PAGE.]

**CFRTA RESOLUTION NO. 21-009**

**RESOLUTION OF THE CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY (d/b/a/ LYNX) TO AMEND THE  
GOVERNING DOCUMENTS FOR THE LYNX DEFINED CONTRIBUTION  
PLAN FOR BU EMPLOYEES**

**APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021 by the  
Governing Board of the Central Florida Regional Transportation Authority.

CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY

By: Governing Board

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

## Participation Agreement

# VantageTrust

This Participation Agreement is by and between VantageTrust Company, LLC ("Trust Company"), the trustee of VantageTrust, and the employer executing this Participation Agreement ("Employer") on behalf of the retirement plan(s) or retirement trust(s) identified on the signature page (the "Retirement Trust") and is effective as of the date specified at the end of this Agreement.

### RECITALS

1. The Trust Company maintains VantageTrust (including each separate investment fund established as a "Fund") under the Declaration of Trust of VantageTrust Company dated May 19, 2001, and all other attachments thereto, as amended and in effect from time to time (the "Declaration of Trust"), as a medium for the commingling of assets of Deferred Compensation and Qualified Plans.
2. The Retirement Trust desires to become a Participating Trust, as defined below.

### DEFINITIONS

1. "Eligible Trust" shall mean a Deferred Compensation or Qualified Plan as those terms are defined in the Declaration of Trust.
2. "Participating Trust" means an Eligible Trust that has executed this Participation Agreement, has been accepted to VantageTrust by the Trust Company, has transferred assets to VantageTrust, and has a beneficial interest in VantageTrust.
3. "Non-Public Employer" is any entity other than a Public Employer as defined in the Declaration of Trust.
4. Unless otherwise specified herein, capitalized words or phrases shall have the meaning as set forth in the Declaration of Trust.

### AGREEMENT

In consideration of the foregoing and the promises set forth below, the parties agree to the following:

1. **Appointment and Acceptance.** The Employer hereby acknowledges that the Trust Company has appointed Vantagepoint Investment Advisers, LLC ("VIA"), an investment adviser registered under the Investment Advisers Act of 1940, as an investment adviser pursuant to the terms of the Declaration of Trust to provide advice and recommendations to the Trust Company in the management of the Funds. The Employer further acknowledges that The Trust Company has appointed ICMA Retirement Corporation ("Administrator") to perform various administrative functions of the Funds. The Employer further acknowledges and accepts that VIA and the Trust Company are wholly owned subsidiaries of Administrator.
2. **Adoption of Trust.** The Retirement Trust's participation in each Fund will at all times be subject to the terms of the Declaration of Trust, which is hereby adopted as a part of the Retirement Trust and this Participation Agreement. The Retirement Trust's participation in each Fund will also be subject to the terms of the Declaration of Trust.

3. **Acceptance of Plan.** The Trust Company accepts the Retirement Trust (including each plan forming a part thereof) as a Participating Trust as of the date specified on the execution page of this Participation Agreement.
4. **Notice of Disqualification.** In the event that the Retirement Trust ceases to be an Eligible Trust, then, in the case of any such event, the Employer shall deliver to the Trust Company a written notice of its ceasing to be an Eligible Trust within fifteen (15) calendar days of receipt of any notice, execution of any amendment, receipt of any letter or determination of such cessation. Upon the Trust Company's receipt of such information, in writing or otherwise, the Retirement Trust's units shall be redeemed in accordance with the provisions of the Declaration of Trust.
5. **Term and Termination.** This Agreement shall be in effect from the day specified at the end of this Agreement until termination by Employer or Trust Company upon ninety (90) days prior written notice.
  - a. Termination Restriction. Employer acknowledges and agrees that, consistent with the terms applicable to the VT PLUS Fund as outlined in the Disclosure Memorandum, VIA retains full discretion to defer Employer-initiated withdrawals from the VT PLUS Fund for a period of not more than 12 months following notice of termination of this Agreement.

#### **WARRANTIES, REPRESENTATIONS AND COVENANTS OF EMPLOYER AND ELIGIBLE TRUST**

1. Employer and Retirement Trust represent and warrant as follows:
  - a. The Retirement Trust meets the definition of an "Eligible Trust" because it is one of the following, as indicated on the signature page of this Agreement:

Public Employer Deferred Compensation or Qualified Plan. Either a deferred compensation plan maintained by a Public Employer under Section 457 of the Internal Revenue Code (and trusts maintained by such Public Employers in connection with such 457 plans) or a pension or profit-sharing trust that is maintained by a Public Employer and that is exempt under Section 501(a) of the Internal Revenue Code because the qualified Plan related thereto qualifies under Section 401(a) of the Internal Revenue Code; or

Non-Public Employer Qualified Plan. A pension or profit-sharing trust that is maintained by a Non-Public Employer and that is exempt under Section 501(a) of the Internal Revenue Code because the qualified Plan related thereto qualifies under Section 401(a) of the Internal Revenue Code.
  - b. The Retirement Trust is established, maintained and administered under one or more documents that authorize part or all of the assets of the Retirement Trust to be transferred to, and commingled for investment purposes in, a Trust that meets the requirements of Revenue Ruling 81-100, as amended or clarified from time to time;
  - c. The Declaration of Trust (including each Fund thereunder) is adopted as part of the Retirement Trust;

- d. Authorization or license from any foreign, federal, state or local regulatory authority or agency required on the part of the Employer or the Retirement Trust has been obtained and any necessary filing with any of the foregoing has been duly made;
  - e. Employer will not transmit, or cause to be transmitted, any order for purchase or redemption of units of the VT PLUS Fund that are not based on instructions communicated in proper form by Retirement Plan participants; and
  - f. Employer will not use the VT PLUS Fund as a temporary holding account, default investment, or investment account for employer level accounts including revenue sharing accounts or any other non-participant account. Notwithstanding the foregoing, the Employer can use the VT PLUS Fund in a forfeiture account.
2. Employer hereby represents and acknowledges the following:
- a. It has the requisite authority to enter into this Participation Agreement on behalf of the Retirement Trust, to authorize investments under the provisions of the documents of the Retirement Trust and to make, on behalf of the Retirement Trust, any and all certifications, covenants, representations or warranties set forth in this Agreement;
  - b. The Declaration of Trust, any addenda thereto, the Disclosure Memorandum, any applicable Fund Fact Sheets, and any additional materials and information requested by the Employer describing VantageTrust and its business and operation have been made available to the Employer and have been reviewed by the Employer, and that in making a prudent investment decision with respect to the contribution of assets to VantageTrust in exchange for units and the current or future selection of one or more Funds, the Employer has relied solely upon independent investigations made, directly or indirectly, by it;
  - c. It has been given the opportunity to review with the Trust Company the terms and conditions of this Participation Agreement and the Declaration of Trust, and to obtain additional information to verify the accuracy of the information contained in the aforesaid materials, and such other information as it desires to evaluate its investment in VantageTrust and the selection of one or more of the Funds;
  - d. The units of the Funds have not been registered under the Securities Act of 1933 or the applicable securities laws of any states or other jurisdictions;
  - e. Neither VantageTrust nor any Fund is registered under the Investment Company Act of 1940, and investors are not entitled to the protections of that Act; and
  - f. The units of the Funds are not insured by the Federal Deposit Insurance Corporation or any other type of deposit insurance coverage.
3. Employer agrees promptly to notify the Trust Company in the event that any of the representations set forth above or any information provided pursuant to the provisions hereof ceases to be accurate during the term of this Participation Agreement. Until such notice is given to the Trust Company, the Trust Company may rely on the representations contained in, and all other information provided pursuant to or as contemplated by, this Participation Agreement in connection with all matters related to the Funds and VantageTrust.

4. Upon reasonable request by the Trust Company, Employer agrees to provide the Trust Company with a list of all Employer affiliates that provide financial services to Employer, including any broker-dealer.
5. Employer acknowledges that VantageTrust may invest in a range of securities, whether directly or indirectly through another pooled investment vehicle. Employer acknowledges and agrees that it is solely responsible for determining that the Retirement Trust's investment in VantageTrust will not contravene any provision of existing law or regulations applicable to the Retirement Trust, or of the organizational or governing documents of the Retirement Trust.

## FEES AND EXPENSES

1. Fees and expenses incurred with respect to VantageTrust, including compensation of the Trustee, shall be paid in accordance with the Declaration of Trust.

## MISCELLANEOUS

1. **Consent to Electronic Delivery.** By submitting an email address on the signature page of this Agreement, the Employer hereby authorizes, and agrees to, the use of electronic mail or web-based availability to deliver all documents required to be delivered by, or on behalf of, the Fund to the Employer under applicable law or regulation and pursuant to the Declaration of Trust, such delivery or notice of web-based availability to be sent to the email address listed on the signature page of this Agreement, unless Employer otherwise notifies Trust Company in writing. The Employer may elect not to receive such documents by electronic means by submitting a written request to Trust Company.
2. **Construction.** This Participation Agreement shall be deemed to be executed and delivered in the State of New Hampshire, and, except to the extent superseded by federal laws, all laws or rules of construction of the State of New Hampshire shall govern the rights of the parties hereto and the interpretation of provisions of this Participation Agreement.
3. **Counterparts.** This Participation Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but the several counterparts shall together constitute one and the same Participation Agreement of the parties hereto.
4. **Amendments.** This Participation Agreement shall be automatically amended by any amendment to the Declaration of Trust, and all such amendments shall be automatically incorporated by reference herein, and any provisions of this Participation Agreement inconsistent with the terms of such amendment shall be null and void on and after the effective date of such amendment.
5. **Agreement Conflicts.** In the event that any terms of this Participation Agreement conflict with or are in addition to the terms of any other agreement between the parties, the terms of this Participation Agreement and the Declaration of Trust shall prevail. In the event that the terms of this Participation Agreement conflict with the terms of the Declaration of Trust, the terms of the Declaration of Trust shall prevail.
6. **Prohibited Transactions.** If the Trust Company determines that the Retirement Trust's involvement with certain assets, liabilities or transactions will result, or has resulted, in the Trust engaging in a transaction that is prohibited by the Internal Revenue Code, Employee Retirement Income Security Act of 1974, Securities Act of 1933, Investment Company Act of 1940 or other

applicable law, the Trust Company, in its sole discretion, may take action to correct such prohibited transaction, or may treat the Retirement Trust as having withdrawn from participation and shall redeem the Retirement Trust's units, all in accordance with the Declaration of Trust.

7. **Severability.** Each clause or term of this Participation Agreement is severable from the entire Participation Agreement, and if any clause or term is declared invalid, the remaining clauses or terms shall remain in effect.
8. **Notice.** All notices under this Participation Agreement must be sent in writing to the below address:

VantageTrust Company, LLC  
c/o ICMA Retirement Corporation  
Attn: Legal Division  
777 North Capitol Street, NE  
Washington, DC 20002

9. **Electronic Signatures.** The parties agree that this document may be electronically signed and that any electronic signatures appearing on this document are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

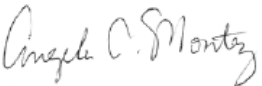
*[The remainder of this page intentionally left blank]*



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date specified below.

**VantageTrust**

By: VantageTrust Company, LLC, as Trustee,

By:   
 Angela Montez, Secretary

**ALL EMPLOYERS:**

List below the Plan(s)/Retirement Trust(s):

	Plan/Retirement Trust Name	Public Employer Plan	Non-Public Employer Plan
		(Check one option only)	
1.	LYNX Defined Contribution Plan for BU Employees	X	
2.			

Check this box to confirm that the documents listed in Section 2(b) of the Warranties, Representations and Covenants section of this Agreement have been made available to the Employer and have been reviewed by the Employer.

If applicable, list below the name and CRD number (if an investment adviser) of the agent that is acting on behalf of the Employer and that is authorized to receive information relating to this Agreement and the Plan's/Retirement Trust's investment in the Funds:

Agent	CRD No.
N/A	

**NON-PUBLIC EMPLOYERS ONLY:**

Check this box to confirm the Employer has provided a copy of the applicable IRS Form W-9.

By: Central Florida Regional Transportation Authority d/b/a LYNX  
 Name of Employer or Fiduciary

By: \_\_\_\_\_  
 Authorized Officer Signature  
 James E. Harrison, P.E., Esq., as CEO  
 \_\_\_\_\_  
 Printed Name and Title  
 c/o Brian Anderson  
 2500 Lynx Lane  
 \_\_\_\_\_  
 Address Line 1  
 Orlando, FL 32804  
 \_\_\_\_\_  
 Address Line 2

\_\_\_\_\_  
 Date  
 (407) 254-6219  
 \_\_\_\_\_  
 Telephone Number  
 c/o  
 banderson@golynx.com  
 \_\_\_\_\_  
 Email

## VantageTrust Participation Agreement – Related Documents

Documents referenced in Section 2(b) of the Warranties, Representations and Covenants section of the Participation Agreement:

1. Declaration of Trust of VantageTrust Company, dated May 19, 2001 with Exhibit A dated November 2020
2. Declaration of Trust for ICMA Retirement Trust as Amended August 2017 (this is the latest amendment and restatement of the October 4, 1982 Declaration of Trust)
3. Amended and Restated Limited Liability Company Agreement of VantageTrust Company, LLC (this is the superseding document for the ICMA Trust By-laws referenced in the 2001 Declaration of Trust)
4. Disclosure Memorandum for VantageTrust Funds dated November 2020
5. Fund Fact Sheet for VantagePoint Plus Fund R10 dated March 31, 2021

**DECLARATION OF TRUST  
OF  
VANTAGETRUST COMPANY, LLC**

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19<sup>th</sup> day of May, 2001, by **VantageTrust Company, LLC**, which declares itself to be the sole Trustee of the trust hereby created.

**WHEREAS**, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

**WHEREAS**, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

**NOW, THEREFORE**, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

1. **Incorporation of ICMA Declaration by Reference; ICMA By-Laws.** Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.


Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

- (a) any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
  - (b) all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.
2. **Compliance with Revenue Procedure 81-100.** The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:
- (a) Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
  - (b) Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.
  - (c) In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.
  - (d) In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.
3. **VantageTrust Funds.** In accordance with 12 C.F.R. Part 9 as issued by the Office of the Comptroller of the Currency, the investment funds known as the VantageTrust Funds are incorporated into this Declaration of Trust. The VantageTrust Funds are listed in Exhibit A.
4. **Governing Law.** Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.
5. **Judicial Proceedings.** The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of

New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

**IN WITNESS WHEREOF**, the Trustee has executed this Declaration of Trust as of the day and year first above written.

**VANTAGETRUST COMPANY, LLC**

By:   
Name: Paul F. Gallagher  
Title: Assistant Secretary

## Exhibit A: List of VantageTrust Funds

November 2020

The VantageTrust (“VT”) Funds are:

### **Stable Value / Cash Management Funds**<sup>1</sup>

VT Cash Management Fund  
VT PLUS Fund

### **VT Vantagepoint Model Portfolio Funds**<sup>1</sup>

VT Vantagepoint Model Portfolio Conservative Growth Fund  
VT Vantagepoint Model Portfolio Traditional Growth Fund  
VT Vantagepoint Model Portfolio Long-Term Growth Fund  
VT Vantagepoint Model Portfolio Global Equity Growth Fund

### **VT Vantagepoint Funds**<sup>1</sup>

VT Vantagepoint 500 Stock Index Fund  
VT Vantagepoint Aggressive Opportunities Fund  
VT Vantagepoint Broad Market Index Fund  
VT Vantagepoint Core Bond Index Fund  
VT Vantagepoint Discovery Fund  
VT Vantagepoint Emerging Markets Fund  
VT Vantagepoint Equity Income Fund  
VT Vantagepoint Growth & Income Fund  
VT Vantagepoint Growth Fund  
VT Vantagepoint High Yield Fund  
VT Vantagepoint Inflation Focused Fund  
VT Vantagepoint International Fund  
VT Vantagepoint Low Duration Bond Fund  
VT Vantagepoint Mid/Small Company Index Fund  
VT Vantagepoint Overseas Equity Index Fund  
VT Vantagepoint Select Value Fund

### **VT Vantagepoint Milestone Funds**<sup>1</sup>

VT Vantagepoint Milestone Retirement Income Fund  
VT Vantagepoint Milestone 2015 Fund  
VT Vantagepoint Milestone 2020 Fund  
VT Vantagepoint Milestone 2025 Fund  
VT Vantagepoint Milestone 2030 Fund  
VT Vantagepoint Milestone 2035 Fund  
VT Vantagepoint Milestone 2040 Fund  
VT Vantagepoint Milestone 2045 Fund  
VT Vantagepoint Milestone 2050 Fund  
VT Vantagepoint Milestone 2055 Fund  
VT Vantagepoint Milestone 2060 Fund

### **VT Trust Series Funds**

VT AMG TimesSquare Mid Cap Growth Fund  
VT ContraFund®  
VT Diversified International Fund  
VT Carillon Eagle Mid Cap Growth Fund  
VT Invesco Diversified Dividend Fund  
VT LSV Small Cap Value Fund  
VT MFS® Value Fund  
VT Nuveen Real Estate Securities Fund  
VT Invesco Discovery Fund  
VT Invesco Main Street Fund  
VT Parnassus Core Equity Fund  
VT PIMCO High Yield Fund  
VT Puritan® Fund  
VT T. Rowe Price® Growth Stock Fund  
VT Victory Sycamore Established Value Fund  
VT Western Asset Core Plus Bond Fund

### **Guaranteed Lifetime Income**

VT Retirement Income Advantage Fund

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<sup>1</sup> Note that the “VT” Prefix is excluded from fund names in marketing materials.

## DECLARATION OF TRUST

### ICMA RETIREMENT TRUST

As Amended

August 2017

#### ARTICLE I

#### NAME AND DEFINITIONS

**Section 1.1 Name.** The name of the trust created hereby is the ICMA Retirement Trust.

**Section 1.2 Definitions.** Wherever they are used herein, the following terms shall have the following respective meanings:

- (a) **By-laws.** The by-laws referred to in Section 4.1 hereof, as amended from time to time.
- (b) **Deferred Compensation Plan.** A deferred compensation plan established and maintained by an Employer for the purpose of providing retirement income and other deferred benefits to its employees in accordance with the provision of Section 457 of the Internal Revenue Code.
- (c) **Employees.** Those employees who participate in Qualified Plans and/or Deferred Compensation Plans.
- (d) **Employer.** An entity, including a Public Employer, that has adopted a plan that is eligible to participate in a group trust under Internal Revenue Service Revenue Ruling 81-100, 1981-1 C.B. 326 as amended by and clarified in Revenue Ruling 2004-67, 2004-2 C.B. 28, Revenue Ruling 2011-1, 2011-2 C.B. 251, Revenue Ruling 2014-24, 2014-37 I.R.B. 529, and Notice 2012-6, 2012-3 I.R.B. 293, and as may be further amended or clarified from time to time, and has adopted this Declaration of Trust.
- (e) **Employer Trust.** A trust that is established by an Employer in connection with its Qualified Plan and that satisfies the requirements of Section 501 of the Internal Revenue Code, or a trust established by an Employer in connection with its Deferred Compensation Plan and that satisfies the requirements of Section 457(b) of the Internal Revenue Code.
- (f) **Investment Contract.** A non-negotiable contract entered into by the Retirement Trust with a financial institution that provides for a fixed rate of return on investment.

- (g) **ICMA.** International City/County Management Association.
- (h) **ICMA Trustees.** Those Trustees elected by the Public Employers in accordance with the provisions of Section 3.1(a) hereof, who are also members or former members of the Executive Board of ICMA.
- (i) **RC Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provisions of Section 3.1(a) hereof, are also members of former members of the Board of Directors of RC.
- (j) **Internal Revenue Code.** The Internal Revenue Code of 1986, as amended
- (k) **Investment Adviser.** The Investment Adviser that enters into a contract with the Retirement Trust to provide advice with respect to investment of the Trust Property.
- (l) **Portfolios.** The separate commingled pools of investment established by the Investment Adviser to the Retirement Trust, under the supervision of the Trustees, for the purpose of providing investments for the Trust Property.
- (m) **Public Employee Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provision of Section 3.1 (a) hereof, are full time employees of Public Employers.
- (n) **Public Employer Trustees.** Public Employers who serve as Trustees of the Qualified Plans or Deferred Compensation Plans.
- (o) **Public Employer.** A unit of state or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan or a Qualified Plan and has executed this Declaration of Trust.
- (p) **Qualified Plan.** A plan that is sponsored by an Employer for the purpose of providing retirement income to its employees and that satisfies the qualification requirements of Section 401 of the Internal Revenue Code.
- (q) **RC.** The International City Management Association Retirement Corporation.
- (s) **Retirement Trust.** The Trust created by this Declaration of Trust.
- (t) **Trust Property.** The amounts held in the Retirement Trust as provided in Section .3. The Trust Property shall include any income resulting from the investment to the amounts so held.



- (u) **Trustees.** The Public Employee Trustees, ICMA Trustees and RC Trustees elected by the Public Employers to serve as members of the Board of Trustees of the Retirement Trust.

**ARTICLE II  
CREATION AND PURPOSE OF THE TRUST;  
OWNERSHIP OF TRUST PROPERTY**

**Section 2.1 Creation.** (a) The Retirement Trust was created by the execution of this Declaration of Trust by the initial Trustees and Public Employers and is established with respect to each participating Public Employer by adoption of this Declaration of Trust.

(b) The Retirement Trust is hereby expressly made a part of the appropriate qualified Plan or Deferred Compensation Plan of each Employer that adopts or executes, or has adopted or executed this Declaration of Trust.

**Section 2.2 Purpose and Participation.** (a) The purpose of the Retirement Trust is to provide for the commingled investment of funds held by the Employers in connection with their Deferred Compensation and Qualified Plans. The Trust Property shall be invested in the Portfolios, in Investment Contracts, and in other investments recommended by the Investment Adviser under the supervision of the Board of Trustees. No part of the Trust Property will be invested in securities issued by Public Employers.

(b) Participation in the Retirement Trust is limited to (i) pension and profit-sharing trusts which are maintained by Employers and that are exempt under Section 501(a) of the Internal Revenue Code because the qualified Plans related thereto qualify under Section 401(a) of the Internal Revenue Code and (ii) deferred compensation plans maintained by Public Employers under Section 457 of the Internal Revenue Code (and trusts maintained by such Public Employers in connection with such 457 plans).

**Section 2.3 Ownership of Trust Property.** (a) The Trustees shall have legal title to the Trust Property. The Trust Property shall be held as follows:

(i) for the Employer Trusts for the exclusive benefit of the Employees; or

(ii) in the case of a Deferred Compensation Plan maintained by a Public Employer that has not established an Employer Trust for the plan, for the Public Employer as beneficial owner of the plan's assets.

(b) The portion of the corpus and income of the Retirement Trust that equitably belongs to any Employer Trust may not be used for or diverted to any

purpose other than for the exclusive benefit of the Employees (or their beneficiaries) who are entitled to benefits under such Employer Trust.

(c) No employer's Employer Trust may assign any part of its equity or interest in the Retirement Trust, and any purported assignment of such equity or interest shall be void.

### **ARTICLE III TRUSTEES**

**Section 3.1 Number and Qualification of Trustees:** (a) The Board of Trustees shall consist of nine Trustees. Five of the Trustees shall be full-time employees of a Public Employer (the Public Employee Trustees) who are authorized by such Public Employer to serve as Trustee. The remaining four Trustees shall consist of two persons who, at the time of election to the Board of Trustees, are members or former members of the Executive Board of ICMA, and two persons who, at the time of election, are members or former members of the Board of Directors of RC. One of the ICMA Trustees and one of the RC Trustees shall, at the time of election, be full-time employees of Public Employers.

(b) No person may serve as a Trustee for more than two terms in any ten-year period.

**Section 3.2 Election and Term:** (a) Except for the Trustees appointed to fill vacancies pursuant to Section 3,5 hereof, the Trustees shall be elected by a vote of a majority of the voting Public Employers in accordance with the procedures set forth in the By-Laws.

(b) At the first election of Trustees, three Trustees shall be elected for a term of three years, three Trustees shall be elected for a term of two years and three Trustees shall be elected for a term of one year. At each subsequent election, three Trustees shall be elected, each to serve for a term of three years and until his or her successor is elected and qualified.

**Section 3.3 Nominations.** The Trustees who are full-time employees of Public Employers shall serve as the Nominating Committee for the Public Employee Trustees. The Nominating Committee shall choose candidates for Public Employee Trustee in accordance with the procedures set forth in the By-Laws.

**Section 3.4 Resignation and Removal.** (a) Any Trustee may resign as Trustee (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the other Trustees and such resignation shall be effective upon such delivery, or at a later date according to the terms of the instrument. Any of the Trustees may be removed for cause, by a vote of a majority of the Public Employers.

(b) Each Public Employee Trustee shall resign his or her position as Trustee within sixty days of the date on which he or she ceases to be a full-time employee of a Public Employer.

**Section 3.5 Vacancies.** The term of office of a Trustee shall terminate and a vacancy shall occur in the event of his or her death, resignation, removal, adjudicated incompetence or other incapacity to perform the duties of the office of a Trustee. In the case of a vacancy, the remaining Trustees shall appoint such person as they in their discretion shall see fit (subject to the limitations set forth in this Section), to serve for the unexpired portion of the term of the Trustee who has resigned or otherwise ceased to be a Trustee. The appointment shall be made by a written instrument signed by a majority of the Trustees. The person appointed must be the same type of Trustee (i.e., Public Employee Trustee, ICMA Trustee or RC Trustee) as the person who has ceased to be a Trustee. An appointment of a Trustee may be made in anticipation of a vacancy to occur at a later date by reason of retirement or resignation, provided that such appointment shall not become effective prior to such retirement or resignation. Whenever a vacancy shall occur, until such vacancy is filled as provided in this Section 3.5, the Trustees in office, regardless of their number, shall have all the powers granted to the Trustees and shall discharge all the duties imposed upon the Trustees by this Declaration. A written instrument certifying the existence of a vacancy signed by a majority of the Trustees shall be conclusive evidence of the existence of such vacancy.

**Section 3.6 Trustees Serve in Representative Capacity.** By executing this Declaration, each Public Employer agrees that the Public Employee Trustees elected by the Public Employers are authorized to act as agents and representatives of the Public Employers collectively.

#### **ARTICLE IV POWERS OF TRUSTEES**

**Section 4.1 General Powers.** The Trustees shall have the power to conduct the business of the Trust and to carry on its operations. Such power shall include, but shall not be limited to, the power to:

(a) receive the Trust Property from the Employers, Public Employers, Public Employer Trustees or the Trustee or administrator under any Employer Trust;

(b) enter into a contract with an Investment Adviser providing, among other things, for the establishment and operation of the Portfolios, selection of the Investment Contracts in which the Trust Property may be invested, selection of the other investments for the Trust Property and the payment of reasonable fees

to the Investment Adviser and to any sub-investment adviser retained by the Investment Adviser;

(c) review annually the performance of the Investment Adviser and approve annually the contract with such Investment Adviser;

(d) invest and reinvest the Trust Property in the Portfolios, the Investment Contracts and in any other investment recommended by the Investment Adviser, but not including securities issued by Public Employers, providing if a Public Employer has directed that its monies be invested in one or more specified Portfolios or in an Investment Contract, the Trustees of the Retirement Trust shall invest such monies in accordance with such directions;

(e) keep such portion of the Trust Property in cash or cash balances as the Trustees, from time-to-time, may deem to be in the best interest of the Retirement Trust created hereby without liability for interest thereon;

(f) accept and retain for such time as they may deem advisable any securities or other property received or acquired by them as Trustees hereunder, whether or not such securities or other property would normally be purchased as investment hereunder;

(g) cause any securities or other property held as part of the Trust Property to be registered in the name of the Retirement Trust or in the name of a nominee, and to hold any investments in bearer form, but the books and records of the Trustees shall at all times show that all such investments are a part of the Trust Property;

(h) make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(i) vote upon any stock, bonds, or other securities; give general or special proxies or powers of attorney with or without power of substitution; exercise any conversion privileges, subscription rights, or other options, and make any payments incidental thereto; oppose, or consent to, or otherwise participate in, corporate reorganizations or to other changes affecting corporate securities, and delegate discretionary powers and pay any assessments or charges in connection therewith; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held as part of the Trust Property.

(j) enter into contracts or arrangements for goods or services required in connection with the operation of the Retirement Trust, including, but not limited to, contracts with custodians and contracts for the provision of administrative services;

(k) borrow or raise money for the purposes of the Retirement Trust in such amount and upon such terms and conditions, as the Trustees shall deem advisable provided that the aggregate amount of such borrowings shall not exceed 30% of the value of the Trust Property. No person lending money to the Trustees shall be bound to see the application of the money lent or to inquire into its validity, expediency or propriety or any such borrowing;

(l) incur reasonable expenses as required for the operation of the Retirement Trust and deduct such expenses from the Trust Property;

(m) pay expenses properly allocable to the Trust Property incurred in connection with the Deferred Compensation Plans, Qualified Plans, or the Employer Trusts and deduct such expenses from that portion of the Trust Property to which such expenses are properly allocable;

(n) pay out of the Trust Property all real and personal property taxes, income taxes and other taxes of any and all kinds which, in the opinion of the Trustees, are properly levied, or assessed under existing or future laws upon, or in respect of, the Trust Property and allocate any such taxes to the appropriate accounts;

(o) adopt, amend and repeal the By-laws, provided that such By-laws are at all times consistent with the terms of this Declaration of Trust;

(p) employ persons to make available interests in the Retirement Trust to employers eligible to maintain a Deferred Compensation Plan under Section 457 or a Qualified Plan under Section 401 of the Internal Revenue Code;

(q) issue the Annual Report of the Retirement Trust, and the disclosure documents and other literature used by the Retirement Trust;

(r) in addition to conducting the investment program authorized in Section 4.1(d), make loans, including the purchase of debt obligations, provided that all such loans shall bear interest at the current market rate;

(s) contract for, and delegate any powers granted hereunder to, such officers, agents, employees, auditors and attorneys as the Trustees may select, provided that the Trustees may not delegate the powers set forth in paragraphs (b), (c) and (o) of this Section 4.1 and may not delegate any powers if such delegation would violate their fiduciary duties;

(t) provide for the indemnification of the Officers and Trustees of the Retirement Trust and purchase fiduciary insurance;

(u) maintain books and records, including separate accounts for each Employer, Public Employer, Public Employer Trustee or Employer Trust and such additional

separate accounts as are required under, and consistent with, the Deferred Compensation or Qualified Plan of each Employer; and

(v) do all such acts, take all such proceedings, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or appropriate to administer the Trust Property and to carry out the purposes of the Retirement Trust.

**Section 4.2 Distribution of Trust Property.** Distributions of the Trust Property shall be made to or on behalf of, the Employer, Public Employer or Public Employer Trustee, in accordance with the terms of the Deferred Compensation Plans, Qualified Plans or Employer Trusts. The Trustees of the Retirement Trust shall be fully protected in making payments in accordance with the directions of the Employers, Public Employers, Public Employer Trustees or Trustees or Administrators of any Employer Trust without ascertaining whether such payments are in compliance with the provisions of the applicable Deferred Compensation or Qualified Plan or Employer Trust.

**Section 4.3 Execution of Instruments.** The Trustees may unanimously designate any one or more of the Trustees to execute any instrument or document on behalf of all, including but not limited to signing or endorsement of any check and the signing of any applications, insurance and other contracts, and the action of such designated Trustee or Trustees shall have the same force and effect as if taken by all the Trustees.

## **ARTICLE V DUTY OF CARE AND LIABILITY OF TRUSTEES**

**Section 5.1 Duty of Care.** In exercising the powers hereinbefore granted to the Trustees, the Trustees shall perform all acts within their authority for the exclusive purpose of providing benefits for Employees, Public Employers in connection with non-trusteed Deferred Compensation Plans for the Public Employer Trustees, and shall perform such acts with the care, skill, prudence and diligence in the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

**Section 5.2 Liability.** The Trustees shall not be liable for any mistake of judgment or other action taken in good faith, and for any action taken or omitted in reliance in good faith upon the books of account or other records of the Retirement Trust by any of its officers, employees or agents or by the Investment Adviser or any sub-investment adviser, accountant, appraiser or other expert or consultant selected with reasonable care by the Trustees, Officers or employees of the Retirement Trust. The Trustees shall also not be liable for any loss sustained by the Trust

Property by reason of any investment made in good faith and in accordance with the standard of care set forth in Section 5.1.

**Section 5.3 Bond.** No Trustee shall be obligated to give any bond or other security for the performance of any of his or her duties hereunder.

## **ARTICLE VI ANNUAL REPORT TO SHAREHOLDERS**

The Trustees shall annually submit to the Employers, Public Employers and Public Employer Trustees a written report of the transactions of the Retirement Trust, including financial statements which shall be certified by independent public accountants chosen by the Trustees.

## **ARTICLE VII DURATION OR AMENDMENT OF RETIREMENT TRUST**

**Section 7.1 Withdrawal.** An Employer or Public Employer Trustee may, at any time, withdraw from this Retirement Trust by delivering to the Board of Trustees or RC a written statement of withdrawal. In such statement, the Employer or Public Employer Trustee shall acknowledge that the Trust Property allocable to the Employer is derived from compensation deferred by Employees of such Employer pursuant to its Deferred Compensation Plan or from contributions to the accounts of Employees pursuant to a Qualified Plan, and shall designate the financial institution to which such property shall be transferred by the Trustees of the Retirement Trust or by the Trustee or Administrator under an Employer Trust.

**Section 7.2 Duration.** The Retirement Trust shall continue until terminated by the vote of a majority of the Public Employers, each casting one vote. Upon termination, all of the Trust Property shall be paid out to the Employers, Public Employer Trustees or the Trustees or Administrators of the Employer Trusts, as appropriate.

**Section 7.3 Amendment.** The Retirement Trust may be amended by the vote of a majority of the Public Employers, each casting one vote.

**Section 7.4 Procedure.** A resolution to terminate or amend the Retirement Trust or to remove a Trustee shall be submitted to a vote of the Public Employers if: (i) a majority of the Trustees so direct, or; (ii) a petition requesting a vote signed by not less than 25 percent of the Public Employers, is submitted to the Trustees.

**ARTICLE VIII  
MISCELLANEOUS**

**Section 8.1 Governing Law.** Except as otherwise required by state or local law, this Declaration of Trust and the Retirement Trust hereby created shall be construed and regulated by the laws of the District of Columbia.

**Section 8.2 Counterparts.** This Declaration may be executed by the Employers and Trustees in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.



**AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT OF  
VANTAGETRUST COMPANY, LLC**

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**AMENDED AND RESTATED**  
**LIMITED LIABILITY COMPANY AGREEMENT OF**  
**VANTAGETRUST COMPANY, LLC**

**A New Hampshire Limited Liability Nondepository Trust Company**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, dated as of June 17, 2020, is made by and among the Person identified as the sole Member on Schedule A, and each of the Persons identified on Schedule A hereto is a manager (defined herein as a “Director”) and each Person who becomes an additional or substitute Director in accordance herewith.

WHEREAS, the Trust Company was reorganized into a limited liability company from a corporation by the filing of a Certificate of Formation, effective as of January 1, 2012 with the Secretary of State of the State of New Hampshire pursuant to RSA 392:17, which certificate was approved by the Board of Trust Company Incorporation on October 19, 2011.

WHEREAS, subject to applicable New Hampshire banking laws and regulations, the Member is operating the Trust Company as a New Hampshire limited liability company under the Act, and sets forth herein the rights, duties and obligations with respect to the Trust Company;

WHEREAS, the Member intends that the Trust Company be treated as a partnership for federal and state income tax purposes; and

WHEREAS, the Directors and the Member wish to set out fully their respective rights, obligations and duties with respect to the Trust Company and its business, management and operations.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**ARTICLE I.**  
**Definitions**

The following capitalized terms used in this Agreement shall have the respective meanings ascribed to them below.

“*Act*” means the New Hampshire Limited Liability Company Act (RSA 304-C:1, et seq.), as amended from time to time, and any successor thereto.

“*Affiliate*” shall mean, with respect to any specified Person, (i) any Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person; (ii) any Person that directly or indirectly controls 10 percent or more of the outstanding equity

securities of the specified entity or of which the specified Person is directly or indirectly the owner of 10 percent or more of any class of equity securities; or (iii) any Person that is an officer of, director of, partner in, or trustee of, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, director, partner or trustee, or with respect to which the specified Person serves in a similar capacity.

“*Agreement*” means this Amended and Restated Limited Liability Company Agreement as it may be amended, supplemented or restated from time to time.

“*Board of Directors*” or “*Board*” means the Board of Directors described in Article VI of this Agreement.

“*Capital Account*” shall have the meaning set forth in Section 3.1.

“*Capital Contribution*” means, with respect to the Member, the aggregate amount of money and value of property contributed to the capital of the Trust Company by such Member. Unless otherwise provided herein, in the case of a Member who acquires a membership interest in the Trust Company by assignment directly from another Member in accordance with this Agreement, such Member shall be deemed to have made the Capital Contribution made by the assignor of such interest (or made by such assignor’s predecessor in interest).

“*Certificate*” means the Amended and Restated Certificate of Formation creating the Trust Company, as it has been or may be amended, from time to time, in accordance with the Act.

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time.

“*Covered Person*” means any officer of the Trust Company, any Director of the Trust Company, or any of such Director’s Affiliates.

“*Director*” refers to any Person designated as a Director on Schedule A hereto and any Person who becomes an additional, substitute or replacement Director as permitted by this Agreement, in each such Person’s capacity as (and for the period during which such Person serves as) a Director of the Trust Company.

“*Liquidator*” means the Board of Directors, or any Person or Persons appointed by the Board of Directors, to liquidate the assets of the Trust Company, apply and distribute the proceeds thereof and cause the cancellation of the Certificate.

“*Member*” refers to the Person named as a Member in this Agreement and any Person who becomes a substitute Member as permitted by this Agreement, in such Person’s capacity as (and for the period during which such Person serves as) a Member of the Trust Company.

“*Person*” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“*President*” means the person occupying the office of President (as provided in Section 6.4) at any time, or from time to time.

“*Secretary*” means the person occupying the office of Secretary (as provided in Section 6.4) at any time, or from time to time.

“*Securities Act*” means the Securities Act of 1933, as amended.

“*Terminated Director*” shall have the meaning set forth in Section 6.2(a).

“*Transfer*”, and any grammatical variation thereof, means any sale, exchange, issuance, redemption, assignment, distribution, encumbrance, hypothecation, gift, pledge, retirement, resignation, transfer or other withdrawal, disposition or alienation in any way (including, without limitation, the grant of any security interest), whether voluntarily, involuntarily or by operation of law, as to the Member’s interest in the Trust Company. Transfer shall specifically, without limitation of the above, include assignments and distributions resulting from death, incompetency, bankruptcy, liquidation and dissolution.

“*Treasurer*” means the person occupying the office of Treasurer (as provided in Section 6.4) at any time, or from time to time.

“*Treasury Regulations*” means the United States income tax regulations, including temporary regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“*Trust Company*” means the limited liability company formed pursuant to the Certificate and this Agreement, as the Certificate or this Agreement may from time to time be constituted, amended or restated.

## **ARTICLE II. General**

2.1. *Name of the Limited Liability Company.* The name of the limited liability company formed hereby is VantageTrust Company, LLC. The name of the Trust Company may be changed at any time or from time to time with the approval of the Board of Directors, as approved by applicable bank regulatory authorities.

2.2. *Offices of the Limited Liability Company; Registered Agent.* The Trust Company may carry on any portion of its business at such places within or without the State of New Hampshire as may be from time to time permitted under applicable laws, rules, and regulations. The registered agent for service of process on the Trust Company in the State of New Hampshire shall be Gallagher, Callahan & Gartrell, P.C. 214 North Main Street, PO Box 1415, Concord, New Hampshire 03302-1415. The Board of Directors may at any time change the location of a place of business, establish additional places of business and designate a new agent for service of process as it shall deem advisable.

2.3. *Organization.* The Trust Company is organized as a New Hampshire limited

liability company as provided herein. The Board of Directors shall cause to be filed such certificates and documents as may be necessary or appropriate to comply with the Act and any other applicable requirements for the operation of a limited liability company in accordance with the laws of New Hampshire and any other jurisdictions in which the Trust Company shall conduct business, and shall continue to do so for so long as the Trust Company conducts business therein.

Subject to applicable New Hampshire banking laws and regulations, the parties hereto ratify and confirm the authority of each member of the Board of Directors or any other individual authorized by the Board of Directors, acting singly in any case, to execute, acknowledge, deliver, file and record in the appropriate offices, as applicable, (i) any amendments to the Trust Company's Certificate (each of such individuals being an "authorized person" within the meaning of the Act), (ii) such other instruments, certificates, documents and other writings which the Board of Directors determines to be necessary or appropriate to preserve the Trust Company's status as a New Hampshire limited liability company or to qualify the Trust Company to do business in states other than New Hampshire, and (iii) any recordable instrument on behalf of the Trust Company purporting to affect an interest in real property in the State of New Hampshire or any other state, whether to be recorded with a registry of deeds or any other appropriate office or court.

*2.4. Purposes.* The Trust Company shall be a nondepository trust company under the banking laws and regulations of the State of New Hampshire, as such laws and regulations now exist or may be hereafter amended, and shall have and may exercise all the express, implied and incidental powers conferred upon such companies. The Trust Company shall not be authorized to accept deposits or to make loans.

*2.5. Powers.*

(a) Without limiting the generality of Section 2.4, the Trust Company shall have the power and authority to take any and all actions necessary or convenient to, or for the furtherance of, the purposes set forth in Section 2.4, including, but not limited to, the power:

(i) to purchase, subscribe for or otherwise acquire, own, hold, vote, sell, mortgage, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, domestic or foreign corporations, associations, general or limited partnerships, trusts, limited liability companies, or individuals or direct or indirect obligations of the United States or of any government, state, territory, governmental district or municipality or of any instrumentality of any of them;

(ii) to hire and fire employees, consultants and others;

(iii) to acquire (by purchase, lease, contribution of property or otherwise), own, hold, license, operate, maintain, finance, improve, lease, sell, convey, mortgage, transfer, demolish or dispose of any real or personal property that may be necessary or convenient to the accomplishment of the purposes of the Trust Company;

(iv) to negotiate, enter into, perform, amend, extend, waive, terminate or take any other action with respect to contracts of any kind, including, without limitation,

contracts with the Member, any Affiliate thereof, or any employee or agent of the Trust Company in connection with, or necessary or convenient to, the accomplishment of the purposes of the Trust Company, and any lease, contract or security agreement in respect of any assets of the Trust Company;

(v) to invest and reinvest its funds;

(vi) to borrow money and issue evidences of indebtedness, and to secure the same by a mortgage, pledge or other lien on the assets of the Trust Company;

(vii) to sue and be sued, complain and defend, and participate in administrative or other proceedings in its name, and to pay, collect, compromise, litigate, arbitrate or otherwise adjust or settle any and all other claims or demands of or against the Trust Company, and to hold proceeds against the payment of contingent liabilities;

(viii) to elect and designate Directors of the Trust Company and to appoint employees and agents of the Trust Company (who may be designated as officers of the Trust Company), and to define their duties and fix their compensation;

(ix) to indemnify any Person to the extent permitted by the Act;

(x) to make, execute, acknowledge and file any and all documents and instruments necessary, convenient or incidental to the accomplishment of the purposes of the Trust Company; and

(xi) to cease its activities and cancel the Certificate, subject to applicable New Hampshire banking laws and regulations.

(b) Subject to the other provisions of this Agreement, the Trust Company may sell all or substantially all of its assets, or merge with or consolidate into another limited liability company or other business entity (as defined in Section 304-C:1 of the Act), after the affirmative vote or written consent of the Board of Directors.

2.6. *Member.* A Person other than the Member of the Trust Company identified on Schedule A hereto may be admitted to the Trust Company as a substitute Member only (i) pursuant to and in accordance with Article VIII or (ii) with the approval of the Board of Directors and, if applicable under New Hampshire banking laws and regulations, the New Hampshire Bank Commissioner. The admission of any Person as a Member shall not cause dissolution of the Trust Company. Upon the requisite approvals in accordance with this Agreement, a Person shall be admitted as a substitute Member if such Person (x) executes this Agreement, a counterpart of this Agreement or another instrument pursuant to which such Member agrees to be bound by the terms of this Agreement and (y) is named as a Member on Schedule A.

2.7. *Designation of Directors.* The Persons identified on Schedule A hereto as “Directors” are the directors of the Trust Company who have continued in that capacity following the conversion of the Trust Company from a corporation to a limited liability company. Directors shall be elected by the Member in accordance with the provisions of



Section 6.2. Any Director may withdraw or be removed as a director of the Trust Company, and other Persons may be added or substituted as Directors, only in the manner specified in Section 6.2.

2.8. *Liability of Member and Covered Persons.* Except as otherwise provided in the Act, the debts, obligations and liabilities of the Trust Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Trust Company, and no Member or Covered Person shall be obligated personally for any such debt, obligation or liability of the Trust Company solely by reason of being or acting as a Member or Covered Person. Without limiting the foregoing, (i) except as may be provided in a Capital and Liquidity Maintenance Agreement between the Trust Company and the Member, the Member, in its capacity as such, shall not have any liability to restore any negative balance in the Trust Company's Capital Account; and (ii) the failure of the Trust Company to observe any formalities or requirements relating to exercise of the Trust Company's powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Member, Directors or other Covered Persons for liabilities of the Trust Company.

### **ARTICLE III. Capital Contributions; Financing**

3.1. *Capital Accounts.* A capital account shall be maintained for the Member (a "Capital Account") consisting of cash, and/or the fair market value of property other than cash, contributed to the capital of the Trust Company, increased or decreased by Profit and Loss allocated to the Member pursuant to Article IV, and decreased by the cash and fair market value of property other than cash distributed to the Member pursuant to Article V, and reflecting such other matters as the Board of Directors may reasonably determine appropriate.

#### 3.2. *Capital Contributions.*

(a) The Member has contributed to the capital of the Trust Company the property set forth opposite the Member's name on *Schedule A*.

(b) If the Board of Directors determines in good faith at any time, or from time to time, that funds, in addition to the funds generated from the Trust Company's operations and the amounts specified in *Schedule A* hereto, are necessary to carry out the Trust Company's purposes, to conduct its business, to meet its obligations or to make any expenditure authorized by this Agreement, the Member shall contribute any such additional capital within thirty (30) days of such determination.

3.3. *No Withdrawal of or Interest on Capital.* No interest shall accrue on any contributions to the capital of the Trust Company, and the Member shall not have the right to withdraw or to be repaid any capital contributed by it or to receive any other payment in respect of its interest in the Trust Company, including, without limitation, as a result of the withdrawal or resignation of the Member from the Trust Company, except as specifically otherwise provided in this Agreement.

3.4. *Loans.* In the event that the Trust Company requires additional funds to carry out its purposes, conduct its business, meet its obligations, or make any expenditure authorized by this

Agreement, the Trust Company may borrow funds from the Member or third-party lenders on such terms and conditions as may be acceptable to the Board of Directors. However, the Member shall have no obligation to lend any funds to the Trust Company.

#### **ARTICLE IV. Allocations of Profit and Loss**

4.1. *General.* All Profit or Loss of the Trust Company shall be allocated to the Member.

4.2. *Intra-Period Allocation.* For purposes of allocating Profit or Loss between any substitute Member and any transferor Member during a fiscal period, the Trust Company shall allocate according to any method allowed by the Code, to the extent applicable, and selected by the Board of Directors. Such substitute or transferring Member shall not be entitled to any allocation or distribution arising from Trust Company operations prior to its date of admission to the Trust Company or subsequent to its date of resignation from the Trust Company.

4.3. *Definitions.* For purposes of this Article IV, the following terms shall have the following meanings.

(a) “*Profit or Loss*” shall mean, as to any transaction or fiscal period, the taxable income or loss of the Trust Company for United States federal income tax purposes, and each item of income, gain, loss or deduction entering into the computation thereof, with the following adjustments:

(i) Any tax-exempt income or gain of the Trust Company that is not otherwise taken into account in computing Profits or Losses shall increase the amount of such taxable income or decrease the amount of such loss;

(ii) Any expenditures of the Trust Company described in Code Section 705(a)(2)(B) (or treated as such) and not otherwise taken into account in computing Profits or Losses shall decrease the amount of such taxable income or increase the amount of such loss; and

(iii) In the event the Gross Asset Value of any Trust Company asset is adjusted, (i) the amount of such adjustment (including an adjustment resulting from a distribution of such asset but excluding an adjustment resulting from a contribution of such asset) shall be taken into account in the same manner as gain or loss from the disposition of such asset for purposes of computing Profits or Losses, (ii) gain or loss resulting from any disposition of such asset with respect to which gain or loss is recognized for United States federal income tax purposes shall be computed by reference to the Gross Asset Value of such asset, and (iii) in lieu of the cost recovery or similar deductions taken into account with respect to any asset with a Gross Asset Value which differs from its adjusted basis under the Code, such deductions shall be an amount equal to the Depreciation with respect to such asset.

(b) “*Depreciation*” means, for each fiscal year of the Trust Company or other period, an amount equal to the depreciation, depletion, amortization or other cost recovery deduction allowable under the Code with respect to an asset for such fiscal year or other period;

provided, however, that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such fiscal year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction with respect to such asset for such fiscal year or other period bears to such beginning adjusted tax basis; and provided further that if the federal income tax depreciation, amortization or other cost recovery deduction for such fiscal year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board of Directors.

(c) “*Gross Asset Value*” shall mean, with respect to any asset, such asset’s adjusted basis for United States federal income tax purposes, except that, in its discretion, the Board of Directors may determine to adjust the Gross Asset Value of Trust Company assets as required for purposes of maintaining Capital Accounts under relevant Treasury Regulations. If the Gross Asset Value of an asset has been so adjusted, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset.

## **ARTICLE V. Distributions**

5.1. *In General.* Any cash received by the Trust Company in excess of amounts required to cover all expenses of the Trust Company and to fund reserves deemed appropriate by the Board of Directors, in its discretion, for future Trust Company liabilities and expenses may be distributed to the Member at such times and in such amounts as shall be determined by the Board of Directors in its sole discretion.

5.2. *Distribution of Assets in Kind.* The Member shall not have the right to require the Trust Company to distribute any of its assets in kind. If any assets of the Trust Company are distributed in kind, such assets shall be distributed on the basis of their fair market value as determined in good faith by the Board of Directors.

5.3. *Limitations on Distribution.* Notwithstanding any provision to the contrary contained in this Agreement, the Trust Company shall not make a distribution to the Member on account of the Member’s interest in the Trust Company if such distribution would violate Section 304-C:44 of the Act or other applicable law.

## **ARTICLE VI. Management**

6.1. *Management of the Trust Company.* The business and affairs of the Trust Company shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the Trust Company except as otherwise provided by law or this Agreement (including, without limitation, Section 6.6). In the event of a vacancy in the Board of Directors, the remaining Directors (except as otherwise provided by law) may exercise the powers of the full Board until the vacancy is filled. All management and other responsibilities not specifically reserved to the Member in this Agreement shall be vested in the Board of Directors, and the Member shall have no voting rights except as specifically provided in this Agreement. Each

Director shall devote such time to the affairs of the Trust Company as may be reasonably necessary for performance by the Director of such Director's duties hereunder.

Specifically, but not by way of limitation, and subject to the provisions of this Agreement (including, without limitation, Section 6.6), the Board of Directors shall be authorized, in the name and on behalf of the Trust Company, to cause the Trust Company to do all things necessary or appropriate to carry on the business and purposes of the Trust Company, including, without limitation, the following:

(i) to perform all actions as general partner of any partnership as the Board of Directors may deem appropriate or desirable, including, without limitation, appointing members of any management, advisory or other such committees;

(ii) to acquire by purchase, lease, license, exchange or otherwise, and to sell, finance, refinance, license, encumber and otherwise deal with, any real or personal property;

(iii) to borrow money and issue evidences of indebtedness; or to guarantee loans and to secure the same by mortgage, deed of trust, pledge or other lien on any assets or property of the Trust Company; and to pay, prepay, extend, amend or otherwise modify the terms of any such borrowings;

(iv) to employ executive, administrative and support personnel in connection with the business of the Trust Company; and to pay salaries, expense reimbursements, employee benefits, fringe benefits, bonuses and any other form of compensation or employee benefit to such persons and entities, at such times and in such amounts as may be determined by the Board of Directors in its sole discretion, to provide executive, administrative and support services in connection with the business of the Trust Company; provided, however, the Board of Directors may not grant interests in the Trust Company by way of or in lieu of compensation or otherwise without the approval of the Member;

(v) to hire or employ such agents, employees, directors, accountants, attorneys, consultants and other persons necessary or appropriate to carry out the business and operations of the Trust Company, and to pay fees, expenses, salaries, wages and other compensation to such persons;

(vi) to pay, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise, on such terms as it may determine and on such evidence as it may deem sufficient, any obligation, suit, liability, cause of action or claim, including, without limitation, obligations, suits, liabilities, causes of action or claims relating to taxes, either in favor of or against the Trust Company;

(vii) except as expressly otherwise provided in this Agreement, to determine the appropriate accounting method or methods to be used by the Trust Company;

(viii) to cause the Trust Company to make or revoke any applicable

elections referred to in the Code;

(ix) to establish and maintain reserves for such purposes and in such amounts as it deems appropriate from time to time;

(x) to pay all organizational expenses and general and administrative expenses of the Trust Company;

(xi) to deal with, or otherwise engage in business with, or provide services to and receive compensation therefor from, any Person who has provided or may in the future provide any services to, lend money to, sell property to, or purchase property from the Trust Company, including, without limitation, the Member or any Director;

(xii) to engage in any kind of activity, and to perform and carry out contracts of any kind necessary to, in connection with or incidental to the accomplishment of the purposes of the Trust Company;

(xiii) to pay any and all fees and to make any and all expenditures that the Board of Directors, in its sole discretion, deems necessary or appropriate in connection with the organization of the Trust Company, the management of the affairs of the Trust Company, and the carrying out of its obligations and responsibilities under this Agreement, including, without limitation, fees, reimbursements and expenditures payable to the Member or any Director;

(xiv) to exercise all powers and authority granted by the Act to directors, except as otherwise provided in this Agreement;

(xv) to cause the Trust Company and its properties and assets to be maintained and operated in such a manner as the Board of Directors may determine, subject, however, to obligations imposed by applicable laws or by any mortgage or security interest encumbering the Trust Company and such properties and assets from time to time, and by any lease, rental agreement or other agreement pertaining thereto;

(xvi) to cause to be obtained and continued in force all policies of insurance required by any mortgage, lease or other agreement relating to the Trust Company's business or any part thereof, or determined by the Board of Directors to be in the best interests of the Trust Company; and

(xvii) to cause to be paid any and all taxes, charges and assessments that may be levied, assessed or imposed on any of the assets of the Trust Company unless the same are contested by the Trust Company.

## 6.2. *Directors.*

*Number, Election and Qualification.* The number of Directors who shall constitute the whole Board of Directors shall be determined by the Member from time to time, in the Member's sole discretion. In no event shall the number be less than nine persons. Except as

otherwise provided in this Agreement, the Directors shall be elected by the Member. The “Directors” on Schedule A hereto shall serve as its Directors until a successor is elected.

The majority of the Board of Directors shall at all times consist of persons who are not present or former directors, officers, or employees of the Member. A majority of the Directors shall be, at the time of their respective elections to the Board, full-time employees of a Public Employer<sup>1</sup>, or participants in a retirement plan the assets of which are managed or administered by the Trust Company (“Public Sector Directors”<sup>2</sup>). The Directors shall be divided into three classes as follows:

1. Class I Directors. The Board of Directors shall be comprised of three (3) Class I Directors. Class I Directors shall be Public Sector Directors.
2. Class II Directors. The Board of Directors shall be comprised of three (3) Class II Directors. The Class II Directors shall be at-large Directors who shall be elected by the Member.
3. Class III Directors. The Board of Directors shall be comprised of two (2) Class III Directors. Class III Directors shall consist of one Director who is a member or former member of the Board of Directors of the Member and one Director who is a member or a former member of the Executive Board of the International City/County Management Association (“ICMA”).
4. Class IV Director. The President shall serve as an “Ex officio” member of the Board of Directors.

Except as set forth in Schedule B hereto, Directors shall serve a four-year term of office. Except in the case of vacancies, Directors, regardless of class, shall be elected by the vote of the Member to be held in accordance with the procedures set forth this Section 6.2, except that any vacancy resulting from the death, resignation, retirement, disqualification or removal from office of a Director, or from any other cause, shall be filled by the vote of a majority of those Directors then in office. Current Directors of the Trust Company may serve until their eligibility to serve

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<sup>1</sup> A “Public Employer” is any unit of State or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan under Section 457 of the Internal Revenue Code (“IRC”) or a qualified plan under Section 401 of the IRC or other type of retirement plan or investment account that is administered by the Trust Company provided that such Public Employer has adopted a Trust that is administered by the Trust Company or otherwise participates in the ICMA-RC system.

<sup>2</sup> If a non-participating Public Sector Director ceases to be employed in the public sector during his or her term of service on the Board, he or she shall continue to qualify as a “Public Sector Director” for the remainder of his or her term.

has expired. Directors who take office shall be eligible to serve no more than two consecutive four-year terms. There are two exceptions to this limitation:

(1) In the case of a Director who fills a vacancy with a remaining term of two years or less. In that case, the Director filling the vacancy shall be eligible to serve the remainder of the unexpired term, plus two additional four-year terms.

(2) In the case of a Director who, during his or her initial or second term, fills a vacancy in a different Class (I, II or III) than the original Class to which he or she was appointed, and has served not more than two years of the then current term, the Director may serve for an extended term in the new Class, subject to an overall service limit of ten years.

The Chair of the Board shall designate the members of the Nominating Committee from among the Class I and Class II Directors who are not affiliated with the Member. The Nominating Committee shall consist of not fewer than four Directors and shall act with respect to the nomination of Class I and Class II Directors. The Chair of the Board of the Member, or his or her designee, shall serve as an adviser to the Nominating Committee, but shall not be a voting member of the Nominating Committee. The Nominating Committee shall adopt procedures for the submission of the names of candidates for election to the Board. The Board of the Member shall nominate one Class III Director and the Executive Board of ICMA shall nominate one Class III Director. In addition to the election by Member required herein, a majority of the Directors (exclusive of the Class IV Ex-officio Director) shall have been ratified by the Public Employers participating or investing in any trusts administered by the Trust Company. Such ratification to be accomplished through the receipt of a majority of the votes cast by Public Employers.

Upon the election of a candidate by the Member, the candidate shall be subject to ratification by the Public Employers. Should the Public Employers fail to ratify the Director, the nomination/election and ratification process shall be re-initiated.

Should a vacancy occur requiring the nomination/ratification of a Class I Director during a calendar year in which such a process has already occurred or is scheduled to occur, the Board of Directors may appoint a Class I Director to serve the remainder of the term so vacated.

The provisions hereof may not be changed unless authorized by the majority of votes cast by Public Employers in a vote conducted to consider such change.

Each Person elected to serve as a Director of the Trust Company, as a condition to becoming a Director hereunder, shall execute and deliver to the Trust Company's Secretary a written document pursuant to which such Director accepts his or her election and agrees to be bound by the governing principles of the Trust Company, as set forth in the terms hereof, and such additional agreements, instruments, certificates and documents, including, without limitation, an amendment to the Certificate, as the Board of Directors may deem necessary, appropriate or convenient to reflect the foregoing matters and the election of such Person as a Director of the Trust Company. Upon the election of any Person as an additional, substitute or

replacement Director, *Schedule A* shall be amended by the Board of Directors to reflect the name of such Person.

Upon the death, resignation, removal or expiration of the term of any Director (a “Terminated Director”), (i) such Terminated Director shall have no further authority under this Agreement, (ii) such Terminated Director shall have no further obligations or rights under this Agreement (except for liabilities and rights accruing prior to the date of death, resignation, removal or expiration of such Terminated Director’s term as a Director, such as, for example, rights to indemnification under Section 6.9 that relate to actions or omissions occurring during such Person’s service as a Director), and (iii) no writing or instrument shall be required to be executed by the Trust Company or the Terminated Director to reflect such cessation of service, except that the Terminated Director (or such Terminated Director’s legal representative or attorney-in-fact, as provided in the following paragraph) shall execute and deliver any agreement, instrument, certificate or document, including, without limitation, an amendment to the Certificate, that the Board of Directors may deem necessary, appropriate or convenient to reflect the Terminated Director’s cessation of service as a Director hereunder.

Each Person now or hereafter serving as a Director of the Trust Company, by execution of this Agreement or a counterpart hereof, hereby constitutes and appoints each other Person who may, from time to time, serve as a Director, and each of them acting singly, such Director’s agent and attorney-in-fact for the purpose of executing and delivering any and all agreements, instruments and other documents (including, without limitation, an amendment to the Certificate) as the Board of Directors may deem necessary, appropriate or convenient to reflect that such Director has become a Terminated Director, which power of attorney is hereby agreed and acknowledged to be irrevocable, and, to the extent permitted by applicable law, shall survive the death, insanity, disability, incapacity, bankruptcy, retirement, resignation, dissolution, removal or expiration of the term of such Director as a Director.

(a) *Tenure.* Each Director shall hold office until such Director’s successor is duly elected and qualified, unless a different term is specified in the resolution electing or appointing such Director, or until such Director’s earlier death, resignation or removal.

(b) *Vacancies.* Unless and until filled by the Member, any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board, may be filled by vote of a majority of the Directors then in office, although less than a quorum, or by a sole remaining Director. A Director designated to fill a vacancy, and a Director chosen to fill a position resulting from an increase in the number of Directors, shall hold office until such Director’s successor is duly elected and qualified, unless a different term is specified in the resolution electing or appointing such Director, or until such Director’s earlier death, resignation or removal.

(c) *Resignation.* Any Director may resign by delivering such Director’s written resignation to the Trust Company at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the occurrence of some other event.

(d) *Regular Meetings.* Regular meetings of the Board of Directors may be held



without notice at such time and place, either within or without the State of New Hampshire, as shall be determined from time to time by the Board of Directors; provided that any Director who is absent when such a determination is made shall be given notice of the determination.

(e) *Special Meetings.* Special meetings of the Board of Directors may be held at any time and place, within or without the State of New Hampshire, designated in a call by the President, two or more Directors, or by one Director in the event that there is only a single Director in office.

(f) *Notice of Special Meetings.* Notice of any special meeting of Directors shall be given to each Director by the Secretary or by the officer or one of the Directors calling the meeting. Notice shall be duly given to each Director (i) by giving notice to such Director in person or by telephone at least 24 hours in advance of the meeting; (ii) by delivering written notice by facsimile, email or by hand, to the Director's last known business or home address, telephone facsimile number or email address at least 24 hours in advance of the meeting; or (iii) by mailing written notice to the Director's last known business or home address at least 72 hours in advance of the meeting. Notices given in accordance with subpart (i) of the preceding sentence, shall be effective when given, and notices given in accordance with subparts (ii) or (iii) of the preceding sentence shall be effective when sent. Any Director may waive notice of any meeting at any time prior to or after such special meeting by delivering such waiver in writing to the Secretary or the President, and a Director will be deemed to have waived notice of a meeting if such Director attends the meeting without protesting prior thereto or at its commencement the lack of notice to him. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purpose of the meeting.

(g) *Meetings by Telephone Conference Calls.* Directors, or any members of any committee designated by the Directors, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

(h) *Quorum.* A majority of the total number of the whole Board of Directors shall constitute a quorum at all meetings of the Board of Directors. In the event that one or more of the Directors shall be disqualified to vote at any meeting, then the required quorum shall be reduced by one for each such Director so disqualified. In the absence of a quorum at any such meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice, other than announcement at the meeting, until a quorum shall be present.

(i) *Action at Meeting.* At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those present shall be necessary to take any action unless a different vote is specified by law, the Certificate or this Agreement.

(j) *Action by Consent.* Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting, if all members of the Board or committee, as the case may be, consent to the action in writing, and the written consents are filed with the minutes of proceedings of the Board or committee.

(k) *Removal.* Any one or more or all of the Directors may be removed, with or without cause, by the Member.

(l) *Committees.* The Board shall establish an Audit Committee and a Nominating Committee, which shall be governed by charters adopted by the Board. At least two members of the Audit Committee shall be “independent” Directors, as such term is defined in Section 28 of Appendix A to Part 363 of the regulations of the Federal Deposit Insurance Corporation. In addition, such committees (other than the Audit Committee) may include, on an *ex officio* basis, such non-Director employees as may be designated by the Board of Directors. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of the committee’s business, but, unless otherwise provided by the Board of Directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in this Agreement for the Board of Directors.

(m) *Compensation of Directors.* Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any Director from serving the Trust Company, or any other Person that directly or indirectly controls, is controlled by, or is under common control with the Trust Company, in any other capacity and receiving compensation for such service.

### 6.3. *Member.*

(a) *Place of Meetings.* All meetings of the Member shall be held at such place within or without the State of New Hampshire as may be designated from time to time by the Board of Member or the President.

(b) *Annual Meeting.* There shall be held an annual meeting of the Member for the election of Directors and for the transaction of such other business as may properly be brought before the meeting. Each annual meeting shall be held on a date to be fixed by the Board of Member or the President (which date shall not be a legal holiday in the place where the meeting is to be held) at the time and place to be fixed by the Board of Member or the President, and stated in the notice of the meeting. If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and, in such case, all references in this Agreement to the annual meeting of the Member shall be deemed to refer to such special meeting.

(c) *Special Meetings.* Special meetings of the Member may be called at any time by the President or by the Board of Directors. Business transacted at any special meeting of the Member shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

(d) *Notice of Meetings.* Except as otherwise provided by law, written notice of

each meeting, whether annual or special, of the Member, shall be given not less than ten (10) before the date of the meeting to the Member entitled to vote at such meeting. The notices of all meetings shall state the place, date and hour of the meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is deemed given when deposited in the United States mail, postage prepaid, directed to the Member at such Member's address as it appears on the records of the Trust Company. The Member may waive notice of any annual or special meeting before or after any such meeting by delivering such waiver in writing to the Secretary or the President.

(e) *Quorum.* Except as otherwise provided by law, the Certificate or this Agreement, the presence of the Member shall constitute a quorum for the transaction of business at any meeting of the Member.

(f) *Adjournments.* Any meeting of the Member may be adjourned to any other time and to any other place at which a meeting of the Member may be held under this Agreement by consent of the Member. At the adjourned meeting, the Trust Company may transact any business that might have been transacted at the original meeting.

(g) *Voting and Proxies.* The Member shall be entitled to vote at a meeting of the Member. A Member may vote or express such consent or dissent in person or may authorize another person or persons to vote or act for such Member by written proxy executed by the Member or such Member's authorized agent and delivered to any officer of the Trust Company. No such proxy shall be voted or acted on after three (3) years from the date of its execution, unless the proxy expressly provides for a longer period.

(h) *Action at Meeting.* When a quorum is present at any meeting, the Member shall decide any matter to be voted on by the Member at such meeting, except when a different vote is required by express provision of law, the Certificate or this Agreement.

(i) *Action Without Meeting.* Any action required or permitted to be taken at any annual or special meeting of the Member of the Trust Company may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the Member.

#### 6.4. *Officers.*

(a) *Enumeration.* The officers of the Trust Company shall consist of a President, a Treasurer and Assistant Treasurer, a Secretary and Assistant Secretary, and such other officers with such other titles as the Board of Directors may deem appropriate. The Board of Directors may elect a Chairman and Vice- Chairman who shall have the duties prescribed by the Board of Directors.

(b) *Election.* The Officers of the Trust Company shall be elected by the Board of Directors and shall serve until such time as an event described in section 6.4(d) or (e) shall occur. Other officers may be appointed by the Board of Directors at any meeting.

(c) *Qualification.* No officer need be a Director. Any two or more offices may be held by the same person.

(d) *Tenure.* Except as otherwise provided by law, by the Certificate or by this Agreement, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the vote choosing or appointing such officer, or until such officer's earlier death, resignation or removal.

(e) *Resignation and Removal.* Any officer may resign by delivering such officer's written resignation to the Trust Company at the Trust Company's principal office or to the President, Secretary or any Director. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any officer may be removed at any time, with or without cause, by vote of a majority of the entire number of Directors then in office (which entire number shall be determined exclusive of any officer who is the subject of the proposed removal); provided, however, that an officer shall automatically cease to be an officer on the date his or her employment with the Member ends. Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided in a duly authorized written agreement with the Trust Company.

(f) *Vacancies.* The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any office. Each such successor officer shall hold office for the unexpired term of such successor officer's predecessor and until such successor officer's successor is elected and qualified, or until such successor officer's earlier death, resignation or removal.

(g) *President.* The President shall, subject to the direction of the Board of Directors, have general charge and supervision of the business of the Trust Company. Unless otherwise provided by the Board of Directors, if the President is a Director, the President shall preside at all meetings of the Board of Directors. Unless the Board of Directors has designated another officer as Chief Executive Officer, the President shall be the Chief Executive Officer of the Trust Company. The President shall perform such other duties and shall have such other powers as the Board of Directors may from time to time prescribe.

(h) *Secretary and Assistant Secretaries.* The Secretary shall perform such duties and shall have such powers as the Board of Directors or the President may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the Secretary of a New Hampshire corporation and are applicable to the Trust Company, including, without limitation, the duty and power to give notices of all special meetings of the Board of Directors, to attend all meetings of the Board of Directors and keep a record of the proceedings, and to be custodian of the Trust Company records.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the President or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of Directors, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

(i) *Treasurer and Assistant Treasurers.* The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned to the Treasurer by the Board of Directors or the President. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of the treasurer of a New Hampshire corporation and are applicable to the Trust Company, including, without limitation, the duty and power to keep and be responsible for all funds and securities of the Trust Company, to deposit funds of the Trust Company in depositories selected in accordance with this Agreement, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the Trust Company.

The Assistant Treasurer shall perform such duties and possess such powers as the Board of Directors, the President or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

(j) *Trust Officer.* A Trust Officer may be appointed perform such duties and shall have such powers as may from time to time be assigned to the Trust Officer by the Board of Directors or the President. In addition, the Trust Officer may perform such duties and have such powers as are incident to the office of the trust officer of a New Hampshire trust company and are applicable to the Trust Company.

(k) *Salaries.* Officers of the Trust Company shall be entitled to such salaries, compensation or reimbursement, if any, as may be fixed or allowed from time to time by the Board of Directors.

6.5. *Interpretation of Rights and Duties of Directors and Member.* To the fullest extent permitted by the Act and other applicable law, and to the extent not inconsistent with the specific provisions of this Agreement or the Certificate, it is the intention of the parties as follows:

(a) The Board of Directors shall have the power to do any and all acts, statutory and otherwise, with respect to the Trust Company that the board of directors of a New Hampshire trust company in corporate form would have with respect to such New Hampshire trust company; and

(b) the Member shall have no power or authority whatsoever with respect to the management of the business and affairs of the Trust Company.

6.6. *Member Approval Requirements.* Notwithstanding the provisions of Section 6.1 or any other provision of this Agreement to the contrary, without the prior written consent of the Member, the Board of Directors shall not cause the Trust Company to (and the Trust Company shall not) sell all or substantially all of the assets of the Trust Company or merge with, or consolidate into, another limited liability company or other business entity (as defined in Section

304-C:1 of the Act).

6.7. *Binding the Trust Company.* Except as the Board of Directors may generally or in any particular case or cases otherwise authorize, and subject to the other provisions of this Agreement and the Certificate, all deeds, leases, contracts, bonds, notes, checks, drafts or other obligations made, accepted or endorsed by the Trust Company shall be signed by the President or the Treasurer.

6.8. *Contracts with Member, Directors and Affiliates.* The Trust Company may transact business and enter into contracts and other arrangements with any Director, officer, Member or Affiliate of a Director, officer or Member or with any corporation, partnership, organization or other concern in which any one or more of its Directors, officers or Member are directors, officers, stockholders, partners, members, trustees, or otherwise interested; and, in the absence of fraud, no such contract or transaction shall be invalidated or in any way affected by the fact that such Directors, officers or Member of the Trust Company have or may have interests which are or might be adverse to the interest of the Trust Company even though the vote or action of the Directors, officers or Member having such adverse interest may have been necessary to obligate the Trust Company under such contract or transaction. In the absence of fraud, and in the absence of any express agreement to the contrary, no Director, officer or Member having such adverse interest shall be liable to the Trust Company, the Member or any creditor of the Trust Company or to any other Person for loss incurred by it under or by reason of such contract or transaction, nor shall any such Director, officer or Member be accountable for any gains or profits realized thereon.

6.9. *Indemnification and Exculpation.*

(a) No Covered Person shall have any liability to the Trust Company or to the Member for any loss suffered by the Trust Company that arises out of any action or inaction of such Covered Person if such Covered Person conducted himself in good faith, reasonably believed that such course of conduct was in, or not opposed to, the best interests of the Trust Company and such course of conduct did not constitute gross negligence or willful misconduct of such Covered Person.

(b) To the maximum extent permitted by applicable law and subject to the other provisions of this Section, the Trust Company shall indemnify each Covered Person from and against all claims, losses, expenses, liabilities, actions or damages (including, without limitation, any action by the Member or assignee thereof against a Covered Person) due to, arising from, or incurred by reason of any action, inaction or decision performed, taken, not taken or made by such Covered Person in connection with any of the activities and operations of the Trust Company, provided such action, inaction or decision is within the scope of the authority of such Covered Person as provided herein, such Covered Person conducted himself in good faith and in a manner such Covered Person reasonably believed to be in, or not opposed to, the best interests of the Trust Company, and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of such Covered Person was unlawful. The adverse termination of a proceeding by judgment, order, settlement, conviction or plea of nolo contendere, or its equivalent, shall not, by itself, create a presumption that such Covered Person did not act in good faith and in a manner which such Covered Person reasonably believed to be in, or not opposed

to, the best interest of the Trust Company, or that such Covered Person had reasonable cause to believe that such Covered Person's conduct was unlawful (unless there has been a final adjudication in the proceeding that such Covered Person did not act in good faith and in a manner which such Covered Person reasonably believed to be in, or not opposed to, the best interests of the Trust Company, or that such Covered Person did have reasonable cause to believe that such Covered Person's conduct was unlawful). Any Covered Person may consult with counsel selected by such Covered Person and any opinion of such counsel (which may be counsel for any Covered Person or any Affiliate) shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by such Covered Person hereunder in good faith and in accordance with the opinion of such counsel. Any indemnification under this Section shall include reasonable attorneys' fees incurred by such Covered Person in connection with the defense of any proceeding based on any such action, inaction or decision, and shall include, to the extent permitted by law, all such liabilities under United States federal and state securities laws. The reasonable expenses incurred by a Covered Person in connection with the defense of any such proceeding shall be paid or reimbursed by the Trust Company as incurred, upon receipt of an undertaking by such Covered Person to repay such expenses if it shall ultimately be determined that such Covered Person is not entitled to be indemnified hereunder. Indemnification hereunder shall only be made to the extent that such Covered Person is not otherwise reimbursed from insurance or other means. Indemnification hereunder shall only be paid from the assets of the Trust Company, and the Member shall not have any personal liability on account thereof.

(c) Notwithstanding the provisions of Section 6.9(b), a Covered Person shall not be entitled to be indemnified or held harmless from and against any claim, loss, expense, liability, action or damage, to the extent such claim, loss, expense, liability, action or damage:

(i) is due to, or arises from, or is incurred by reason of such Covered Person's gross negligence or willful misconduct;

(ii) arises in connection with, a proceeding by or in the right of the Trust Company, in which such person was adjudged liable to the Trust Company; or

(iii) arises in connection with any proceeding charging improper personal benefit to such Covered Person, whether or not involving action on behalf of the Trust Company, in which such Covered Person was adjudged liable on the basis that personal benefit was improperly received by him or her.

(d) The provisions of this Section shall be in addition to and not in limitation of any other rights of indemnification and reimbursement or limitations of liability to which a Covered Person may be entitled. The provisions of this Section shall apply whether or not at the time of reimbursement the Covered Person entitled to reimbursement is then a Covered Person. Notwithstanding any repeal of this Section or other amendment hereof, its provisions shall be binding upon the Trust Company (subject only to the exceptions above set forth) as to any claim, loss, expense, liability, action or damage due to, arising from or incurred by reason of matters which occur during or refer to the period prior to any such repeal or amendment of this Section.

6.10. *Other Activities.* The Member, Directors and any Affiliates of any of them may

engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others, including serving as directors, officers, stockholders, directors, members and general or limited partners of corporations, partnerships or other limited liability companies with purposes similar to those of the Trust Company. Neither the Trust Company nor any other Director or Member shall have any rights in or to such ventures or opportunities or the income or profits therefrom. Nothing in this Section 6.10, however, shall limit or abrogate any agreement to which any such Member, Director or Affiliate may be bound apart from this Agreement.

## **ARTICLE VII. Fiscal Matters**

7.1. *Books and Records.* At all times during its existence and thereafter until its complete liquidation, dissolution or winding up, the Trust Company shall maintain books of account and records at its registered office. The Trust Company shall keep its books and records as determined by the Board of Directors. The Board of Directors shall keep or cause the Treasurer or another officer to keep such books and records, in addition to any documents and information required to be furnished to the Member under the Act, at the principal office of the Trust Company for examination and copying by the Member or any Director, or such Member's or Director's duly authorized representative, at such Member's or Director's reasonable request, and at such Member's or Director's expense during ordinary business hours. A current list of the full name and last known address of each officer, Member and Director, a copy of this Agreement and any amendments thereto, the Certificate, including all certificates of amendment thereto, and executed copies of all powers of attorney, if any, pursuant to which this Agreement, any amendment, the Certificate or any certificate of amendment has been executed, shall be maintained at the principal office of the Trust Company.

7.2. *Bank Accounts.* The Board of Directors or the President or the Treasurer shall be responsible for causing one or more accounts to be maintained in one or more banks, which accounts shall be used for the payment of the expenditures incurred by the Board of Directors and the officers in connection with the business of the Trust Company, and in which shall be deposited any and all cash receipts of the Trust Company. All deposits and funds not needed for the operations of the Trust Company may be invested in short-term investments, including securities issued or fully guaranteed by United States government agencies, certificates of deposit of banks, bank repurchase agreements covering the securities of the United States government, commercial paper rated A or better by Moody's Investors Services, Inc., money market funds, interest-bearing time deposits in banks and thrift institutions, and such other investments as the Board of Directors may approve. Withdrawals from any Trust Company bank or similar account shall be made and other activity conducted on such signature or signatures as shall be approved by the Board of Directors.

7.3. *Fiscal Year; Audit.* The fiscal year of the Trust Company for tax and for financial accounting purposes shall be fixed by the Board of Directors. The Trust Company shall be subject to an annual financial audit as of the end of its fiscal year by independent certified public accountants appointed by and responsible to the Audit Committee. The Trust Company shall issue a written report on at least an annual basis, containing substantially the same information as is required under Form N-30d under the Investment Company Act of 1940, to all beneficiaries of



any Trusts that it shall administer.

## **ARTICLE VIII. Transfers of Interests**

### *8.1. General Restrictions on Transfer of Interests by Member.*

(a) The Member may not Transfer all or any part of the Member's interest in the Trust Company without the prior written consent of the Board of Directors and, if applicable under New Hampshire banking laws and regulations, the New Hampshire Bank Commissioner. A permitted assignee of the Member's interest shall be admitted as a substitute Member, entitled to exercise the rights and powers of a Member, only with the prior written consent of the Board of Directors.

(b) Any Person who acquires an interest in the Trust Company by permitted Transfer, whether or not such Person has accepted and assumed in writing the terms and provisions of this Agreement or been admitted into the Trust Company as a Member, shall be deemed, by acceptance of the acquisition of such interest, to have agreed to be subject to and bound by all of the obligations of this Agreement with respect to such interest and shall be subject to the provisions of this Agreement with respect to any subsequent Transfer of such interest.

(c) Any Transfer in contravention of any of the provisions of this Agreement shall be null and void and ineffective to transfer any interest in the Trust Company, and shall not bind, or be recognized by, or on the books of, the Trust Company, and any transferee or assignee in such transaction shall not be or be treated as or deemed to be a Member for any purpose.

## **ARTICLE IX. Dissolution and Liquidation**

*9.1. Events Causing Dissolution.* Subject to applicable New Hampshire banking laws and regulations, the Trust Company shall be dissolved and its affairs wound up upon the earlier to occur of the following events:

(a) the effective date specified in a written election adopted by the Board of Directors to dissolve the Trust Company (provided such election to dissolve the Trust Company has been approved by consent of the sole Member);

(b) the time of the dissolution ordered by the New Hampshire Bank Commissioner or other applicable bank regulatory authority;

(c) the occurrence of any event under the Act that terminates the continued membership of the Member in the Trust Company unless, within ninety (90) days after the occurrence of such an event, the legal representative or successor of the Member agrees in writing to continue the Trust Company and to the admission of such legal representative or successor or its nominee or designee as a Member, effective as of the occurrence of such event;  
or

(d) issuance of a notice of administrative dissolution under Section 304-C:53, I of the Act, or entry of a decree of judicial dissolution under Section 304-C:51 of the Act.

*9.2. Procedures on Dissolution.* Dissolution of the Trust Company shall be effective on the day on which the event giving rise to the dissolution occurs, but the Trust Company shall not terminate until the assets of the Trust Company have been applied or distributed as provided herein and the Certificate has been canceled in the manner required by the Act. Notwithstanding the dissolution of the Trust Company, prior to the termination of the Trust Company, the business of the Trust Company shall continue to be governed by this Agreement. Promptly after dissolution, the Liquidator shall liquidate the assets of the Trust Company and apply and distribute the proceeds thereof as provided in Section 9.3 below. As soon as practicable after such liquidation and distribution, the Liquidator shall cause the cancellation of the Certificate.

*9.3. Liquidation Following Dissolution.*

(a) Following the dissolution of the Trust Company in accordance with this Agreement, no further business shall be done in the Trust Company except for the completion of any transactions in process and the taking of such action as is necessary for the performance and discharge of the Trust Company's obligations, the winding-up and liquidation of its affairs and the distribution of its assets. After payment of all liabilities of the Trust Company owing to creditors of the Trust Company, the Liquidator shall set up such reserves as it deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Trust Company. Such reserves shall be paid over by the Liquidator to a bank, to be held in escrow for the purpose of paying any such contingent or unforeseen liabilities or obligations as they become fixed or determined. The Liquidator shall have the power to pay any such liabilities or obligations of the Trust Company from the reserves placed in escrow for that purpose, and, at the expiration of such period as the Liquidator deems advisable, the remainder of such reserves, if any, shall be distributed to the Member in the manner set forth in Section 9.3(b) below.

(b) After paying such liabilities and providing for such reserves, the Liquidator shall cause the remaining net assets of the Trust Company (and the remainder, if any, of the reserves established in accordance with Section 9.3(a) above) to be distributed to the Member. In the event that any part of such net assets consists of notes or accounts receivable or other noncash assets, the Liquidator may take whatever steps it deems appropriate to convert such assets into cash or into any other form which would facilitate the distribution thereof. If any assets of the Trust Company are to be distributed in kind, such assets shall be distributed on the basis of their fair market value net of any liabilities.

*9.4. Claims of the Member.* The Member shall look solely to the Trust Company's assets for the return of its Capital Contribution, and if the assets of the Trust Company remaining after payment of or due provision for all debts, liabilities and obligations of the Trust Company are insufficient to return such Capital Contribution, the Member shall have no recourse against the Trust Company or any Director.

## **ARTICLE X. General Provisions**

10.1. *Notices.* Except for notices of meetings of Directors, which shall be given in the manner provided elsewhere in this Agreement, all notices under this Agreement shall be effective (a) on the fourth business day after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) on the first business day after being sent by express mail, or commercial overnight delivery service, providing a receipt for delivery; (c) on the date of hand delivery or delivery by receipt confirmed telecopier or electronic mail; or (d) on the date actually received, if sent by any other method. To be effective, all such notices shall be addressed, if to the Trust Company, at its registered office under the Act, and if to the Member or a Director, at the last address of record on the Trust Company's books.

10.2. *Word Meanings.* Words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless expressly stated otherwise in any given instance. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Where the context permits, the use of the term "or" shall be equivalent to the use of the term "and/or".

10.3. *Binding Provisions.* Subject to the restrictions on Transfers set forth herein, the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto, all Persons who hereafter become Directors in accordance with this Agreement, and their respective heirs, legal representatives, successors and permitted assigns.

10.4. *Applicable Law.* This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire, including the Act, notwithstanding any rules regarding choice of law to the contrary.

10.5. *Counterparts.* This Agreement may be executed in several counterparts and as so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

10.6. *Separability of Provisions.* Each provision of this Agreement shall be considered separable. To the extent that any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be considered amended to the smallest degree possible in order to make the Agreement effective under the Act (and, if the Act is subsequently amended or interpreted in such manner as to make effective any provision of this Agreement that was formerly rendered invalid, such provision shall automatically be considered to be valid from the effective date of such amendment or interpretation).

10.7. *Section Titles.* Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

10.8. *Amendments.* Except as otherwise specifically provided in this Agreement (including, without limitation, in Article VIII), this Agreement may be amended or modified only by a writing approved and executed by the Member; provided, however, that no such amendment shall increase the liability of or increase the obligations of the Board of Directors

without the prior approval of the Board of Directors.

10.9. *Third-Party Beneficiaries.* The provisions of this Agreement, including, without limitation, Article III, are not intended to be for the benefit of any creditor (other than the Member or a Director who is a creditor) or other Person (other than the Member or a Director in such Member's or Director's capacity as such) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Trust Company or the Member or any of the Directors. Moreover, notwithstanding anything contained in this Agreement, including, without limitation, Article III, no such creditor or other Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in respect of any debt, liability or obligation (or otherwise) against the Trust Company or the Member or any Director.

10.10. *Entire Agreement.* This Agreement embodies the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings between or among them relating to such subject matter. The Member and Directors hereby agree that the Member and each Director shall be entitled to rely on the provisions of this Agreement, and no Member or Director shall be liable to the Trust Company or the Member or any Director for any action or refusal to act taken in good faith reliance on the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Limited Liability Company Agreement under seal as of the day and year first above written.

SOLE MEMBER

ICMA RETIREMENT CORPORATION

By: Lynne Ford (LS)  
Chief Executive Officer and President

777 North Capitol Street, NE  
Washington, DC 20002

DIRECTOR:

Michael Barry (LS)

Michael Barry  
Chevy Chase, Maryland

DIRECTOR:

Tina Byles Williams (LS)

Tina Byles Williams  
Philadelphia, Pennsylvania

DIRECTOR:

Lynne Ford (LS)

Lynne Ford  
Washington, D.C.

DIRECTOR:

Jeanmarie Grisi (LS)

Jeanmarie Grisi  
Berkeley Heights, New Jersey

DIRECTOR:

Carl Harness (LS)

Carl Harness  
Tampa Florida

DIRECTOR:

Christopher Morrill

Christopher Morrill  
Roanoke, Virginia

DIRECTOR:

Christopher McCullion  
Christopher McCullion  
Orlando, Florida

DIRECTOR:

Robert J. O'Neill, Jr. (LS)  
Robert J. O'Neill, Jr.

DIRECTOR:

Gilbert Perales  
Gilbert Perales  
Irving, Texas

SCHEDULE A

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<u>Member Name and Address</u>	<u>% Interest</u>	<u>Capital Contribution</u>
ICMA Retirement Corporation, 777 North Capitol Street, NE Washington, DC 20002	100%	The Member will contribute to the Trust Company all amounts required by New Hampshire banking laws and regulations.

Directors:

Christopher McCullion  
Chief Financial Officer  
Orlando, Florida  
Class I

Robert J. O'Neill, Jr.  
Senior Vice President, Public Finance  
Davenport & Company  
Richmond, Virginia  
Class II

Christopher Morrill  
Executive Director  
Government Finance Officers  
Association  
Chicago, Illinois  
Class I

Tina Byles Williams  
Chief Executive Officer & Chief  
Investment Officer  
Xponance  
Philadelphia, Pennsylvania  
Class III

Gilbert Perales  
Deputy City Manager  
Arlington, Texas  
Class I

Carl Harness  
Chief Human Services Administrator  
Hillsborough County, Florida  
Class III

Michael Barry  
Chief Investment Officer  
Georgetown University  
Washington, D.C.  
Class II

Lynne Ford  
Chief Executive Officer and President  
ICMA Retirement Corporation  
Washington, D.C.  
Class IV, Ex Officio

Jeanmarie Grisi  
Chief Investment Officer  
Pension Investments, Nokia



# DISCLOSURE MEMORANDUM

for the VantageTrust Funds, VantageTrust II Funds and VantageTrust III Funds





**VANTAGETRUST FUNDS, VANTAGETRUST II FUNDS & VANTAGETRUST III FUNDS  
DISCLOSURE MEMORANDUM**

**November 2020**

THIS OFFERING IS BEING MADE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, FOR AN INTEREST IN VANTAGETRUST, VANTAGETRUST II MULTIPLE COLLECTIVE INVESTMENT FUNDS TRUST, AND VANTAGETRUST III MASTER COLLECTIVE INVESTMENT FUNDS TRUST (EACH THE “TRUST” AND TOGETHER THE “TRUSTS”). NO PUBLIC MARKET WILL DEVELOP FOR THE UNITS OF PARTICIPATION IN ONE OR MORE SERIES (EACH A “FUND,” AND COLLECTIVELY, THE “FUNDS”) OF ANY TRUST. THE UNITS ARE NOT TRANSFERABLE OR REDEEMABLE EXCEPT UPON SATISFACTION OF CERTAIN CONDITIONS DESCRIBED IN THIS DISCLOSURE MEMORANDUM AND EACH TRUST’S DECLARATION OF TRUST.

THE UNITS OF PARTICIPATION OFFERED HEREBY HAVE NOT BEEN REGISTERED WITH OR APPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE, NOR HAS ANY SUCH COMMISSION OR REGULATORY AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE MEMORANDUM.

THE TRUSTS AND THE FUNDS ARE NOT REGISTERED AS AN INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED, IN RELIANCE UPON AN EXEMPTION FROM SUCH REGISTRATION.

PROSPECTIVE INVESTORS ARE NOT TO CONSTRUE THE CONTENTS OF THIS DISCLOSURE MEMORANDUM AS INVESTMENT, TAX, OR LEGAL ADVICE. THIS DISCLOSURE MEMORANDUM, AS WELL AS THE NATURE OF THE INVESTMENT, SHOULD BE REVIEWED BY EACH PROSPECTIVE INVESTOR WITH ITS INVESTMENT ADVISERS, ACCOUNTANTS, OR LEGAL COUNSEL.

NO PERSON IS AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION NOT CONTAINED IN THIS DISCLOSURE MEMORANDUM, AND, IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON.

THIS DISCLOSURE MEMORANDUM CONTAINS SUMMARIES, BELIEVED TO BE ACCURATE, OF CERTAIN TERMS OF EACH TRUST’S DECLARATION OF TRUST. FOR COMPLETE INFORMATION CONCERNING THE RIGHTS AND OBLIGATIONS OF THE PARTIES THERETO, REFERENCE IS HEREBY MADE TO THE ACTUAL DOCUMENTS, COPIES OF WHICH WILL BE FURNISHED TO PROSPECTIVE INVESTORS, UPON REQUEST. IN THE EVENT OF ANY INCONSISTENCIES BETWEEN THIS MEMORANDUM AND ANY TRUST’S DECLARATION OF TRUST, THE PROVISIONS OF THE DECLARATION OF TRUST SHALL BE CONTROLLING. ALL SUCH SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY BY THIS REFERENCE.

THE FUNDS AND OTHER INVESTMENT OPTIONS MADE AVAILABLE BY THE TRUSTS ARE NOT GUARANTEED OR INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, ANY OTHER GOVERNMENT AGENCY, THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION OR ITS AFFILIATES, INCLUDING THE VANTAGETRUST COMPANY, LLC (“TRUST COMPANY”). TRUST COMPANY HAS CLAIMED AN EXCLUSION FROM THE DEFINITION OF THE TERM “COMMODITY POOL OPERATOR” UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED (THE “CEA”), AND THUS, IS NOT SUBJECT TO REGISTRATION OR REGULATION AS A COMMODITY POOL OPERATOR UNDER THE CEA.

BEFORE INVESTING IN A FUND THE FOLLOWING SHOULD BE CAREFULLY CONSIDERED:

- INVESTMENT GOALS, TOLERANCE FOR RISK, INVESTMENT TIME HORIZON, AND PERSONAL FINANCIAL CIRCUMSTANCES;
- THERE IS NO GUARANTEE THAT A FUND WILL MEET ITS INVESTMENT OBJECTIVE;
- PAST PERFORMANCE DOES NOT INDICATE OR GUARANTEE FUTURE PERFORMANCE; AND
- AN INVESTOR CAN LOSE MONEY INVESTING IN THE FUNDS.

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## I. INTRODUCTION

This *Disclosure Memorandum* (“**Memorandum**”) provides information about the funds (“**Fund**” or “**Funds**”) within three trusts: the VantageTrust (“**VantageTrust**”), VantageTrust II Multiple Collective Investment Funds Trust (“**VantageTrust II**”), and VantageTrust III Master Collective Investment Funds Trust (“**VantageTrust III**”). Within this Memorandum we refer to each as a **Trust**, and collectively as the **Trusts**. The Funds are not mutual funds. They are collective investment trust funds, or “**CITs**.”

For additional information about VantageTrust Funds and VantageTrust II Funds you should refer to the applicable “**Fact Sheet**” or “**Investment Options Sheet**.” The Fact Sheet provides information about each Fund’s investment objective, strategies, principal risks, expenses, performance and trading restrictions. The Investment Options Sheet provides information about each Fund, including principal risks, investment objectives and investment strategies.

Certain VantageTrust Funds and VantageTrust II Funds invest in VantageTrust III Funds, but the VantageTrust III Funds are not available for direct investment. For additional information about the VantageTrust III Funds, you may request a copy of Appendix A to the VantageTrust III Declaration of Trust. Appendix A includes “**Fund Level Guidelines**” that provide investment objectives, strategies and restrictions for each VantageTrust III Fund.

### A. How Our Funds Are Named

This Memorandum uses the legal name when referring to each of the Funds. In comparison, some of our Funds use the “Vantagepoint” name for general marketing purposes. For your reference, the following table shows the legal name for each category of Funds within each Trust alongside the applicable marketing name.

Trust	Fund Legal Name	Fund Marketing Name	Fund Classes
VantageTrust	VT Vantagepoint Funds	Vantagepoint Funds	R
	VT PLUS Fund	Vantagepoint PLUS Fund	R, F
	VT Trust Series Funds	VT Trust Series Funds	R
	VT Retirement IncomeAdvantage Fund	VT Retirement IncomeAdvantage Fund	R
VantageTrust II	VT II Vantagepoint Funds	Vantagepoint Funds	S
	VT II PLUS Fund	Vantagepoint PLUS Fund	S
	VantageTrust II Model Portfolio Funds	VantageTrust II Model Portfolio Funds	S
VantageTrust III	VT III Vantagepoint Funds	Vantagepoint Funds	-
	VT III PLUS Fund	Vantagepoint PLUS Fund	-

## II. MANAGEMENT OF THE TRUST

### A. Trustee

VantageTrust Company, LLC (“**Trust Company**”) is the trustee for each Trust. It is a New Hampshire non-depository banking institution founded in 2001. It generally makes the VantageTrust III Funds available through VantageTrust and VantageTrust II. The VantageTrust Funds and the VantageTrust II Funds are available to “Eligible Trusts” (as defined in their Declarations of Trust), which typically include public sector plans. The Trust Company is a wholly owned subsidiary of The International City Management Association Retirement Corporation (“**ICMA-RC**”). ICMA-RC is a Delaware non-profit financial services corporation established in 1972 to assist state and local governments and their agencies and instrumentalities in the establishment and maintenance of deferred compensation and qualified retirement plans.

The Trust Company has exclusive management and investment authority with respect to any Fund established pursuant to each Trust's Declaration of Trust ("**Declaration of Trust**"). The Trust Company may retain and consult with such investment advisers or other consultants, including, but not limited to, any affiliate of the Trust Company, as the Trust Company in its sole discretion may deem advisable, to assist it in carrying out its responsibilities under the Declaration of Trust. The Trust Company may, in its sole discretion, incorporate the advice of such investment advisers and other consultants into any investment guidelines, investment objectives, or restrictions.

## **B. Investment Adviser**

ICMA-RC's wholly owned subsidiary, Vantagepoint Investment Advisers, LLC ("**VIA**"), serves as the investment adviser to the Trust Company. VIA is registered as an investment adviser with the Securities and Exchange Commission.

Additional information about the advisory services that VIA provides to the Trust Company is available in VIA's *VantageTrust Company Advisory Services* Form ADV Part 2A (also known as the "**Brochure**") which is available at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **C. Trust**

Each Trust is a group trust established and maintained by the Trust Company and is intended to provide for the collective investment and reinvestment of assets of certain eligible investors ("**Eligible Trusts**") as that term is defined in each Trust's Declaration of Trust. The Trust Company is the sole trustee of each Trust. The Trust property allocable to the Eligible Trusts is held for the trustees of those Eligible Trusts for the exclusive benefit of those Eligible Trusts' investors and beneficiaries.

The Board of Directors of the Trust Company ("**Board**") is responsible for investing Trust property and overseeing the investments, operations, and administration of each Trust, including the supervision and periodic review of VIA's services as investment adviser to the Trust Company with respect to the Funds and ICMA-RC's services as administrator to the Trust Company with respect to the Funds.

## **D. Broker-Dealer Distribution for the VantageTrust Funds & VantageTrust II Funds**

ICMA-RC Services, LLC, ("**RC Services**") an SEC registered broker-dealer and FINRA member firm, offers the VantageTrust Funds and the VantageTrust II Funds to Defined Contribution Investment Only ("**DCIO**") clients. RC Services is a wholly-owned subsidiary of ICMA-RC and an affiliate of the Trust Company. RC Services also provides educational support for ICMA-RC's record keeping services to plans and plan participants.

## **III. EXEMPTION FROM REGISTRATION UNDER FEDERAL SECURITIES LAWS**

Interests in the Funds are not registered under the Securities Act of 1933, in reliance on the exemption under Section 3(a)(2) of that Act, nor are they registered under the Investment Company Act of 1940, in reliance on the exemption under Section 3(c)(11) of that Act.

## **IV. FEDERAL TAX STATUS**

Sections 501(a) and 401(a) of the Internal Revenue Code ("**Code**") provide that a group trust for the commingled investment of assets of qualified plans and other employee benefit plans, such as the Trust, is exempt from taxation.

## **V. ADOPTION OF TRUST AGREEMENT - ELIGIBLE TRUSTS**

Admission to a Trust is governed by the terms of each Trust's Declaration of Trust. Each Eligible Trust that desires to participate in a Trust shall establish to the Trust Company's satisfaction that it meets the conditions of participation

set forth in that Trust’s Declaration of Trust, including that it satisfies the definition of Eligible Trust as defined in the Declaration of Trust. Each Trust’s Declaration of Trust is available upon request.

## VI. THE FUNDS

This section provides an overview of each category of Funds that the Trust Company has established. For the VantageTrust Funds and VantageTrust II Funds, please refer to the applicable Fund Fact Sheet or Investment Options Sheet for additional information about each Fund and class, including expenses, performance, objectives, investment strategies and restrictions. The VantageTrust III Funds are not available for direct investment. Nevertheless, you may request a copy of Appendix A to the VantageTrust III Declaration of Trust which includes the Fund Level Guidelines for each VantageTrust III Fund.

The table below summarizes each general category of Funds within the Trusts. Each category of Funds is discussed in more detail in this section. See Appendix A for a full list of the current Funds.

General Fund Category	Summary Description
Vantagepoint Milestone Funds & Vantagepoint Model Portfolio Funds	A series of target date (Milestone) and target risk (Model) Funds. VT Vantagepoint and VT II Vantagepoint Milestone and Model Funds invest in an underlying VT III Vantagepoint Milestone or Model Fund with a corresponding objective, strategy and risk profile.
Vantagepoint Index Funds	Funds that follow an indexed or passively managed approach to investing. This means that securities are selected to try to approximate the investment characteristics and performance of the specified index. VT Vantagepoint and VT II Vantagepoint Index Funds invest in an underlying VT III Vantagepoint Index Fund with a corresponding objective, strategy and risk profile.
Vantagepoint Actively Managed Funds	Funds that have a distinct investment objective and strategy and follow an actively managed approach to investing. VT Vantagepoint and VT II Vantagepoint Actively Managed Funds invest in an underlying VT III Vantagepoint Actively Managed Fund with a corresponding objective, strategy and risk profile.
Vantagepoint PLUS Fund	A “stable value fund” that primarily invests in a diversified and tiered portfolio of stable value investment contracts. The VT PLUS and VT II PLUS Funds invest in the VT III PLUS Fund which has a corresponding objective, strategy and risk profile.
VT Trust Series Funds	VantageTrust Funds that invest in a single underlying third-party fund.
VT Retirement Income Advantage Fund	A Fund that invests in a Separate Account under a group variable annuity issued by Prudential Retirement Insurance and Annuity Company.
VantageTrust II Model Portfolio Funds	Target risk funds that invest in a combination of VantageTrust III Funds and third party exchange-traded funds. Each Fund is designed to have a different degree of risk and reward.
VT II Cash Management Fund	A Fund that invests in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.
VT II Special Purpose Funds	A group of VantageTrust II Funds that are primarily used to gain exposure to fixed income securities within stable value investment strategies.

### A. Investment Objectives and Strategies

The objectives and strategies described in this Memorandum, and as applicable, the Fact Sheet, Investment Options Sheet and Fund Level Guidelines, are those that the Funds use under normal conditions.

### **1. Temporary Defensive or Liquidity Positions**

Each Fund may, from time to time, take temporary defensive or liquidity positions that are inconsistent with the Fund's investment strategies, in attempting to respond to adverse market, economic, political, or other conditions. During unusual economic or market conditions, or for temporary defensive purposes or liquidity purposes, each Fund may place up to 100% of its assets in securities that would not ordinarily be consistent with the Fund's objectives or in cash and cash equivalents. A Fund will do so only if VIA or a Fund's subadviser believes the risk of loss outweighs the opportunity for capital gains or higher income. A Fund may not be seeking its investment objective(s) while taking a temporary defensive position or a liquidity position.

### **2. Limits on Fund Investments**

A Fund may include investment limitations or restrictions, such as a required minimum or maximum investment in a particular type of security. Any such limitations and restrictions are measured at the time a Fund purchases the investment option. The status, market value, maturity, credit quality, or other characteristics of a Fund's securities may change after they are purchased, and this may cause the amount of the Fund's assets invested in such securities to exceed the stated maximum restriction or fall below the stated minimum restriction. If any of these changes occur, it would not be considered a violation of the investment restriction.

## **B. Vantagepoint Milestone Funds & Vantagepoint Model Portfolio Funds**

The VT Vantagepoint Milestone Funds ("**VT Milestone Funds**"), VT II Vantagepoint Milestone Funds ("**VT II Milestone Funds**") and VT III Vantagepoint Milestone Funds (collectively the "**Vantagepoint Milestone Funds**") are target date funds.

The VT Vantagepoint Model Portfolio Funds ("**VT Model Portfolio Funds**"), VT II Vantagepoint Model Portfolio Funds ("**VT II Model Portfolio Funds**") and VT III Vantagepoint Model Portfolio Funds (collectively the "**Vantagepoint Model Portfolio Funds**") are target risk funds.

Each VT Milestone Fund, VT II Milestone Fund, VT Model Portfolio Fund and VT II Model Portfolio Fund invests in a single VT III Vantagepoint Milestone Fund ("**VT III Milestone Fund**") or VT III Vantagepoint Model Portfolio Fund ("**VT III Model Portfolio Fund**") that shares its name, objective, strategies and risks. In turn, each underlying VT III Milestone Fund or VT III Model Portfolio Fund is a "fund of funds" that invests in a combination of other VantageTrust III Funds and third party exchange-traded funds (ETFs). By investing in this way, each VT III Milestone Fund or VT III Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and of the portfolio holdings and strategies of those funds.

**Changes to the Underlying Funds:** Any changes in the underlying funds, such as changes in investment objectives or strategies, may affect the performance of the Vantagepoint Milestone Funds and Vantagepoint Model Portfolio Funds. VIA may alter the asset class allocations or underlying fund-level allocations of a VT III Milestone Fund or VT III Model Portfolio Fund at its discretion.

**Underlying VT III Milestone Funds:** The targeted allocation of each VT III Milestone Fund's assets among underlying funds and the asset classes they represent is determined by VIA. Over time, VIA will adjust the asset allocation of each "dated" VT III Milestone Fund to seek to become more conservative as the year designated in its name approaches and for approximately 10 years beyond the designated year. This is intended to reduce investment risk as investors move toward and into retirement. However, there is no guarantee that this goal will be achieved, and investors may lose money. Ten years after the date in the VT III Milestone Fund's name, it will reach its "landing point" and its target allocation becomes constant. It is



expected that when a VT III Milestone Fund reaches its “landing point” it will combine with the VT III Vantagepoint Milestone Retirement Income Fund.

Unlike the dated VT III Milestone Funds whose asset allocations change over time, the VT III Vantagepoint Milestone Retirement Income Fund maintains a constant asset allocation and is designed for investors who have begun to make gradual withdrawals or are seeking to preserve principal with some opportunity for inflation protection and capital growth, or who have a low tolerance for price fluctuations or wish to invest for the shorter-term.

**Underlying VT III Model Portfolio Funds:** Each VT III Model Portfolio Fund is designed to have a different degree of potential risk and reward and is diversified among the underlying funds in differing allocations. By investing in this way, each VT III Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and the portfolio holdings and strategies of those funds.

**Asset Allocation:** The allocation of each VT III Model Portfolio Fund among the underlying funds and the asset classes they represent is established by VIA.

**Rebalancing:** VIA monitors the allocations for each VT III Model Portfolio Fund and will “rebalance” its portfolio as necessary to return the VT III Model Portfolio Fund to, or close to, the intended allocations. VIA may, at its discretion, change the allocations to each of the underlying funds. Furthermore, VIA ensures that the underlying fund allocations result in overall asset class allocations that remain within the disclosed asset class allocations to fixed income, equity, and multi-strategy investments.

**VT III Vantagepoint Diversifying Strategies Fund and VT III Vantagepoint Total Return Bond Fund:** Many of the VT III Model Portfolio Funds, VT III Milestone Funds, and VantageTrust II Model Portfolio Funds (discussed later in this Memorandum) invest in the VT III Vantagepoint Diversifying Strategies Fund or VT III Vantagepoint Total Return Bond Fund as part of their investment strategies. These Funds are not available for direct investment or indirectly through VantageTrust or VantageTrust II by Plans or Plan participants. Following are the objectives, strategies and risks for these Funds.

<b>VT III Vantagepoint Diversifying Strategies Fund</b>
<b>Investment Objective:</b> Long-term capital growth.
<b>Principal Investment Strategies:</b> Under normal circumstances, the Fund invests up to 70% of its net assets in alternative investments, including, but not limited to, private equity, private real estate, distressed debt and direct lending (“Alternatives”). The Fund seeks long-term growth of capital with lower volatility over time than that of stocks, in general, and a risk/return profile different from that of traditional asset classes, such as stocks and fixed income securities.  The Fund’s investments in Alternatives typically are expected to be in the form of limited partnerships interests, but may also be in the form of CITs, Limited Liability Companies (“LLCs”), or other pooled vehicles, and may include a broad range of strategies, vintage years, and geographies. The Fund expects to stagger its commitments to Alternatives over several years in order to achieve sufficient vintage year diversification. Once a commitment is made, capital is then expected to be called over a multi-year period. While the Fund’s assets are waiting to be either committed to, or called by, an Alternative investment, the Fund’s assets will be invested in liquid securities, including U.S. and non-U.S. equity securities, fixed income securities, cash and cash equivalents, and derivative instruments. The Fund may use individual securities or pooled investment vehicles to obtain the desired exposure.  The Fund uses multiple managers. Each manager independently selects and maintains a portfolio for this Fund.

**VT III Vantagepoint Diversifying Strategies Fund**

**Principal Risks:**

Alternatives Risk, Convertible Securities Risk, Interest Rate Risk, Credit Risk, High Yield Securities Risk, Small-Cap Securities Risk, Derivative Instruments Risk, Foreign Securities Risk, U.S. Government Agency Securities Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, REITs Risk, Indexing Risk, Foreign Currency Risk, Municipal Securities Risk, Floating Rate Loans Risk, Call Risk, Stock Market Risk, Portfolio Turnover Risk, Multi-Manager Risk.

Please see the “Investment Risks” section of this Memorandum for additional information on risks.

**VT III Vantagepoint Total Return Bond Fund**

**Investment Objective:**

Current income and capital appreciation.

**Principal Investment Strategies:**

Under normal circumstances, this Fund seeks exposure to investment grade fixed income instruments that offer current income with the potential for capital appreciation. The Fund seeks both income and capital appreciation opportunities through diversification across instruments, issuers, sectors and industries with active duration management and yield curve positioning.

This Fund may use fixed income instruments or pooled investment vehicles to gain the desired exposure. It may also invest in other fixed income instruments, cash and cash equivalents, and derivative instruments.

This Fund uses multiple managers. Each manager independently selects and maintains a portfolio for this Fund.

**Principal Risks:**

Leverage Risk, Interest Rate Risk, Credit Risk, Prepayment & Extension Risk, Derivative Instruments Risk, Foreign Securities Risk, Liquidity Risk, Portfolio Turnover Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, U.S. Government Agency Securities Risk, Call Risk, Multi-Manager Risk, Large Investor Risk.

Please see the “Investment Risks” section of this Memorandum for additional information on risks.

**C. Vantagepoint Index Funds & Vantagepoint Actively Managed Funds**

**Index Funds:** Each VT Vantagepoint Index Fund and VT II Vantagepoint Index Fund invests in a single underlying VT III Vantagepoint Index Fund (“**VT III Index Fund**”) that follows an indexed or passively managed approach to investing. This means that securities are selected for investment in a VT III Index Fund to try to approximate the investment characteristics and performance of the specified index.

**Actively Managed Funds:** Each VT Vantagepoint Actively Managed Fund and VT II Vantagepoint Actively Managed Fund invests in a single underlying VT III Vantagepoint Actively Managed Fund (“**VT III Actively Managed Fund**”) that has a distinct investment objective and strategy and follows an actively managed approach to investing.

**Subadviser Selection:** VIA selects the subadvisers that manage the assets or a portion of the assets of the VT III Index Funds and VT III Actively Managed Funds. In selecting these subadvisers and in determining the amount of their asset allocations, VIA considers a variety of factors, which may include but are not limited

to, a manager's investment performance, compliance program and brokerage policies, the qualifications of the manager's investment professionals, the diversity of the manager's investment professionals, the proposed subadvisory fees and their effect on a fund's expense ratios, and the specific investment process proposed by the subadviser.

#### **D. Vantagepoint PLUS Fund**

The VT PLUS Fund and the VT II PLUS Fund invests in the underlying VT III PLUS Fund which has a corresponding objective, strategy and risks (we use "**PLUS Fund**" in this Memorandum to refer to the VT PLUS Fund, VT II PLUS Fund and the VT III PLUS Fund). The PLUS Fund primarily invests in a diversified and tiered portfolio of stable value investment contracts. Other investments of the PLUS Fund may include cash and cash equivalents including short-term investment funds and money market mutual funds, fixed income securities, fixed income mutual funds, VIA's proprietary fixed income funds, and fixed income commingled trust funds ("**fixed income assets**") that back certain stable value investment contracts.

Each stable value investment contract provides for participant withdrawals, under certain conditions, at book value. Book value is the original contract value plus accrued interest, plus additional deposits less withdrawals, fees and expenses, and other unexpected adjustments. The contract rate (rate at which interest is credited) for different stable value investment contracts varies and may include a fixed rate, a floating rate that resets based on an index, or a crediting rate that resets periodically to reflect current interest rates and the performance over time of the underlying fixed income assets.

##### **1. Stable Value Investment Contracts**

Different types of stable value investment contracts are used to seek to accomplish the PLUS Fund's objectives.

**Traditional Guaranteed Investment Contracts ("GICs")** – These are contracts issued by an insurance company that provide a guarantee for payments of interest at a fixed or floating rate and also principal repayments. The amount invested in each GIC becomes part of the insurance company's general account assets, which are managed and invested as the insurance company deems appropriate. Each GIC is an unsecured obligation of the insurance company to pay principal and interest for the period specified in the contract. Assurance of principal and interest payment is based solely on the financial strength of the insurance company.

**Separate Account GICs** – These are contracts issued by insurance companies that are backed by fixed income assets owned by the insurance company but held in a separate account for the PLUS Fund and any other contract holders in the account, separate from the insurance company's general account assets. The underlying fixed income assets are either managed by the insurance company, an affiliate of the insurance company, or a third party manager. Although the underlying assets are owned by the insurance company, the assets of a Separate Account GIC cannot be used to satisfy the insurance company's general obligations until the separate account liabilities have been satisfied. A Separate Account GIC's crediting/contract rate, i.e., interest paid on the Separate Account GIC, can either be fixed or floating, similar to that of a traditional GIC, or dependent upon the value of the underlying fixed income assets relative to the Separate Account GIC's contract value, and is adjusted periodically to reflect that difference over time, plus current yields, less fees and expenses.

**Synthetic GICs** – These contracts are issued by insurance companies, banks, or other financial institutions ("**Synthetic GIC issuer**") and are backed by underlying fixed income assets owned by the PLUS Fund and not by the Synthetic GIC issuer. The Synthetic GIC contract provides for participant withdrawals at book value (subject to certain conditions) and is called a "wrap contract." The Synthetic GIC issuer also may be referred to as a "wrap provider" or "wrapper." The underlying fixed income assets are managed by fixed income managers hired or approved by VIA.

In addition, certain fixed income securities are managed by VIA. The underlying fixed income assets may be comprised of fixed income securities, which include debt obligations issued by governments, corporations, municipalities and other borrowers, but may also include structured securities that provide for participation interests in debt obligations. The fixed income securities are primarily investment grade, but on a limited basis, may include some below investment grade fixed income securities (“junk bonds”). These investments may also include floating rate loans, commonly known as bank loans and sometimes referred to as leveraged loans, syndicated loans, high yield loans and institutional loans. Certain wrap providers require that they or an affiliate manage the portfolio that they wrap. A Synthetic GIC’s crediting rate is dependent on the value of the underlying fixed income assets relative to the Synthetic GIC’s contract value and is adjusted periodically to reflect that difference over time, plus current yields, less fees and expenses.

**Bank Investment Contracts (“BICs”)** – These contracts are similar but not identical to Traditional GICs and are issued by a bank as a benefit responsive bank deposit.

## **2. Investment Strategies of PLUS Fund**

In managing the PLUS Fund, VIA employs investment strategies designed to seek to meet the Fund’s investment objectives by utilizing a diversified and tiered approach to portfolio construction. The Fund’s diversification and tiered structure seeks to address the competing goals of providing (a) capital preservation; (b) a stable rate of return; (c) sufficient liquidity; (d) returns higher than money market funds and short-term bank rates over the longer term; and (e) returns that generally follow interest rate trends over time, but on a lagged basis. In seeking to meet these multiple goals, VIA manages the composition of the PLUS Fund and its allocation to various products and underlying fixed income assets based on prevailing economic and capital market conditions, relative value analysis, and other factors, consistent with the investment guidelines approved by the Board.

The stable value investment contracts held by the PLUS Fund are managed in the following manner to seek to meet the PLUS Fund’s goals:

**Traditional GICs** – VIA uses a laddered maturity strategy for the Fund’s traditional GICs, that is, the GICs are invested in a way so that they have consistent periodic maturities from maturing GIC payments to provide monthly liquidity. This strategy also seeks to provide for smoother returns and moderated reinvestment risk.

**Separate Account and Synthetic GICs** – VIA implements its Separate Account GIC and Synthetic GIC strategies through multiple single provider wraps or with multiple provider wraps, and by using multiple fixed income managers, including VIA, to manage the underlying fixed income assets. Individual managers may focus on a limited or broad set of sectors, and VIA selects managers that employ complementary strategies. VIA believes that the multi-wrapper, multi-manager approach to stable value and fixed income investing provides investors with greater return potential and, through increased diversification, helps to mitigate issuer and manager risks.

In seeking to preserve capital, VIA employs various strategies, with an emphasis on credit analysis and diversification among different issuers and fixed income assets. The PLUS Fund uses multiple issuers that are subject to initial and ongoing financial analysis performed by VIA. To seek to reduce the impact of a possible issuer default, VIA limits the amount of the PLUS Fund’s exposure to individual stable value contract issuers and requires a stable value contract issuer to meet certain credit quality standards. The underlying fixed income assets also are managed to seek diversification among issuers, security types, sectors, industries, and to meet minimum credit quality requirements.

The crediting rates of the Separate Account GICs and Synthetic GICs in which the PLUS Fund invests are intended to result in less return volatility than the returns experienced by underlying fixed income assets backing those stable value investment contracts. The PLUS Fund also may invest in underlying fixed income assets with shorter maturities that generally exhibit less market volatility than longer maturity fixed income assets. Additionally, the purchase of Traditional GICs with a fixed rate in a laddered Traditional GIC portfolio that is consistently reinvested at prevailing interest rates, with different payouts and maturities, may produce smoother returns than fewer larger purchases of Traditional GICs.

The PLUS Fund seeks to address investor-driven liquidity needs through the PLUS Fund's tiered structure, which is also intended to enhance the Fund's reinvestment opportunities. An actively monitored cash buffer that is primarily invested in short-term investment funds is intended to seek to meet daily liquidity needs. VIA actively monitors investor cash flows to seek to determine the proper cash buffer level. The PLUS Fund's portfolio of shorter duration Separate Account or Synthetic GICs is intended to provide a second source of daily liquidity. By drawing upon shorter duration Separate Account and Synthetic GICs for liquidity needs before drawing on longer duration assets, VIA seeks to minimize the impact to the PLUS Fund when liquidating assets, as needed. A portfolio of stable value investment contracts with defined maturities, primarily invested in Traditional GICs using a laddered maturity strategy, is intended to provide a relatively consistent stream of proceeds that can be reinvested into the laddered Traditional GIC portfolio, invested into other stable value investment contracts, or used for investors' liquidity needs. Ultimately, all stable value investment contracts offer investors liquidity through book value payments for certain permitted withdrawals.

VIA's management strategies seek to produce investment returns that over the long term are higher than those of money market mutual funds and short-term bank rates. However, the PLUS Fund's returns normally will lag changes in short-term interest rates and may be lower than the rates available from money market mutual funds in certain market conditions.

**Securities Lending** - The PLUS Fund participates in a securities lending program under which its custodian is authorized to lend a limited amount of fixed income securities backing the Synthetic GICs. The fixed income securities that are on loan require cash or other forms of collateral at least equal to the market value of the securities loaned as provided for in a Securities Lending Agency Agreement with JPMorgan Chase Bank, N.A. The collateral received is reinvested into cash equivalents including money market funds. As with other extensions of credit there are risks of delay in recovery of the securities on loan. In the event of default or insolvency of the borrower, the PLUS Fund will be indemnified by its custodian for the securities lending program conducted through the custodian if, at the time of a default by a borrower, some or all of the loaned securities have not been returned by the borrower.

### ***3. Evaluation and Monitoring of Issuers and Investment Managers***

VIA conducts in-depth credit analysis of financial institutions to compile a list of eligible stable value investment contract issuers. Criteria for initial and ongoing analysis include such factors as issuer asset quality; capital adequacy; product mix; profitability; and competence of senior management. VIA also takes into consideration ratings such as "claims paying ability" available through the major independent rating services, for example Moody's Investors Service, Inc., Standard & Poor's, and Fitch Ratings.

Initial evaluation and ongoing monitoring are also conducted on fixed income managers of assets that back Separate Account GICs or Synthetic GICs. VIA considers factors such as the investment management firm's organization, management and investment professionals; asset management expertise and product focus; investment performance; investment management process and

philosophy; credit research process; policies and procedures for risk management, compliance and controls; client servicing and flexibility for customization; and management fees.

#### **4. Investment Performance of the PLUS Fund**

The investment performance of the PLUS Fund is influenced by several factors, including:

**Default** – A failure by a stable value contract issuer to pay some or all of its interest or principal obligations when due on Traditional GICs, Separate Account GICs, Synthetic GICs or the Separate Account or Synthetic GIC's underlying fixed income assets will lower the return or book value of the PLUS Fund.

**Manager performance** – Exceptional or poor performance by a fixed income manager responsible for managing assets backing a Separate Account or Synthetic GIC can impact the overall returns of the PLUS Fund.

**Current market rates** – Generally, when a new stable value investment contract is purchased at, or an existing contract is reset to, a lower contract rate than the average contract rate of the PLUS Fund, it lowers the overall return on the Fund and vice versa. The PLUS Fund's rate of return may be expected to fall or rise more slowly than a fall or rise in current interest rates because the PLUS Fund's rate of return reflects an average of the rates payable on each of the PLUS Fund's stable value investment contracts that were entered into at different times and at different rates. The underlying fixed income assets of Separate Account GICs and Synthetic Account GICs will usually decline in value when interest rates rise. This may negatively impact the PLUS Fund's crediting rate.

**Cash flows into and out of the PLUS Fund** – The PLUS Fund is managed to seek to meet the cash flow requirements of expected purchases and sales of units of the PLUS Fund based on investor activity. If actual experience is significantly different from expectations, the PLUS Fund may have to buy or sell stable value investments at rates that are lower or higher than the PLUS Fund's average contract rate, which will have an impact on return.

**Length of contracts** – In general, contracts with longer terms have higher expected returns, but may not be able to keep pace with rising interest rates.

#### **5. Crediting Rate of the PLUS Fund**

The PLUS Fund crediting rate is calculated daily. The crediting rate shown is the annualized rate as of the last day of the reported period. The PLUS Fund crediting rate is calculated by taking into account current yields on the PLUS Fund's holdings and prior period performance of certain holdings in the Fund. The PLUS Fund's crediting rate is generally expected to follow interest rate trends over time but will typically do so on a lagged basis and may not move in the same direction as prevailing interest rates over certain time periods.

#### **6. Portfolio Valuation of the PLUS Fund**

In accordance with industry practice, stable value investment contracts are carried at cost plus accrued interest, plus additional deposits less withdrawals, and other adjustments.

Contributions, transfers and disbursements are effected at contract value or book value and not by reference to any alternative valuation method that might attempt to account for changes in market interest rates or credit risk.

## **7. Restrictions on Transfers of PLUS Fund Assets to Competing Funds**

Direct transfers from the PLUS Fund to competing funds are restricted. Competing funds include, but are not limited to, the following types of investment options:

- cash management funds, money market mutual funds, bank collective short-term investment funds, bank accounts or certificates of deposit, stable value funds or substantially similar investment options that offer guarantees of principal or income, such as guaranteed annuity contracts or similar arrangements with financial institutions;
- short-term bond funds that invest in fixed income securities and seek to maintain or have an average portfolio duration of less than two years; and
- any investment option that invests 80% or more of its assets in (i) fixed income securities or funds with a duration of less than two years, or (ii) instruments that seek to provide capital preservation such as stable value funds, bank certificates of deposit or bank accounts, and cash or cash equivalents.

Whether or not a fund is a competing fund will be determined, at the sole discretion of VIA, in consultation with the stable value contract issuers on a case-by-case basis.

To transfer money from the PLUS Fund to a competing fund, you must first transfer the amount to a non-competing fund for a period of at least 90 calendar days. For example, if you want to transfer money from the PLUS Fund to a money market fund, you will first need to transfer the money to a non-competing fund and then, 90 calendar days later or any time thereafter, transfer that amount of money to the money market fund.

## **8. Information About Restrictions on PLUS Fund Employer Withdrawals and Transfer Restrictions**

In the event an Employer initiates withdrawal of all or part of its Plan's assets from the PLUS Fund, the payout of such assets may be deferred for a period of up to twelve months. **In the case of a total withdrawal, participant transfers of PLUS Fund assets to other investment options will be restricted and participants will not be able to make additional investments in the PLUS Fund during this twelve-month period, or "hold period."**

Certain conditions permit participants to redeem their assets from the PLUS Fund during the hold period. These transactions are known as "benefit eligible transactions." Examples of benefit eligible transactions may include the following:

- Hardship/Emergency Withdrawals for active participants;
- Partial Account Distributions for terminated or retired participants;
- Lump Sum Distributions for terminated or retired participants;
- Rollover Distributions to another qualified plan/IRA account for terminated or retired participants; and
- Installment Payments/Required Minimum Distributions for terminated or retired participants.

When a plan chooses to transition from ICMA-RC to a new recordkeeper, also known as a deconversion, plan-directed redemptions will be paid out in an orderly manner for a period not to exceed the hold period (from the formal date of written notification by the plan sponsor). A participant may initiate a PLUS Fund transfer until the start of the blackout period of the deconversion, typically 5 business days prior to the liquidation and transfer of plan assets (other than PLUS Fund assets) to the new recordkeeper. After the beginning of the blackout period and until the expiration of the hold period, no PLUS Fund transfers are permitted, except for benefit

eligible transactions, as described above. At the expiration of the hold period, the participant's PLUS Fund assets are liquidated, and the proceeds are transferred to the new recordkeeper.

## E. VT Trust Series Funds

Each VT Trust Series Fund invests in a single underlying third-party fund. VIA is responsible for selecting each potential third-party fund and the Board reviews and approves each third-party fund selected. VIA is responsible for monitoring the performance and characteristics of these funds and may recommend the addition or removal of such third-party funds from the Fund's line up.

### 1. VT Cash Management Fund

The VT Cash Management Fund invests in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.

## F. VT Retirement IncomeAdvantage Fund

The VT Retirement IncomeAdvantage Fund invests in a Separate Account under a group variable annuity issued by Prudential Retirement Insurance and Annuity Company ("Prudential")<sup>1</sup>. The Separate Account, in turn, invests in a mix of collective trust funds with an allocation of approximately 60% equities (both domestic and foreign) and 40% fixed income. ICMA-RC manages the assets of the Separate Account pursuant to written investment guidelines provided by Prudential.

### 1. Explanation of Fees:

**Guarantee Fee** – In exchange for an annual guarantee fee of 1.00%, Prudential provides downside income protection and lifetime income guarantees. Prudential may change the guarantee fee in the future, up to a maximum of 1.50%. These guarantees are based on the claims-paying ability of Prudential and are subject to certain limitations, terms and conditions. Excess withdrawals will proportionately reduce and potentially terminate future payment guarantees. ***For additional information regarding these guarantees and the underlying assumptions attributable to these guarantees and the terms and conditions, please see the VT Retirement IncomeAdvantage Fund Important Considerations document, which is available through Account Access when you login at [www.icmarc.org](http://www.icmarc.org) or by contacting Investor Services at 800-669-7400.***

**Services Fee** – A fee applied to the assets in the Separate Account and paid to ICMA-RC in exchange for recordkeeping, administrative, and other services provided by ICMA-RC. ICMA-RC may waive or reduce this fee under certain circumstances.

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<sup>1</sup> Prudential Retirement Insurance and Annuity Company (Prudential), CA COA #08003, Hartford, CT. Neither Prudential nor ICMA-RC guarantees the investment performance or return on contributions to Prudential's Separate Account. You should carefully consider the objectives, risks, charges, expenses and underlying guarantee features before purchasing this product. Prudential may increase the Guarantee Fee in the future, from 1.00% up to a maximum of 1.50%. Like all variable investments, this Fund may lose value. Availability and terms may vary by jurisdiction; subject to regulatory approvals. Annuity contracts contain exclusions, limitations, reductions of benefits and terms for keeping them in force. Guarantees are based on Prudential's claims-paying ability. This annuity is issued under Contract form # GA-2020-TGWB4-0805-RC. ICMA-RC provides recordkeeping services to your Plan and is the investment manager of the underlying Prudential separate account. Prudential or its affiliates may compensate ICMA-RC for providing these and related administrative services in connection with the Fund. Variable annuities are suitable for long-term investing, particularly retirement savings. ©2016 Prudential, the Prudential logo, and the Rock symbol and Bring Your Challenges are service marks of the Prudential Insurance Company of America, Newark, NJ, and its related entities, registered in many jurisdictions worldwide. Note: Participants who are interested in the VT Retirement IncomeAdvantage Fund must first receive and read the VT Retirement IncomeAdvantage Fund Important Considerations document, before investing.



**Investment Management Fee** – A fee applied to the assets in the Separate Account and paid to ICMA-RC in exchange for providing investment management services, including investing the assets of the Separate Account, maintaining and rebalancing the assets within the target allocation, and reviewing and reporting on the performance of the Separate Account and its underlying funds.

**Other Separate Account Fees and Expenses** – The funds in which the Separate Account invests charge their own fees and expenses in accordance with the terms of their respective collective trust governing documents. The expense stated is based on the weighted average of underlying funds at the target asset allocation. In addition, operating expenses such as auditing and custody charges and litigation related expenses are deducted from the assets of the Separate Account.

The Separate Account invests a portion of its assets in VantageTrust II Funds, which in turn invest in corresponding VantageTrust III Funds that have the same investment objectives, strategies and risk profiles. ICMA-RC receives fees for administrative services that it provides to certain of these funds. ICMA-RC's subsidiary, VIA also receives fees for the advisory services it provides to the VantageTrust III Funds.

## 2. ***VT Retirement Income Advantage Fund – 90 Day Transfer Restriction***

**Before Lock-In** - If you transfer money out of the VT Retirement Income Advantage Fund, you will not be permitted to transfer money back into the Fund for a period of 90 calendar days. However, contributions to the Fund are permitted to continue, even during the 90-day restriction period.

**After Lock-In** - Any excess withdrawals will result in the 90-day transfer restriction on fund transfers into the VT Retirement Income Advantage Fund. For additional information regarding these restrictions, please see the *VT Retirement Income Advantage Fund Important Considerations* document, which is available when you login to Account Access at [www.icmarc.org](http://www.icmarc.org) or by contacting Investor Services at 800-669-7400.

## **G. VantageTrust II Model Portfolio Funds**

The VantageTrust II Model Portfolio Funds are target risk funds. This means that each VantageTrust II Model Portfolio Fund is a fund of funds that invests in a combination of VantageTrust III Funds and third party exchange-traded funds (together with the VantageTrust III Funds, “underlying funds”).

Each VantageTrust II Model Portfolio Fund is designed to have a different degree of potential risk and reward and is diversified among the underlying funds in differing allocations. By investing in this way, each VantageTrust II Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and the portfolio holdings and strategies of those funds.

**Asset Allocation:** The targeted allocation of each VantageTrust II Model Portfolio Fund among the underlying funds and the asset classes they represent is established by VIA as the investment adviser to the Trust Company.

**Rebalancing:** VIA monitors the allocations for each VantageTrust II Model Portfolio Fund and will “rebalance” its portfolio as necessary to return the VantageTrust II Model Portfolio Fund to, or close to, the intended allocations. VIA may, at its discretion, change the allocations to each of the underlying funds. Furthermore, VIA ensures that the underlying fund allocations result in overall asset class allocations that remain within the disclosed asset class allocations to fixed income, equity, and multi-strategy investments.

**Changes to the Underlying Funds:** Any changes in the underlying funds, such as changes in investment objectives or strategies, may affect the performance of the VantageTrust II Model Portfolio Funds. VIA may alter the asset class allocations or underlying fund-level allocations of a Fund at its discretion.

## H. VT II Cash Management Fund

The VT II Cash Management Fund invests its assets in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.

## I. VT II Special Purpose Funds

The VT II Special Purpose Funds (“**Special Purpose Funds**”) are a group of Funds that are primarily used to gain exposure to fixed income securities within stable value investment strategies. The Special Purpose Funds invest primarily in a portfolio of investment grade fixed income securities designed to provide current income with the potential for capital appreciation. Where VIA exercises investment discretion in the purchase and sale of portfolio securities within a Special Purpose Fund, VIA generally takes a value-driven, long-term strategic view when making its selections, while also seeking to take advantage of short-term tactical opportunities that arise in the market. For other Special Purpose Funds, VIA selects and monitors the third-party investment managers who exercise investment discretion with respect to the portfolio securities within the Funds. Because certain of the Special Purpose Funds are used for operational efficiencies in the stable value advisory services VIA provides to its other clients, VIA seeks diversification across such Funds in terms of managers.

## VII. INVESTMENT RISKS

Key risks of investing in the Funds and any underlying funds are summarized below. This is not an exhaustive list. Developments that cannot be anticipated nor controlled may disrupt global economies and financial markets and magnify the risks below. Examples of such developments include war, pandemics, epidemics, energy blackouts, cyberattacks, and natural disasters.

The key risks applicable to each VantageTrust Fund and VantageTrust II Fund are included in the respective Fund Fact Sheet or Investment Options Sheet. The key risks applicable to each VantageTrust III Fund are included in Appendix A to this Memorandum.

**Alternatives Risk**—In general, alternative investments involve a high degree of risk, including potential loss of principal invested. They are often invested in illiquid investments, making them difficult to exit and price on a regular basis. Certain alternative investments, such as private equity, will be illiquid on a long term basis and the fund managers typically take several years to invest a fund’s capital. Therefore, investors will not realize the full potential benefits of the investment in the near term. Alternative investments are often more complex than traditional investment vehicles. They may be more volatile than traditional investments such as stocks, bonds and mutual funds. The fees and expenses of alternative investments are often substantial in comparison to other investment vehicles, and those fees will offset the profits of the investment. Alternative investments are typically private which means they are subject to fewer regulatory protections than registered public investments.

**Asset Allocation Risk**—Asset allocation risk is the risk that the selection of the underlying funds and the allocation of Fund assets among them will cause a Fund to lose money or to underperform other funds with similar investment objectives. In addition, there is the risk that the asset classes favored by the allocations will not perform as expected. Any changes made in the underlying funds, such as changes in investment objectives or strategies, may affect the Fund’s performance. Similarly, if the Fund’s asset allocations become “out of balance,” this could affect both the Fund’s level of risk and the Fund’s potential for gain or loss.

**Asset-Backed Securities Risk**—Defaults on the assets underlying asset-backed securities may adversely affect the value of these securities. These securities are subject to risks associated with the nature of the underlying assets and are also subject to interest rate risk, credit risk, prepayment risk, and extension risk. Certain asset-backed securities may be more volatile and less liquid than other traditional types of fixed income securities.

**Call Risk**—A fixed income security may include a provision that allows the issuer to purchase the security back from its holder earlier than the final maturity date of the security, known as a “call feature.” Issuers often exercise this

right when interest rates have declined, in which case, the Fund may be forced to reinvest the proceeds received at a lower interest rate.

**Convertible Securities Risk**—The value of a convertible security generally increases and decreases with the value of the underlying common stock but may also be sensitive to changes in interest rates. Convertible securities generally have a higher risk of default and tend to be less liquid than traditional non-convertible securities. In addition, the convertible securities a Fund invests in may be rated below investment grade or may be unrated, which could increase their risks. Below investment grade securities are speculative and involve a greater risk of default than investment grade securities. The market prices of lower rated convertible securities also may experience greater volatility than the market prices of higher quality securities and may decline significantly in periods of general economic difficulty. A Fund could lose money if the issuer of a convertible security is unable to meet its financial obligations or declares bankruptcy.

**Credit Risk**—An issuer of a fixed income security may be unable or unwilling to make payments of principal or interest to the holders of such securities or may declare bankruptcy. These events could cause a Fund to lose money.

**Derivative Instruments Risk**—Use of derivative instruments involves risks different from, or possibly greater than, the risks associated with more traditional investments, and may involve a small amount of investment relative to the amount of risk assumed. Risks associated with derivative instruments include: the risk that the other party to a derivative contract may not fulfill its obligations (counterparty risk); the risk that a particular derivative instrument, such as over-the-counter derivative instruments, may be difficult to purchase or sell (liquidity risk); the risk that certain derivative instruments are more sensitive to interest rate changes and market price fluctuations (interest rate and market risks); the risk of mispricing or improper valuation of the derivative instrument (valuation risk); the inability of the derivative instrument to correlate in value with its underlying asset, reference rate, or index (basis risk); the risk that the Fund may lose substantially more than the amount invested in the derivative instrument, and that the Fund may be forced to liquidate portfolio positions when it may not be advantageous to do so to satisfy its obligations or to meet segregation requirements (leverage risk). There is no assurance that the Fund's use of any derivatives strategy will succeed, or that the Fund will not lose money.

**Emerging Markets Securities Risk**—Investments in securities issued by companies located in emerging market countries may present risks different from, or greater than, the risks of investing in securities issued by companies located in developed foreign countries. Emerging market countries may be more likely to experience political turmoil or rapid changes in market or economic conditions than more developed countries. It is sometimes difficult to obtain and enforce court judgments in such countries and there is often a greater potential for nationalization or expropriation of assets by the government of an emerging market country. In addition, the financial stability of issuers (including governments) in emerging market countries may be more precarious than in developed countries. Investments in securities issued by companies located in emerging market countries tend to be more volatile than investments in securities issued by companies located in developed foreign countries and may be more difficult to value.

**Equity Income/Interest Rate Risk**—A Fund's distributions to shareholders may decline when interest rates fall or when dividend income from investments in stocks declines.

**Exchange-Traded Fund ("ETF") Risks**—In addition to the risks associated with investing in other investment companies, an investment in an ETF may be subject to the following risks: (1) an ETF's shares may trade above or below their net asset value; (2) an active trading market for the ETF's shares may not develop or be maintained; (3) secondary market trading in an ETF's shares may be halted; (4) an ETF may not accurately track the performance of the reference index; and (5) an ETF might hold troubled securities if those securities are held in the reference index.

**Floating Rate Loans Risk**—Investments in floating rate loans have risks that are similar to those of fixed income securities and carry the risk of impairment of collateral. The value of the collateral securing a floating rate loan can decline, be insufficient to meet the obligations of the borrower, or be difficult to liquidate. As such, a floating rate loan may not be fully collateralized and can decline significantly in value.

**Focused Investment Risk**— At times a Fund may emphasize investments in a particular industry or sector. To the extent that the Fund increases its emphasis on investments in a particular industry or sector, the value of its investments may fluctuate more in response to events affecting that industry or sector, such as changes in economic conditions, government regulations, availability of basic resources or supplies, or other events that affect that industry or sector more than others.

**Foreign Currency Risk**—Investments in foreign currencies or securities denominated in foreign currencies (including derivative instruments that provide exposure to foreign currencies) may experience gains or losses solely based on changes in the exchange rate between foreign currencies and the U.S. dollar.

**Foreign Government Securities Risk**—Foreign government securities are fixed income securities issued by a foreign government, a foreign municipality, or an agency or instrumentality thereof. The ability of a foreign governmental obligor to meet its obligations to pay principal and interest to debtholders generally will be adversely affected by rising foreign interest rates, as well as the level of the relevant government's foreign currency reserves and currency devaluations. If a governmental obligor defaults on its obligations, a security holder may have limited legal recourse against the issuer or guarantor. These risks may be heightened during periods of economic or political instability and are generally heightened in emerging market countries.

**Foreign Securities Risk**—Investments in foreign securities may involve the risk of loss due to political, economic, legal, regulatory, and operational uncertainties; differing accounting and financial reporting standards; limited availability of information; currency fluctuations; and higher transaction costs.

**Fund of Funds Risk**—A Fund's investment in another fund is subject to the risks associated with that fund's portfolio of securities. For example, if the fund holds common stocks, a Fund also would be exposed to the risk of investing in common stocks. In addition, when a Fund purchases shares of another fund, the Fund will indirectly bear its proportionate share of the advisory fees and other operating expenses of the purchased fund. The fees and expense of the other fund are in addition to the Fund's own fees and expenses.

**High Yield Securities Risk**—Securities that are rated below "investment grade" (commonly known as "high yield securities" or "junk bonds") or, if unrated, are considered by a subadviser to be of equivalent quality, are speculative and involve a greater risk of default than "investment grade" securities. The values of these securities are particularly sensitive to changes in issuer creditworthiness, and economic and political conditions. The market prices of these securities may decline significantly in periods of general economic difficulty, may be harder to value, and may be less liquid than higher rated securities.

**Inflation-Adjusted Securities Risk**—Investments in inflation-adjusted securities are affected by changes in interest and inflation rates. Interest payments on inflation-adjusted securities will vary as the principal or interest is adjusted for inflation and may be more volatile than interest paid on ordinary fixed income securities. Inflation-adjusted securities may not produce a steady income stream, particularly during deflationary periods, and during periods of extreme deflation these securities may not provide any income.

**Indexing Risk**—Unlike an actively managed strategy, an index or passively managed strategy does not rely on a portfolio manager's decision making with respect to which individual securities may outperform others. Securities in an index or passively managed strategy may be purchased, held, and sold by such underlying funds at times when an actively managed portfolio would not do so. In addition, performance of underlying funds using an index or passively managed strategy will deviate from the performance of the specified index, which is known as tracking error. Tracking error may be caused by: (i) fees and expenses associated with managing the underlying index strategy funds (whereas the benchmark index has no management fees or transaction expenses); (ii) changes to the index and the timing of the rebalancing of the underlying index strategy funds; and (iii) the timing of cash flows into and out of the underlying index strategy funds.

**Interest Rate Risk**—Fixed income securities fluctuate in value as interest rates change. When interest rates rise, the market prices of fixed income securities will usually decrease; when interest rates fall, the market prices of fixed income securities usually will increase. Investments in fixed income securities may be subject to a greater risk of

rising interest rates due to the current period of historically low rates and the effect of potential government fiscal policy initiatives and resulting market reaction to those initiatives.

**Issuer Capacity Risk**—A decrease in the availability of issuers available to issue Traditional GICs, Separate Account GICs, or Synthetic GICs to the PLUS Fund may impose constraints on the PLUS Fund’s portfolio construction.

**Large Investor Risk**—A Fund or an underlying fund may experience large investments or redemptions. While it is impossible to predict the overall impact of these transactions over time, there could be adverse effects on portfolio management. For example, a Fund or an underlying fund may be required to sell securities or invest cash at times when it would not otherwise do so. These transactions can increase transactions costs.

**Leverage Risk**—Leverage, including borrowing, causes the value of a Fund’s shares to be more volatile than if the Fund did not use leverage. This is because leverage tends to exaggerate the effect of any increase or decrease in the value of the Fund’s portfolio securities. A Fund may engage in transactions or purchase instruments that give rise to forms of leverage, such as derivatives, reverse repurchase agreements, or other borrowings, investment of collateral from loans of portfolio securities, or use of when-issued, delayed-delivery or forward commitment transactions.

**Liquidity Risk**—Liquidity risk exists when a particular security or other instrument is difficult to trade. An investment in illiquid assets may reduce the returns of the investment because the holder of such assets may not be able to sell the assets at the time desired for an acceptable price or might not be able to sell the assets at all. Illiquid assets may also be difficult to value.

*PLUS Fund Liquidity Risk:* In addition, stable value investment contracts generally may not be assigned or transferred without the permission of the issuer. Often these contracts include non-standard negotiated terms and do not trade in a secondary market. The PLUS Fund is managed to seek to meet the cash flow requirements of expected purchases and sales of units of the PLUS Fund based on investor activity. If actual experience is significantly different from expectations, the PLUS Fund may have to buy or sell investments at rates that are lower than the PLUS Fund’s average crediting rate, which may lower returns.

**Management Risk**—Individual investments of a Fund may not perform as expected, and that Fund’s portfolio management practices may not achieve the desired result. There is a risk that its portfolio managers may allocate assets to an asset class that underperforms other asset classes.

**Mid-Cap Securities Risk**—Investments in mid-capitalization companies involve greater risk than is customarily associated with investments in larger, more established companies. Equity securities of mid-capitalization companies generally trade in lower volume and are generally subject to greater and less predictable price changes than the securities of larger companies.

**Mortgage-Backed Securities Risk**—Defaults on the mortgages underlying mortgage-backed securities may adversely affect the value of these securities. These securities are also subject to interest rate risk, credit risk, prepayment risk, and extension risk. Certain mortgage-backed securities may be more volatile and less liquid than other traditional types of fixed income securities.

**Multi-Manager Risk**—While VIA monitors each subadviser and the overall management of the Funds, each subadviser makes investment decisions independently from VIA and the other subadvisers. It is possible that the security selection process of one subadviser will not complement that of the other subadvisers. As a result, a Fund’s exposure to a given security, industry, sector or market capitalization could be smaller or larger than if the Fund were managed by a single manager, which could affect the Fund’s performance.

**Municipal Securities Risk**—The value of, payment of interest and repayment of principal with respect to, and the ability of a Fund to sell, a municipal security may be affected by constitutional amendments, legislative enactments, executive orders, administrative regulations and voter initiatives as well as the economics of the regions where the issuer is located. Certain municipal securities may be difficult to value or sell at a fair price.

**Preferred Stock Risk**—Preferred stockholders may have more limited voting rights than common stockholders. Holders of a company’s debt securities are generally paid before holders of the company’s preferred stock. The value and volatility of preferred stock may be dependent on factors that affect both fixed income securities and equity securities.

**Prepayment and Extension Risk**—Mortgage-backed and asset-backed securities are exposed to prepayment risk and extension risk. Prepayment risk may occur when borrowers pay their mortgages or loans more quickly than required under the terms of the mortgage or loan. Most borrowers are likely to prepay their mortgage or loan at a time when it may be least advantageous to a holder of these securities (e.g., during periods of falling interest rates), which may force the holder to reinvest the proceeds of prepayments in lower-yielding instruments and result in a decline in the holder’s income. Extension risk may occur when rising interest rates result in decreased prepayments, which could extend the average life of the security, cause its value to decline more than traditional fixed-income securities and increase its volatility.

**Portfolio Turnover Risk**—A Fund may engage in a significant number of short-term transactions, which may adversely affect performance. Increased portfolio turnover may result in higher brokerage costs or other transactions fees and expenses. These costs are ultimately passed on to shareholders.

**REITs Risk**—Real estate investment trusts (“REITs”) are subject to risks generally associated with investing in real estate, such as declining real estate values, over-building, property tax increases, increases in operating expenses and interest rates, insufficient levels of occupancy, the inability to obtain financing (at all or on acceptable terms), and the national, regional and local economic conditions affecting the real estate market.

**Securities Lending Risk**—A Fund may engage in one or more securities lending programs conducted by the Fund’s custodian or other entities to seek to generate income. These loans are secured by collateral invested in cash or cash equivalents. The collateral that a Fund receives from a borrower is generally invested in money market funds, other cash equivalents, short-term fixed income securities, or other similar instruments. Securities lending subjects a Fund to certain risks. The borrower of the security may fail to return the loaned security in a timely manner, which could cause the Fund to lose money. In addition, the Fund may incur investment losses as a result of investing the collateral received in connection with the loans.

**Short Sale Risk**—A short sale is the sale of a security that a fund does not own or any sale that is consummated by the delivery of a security borrowed by the fund. In general, short selling is used to try to profit from an expected downward price movement of the security, to provide liquidity in response to unanticipated demand, or to hedge the risk of a long position in the same security or in a related security. Short sales create a risk that a fund may be required to close the short position by buying back the security at a time when the security has appreciated in value, thus resulting in a loss to the fund. Because a short position loses value as the security’s price increases and there is no upper limit to a security’s price, the loss on a short sale is theoretically unlimited. In contrast, the loss on a long position is limited to what the fund originally paid for the security. A fund may not always be able to borrow a security it seeks to sell short at a particular time, due to a lack of supply of the security available for borrowing or because the costs to borrow such a security are too high. As a result, a fund may be unable to fully implement its investment strategy. Short sales magnify the potential for gain or loss on monies invested by borrowing securities, and losses can exceed the amount invested in a short position. Assets segregated to cover short sales may decline in value.

**Small-Cap Securities Risk**—Investments in small-capitalization companies involve greater risk than is customarily associated with investments in larger, more established companies. Equity securities of small-capitalization companies are generally subject to greater price volatility than those of larger companies due to less certain growth prospects, the lower degree of liquidity in the markets for their securities, and the greater sensitivity of smaller companies to changing economic conditions. Also, small-capitalization companies may have more limited product lines, fewer capital resources and less experienced management than larger companies.

**Stable Value Issuer Risk**—If the insurance company that issued a GIC defaults, enters rehabilitation or bankruptcy, or fails to pay principal obligations and interest when due, the PLUS Fund may lose money. Each Traditional GIC is an unsecured obligation of the insurance company to pay principal and interest for the period specified in the

contract. Assurance of principal and interest payment is based solely on the financial strength of the insurance company. If the insurance company were to go into rehabilitation or bankruptcy, Traditional GIC investors would have a claim only on the general account assets alongside other GIC investors and policyholders. Although owned by the insurance company, the assets of a Separate Account GIC cannot be used to satisfy the insurance company's general obligations until the separate account liabilities have been satisfied. As such, if the issuer were to go into rehabilitation or bankruptcy, Separate Account GIC investors would have first claims to those assets and would have priority over claims of general account contract holders and third-party creditors of the issuer. To the extent that the separate account liabilities exceed the underlying assets in the separate account, the difference would then be a claim on the issuer's general account, similar to a Traditional GIC claim.

**Stable Value Risk**— Different risks are associated with the different types of stable value investment contracts in which the PLUS Fund invests. Generally, stable value investment contracts are illiquid and may not be assigned, transferred or sold to someone else without the permission of the issuing insurance company or bank. These contracts often include non-standard negotiated terms and do not trade in a secondary market.

Additional risks of investing in the PLUS Fund include, but are not limited to: failure of the issuers of GICs, BICs, Separate Account GICs, or Synthetic GICs to meet their obligations to the PLUS Fund; failure of VIA to meet its objectives or obligations, as investment adviser for the PLUS Fund; default or downgrade of the fixed income assets that back Separate Account GICs and Synthetic GICs; failure of the third-party fixed income managers of the portfolios underlying the Separate Account GICs and Synthetic GICs to meet their investment objectives or their obligations to the PLUS Fund; loss of value or failure to redeem shares or allow withdrawals on a timely basis by one or more of the commingled investment vehicles in which the PLUS Fund invests, which may include one or more STIFs and money market mutual funds or other mutual funds or collective investment trust funds.

**Stock Market Risk**—Stock market risk is the possibility that the prices of equity securities overall will experience increased volatility and decline over short or extended periods. Markets tend to move in cycles, with periods of rising prices and periods of falling prices. Developments that cannot be anticipated nor controlled, including those arising out of geopolitical events or natural disasters, can cause substantial stock market volatility, exchange trading suspensions or restrictions and closures of securities exchanges and businesses.

**Style Risk**—All of the Funds are subject, in varying degrees, to style risk, which is the possibility that returns from a specific type of security in which a Fund invests or the investment style of a Fund's adviser will trail the returns of the overall market. In the past, different types of securities have experienced cycles of outperformance and underperformance in comparison to the market in general. Therefore, investing in a Fund with a specific style will create exposure to this risk. For example, growth stocks have performed best during the later stages of economic expansion and value stocks have performed best during periods of economic recovery. Therefore, both the growth and value investing styles may, over time, go in and out of favor. At times when the investing style used by a Fund is out of favor, that Fund may underperform other Funds that use different investing styles.

**TBA Risk**—In To-Be-Announced ("TBA") transactions, the Fund commits to purchase certain mortgage-backed securities for a fixed price at a future date. TBA transactions involve the risk that the actual securities received by the Fund may be less favorable than what was anticipated when entering into the transaction. TBA transactions also involve the risk that a counterparty will fail to deliver the securities, exposing the Fund to further losses.

**U.S. Government Agency Securities Risk**—Securities issued by U.S. Government agencies or government-sponsored enterprises may not be guaranteed by the U.S. Treasury. Further, there is no assurance that the U.S. Government will provide financial support to its agencies or instrumentalities (including government-sponsored enterprises) that issue or guarantee certain securities. If a government agency or a government-sponsored enterprise is unable to meet its obligations, the Fund may experience a loss.

## **VIII. SERVICES PROVIDED BY VIA AND ICMA-RC TO THE TRUST COMPANY**

The Trust Company has appointed VIA to act as the investment adviser to the Trust Company in respect to the Funds. As investment adviser, VIA advises the Trust Company on the composition and design of investment programs and options. It also advises the Trust Company with respect to investments by the Funds.

ICMA-RC provides administrative support to the Trust Company as may be required to exercise recordkeeping, reporting, disclosure and other support functions in respect to the Funds.

## **IX. FEES AND EXPENSES**

The Trust Company is entitled under each Declaration of Trust to receive reasonable compensation for its services in managing and administering the Trust. The compensation, custodial fees and expenses of the Trust Company are paid from each Trust, except to the extent that investors or plan fiduciaries have arranged for payment from other sources. The Trusts charge the fees and expenses of ICMA-RC and VIA to the Funds.

VIA charges an investment advisory fee for certain advisory services provided to the Trust Company with respect to the Funds. The fees charged vary depending on the advisory service provided and are part of the negotiated Investment Advisory Agreement between the Trust Company and VIA. The fees payable to VIA by a Fund are in addition to any fees payable to any subadvisers VIA selects to manage a portion of the assets of a Fund. VIA does not charge an investment advisory fee with respect to Funds where there is no investment discretion or investment management exercised with respect to such Funds. For example, VIA does not charge an investment advisory fee on the VT PLUS and VT II PLUS Funds. This is because such Funds invest their assets in the VT III PLUS Fund and VIA receives an advisory fee for services it provides to that Fund.

ICMA-RC charges a fee for providing certain administrative services to the Trust Company. The fees charged vary depending on the particular type and level of services required and are part of the negotiated Master Agreement between the Trust Company and ICMA-RC.

ICMA-RC or VIA may waive its fees, in whole or in part, for all or certain investors. The Trust Company may also charge to a class of a Fund any other expense, claim or charge that is specifically allocated to such class.

For the VantageTrust Funds and VantageTrust II Funds, please refer to each Fund's Fact Sheet or Investment Options Sheet for the expenses applicable to that Fund and class.

## **X. CONFLICTS OF INTEREST**

VIA provides investment advice with respect to certain investment options available through the Trust in which VIA or one of its affiliates has a financial interest. When VIA recommends that a Fund invest in another Fund, a potential conflict of interest exists because VIA or ICMA-RC receives compensation in the form of advisory and administrative fees based on the assets invested in the VT III Funds. Similarly, when VIA recommends that a Fund invest in a third-party mutual fund, a potential conflict of interest exists because VIA or one of its affiliates receives payments from third-party mutual fund families or their service providers in the form of 12b-1 fees, service fees, compensation for sub-accounting and other services provided by VIA or its affiliates based on assets in the underlying third-party mutual fund.

All of these payments from other parties are expressly disclosed to and acknowledged by the Trust Company in its Master Agreement with ICMA-RC and its Investment Advisory Agreement with VIA.

### **A. Payments from Third-Party Mutual Funds**

Each of the third-party mutual funds in which the VantageTrust Funds invest, or their service providers, make payments to VIA or its affiliates. These payments may be in the form of 12b-1 fees, service fees, compensation for subaccounting, or for other services provided by VIA or its affiliates. At the time of this



publication, the following fund families pay at the annual percentage rates set forth below based on VantageTrust Fund balances invested in their funds:

AMG TimesSquare	0.25%	Nuveen	0.25%
Carillon Eagle	0.25%	Parnassus	0.25%
Fidelity	0.25%	T. Rowe Price®	0.40%
Invesco	0.25%	Victory	0.25%
LSV	0.25%	PIMCO	0.25%
MFS	0.25%	Western Asset	0.35%

## XI. UNIT ACCOUNTING FOR FUNDS

The beneficial interest in a class of a Fund is represented by units. Eligible Trusts purchase units in the Fund for the benefit of their investors, participants and beneficiaries. Units represent a proportional ownership interest in a Fund. The worth of a unit is known as its Unit Value. The daily Unit Value is determined at the close of each business day by adding the value of all of a Fund's investments, plus cash and other assets, deducting liabilities (which includes fees and expenses charged by ICMA-RC and VIA), and then dividing the result by the number of outstanding units in the Fund as of the end of the prior day and rounding the results to the nearest cent.

The value of an investment in a Fund equals the number of units held multiplied by the current day's Unit Value. Because Unit Values and investment returns will fluctuate, a transfer or disbursement will normally result in the receipt of more or less than the original cost of an investment.

## XII. SHARE CLASSES

All Funds may be made available through different classes and sub-classes. These classes and sub-classes may have different fee structures for the services provided, including but not limited to, advisory, administration, record keeping and participant education services. The Trust Company may divide a Fund or its share classes into different sub-share classes that reflect a different combination of fees or a lower fee structure that the Trust Company may then make available to certain Eligible Trusts. Eligible Trusts may qualify for a class or sub-class based upon a number of factors that reflect savings from economies of scale or other cost savings with respect to services provided. These include, but are not limited to, the asset size, average account balance, the type and scope of services provided, or other features of the Eligible Trust. Investment advisers may aggregate multiple plan clients for purposes of qualifying for the Investment-Only share classes of the PLUS Fund.

The Trust Company reserves the right to open additional classes and adopt eligibility criteria.

## XIII. INVESTING IN THE FUNDS

The following explains how an investment can be made into a Fund, as well as information about when investments can be made, how funds can be transferred, and other policies relating to an investment in the Funds. This information is divided into two sections. The first section applies to all investors in the Funds. The second section only applies to those investors in a retirement plan that also utilizes ICMA-RC for recordkeeping and plan administration services. The second section is not applicable to DCIO. VantageTrust and the VantageTrust II are the only direct investors in the VantageTrust III Funds.

### A. Information for All Fund Investors

**Definition of a Business Day** – The Funds are available on any business day, which is any day when the New York Stock Exchange (“NYSE”) is open for business. “Close of business” means 4:00 p.m. Eastern Time, or

the final close of trading on any day when trading on the NYSE closes at a time other than 4:00 p.m. Eastern Time.

**Transfer and Withdrawal Restrictions** – Under the terms of the Declaration of Trust, the Trust Company has full discretion to defer withdrawals or transfers. Class specific restrictions or limitations will be disclosed on the applicable Fact Sheet or Investment Options Sheet.

**Contributions** – Plan fiduciaries generally may make contributions to their Eligible Trusts as often as weekly. Contributions received in good order prior to the close of business on any business day are posted that business day. Contributions received in good order after the close of business are treated as if received the next business day.

**“Good order”** means that contribution deposits must be accompanied by sufficient detail and in ICMA-RC’s standard format so that ICMA-RC is able to allocate contributions properly. If a contribution is not received in good order, the deposit is held in a non-interest bearing account until all necessary information is received. If a contribution is not in good order after three business days, ICMA-RC will coordinate with the Eligible Trust or Plan Administrator and may return the contribution to the Eligible Trust or Plan Administrator.

Contributions received for an identified participant account that does not have complete allocation instructions will be invested in the Eligible Trust’s default option.

**Distributions and Reinvestment of Earnings** – There is not expected to be distribution of income, dividends or capital gains to holders of units of a Fund. Rather, it is anticipated that such items will be reflected in the net asset value of the Fund.

## **B. Information for Recordkeeping and Plan Administration Clients Only**

**Transfer, Withdrawal and Allocation Changes** – Generally, unless restricted by a plan sponsor, transfer, withdrawal and allocation changes among the Funds may be made on a daily basis by Internet (Account Access), or by speaking to an Investor Services representative at ICMA-RC. Account Access is normally available 24 hours a day, seven days a week. Instructions sent by email correspondence will not be accepted.

*RHS Employer Investment Program* - Transfer, withdrawal and allocation changes may generally be made on a daily basis via fax or mail using the appropriate form. The forms may be obtained by logging into EZLink or by contacting a Plan Sponsor Services representative at the number provided below.

**Automatic Rebalance** – Certain accounts may be eligible for an auto-rebalance feature. This feature periodically returns the account to the investor’s desired asset allocation. Rebalancing strategies do not ensure a profit and do not protect against losses in declining markets.

**Confirmations and Statements** – Investors in the Funds will receive confirmation after each transaction and a quarterly statement that shows quarterly activity. Part-time employees may receive only annual statements. Please review this information carefully and contact ICMA-RC immediately if you see any discrepancies.

**Account Access** – Account Access is an internet site that is available to plan participants. It can be reached via ICMA-RC’s website at [www.icmarc.org](http://www.icmarc.org). Information available includes plan fund lineups, ICMA-RC administered account balances, investment allocations, and investment performance.

**EZLink** – EZLink is an internet site that is available to plan sponsors and provides access to plan and participant data. It can be reached via ICMA-RC’s website at [www.icmarc.org](http://www.icmarc.org). EZLink consists of a number of different online services enabling faster processing of information and greater control over data submission.

**Participant Telephone Access** – Self-service phone access as well as Investor Services representatives are available to participants by calling 800-669-7400.

**Plan Sponsor Telephone Access** – Phone access to Plan Sponsor Services representatives is available to plan sponsors by calling 800-326-7272.

#### **XIV. ADDITIONAL INFORMATION ABOUT VANTAGETRUST FUND TRANSFER RESTRICTIONS**

Transfers may be delayed, restricted or refused if a VantageTrust Fund receives or anticipates simultaneous orders affecting significant portions of its assets. In particular, a pattern of transfers that coincides with volatile market activity could be disruptive to a given VantageTrust Fund. Although the Trust Company and VIA will attempt to provide prior notice whenever reasonably possible, these restrictions may nonetheless be imposed at any time.

#### **XV. FREQUENT TRADING RESTRICTIONS**

The Funds are meant for long-term investment purposes. Frequent trading of the Funds may cause additional costs to be incurred by the Funds, and these costs will affect all investors. Also, the rate of return long-term investors realize from their investments may be impacted by any frequent trading activity of other investors. VIA is committed to curbing frequent trading to protect long-term investors.

VIA defines frequent trading as a buy followed by a sell three times in the same fund during a 90-calendar-day period or a buy followed by a sell ten times in the same fund during a 365-calendar-day period. Systematic withdrawals, contributions, and distributions are not considered frequent trading. In addition, some underlying funds in which a Trust invests define frequent trading differently, and VIA reserves the right to enforce these underlying fund's guidelines. If frequent trading and/or market timing activity are detected in an account with VIA, VIA may communicate by telephone or in writing about these trading activities in an effort to deter such activities. If such communications fail to deter the frequent trading activity, further action may be taken on the account including restricting future purchases in the VIA administered account.

VIA's aim is to monitor and enforce this frequent trading policy consistently. VIA cannot guarantee that all the risks associated with frequent trading will be completely eliminated by this policy and/or restrictions.

##### **A. Restrictions on Frequent Trading – Transfer Restrictions for Certain VantageTrust Funds**

Fund-to-fund transfers involving certain VantageTrust Funds will be limited to reduce excessive trading and its adverse effects on an underlying fund. Excessive trading of underlying funds may lead to increased costs and less efficient portfolio management, potentially diluting the value of shares held by long-term investors. The following VantageTrust Funds impose trade restrictions:

<b>If you transfer this amount:</b>	<b>You must wait at least:</b>	<b>Before buying back into the:</b>
Any \$	30 days	VT T. Rowe Price® Growth Stock Fund
Any \$	91 days	VT Vantagepoint Emerging Markets Fund
Any \$	91 days	VT Vantagepoint Overseas Equity Index Fund
Any \$	91 days	VT Vantagepoint International Fund

Please note that these restrictions apply to participant directed transfers only and will not affect systematic purchases and/or redemptions.

##### **B. Restrictions on Frequent Trading – Redemption Fees for Certain VantageTrust Funds**

In addition to policies on frequent trading, certain underlying funds impose fees on redemptions made soon after purchases. Investors in the VantageTrust Funds that invest in such underlying funds will bear these redemption fees

directly. Redemption fees are designed to offset the brokerage commissions, market impact, and other costs associated with frequent shareholder trading. The fees are deducted from redemption proceeds if the shares are sold (or transferred to another fund) prior to a specified holding period. In calculating the holding period, shares held longest are normally treated as being redeemed first and shares held shortest as being redeemed last. All redemption fees imposed by third-party funds are collected by VIA and remitted back to the underlying fund to which redemption fees apply. As of the date of this document, VIA is unaware of any redemption fees (and applicable holding periods) imposed by underlying funds in which the VantageTrust Funds invest.

VantageTrust Funds that invest in certain funds may be subject to redemption or short-term trading fees on additional transactions such as auto-rebalancing, rollovers, in-service withdrawals, de minimis withdrawals, Plan sponsor-initiated changes, asset allocation programs, and termination payments.

Redemption fee policies and procedures are typically very detailed and are subject to change. The above discussion is just a summary of those policies and procedures. The underlying funds' current disclosure materials contain more detailed information about funds' current redemption fees. Please read each underlying funds' current disclosure materials for an understanding of applicable redemption fees.

## **XVI. INABILITY TO CONDUCT BUSINESS**

ICMA-RC and VIA are normally open for business and operating when the New York Stock Exchange (“**NYSE**”) is open for business. However, unusual circumstances or emergencies including, but not limited to, severe and extraordinary weather conditions, flooding, other natural disasters, pandemic flu or other health epidemics, regional power failures, fires, market disruption, civil disturbances or other events may prevent ICMA-RC and VIA from conducting business on a given day or for longer periods of time. In such an event, transactions in the investment options offered through the Trust may be delayed and not effected until ICMA-RC and VIA resume normal business operations.

## Appendix A

### VANTAGETRUST FUNDS

#### Stable Value / Cash Management Funds

VT Cash Management Fund  
VT PLUS Fund

#### VT Vantagepoint Model Portfolio Funds

VT Vantagepoint Model Portfolio Conservative Growth Fund  
VT Vantagepoint Model Portfolio Traditional Growth Fund  
VT Vantagepoint Model Portfolio Long-Term Growth Fund  
VT Vantagepoint Model Portfolio Global Equity Growth Fund

#### VT Vantagepoint Funds

VT Vantagepoint 500 Stock Index Fund  
VT Vantagepoint Aggressive Opportunities Fund  
VT Vantagepoint Broad Market Index Fund  
VT Vantagepoint Core Bond Index Fund  
VT Vantagepoint Discovery Fund  
VT Vantagepoint Emerging Markets Fund  
VT Vantagepoint Equity Income Fund  
VT Vantagepoint Growth & Income Fund  
VT Vantagepoint Growth Fund  
VT Vantagepoint High Yield Fund  
VT Vantagepoint Inflation Focused Fund  
VT Vantagepoint International Fund  
VT Vantagepoint Low Duration Bond Fund  
VT Vantagepoint Mid/Small Company Index Fund  
VT Vantagepoint Overseas Equity Index Fund  
VT Vantagepoint Select Value Fund

#### VT Vantagepoint Milestone Funds

VT Vantagepoint Milestone Retirement Income Fund  
VT Vantagepoint Milestone 2015 Fund  
VT Vantagepoint Milestone 2020 Fund  
VT Vantagepoint Milestone 2025 Fund  
VT Vantagepoint Milestone 2030 Fund  
VT Vantagepoint Milestone 2035 Fund  
VT Vantagepoint Milestone 2040 Fund  
VT Vantagepoint Milestone 2045 Fund  
VT Vantagepoint Milestone 2050 Fund  
VT Vantagepoint Milestone 2055 Fund  
VT Vantagepoint Milestone 2060 Fund

#### VT Trust Series Funds

VT AMG TimesSquare Mid Cap Growth Fund  
VT ContraFund®  
VT Diversified International Fund  
VT Carillon Eagle Mid Cap Growth Fund  
VT Invesco Diversified Dividend Fund  
VT LSV Small Cap Fund  
VT MFS® Value Fund  
VT Nuveen Real Estate Securities Fund  
VT Invesco Discovery Fund  
VT Invesco Main Street Fund  
VT Parnassus Core Equity Fund  
VT PIMCO High Yield Fund  
VT Puritan® Fund  
VT T. Rowe Price® Growth Stock Fund  
VT Victory Sycamore Established Value Fund  
VT Western Asset Core Plus Bond Fund

#### Guaranteed Lifetime Income

VT Retirement Income Advantage Fund

## VANTAGETRUST II FUNDS

### Stable Value / Cash Management Funds

VT II Cash Management Fund  
VT II PLUS Fund

### VantageTrust II Model Portfolio Funds

VantageTrust II Model Portfolio Aggressive Fund  
VantageTrust II Model Portfolio Conservative Fund  
VantageTrust II Model Portfolio Moderate Fund

### VT II Vantagepoint Model Portfolio Funds

VT II Vantagepoint Model Portfolio Conservative Growth Fund  
VT II Vantagepoint Model Portfolio Traditional Growth Fund  
VT II Vantagepoint Model Portfolio Long-Term Growth Fund  
VT II Vantagepoint Model Portfolio Global Equity Growth Fund

### VT II Vantagepoint Special Purpose Funds

VT II Vantagepoint Core Bond Fund  
VT II Vantagepoint Core Bond II Fund  
VT II Vantagepoint Intermediate Aggregate Bond Fund  
VT II Vantagepoint Intermediate Corporate Bond Fund  
VT II Vantagepoint Mortgage Backed Securities Fund  
VT II Vantagepoint Short Duration Bond Fund

### VT II Vantagepoint Funds

VT II Vantagepoint 500 Stock Index Fund  
VT II Vantagepoint Aggressive Opportunities Fund  
VT II Vantagepoint Broad Market Index Fund  
VT II Vantagepoint Core Bond Index Fund  
VT II Vantagepoint Discovery Fund  
VT II Vantagepoint Emerging Markets Fund  
VT II Vantagepoint Equity Income Fund  
VT II Vantagepoint Growth & Income Fund  
VT II Vantagepoint Growth Fund  
VT II Vantagepoint High Yield Fund  
VT II Vantagepoint Inflation Focused Fund  
VT II Vantagepoint International Fund  
VT II Vantagepoint Low Duration Bond Fund  
VT II Vantagepoint Mid/Small Company Index Fund  
VT II Vantagepoint Overseas Equity Index Fund  
VT II Vantagepoint Select Value Fund

### VT II Vantagepoint Milestone Funds

VT II Vantagepoint Milestone Retirement Income Fund  
VT II Vantagepoint Milestone 2015 Fund  
VT II Vantagepoint Milestone 2020 Fund  
VT II Vantagepoint Milestone 2025 Fund  
VT II Vantagepoint Milestone 2030 Fund  
VT II Vantagepoint Milestone 2035 Fund  
VT II Vantagepoint Milestone 2040 Fund  
VT II Vantagepoint Milestone 2045 Fund  
VT II Vantagepoint Milestone 2050 Fund  
VT II Vantagepoint Milestone 2055 Fund  
VT II Vantagepoint Milestone 2060 Fund

## VANTAGETRUST III FUNDS AND ASSOCIATED RISKS

FUND NAME	RISKS
VT III PLUS Fund	Stable Value Risk, Interest Rate Risk, Credit Risk, Stable Value Issuer Risk, Liquidity Risk, Reinvestment Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Securities Lending Risk, Derivative Instruments Risk, Large Investor Risk.
<b>VantageTrust III Vantagepoint Model Portfolio Funds</b>	
VT III Vantagepoint Model Portfolio Conservative Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Model Portfolio Traditional Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Convertible Securities Risk, High Yield Securities Risk, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

VT III Vantagepoint Model Portfolio Long-Term Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Convertible Securities Risk, High Yield Securities Risk, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Model Portfolio Global Equity Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Preferred Stock Risk, Equity Income/Interest Rate Risk, Indexing Risk, Large Investor Risk
<b>VantageTrust III Vantagepoint Funds</b>	
VT III Vantagepoint Core Bond Index Fund	Interest Rate Risk, U.S. Government Agency Securities Risk, Mortgage-Backed Securities Risk, TBA Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Credit Risk, Indexing Risk, Portfolio Turnover Risk, Large Investor Risk
VT III Vantagepoint Inflation Focused Fund	Inflation-Adjusted Securities Risk, Interest Rate Risk, Credit Risk, Foreign Securities Risk, Foreign Currency Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Municipal Securities Risk, Multi-Manager Risk, Large Investor Risk



VT III Vantagepoint Low Duration Bond Fund	Credit Risk, Interest Rate Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, Prepayment and Extension Risk, Municipal Securities Risk, Call Risk, U.S. Government Agency Securities Risk, Foreign Securities Risk, Foreign Currency Risk, Floating Rate Loans Risk, High Yield Securities Risk, Derivative Instruments Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Equity Income Fund	Stock Market Risk, Preferred Stock Risk, Style Risk, Equity Income/Interest Rate Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Indexing Risk, Foreign Securities Risk, Foreign Currency Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint 500 Stock Index Fund	Stock Market Risk, Indexing Risk
VT III Vantagepoint Broad Market Index Fund	Stock Market Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Growth & Income Fund	Stock Market Risk, Preferred Stock Risk, Mid-Cap Securities Risk, Foreign Securities Risk, Equity Income/Interest Rate Risk, Foreign Currency Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk, Interest Rate Risk, Credit Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Municipal Securities Risk, High Yield Securities Risk, Derivative Instruments Risk
VT III Vantagepoint Growth Fund	Stock Market Risk, Preferred Stock Risk, Foreign Securities Risk, Foreign Currency Risk, Style Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Select Value Fund	Stock Market Risk, Mid-Cap Securities Risk, Small-Cap Securities Risk, Equity Income/Interest Rate Risk, Style Risk, REITs Risk, Foreign Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk

VT III Vantagepoint Aggressive Opportunities Fund	Stock Market Risk, Mid-Cap Securities Risk, Style Risk, Small-Cap Securities Risk, Indexing Risk, Derivative Instruments Risk, Foreign Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Mid/Small Company Index Fund	Stock Market Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, REITs Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Discovery Fund	Stock Market Risk, Small-Cap Securities Risk, Preferred Stock Risk, Foreign Securities Risk, Foreign Currency Risk, Convertible Securities Risk, High Yield Securities Risk, Municipal Securities Risk, Derivative Instruments Risk, Interest Rate Risk, Credit Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, U.S. Government Agency Securities Risk, Portfolio Turnover Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint International Fund	Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Credit Risk, Interest Rate Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Overseas Equity Index Fund	Stock Market Risk, Foreign Securities Risk, Mid-Cap Securities Risk, Foreign Currency Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint High Yield Fund	High Yield Securities Risk, Credit Risk, Interest Rate Risk, Call Risk, Floating Rate Loans Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Municipal Securities Risk, Foreign Securities Risk, Foreign Government Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Convertible Securities Risk, Derivative Instruments Risk, Liquidity Risk, Multi-Manager Risk, Large Investor Risk

VT III Vantagepoint Diversifying Strategies Fund	Convertible Securities Risk, Interest Rate Risk, Credit Risk, High Yield Securities Risk, Small-Cap Securities Risk, Derivative Instruments Risk, Foreign Securities Risk, U.S. Government Agency Securities Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, REITs Risk, Indexing Risk, Foreign Currency Risk, Municipal Securities Risk, Floating Rate Loans Risk, Call Risk, Stock Market Risk, Portfolio Turnover Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Emerging Markets Fund	Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Total Return Bond Fund	Leverage Risk, Interest Rate Risk, Credit Risk, Prepayment & Extension Risk, Derivative Instruments Risk, Foreign Securities Risk, Liquidity Risk, Portfolio Turnover Risk, Mortgage - Backed Securities Risk, Asset - Backed Securities Risk, U.S. Government Agency Securities Risk, Call Risk, Multi-Manager Risk, Large Investor Risk.
VantageTrust III Vantagepoint Milestone Funds	
VT III Vantagepoint Milestone Retirement Income Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2015 Fund

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Convertible Securities Risk, High Yield Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2020, 2025 Funds

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2030, 2035 Funds

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2040, 2045, 2050, 2055, 2060 Funds	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Asset-Backed Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
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## Appendix B – Additional Information

This Appendix B contains information about certain types of instruments in which a Fund may invest. A Fund may acquire the types of investments described below to the extent consistent with its investment objectives, strategies and guidelines. This is not an exhaustive list of types of investments a Fund may acquire. This information is provided for general reference only and is subject to change without notice. It is not intended as a definitive resource on these instruments. VIA, ICMA-RC, Trust Company and their affiliates make no representations about the accuracy of the following information.

**ASSET-BACKED SECURITIES:** Asset-backed securities are fixed income securities (see below) backed by loan paper or accounts receivable originated by banks, credit card companies or other providers of credit. Asset-backed securities in which a Fund may invest may have underlying assets that include, among others, automobile installment sales or installment loan contracts, home equity loans, leases of various types of real and personal property, and receivables from credit card agreements. There is a risk that borrowers may default on their obligations in respect of those underlying obligations. Certain assets underlying asset-backed securities are subject to prepayment, which may reduce the overall return to asset-backed security holders. Holders also may experience delays in payment on the securities if the full amounts due on underlying sales contracts or receivables are not realized by a trust because of unanticipated legal or administrative costs of enforcing the contracts or because of depreciation or damage to the collateral (usually automobiles) securing certain contracts, or other factors. The values of asset-backed securities may be substantially dependent on the servicing of the underlying asset pools, and are therefore subject to risks associated with the negligence or malfeasance by their servicers and to the credit risk of their servicers. In certain circumstances, the mishandling of related documentation also may affect the rights of security holders in and to the underlying collateral. The insolvency of entities that generate receivables or that utilize the assets may result in added costs and delays in addition to losses associated with a decline in the value of underlying assets.

Certain asset-backed securities do not have the benefit of the same security interest in the related collateral as do mortgage-backed securities; nor are they provided government guarantees of repayment as are some mortgage-backed securities. Credit card receivables generally are unsecured, and the debtors are entitled to the protection of a number of state and federal consumer credit laws, many of which give such debtors the right to set off certain amounts owed on the credit cards, thereby reducing the balance due. In addition, some issuers of automobile receivables permit the servicers to retain possession of the underlying obligations. If the servicer were to sell these obligations to another party, there is a risk that the purchaser would acquire an interest superior to that of the holders of the related automobile receivables. The impairment of the value of collateral or other assets underlying an asset-backed security, such as a result of non-payment of loans or non-performance of other collateral or underlying assets, may result in a reduction in the value of such asset-backed securities and losses to a Fund. It is possible that asset-backed securities will fall out of favor at any time or over time with investors, affecting adversely the values and liquidity of the securities.

**BANKERS' ACCEPTANCES:** Bankers' acceptances are negotiable drafts or bills of exchange, normally drawn by an importer or exporter to pay for specific merchandise, which are "accepted" by a bank, meaning in effect that the bank unconditionally agrees to pay the face value of the instrument on maturity.

**BELOW INVESTMENT GRADE ("HIGH YIELD") SECURITIES:** Below investment grade securities (commonly referred to as high yield securities or "junk bonds") are defined as securities or instruments rated below the four highest rating categories by Standard & Poor's ("S&P"), Moody's Investors Service, Inc. ("Moody's") or Fitch Ratings ("Fitch"), each a major Nationally Recognized Statistical Rating Organization ("NRSRO"). For Moody's, S&P, or Fitch, ratings at or below Ba, BB or BB, respectively, are below investment grade. In the case of different ratings among S&P, Moody's, and Fitch (a split rated security), the rating of such split rated security will be determined as follows: if all three agencies rate a security, the highest and lowest ratings will be dropped and the remaining middle rating will be used; if two of the three agencies rate a security, the security will be considered to have the lower (i.e., more conservative) credit rating. If a security is not rated by S&P, Moody's, or Fitch, it may be determined to be of comparable quality by VIA or a subadviser, as applicable. See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

NRSROs, which include S&P, Moody's, and Fitch, provide ratings on fixed income securities based on their analyses of information they deem relevant. Ratings of each major NRSRO represent its judgment of the safety of principal and interest payments (and not the market risk) of bonds and other fixed income securities it undertakes to rate. NRSRO ratings are not absolute standards of credit quality and may prove to be inaccurate. In addition, there may be a delay between events or circumstances adversely affecting the ability of an issuer to pay interest and or repay principal and a NRSRO's decision to downgrade a security. Any shortcomings or inefficiencies in the NRSROs' processes for determining ratings may adversely affect the ratings of securities held by the Fund and, as a result, may adversely affect those securities' perceived credit risk.

Below investment grade obligations are considered speculative and may be in default. A Fund's investments in below investment grade securities are subject to a substantial degree of credit risk. Adverse economic developments can disrupt the market for below investment grade securities, and severely affect the ability of issuers, especially highly leveraged issuers, to service their debt obligations on a timely basis or to repay their obligations upon maturity, which may lead to a higher incidence of default on such securities. Prices of below investment grade securities rise and fall primarily in response to actual or perceived changes in the issuer's financial health and the issuer's ability to meet principal and interest payments on a timely basis, although legislative and regulatory developments, changes in market interest rates, market perceptions, economic conditions, and general market liquidity may also affect prices. Below investment grade securities are more likely to react to developments affecting certain of these risks than more highly rated securities.

The secondary market for below investment grade securities may not be as liquid as the secondary market for more highly rated securities, which may cause those securities to be more difficult to value, and more difficult to sell at acceptable prices, as compared to higher rated securities. Below investment grade securities may experience reduced liquidity as well as sudden and substantial decreases in price.

Adverse publicity and investor perception, whether or not based on fundamental analysis, may decrease the value and liquidity of below investment grade securities, especially in a thin (low trading volume) market.

Not unlike investment grade fixed income securities, below investment grade securities may contain redemption or call provisions. If an issuer exercised these provisions in a declining interest rate market, a Fund may have to replace the security with a lower yielding security, potentially resulting in a decreased return for investors. Conversely, the value of a below investment grade security held by a Fund may decrease in a rising interest rate market. If a Fund experiences unexpected net redemptions, this may force it to sell below investment grade securities without regard to their investment merits, thereby decreasing the asset base upon which expenses can be spread and possibly reducing the Fund's rate of return.

**CAPITALIZATION:** Capitalization (often referred to as "market cap") estimates the aggregate value of a company or stock and is a basic measure of the value of a company. It is calculated by multiplying the number of the company's shares outstanding by their current price per share. For example, if XYZ company has 15,000,000 shares of common stock outstanding with a share price of \$20 per share, then the company's market capitalization is  $15,000,000 \times \$20 = \$300,000,000$ . Many exchanges and indices take into account, and are weighted by, market capitalization.

Generally, the U.S. market recognizes three market cap ranges: large cap, mid cap and small cap, although the specific cut off points among these categories may differ. A larger market capitalization typically indicates a more valuable and more established company as compared with smaller capitalized companies. In addition, investments in companies with smaller capitalizations, e.g., small or mid capitalization companies, involve greater risks than are customarily associated with companies that have larger capitalizations.

**CASH/CASH EQUIVALENTS:** These include fixed income obligations with maturities of less than one year, including short-term accounts managed by a custodian institution and shares of money market mutual funds. They also include repurchase agreements and reverse repurchase agreements. In a repurchase agreement, a Fund buys a security from a bank or broker-dealer that has agreed to repurchase the same security at a mutually agreed upon date and price. The resale price normally is the purchase price plus a mutually agreed upon interest rate. In a reverse repurchase agreement, a Fund sells a security and agrees to repurchase the same security at a mutually agreed upon date and price. A reverse repurchase agreement is considered as the borrowing of money by the Fund and, therefore, a form of leverage, which may cause any gains or losses for the Fund to become magnified.

**CERTIFICATES OF DEPOSIT:** Certificates of deposit are negotiable interest-bearing instruments with a specific maturity. They are issued by banks and savings and loan institutions in exchange for the deposit of funds and normally can be traded in the secondary market prior to maturity. Certificates of deposit with penalties for early withdrawal will be considered illiquid.

**COMMERCIAL PAPER:** Commercial paper is an unsecured short-term debt instrument issued by corporations and other entities. Maturities on these issues vary from one day up to 270 days.

**CONVERTIBLE SECURITIES:** Convertible securities possess investment characteristics of both equity and fixed income securities. Convertible securities include corporate bonds (i.e., "convertible bonds") and preferred stocks that may be exchanged for a specific number of shares of the issuing company's common stock at a specified conversion price.

Convertible securities tend to be of lower credit quality, have a higher risk of default and tend to be less liquid than traditional, nonconvertible investment grade bonds. Convertible securities may be rated below investment grade or may be unrated, which could increase their risks. The value of a convertible security increases and decreases with the value of the underlying common stock. When the convertible security's conversion price is similar to the price of the underlying common stock, the convertible security itself generally behaves more like the common stock. When the convertible security's conversion price is greater than the price of the underlying common stock, the convertible security generally behaves more like a fixed income security (and thus will be more sensitive to changes in interest rates).

**CYBER SECURITY ISSUES:** The Funds, and their service providers, may be subject to operational and information security risks resulting from cyber-security attacks or incidents (collectively, "cyber-events"). In general, cyber-events can result from deliberate attacks or unintentional events. Cyber-events include, but are not limited to, gaining unauthorized access to digital systems (e.g., through "hacking" or malicious software coding) for purposes of misappropriating assets or sensitive information, corrupting data, or causing operational disruption. Cyber-events may also be carried out in a manner that does not require gaining unauthorized access, such as causing denial-of-service attacks on websites (i.e., efforts to make network services unavailable to intended users). Cyber-events affecting the Trust Company, ICMA-RC, VIA, the Funds or their subadvisers, custodian, and other third-party service providers may adversely impact the Funds. For instance, cyber-events may interfere with the processing of shareholder transactions, impact a Fund's ability to calculate its NAVs, cause the release of private shareholder information or confidential business information, impede trading, subject a Fund to regulatory fines or financial losses and/or cause reputational damage. The Funds may also incur additional costs for cyber security risk management purposes. In addition, cyber-events affecting issuers in which a Fund invests may cause such Fund's investments to lose value.

**DERIVATIVE INSTRUMENTS:** A derivative is a financial instrument whose value is dependent upon the value of an underlying asset or assets. These underlying assets may include, among others, bonds, currency exchange rates, interest rates, stocks, or related indices. Types of derivatives include, but are not limited to, options, futures contracts, options on futures, forward currency contracts, and swaps.

Some derivatives, such as futures contracts and certain options, are traded on U.S. commodity and securities exchanges (exchanged-traded derivatives), while other derivatives are privately negotiated and entered into in the over-the-counter ("OTC") market (OTC derivatives). Certain swaps are traded through swap execution facilities. OTC derivatives are typically less liquid than exchange-traded derivatives since the other party to the transaction may be the only investor with sufficient understanding of the derivative to be interested in bidding for it. Derivative products are highly specialized instruments that require investment techniques and risk analyses different from those associated with stocks,

bonds, and other traditional investments. The use of a derivative requires an understanding not only of the underlying instrument but also of the derivative itself, without the benefit of observing the performance of the derivative under all possible market conditions.

Additional information regarding the different types of derivative instruments used by the Funds (and their associated risks) is set forth below:

**Forward Currency Contracts.** A forward currency contract involves a privately negotiated obligation to purchase or sell a specific currency at a future date at a price set in the contract. Risks of entering into forward currency contracts include the possibility that a fund may lose money. For example, foreign currency values may change unfavorably relative to the U.S. dollar, there may be an illiquid market or a change in the value of the contracts may not correlate with changes in the value of the underlying currency. The use of over-the-counter forward currency contracts includes counterparty risk, which is the risk that the other party to a contract may not fulfill its obligations.

**Futures.** A futures contract is an agreement to buy or sell a specific amount of a commodity or financial instrument at a particular price on a stipulated future date. Futures may involve a small investment of cash relative to the magnitude of the risk assumed. For purposes of meeting a Fund's investment objectives or restrictions, futures contracts are considered to be the same type of security or financial instrument as that underlying the contract. Futures transactions must be made on national exchanges where purchases and sales transactions are regularly executed and regulated.

The risks associated with the use of futures include: a Fund experiencing losses over certain ranges in the market that exceed losses experienced by a Fund that does not use futures contracts; there may be an imperfect correlation between the changes in the prices of futures and options on futures and the market value of their underlying assets; trading restrictions or limitations may be imposed by an exchange, and government regulations may restrict trading in futures contracts; and there may not always be a liquid secondary market for a futures contract, and; therefore, a Fund may be unable to close out its futures contracts at a time that is advantageous.

**Options.** An option is a derivative financial instrument that specifies a contract between two parties for a future transaction on a financial instrument at a reference price (strike price). The buyer of the option gains the right, but not the obligation, to engage in that transaction, while the seller incurs the corresponding obligation to fulfill the transaction. Options have various types of underlying financial instruments, including specific securities, indices of securities prices, futures contracts, and swaps.

When a Fund writes an option, the Fund receives a premium from the buyer and becomes obligated to sell or purchase the underlying financial instrument at a fixed price upon exercise of the option. In writing an option, the Fund bears the market risk of an unfavorable change in the price of the financial instrument underlying the written option. Exercise of an option written by the Fund could result in the Fund buying or selling a financial instrument at a price different from the current market value.

When an option is exercised, the proceeds on a sale for a written call option or the purchase cost for a written put option, or the cost of the security for a purchased put or call option is adjusted by the amount of premium received or paid. The risk in writing a call option is that the Fund gives up the opportunity for profit if the market price of the security increases to or above the strike price and the option is exercised. The risk of writing a put option is that the Fund may incur a loss if the market price of the security decreases and the option is exercised.

The risk in buying an option is that the Fund pays a premium whether or not the option is exercised. By purchasing a put option, the purchaser obtains the right (but not the obligation) to sell the option's underlying financial instrument at a fixed strike price. In return for this right, the purchaser pays the current market price for the option (known as the option premium). The purchaser may terminate its position in a put option by allowing it to expire or by exercising the option. If the option is allowed to expire, the purchaser will lose the entire premium. If the option is exercised, the purchaser completes the sale of the underlying financial instrument at the strike price. A purchaser may also terminate a put option position by closing it out in the secondary market at its current price, if a liquid secondary market exists. The buyer of a typical put option can expect to realize a gain if the price of the underlying financial instrument falls substantially. However, if the underlying financial instrument's price does not fall enough to offset the cost of purchasing the option, a put buyer can expect to suffer a loss (limited to the amount of the premium, plus related transaction costs).

The features of call options are essentially the same as those of put options, except that the purchaser of a call option obtains the right to purchase, rather than sell, the underlying financial instrument at the option's strike price. A call buyer typically attempts to participate in potential price increases of the underlying financial instrument with risk limited to the cost of the option if the price of the underlying financial instrument falls. At the same time, the buyer can expect to suffer a loss if the price of the underlying instrument does not rise sufficiently to offset the cost of the option.

**Swap Option (Swaption)** - A swap option or swaption is a contract that gives a party the right (but not the obligation), in return for payment of a premium, to enter into a new swap agreement or to shorten, extend, cancel or otherwise modify an existing swap agreement, at some designated future time on specified terms. Depending on the terms of the particular swaption agreement, a Fund will generally incur a greater potential loss when it writes a swaption than it will incur when it purchases a swaption. When a Fund purchases a swaption, it risks losing only the amount of the premium it has paid should it decide to let the option expire unexercised. However, when a Fund writes a swaption, upon exercise of the option the Fund will become obligated according to the terms of the underlying agreement.

**Swaps.** Generally, swap agreements are contracts between a Fund and another party (the swap counterparty) involving the exchange of payments on specified terms over periods ranging from a few days to multiple years.

A swap may be negotiated bilaterally and traded over-the-counter between two parties. Such bilateral swaps are entered into primarily by institutional investors. The swap counterparty is typically a brokerage firm, bank, or other financial institution. Certain over-the-counter swaps



may be submitted for central clearing. In addition, certain standardized swaps are subject to mandatory central clearing and certain cleared swaps are subject to mandatory exchange-trading. Cleared swaps are transacted through futures commission merchants (each an “FCM”) that are members of central clearinghouses with the clearinghouse serving as central counterparty and, as applicable, may be executed through a swap execution facility. A fund posts initial and variation margin to support its obligations under cleared swaps. Centralized clearing will be required for additional categories of swaps on a phased-in basis based on the CFTC approval of contracts for central clearing.

In a typical “swap” transaction, two parties agree to exchange one or more payments based, for example, on the returns (or differentials in rates of return) earned or realized on particular predetermined investments or instruments, such as specified interest rates, a particular foreign currency, or a “basket” of securities or commodities as represented by a particular index. Swaps can also be based on credit and other events. The gross payments to be exchanged between the parties are calculated with respect to a notional amount, which is the predetermined dollar principal of the trade representing the hypothetical underlying quantity upon which payment obligations are computed. Forms of swap agreements vary and include, but are not limited to: interest rate caps, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates exceed a specified rate, or “cap”; interest rate floors, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates fall below a specified rate, or “floor”; and interest rate collars, under which a party sells a cap and purchases a floor or vice versa in an attempt to protect itself against interest rate movements exceeding given minimum or maximum levels.

Because bilateral swap agreements are structured as two party contracts and may have terms of greater than seven days, these swap agreements may be considered to be illiquid. Transactions executed on a swap execution facility may increase liquidity. Moreover, a Fund bears the risk of loss of the amount expected to be received under a bilateral swap agreement in the event of the default or bankruptcy of a swap agreement counterparty. If there is a default by the other party to such a transaction, a Fund will have to rely on its contractual remedies (which may be limited by bankruptcy, insolvency or similar laws) pursuant to the agreements related to the transaction. A Fund will enter into bilateral swap agreements only with counterparties that meet certain standards of creditworthiness.

With respect to cleared swaps, central clearing is intended to decrease counterparty risk compared to uncleared swaps because central clearing interposes the central clearinghouse as the counterparty to each participant’s swap. However, central clearing does not eliminate counterparty risk entirely for cleared swaps. The assets of a Fund may not be fully protected in the event of the bankruptcy of the FCM or central counterparty because the Fund might be limited to recovering only a pro rata share of all available funds and margin segregated on behalf of an FCM’s customers. In addition, the credit risk of cleared swap participants is concentrated in a few clearing houses, and the consequences of the insolvency of a clearing house are not clear. Central clearing is also intended to increase liquidity.

In addition, with respect to cleared swaps, an FCM may unilaterally impose position limits or additional margin requirements for certain types of swaps in which the Fund may invest. Central counterparties and FCMs generally can require termination of existing cleared swap transactions at any time and can also require increases in margin above the margin that is required at the initiation of the swap agreement. Margin requirements for cleared swaps vary on a number of factors, and the margin required under the rules of the clearinghouse and FCM may be in excess of the collateral required to be posted by the Fund to support its obligations under a similar uncleared swap. However, regulators have proposed and are expected to adopt rules imposing certain margin requirements on uncleared swaps in the near future, which are likely to impose higher margin requirements on uncleared swaps (see “Regulation of Swaps and Other Derivatives under the Dodd–Frank Wall Street Reform and Consumer Protection Act” below).

**Total Return Swaps** - Total return swap agreements are contracts in which one party agrees to make periodic payments to another party based on the change in market value of the assets underlying the contract, which may include a specified security, basket of securities or securities indices during the specified period, in return for periodic payments based on a fixed or variable interest rate or the total return from other underlying assets. Total return swap agreements may be used to obtain exposure to a security or market without owning or taking physical custody of such security or investing directly in such market. Total return swap agreements may add leverage to a Fund’s portfolio because, in addition to its total net assets, the Fund would be subject to investment exposure on the notional amount of the swap. Generally, a Fund will enter into total return swaps on a net basis (i.e., the two payment streams are netted against one another with the Fund receiving or paying, as the case may be, only the net amount of the two payments).

**Credit Default Swaps** - Credit default swaps are contracts whereby one party makes periodic payments to a counterparty in exchange for the right to receive from the counterparty a payment equal to the par (or other agreed-upon) value of a referenced fixed income security in the event of a default or other agreed upon credit related event by the issuer of the debt obligation. The use of credit default swaps may be limited by a Fund’s limitations on illiquid investments. When used for hedging purposes, a Fund would be the buyer of a credit default swap contract. In that case, the Fund would be entitled to receive the par (or other agreed-upon) value of a referenced debt obligation from the counterparty to the contract in the event of a default or other agreed upon credit related event by a third party, such as a U.S. or foreign issuer, on the debt obligation. In return, the Fund would pay to the counterparty a periodic stream of payments over the term of the contract provided that no applicable event (e.g., default or other agreed upon event) has occurred. If no such event occurs, the Fund would have spent the stream of payments and received no return from the contract. Credit default swaps involve the risk that the investment may expire worthless and would generate income only in the event of an actual default by the issuer of the underlying obligation (as opposed to a credit downgrade or other indication of financial instability). It would also involve credit risk that the seller may fail to satisfy its payment obligations to the Fund in the event of a default. When a Fund is the seller of a credit default swap contract, it receives the stream of payments but is obligated to pay upon default of the referenced debt obligation or other agreed upon credit event. As the seller, a Fund would effectively add leverage to its portfolio because, in addition to its total assets, the Fund would be subject to investment exposure on the notional amount of the swap. In addition to the risks applicable to swaps generally, credit default swaps involve special risks because they are difficult to value, are highly susceptible to liquidity and credit risk, and generally pay a return to the party that has paid the premium only in the event of an actual default by the issuer of the underlying obligation (as opposed to a credit downgrade or other indication of financial difficulty).

**Interest Rate Swaps** - Interest rate swaps involve the exchange by a Fund with another party of their respective commitments to pay or receive interest, e.g., an exchange of floating rate payments for fixed rate payments with respect to a notional amount of principal. A Fund will usually enter into interest rate swaps on a net basis, i.e., the two payment streams are netted out, with the Fund receiving or paying, as the case may be, only the net amount of the two payments on the payment dates.

**Inflation Rate Swaps** - Inflation rate swaps involve the exchange by a Fund with another party of their respective commitments to pay or receive a fixed rate in exchange for the rate of change of an inflation index with respect to a notional amount of principal. A Fund will usually enter into inflation swaps on a net, zero-coupon basis, i.e., the two rates will compound until the swap termination date at which point payments are netted, with the Fund receiving or paying, as the case may be, only the net amount of the two payments.

Regulation of Swaps and Other Derivatives under the Dodd–Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) - The Dodd-Frank Act and related regulatory developments have imposed comprehensive new regulatory requirements on swaps and swap market participants. The new regulatory framework includes: (1) registration and regulation of swap dealers and major swap participants; (2) requiring central clearing and execution of standardized swaps; (3) imposing margin requirements in swap transactions; (4) regulating and monitoring swap transactions through position limits and large trader reporting requirements; and (5) imposing record keeping and centralized and public reporting requirements, on an anonymous basis, for most swaps. The CFTC is responsible for the regulation of most swaps and has completed most of its rules implementing the Dodd-Frank Act swap regulations. The SEC has jurisdiction over a small segment of the market referred to as “security-based swaps,” which includes swaps on single securities or credits, or narrow-based indices of securities or credits, but has not yet completed its rulemaking.

The regulation of cleared and uncleared swaps, as well as other derivatives, is a rapidly changing area of law and is subject to modification by government and judicial action. In addition, the SEC, CFTC and the exchanges are authorized to take extraordinary actions in the event of a market emergency, including, for example, the implementation or reduction of speculative position limits, the implementation of higher margin requirements, the establishment of daily price limits and the suspension of trading.

It is not possible to predict fully the effects of current or future regulation. However, it is possible that developments in government regulation of various types of derivative instruments, such as speculative position limits on certain types of derivatives, or limits or restrictions on the counterparties with which the Funds engage in derivative transactions, may limit or prevent a Fund from using or limit a Fund’s use of these instruments effectively as a part of its investment strategy, and could adversely affect a Fund’s ability to achieve its investment objective(s). The Fund will continue to monitor developments in the area, particularly to the extent regulatory changes affect a Fund’s ability to enter into desired swap agreements. New requirements, even if not directly applicable to a Fund, may increase the cost of the Fund’s investments and cost of doing business.

**DEPOSITARY RECEIPTS:** Those Funds that may invest in foreign securities, as identified in the applicable Fund Level Guidelines, may purchase the foreign securities in the form of sponsored or unsponsored depositary receipts or other securities representing underlying shares of foreign issuers. In sponsored programs, an issuer has made arrangements to have its securities traded in the form of depositary receipts. In unsponsored programs, the issuer may not be directly involved in the creation of the program. The risks associated with depositary receipts are similar to those of investing in foreign securities. In addition, the following risks also apply: the depositary of depositary receipts may not have physical custody of underlying securities; the depositary may charge additional fees for delivery of dividends and interest; a Fund may experience delays in receiving dividends or interest; and with respect to unsponsored programs, it may be harder to obtain financial information about the issuer of the underlying security because the issuer is not directly involved in the program.

#### **EQUITY SECURITIES:**

**Common Stock.** Common stock represents an equity or ownership interest in an issuer. Common stock typically entitles the owner to vote on the election of directors and other important matters as well as to receive dividends on such stock. In the event an issuer is liquidated or declares bankruptcy, the claims of owners of bonds, other debtholders, and owners of preferred stock take precedence over the claims of those who own common stock.

**Preferred Stock.** Preferred stock represents an equity or ownership interest in an issuer. Preferred stock normally pays dividends at a specified rate and has precedence over common stock in the event an issuer liquidates or declares bankruptcy. However, in the event an issuer is liquidated or declares bankruptcy, the claims of owners of bonds take precedence over claims of those who own preferred or common stock. Preferred stock, unlike common stock, often has a stated dividend rate payable from the corporation’s earnings. Preferred stock dividends may be cumulative or noncumulative, participating, or auction rate. “Cumulative” dividend provisions require all or a portion of prior unpaid dividends be paid before dividends can be paid to the issuer’s common stock. “Participating” preferred stock may be entitled to a dividend exceeding the stated dividend in certain cases. If interest rates rise, the fixed dividend on preferred stocks may be less attractive, causing the price of such stocks to decline. Preferred stock may have mandatory sinking fund provisions, as well as provisions allowing the stock to be called or redeemed, which can limit the benefit of a decline in interest rates. Preferred stock is subject to many of the risks to which common stock and fixed income securities are subject.

**Master Limited Partnerships.** Master limited partnerships (“MLPs”) are limited partnerships in which the ownership units are publicly traded. MLP units are registered with the SEC and are freely traded on a securities exchange or in the over-the-counter market. MLPs often own several properties or businesses (or own interests) that are related to real estate development and oil and gas industries, but they also may finance motion pictures, research and development and other projects. Generally, an MLP is operated under the supervision of one or more managing general partners. Limited partners are not involved in the day-to-day management of the partnership.

The risks of investing in an MLP are generally those involved in investing in a partnership as opposed to a corporation. For example, state law governing partnerships is often less restrictive than state law governing corporations. Accordingly, there may be fewer protections afforded investors in an MLP than investors in a corporation. Additional risks involved with investing in an MLP are risks associated with the specific industry or industries in which the partnership invests, such as the risks of investing in real estate, or oil and gas industries.

**EXCHANGE-TRADED FUNDS (“ETFs”):** Most ETFs are registered under the Investment Company Act of 1940 (“1940 Act”) as investment companies. Therefore, an ETF is subject to restrictions under the 1940 Act. In addition, ETFs have their own management fees and other expenses, which increase their cost. See the “Investment Companies” section below. ETFs hold portfolios of securities, commodities, or currencies that are intended to track, as closely as possible before expenses, the price and/or yield of (i) a specified domestic or foreign market or other index, (ii) a basket of securities, commodities or currencies, or (iii) a particular commodity or currency. Because ETFs are based on an underlying basket of stocks or an index, they are subject to the same market fluctuations as these types of securities in volatile market swings. Although the value of an investment in an ETF will rise or decline more or less in correlation with any rise or decline in the value of the index the exchange-traded fund seeks to track, the performance results of ETFs will not exactly track the performance of the pertinent index, basket, commodity or currency due to transaction and other expenses borne by ETFs. Furthermore, there can be no assurance that the portfolio of securities, commodities and/or currencies purchased by an ETF will replicate a particular index or basket or price of a commodity or currency.

ETF shares are sold and redeemed at net asset value only in large blocks called creation units and redemption units, respectively. ETF shares also may be purchased and sold in secondary market trading on national securities exchanges, which allows investors to purchase and sell ETF shares at their market price throughout the day.

Investments in ETFs generally present the same primary risks as an investment in a conventional mutual fund that has the same investment objective, strategy and policies (see “Investment Companies” below). However, investments in ETFs further involve the same risks associated with a direct investment in the security, commodity or currency, or in the types of securities, commodities, or currencies included in the indices or baskets the ETFs are designed to replicate. In addition, shares of an ETF may trade at a market price that is higher or lower than their net asset value, and an active trading market in such shares may not develop or be maintained. Moreover, trading of an ETF’s shares may be halted if the listing exchange’s officials deem such action to be appropriate, the shares are de-listed from the exchange, or the activation of market-wide “circuit breakers” (which are tied to large decreases in stock prices) halts stock trading generally. Lastly, an ETF would not necessarily sell a security because the issuer of the security was in financial trouble unless the security is removed from the index that the ETF seeks to track.

Some Funds may purchase ETF shares for the same reason they might purchase (and as an alternative to purchasing) futures contracts: to obtain exposure to the securities in the ETF’s benchmark index while maintaining flexibility to meet their liquidity needs. ETF shares can be purchased for smaller sums and offer exposure to market sectors and styles for which there is no suitable or liquid futures contract.

**FIXED INCOME SECURITIES:** Fixed income securities consist primarily of debt obligations issued by governments, corporations, municipalities and other borrowers, but may also include structured securities that provide for participation interests in debt obligations. Fixed income securities may also include loan participations and assignments that are privately negotiated notes representing the equivalent of a loan or bank debt. The market value of the fixed income securities in which a Fund invests will change in response to interest rate changes and other factors. During periods of falling interest rates, the values of outstanding fixed income securities generally rise. Conversely, during periods of rising interest rates, the values of such securities generally decline. Moreover, while securities with longer maturities tend to produce higher yields, the prices of longer maturity securities are also subject to greater market fluctuations as a result of changes in interest rates over time. Changes by recognized agencies in the rating of any fixed income security and in the ability of an issuer to make payments of interest and principal also affect the value of these investments, as well as factors such as the market perception of the creditworthiness of the fixed income security’s issuer and general market liquidity. Changes in the value of these securities will not necessarily affect cash income derived from these securities but can affect a Fund’s net asset value.

Instability in the markets for fixed income securities may significantly affect the volatility of the prices of such securities. In the event of redemptions, a Fund that invests in fixed income securities may be forced to sell these portfolio securities at an unfavorable time or price. As a result, a Fund may incur a greater loss on the sale of such securities than under more stable market conditions. Such losses can adversely impact a Fund’s net asset value.

Nationally Recognized Statistical Rating Organizations (each an “NRSRO”), which include S&P, Moody’s and Fitch, provide ratings on fixed income securities based on their analyses of information they deem relevant. Ratings of each major NRSRO represent its judgment of the safety of principal and interest payments (and not the market risk) of bonds and other fixed income securities it undertakes to rate. NRSRO ratings are not absolute standards of credit quality and may prove to be inaccurate. In addition, there may be a delay between events or circumstances adversely affecting the ability of an issuer to pay interest and or repay principal and a NRSRO’s decision to downgrade a security. Any shortcomings or inefficiencies in the NRSROs’ processes for determining ratings may adversely affect the ratings of securities held by the Fund and, as a result, may adversely affect those securities’ perceived credit risk.

The minimum credit rating threshold for fixed income securities must be met immediately after each new acquisition by a Fund. In the event a security owned by a Fund is downgraded, VIA or a subadviser, as applicable, will review the situation and take appropriate action with regard to the security.

Additional information regarding fixed income securities is set forth below:

**Corporate Bonds.** Corporate bonds are fixed income securities issued by private and public corporations. Corporate bonds are issued by a wide variety of corporations involved in a variety of industries. A wide range of choices exist for corporate bonds in regard to bond structures, coupon

rates, maturity dates, credit quality and industry exposure. Corporate bonds are generally considered higher risk than domestically issued government bonds. As a result, coupon rates paid on corporate bonds are generally higher than domestically issued government bonds with similar maturity dates, even for the highest credit quality corporate bonds.

The backing for a corporate bond is usually the payment ability of the corporation, which is typically money to be earned from future operations. In some cases, the corporation's physical assets may be used as collateral for bonds. Corporate bonds are a source of capital for many corporations along with equity offerings and bank loans/lines of credit. Unlike equity securities, corporate bonds do not represent an ownership interest in the issuing corporation. However, in the event of default, corporate bond holders generally have a higher claim on the corporation's unencumbered assets than do stock holders.

**Municipal Securities.** Municipal securities are fixed income securities issued by state and local governments, territories and possessions of the U.S., regional governmental authorities, and their agencies and instrumentalities. In general, municipal securities are issued to obtain funds for a variety of public purposes, such as the construction, repair, or improvement of public facilities, including airports, bridges, housing, hospitals, mass transportation, schools, streets, water, and sewer works. Municipal securities may be issued to refinance outstanding obligations as well as to raise funds for general operating expenses and lending to other public institutions and facilities.

The two principal classifications of municipal securities are general obligation securities and revenue securities. General obligation securities are secured by the issuer's pledge of its full faith, credit, and taxing power for the payment of principal and interest. Characteristics and methods of enforcement of general obligation bonds vary according to the law applicable to a particular issuer, and the taxes that can be levied for the payment of debt instruments may be limited or unlimited as to rates or amounts of special assessments. Revenue securities are payable only from the revenues derived from a particular facility, a class of facilities or, in some cases, from the proceeds of a special excise tax. Revenue bonds are issued to finance a wide variety of capital projects, including (for example) electric, gas, water and sewer systems; highways, bridges, and tunnels; port and airport facilities; colleges and universities; and hospitals. Although the principal security behind these bonds may vary, many provide additional security in the form of a debt service reserve fund the assets of which may be used to make principal and interest payments on the issuer's obligations.

**Duration.** Duration of a fixed income security is a measure of the expected change in value of the security for a given change in interest rates. The duration of a portfolio is the weighted average duration of all the fixed income securities in the portfolio. The effective duration of a portfolio takes into account that expected cash flows will fluctuate as interest rates change. For example, if interest rates change by one percent, the value of a security having an effective duration of two years generally would vary by two percent.

**Investment Grade Fixed Income Securities.** Fixed income securities are considered investment grade if they are rated in one of the four highest rating categories by S&P, Moody's, or Fitch. In the case of different ratings among S&P, Moody's, and Fitch (a split rated security), the rating of such split rated security will be determined as follows: if all three agencies rate a security, the highest and lowest ratings will be dropped and the remaining middle rating will be used; if two of the three agencies rate a security, the security will be considered to have the lower (i.e., more conservative) credit rating. If a security is not rated by S&P, Moody's, or Fitch, it may be determined to be of comparable quality by VIA or a subadviser, as applicable.

See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

**Average Credit Quality.** The average credit quality for a Fund is an average of each fixed income security's stated credit rating calculated on an asset-weighted basis.

**Sensitivity to Economic Changes.** Lower rated fixed income securities are more sensitive to adverse economic changes and corporate developments than their higher rated counterparts. During an economic downturn, highly leveraged issuers may experience financial stress that would adversely affect their ability to service their principal and interest payment obligations, to meet projected business goals, and to obtain additional financing. If the issuer of a fixed income security defaulted on its obligations to pay interest or principal or entered into bankruptcy proceedings, a Fund may incur losses or expenses in seeking recovery of amounts owed to it. In addition, periods of economic uncertainty and change can be expected to result in increased volatility of market prices of lower rated fixed income securities and a Fund's net asset value.

**Call and Similar Risks.** Fixed income securities may contain redemption or call provisions. If an issuer exercised these provisions in a declining interest rate market, a Fund would have to replace the security with a lower yielding security, resulting in a decreased return for investors. Conversely, the value of a fixed income security held by a Fund may decrease in a rising interest rate market. If a Fund experiences unexpected net redemptions, this may force it to sell high yield fixed income securities without regard to their investment merits, thereby decreasing the asset base upon which expenses can be spread and possibly reducing the Fund's rate of return.

**Liquidity and Valuation.** There may be little trading in the secondary market for particular fixed income securities, which may adversely affect a Fund's ability to value accurately or dispose of such fixed income securities. Adverse publicity and investor perception, whether or not based on fundamental analysis, may decrease the value and liquidity of below investment grade fixed income securities, especially in a thin (low trading volume) market.

**Maturity.** The maturity of a fixed income security is the length of time until the date on which the issuer of a fixed income security must repay the principal or full face value in total (and sometimes the final interest payment) to the holder. For example, a bond with a period of 10 years has a maturity date 10 years after its issue. The maturity date also generally indicates the period of time during which the bondholder will receive interest payments.

The maturity date of a fixed income security is important because of interest rate risk. Generally, a security with a longer maturity will fluctuate more in price due to changes in interest rates as compared to a shorter term security. Fixed income securities are often classified by maturity date. Generally, the U.S. market recognizes three maturity ranges – short term, intermediate term and long term, although the specific cut off points among these categories may differ.

Some fixed income securities are callable (meaning that the issuer may redeem them before the maturity date under certain circumstances). Some fixed income securities, such as mortgage-backed securities, pay back their principal over the life of the debt, similar to the way a mortgage is amortized, or paid down. While these instruments also have a maturity date, that date is when the last installment payment of the loan as well as the last interest payment is due.

Maturity can refer to the security's original maturity, meaning the length of time between first issuance and the repayment date, or remaining maturity, meaning the length of time, after first issuance, that remains under the repayment date.

**Coupon Rate.** A coupon payment on a fixed income security is a periodic interest payment that the holder receives during the time between when the security is issued and when it matures. Coupons are normally described in terms of the coupon rate, which is calculated by adding the total amount of coupons paid per year and dividing by the fixed income security's face value.

**Below Investment Grade Fixed Income Securities.** See "Below Investment Grade Securities" for further information (and certain associated risks) of fixed income securities that are below investment grade.

**FLOATING RATE LOANS:** Floating rate loans are debt securities or other interests issued by companies or other entities with floating interest rates that reset periodically. Certain floating rate loans are also known as "bank loans." Most floating rate loans are secured by specific collateral of the borrower and are senior to most other securities of the borrower (e.g., common stock or debt instruments) in the event of bankruptcy. Floating rate loans are often issued in connection with recapitalizations, acquisitions, leveraged buyouts, and refinancings. Floating rate loans are typically structured and administered by a financial institution that acts as the agent of the lenders participating in the floating rate loan. Floating rate loans may be acquired from a lender or through the agent as an assignment from another lender who holds a floating rate loan, or as a participation interest in another lender's floating rate loan or portion thereof.

Investments in floating rate loans have risks that are similar to those of fixed income securities. In addition, floating rate loans carry the risk of impairment of collateral. The value of the collateral securing a floating rate loan can decline, be insufficient to meet the obligations of the borrower, or be difficult to liquidate. As such a floating rate loan may not be fully collateralized and can decline significantly in value. Floating rate loans may also carry liquidity risk. Floating rate loans generally are subject to legal or contractual restrictions on resale. Therefore, the liquidity of floating rate loans, including the volume and frequency of secondary market trading in such loans, varies significantly over time and among individual floating rate loans. If the credit quality of a floating rate loan suffers a significant decline, the secondary trading market for that same loan may also decline, making it more difficult to sell and to value. Difficulty in selling a floating rate loan can result in a loss. In addition, floating rate loans may not be considered "securities," and the holder therefore may not be entitled to rely on the anti-fraud protections of the federal securities laws. There also may be limited public information available regarding floating rate loans. A subadviser may elect to receive material non-public information about an individual floating rate loan that is not available to other lenders of such floating rate loan. If a Fund elects to become restricted on any individual floating rate loan as a result of agreeing to receive material non-public information about the loan, such Fund might be unable to enter into a transaction in a security of that borrower, when it would otherwise be advantageous to do so.

**FOREIGN SECURITIES:** Foreign securities are securities issued by non-U.S. issuers. Investments in foreign securities may subject a Fund to investment risks that differ in some respects from those related to investments in securities of U.S. issuers. Such risks include future adverse political and economic developments, possible imposition of withholding taxes on income and gains, possible seizure, nationalization, or expropriation of foreign assets, possible establishment of exchange controls or taxation at the source or greater fluctuations in value due to changes in the currency exchange rates. Foreign issuers of securities often engage in business practices different from those of domestic issuers of similar securities, and there may be less publicly available information about foreign issuers. In addition, foreign issuers are, generally speaking, subject to less government supervision and regulation and different accounting treatment than are those in the U.S. Foreign branches of U.S. banks and foreign banks may be subject to less stringent reserve requirements than those applicable to domestic branches of U.S. banks.

The value of a Fund's investments denominated in foreign currencies will depend in part on the relative strengths of those currencies and the U.S. dollar, and a Fund may be affected favorably or unfavorably by changes in the exchange rates or exchange or currency control regulations between foreign currencies and the U.S. dollar. Changes in foreign currency exchange rates also may affect the value of dividends and interest earned, gains and losses realized on the sale of securities and net investment income and gains, if any, to be distributed to shareholders by a Fund. Such investments may also entail higher custodial fees and sales commissions than domestic investments.

**Securities of Issuers Located in Emerging Market Countries ("Emerging Market Securities").** Emerging market securities are (a) securities of issuers located in countries not included in the MSCI World Index, and (b) securities included in the MSCI Emerging Markets Index.

A Fund's investments in emerging market securities can be considered speculative, and therefore may offer higher potential for gains and losses than investments in developed markets of the world. With respect to an emerging market country, there may be a greater potential for nationalization, expropriation or confiscatory taxation, political changes, government regulation, social instability or diplomatic developments (including war) which could affect adversely the economies of such countries or investments in such countries. The economies of developing countries generally are heavily dependent upon international trade and, accordingly, have been and may continue to be adversely affected by trade barriers, exchange or currency controls, managed adjustments in relative currency values and other protectionist measures imposed or negotiated by the countries with which they trade.

In addition to the risks of investing in emerging market fixed income securities, a Fund's investment in government or government-related securities of emerging market countries and restructured debt instruments in emerging markets are subject to special risks, including the inability or unwillingness to repay principal and interest, requests to reschedule or restructure outstanding debt, and requests to extend additional loan amounts. A Fund may have limited recourse in the event of default on such debt instruments.

**Foreign Government Securities.** Foreign government securities (also referred to as "sovereign debt securities") are fixed income securities issued by a foreign government, a foreign municipality, or an agency or instrumentality thereof. The ability of a foreign governmental obligor to meet its obligations to pay principal and interest to debtholders generally will be adversely affected by rising foreign interest rates, as well as the level of the relevant government's foreign currency reserves and currency devaluations. If a governmental obligor defaults on its obligations, a Fund may have limited legal recourse against the issuer and/or guarantor. These risks may be heightened during periods of economic or political instability and are generally heightened in emerging markets countries.

**Supranational Entities.** Examples of supranational entities include the International Bank for Reconstruction and Development (the World Bank), the European Union, the Asian Development Bank and the Inter-American Development Bank. The government members, or "stockholders," usually make initial capital contributions to the supranational entity and in many cases are committed to make additional capital contributions if the supranational entity is unable to repay its borrowings. There is no guarantee that one or more stockholders of a supranational entity will continue to make any necessary additional capital contributions. If such contributions are not made, the entity may be unable to pay interest or repay principal on its fixed income securities, and a Fund may lose money on such investments.

**European-related Risks.** Countries in Europe may be significantly affected by fiscal and monetary controls implemented by the European Union ("EU") and European Economic and Monetary Union ("EMU"), which require member countries to comply with restrictions on inflation rates, deficits, interest rates, debt levels and fiscal and monetary controls. Decreasing imports or exports, changes in governmental or other regulations on trade, changes in the exchange rate of the Euro, the default or threat of default by one or more EU member countries on its sovereign debt, and/or an economic recession in one or more EU member countries may have a significant adverse effect on the economies of other EU member countries and major trading partners outside Europe. The exit of any country out of the Euro could have a destabilizing effect on that country and all eurozone countries and their economies and could have an adverse effect on the global economy and on global markets.

**ILLIQUID SECURITIES:** Generally, an illiquid security is a security that cannot be sold or disposed of in the ordinary course of business within seven days at approximately the value at which a Fund has valued it. To the extent that a Fund invests in illiquid securities, it may experience difficulty valuing and selling illiquid securities and, in some cases, may be unable to value or sell certain illiquid securities for an indefinite period of time.

**INFLATION-ADJUSTED SECURITIES:** Inflation-adjusted securities are fixed income securities whose principal values or coupon rates are periodically adjusted to reflect the rate of inflation as indicated by the Consumer Price Index ("CPI") (or an equivalent, see below). Inflation-adjusted securities may be issued by U.S. and foreign governments, agencies and instrumentalities, corporations, or state and local governments. The following two structures are common: (1) the U.S. Treasury and some other issuers use a structure whereby the principal value adjusts with inflation while the coupon rate remains fixed; and (2) other issuers use a structure whereby the principal value is fixed but the coupon rate adjusts with inflation.

The periodic adjustment of U.S. inflation-adjusted securities is tied to the CPI, which is calculated monthly by the U.S. Bureau of Labor Statistics. The CPI is a measurement of changes in the cost of living, made up of components such as housing, food, transportation and energy.

Inflation-adjusted securities issued by foreign governments, agencies, instrumentalities, and corporations are generally adjusted to reflect an inflation index comparable to the CPI. There can be no assurance that the CPI or any foreign inflation index will accurately measure the real rate of inflation in the prices of goods and services. Moreover, there can be no assurance that the rate of inflation in a foreign country will be correlated to the rate of inflation in the U.S.

Inflation, a general rise in prices of goods and services, erodes the purchasing power of an investor's portfolio. For example, if an investment provides a "nominal" total return of 8% in a given year and inflation is 3% during that period, the inflation-adjusted, or real return, is approximately 5%. Inflation, as measured by the CPI, has occurred in the U.S. for each of the past 50 years.

Investors in inflation-adjusted securities funds (such as the Inflation Focused Fund) who do not reinvest the portion of the income distribution that is attributable to inflation adjustments may not maintain the purchasing power of the investment over the long term. This is because interest earned depends on the amount of principal invested, and that principal will not grow with inflation if the investor fails to reinvest the principal adjustment paid out as part of a fund's income distribution.

While inflation-adjusted securities are expected to be protected from long-term inflationary trends, short term increases in inflation may lead to a decline in value. If interest rates rise due to reasons other than inflation (for example, due to changes in monetary policy or currency exchange rates), investors in these securities may not be protected to the extent that the increase is not reflected in the security's inflation measure.

If the periodic adjustment rate measuring inflation (e.g., the CPI) falls, the principal value of inflation-adjusted securities that adjust the principal value will be adjusted downward, and consequently the interest payable on these securities (calculated with respect to a smaller principal amount) will be reduced. Repayment of the original principal upon maturity (or the inflation-adjusted principal, if greater) is guaranteed in the case of U.S. Treasury inflation protected securities, even during a period of deflation. However, the current market value of the inflation-adjusted securities is not guaranteed and will fluctuate. Other inflation-adjusted securities include inflation related fixed income securities, which may or may not provide a principal repayment guarantee. If a guarantee of principal is not provided, the adjusted principal value of the security repaid at maturity may be less than the original principal.

The value of inflation-adjusted securities should change in response to changes in real interest rates. Real interest rates are tied to the relationship between nominal interest rates and the rate of inflation. Therefore, if inflation were to rise at a rate faster than changes in nominal interest rates, real interest rates may decline leading to an increase in value of the inflation adjusted securities. In contrast, if nominal interest rates increased at a rate faster than the rate of inflation, real interest rates may rise, leading to a decrease in value of inflation adjusted securities.

**INITIAL PUBLIC OFFERINGS:** An initial public offering, or IPO, is the first sale of common stock or other securities by a privately held company to the public. Companies frequently initiate public offerings in order to raise capital or reduce debt. Often, smaller, younger and relatively unknown companies will publicly offer their shares in order to raise capital to expand their business. Large, well-established, privately-held companies might conduct an initial public offering so that they can become publicly traded. The price of the security in its first few days of trading may fluctuate quickly and significantly. Additionally, securities issued in IPOs have no trading history, and historical information about the company may be limited.

**INVESTMENT COMPANIES AND OTHER FUNDS:** Securities of investment companies and other funds, including shares of closed-end investment companies, unit investment trusts, open-end investment companies, ETFs and REITs, represent interests in professionally actively or passively managed portfolios that may invest in various types of instruments. Certain types of investment companies, such as closed-end investment companies, issue a fixed number of shares that trade on a stock exchange or over-the-counter at a premium or a discount to their net asset value. Other funds are continuously offered at net asset value but may also be traded in the secondary market.

A Fund's investment in another fund is subject to the risk associated with that underlying fund's portfolio securities. In addition, when a Fund purchases shares of another fund (including a Fund of VantageTrust III), the Fund will indirectly bear its proportionate share of the advisory fees and other operating expenses of such underlying fund.

Because of restrictions on direct investment by U.S. entities in certain countries, investment in other funds may be the most practical or the only manner in which an international and global fund can invest in the securities markets of those countries. A Fund also may incur tax liability to the extent it invests in the stock of a foreign issuer that constitutes a "passive foreign investment company."

**MONEY MARKET SECURITIES:** Money market securities include instruments and securities that are considered "eligible securities" as defined in Rule 2a-7 under the 1940 Act. This includes securities with a remaining maturity of 397 days or less and that, as a general matter, have received a rating from major NRSROs in one of the two highest short-term ratings categories, or are unrated but are determined by the Fund's investment adviser or a subadviser, as applicable, to be of comparable quality at the time of purchase. Security types may include U.S. Government securities, commercial paper, certificates of deposit, asset-backed securities, bank instruments, adjustable or variable rate securities, and any other securities or instruments that meet the definition of "eligible securities" under Rule 2a-7. See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

**MORTGAGE-BACKED SECURITIES:** Mortgage-backed securities generally are issued or guaranteed by the Government National Mortgage Association ("Ginnie Mae"), the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Mortgage-backed securities are also issued by non-agency entities such as banks, brokerage firms, and homebuilders. These "private label" mortgages are subject to credit risk relating to the credit rating of the issuer.

Mortgage-backed securities represent an ownership interest in a pool of mortgage loans originated by lenders such as mortgage banks, commercial banks, savings and loan associations, savings banks and credit unions, to finance purchases of homes, commercial buildings or other real estate. The individual mortgage may have either fixed or adjustable interest rates. These loans are packaged or "pooled" together for sale to investors. As the underlying mortgage loans are repaid, investors receive principal and interest payments. The primary issuers or guarantors of these securities are Ginnie Mae, Fannie Mae and Freddie Mac.

Ginnie Mae guarantees the payment of principal and interest on Ginnie Mae mortgage-backed securities and this guarantee is backed by the full faith and credit of the U.S. Government. Ginnie Mae may borrow U.S. Treasury funds needed to make payments under its guarantee. The guarantee, however, does not cover the value or yield of Ginnie Mae securities nor does it cover the value of the Fund's shares which will fluctuate daily with market conditions.

Mortgage-backed securities issued or guaranteed by Fannie Mae and Freddie Mac are not backed by the full faith and credit of the U.S. Government. Fannie Mae guarantees full and timely payment of all interest and principal, and Freddie Mac guarantees timely payment of interest and the ultimate collection of principal. Fannie Mae and Freddie Mac guarantees are supported by the right to borrow money from the U.S. Treasury under certain circumstances. There is no assurance that the U.S. Government will support Fannie Mae or Freddie Mac guarantees and, accordingly, these involve a risk of non-payment of principal and interest. Due largely to their prepayment or extension risk, the yields on these mortgage-backed securities historically have exceeded the yields on fixed income securities having comparable maturities that are backed by the full faith and credit of the U.S. Government.

Most mortgage-backed securities are pass-through securities, which means that they provide investors with monthly payments consisting of a pro rata share of both regular interest and principal payments, as well as unscheduled early prepayments, on the underlying mortgage pool (less Ginnie Mae's, Freddie Mac's or Fannie Mae's fees and any applicable loan servicing fees). As a result, the holder of the mortgage-backed securities (i.e., the Fund) receives monthly scheduled payments of principal and interest and also may receive unscheduled prepayments of principal on the underlying mortgages. When a Fund reinvests the payments and any unscheduled prepayments it receives, it may have to buy securities that have a lower interest rate than it receives on the mortgage-backed securities. For this reason, pass-through mortgage-backed securities may be less effective than U.S. Government securities as a way to "lock in" long-term interest rates. In general, fixed-rate mortgage-backed securities have greater exposure to this "prepayment risk."

The market value of mortgage-backed securities, like other fixed income securities, will generally vary inversely with changes in market interest rates, declining when interest rates go up and rising when interest rates go down. Mortgage-backed securities may have less potential for capital appreciation than other fixed income securities of comparable maturities as interest rates decline, due to the increased likelihood of mortgage prepayments. Also, an unexpected increase in interest rates could extend the average life of a mortgage-backed security because of a lower than expected level of prepayments, potentially reducing the security's value and increasing its volatility. Generally, coupon rates of adjustable rate mortgage-backed securities tend to move with market interest rates and their values fluctuate less than fixed rate mortgage-backed securities. These factors may limit the ability of the Fund to obtain the desired level of total return under varying market conditions.

In addition, to the extent mortgage-backed securities are purchased at a premium, mortgage foreclosures or unscheduled principal prepayments may result in a loss of the holder's principal investment to the extent of the premium paid. On the other hand, if mortgage-backed securities are bought at a discount, both scheduled payments and unscheduled prepayments of principal will increase current and total returns and accelerate the recognition of income that will be taxable as ordinary income when distributed to shareholders.

**To-Be-Announced ("TBA") Transactions.** A TBA is a forward mortgage-backed securities trade. Pass-through securities issued by Freddie Mac, Fannie Mae and Ginnie Mae trade in the TBA market. The term TBA is derived from the fact that the actual mortgage-backed security that will be delivered to fulfill a TBA trade is not designated at the time the trade is made. The securities are "to be announced" 48 hours prior to the established trade settlement date. The Fund also relies on the seller to complete the transaction. The seller's failure to do so may cause the Fund to miss a price or yield considered advantageous to the Fund, and a Fund bears the risk of loss in the event of the default or bankruptcy of the seller. In the case of a bankruptcy or other organizational proceeding of the counterparty, the Fund may obtain no or limited recovery and any recovery may be significantly delayed.

**U.S. Agency and Non-U.S. Agency Collateralized Mortgage Obligations.** Collateralized mortgage obligations ("CMOs") are mortgage-backed fixed income securities that are collateralized by whole loan mortgages or mortgage pass-through securities. CMOs issued by U.S. Government agencies or Government sponsored enterprises (such as Freddie Mac) are U.S. Agency CMOs, while CMOs issued by private issuers are Non-U.S. Agency CMOs. The securities issued in a CMO offering are divided into groups referred to as tranches, and they are differentiated by the type of return paid by the issuer. A given tranche may receive interest, principal, or a combination of the two, and may include more complex stipulations.

**CMOs may include real estate mortgage investment conduits (REMICs).** REMICs, which were authorized under the Tax Reform Act of 1986, are private entities formed for the purpose of holding a fixed pool of mortgages secured by an interest in real property. A REMIC is a CMO that qualifies for special tax treatment under the Internal Revenue Code of 1986, as amended, and invests in certain mortgages principally secured by interests in real property. Guaranteed REMIC pass-through certificates (REMIC Certificates) issued by Fannie Mae or Freddie Mac represent beneficial ownership interests in a REMIC trust consisting principally of mortgage loans or Fannie Mae-, Freddie Mac-, or Ginnie Mae-guaranteed mortgage pass-through certificates. For Freddie Mac REMIC Certificates, Freddie Mac guarantees the timely payment of interest and also guarantees the payment of principal, as payments are required to be made on the underlying mortgage participation certificates. Fannie Mae REMIC Certificates are issued and guaranteed as to timely distribution of principal and interest by Fannie Mae.

For Agency CMOs, the primary risk is prepayments or extensions of the underlying mortgages serving as collateral and from the structure of the deal (i.e., the priority of the individual tranches). An increase or decrease in prepayment rates will affect the yield, average life, and price of CMOs. For non-Agency CMOs, in addition to prepayment, extension and structure risks, default risk of the underlying collateral is also important. The prices of certain CMOs, depending on their structure and the rate of prepayments, can be volatile. Also, CMOs can be illiquid, which can increase the cost of buying and selling them.

**Commercial Mortgage-Backed Securities.** Commercial mortgage-backed securities ("CMBS") are fixed income securities generally backed by loans on retail, office, industrial, multi-family housing and hotel properties. CMBS are structured like mortgage-backed securities. The CMBS's collateral creates exposure to the commercial real estate market, while the structure of the security itself will behave like a mortgage-backed security. However, the investor in a CMBS has more prepayment protection than with a mortgage-backed security. The prepayment penalties inherent in a CMBS provide the investor with greater protection than a residential backed mortgage security. CMBS may carry greater credit risk as the securities may represent only a few projects, versus a traditional mortgage-backed security that may represent thousands of residential homeowners spread across different regions of the country.

**POOLED INVESTMENT VEHICLE or POOLED VEHICLE:** Means any investment company as defined in section 3(a) of the Investment Company Act of 1940 or any company that would be an investment company under section 3(a) of that Act but for the exclusion provided from that definition by either section 3(c)(1) or section 3(c)(7) or section 3(c)(11) of that Act.

**PRIVATE INVESTMENTS IN PUBLIC COMPANIES:** From time to time, a public company may issue its securities in a non-public transaction in reliance on an exemption from the registration requirements of the Securities Act of 1933 (the "1933 Act"). At the time that the issuer sells the unregistered securities, the issuer may commit to register the securities with the SEC, so that the securities may be resold to the public at a later date. The issuer may commit to register the securities by signing a registration rights agreement, which requires the issuer to file a shelf registration statement with the SEC within a specified number of days after the initial sale of the unregistered securities is completed.

**REAL ESTATE INVESTMENT TRUSTS ("REITs"):** REITs generally are trusts that sell securities to investors and use the proceeds to invest in real estate, real estate-related loans, or interests in real estate. A REIT may focus on a particular project, such as apartment complexes, or a geographic region, or both. REITs are sometimes informally characterized as equity REITs, mortgage REITs, or a combination of equity REITs and mortgage REITs. Equity REITs invest most of their assets directly in real estate property and derive income primarily from the collection of rents. Equity REITs can also realize capital gains by selling properties that have appreciated in value. Mortgage REITs invest most of their assets in real estate mortgages and derive income from interest payments.



Equity REITs may be subject to certain risks associated with the direct ownership of real estate and with the real estate industry in general, including (among others) declines in the value of real estate; extended vacancies of properties; risks related to general and local economic conditions; overbuilding and increased competition; changes in zoning laws; increases in property taxes and operating expenses; costs resulting from the clean-up of, and liability to third parties for damages resulting from, environmental problems; casualty or condemnation losses; uninsured damages from floods, earthquakes or other natural disasters; as well as limitations on and variations in rental income. Mortgage REITs may be subject to risks similar to mortgage-backed securities, notably prepayment risk, default risk, and volatility associated with changes in interest rates and economic conditions.

**RESTRICTED SECURITIES:** Restricted securities generally include securities acquired in a non-public offering that are not registered under the Securities Act of 1933. Rule 144A securities are restricted securities, which while privately placed, are eligible for purchase and sale under Rule 144A under the 1933 Act. This rule permits certain qualified institutional buyers, such as the Funds, to trade in privately placed securities even though such securities are not registered under the 1933 Act. These securities may be sold only in privately negotiated transactions or in a public offering with respect to which a registration statement is in effect under the 1933 Act. Where registration is required a Fund may be obligated to pay all or part of the registration expenses, and a considerable period may elapse between the time of the decision to sell and the time the Fund may be permitted to sell a security under an effective registration statement. If, during such a period, adverse market conditions were to develop, the Fund might obtain a less favorable price than prevailed when it decided to sell. Section 4(2) commercial paper is another type of restricted security that does not meet the requirements of the registration exemption provisions of Section 3(a)(3) of the 1933 Act and that may only be resold by a portfolio in certain private placements or in accordance with Rule 144A.

Certain restricted securities and municipal lease obligations (defined below) that are presumed to be illiquid may be treated as liquid if it is determined that there is a “readily available market” for such security under these procedures. A municipal lease obligation is an obligation in the form of a lease or installment purchase which is issued by a state or local government to acquire equipment and facilities. Leases and installment purchase or conditional sale contracts (which normally provide for title to the leased asset to pass eventually to the governmental issuer) have evolved as a means for governmental issuers to acquire property and equipment without meeting the constitutional and statutory requirements for the issuance of debt.

**RIGHTS AND WARRANTS:** Rights are typically short-term obligations issued in conjunction with new stock issuances. Warrants give the holder the right to buy an issuer’s securities at a stated price for a stated period of time.

**SECURITIES LENDING:** Certain Funds may engage in one or more securities lending programs conducted by the Funds’ custodian as securities lending agent or other entities in an effort to generate additional income. In the securities lending program, the Funds’ custodian is authorized to lend Fund portfolio securities to third parties pursuant to contracts calling for collateral in cash or other forms accepted by the Funds at least equal to the market value of the securities loaned. All securities loaned are marked to market daily in U.S. dollars and collateral is received and released accordingly on the following day to achieve the required collateralization for the previous day’s market value. The Funds receive dividends, distributions and interest on the loaned securities. The Funds also retain all or a portion of the interest received on investment of the cash collateral or receive fees from the borrowers. A Fund may terminate a loan at any time and generally will receive the securities loaned within the normal settlement period for the security involved. However, there are risks of delay in recovery or even loss of rights in collateral in the event of default or insolvency of the borrower. A Fund may not retain voting rights on securities while they are on loan. Voting rights on the loaned securities may pass to the borrower. The Funds, however, are entitled to terminate or recall the loans to vote proxies or otherwise obtain rights to vote or consent with respect to a material event.

A Fund will be indemnified by its custodian for securities lending programs conducted through the custodian if at the time of a default by a borrower some or all of the loaned securities have not been returned by the borrower. The custodian, as soon as practicable after the time of default, will deposit in the Funds’ account securities of the same number, issue, type, class, and series of the unreturned loaned securities. If the custodian is unable to purchase replacement securities, it will credit to the Funds’ account an amount equal to the market value of the unreturned loaned securities.

**TIME DEPOSITS:** A time deposit is a non-negotiable receipt issued by a bank in exchange for the deposit of funds. Like a certificate of deposit, it earns a specified rate of interest over a definite period of time; however, it cannot be traded in the secondary market.

**U.S. GOVERNMENT SECURITIES:** Examples of types of U.S. Government securities in which a Fund may invest include U.S. Treasury obligations and the obligations of U.S. Government agencies or U.S. Government sponsored entities such as Federal Home Loan Banks, Federal Farm Credit Banks, Federal Land Banks, the Federal Housing Administration, Farmers Home Administration, Export-Import Bank of the United States, Small Business Administration, Fannie Mae, Ginnie Mae, General Services Administration, Central Bank for Cooperatives, Freddie Mac, Federal Intermediate Credit Banks, Maritime Administration, and other similar agencies. Whether backed by the full faith and credit of the U.S. Treasury or not, U.S. Government securities are not guaranteed against price movements due to fluctuating interest rates.

**U.S. Treasury Obligations** - U.S. Treasury obligations consist of bills, notes and bonds issued by the U.S. Treasury and separately traded interest and principal component parts of such obligations that are transferable through the federal book-entry system known as Separately Traded Registered Interest and Principal Securities (“STRIPS”) and Treasury Receipts (“TRs”).

**U.S. Government Zero Coupon Securities** - STRIPS and TRs are sold as zero coupon securities, that is, fixed income securities that have been stripped of their unmatured interest coupons. Zero coupon securities are sold at a (usually substantial) discount and redeemed at face value at their maturity date without interim cash payments of interest or principal. The amount of this discount is accreted over the life of the security, and the accretion constitutes the income earned on the security for both accounting and tax purposes. Because of these features, the market prices of zero coupon securities are generally more volatile than the market prices of securities that have similar maturity but that pay interest

periodically. Zero coupon securities are likely to respond to a greater degree to interest rate changes than are non-zero coupon securities with similar maturity and credit qualities.

**U.S. Government Agency Securities** - Some obligations issued or guaranteed by agencies of the U.S. Government are supported by the full faith and credit of the U.S. Treasury (e.g., Treasury bills, notes and bonds, and securities guaranteed by Ginnie Mae), others are supported by the right of the issuer to borrow from the Treasury (e.g., Federal Home Loan Banks), while still others are supported only by the credit of the instrumentality (e.g., Fannie Mae). Guarantees of principal by agencies or instrumentalities of the U.S. Government may be a guarantee of payment at the maturity of the obligation so that in the event of a default prior to maturity there might not be a market and thus no means of realizing on the obligation prior to maturity. Guarantees as to the timely payment of principal and interest do not extend to the value or yield of these securities or to the value of a Fund's shares.

**VARIABLE AND FLOATING RATE SECURITIES:** Variable and floating rate securities provide for adjustment in the interest rate paid on the obligations. The terms of such obligations typically provide that interest rates are adjusted based upon an interest or market rate adjustment as provided in the respective obligations, meaning that they bear interest at rates which are not fixed, but which vary with changes in specified market rates or indices. The adjustment intervals may be regular, and range from daily up to annually, or may be event-based, such as based on a change in the prime rate. Variable rate obligations typically provide for a specified periodic adjustment in the interest rate, while floating rate obligations typically have an interest rate which changes whenever there is a change in the external interest or market rate.

There is a risk that the current interest rate on variable and floating rate securities may not accurately reflect existing market interest rates. These securities may also involve conditional or unconditional demand features. A security with a demand feature that requires a notice period exceeding seven days may be considered illiquid if there is no secondary market for such security.

**WHEN-ISSUED SECURITIES:** Securities may be purchased on a when-issued basis. The purchase price and the interest rate payable, if any, on the securities are fixed on the purchase commitment date or at the time the settlement date is fixed. The value of the securities is subject to market fluctuation beginning on the purchase commitment date. Typically, no income accrues on securities that a Fund has committed to purchase prior to the time delivery of the securities is made, although the Fund may earn income on securities it has segregated to cover these positions.

**YANKEE BONDS AND EURODOLLAR INSTRUMENTS:** Yankee bonds are foreign fixed income securities denominated in U.S. dollars and issued in the United States by foreign banks and corporations. These fixed income securities are usually registered with the SEC. The risks of investing in Yankee bonds include interest rate and credit risk as well as foreign securities risk. Eurodollar instruments are fixed income securities issued by foreign corporations and governments that pay interest and principal in U.S. dollars. These instruments are generally held in banks outside the U.S., often in Europe.

**FUND FACTS**

Inception Date.....	<b>October 11, 2013</b>
Gross Expenses .....	<b>0.53%</b>
Net Expenses .....	<b>0.53%</b>
Fund Net Assets .....	<b>\$11.1 Billion</b>
Credit Quality (M/S&P/F) <sup>1</sup> .....	<b>Aa3/AA-/AA</b>
Effective Duration <sup>2</sup> .....	<b>3.13</b>
Market-to-Book Value Ratio .....	<b>102.22%</b>
CUSIP .....	<b>922081J709</b>

<sup>1</sup> Credit Quality is calculated by ICMA-RC and is only one factor that may be considered in assessing the risks of a fixed income portfolio, and it does not provide a complete picture of the credit risks or the dispersion of those risks within a portfolio. ICMA-RC calculates the average based on the Moody's, S&P, Fitch (M/S&P/F) or a combination of the three credit ratings of the underlying securities or wrap providers. Moody's, S&P, and Fitch are Nationally Recognized Statistical Rating Organizations and are not affiliated with ICMA-RC.

<sup>2</sup> Effective duration measures the interest rate sensitivity of the underlying portfolio. For the portion of the Fund invested in Traditional GICs, effective duration is not applicable and a duration of zero is assigned since their current values are not impacted by interest rate changes. If a duration based on weighted average maturity or cash flows is assigned to the Traditional GICs, the Fund's overall March 31, 2021 duration would be 3.71.

**INVESTMENT OBJECTIVE**

The PLUS Fund's investment objective is to seek to offer a competitive level of income consistent with providing capital preservation and meeting liquidity needs. Key goals are to seek to preserve capital, by limiting the risk of loss of principal and delivering stable returns, and to meet the liquidity needs of those who invest in the PLUS Fund.

**PRINCIPAL INVESTMENT STRATEGIES**

Vantagepoint Investment Advisers, LLC employs a structured, multi-product, multi-manager approach in managing the Fund. The Fund invests primarily in a diversified and tiered portfolio of stable value investment contracts and in fixed income securities, fixed income mutual funds, and fixed income commingled trust funds ("fixed income assets") that back certain stable value investment contracts. In addition, the Fund invests in money market mutual funds, as well as cash and cash equivalents. The Fund's portfolio may include different types of investments with a variety of negotiated terms and maturities and is diversified across sectors and issuers. The composition of the Fund's portfolio and its allocations to various stable value investments and fixed income investment sectors, across the fund's multiple tiers, is determined based on prevailing economic and capital market conditions, relative value analysis, liquidity needs, and other factors. The Fund invests in stable value investment contracts to seek to achieve, over the long run, returns higher than those of money market funds and short-term bank rates and relatively stable returns compared to short-to-intermediate term fixed income funds. The Fund generally will not track shorter-term interest rates as closely as money market mutual funds, because of its longer maturity, potential adverse market changes, and provisions in stable value contracts held by the Fund. In addition, while the Fund's returns are generally expected to follow interest rate trends over time, they typically will do so on a lagged basis.

**PERFORMANCE**

	CREDITING RATE % <sup>3</sup>	PERFORMANCE %			
		1 YEAR	3 YEARS	5 YEARS	10 YEARS
Vantagepoint PLUS Fund R10	1.95	2.12	2.30	2.21	2.30
ICE BofA US 3 Month Treasury Bill Index	—	0.12	1.49	1.19	0.63

Fund past performance, as shown, is no guarantee of how the Fund will perform in the future. The performance shown has been annualized for periods greater than one year. Investment returns and principal value will fluctuate, so that an investor's shares, when redeemed, may be worth more or less than their original cost. For current performance, participants or plan sponsors in an ICMA-RC administered account can log in at [www.icmarc.org](http://www.icmarc.org), or institutions can go to [www.vantagepointfunds.org](http://www.vantagepointfunds.org).

The Intercontinental Exchange Bank of America ("ICE BofA") US Treasury Bill 3 Month Index is comprised of a single U.S. Treasury Bill issue purchased at the beginning of each month and held for a full month, at which time that issue is sold and rolled into a newly selected issue. The issue selected each month is that having a maturity date closest to, but not beyond 90 days from the rebalance date.

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ICMA-RC and your employer may negotiate a different fund management or service fee for your Plan that would lower the total expense ratio. The performance and total expense ratio shown do not reflect any such alternative fee arrangements.

Performance information for this class prior to its inception date is the performance of the Fund adjusted to reflect the estimated fees and expenses of this class.

<sup>3</sup>Annualized crediting rate for the last day of the month.

**STRUCTURE**

Tier 1 - Cash Buffer	6.8%
Tier 2 - Shorter Duration Focus	8.9%
Tier 3 - Laddered Maturity Focus	20.8%
Tier 4 - Total Return Focus	63.5%

**CREDIT QUALITY ALLOCATION**

AAA/Aaa	50.3%
AA/Aa	21.8%
A	14.7%
BBB/Baa	10.9%
Below Baa	2.3%

**SECTOR ALLOCATION**

Traditional GICs	20.8%
Treasuries	13.8%
Agencies	1.9%
Other	0.1%
Credits	28.9%
Mortgage-Backed	25.9%
Asset-Backed	6.0%
Cash & Cash Equivalents	4.3%
Municipals	0.7%
Wrap Providers	-2.2%

**MATURITY ALLOCATION**

<= 30 Days	-0.2%
31 - 90 Days	9.0%
91 - 180 Days	2.9%
180 Days - 1 Year	5.9%
1 - 2 Years	9.4%
2 - 3 Years	10.5%
3 - 5 Years	29.9%
5 - 7 Years	18.5%
7 - 10 Years	10.2%
10+ Years	3.9%

## PORTFOLIO MANAGEMENT

**Investment Adviser:** Vantagepoint Investment Advisers

**Adviser Portfolio Manager(s):**

Karen Chong-Wulff, CFA, CAIA, Managing Vice President, Managed Fund Since 2007

Xin Zhou, CFA, FRM, Director, Senior Fund Manager, Managed Fund Since 2017

Wayne Wicker, CFA, Senior Vice President and Chief Investment Officer, Managed Fund Since 2004

## PRINCIPAL RISKS

Stable Value Risk, Interest Rate Risk, Credit Risk, Stable Value Issuer Risk, Liquidity Risk, Reinvestment Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Securities Lending Risk, Derivative Instruments Risk, Large Investor Risk.

See the Funds' Disclosure Memorandum for risk descriptions.

## ADDITIONAL INFORMATION ABOUT THE PLUS FUND

**Goals:** Key goals are to seek to preserve capital, by limiting the risk of loss of principal and delivering stable returns, and to meet the liquidity needs of those who invest in the PLUS Fund.

**Crediting Rate:** The PLUS Fund crediting rate is calculated daily. The crediting rate shown is the annualized rate as of the last day of the reported period. The PLUS Fund crediting rate is calculated by taking into account current yields on the Fund's holdings and prior period performance of certain holdings in the Fund. The Fund's crediting rate is generally expected to follow interest rate trends over time, but will typically do so on a lagged basis and may not move in the same direction as prevailing interest rates over certain time periods.

**Fund Information:** The Fund is an investment option of VantageTrust, a group trust established and maintained by VantageTrust Company, LLC, a wholly owned subsidiary of ICMA-RC. VantageTrust provides for the commingling of assets of certain trusts and plans as described in its Declaration of Trust, and is only available for investment by such eligible trusts and plans. The Fund is not a mutual fund. Its units are not deposits of VantageTrust Company and are not insured by the Federal Deposit Insurance Corporation or any other agency. The Fund is a security that has not been registered under the Securities Act of 1933 and is exempt from investment company registration under the Investment Company Act of 1940. For additional information regarding the Fund, including a description of the principal risks, please consult the VantageTrust Funds Disclosure Memorandum, which is available when plan administration clients log in at [www.icmarc.org](http://www.icmarc.org), at [www.vantagepointfunds.org](http://www.vantagepointfunds.org) for institutions, or upon request by calling 800-669-7400.

When Funds are marketed to institutional clients by our Investment Only team, the Funds are offered by ICMA-RC Services, LLC (RC Services), an SEC registered broker-dealer and FINRA member firm. RC Services is a wholly-owned subsidiary of ICMA-RC and is an affiliate of VantageTrust Company, LLC and Vantagepoint Investment Advisers, LLC.

Before investing in the Fund you should carefully consider your investment goals, tolerance for risk, investment time horizon, and personal circumstances. There is no guarantee that the Fund will meet its investment objective and you can lose money.

**Transfer Restrictions:** Direct transfers from the PLUS Fund to competing funds are restricted. Competing funds include, but are not limited to, the following types of investment options: (1) cash management funds, money market mutual funds, bank collective short-term investment funds, bank accounts or certificates of deposit, stable value funds or substantially similar investment options that offer guarantees of principal or income, such as guaranteed annuity contracts or similar arrangements with financial institutions; (2) short-term bond funds that invest in fixed income securities and seek to maintain or have an average portfolio duration of less than two years; and (3) any investment option that invests 80% or more of its assets in (i) fixed income securities or funds with a duration of less than two years, or (ii) instruments that seek to provide capital preservation such as stable value funds, bank certificates of deposit or bank accounts, and cash or cash equivalents. To transfer money from the PLUS Fund to a competing fund, you must first transfer the amount to a non-competing fund for a period of at least 90 days. For example, if you want to transfer money from the PLUS Fund to a money market fund, you will first need to transfer the money to a non-competing fund and then, 90 days later or any time thereafter, transfer that amount of money to the money market fund.

**Additional Information About Restrictions on PLUS Fund Public Employer Withdrawals and Transfer Restrictions:** In the event an Employer initiates withdrawal of all or part of its Plan's assets from the PLUS Fund, the payout of such assets may be deferred for a period of up to twelve months. In the case of a total withdrawal, participant transfers of PLUS Fund assets to other investment options will be restricted and participants will not be able to make additional investments in the PLUS Fund during this twelve-month period.

# LYNX Board Agenda

## Consent Agenda Item #6.D. ix

**To:** LYNX Board of Directors

**From:** Terri Settington  
Director Of Human Resources  
Brian Anderson  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6106

**Item Name:** Authorization to Amend and Restate the LYNX Deferred Compensation Plan and Trust Governing Documents

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is seeking the Board of Directors' adoption of Resolution No. 21-007 ("Resolution") to approve the amendment and restatement of the governing documents for the LYNX Deferred Compensation Plan and Trust.

### **BACKGROUND:**

The LYNX Deferred Compensation ("Plan") provides LYNX employees with a voluntary method of deferring taxation on compensation until death, retirement, or certain other events. Administrative employees, employees represented by Amalgamated Transit Union Local 1596 (drivers/maintenance union), and employees represented by the Amalgamated Transit Union Local 1749 (commonly referred to as the "supervisors' union") participate in the Plan.

From time to time it is necessary or desirable to amend and restate the technical terms of the Plan to maintain or confirm the tax-advantaged, eligible status of the Plan under federal tax law and to reflect all current Plan terms.

The Plan's intended new service provider, Voya Retirement Insurance and Annuity Company ("Voya"), offers a specimen Eligible 457 Plan Basic Plan and Trust Agreement with Adoption Agreement (collectively, "Specimen Plan Document"), which may be used to amend and restate the terms of the Plan and the Trust for the Plan.

The Plan's Administrative Committee and Board of Trustees have recommended that the Plan and the Trust for the Plan be amended and restated on the Specimen Plan Document in the form

# LYNX ard Agenda

attached as composite Exhibit "A" to the Resolution, to maintain and confirm the tax-advantaged, eligible status of the Plan and to reflect all current Plan terms.

The Plan's Board of Trustees has selected one or more VantageTrust Company, LLC ("VantageTrust") funds as a new investment menu offering for the Plan's participants and in connection therewith, has recommended that the VantageTrust declaration of trust be adopted as a governing Plan document and that VantageTrust be appointed as a trustee for the Plan with respect to the VantageTrust fund(s), via the form of the Participation Agreement and related documents attached as composite Exhibit "B" to the Resolution.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

There is no fiscal impact.

**CFRTA RESOLUTION NO. 21-007**

**RESOLUTION OF THE CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY (d/b/a/ LYNX) TO AMEND AND RESTATE  
THE LYNX DEFERRED COMPENSATION PLAN AND TRUST GOVERNING  
DOCUMENTS**

**WHEREAS**, LYNX, as the sponsoring employer, previously established the LYNX Deferred Compensation Plan ("Plan") effective March 17, 1994, last amended and restated the Plan's governing documents effective December 1, 2011, and subsequently amended the Plan effective June 26, 2013; and

**WHEREAS**, LYNX has the right to further amend the Plan's governing documents at any time; and

**WHEREAS**, from time to time it is necessary or desirable to amend and restate the technical terms of the Plan to maintain or confirm the tax-advantaged, eligible status of the Plan under federal tax law and to reflect all current Plan terms; and

**WHEREAS**, the Plan's intended new service provider, Voya Retirement Insurance and Annuity Company ("Voya"), offers a specimen Eligible 457 Plan Basic Plan and Trust Agreement with Adoption Agreement (collectively, "Specimen Plan Document"), which may be used to amend and restate the terms of the Plan and the Trust for the Plan; and

**WHEREAS**, the Plan's Administrative Committee and Board of Trustees have recommended that the Plan and the Trust for the Plan be amended and restated on the Specimen Plan Document in the form attached hereto as composite Exhibit "A" to maintain and confirm the tax-advantaged, eligible status of the Plan and to reflect all current Plan terms; and

**WHEREAS**, the Plan's Board of Trustees has selected one or more VantageTrust Company, LLC ("VantageTrust") funds as a new investment menu offering for the Plan's participants and in connection therewith, has recommended that the VantageTrust declaration of trust be adopted as a governing Plan document and that VantageTrust be appointed as a trustee for the Plan with respect to the VantageTrust fund(s), via the form of the Participation Agreement and related documents attached hereto as composite Exhibit "B"; and

**WHEREAS**, LYNX wishes to amend and restate the Plan and the Trust for the Plan on the Specimen Plan Document in the form attached hereto as composite Exhibit "A" to maintain and confirm the tax-qualified status of the Plan and to reflect all current Plan terms; and

**WHEREAS**, LYNX wishes to adopt the VantageTrust declaration of trust and appoint VantageTrust as a trustee for the Plan with respect to the VantageTrust fund, via the documents attached hereto as composite Exhibit "B".

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The amendment and restatement of the LYNX Deferred Compensation Plan contained in the Eligible 457 Plan Basic Plan and Trust Agreement with Adoption Agreement attached hereto as composite Exhibit "A" is hereby approved and adopted.
2. The adoption of the VantageTrust Company, LLC declaration of trust as a governing document for the LYNX Deferred Compensation Plan and the appointment of VantageTrust Company, LLC as a trustee for the LYNX Deferred Compensation with respect to the VantageTrust Company, LLC fund(s), via the form of the Participation Agreement and related documents attached hereto as composite Exhibit "B", are hereby approved.
3. The LYNX CEO is hereby authorized to execute the Eligible 457 Plan Basic Plan and Trust Agreement with Adoption Agreement attached hereto as composite Exhibit "A", for and on behalf of LYNX.
4. The LYNX CEO is hereby authorized to execute the VantageTrust Company, LLC Participation Agreement in the form attached hereto as part of composite Exhibit "B", for and on behalf of LYNX.
5. The LYNX CEO, with such assistance as he may require from the Plan's Administrative Committee, the Plan's Board of Trustees, and/or LYNX Human Resources, Finance, or Accounting personnel, is authorized and directed to take all other action as he determines necessary or desirable to effectuate these resolutions.
6. Any and all actions heretofore or hereinafter taken by the Plan's Administrative Committee, the Plan's Board of Trustees, the LYNX CEO, and/or LYNX Human Resources, Finance, or Accounting personnel in connection with any and all of the matters addressed in these resolutions are hereby confirmed and ratified as properly authorized acts of LYNX.

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ON FOLLOWING PAGE.]



**CFRTA RESOLUTION NO. 21-007**

**RESOLUTION OF THE CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY (d/b/a/ LYNX) TO AMEND AND RESTATE  
THE LYNX DEFERRED COMPENSATION PLAN AND TRUST GOVERNING  
DOCUMENTS**

**APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021 by the  
Governing Board of the Central Florida Regional Transportation Authority.

CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY

By: Governing Board

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

**ADOPTION AGREEMENT FOR  
ELIGIBLE GOVERNMENTAL 457 PLAN**

The undersigned Employer, by executing this Adoption Agreement, establishes an Eligible 457 Plan ("Plan"). The Employer, subject to the Employer's Adoption Agreement elections, adopts fully the Plan provisions. This Adoption Agreement, the basic plan document and any attached Appendices, amendments, or agreements permitted or referenced therein, constitute the Employer's entire plan document. *All "Election" references within this Adoption Agreement or the basic plan document are Adoption Agreement Elections. All "Article" or "Section" references are basic plan document references. Numbers in parentheses which follow election numbers are basic plan document references.* Where an Adoption Agreement election calls for the Employer to supply text, the Employer may lengthen any space or line, or create additional tiers. When Employer-supplied text uses terms substantially similar to existing printed options, all clarifications and caveats applicable to the printed options apply to the Employer-supplied text unless the context requires otherwise. The Employer makes the following elections granted under the corresponding provisions of the basic plan document.

1. **EMPLOYER (1.11).**

Name: Central Florida Regional Transportation Authority d/b/a LYNX

Address: 2500 Lynx Lane

Street

Orlando Florida 32804

City

State

Zip

Telephone: (407) 254-6219

Taxpayer Identification Number (TIN): 59-2982959

2. **PLAN NAME.**

Name: LYNX Deferred Compensation Plan

3. **PLAN YEAR (1.25).** Plan Year means the 12 consecutive month period (except for a short Plan Year) ending every (Choose one of a. or b. and choose c. if applicable): [Note: Complete any applicable blanks under Election c. with a specific date, e.g., "June 30" OR "the last day of February" OR "the first Tuesday in January." In the case of a Short Plan Year or a Short Limitation Year, include the year, e.g., "May 1, 2013."] ]

a.  **December 31.**

b.  **Plan Year:** ending: \_\_\_\_\_.

c.  **Short Plan Year:** commencing: \_\_\_\_\_ and ending: \_\_\_\_\_.

4. **EFFECTIVE DATE (1.08).** The Employer's adoption of the Plan is a (Choose one of a. or b. Complete c. if new plan OR complete c. and d. if an amendment and restatement. Choose e. if applicable):

a.  **New Plan.**

b.  **Restated Plan.** The Plan is a substitution and amendment of an existing 457 plan.

**Initial Effective Date of Plan**

c.  March 17, 1994 (enter month day, year; hereinafter called the "Effective Date" unless 4d is entered below)

**Restatement Effective Date** (If this is an amendment and restatement, enter effective date of the restatement.)

d.  January 1, 2022 (enter month day, year)

**Special Effective Dates:** (optional)

e.  **Describe:** \_\_\_\_\_.

5. **CONTRIBUTION TYPES.** (If this is a frozen Plan (i.e., all contributions have ceased), choose a. only):

**Frozen Plan**

a.  **Contributions cease.** All Contributions have ceased or will cease (Plan is frozen).

1. **Effective date of freeze:** \_\_\_\_\_ [Note: Effective date is optional unless this is the amendment or restatement to freeze the Plan.]

**Contributions.** The Employer and/or Participants, in accordance with the Plan terms, make the following Contribution Types to the Plan (Choose one or more of b. through d. if applicable):

- b.  **Pre-Tax Elective Deferrals.** The dollar or percentage amount by which each Participant has elected to reduce his/her Compensation, as provided in the Participant's Salary Reduction Agreement (Choose one or more as applicable.):

And will Matching Contributions be made with respect to Elective Deferrals?

1.  **Yes.** See Question 16.
2.  **No.**

And will **Roth Elective Deferrals** be made?

3.  **Yes.** [Note: The Employer may not limit Deferrals to Roth Deferrals only.]
4.  **No.**

- c.  **Nonelective Contributions.** See Question 17.

- d.  **Rollover Contributions.** See Question 30.

6. **EXCLUDED EMPLOYEES (1.10).** The following Employees are Excluded Employees and are not eligible to participate in the Plan (Choose one of a. or b.):

- a.  **No exclusions.** All Employees are eligible to participate.
- b.  **Exclusions.** The following Employees are Excluded Employees (Choose one or more of 1. through 4.):
  1.  **Part-time Employees.** The Plan defines part-time Employees as Employees who normally work less than \_\_\_\_\_ hours per week.
  2.  **Hourly-paid Employees.**
  3.  **Leased Employees.** The Plan excludes Leased Employees.
  4.  **Specify:** interns, temporary employees, casual employees, and any employee who is included in a unit of employees covered by a collective bargaining agreement that specifically excludes the unit from participation in the Plan.

7. **INDEPENDENT CONTRACTOR (1.16).** The Plan (Choose one of a., b. or c.):

- a.  **Participate.** Permits Independent Contractors to participate in the Plan.
- b.  **Not Participate.** Does not permit Independent Contractors to participate in the Plan.
- c.  **Specified Independent Contractors.** Permits the following specified Independent Contractors to participate: \_\_\_\_\_

[Note: If the Employer elects to permit any or all Independent Contractors to participate in the Plan, the term Employee as used in the Plan includes such participating Independent Contractors.]

8. **COMPENSATION (1.05).** Subject to the following elections, Compensation for purposes of allocation of Deferral Contributions means:

**Base Definition** (Choose one of a., b., c. or d.):

- a.  Wages, tips and other compensation on Form W-2.
- b.  Code §3401(a) wages (wages for withholding purposes).
- c.  415 safe harbor compensation.
- d.  Alternative (general) 415 Compensation.

[Note: The Plan provides that the base definition of Compensation includes amounts that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2), & 457. Compensation for an Independent Contractor means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies below.]

**Modifications to Compensation definition.** The Employer elects to modify the Compensation definition as follows (*Choose one of e. or f.*):

- e.  **No modifications.** The Plan makes no modifications to the definition.
- f.  **Modifications** (*Choose one or more of 1. through 5.*):
1.  **Fringe benefits.** The Plan excludes all reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation and welfare benefits.
  2.  **Elective Contributions.** [1.05(E)] The Plan excludes a Participant's Elective Contributions.
  3.  **Bonuses.** The Plan excludes bonuses.
  4.  **Overtime.** The Plan excludes overtime.
  5.  **Specify:** \_\_\_\_\_.

**Compensation taken into account.** For the Plan Year in which an Employee first becomes a Participant, the Plan Administrator will determine the allocation of matching and nonelective contributions by taking into account (*Choose one of g. or h.*):

- g.  **Plan Year.** The Employee's Compensation for the entire Plan Year. (*N/A if no matching or nonelective contributions*)
- h.  **Compensation while a Participant.** The Employee's Compensation only for the portion of the Plan Year in which the Employee actually is a Participant. (*N/A if no matching or nonelective contributions*)
9. **POST-SEVERANCE COMPENSATION (1.05(F)).** Compensation includes the following types of Post-Severance Compensation paid within any applicable time period as may be required (*Choose one of a. or b.*):
- a.  **None.** The Plan does not take into account Post-Severance Compensation as to any Contribution Type except as required under the basic plan document.
  - b.  **Adjustments.** The following Compensation adjustments apply (*Choose one or more*):
    1.  **Regular Pay.** Post-Severance Compensation will include Regular Pay and it will apply to all Contribution Types.
    2.  **Leave-Cashouts.** Post-Severance Compensation will include Leave Cashouts and it will apply to all Contribution Types.
    3.  **Nonqualified Deferred Compensation.** Post-Severance Compensation will include Deferred Compensation and it will apply to all Contribution Types.
    4.  **Salary Continuation for Disabled Participants.** Post-Severance Compensation will include Salary Continuation for Disabled Participants and it will apply to all Contribution Types.
    5.  **Differential Wage Payments.** Post-Severance Compensation will include Differential Wage Payments (military continuation payments) and it will apply to all Contribution Types.
    6.  **Describe alternative Post-Severance Compensation definition, limit by Contribution Type, or limit by Participant group:** \_\_\_\_\_.

10. **NORMAL RETIREMENT AGE (1.20).** A Participant attains Normal Retirement Age under the Plan (*Choose one of a. or b.*):

- a.  **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. [*Note: The age may not exceed age 70 1/2. The age may not be less than age 65, or, if earlier, the age at which a Participant may retire and receive benefits under the Employer's pension plan, if any.*]
- b.  **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 62 and may not be later than age 70 1/2. [*Note: The age may not exceed age 70 1/2.*]

**Special Provisions for Police or Fire Department Employees** (*Choose c. and/or d. as applicable*):

- c.  **Police department employees.** [Plan Section 3.05(B)(3)] (*Choose 1. or 2.*):
  1.  **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. [*Note: The age may not exceed age 70 1/2 and may not be less than age 40.*]
  2.  **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age \_\_\_\_\_ (no earlier than age 40) and may not be later than age \_\_\_\_\_. [*Note: The age may not exceed age 70 1/2.*]
- d.  **Fire department employees.** [Plan Section 3.05(B)(3)] (*Choose 1. or 2.*):
  1.  **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. [*Note: The age may not exceed age 70 1/2 and may not be less than age 40.*]
  2.  **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age \_\_\_\_\_ (no earlier than age 40) and may not be later than \_\_\_\_\_.

age \_\_\_\_\_. [Note: The age may not exceed age 70 1/2.]

11. **ELIGIBILITY CONDITIONS (2.01).** (Choose one of a. or b.):

- a.  **No eligibility conditions.** The Employee is eligible to participate in the Plan as of his/her first day of employment with the employer.
- b.  **Eligibility conditions.** To become a Participant in the Plan, an Eligible Employee must satisfy the following eligibility conditions (Choose one or more of 1., 2. or 3.):
1.  **Age.** Attainment of age \_\_\_\_\_.
  2.  **Service.** Service requirement (Choose one of a. or b.):
    - a.  **Year of Service.** One year of Continuous Service.
    - b.  **Months of Service.** \_\_\_\_\_ month(s) of Continuous Service.
  3.  **Specify:** \_\_\_\_\_.

12. **PLAN ENTRY DATE (1.24).** "Plan Entry Date" means the Effective Date and (Choose one of a. through d.):

- a.  **Monthly.** The first day of the month coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- b.  **Annual.** The first day of the Plan Year coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- c.  **Date of hire.** The Employee's employment commencement date with the Employer.
- d.  **Specify:** \_\_\_\_\_.

13. **SALARY REDUCTION CONTRIBUTIONS (1.30).** A Participant's Salary Reduction Contributions under Election 5b. are subject to the following limitation(s) in addition to those imposed by the Code (Choose one of a. or b.):

- a.  **No limitations.**
- b.  **Limitations.** (Choose one or more of 1., 2. or 3.):
1.  **Maximum deferral amount.** A Participant's Salary Reductions may not exceed: \_\_\_\_\_ (specify dollar amount or percentage of Compensation).
  2.  **Minimum deferral amount.** A Participant's Salary Reductions may not be less than: \_\_\_\_\_ (specify dollar amount or percentage of Compensation).
  3.  **Specify:** \_\_\_\_\_.

[Note: Any limitation the Employer elects in b.1. through b.3. will apply on a payroll basis unless the Employer otherwise specifies in b.3.]

**Special NRA Catch-Up Contributions (3.05).** The Plan (Choose one of c. or d.):

- c.  **Permits.** Participants may make NRA catch-up contributions.  
**AND, Special NRA Catch-Up Contributions (Choose one of 1. or 2.): (N/A if no matching contributions)**
1.  will be taken into account in applying any matching contribution under the Plan.
  2.  will not be taken into account in applying any matching contribution under the Plan.
- d.  **Does not permit.** Participants may not make NRA catch-up contributions.

**Age 50 Catch-Up Contributions (3.06).** The Plan (Choose one of e. or f.):

- e.  **Permits.** Participants may make age 50 catch-up contributions.  
**AND, Age 50 Catch-Up Contributions (Choose one of 1. or 2.): (N/A if no matching contributions)**
1.  will be taken into account in applying any matching contribution under the Plan.
  2.  will not be taken into account in applying any matching contribution under the Plan.
- f.  **Does not permit.** Participants may not make age 50 catch-up contributions.

14. **SICK, VACATION AND BACK PAY (3.02(A)).** The Plan (Choose one of a. or b.):

- a.  **Permits.** Participants may make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.
- b.  **Does Not Permit.** Participants may not make Salary Reduction Contributions from accumulated sick pay, from accumulated

vacation pay or from back pay.

15. **AUTOMATIC ENROLLMENT (3.02(B))**. Does the Plan provide for automatic enrollment (*Choose one of the following*) [*Note: if Eligible Automatic Contribution Arrangement (EACA), select 15c and complete Questions 31 & 32*]:

- a.  **Does not apply.** Does not apply the Plan's automatic enrollment provisions.
- b.  **Applies.** Applies the Plan's automatic enrollment provisions. The Employer as a Pre-Tax Elective Deferral will withhold \_\_\_\_\_% from each Participant's Compensation unless the Participant elects a different percentage (including zero) under his/her Salary Reduction Agreement. The automatic election will apply to (*Choose one of 1. through 3.*):
  - 1.  **All Participants.** All Participants who as of \_\_\_\_\_ are not making Pre-Tax Elective Deferrals at least equal to the automatic amount.
  - 2.  **New Participants.** Each Employee whose Plan Entry Date is on or following: \_\_\_\_\_.
  - 3.  **Describe Application of Automatic Deferrals:** \_\_\_\_\_.
- c.  **EACA.** The Plan will provide an Eligible Automatic Contribution Arrangement (EACA). Complete Questions 31 & 32.

16. **MATCHING CONTRIBUTIONS (3.03)**. The Employer Matching Contributions under Election 5.b.1. are made as follows (*Choose one or more of a. through d.*):

- a.  **Fixed formula.** An amount equal to \_\_\_\_\_ of each Participant's Salary Reduction Contributions.
- b.  **Discretionary formula.** An amount (or additional amount) equal to a matching percentage the Employer from time to time may deem advisable of each Participant's Salary Reduction Contributions.
- c.  **Tiered formula.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's Salary Reduction Contributions, determined as follows:

**NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____%
Next _____	_____%
Next _____	_____%
Next _____	_____%

- d.  **Specify:** \_\_\_\_\_.

**Time Period for Matching Contributions.** The Employer will determine its Matching Contribution based on Salary Reduction Contributions made during each (*Choose one of e. through h.*):

- e.  **Plan Year.**
- f.  **Plan Year quarter.**
- g.  **Payroll period.**
- h.  **Specify:** \_\_\_\_\_.

**Salary Reduction Contributions Taken into Account.** In determining a Participant's Salary Reduction Contributions taken into account for the above-specified time period under the Matching Contribution formula, the following limitations apply (*Choose one of i. through l.*):

- i.  **All Salary Reduction Contributions.** The Plan Administrator will take into account all Salary Reduction Contributions.
- j.  **Specific limitation.** The Plan Administrator will disregard Salary Reduction Contributions exceeding \_\_\_\_\_% of the Participant's Compensation.
- k.  **Discretionary.** The Plan Administrator will take into account the Salary Reduction Contributions as a percentage of the Participant's Compensation as the Employer determines.
- l.  **Specify:** \_\_\_\_\_.

**Allocation Conditions.** To receive an allocation of Matching Contributions, a Participant must satisfy the following allocation condition(s) (*Choose one of m. or n.*):

- m.  **No allocation conditions.**
- n.  **Conditions.** The following allocation conditions apply to Matching Contributions (*Choose one or more of 1. through 4.*):
1.  **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.
  2.  **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
  3.  **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
  4.  **Specify:** \_\_\_\_\_.
17. **NONELECTIVE CONTRIBUTIONS (1.19).** The Nonelective Contributions under Election 5.c. are made as follows: (*Choose one*):
- a.  **Discretionary - Pro-Rata.** An amount the Employer in its sole discretion may determine.
  - b.  **Fixed - Pro Rata.** \_\_\_\_\_% of Compensation.
  - c.  **Other.** A Nonelective Contribution may be made as follows:  
Discretionary - an amount the Employer in its sole discretion may from time to time deem advisable with respect to one or more Participants

**Allocation Conditions. (3.08).** To receive an allocation of Nonelective Contributions, a Participant must satisfy the following allocation condition(s) (*Choose one of d. or e.*):

- d.  **No allocation conditions.**
- e.  **Conditions.** The following allocation conditions apply to Nonelective Contributions (*Choose one or more of 1. through 4.*):
1.  **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.
  2.  **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
  3.  **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
  4.  **Specify:** \_\_\_\_\_.

18. **TIME AND METHOD OF PAYMENT OF ACCOUNT (4.02).** The Plan will distribute to a Participant who incurs a Severance from Employment his/her Vested Account as follows:

**Timing.** The Plan, in the absence of a permissible Participant election to commence payment later, will pay the Participant's Account (*Choose one of a. through e.*):

- a.  **Specified Date.** \_\_\_\_\_ days after the Participant's Severance from Employment.
- b.  **Immediate.** As soon as administratively practicable following the Participant's Severance from Employment.
- c.  **Designated Plan Year.** As soon as administratively practicable in the \_\_\_\_\_ Plan Year beginning after the Participant's Severance from Employment.
- d.  **Normal Retirement Age.** As soon as administratively practicable after the close of the Plan Year in which the Participant attains Normal Retirement Age.
- e.  **Specify:** \_\_\_\_\_.

**Method.** The Plan, in the absence of a permissible Participant election, will distribute the Participant's Account under one of the following method(s) of distribution (*Choose one or more of f. through j. as applicable*):

- f.  **Lump sum.** A single payment.
- g.  **Installments.** Multiple payments made as follows: In a series of installments over a period of years (payable on a monthly, quarterly, semi-annual or annual basis) which extends no longer than the life expectancy of the Participant as permitted under Code Section 401(a)(9). Annual installments for required minimum distributions only, as necessary under Plan Section 4.03, are also permitted
- h.  **Installments for required minimum distributions only.** Annual payments, as necessary under Plan Section 4.03.
- i.  **Annuity distribution option(s):** Purchase of a single premium nontransferable annuity contract for such term and in such

form as the Participant selects that provides for payments in the form of an irrevocable annuity each calendar year of amounts not less than the amount required under Code Section 401(a)(9)

- j. [X] **Specify:** The Plan permits partial withdrawals. The Plan does not permit the qualified distributions to Eligible Retired Public Safety Officers described in Plan Section 4.08.

**Participant Election.** [Plan Sections 4.02(A) and (B)] The Plan (*Choose one of k, l, or m.*):

- k. [ ] **Permits.** Permits a Participant, with Plan Administrator approval of the election, to elect to postpone distribution beyond the time the Employer has elected in a. through e. and also to elect the method of distribution (including a method not described in f. through j. above).
- l. [ ] **Does not permit.** Does not permit a Participant to elect the timing and method of Account distribution.
- m. [X] **Specify:** Permits a Participant, with Plan Administrator approval of the election, to elect to postpone distribution beyond the time the Employer has elected in a. above, but does not permit the Participant to elect a method of distribution that is different from the methods described in f. through j. above

**Mandatory Distributions.** Notwithstanding any other distribution election, following Severance from Employment (*Choose n. or o.*):

- n. [ ] **No Mandatory Distributions.** The Plan will not make a Mandatory Distribution.
- o. [X] **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$5,000 (unless a different amount selected below) as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.
1. [ ] **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$\_\_\_\_\_ as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.

**Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions or consent rules.

- p. [ ] Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

**NOTE:** Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

19. **BENEFICIARY DISTRIBUTION ELECTIONS.** Distributions following a Participant's death will be made as follows (*Choose one of a. through d.*):

- a. [ ] **Immediate.** As soon as practical following the Participant's death.
- b. [ ] **Next Calendar Year.** At such time as the Beneficiary may elect, but in any event on or before the last day of the calendar year which next follows the calendar year of the Participant's death. (*N/A if participant is restricted*)
- c. [ ] **As Beneficiary elects.** At such time as the Beneficiary may elect, consistent with Section 4.03. (*N/A if participant is restricted*)
- d. [X] **Describe:** As such time as the Beneficiary may elect, consistent with Section 4.03. Notwithstanding anything contained in Plan Section 6.02 to the contrary, for all Plan purposes: If no Beneficiary has been validly designated by the Participant, the default Beneficiary will be as follows: (1) Participant's surviving spouse (if the Participant was married at the time of death); and (2) the Participant's estate (if the Participant does not have a surviving spouse at the time of death).

[*Note: The Employer under Election 19d. may describe an alternative distribution timing or afford the Beneficiary an election which is narrower than that permitted under Election 19c., or include special provisions related to certain beneficiaries, (e.g., a surviving spouse). However, any election under Election 19d. must require distribution to commence no later than the Section 4.03 required date.*]

20. **DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT (4.05).** A Participant prior to Severance from Employment may elect to receive a distribution of his/her Vested Account under the following distribution options (*Choose one of a. or b.*):

- a. [ ] **None.** A Participant may not receive a distribution prior to Severance from Employment.
- b. [X] **Distributions.** Prior to Severance from Employment are permitted as follows (*Choose one or more of 1. through 4.*):
1. [X] **Unforeseeable emergency.** A Participant may elect a distribution from his/her Account in accordance with Plan Section 4.05(A) (for the Participant, spouse, dependents or beneficiaries)
2. [X] **De minimis exception.** [Plan Section 4.05(B)] If the Participant: (i) has an Account that does not exceed \$5,000; (ii) has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (iii) has not received a prior Plan distribution under this de minimis exception, then (*Choose one of a., b. or c.*):
- a. [X] **Participant election.** The Participant may elect to receive all or any portion of his/her Account.
- b. [ ] **Mandatory distribution.** The Plan Administrator will distribute the Participant's entire Account.



- c.  **Hybrid.** The Plan Administrator will distribute a Participant's Account that does not exceed \$ \_\_\_\_\_ and the Participant may elect to receive all or any portion of his/her Account that exceeds \$ \_\_\_\_\_ but that does not exceed \$5,000.
3.  **Age 70 1/2.** A Participant who attains age 70 1/2 prior to Severance from Employment may elect distribution of any or all of his/her Account.
4.  **Specify:** There are no qualified reservist distributions, as defined in Code section 72(t)(2)(G)(iii), under the Plan.

[Note: An Employer need not permit any in-service distributions. Any election must comply with the distribution restrictions of Code Section 457(d).]

21. **QDRO (4.06).** The QDRO provisions (*Choose one of a., b. or c.*):

- a.  **Apply.**
- b.  **Do not apply.**
- c.  **Specify:** \_\_\_\_\_.

22. **ALLOCATION OF EARNINGS (5.07(B)).** The Plan allocates Earnings using the following method (*Choose one or more of a. through f.*):

- a.  **Daily.** See Section 5.07(B)(4)(a).
- b.  **Balance forward.** See Section 5.07(B)(4)(b).
- c.  **Balance forward with adjustment.** See Section 5.07(B)(4)(c). Allocate pursuant to the balance forward method, except treat as part of the relevant Account at the beginning of the Valuation Period \_\_\_\_\_% of the contributions made during the following Valuation Period: \_\_\_\_\_.
- d.  **Weighted average.** See Section 5.07(B)(4)(d). If not a monthly weighting period, the weighting period is \_\_\_\_\_.
- e.  **Directed Account method.** See Section 5.07(B)(4)(e).
- f.  **Describe Earnings allocation method:** \_\_\_\_\_.

[Note: The Employer under Election 22f. may describe Earnings allocation methods from the elections available under Election 22 and/or a combination thereof as to any: (i) Participant group (e.g., Daily applies to Division A Employees OR to Employees hired after "x" date. Balance forward applies to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., Daily applies as to Discretionary Nonelective Contribution Accounts. Participant-Directed Account applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., Balance forward applies to investments placed with vendor A and Participant-Directed Account applies to investments placed with vendor B OR Daily applies to Participant-Directed Accounts and balance forward applies to pooled Accounts).]

23. **HEART ACT PROVISIONS (1.31(C)(3)/3.13).** The Employer elects to (*Choose one of a. or b. and c. or d.*):

**Continued Benefit Accruals.**

- a.  **Not apply the benefit accrual provisions of Section 3.13.**
- b.  **Apply the benefit accrual provisions of Section 3.13.**

**Distributions for deemed severance of employment (1.31(C)(3))**

- c.  **The Plan does NOT permit distributions for deemed severance of employment.**
- d.  **The Plan permits distributions for deemed severance of employment.**

24. **VESTING/SUBSTANTIAL RISK OF FORFEITURE (5.11).** A Participant's Deferral Contributions are [Note: If a Participant incurs a Severance from Employment before the specified events or conditions, the Plan will forfeit the Participant's non-vested Account. Caution: if a Deferral is subject to vesting schedule or other substantial risk of forfeiture, it does not count as a deferral for purposes of the annual deferral limit until the year it is fully vested.] (*Choose all that apply of a. through d.*):

- a.  **100% Vested/No Risk of Forfeiture.** Immediately Vested without regard to additional Service and no Substantial Risk of Forfeiture. The following contributions are 100% Vested:
1.  **All Contributions.** (skip to 25.)
  2.  **Only the following contributions.** (select all that apply):
    - a.  **Salary Reduction Contributions.**
    - b.  **Nonelective Contributions.**
    - c.  **Matching Contributions.**

b.  **Forfeiture under Vesting Schedule.** Vested according to the following:

**Contributions affected.** The following contributions are subject to the vesting schedule (*Choose one or more of 1., 2. or 3.*):

- 1.  **Salary Reduction Contributions.**
- 2.  **Nonelective Contributions.**
- 3.  **Matching Contributions.**
- 4.  **Vesting Schedule.**

Years of Service	Vested Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**For vesting purposes, a "Year of Service" means:**

5. \_\_\_\_\_

[*Note: It is extremely rare to apply a vesting schedule to Salary Reduction Contributions.*]

c.  **Substantial Risk of Forfeiture.** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows:

**Contributions affected.** The following contributions are subject to the substantial risk of forfeiture under c. (*Choose one or more of 1., 2. or 3.*):

- 1.  **Salary Reduction Contributions.**
- 2.  **Nonelective Contributions.**
- 3.  **Matching Contributions.**

**Risk Provisions:** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows (*Choose one of 4. or 5.*):

- 4.  The Participant must remain employed by the Employer until \_\_\_\_\_, unless earlier Severance from Employment occurs on account of death or disability, as the Plan Administrator shall establish.
- 5.  **Specify:** \_\_\_\_\_

**Additional Provisions** (*Choose d. if applicable*)

d.  **Specify:** All Contributions are Immediately Vested without regard to additional Service and no Substantial Risk of Forfeiture. Notwithstanding the foregoing or any other Plan provision that may be to the contrary, Plan benefits are subject to Section 112.3173, Florida Statutes, to the extent applicable

**FORFEITURE ALLOCATION.** [Plan Sections 5.11(A) and 5.14] The Plan Administrator will allocate any Plan forfeitures as selected below. The Employer has the option to use forfeitures to pay plan expenses first and then allocate the remaining forfeitures in accordance with the selections below: (*Choose one of the following*):

e.  **Additional Contributions.** As the following contribution type (*Choose one of 1. or 2.*):

- 1.  **Nonelective.** As an additional Nonelective Contribution.
- 2.  **Matching.** As an additional Matching Contribution.

f.  **Reduce Fixed Contributions.** To reduce the following fixed contribution (*Choose one of 1. or 2.*):

- 1.  **Nonelective.** To reduce the Employer's fixed Nonelective Contribution.
- 2.  **Matching.** To reduce the Employer's fixed Matching Contribution.

g.  **Specify:** \_\_\_\_\_

25. **TRUST PROVISIONS.** The following provisions apply to Article VIII of the Plan (Choose as applicable; leave blank if not applicable):

a.  **Modifications.** The Employer modifies the Article VIII Trust provisions as follows: (1) The "Trustee" is the Board of Trustees appointed by the Employer. (2) No member of the Board of Trustees who is receiving compensation from the Employer as an employee or independent contractor of the Employer shall be entitled to compensation for service as a member

of the Board of Trustees. (3) The Board of Trustees (and no other party) may appoint, at its option, one or more investment managers, investment advisers, or other agents to provide investment-related monitoring, advice, or direction with respect to Plan assets. (4) Notwithstanding anything in Section 8.12 (and Section 5.02(l) referenced therein) which may be to the contrary: Participant directed investments are permitted from all Accounts. It is the sole and exclusive responsibility of the Board of Trustees (and no other party) to select the menu of investment options available for Participant direction of investments. The Board of Trustees (and no other party) will designate how accounts will be invested in the absence of proper affirmative direction from the Participant. The Board of Trustees (and no other party) may designate a default fund under the Plan for contributions made on behalf of Participants who have been identified by the Plan Administrator as having not specified investment choices under the Plan. (5) The laws of the state of Florida (including, if applicable, provisions of Chapter 112, Florida Statutes) will determine all questions arising with respect to the provisions of this Trust, except to the extent federal law supersedes state law . The remaining Article VIII provisions apply.

b.  **Substitution.** The Employer replaces the Trust with the Trust Agreement attached to the Plan.

26. **CUSTODIAL ACCOUNT/ANNUITY CONTRACT (8.16).** The Employer will hold all or part of the Deferred Compensation in one or more custodial accounts or annuity contracts which satisfy the requirements of Code §457(g) (Choose a. or b., c. if applicable):

a.  **Custodial account(s).**

b.  **Annuity contract(s).**

c.  **Specify:** Custodial account(s) and/or annuity contract(s).

[Note: The Employer under c. may wish to identify the custodial accounts or annuity contracts or to designate a portion of the Deferred Compensation to be held in such vehicles versus held in the Trust.]

27. **VALUATION.** In addition to the last day of the Plan Year, the Trustee (or Plan Administrator as applicable) must value the Trust Fund (or Accounts) on the following Valuation Date(s) (Choose one of a. or b.):

a.  **No additional Valuation Dates.**

b.  **Additional Valuation Dates.** (Choose one or more of 1., 2. or 3.):

1.  **Daily Valuation Dates.** Each business day of the Plan Year on which Plan assets for which there is an established market are valued and the Trustee or Employer is conducting business.

2.  **Last day of a specified period.** The last day of each \_\_\_\_\_ of the Plan Year.

3.  **Specified Valuation Dates:** \_\_\_\_\_

[Note: The Employer under Election 26b.3. may describe Valuation Dates from the elections available under Election 26b. and/or a combination thereof as to any: (i) Participant group (e.g., No additional Valuation Dates apply to Division A Employees OR to Employees hired after "x" date. Daily Valuation Dates apply to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., No additional Valuation Dates apply as to Discretionary Nonelective Contribution Accounts. The last day of each Plan Year quarter applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., No additional Valuation Dates apply to investments placed with vendor A and Daily Valuation Dates apply to investments placed with vendor B OR Daily Valuation Dates apply to Participant-Directed Accounts and no additional Valuation Dates apply to pooled Accounts).]

28. **TRUSTEE** (Select all that apply; leave blank if not applicable.):

a.  Individual Trustee(s) who serve as Trustee(s) over assets not subject to control by a corporate Trustee. (Add additional Trustees as necessary.)

Name(s)	Title(s)
<u>Brian Anderson</u>	<u>member of the Board of Trustees</u>
<u>Dana Baker</u>	<u>member of the Board of Trustees</u>
<u>Albert J Francis II</u>	<u>member of the Board of Trustees</u>
_____	_____

**Address and Telephone number** (Choose one of 1. or 2.):

1.  Use Employer address and telephone number.

2.  Use address and telephone number below:

Address: \_\_\_\_\_  
Street

\_\_\_\_\_

City State Zip

Telephone: \_\_\_\_\_

b.  Corporate Trustee

Name: Voya Institutional Trust Company

Address: One Orange Way  
Street

Windsor City Connecticut State 06095-4774 Zip

Telephone: 855-663-8692

AND, the Corporate Trustee shall serve as:

c.  a Directed (nondiscretionary) Trustee over all Plan assets except for the following:

\_\_\_\_\_

d.  a Discretionary Trustee over all Plan assets except for the following:

\_\_\_\_\_

29. PLAN LOANS (5.02(A)). The Plan permits or does not permit Participant Loans (*Choose one of a. or b.*):

a.  **Does not permit.**

b.  **Permitted pursuant to the Loan Policy.**

30. ROLLOVER CONTRIBUTIONS (3.09). The Rollover Contributions under Election 5.d. are made as follows:

**Who may roll over** (*Choose one of a. or b.*):

a.  **Participants only.**

b.  **Eligible Employees or Participants.**

**Sources/Types**. The Plan will accept a Rollover Contribution (*Choose one of c. or d.*):

c.  **All**. From any Eligible Retirement Plan and as to all Contribution Types eligible to be rolled into this Plan.

d.  **Limited**. Only from the following types of Eligible Retirement Plans and/or as to the following Contribution Types:

All or a portion of an eligible rollover distribution from any Eligible Retirement Plan excluding the direct rollover of after-tax contributions.

**Distribution of Rollover Contributions** (*Choose one of e., f. or g.*):

e.  **Distribution without restrictions**. May elect distribution of his/her Rollover Contributions Account in accordance with Plan Section 4.05(C) at any time.

f.  **No distribution**. May not elect to receive distribution of his/her Rollover Contributions Account until the Plan has a distributable event under Plan Section 4.01.

g.  **Specify:** \_\_\_\_\_

31. EACA Automatic Deferral Provisions (3.14).

**Participants subject to the Automatic Deferral Provisions**. The Automatic Deferral Provisions apply to Employees who become Participants after the Effective Date of the EACA (except as provided in d. below). Employees who became Participants prior to such Effective Date are subject to the following (a. – d. are optional):

a.  **All Participants**. All Participants, regardless of any prior Salary Reduction Agreement, unless and until a Participant makes an Affirmative Election after the Effective Date of the EACA.

b.  **Election of at least Automatic Deferral amount**. All Participants, except those who, on the Effective Date of the EACA, are deferring an amount which is at least equal to the Automatic Deferral Percentage.

c.  **No existing Salary Reduction Agreement**. All Participants, except those who have in effect a Salary Reduction Agreement on the effective date of the EACA regardless of the Salary Reduction Contribution amount under the Agreement.

d.  **Describe:** \_\_\_\_\_

**Automatic Deferral Percentage**. Unless a Participant makes an Affirmative Election, the Employer will withhold the following Automatic Deferral Percentage (select e. or f.):

e.  **Constant**. The Employer will withhold \_\_\_\_\_% of Compensation each payroll period.

**Escalation** of deferral percentage (select one or leave blank if not applicable)

1.  **Scheduled increases.** This initial percentage will increase by \_\_\_\_\_% of Compensation per year up to a maximum of \_\_\_\_\_ of Compensation.
2.  **Other** (described Automatic Deferral Percentage): \_\_\_\_\_

**Automatic Deferral Optional Elections**

- f.  **Optional elections** (select all that apply or leave blank if not applicable)

**Suspended Salary Reduction Contributions.** If a Participant's Salary Reduction Contributions are suspended pursuant to a provision of the Plan (e.g., distribution due to military leave covered by the HEART Act), then a Participant's Affirmative Election will expire on the date the period of suspension begins unless otherwise elected below.

1.  A Participant's Affirmative Election will resume after the suspension period.

**Special Effective Date.** Provisions will be effective as of the earlier of the Effective Date of the EACA provisions unless otherwise specified below.

2.  Special Effective Date: \_\_\_\_\_

32. **In-Plan Roth Rollover Contributions.**

- a.  **Yes, allowed.**

**Effective Date** (enter date)

1.  In-Plan Roth Rollover Effective Date: \_\_\_\_\_

33. **In-Plan Roth Rollover Transfers.**

- a.  **Yes, allowed.**

**Effective Date** (enter date)

1.  In-Plan Roth Rollover Transfers Effective Date: \_\_\_\_\_

This Plan is executed on the date(s) specified below:

**Use of Adoption Agreement.** Failure to complete properly the elections in this Adoption Agreement may result in disqualification of the Employer's Plan. The Employer only may use this Adoption Agreement only in conjunction with the corresponding basic plan document.

EMPLOYER: Central Florida Regional Transportation Authority d/b/a LYNX

By: \_\_\_\_\_

\_\_\_\_\_  
DATE SIGNED

Voya Institutional Trust Company

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
DATE SIGNED

Brian Anderson

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
DATE SIGNED

Dana Baker

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
DATE SIGNED

Albert J Francis II

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
DATE SIGNED

**ELIGIBLE 457 PLAN**

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## ARTICLE I DEFINITIONS

1.01 "**Account**" means the separate Account(s) which the Plan Administrator or the Trustee maintains under the Plan for a Participant's Deferred Compensation. The Plan Administrator or Trustee may establish separate Accounts for multiple Beneficiaries of a Participant to facilitate required minimum distributions under Section 4.03 based on each Beneficiary's life expectancy.

1.02 "**Accounting Date**" means the last day of the Plan Year. The Plan Administrator will allocate Employer contributions and forfeitures for a particular Plan Year as of the Accounting Date of that Plan Year, and on such other dates, if any, as the Plan Administrator determines, consistent with the Plan's allocation conditions and other provisions.

1.03 "**Beneficiary**" means a person who the Plan or a Participant designates and who is or may become entitled to a Participant's Account upon the Participant's death. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Plan Administrator or Trustee has fully distributed to the Beneficiary his or her Plan benefit. A Beneficiary's right to (and the Plan Administrator's or a Trustee's duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.04 "**Code**" means the Internal Revenue Code of 1986, as amended.

### 1.05 "**Compensation**"

**(A) Uses and Context.** Any reference in the Plan to Compensation is a reference to the definition in this Section 1.05, unless the Plan reference, or the Employer in the Adoption Agreement, modifies this definition. Except as the Plan otherwise specifically provides, the Plan Administrator will take into account only Compensation actually paid during (or as permitted under the Code, paid for) the relevant period. A Compensation payment includes Compensation paid by the Employer through another person under the common paymaster provisions in Code §§3121 and 3306. In the case of an Independent Contractor, Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect to allocate contributions based on a Compensation within specified 12 month period which ends within a Plan Year.

**(B) Base Definitions and Modifications.** The Employer in the Adoption Agreement must elect one of the following base definitions of Compensation: W-2 Wages, Code §3401(a) Wages, or 415 Compensation. The Employer may elect a different base definition as to different Contribution Types. The Employer in the Adoption Agreement may specify any modifications thereto, for purposes of contribution allocations under Article III. If the Employer fails to elect one of the above-referenced definitions, the Employer is deemed to have elected the W-2 Wages definition.

**(1) W-2 Wages.** W-2 Wages means wages for federal income tax withholding purposes, as defined under Code §3401(a), plus all other payments to an Employee in the course of the Employer's trade or business, for which the Employer must furnish the Employee a written statement under Code §§6041, 6051, and 6052, but determined without regard to any rules that limit the remuneration included in wages based on the

nature or location of the employment or services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

**(2) Code §3401(a) Wages (income tax wage withholding).** Code §3401(a) Wages means wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source, but determined without regard to any rules that limit the remuneration included in wages based on the nature or the location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

**(3) Code §415 Compensation (current income definition/simplified compensation under Treas. Reg. §1.415(c)-2(d)(2)).** Code §415 Compensation means the Employee's wages, salaries, fees for professional service and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. §1.62-2(c)).

Code §415 Compensation does not include:

**(a) Deferred compensation/SEP/SIMPLE.** Employer contributions (other than Elective Deferrals) to a plan of deferred compensation (including a simplified employee pension plan under Code §408(k) or to a simple retirement account under Code §408(p)) to the extent the contributions are not included in the gross income of the Employee for the Taxable Year in which contributed, and any distributions from a plan of deferred compensation (whether or not qualified), regardless of whether such amounts are includible in the gross income of the Employee when distributed.

**(b) Option exercise.** Amounts realized from the exercise of a non-qualified stock option (an option other than a statutory option under Treas. Reg. §1.421-1(b)), or when restricted stock or other property held by an Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture under Code §83.

**(c) Sale of option stock.** Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option as defined under Treas. Reg. §1.421-1(b).

**(d) Other amounts that receive special tax benefits.** Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts under Code §125).

**(e) Other similar items.** Other items of remuneration which are similar to any of the items in Sections 1.11(B)(3)(a) through (d).

**(4) Alternative (general) 415 Compensation.** Under this definition, Compensation means as defined in Section 1.05(B)(3) but with the addition of: (a) amounts described in Code §§104(a)(3), 105(a), or 105(h) but only to the extent that these amounts are includible in Employee's gross income; (b) amounts paid or reimbursed by the Employer for moving expenses incurred by the Employee, but only to the extent that at the time of payment it is reasonable to believe these amounts are not deductible by the Employee under Code §217; (c) the value of a nonstatutory option (an option other than a statutory option under Treas. Reg. §1.421-1(b)) granted by the Employer to an Employee, but only to the extent that the value of the option is includible in the Employee's gross income for the Taxable Year of the grant; (d) the amount includible in the Employee's gross income upon the Employee's making of an election under Code §83(b); and (e) amounts that are includible in the Employee's gross income under Code §409A or Code §457(f)(1)(A) or because the amounts are constructively received by the Participant. [Note if the Plan's definition of Compensation is W-2 Wages or Code §3401(a) Wages, then Compensation already includes the amounts described in clause (e).]

**(C) Deemed 125 Compensation.** Deemed 125 Compensation means, in the case of any definition of Compensation which includes a reference to Code §125, amounts under a Code §125 plan of the Employer that are not available to a Participant in cash in lieu of group health coverage, because the Participant is unable to certify that he/she has other health coverage.

**(D) Modification to Compensation.** The Employer must specify in the Adoption Agreement the Compensation the Plan Administrator is to take into account in allocating Deferral Contributions to a Participant's Account. For all Plan Years other than the Plan Year in which the Employee first becomes a Participant, the Plan Administrator will take into account only the Compensation determined for the portion of the Plan Year in which the Employee actually is a Participant.

**(E) Elective Contributions.** Compensation under Section 1.05 includes Elective Contributions unless the Employer in the Adoption Agreement elects to exclude Elective Contributions. "Elective Contributions" are amounts excludible from the Employee's gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 408(p) or 457, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code §457 plan.

**(F) Post-Severance Compensation.** Compensation includes Post-Severance Compensation to the extent the Employer elects in the Adoption Agreement or as the Plan otherwise provides. Post-Severance Compensation is Compensation paid after a Participant's Severance from Employment from the Employer, as further described in this Section 1.05(F). As the Employer elects, Post-Severance Compensation may include any or all of regular pay, leave cash-outs, or deferred compensation paid within the time period described in Section 1.05(F)(1), and may also include salary continuation for disabled Participants, all as defined below. Any other payment paid after Severance from Employment that is not described in this Section 1.05(F) is not Compensation even if payment is made within the time period described below. Post-Severance Compensation does not include severance pay, parachute payments under Code §280G(b)(2) or payments under a nonqualified unfunded deferred compensation plan unless the payments would have

been paid at that time without regard to Severance from Employment.

**(1) Timing.** Post-Severance Compensation includes regular pay, leave cashouts, or deferred compensation only to the extent the Employer pays such amounts by the later of 2 1/2 months after Severance from Employment or by the end of the Limitation Year that includes the date of such Severance from Employment.

**(a) Regular pay.** Regular pay means the payment of regular Compensation for services during the Participant's regular working hours, or Compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, but only if the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer.

**(b) Leave cash-outs.** Leave cash-outs means payments for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and if Compensation would have included those amounts if they were paid prior to the Participant's Severance from Employment.

**(c) Deferred compensation.** As used in this Section 1.05(F), deferred compensation means the payment of deferred compensation pursuant to an unfunded deferred compensation plan, if Compensation would have included the Deferred Compensation if it had been paid prior to the Participant's Severance from Employment, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

**(2) Salary continuation for disabled Participants.** Salary continuation for disabled Participants means Compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)).

**(3) Differential Wage Payments.** An individual receiving a Differential Wage Payment, as defined by Code §3401(h)(2), shall be treated as an employee of the employer making the payment and the Differential Wage Payment shall be treated as compensation for purposes of Code §457(b) and any other Internal Revenue Code section that references the definition of compensation under Code §415, including the definition of Includible Compensation as provided in Section 1.15.

1.06 "**Deferral Contributions**" means as the Employer elects on the Adoption Agreement, Salary Reduction Contributions, Nonelective Contributions and Matching Contributions. The Plan Administrator in applying the Code §457(b) limit will take into account Deferral Contributions in the Taxable Year in which deferred, or if later, in the Taxable Year in which the Deferral Contributions are no longer subject to a Substantial Risk of Forfeiture. The Plan Administrator in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions unless the Deferral Contributions are subject to a Substantial Risk of Forfeiture. If a Deferral Contribution is subject to a Substantial Risk of Forfeiture, the Plan Administrator takes into the Deferral Contribution as adjusted for allocable net income, gain or loss in the Taxable Year in which the Substantial Risk of Forfeiture lapses.

1.07 "**Deferred Compensation**" means as to a Participant the amount of Deferral Contributions, Rollover Contributions and Transfers adjusted for allocable net income, gain or loss, in the Participant's Account.

1.08 "**Effective Date**" of this Plan is the date the Employer specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect special effective dates for Plan provisions the Employer specifies provided any such date(s) are permitted by the Code, by Treasury regulations, or by other applicable guidance.

1.09 "**Elective Deferrals**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in Section 3.02. The term "Elective Deferrals" includes Pre-Tax Elective Deferrals and Roth Elective Deferrals.

1.10 "**Employee**" means an individual who provides services for the Employer, as a common law employee of the Employer. The Employer in the Adoption Agreement must elect or specify any Employee, or class of Employees, not eligible to participate in the Plan (an "Excluded Employee"). See Section 1.16 regarding potential treatment of an Independent Contractor as an Employee.

1.11 "**Employer**" means the entity specified in the Adoption Agreement, any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating Employer.

1.12 "**Employer Contribution**" means Nonelective Contributions or Matching Contributions.

1.13 "**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

1.14 "**Excess Deferrals**" means Deferral Contributions to a Governmental Eligible 457 Plan or to a Tax-Exempt Organization Eligible 457 Plan for a Participant that exceed the Taxable Year maximum limitation of Code §§457(b) and (e)(18).

1.15 "**Includible Compensation**" means, for the Employee's Taxable Year, the Employee's total Compensation within the meaning of Code §415(c)(3) paid to an Employee for services rendered to the Employer. Includible Compensation includes Deferral Contributions under the Plan, compensation deferred under any other plan described in Code §457, and any amount excludible from the Employee's gross income under Code §§401(k), 403(b), 125 or 132(f)(4) or any other amount excludible from the Employee's gross income for Federal income tax purposes. The Employer will determine Includible Compensation without regard to community property laws.

1.16 "**Independent Contractor**" means any individual who performs service for the Employer and who the Employer does not treat as an Employee or a Leased Employee. The Employer in the Adoption Agreement may elect to permit Independent Contractors to participate in the Plan. To the extent that the Employer permits Independent Contractor participation, references to Employee in the Plan include Independent Contractors and Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement.

1.17 "**Leased Employee**" means an Employee within the meaning of Code §414(n).

1.18 "**Matching Contribution**" means an Employer fixed or discretionary contribution made or forfeiture allocated on account of Salary Reduction Contributions.

1.19 "**Nonelective Contribution**" means an Employer fixed or discretionary contribution not made as a result of a Salary Reduction Agreement and which is not a Matching Contribution.

1.20 "**Normal Retirement Age**" means the age the Employer specifies in the Adoption Agreement consistent with Section 3.05(B).

1.21 "**Participant**" is an Employee other than an Excluded Employee who becomes a Participant in accordance with the provisions of Section 2.01.

1.22 "**Plan**" means the 457 plan established or continued by the Employer in the form of this basic Plan and (if applicable) Trust Agreement, including the Adoption Agreement. The Employer in the Adoption Agreement must designate the name of the Plan. All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.23 "**Plan Administrator**" is the Employer unless the Employer designates another person to hold the position of Plan Administrator. The Plan Administrator may be a Participant.

1.24 "**Plan Entry Date**" means the dates the Employer elects in Adoption Agreement.

1.25 "**Plan Year**" means the consecutive 12-month period the Employer elects in the Adoption Agreement.

1.26 "**Pre-Tax Elective Deferrals**" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

1.27 "**Rollover Contribution**" means the amount of cash or property which an eligible retirement plan described in Code §402(c)(8)(B) distributes to an eligible Employee or to a Participant in an eligible rollover distribution under Code §402(c)(4) and which the eligible Employee or Participant transfers directly or indirectly to a Governmental Eligible 457 Plan. A Rollover Contribution includes net income, gain or loss attributable to the Rollover Contribution. A Rollover Contribution excludes after-tax Employee contributions, as adjusted for net income, gain or loss.

1.28 "**Roth Elective Deferrals**" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

1.29 "**Salary Reduction Agreement**" means a written agreement between a Participant and the Employer, by which

the Employer reduces the Participant's Compensation for Compensation not available as of the date of the election and contributes the amount as a Salary Reduction Contribution to the Participant's Account.

1.30 "**Salary Reduction Contribution**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement.

1.31 "**Service**" means any period of time the Employee is in the employ of the Employer. In the case of an Independent Contractor, Service means any period of time the Independent Contractor performs services for the Employer on an independent contractor basis. An Employee or Independent Contractor terminates Service upon incurring a Severance from Employment.

(A) **Qualified Military Service.** Service includes any qualified military service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). A Participant whose employment is interrupted by qualified military service under Code §414(u) or who is on a leave of absence for qualified military service under Code §414(u) may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Deferral Contributions that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the Deferral Contributions, if any, actually made for the Participant during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). The Employer shall make appropriate make-up Nonelective Contributions and Matching Contributions for such a Participant as required under Code §414(u). The Plan shall apply limitations of Article III to all Deferral Contributions under this paragraph with respect to the year to which the Deferral Contribution relates.

(B) "**Continuous Service**" as the Adoption Agreement describes means Service with the Employer during which the Employee does not incur a Severance from Employment.

(C) "**Severance from Employment.**"

(1) **Employee.** An Employee has a Severance from Employment when the Employee ceases to be an Employee of the Employer. A Participant does not incur a Severance from Employment if, in connection with a change in employment, the Participant's new employer continues or assumes sponsorship of the Plan or accepts a Transfer of Plan assets as to the Participant.

(2) **Independent Contractor.** An Independent Contractor has a Severance from Employment when the contract(s) under which the Independent Contractor performs services for the Employer expires (or otherwise terminates), unless the Employer anticipates a renewal of the contractual relationship or the Independent Contractor becoming an Employee. The Employer anticipates renewal if it intends to contract for the services provided under the expired contract and neither the Employer nor the Independent Contractor has eliminated the Independent Contractor as a potential provider of such services under the new contract. Further, the Employer intends to contract for services conditioned only upon the Employer's need for the services provided under the expired contract or the Employer's availability of funds. Notwithstanding the preceding provisions of this Section 1.31, the Plan Administrator will consider an Independent Contractor to have incurred a Severance from Employment: (a) if the Plan Administrator or Trustee will not pay any Deferred Compensation to an

Independent Contractor who is a Participant before a date which is at least twelve months after the expiration of the Independent Contractor's contract (or the last to expire of such contracts) to render Services to the Employer; and (b) if before the applicable twelve-month payment date, the Independent Contractor performs Service as an Independent Contractor or as an Employee, the Plan Administrator or Trustee will not pay to the Independent Contractor his or her Deferred Compensation on the applicable date.

(3) **Deemed Severance.** Notwithstanding Section 1.05(F), if the Employer elects in the Adoption Agreement, then if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to Code §412. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then no Deferral Contributions may be made for the Participant during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the 6-month suspension will not apply.

1.32 "**State**" means (a) one of the 50 states of the United States or the District of Columbia, or (b) a political subdivision of a State, or any agency or instrumentality of a State or its political subdivision. A State does not include the federal government or any agency or instrumentality thereof.

1.33 "**Substantial Risk of Forfeiture**" exists if the Plan expressly conditions a Participant's right to Deferred Compensation upon the Participant's future performance of substantial Service for the Employer.

1.34 "**Tax-Exempt Organization**" means any tax-exempt organization other than a governmental unit or a church or qualified church-controlled organization within the meaning of Code §3121(w)(3).

1.35 "**Taxable Year**" means the calendar year or other taxable year of a Participant.

1.36 "**Transfer**" means a transfer of Eligible 457 Plan assets to another Eligible 457 Plan which is not a Rollover Contribution and which is made in accordance with Section 9.03.

1.37 "**Trust**" means the Trust created under the adopting Employer's Plan. A Trust required under a Governmental Eligible 457 Plan is subject to Article VIII. Any Trust under a Tax-Exempt Organization Eligible 457 Plan is subject to Section 5.09.

1.38 "**Trustee**" means the person or persons who as Trustee execute the Employer's Adoption Agreement, or any successor in office who in writing accepts the position of Trustee.

1.39 **Type of 457 Plan.** This Plan is an Eligible 457 Plan, which is a plan which satisfies the requirements of Code §457(b) and Treas. Reg. §§1.457-3 through -10. The Employer in the Adoption Agreement must specify whether the plan is either a Governmental Eligible 457 Plan or a Tax-Exempt Organization Eligible 457 Plan, as defined below:

**(A) "Governmental Eligible 457 Plan"** means an Eligible 457 Plan established by a State.

**(B) "Tax-Exempt Organization Eligible 457 Plan"** means an Eligible 457 Plan established by a Tax-Exempt Organization.

1.40 **"Vested"** means a Participant's Deferral Contributions that are not subject to a Substantial Risk of Forfeiture, including a vesting schedule.

**ARTICLE II**  
**ELIGIBILITY AND PARTICIPATION**

2.01 ELIGIBILITY. Each Employee who is not an Excluded Employee becomes a Participant in the Plan in accordance with the eligibility conditions and as of the Plan Entry Date the Employer elects in the Adoption Agreement. If this Plan is a restated Plan, each Employee who was a Participant in the Plan on the day before the Effective Date continues as a Participant in the Plan, irrespective of whether he/she satisfies the eligibility conditions in the restated Plan, unless the Employer indicates otherwise in the Adoption Agreement.

2.02 PARTICIPATION UPON RE-EMPLOYMENT. A Participant who incurs a Severance from Employment will re-enter the Plan as a Participant on the date of his or her re-employment. An Employee who satisfies the Plan's eligibility conditions but who incurs a Severance from Employment prior to becoming a Participant will become a Participant on the later of the Plan Entry Date on which he/she would have entered the Plan had he/she not incurred a Severance from Employment or the date of his or her re-employment. Any Employee who incurs a Severance from Employment prior to satisfying the Plan's eligibility conditions becomes a Participant in accordance with the Adoption Agreement.

2.03 CHANGE IN EMPLOYMENT STATUS. If a Participant has not incurred a Severance from Employment but ceases to be eligible to participate in the Plan, by reason of becoming an Excluded Employee, the Plan Administrator must treat the Participant as an Excluded Employee during the period such a Participant is subject to the Adoption Agreement exclusion. The Plan Administrator determines a Participant's sharing in the allocation of Employer Contributions by disregarding his or her Compensation paid by the Employer for services rendered in his or her capacity as an Excluded Employee. However, during such period of exclusion, the Participant, without regard to employment classification, continues to share fully in Plan income allocations under Section 5.07 and to accrue vesting service if applicable.

**ARTICLE III**  
**DEFERRAL CONTRIBUTIONS/LIMITATIONS**

3.01 AMOUNT.

**(A) Contribution Formula.** For each Plan Year, or other period the Employer specifies in the Adoption Agreement, the Employer will contribute to the Plan the type and amount of Deferral Contributions the Employer elects in the Adoption Agreement.

**(B) Return of Contributions.** The Employer contributes to this Plan on the condition its contribution is not due to a mistake of fact. If the Plan has a Trust, the Trustee, upon written request from the Employer, must return to the Employer the amount of the Employer's contribution (adjusted for net income, gain or loss) made by the Employer on account of a mistake of fact. The Trustee will not return any portion of the Employer's contribution under the provisions of this paragraph more than one year after the Employer made the contribution on account of a mistake of fact. In addition, if any Participant Salary Reduction Contribution is due to a mistake of fact, the Employer or the Trustee upon written request from the Employer shall return the Participant's contribution (adjusted for net income, gain or loss), within one year after payment of the contribution.

The Trustee will decrease the Employer contribution returnable for any losses attributable to it. The Trustee may require the Employer to furnish it whatever evidence the Trustee deems necessary to enable the Trustee to confirm the amount the Employer has requested be returned is properly returnable.

**(C) Time of Payment of Contribution.** If the Plan has a Trust, the Employer may pay its contributions for each Plan Year to the Trust in one or more installments and at such time(s) as the Employer determines, without interest. A Governmental Employer shall deposit Salary Reduction Contributions to the Trust within a period that is not longer than is reasonable for the administration of Participant Accounts.

3.02 SALARY REDUCTION CONTRIBUTIONS. The Employer in the Adoption Agreement must elect whether the Plan permits Salary Reduction Contributions, and also the Plan limitations, if any, which apply to Salary Reduction Contributions. Unless the Employer elects otherwise in the Adoption Agreement, all such limitations apply on a payroll basis.

**(A) Deferral from Sick, Vacation and Back Pay.** The Employer in the Adoption Agreement must elect whether to permit Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

**(B) Automatic Enrollment.** The Employer in the Adoption Agreement may provide for automatic Salary Reduction Contributions of a specified amount, subject to giving notice to affected Participants of the automatic election and of their right to make a contrary election.

A Governmental Employer under an Eligible 457 Plan may elect to provide an Eligible Automatic Contribution Arrangement ("EACA"). If the Employer elects to provide an EACA, the Employer will amend the Plan to add necessary language.

**(C) Application to Leave of Absence and Disability.** Unless a Participant in his or her Salary Reduction Agreement elects otherwise, the Participant's Salary Reduction Agreement shall continue to apply during the Participant's leave of absence or the Participant's disability (as the Plan Administrator shall

establish), if the Participant has Compensation other than imputed compensation or disability benefits.

**(D) Post-severance deferrals limited to Post-Severance Compensation.** Deferrals are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation.

3.03 MATCHING CONTRIBUTIONS. The Employer in the Adoption Agreement must elect whether the Plan permits Matching Contributions and, if so, the type(s) of Matching Contributions, the time period applicable to any Matching Contribution formula, and as applicable, the amount of Matching Contributions and the Plan limitations, if any, which apply to Matching Contributions. Any Matching Contributions apply to age 50 catch-up contributions, if any, and to any Normal Retirement Age catch-up contributions unless the Employer elects otherwise in the Adoption Agreement.

3.04 NORMAL LIMITATION. Except as provided in Sections 3.05 and 3.06, a Participant's maximum Deferral Contributions (excluding Rollover Contributions and Transfers) under this Plan for a Taxable Year may not exceed the lesser of:

(a) The applicable dollar amount as specified under Code §457(e)(15) (or such larger amount as the Commissioner of the Internal Revenue may prescribe), or

(b) 100% of the Participant's Includible Compensation for the Taxable Year.

3.05 NORMAL RETIREMENT AGE CATCH-UP CONTRIBUTION. If selected in the Adoption Agreement, a Participant may elect to make this catch-up election. For one or more of the Participant's last three Taxable Years ending before the Taxable Year in which the Participant attains Normal Retirement Age, the Participant's maximum Deferral Contributions may not exceed the lesser of:

(a) Twice the dollar amount under Section 3.04(a) Normal Limitation, or (b) the underutilized limitation.

**(A) Underutilized Limitation.** A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation for the Taxable Year, and (ii) the normal limitation for each of the prior Taxable Years of the Participant commencing after 1978 during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the Normal Limitation or any other Code §457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding age 50 catch-up contributions.

**(B) Normal Retirement Age.** Normal Retirement Age is the age the Employer specifies in the Adoption Agreement provided that the age may not be: (i) earlier than the earliest of age 65 or the age at which Participants have the right to retire and receive under the Employer's defined benefit plan (or money purchase plan if the Participant is not eligible to participate in a defined benefit plan) immediate retirement benefits without actuarial or other reduction because of retirement before a later specified age; or (ii) later than age 70 1/2.

**(1) Participant Designation.** The Employer in the Adoption Agreement may permit a Participant to designate his or her Normal Retirement Age as any age including or between the foregoing ages.



**(2) Multiple 457 Plans.** If the Employer maintains more than one Eligible 457 Plan, the Plans may not permit any Participant to have more than one Normal Retirement Age under the Plans.

**(3) Police and Firefighters.** In a Governmental Eligible 457 Plan with qualified police or firefighter Participants within the meaning of Code §415(b)(2)(H)(ii)(I), the Employer in the Adoption Agreement may elect (or permit the qualified Participants to elect) a Normal Retirement Age as early as age 40 and as late as age 70 1/2.

**(C) Pre-2002 Coordination.** In determining a Participant's underutilized limitation, the Plan Administrator, in accordance with Treas. Reg. §1.457-4(c)(3)(iv), must apply the coordination rule in effect under now repealed Code §457(c)(2). The Plan Administrator also must determine the Normal Limitation for pre-2002 Taxable Years in accordance with Code §457(b)(2) as then in effect.

**3.06 AGE 50 CATCH-UP CONTRIBUTION.** An Employer sponsoring a Governmental Eligible 457 Plan must specify in the Adoption Agreement whether the Participants are eligible to make age 50 catch-up contributions.

If an Employer elects to permit age 50 catch-up contributions, all Employees who are eligible to make Salary Reduction Contributions under this Plan and who have attained age 50 before the close of the Taxable Year are eligible to make age 50 catch-up contributions for that Taxable Year in accordance with, and subject to the limitations of, Code §414(v). Such catch-up contributions are not taken into account for purposes of the provisions of the Plan implementing the required limitations of Code §457. If, for a Taxable Year, an Employee makes a catch-up contribution under Section 3.05, the Employee is not eligible to make age 50 catch-up contributions under this Section 3.06. A catch-up eligible Participant in each Taxable Year is entitled to the greater of the amount determined under Section 3.05 or Section 3.06 Catch-Up Amount plus the Section 3.04 Normal Limitation.

**3.07 CONTRIBUTION ALLOCATION.** The Plan Administrator will allocate to each Participant's Account his or her Deferral Contributions. The Employer will allocate Employer Nonelective and Matching Contributions to the Account of each Participant who satisfies the allocation conditions in the Adoption Agreement in the following manner:

**(a) Fixed match.** To the extent the Employer makes Matching Contributions under a fixed Adoption Agreement formula, the Plan Administrator will allocate the Matching Contribution to the Account of the Participant on whose behalf the Employer makes that contribution. A fixed Matching Contribution formula is a formula under which the Employer contributes a specified percentage or dollar amount on behalf of a Participant based on that Participant's Salary Reduction Contributions.

**(b) Discretionary match.** To the extent the Employer makes Matching Contributions under a discretionary Adoption Agreement formula, the Plan Administrator will allocate the Matching Contributions to a Participant's Account in the same proportion that each Participant's Salary Reduction Contributions taken into account under the formula bear to the total Salary Reduction Contributions of all Participants.

**(c) Tiered match.** If the Matching Contribution formula is a tiered formula, the Plan Administrator will allocate separately the Matching Contributions with respect to each tier of Salary Reduction Contributions, in accordance with the tiered formula.

**(d) Discretionary nonelective.** The Plan Administrator will allocate discretionary Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

**(e) Fixed nonelective.** The Plan Administrator will allocate fixed Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

**(f) Other nonelective.** The Plan Administrator will allocate Nonelective Contributions for a Plan Year as specified in the Adoption Agreement.

**3.08 ALLOCATION CONDITIONS.** The Plan Administrator will determine the allocation conditions applicable to Nonelective Contributions or to Matching Contributions (or to both) in accordance with the Employer's elections in the Adoption Agreement. The Plan Administrator will not allocate to a Participant any portion of an Employer Contribution (or forfeiture if applicable) for a Plan Year or applicable portion thereof in which the Participant does not satisfy the applicable allocation condition(s).

**3.09 ROLLOVER CONTRIBUTIONS.** If elected in the Adoption Agreement, an Employer sponsoring a Governmental Eligible 457 Plan may permit Rollover Contributions.

**(A) Operational Administration.** The Employer, operationally and on a nondiscriminatory basis, may elect to limit an eligible Employee's right or a Participant's right to make a Rollover Contribution. Any Participant (or as applicable, any eligible Employee), with the Employer's written consent and after filing with the Trustee the form prescribed by the Plan Administrator, may make a Rollover Contribution to the Trust. Before accepting a Rollover Contribution, the Trustee may require a Participant (or eligible Employee) to furnish satisfactory evidence the proposed transfer is in fact a "Rollover Contribution" which the Code permits an employee to make to an eligible retirement plan. The Trustee, in its sole discretion, may decline to accept a Rollover Contribution of property which could: (1) generate unrelated business taxable income; (2) create difficulty or undue expense in storage, safekeeping or valuation; or (3) create other practical problems for the Trust.

**(B) Pre-Participation Rollover.** If an eligible Employee makes a Rollover Contribution to the Trust prior to satisfying the Plan's eligibility conditions, the Plan Administrator and Trustee must treat the Employee as a limited Participant (as described in Rev. Rul. 96-48 or in any successor ruling). A limited Participant does not share in the Plan's allocation of any Employer Contributions and may not make Salary Reduction Contributions until he/she actually becomes a Participant in the Plan. If a limited Participant has a Severance from Employment prior to becoming a Participant in the Plan, the Trustee will distribute his or her Rollover Contributions Account to the limited Participant in accordance with Article IV.

**(C) Separate Accounting.** If an Employer permits Rollover Contributions, the Plan Administrator must account separately for: (1) amounts rolled into this Plan from an eligible retirement plan (other than from another Governmental Eligible 457 plan); and (2) amounts rolled into this Plan from another Governmental Eligible 457 Plan. The Plan Administrator for purposes of ordering any subsequent distribution from this Plan,

may designate a distribution from a Participant's Rollover Contributions as coming first from either of (1) or (2) above if the Participant has both types of Rollover Contribution Accounts.

**(D) May Include Roth Deferrals.** If this Plan is an eligible governmental 457(b) plan which accepts Roth Elective Deferrals, then a Rollover Contribution may include Roth Deferrals made to another plan, as adjusted for Earnings. Such amounts must be directly rolled over into this Plan from another plan which is qualified under Code §401(a), from a 403(b) plan, or from an eligible governmental 457 plan. The Plan must account separately for the Rollover Contribution, including the Roth Deferrals and the Earnings thereon.

**(E) In-Plan Roth Rollover Contributions.** A Governmental Employer under an Eligible 457 Plan may elect to permit In-Plan Roth Rollover Contribution. If the Employer decides to permit In-Plan Roth Rollover Contributions, the Employer will amend the Plan to add necessary language.

**3.10 DISTRIBUTION OF EXCESS DEFERRALS.** In the event that a Participant has Excess Deferrals, the Plan will distribute to the Participant the Excess Deferrals and allocable net income, gain or loss, in accordance with this Section 3.10.

**(A) Governmental Eligible 457 Plan.** The Plan Administrator will distribute Excess Deferrals from a Governmental Eligible 457 Plan as soon as is reasonably practicable following the Plan Administrator's determination of the amount of the Excess Deferral.

**(B) Tax-Exempt Organization Eligible 457 Plan.** The Plan Administrator will distribute Excess Deferrals from a Tax-Exempt Organization Eligible 457 Plan no later than April 15 following the Taxable Year in which the Excess Deferral occurs.

**(C) Plan Aggregation.** If the Employer maintains more than one Eligible 457 Plan, the Employer must aggregate all such Plans in determining whether any Participant has Excess Deferrals.

**(D) Individual Limitation.** If a Participant participates in another Eligible 457 Plan maintained by a different employer, and the Participant has Excess Deferrals, the Plan Administrator may, but is not required, to correct the Excess Deferrals by making a corrective distribution from this Plan.

**3.11 DEEMED IRA CONTRIBUTIONS.** A Governmental Employer under an Eligible 457 Plan may elect to permit Participants to make IRA contributions to this Plan in accordance with the Code §408(q) deemed IRA rules. If the Employer elects to permit deemed IRA contributions to the Plan, the Employer will amend the Plan to add necessary IRA language and either the Rev. Proc. 2003-13 sample deemed IRA language or an appropriate substitute.

**3.12 ROTH ELECTIVE DEFERRALS.** The Employer may elect in the Adoption Agreement to permit Roth Elective Deferrals. Unless elected otherwise, Roth Elective Deferrals shall be treated in the same manner as Elective Deferrals. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.

**(A) Elective Deferrals.** "Elective Deferral" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in

Section 3.02. The term "Elective Deferrals" includes Pre-tax Elective Deferrals and Roth Elective Deferrals.

**(B) Pre-Tax Elective Deferrals.** "Pre-Tax Elective Deferrals" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

**(C) Roth Elective Deferrals.** "Roth Elective Deferrals" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

**(D) Ordering Rules for Distributions.** The Administrator operationally may implement an ordering rule procedure for withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from a Participant's accounts attributable to Pre-Tax Elective Deferrals or Roth Elective Deferrals. Such ordering rules may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

**(E) Corrective distributions attributable to Roth Elective Deferrals.** For any Plan Year in which a Participant may make both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the Administrator operationally may implement an ordering rule procedure for the distribution of Excess Deferrals (Treas. Reg. §1.457-4(e)). Such an ordering rule may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first, to the extent such type of Elective Deferrals was made for the year. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

**(F) Loans.** If Participant loans are permitted under the Plan, then the Administrator may modify the loan policy or program to provide limitations on the ability to borrow from, or use as security, a Participant's Roth Elective Deferral account. Similarly, the loan policy or program may be modified to provide for an ordering rule with respect to the default of a loan that is made from the Participant's Roth Elective Deferral account and other accounts under the Plan.

**(G) Rollovers.** A direct rollover of a distribution from Roth Elective Deferrals shall only be made to a Plan which includes Roth Elective Deferrals as described in Code §402A(e)(1) or to a Roth IRA as described in Code §408A, and only to the extent the rollover is permitted under the rules of Code §402(c).

The Plan shall accept a rollover contribution of Roth Elective Deferrals only if it is a direct rollover from another Plan which permits Roth Elective Deferrals as described in Code

§402A(e)(1) and only to the extent the rollover is permitted under the rules of Code §402(c). The Employer, operationally and on a uniform and nondiscriminatory basis, may decide whether to accept any such rollovers.

The Plan shall not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Roth Elective Deferral account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth Elective Deferrals are not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than \$200 during a year. Furthermore, the Plan will treat a Participant's Roth Elective Deferral account and the Participant's other accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, eligible rollover distributions of a Participant's Roth Elective Deferrals are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.

The provisions of the Plan that allow a Participant to elect a direct rollover of only a portion of an eligible rollover distribution but only if the amount rolled over is at least \$500 is applied by treating any amount distributed from a Participant's Roth Elective Deferral account as a separate distribution from any amount distributed from the Participant's other accounts in the Plan, even if the amounts are distributed at the same time.

**(H) Automatic Enrollment.** If the Plan utilizes an automatic enrollment feature as described in Section 3.02(B), then any such automatic contribution shall be a Pre-Tax Elective Deferral.

**(I) Operational Compliance.** The Plan Administrator will administer Roth Elective Deferrals in accordance with applicable regulations or other binding authority.

**3.13 BENEFIT ACCRUAL.** If the Employer elects to apply this Section, then effective as of the date adopted, for benefit accrual purposes, the Plan treats an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

**(A) Determination of benefits.** The amount of Matching Contributions to be made pursuant to this Section 3.13 shall be determined as though the amount of Salary Reduction Contributions of an individual treated as reemployed under this Section on the basis of the individual's average actual Salary Reduction Contributions for the lesser of: (i) the 12-month period of service with the Employer immediately prior to qualified military service; or (ii) the actual length of continuous service with the Employer.

**3.14 ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT (EACA).** As elected in the Adoption Agreement, the Employer maintains a Plan with automatic enrollment provisions as an Eligible Automatic Contribution Arrangement ("EACA"). Accordingly, the Plan will satisfy the (1) uniformity requirements, and (2) notice requirements under this Section.

**(A) Uniformity.** The Automatic Deferral Percentage must be a uniform percentage of Compensation. All Participants in the EACA, are subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. If a Participant's Affirmative Election expires or otherwise ceases to be in effect, the Participant will immediately thereafter be subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. However, the Plan does not violate the uniform Automatic Deferral Percentage merely because the Plan applies any of the following provisions:

**(a) Years of participation.** The Automatic Deferral Percentage varies based on the number of plan years the Participant has participated in the Plan while the Plan has applied EACA provisions;

**(b) No reduction from prior default percentage.** The Plan does not reduce an Automatic Deferral Percentage that, immediately prior to the EACA's effective date was higher (for any Participant) than the Automatic Deferral Percentage;

**(c) Applying statutory limits.** The Plan limits the Automatic Deferral amount so as not to exceed the limits of Code Section 457(b)(2) (determined without regard to Age 50 Catch-Up Deferrals).

**(B) EACA notice.** The Plan Administrator annually will provide a notice to each Participant a reasonable period prior to each plan year the Employer maintains the Plan as an EACA ("EACA Plan Year").

**(a) Deemed reasonable notice/new Participant.** The Plan Administrator is deemed to provide timely notice if the Plan Administrator provides the EACA notice at least 30 days and not more than 90 days prior to the beginning of the EACA Plan Year.

**(b) Mid-year notice/new Participant or Plan.** If: (a) an Employee becomes eligible to make Salary Reduction Contributions in the Plan during an EACA Plan Year but after the Plan Administrator has provided the annual EACA notice for that plan year; or (b) the Employer adopts mid-year a new Plan as an EACA, the Plan Administrator must provide the EACA notice no later than the date the Employee becomes eligible to make Salary Reduction Contributions. However, if it is not practicable for the notice to be provided on or before the date an Employee becomes a Participant, then the notice will nonetheless be treated as provided timely if it is provided as soon as practicable after that date and the Employee is permitted to elect to defer from all types of Compensation that may be deferred under the Plan earned beginning on that date.

**(c) Content.** The EACA notice must provide comprehensive information regarding the Participants' rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant in accordance with applicable guidance.

**(C) EACA permissible withdrawal.** If elected in in the Adoption Agreement, a Participant who has Automatic Deferrals under the EACA may elect to withdraw all the Automatic Deferrals (and allocable earnings) under the provisions of this Section 3.14. Any distribution made pursuant to this Section will be processed in accordance with normal distribution provisions of the Plan.

**(a) Amount.** If a Participant elects a permissible withdrawal under this Section, then the Plan must make a

distribution equal to the amount (and only the amount) of the Automatic Deferrals made under the EACA (adjusted for allocable gains and losses to the date of the distribution). The Plan may separately account for Automatic Deferrals, in which case the entire account will be distributed. If the Plan does not separately account for the Automatic Deferrals, then the Plan must determine earnings or losses in a manner similar to the rules of Treas. Reg. §1.401(k)-2(b)(2)(iv) for distributions of excess contributions.

**(b) Fees.** Notwithstanding the above, the Plan Administrator may reduce the permissible distribution amount by any generally applicable fees. However, the Plan may not charge a greater fee for distribution under this Section than applies to other distributions. The Plan Administrator may adopt a policy regarding charging such fees consistent with this paragraph.

**(c) Timing.** The Participant may make an election to withdraw the Automatic Deferrals under the EACA no later than 90 days, or such shorter period as specified in the Adoption Agreement, after the date of the first Automatic Deferral under the EACA. For this purpose, the date of the first Automatic Deferral is the date that the Compensation subject to the Automatic Deferral otherwise would have been includible in the Participant's gross income. Furthermore, a Participant's withdrawal right is not restricted due to the Participant making an Affirmative Election during the 90 day period (or shorter period as specified in Adoption Agreement.).

**(d) Rehired Employees.** For purposes of this Section, an Employee who for an entire Plan Year did not have contributions made pursuant to a default election under the EACA will be treated as having not had such contributions for any prior Plan Year as well.

**(e) Effective date of the actual withdrawal election:** The effective date of the permissible withdrawal will be as soon as practicable, but in no event later than the earlier of (1) the pay date of the second payroll period beginning after the election is made, or (2) the first pay date that occurs at least 30 days after the election is made. The election will also be deemed to be an Affirmative Election to have no Salary Reduction Contributions made to the Plan.

**(f) Related matching contributions.** The Plan Administrator will not take any deferrals withdrawn pursuant to this section into account in computing the contribution and allocation of matching contributions, if any. If the Employer has already allocated matching contributions to the Participant's account with respect to deferrals being withdrawn pursuant to this Section, then the matching contributions, as adjusted for gains and losses, must be forfeited. Except as otherwise provided, the Plan will use the forfeited contributions to reduce future contributions or to reduce plan expenses.

**(D) Compensation.** Compensation for purposes of determining the amount of Automatic Deferrals has the same meaning as Compensation with regard to Salary Reduction Contributions in general.

## **(E) Definitions.**

**(a) Definition of Automatic Deferral.** An Automatic Deferral is a Salary Reduction Contribution that results from the operation of this Article III. Under the Automatic Deferral, the Employer automatically will reduce by the Automatic Deferral Percentage as elected the Compensation of each Participant subject to the EACA. The Plan Administrator will cease to apply the Automatic Deferral to a Participant who makes an Affirmative Election as defined in this Section.

**(b) Definition of Automatic Deferral Percentage/Increases.** The Automatic Deferral Percentage is the percentage of Automatic Deferral (including any scheduled increase to the Automatic Deferral Percentage the Employer may elect).

**(c) Effective date of EACA Automatic Deferral.** The effective date of an Employee's Automatic Deferral will be as soon as practicable after the Employee is subject to Automatic Deferrals under the EACA, consistent with (a) applicable law, and (b) the objective of affording the Employee a reasonable period of time after receipt of the notice to make an Affirmative Election (and, if applicable, an investment election).

**(d) Definition of Affirmative Election.** An Affirmative Election is a Participant's election made after the EACA's Effective Date not to defer any Compensation or to defer more or less than the Automatic Deferral Percentage.

**(e) Effective Date of Affirmative Election.** A Participant's Affirmative Election generally is effective as of the first payroll period which follows the payroll period in which the Participant made the Affirmative Election. However, a Participant may make an Affirmative Election which is effective: (a) for the first payroll period in which he or she becomes a Participant if the Participant makes an Affirmative Election within a reasonable period following the Participant's entry date and before the Compensation to which the Election applies becomes currently available; or (b) for the first payroll period following the EACA's effective date, if the Participant makes an Affirmative Election not later than the EACA's effective date.

## **3.15 IN-PLAN ROTH ROLLOVER CONTRIBUTION**

**(a) Employer Election.** The Employer in its Adoption Agreement in which the Employer has elected to permit Roth Deferrals also will elect whether to permit an In-Plan Roth Rollover Contribution in accordance with this Section with regard to otherwise distributable amounts and/or otherwise nondistributable amounts. If the Employer elects to permit such contributions, the Employer in its Adoption Agreement will specify the Effective Date thereof which may not be earlier than distributions made after September 27, 2010, and may not be earlier than January 1, 2013 in the case of rollovers of otherwise nondistributable amounts. An In-Plan Roth Rollover Contribution means a Rollover Contribution to the Plan that consists of a distribution or transfer from a Participant's Plan Account, other than a Roth Deferral Account, that the Participant transfers to the Participant's In-Plan Roth Rollover Contribution Account in the Plan, in accordance with Code §402(c)(4). In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth Deferral Accounts, subject to preservation of protected benefits.

**(b) Eligibility for Distribution and Rollover.** A Participant may not make an In-Plan Roth Rollover Contribution with regard to an otherwise distributable amount which is not an Eligible Rollover Distribution.

**(1) Parties eligible to elect.** For purposes of eligibility for an In-Plan Roth Rollover, the Plan will treat a Participant's surviving spouse Beneficiary or alternate payee spouse or alternate payee former spouse as a Participant. A non-spouse Beneficiary may not make an In-Plan Roth Rollover.

**(2) Distribution from partially Vested account.** In-Plan Roth Rollovers are permitted only from Vested amounts allocated to a qualifying source but may be made from partially Vested Accounts. If a distribution is made to a Participant who

has not incurred a Severance from Employment and who is not fully Vested in the Participant's Account from which the In-Plan Roth Rollover Contribution is to be made, and the Participant may increase the Vested percentage in such Account.

**(c) Form and Source of Rollover.**

**(1) Direct Rollover.** An In-Plan Roth Rollover Contribution may be made only by a Direct Rollover.

**(2) Account source.** A Participant may make an In-Plan Roth Rollover from any account (other than a Roth account).

**(3) Cash or in-kind.** The Plan Administrator will effect an In-Plan Roth Rollover Contribution by rolling over the Participant's current investments to the In-Plan Roth Rollover Account. A Plan loan so rolled over without changing the repayment schedule is not treated as a new loan. However the Employer may provide that loans cannot be rolled over in an In-Plan Roth Rollover.

**(4) No Rollover or Distribution Treatment.** Notwithstanding any other Plan provision, an In-Plan Roth Rollover Contribution is not a Rollover Contribution for

purposes of the Plan. Accordingly: (a) if the Employer in its Adoption Agreement has elected \$5,000 as the Plan limit on Mandatory Distributions, the Plan Administrator will take into account amounts attributable to an In-Plan Roth Rollover Contribution, in determining if the \$5,000 limit is exceeded, regardless of the Employer's election as to whether to count Rollover Contributions for this purpose; (b) no spousal consent is required for a Participant to elect to make an In-Plan Roth Rollover Contribution; (c) protected benefits with respect to the amounts subject to the In-Plan Roth Rollover are preserved; and (d) mandatory 20% federal income tax withholding does not apply to the In Plan Roth Rollover Contribution.

**(5) In-Plan Roth Rollover Contribution Account.**

An In-Plan Roth Rollover Contribution Account is a sub-account the Plan Administrator may establish to account for a Participant's Rollover Contributions attributable to the Participant's In-Plan Roth Rollover Contributions. The Plan Administrator has authority to establish such a sub-account, and to the extent necessary, may establish sub-accounts based on the source of the In-Plan Roth Rollover Contribution. The Plan Administrator will administer an In-Plan Roth Rollover Contribution Account in accordance with Code and the Plan provisions.

**ARTICLE IV  
TIME AND METHOD OF  
PAYMENT OF BENEFITS**

4.01 DISTRIBUTION RESTRICTIONS. Except as the Plan provides otherwise, the Plan Administrator or Trustee may not distribute to a Participant the amounts in his or her Account prior to one of the following events:

- (a) The Participant's attaining age 70 1/2;
- (b) The Participant's Severance from Employment; or
- (c) The Participant's death.

4.02 TIME AND METHOD OF PAYMENT OF ACCOUNT. The Plan Administrator, or Trustee at the direction of the Plan Administrator, will distribute to a Participant who has incurred a Severance from Employment the Participant's Vested Account under one or any combination of payment methods and at the time(s) the Adoption Agreement specifies. If the Adoption Agreement permits more than one time or method, the Plan Administrator, in the absence of a Participant election described below, will determine the time and method applicable to a particular Participant. In no event will the Plan Administrator direct (or direct the Trustee to commence) distribution, nor will the Participant elect to have distribution commence, later than the Participant's required beginning date, or under a method that does not satisfy Section 4.03.

**(A) Participant Election of Time and Method.** The Employer in the Adoption Agreement must elect whether to permit Participants to elect the timing and method of distribution of their Account in accordance with this Section 4.02. The Plan Administrator must consent to the specific terms of any such Participant election and the Plan Administrator in its sole discretion may withhold consent. Subject to the foregoing conditions, a Participant: (1) may elect to postpone distribution of his or her Account beyond the time the Employer has elected in the Adoption Agreement, to any fixed or determinable date including, but not beyond, the Participant's required beginning date; and (2) may elect the method of payment. A Participant in a Tax Exempt Organization Eligible 457 Plan may elect the timing and method of payment of his or her Account no later than 30 days before the date the Plan Administrator or Trustee first would commence payment of the Participant's Account in accordance with the Adoption Agreement. The Plan Administrator must furnish to the Participant a form for the Participant to elect the time and a method of payment. A Participant in a Governmental Eligible 457 Plan is not subject to any such requirement in election the timing or method of payment.

**(B) Number of Initial Elections/Subsequent Elections.** A Participant in a Tax-Exempt Organization Eligible 457 Plan may make any number of elections or revoke any prior election under Section 4.02(A) within the election period. Once the initial election period expires, a Participant, before payment would commence under the Participant's initial election, may make one additional election to defer (but not to accelerate) the timing of payment of his or her Account and also as to the method of payment.

**(C) No Election/Default.** If the Participant does not make a timely election regarding the time and method of payment, the Plan Administrator will pay or direct the Trustee to pay the Participant's Account in accordance with the Adoption Agreement.

**(D) Mandatory Distribution.** The Employer in the Adoption Agreement will elect whether the Plan will make Mandatory

Distributions. If the Employer elects Mandatory Distributions, the Employer may determine operationally whether to include Rollover Contributions in determining whether the Participant is subject to Mandatory Distributions.

4.03 REQUIRED MINIMUM DISTRIBUTIONS. The Plan Administrator may not distribute nor direct the Trustee to distribute the Participant's Account, nor may the Participant elect any distribution his or her Account, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements of Code §401(a)(9) or which is not consistent with applicable Treasury regulations.

**(A) General Rules.**

**(1) Precedence.** The requirements of this Section 4.03 will take precedence over any inconsistent provisions of the Plan.

**(2) Requirements of Treasury Regulations Incorporated.** All distributions required under this Section 4.03 will be determined and made in accordance with the Treasury regulations under Code §401(a)(9).

**(B) Time and Manner of Distribution.**

**(1) Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

**(2) Death of Participant Before Distribution Begins.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

**(a) Spouse Designated Beneficiary.** If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

**(b) Non-Spouse Designated Beneficiary.** If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

**(c) No Designated Beneficiary.** If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

**(d) Death of Spouse.** If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.03(B)(2) other than Section 4.03(B)(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.03(B) and Section 4.03(D), unless Section 4.03(B)(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(B)(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), the date distributions are considered to begin is the date distributions actually commence.

**(3) Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 4.03(C) and 4.03(D). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Treasury regulations.

**(C) Required Minimum Distributions during Participant's Lifetime.**

**(1) Amount of Required Minimum Distribution for Each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

**(a) ULT.** The quotient obtained by dividing the Participant's account balance by the number in the Uniform Life Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's attained age as of the Participant's birthday in the distribution calendar year; or

**(b) Younger Spouse.** If the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

**(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under this Section 4.03(C) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

**(D) Required Minimum Distributions after Participant's Death.**

**(1) Death On or After Distributions Begin.**

**(a) Participant Survived by Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

**(i) Participant's Life Expectancy.** The Participant's remaining life expectancy is calculated using the attained age of the Participant as of the Participant's birthday in

the calendar year of death, reduced by one for each subsequent calendar year.

**(ii) Spouse's Life Expectancy.** If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the attained age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

**(iii) Non-Spouse's Life Expectancy.** If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the attained age of the Beneficiary as of the Beneficiary's birthday in the calendar year following the calendar year of the Participant's death, reduced by one for each subsequent calendar year.

**(b) No Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the calendar year after the calendar year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the calendar year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

**(2) Death before Date Distributions Begin.**

**(a) Participant Survived by Designated Beneficiary.** Except as the Employer may elect in the Adoption Agreement, if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.03(D)(1).

**(b) No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

**(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), this Section 4.03(D)(2) will apply as if the surviving spouse were the Participant.

**(d) 5-year or Life Expectancy rule; possible election.** The Employer in its Adoption Agreement will elect whether distribution of the Participant's Account will be made in accordance with the life expectancy rule under Section 4.03(D)(2)(a) or the 5-year rule under Section 4.03(D)(2)(b). The Employer's election may permit a Designated Beneficiary to elect which of these rules will apply or may specify which rule applies. However, the life expectancy rule (whether subject to

election or not) applies only in the case of a Designated Beneficiary. The 5-year rule applies as to any Beneficiary who is not a Designated Beneficiary. A permitted election under this Section must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 4.03(D)(2)(a), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

#### (E) Definitions.

**(1) Designated Beneficiary.** The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-1, Q&A-4.

**(2) Distribution calendar year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin under Section 4.03(B)(2). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

**(3) Life expectancy.** Life expectancy as computed by use of the Single Life Table in Treas. Reg. §1.401(a)(9)-9.

**(4) Participant's account balance.** The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any Rollover Contributions or Transfers to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

**(5) Required beginning date.** A Participant's required beginning date is the April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70 1/2, or (2) the calendar year in which the Participant retires or such other date under Code §401(a)(9) by which required minimum distributions must commence.

**4.04 DEATH BENEFITS.** Upon the death of the Participant, the Plan Administrator must pay or direct the Trustee to pay the Participant's Account in accordance with Section 4.03. Subject to Section 4.03, a Beneficiary may elect the timing and method of payment in the same manner as a Participant may elect under Section 4.02, if such elections apply.

If a Participant dies while performing qualified military service (as defined in Code §414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.

**4.05 DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT.** The Employer must elect in the Adoption Agreement whether to permit in-service distributions of a Participant's Vested Account under this Section 4.05, notwithstanding the Section 4.01 distribution restrictions.

**(A) Unforeseeable Emergency.** In the event of a Participant's or the Participant's spouse, dependents or beneficiaries' unforeseeable emergency, the Plan Administrator may make a distribution to a Participant who has not incurred a Severance from Employment (or who has incurred a Severance but will not begin to receive payments until some future date). In the event of an unforeseeable emergency, the Plan Administrator also may accelerate payments to a Participant or to a Beneficiary. The Plan Administrator will establish a policy for determining whether an unforeseeable emergency exists. An unforeseeable emergency is a severe financial hardship of a Participant or Beneficiary resulting from: (1) illness or accident of the Participant, the Beneficiary, or the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); (2) loss of the Participant's or Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control, or which applicable law may define as an unforeseeable emergency. The Plan Administrator will not pay the Participant or the Beneficiary more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Plan Administrator will not make payment to the extent the Participant or Beneficiary may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

The Participant's Beneficiary is a person who a Participant designates and who is or may become entitled to a Participant's Plan Account upon the Participant's death.

**(B) De minimis distribution.** In accordance with the Employer's Adoption Agreement elections, the Plan Administrator may allow a Participant to elect to receive a distribution or the Plan Administrator will distribute (without a Participant election) any amount of the Participant's Account where: (1) the Participant's Account (disregarding Rollover Contributions) does not exceed \$5,000 (or such other amount as does not exceed the Code §411(a)(11)(A) dollar amount); (2) the Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (3) the Participant has not received a prior distribution under this Section 4.05(B).

**(C) Distribution of Rollover Contributions.** The Employer in the Adoption Agreement may elect to permit a Participant to request and to receive distribution of the Participant's Account attributable to Rollover Contributions (but not to Transfers) before the Participant has a distributable event under Section 4.01.

#### **4.06 DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs).**

Notwithstanding any other provision of this Plan, the Employer in the Adoption Agreement may elect to apply the QDRO provisions of this Section 4.06. If Section 4.06 applies, the Plan Administrator (and any Trustee) must comply with the terms of a QDRO, as defined in Code §414(p), which is issued with respect to the Plan.



**(A) Time and Method of Payment.** This Plan specifically permits distribution to an alternate payee under a QDRO at any time, notwithstanding any contrary Plan provision and irrespective of whether the Participant has attained his or her earliest retirement age (as defined under Code §414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only if the QDRO specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution. Nothing in this Section 4.06 gives a Participant a right to receive distribution at a time the Plan otherwise does not permit nor authorizes the alternate payee to receive a form of payment the Plan does not permit.

**(B) QDRO Procedures.** The Plan Administrator must establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Plan Administrator promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Plan Administrator's determination. The Plan Administrator must provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

**(C) Accounting.** If any portion of the Participant's Account Balance is payable under the domestic relations order during the period the Plan Administrator is making its determination of the qualified status of the domestic relations order, the Plan Administrator must maintain a separate accounting of the amounts payable. If the Plan Administrator determines the order is a QDRO within 18 months of the date amounts first are payable following receipt of the domestic relations order, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in accordance with the QDRO. If the Plan Administrator does not make its determination of the qualified status of the order within the 18-month determination period, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and will apply the order prospectively if the Plan Administrator later determines the order is a QDRO.

To the extent it is not inconsistent with the provisions of the QDRO, the Plan Administrator may segregate or may direct the Trustee to segregate the QDRO amount in a segregated investment account. The Plan Administrator or Trustee will make any payments or distributions required under this Section 4.06 by separate benefit checks or other separate distribution to the alternate payee(s).

**(D) Permissible QDROs.** A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death.

#### 4.07 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS – GOVERNMENTAL PLAN.

**(A) Participant Election.** A Participant (including for this purpose, a former Employee) in a Governmental Eligible 457 Plan may elect, at the time and in the manner the Plan

Administrator prescribes, to have any portion of his or her eligible rollover distribution from the Plan paid directly to an eligible retirement plan specified by the Participant in a direct rollover election. For purposes of this election, a "Participant" includes as to their respective interests, a Participant's surviving spouse and the Participant's spouse or former spouse who is an alternate payee under a QDRO.

**(B) Rollover and Withholding Notice.** At least 30 days and not more than 180 days prior to the Trustee's distribution of an eligible rollover distribution, the Plan Administrator must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice").

**(C) Default distribution or rollover.** Except as provided in Paragraph (D), in the case of a Participant who does not elect timely to roll over or to receive distribution of his or her Account, the Plan Administrator or the Trustee, at the Plan Administrator's direction, may distribute to the Participant or may directly roll over the Participant's Account in accordance with the Plan's rollover notice.

**(D) Mandatory default rollover.** If (1) the Plan is a Governmental Eligible 457 Plan, (2) the Plan makes a mandatory distribution after the Code §401(a)(31)(B) Effective Date, greater than \$1,000, and (3) the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

**(E) Non-spouse beneficiary rollover right.** A non-spouse beneficiary who is a "designated beneficiary" under Section 4.03(E)(1), by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

**(1) Certain requirements not applicable.** Although a non-spouse beneficiary may roll over directly a distribution as provided in Section 4.07(E), the distribution is not subject to the direct rollover requirements of Code §401(a)(31) (including the automatic rollover provisions of Code §401(a)(31)(B)), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

**(2) Trust beneficiary.** If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

**(3) Required minimum distributions not eligible for rollover.** A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in

determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

**(F) Definitions.** The following definitions apply to this Section:

**(1) Eligible rollover distribution.** An eligible rollover distribution is any distribution of all or any portion of a Participant's Account, except an eligible rollover distribution does not include: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a specified period of ten years or more; (b) any Code §401(a)(9) required minimum distribution; (c) any unforeseeable emergency distribution; and (d) any distribution which otherwise would be an eligible rollover distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200.

**(2) Eligible retirement plan.** An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), a qualified plan described in Code §401(a), an annuity contract (or custodial agreement) described in Code §403(b), or an eligible deferred compensation plan described in Code §457(b) and maintained by an Employer described in Code §457(e)(1)(A), which accepts the Participant's, the Participant's spouse or alternate payee's eligible rollover distribution.

A Participant or beneficiary may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b). For this purpose, the term "eligible rollover distribution" includes a rollover distribution described in this Section.

**(3) Direct rollover.** A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

**(4) Mandatory distribution.** A mandatory distribution is an eligible rollover distribution without the Participant's consent before the Participant attains the later of age 62 or Normal

Retirement Age (see paragraph 3.05 (B)). A distribution to a beneficiary is not a mandatory distribution.

**(5) 401(a)(31)(B) Effective Date.** The 401(a)(31)(B) Effective Date is the date of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006.

**4.08 ELECTION TO DEDUCT FROM DISTRIBUTION.** An Eligible Retired Public Safety Officer may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the Eligible Retired Public Safety Officer otherwise would receive and include in income. The Plan will pay such deducted amounts directly to pay qualified health insurance premiums.

**(A) Direct payment.** The Plan will pay directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified health insurance premiums, and which otherwise complies with Code §402(l).

**(B) Definitions.**

**(1) Eligible retired public safety officer.** An "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer.

**(2) Public safety officer.** A "Public Safety Officer" has the same meaning as in Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

**(3) Qualified health insurance premiums.** The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his or her spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

**ARTICLE V**  
**PLAN ADMINISTRATOR - DUTIES WITH RESPECT TO PARTICIPANTS' ACCOUNTS**

5.01 TERM/VACANCY. The Plan Administrator will serve until his or her successor is appointed. In case of a vacancy in the position of the Plan Administrator, the Employer will exercise any and all of the powers, authority, duties and discretion conferred upon the Plan Administrator pending the filling of the vacancy.

5.02 POWERS AND DUTIES. The Plan Administrator will have the following powers and duties:

- (a) To select a committee to assist the Plan Administrator;
- (b) To select a secretary for the committee, who need not be a member of the committee;
- (c) To determine the rights of eligibility of an Employee to participate in the Plan and the value of a Participant's Account;
- (d) To adopt rules and procedures and to create administrative forms necessary for the proper and efficient administration of the Plan provided the rules, procedures and forms are not inconsistent with the terms of the Plan;
- (e) To construe and enforce the terms of the Plan and the rules and regulations the Plan Administrator adopts, including interpretation of the Plan documents and documents related to the Plan's operation;
- (f) To direct the distribution of a Participant's Account;
- (g) To review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (h) To furnish the Employer with information which the Employer may require for tax or other purposes;
- (i) To establish a policy in making distributions for unforeseeable emergencies;
- (j) To establish under a Governmental Eligible 457 Plan, policies regarding the receipt of Rollover Contributions and default rollover distributions;
- (k) To establish a policy regarding the making and the receipt of Transfers;
- (l) To establish a policy regarding Participant or Beneficiary direction of investment;
- (m) To engage the services of any person to invest any Account under this Plan and to direct such person to make payment to a Participant of his or her Vested Account;
- (n) To establish under a Governmental Eligible 457 Plan, a policy (see Section 5.02(A)) which the Trustee must observe in making loans, if any, to Participants and Beneficiaries;
- (o) To undertake correction of any Plan failures as necessary to preserve eligible Plan status; and
- (p) To undertake any other action the Plan Administrator deems reasonable or necessary to administer the Plan.

The Plan Administrator shall have total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Plan

Administrator makes under the Plan is final and binding upon any affected person.

**(A) Loan Policy.** In a Governmental Eligible 457 Plan, the Plan Administrator, in its sole discretion, may establish, amend or terminate from time to time, a nondiscriminatory policy which the Trustee must observe in making Plan loans, if any, to Participants and to Beneficiaries. If the Plan Administrator adopts a loan policy, the loan policy must be a written document and must include: (1) the identity of the person or positions authorized to administer the participant loan program; (2) the procedure for applying for a loan; (3) the criteria for approving or denying a loan; (4) the limitations, if any, on the types and amounts of loans available; (5) the procedure for determining a reasonable rate of interest; (6) the types of collateral which may secure the loan; and (7) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. A loan policy the Plan Administrator adopts under this Section 5.02(A) is part of the Plan, except that the Plan Administrator may amend or terminate the policy without regard to Section 9.01.

**(B) QDRO Policy.** If the QDRO provisions of Section 4.06 apply, the Plan Administrator will establish QDRO procedures.

5.03 COMPENSATION. The Plan Administrator and the members of the Committee will serve without compensation for services, but the Employer will pay all expenses of the Plan Administrator and Committee.

5.04 AUTHORIZED REPRESENTATIVE. The Plan Administrator may authorize any one of the members of the Committee, if any, or the Committee's Secretary, to sign on the Plan Administrator's behalf any Plan notices, directions, applications, certificates, consents, approvals, waivers, letters or other documents.

5.05 INDIVIDUAL ACCOUNTS/RECORDS. The Plan Administrator will maintain a separate Account in the name of each Participant to reflect the value of the Participant's Deferred Compensation under the Plan. The Plan Administrator will maintain records of its activities.

5.06 VALUE OF PARTICIPANT'S ACCOUNT. The value of each Participant's Account consists of his or her accumulated Deferred Compensation, as of the most recent Accounting Date or any later date as the Plan Administrator may determine.

**5.07 ACCOUNT ADMINISTRATION, VALUATION AND EXPENSES.**

**(A) Individual Accounts.** The Plan Administrator, as necessary for the proper administration of the Plan, will maintain, or direct the Trustee to maintain, a separate Account, or multiple Accounts, in the name of each Participant to reflect the Participant's Account Balance under the Plan. The Plan Administrator will make its allocations of Employer Contributions and of Earnings, or will request the Trustee to make such allocations, to the Accounts of the Participants as necessary to maintain proper Plan records and in accordance with the applicable: (i) Contribution Types; (ii) allocation conditions; (iii) investment account types; and (iv) Earnings allocation methods. The Plan Administrator may also maintain, or direct the Trustee to maintain, a separate temporary Account for Participant forfeitures which occur during a Plan Year, pending their accrual and allocation in accordance with the Plan terms, or for other special items as the Plan Administrator

determines is necessary and appropriate for proper plan administration.

**(1) By Contribution Type.** The Plan Administrator, will establish Plan Accounts for each Participant as necessary to reflect his or her Accounts attributable to the following Contribution Types and the Earnings attributable thereto: Pre-Tax Deferrals, Roth Deferrals, Matching Contributions, Nonelective Contributions, Rollover Contributions (including Roth versus pre-tax amounts), and Transfers.

**(2) By investment account type.** The Plan Administrator will establish separate Accounts for each Participant as necessary to reflect his or her investment account types as described below:

**(a) Pooled Accounts.** A Pooled Account is an Account which for investment purposes is not a Segregated Account or a Participant-Directed Account. If any or all Plan investment Accounts are Pooled Accounts, each Participant's Account has an undivided interest in the assets comprising the Pooled Account. In a Pooled Account, the value of each Participant's Account Balance consists of that proportion of the net worth (at fair market value) of the Trust Fund which the net credit balance in his or her Account (exclusive of the cash value of incidental benefit insurance contracts) bears to the total net credit balance in the Accounts of all Participants plus the cash surrender value of any insurance contracts held by the Trustee on the Participant's life. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

**(b) Participant-Directed Accounts.** A Participant-Directed Account is an Account that the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant to invest in one or more assets that are not pooled assets held by the Trust, such as assets in a brokerage account or other property in which other Participants do not have any interest. As the Plan Administrator determines, a Participant-Directed Account may provide for a limited number and type of investment options or funds, or may be open-ended and subject only to any limitations imposed by applicable law. A Participant may have one or more Participant-Directed Accounts in addition to Pooled or Segregated Accounts. A Participant-Directed Account is credited and charged with the Earnings. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

**(c) Segregated Accounts.** A Segregated Account is an Account the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant: (i) to facilitate installment payments; (ii) to hold a QDRO amount; (iii) to prevent a distortion of Plan Earnings allocations; or (iv) for such other purposes as the Plan Administrator may direct. A Segregated Account receives all income it earns and bears all expense or loss it incurs. The Trustee will invest the assets of a Segregated Account consistent with the purpose for which the Plan Administrator or Trustee established the Account. As of each Valuation Date, the Plan Administrator must reduce a Segregated Account for any forfeiture arising after the Plan

Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the Valuation Period. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination and such combination does not result in the impermissible elimination of any Code §411(d)(6) protected benefits.

**(3) Amount of Account/distributions.** The amount of a Participant's Account, as determined by the Plan Administrator, is equal to the sum of all contributions, Earnings and other additions credited to the Account, less all distributions (including distributions to Beneficiaries and to alternate payees and also including disbursement of Plan loan proceeds), expenses and other charges against the Account as of a Valuation Date or other relevant date. For purposes of a distribution under the Plan, the amount of a Participant's Account Balance is determined based upon its value on the Valuation Date immediately preceding or coinciding with the date of the distribution. If any or all Plan investment Accounts are Participant-Directed Accounts, the directing Participant's Account Balance consists of the assets held within the Participant-Directed Account and the value of the Account is determined based upon the fair market value of such assets.

**(4) Account statements.** As soon as practicable after the Accounting Date of each Plan Year, the Plan Administrator will deliver to each Participant (and to each Beneficiary) a statement reflecting the amount of his or her Account Balance in the Trust as of the statement date or most recent Valuation Date. No Participant, except the Plan Administrator/Participant or Trustee/Participant, has the right to inspect the records reflecting the Account of any other Participant.

**(B) Allocation of Earnings.** This Section 5.07(B) applies solely to the allocation of Earnings of the Trust Fund. The Plan Administrator will allocate Employer Contributions and Participant forfeitures, if any, in accordance with Article III. Earnings means the net income, gain or loss earned by a particular Account, by the Trust, or with respect to a contribution or to a distribution, as the context requires.

**(1) Allocate as of Valuation Date.** As of each Valuation Date, the Plan Administrator must adjust Accounts to reflect Earnings for the Valuation Period since the last Valuation Date.

**(2) Definition of Valuation Date.** A Valuation Date under this Plan is each: (a) Accounting Date; (b) Valuation Date the Employer elects in the Adoption Agreement; or (c) Valuation Date the Plan Administrator establishes. The Employer in the Adoption Agreement or the Plan Administrator may elect alternative Valuation Dates for the different Contribution Types which the Plan Administrator maintains under the Plan.

**(3) Definition of Valuation Period.** The Valuation Period is the period beginning on the day after the last Valuation Date and ending on the current Valuation Date.

**(4) Allocation methods.** The Plan Administrator will allocate Earnings to the Participant Accounts in accordance with the daily valuation method, balance forward method, balance

forward with adjustment method, weighted average method, Participant-Directed Account method, or other method the Employer elects under the Adoption Agreement. The Employer in the Adoption Agreement may elect alternative methods under which the Plan Administrator will allocate the Earnings to the Accounts reflecting different Contribution Types or investment Account types which the Plan Administrator maintains under the Plan. The Plan Administrator first will adjust the Participant Accounts, as those Accounts stood at the beginning of the current Valuation Period, by reducing the Accounts for any forfeitures, distributions, and loan disbursement payments arising under the Plan, for expenses charged during the Valuation Period to the Accounts (expenses directly related to a Participant's Account). The Plan Administrator then, subject to the restoration allocation requirements of the Plan, will allocate Earnings under the applicable valuation method.

**(a) Daily valuation method.** If the Employer in the Adoption Agreement elects to apply the daily valuation method, the Plan Administrator will allocate Earnings on each day of the Plan Year for which Plan assets are valued on an established market and the Trustee is conducting business. Under the daily valuation method, all assets subject to such method are subject to daily valuation. The assets may be held in Participant-Directed Accounts or in Accounts which are subject to Trustee or other fiduciary investment direction.

**(b) Balance forward method.** If the Employer in the Adoption Agreement elects to apply the balance forward method, the Plan Administrator will allocate Earnings pro rata to the adjusted Participant Accounts, since the last Valuation Date.

**(c) Balance forward with adjustment method.** If the Employer in the Adoption Agreement elects to apply the balance forward with adjustment method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat as part of the relevant Account at the beginning of the Valuation Period the percentage of the contributions made as the Employer elects in the Adoption Agreement, during the Valuation Period the Employer elects in the Adoption Agreement.

**(d) Weighted average method.** If the Employer in the Adoption Agreement elects to apply a weighted average allocation method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat a weighted portion of the applicable contributions as if includible in the Participant's Account as of the beginning of the Valuation Period. The weighted portion is a fraction, the numerator of which is the number of months in the Valuation Period, excluding each month in the Valuation Period which begins prior to the contribution date of the applicable contributions, and the denominator of which is the number of months in the Valuation Period. The Employer in the Adoption Agreement may elect to substitute a weighting period other than months for purposes of this weighted average allocation.

**(e) Participant-Directed Account method.** The Employer in the Adoption Agreement must elect to apply the Participant-Directed Account method to any Participant-Directed Account under the Plan. Under the Participant-Directed Account method: (i) each Participant-Directed Account is credited and charged with the Earnings such Account generates; (ii) the Employer's election, if any, in the Adoption Agreement of another method for the allocation of Earnings will not apply to any Participant-Directed Account; and (iii) the Participant-

Directed Account may be valued as often as daily, but will be valued at least annually, and all assets in the Account are not necessarily valued on the same frequency. An Account which is subject to the Participant-Directed Account method includes an individual brokerage account or similar account in title to the Trustee for the benefit of the Participant.

**(C) Allocation of Net Income, Gain or Loss (No Trust).** In a Tax-Exempt Eligible 457 Plan that does not maintain a trust the Plan Administrator will allocate net income, gain or loss in accordance with this provision. As of each Accounting Date (and each other valuation date determined under the Adoption Agreement), the Plan Administrator will adjust Accounts to reflect net income, gain or loss, if any, since the last Accounting Date or Account valuation. The Employer in the Adoption Agreement will elect the method for allocating net income gain or loss. The Plan Administrator will continue to allocate net income, gain and loss to a Participant's Account subject to an installment distribution, until the Account is fully distributed.

**5.08 ACCOUNT CHARGED.** The Plan Administrator will charge all distributions made to a Participant or to his or her Beneficiary, or transferred under Section 9.03 from his or her Account, against the Account of the Participant when made.

**5.09 OWNERSHIP OF FUND/TAX-EXEMPT ORGANIZATION.** If the Employer is a Tax-Exempt Organization, the Plan is an unfunded plan and all Deferred Compensation, property and rights to property purchased by Deferred Compensation and all income attributable thereto remain, until paid or made available under the Plan, the sole property and rights of the Employer, subject only to the claims of the Employer's general creditors. No Participant or Beneficiary will have any vested interest or secured or preferred position with respect to an Account or have any claim against the Employer except as a general creditor. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. The Employer or the Plan Administrator, acting as the Employer's agent, may enter into a trust agreement solely for the purpose of investing all or part of the Accounts, which will be subject to the claims of the Employer's general creditors, and in which the Participants or Beneficiaries will not have a vested interest nor a secured or preferred position or have any claim except as the Employer's general creditor. The Employer may not purchase life insurance contracts under this Plan unless the Employer retains all incidents of ownership in such contracts, the Employer is the sole beneficiary of such contracts and the Employer is not under any obligation to transfer the contracts or pass through the proceeds to any Participant or to his or her Beneficiary. The Employer may adopt and attach to the Plan as "Appendix A," the Internal Revenue Service Model Rabbi Trust under Rev. Proc. 92-64 (as amended) to hold the assets of a Tax-Exempt Organization Eligible 457 Plan. If the Employer adopts the Model Rabbi Trust, the Plan incorporates by reference the provisions of the Model Rabbi Trust as if fully set forth herein.

**5.10 PARTICIPANT DIRECTION OF INVESTMENT.** Subject to the terms of the Plan Administrator's adopted policy, if any, and also to written consent of the Trustee, if the Plan has a Trust, a Participant will have the right to direct the investment or re-investment of the assets comprising the Participant's Account. The Plan Administrator will account separately for the Participant-Directed Accounts. The Participant's right to direct investment does not give the Participant any vested interest or secured or preferred position with respect to assets over which he/she has investment responsibility.

**5.11 VESTING/SUBSTANTIAL RISK OF FORFEITURE.** The Employer in the Adoption Agreement may

elect to apply a vesting schedule or to specify any other Substantial Risk of Forfeiture applicable to any or all Deferral Contributions.

**(A) Forfeiture Allocation.** The Employer in the Adoption Agreement must elect the method the Plan Administrator will use to allocate any Participant forfeitures, including those related to lost Participants under Section 5.14. However, if a forfeiture allocation method is not selected in the adoption agreement, forfeitures are allocated as an Employer Contribution. The Plan Administrator will allocate a forfeiture in the Plan Year in which the forfeiture occurs or in the next following Plan Year.

#### 5.12 PRESERVATION OF ELIGIBLE PLAN STATUS.

The Plan Administrator may elect to sever from this Plan and to treat as a separate 457 plan, the Accounts of any Participants who have Excess Deferrals that the Plan Administrator has not corrected in accordance with Section 3.10 or in the case of any other Code §457(b) failure that the Employer may not otherwise correct, and which failure would result in the Plan ceasing to be an Eligible 457 Plan. In such event, the Plan Administrator will take any necessary or appropriate action consistent with the Employer's maintenance of separate 457 plans and with preservation of Eligible 457 Plan status of this Plan.

5.13 **LIMITED LIABILITY.** The Employer will not be liable to pay plan benefits to a Participant in excess of the value of the Participant's Account as the Plan Administrator determines in accordance with the Plan terms. Neither the Employer nor the Plan Administrator will be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

5.14 **LOST PARTICIPANTS.** If the Plan Administrator is unable to locate any Participant or Beneficiary whose Account becomes distributable (a "lost Participant"), the Plan Administrator will apply the provisions of this Section 5.14.

**(A) Attempt to Locate.** The Plan Administrator will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his or her last known address by certified or registered mail; (2) use a commercial locator service, the internet or other general search method; (3) use the Social Security Administration or PBGC search program; or (4) use such other methods as the Plan Administrator believes prudent.

**(B) Failure to Locate.** If a lost Participant remains unlocated for 6 months following the date the Plan Administrator first attempts to locate the lost Participant using one or more of the methods described in Section 5.14(A), the Plan Administrator may forfeit the lost Participant's Account. If the Plan Administrator forfeits the lost Participant's Account, the forfeiture occurs at the end of the above-described 6-month period and the Plan Administrator will allocate the forfeiture in accordance with Section 5.11. The Plan Administrator under this Section 5.14(B) will forfeit the entire Account of the lost Participant, including Salary Reduction Contributions.

If a lost Participant whose Account was forfeited thereafter at any time but before the Plan has been terminated makes a claim for his or her forfeited Account, the Plan Administrator will restore the forfeited Account to the same dollar amount as the amount forfeited, unadjusted for net income, gains or losses occurring subsequent to the forfeiture. The Plan Administrator will make the restoration in the Plan Year in which the lost Participant makes the claim, first from the amount, if any, of Participant forfeitures the Plan Administrator otherwise would allocate for the Plan Year, then from the amount, if any, of Trust net income or gain for the Plan Year and last from the amount or

additional amount the Employer contributes to the Plan for the Plan Year. The Plan Administrator will distribute the restored Account to the lost Participant not later than 60 days after the close of the Plan Year in which the Plan Administrator restores the forfeited Account.

**(C) Nonexclusivity and Uniformity.** The provisions of this Section 5.14 are intended to provide permissible but not exclusive means for the Plan Administrator to administer the Accounts of lost Participants. The Plan Administrator may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including the default rollover under Section 4.07(C) and such other methods as the Revenue Service or the U.S. Department of Labor ("DOL") may in the future specify. The Plan Administrator will apply Section 5.14 in a reasonable manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Plan Administrator's ability to establish and the expense of establishing a rollover IRA, and other factors. The Plan Administrator may charge to the Account of a lost Participant the reasonable expenses incurred under this Section 5.14 and which are associated with the lost Participant's Account.

5.15 **PLAN CORRECTION.** The Plan Administrator, in conjunction with the Employer and Trustee as appropriate, may undertake such correction of Plan errors as the Plan Administrator deems necessary, including but not limited to correction to maintain the Plan's status as an Eligible 457 Plan. The Plan Administrator under this Section 5.15 also may undertake Plan correction in accordance with any correction program that the Internal Revenue Service makes applicable to 457 plans.

**ARTICLE VI**  
**PARTICIPANT ADMINISTRATIVE PROVISIONS**

6.01 **BENEFICIARY DESIGNATION.** A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Plan Administrator or Trustee will pay the Participant's Account (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the method of payment of his or her Account. The Plan Administrator will prescribe the form for the Participant's written designation of Beneficiary and, upon the Participant's filing the form with the Plan Administrator, the form revokes all designations filed prior to that date by the same Participant. A divorce decree, or a decree of legal separation, revokes the Participant's designation, if any, of his or her spouse as his or her Beneficiary under the Plan unless the decree or a QDRO provides otherwise. The foregoing revocation provision (if applicable) applies only with respect to a Participant whose divorce becomes effective on or following the date the Employer executes the Adoption Agreement, unless the Employer in the Adoption Agreement specifies a different effective date.

6.02 **NO BENEFICIARY DESIGNATION.** If a Participant fails to name a Beneficiary in accordance with Section 6.01, or if the Beneficiary named by a Participant predeceases the Participant, then the Plan Administrator will pay the Participant's remaining Account in accordance with Article IV in the following order of priority, to:

- (a) The Participant's surviving spouse; or
- (b) The Participant's children (including adopted children), in equal shares by right of representation (one share for each surviving child and one share for each child who predeceases the Participant with living descendants); and if none to
- (c) Parents. The Participant's surviving parents, in equal shares; and if none to
- (d) The Participant's estate.

If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Account, the Trustee will pay the remaining Account to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; or (2) the Beneficiary has properly designated a beneficiary. A Beneficiary only may designate a beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the Plan terms. The Plan Administrator will direct a Trustee if applicable as to the method and to whom the Trustee will make payment under this Section 6.02.

6.03 **SALARY REDUCTION AGREEMENT.**

**(A) General.** A Participant must elect to make Salary Reduction Contributions on a Salary Reduction Agreement form the Plan Administrator provides for this purpose. The Salary Reduction Agreement must be consistent with the Employer's Adoption Agreement elections and the Plan Administrator in a Salary Reduction Agreement may impose such other terms and limitations as the Plan Administrator may determine.

**(B) Election Timing.** A Participant's Salary Reduction Agreement may not take effect earlier than the first day of the calendar month following the date the Participant executes the

Salary Reduction Agreement and as to Compensation paid or made available in such calendar month. However, if an Employee is eligible to become a Participant during the Employee's calendar month of hire, the Employee may execute a Salary Reduction Agreement on or before the date he/she becomes an Employee, effective for the month in which he/she becomes an Employee.

**(C) Sick, Vacation and Back Pay.** If the Employer in the Adoption Agreement permits Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay, a Participant who will incur a Severance from Employment may execute a Salary Reduction Agreement before such amounts are paid or made available provided: (i) such amounts are paid or made available before the Participant incurs the Severance; and (ii) the Participant is an Employee in that month.

**(D) Modification of Salary Reduction Agreement.** A Participant's Salary Reduction Agreement remains in effect until a Participant modifies it or ceases to be eligible to participate in the Plan. A Participant may modify his or her Salary Reduction Agreement by executing a new Salary Reduction Agreement. Any modification will become effective no earlier than the beginning of the calendar month commencing after the date the Participant executes the new Salary Reduction Agreement. Filing a new Salary Reduction Agreement will revoke all Salary Reduction Agreements filed prior to that date. The Employer or Plan Administrator may restrict the Participant's right to modify his or her Salary Reduction Agreement in any Taxable Year.

6.04 **PERSONAL DATA TO PLAN ADMINISTRATOR.** Each Participant and each Beneficiary of a deceased Participant must furnish to the Plan Administrator such evidence, data or information as the Plan Administrator considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Plan Administrator, provided the Plan Administrator advises each Participant of the effect of his or her failure to comply with its request.

6.05 **ADDRESS FOR NOTIFICATION.** Each Participant and each Beneficiary of a deceased Participant must file with the Plan Administrator from time to time, in writing, his or her address and any change of address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his or her last address filed with the Plan Administrator, or as shown on the records of the Employer, binds the Participant, or Beneficiary, for all purposes of this Plan.

6.06 **PARTICIPANT OR BENEFICIARY INCAPACITATED.** If, in the opinion of the Plan Administrator or of the Trustee, a Participant or Beneficiary entitled to a Plan distribution is not able to care for his or her affairs because of a mental condition, a physical condition, or by reason of age, the Plan Administrator or at the direction of the Plan Administrator, the Trustee, may make the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his or her attorney-in-fact or to other legal representative upon furnishing evidence of such status satisfactory to the Plan Administrator and to the Trustee. The Plan Administrator and the Trustee do not have any liability with respect to payments so made and neither the Plan Administrator nor the Trustee has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

**ARTICLE VII  
MISCELLANEOUS**

7.01 NO ASSIGNMENT OR ALIENATION. A Participant or Beneficiary does not have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments under the Plan or Trust and the Plan Administrator and the Trustee will not recognize any such anticipation, assignment, or alienation. The payments and the rights under this Plan are nonassignable and nontransferable. Furthermore, a Participant's or Beneficiary's interest in the Trust is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

7.02 EFFECT ON OTHER PLANS. This Plan does not affect benefits under any other retirement, pension, or benefit plan or system established for the benefit of the Employer's Employees, and participation under this Plan does not affect benefits receivable under any such plan or system, except to the extent provided in such plan or system.

7.03 WORD USAGE. Words used in the masculine will apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural will be read as the singular and the singular as the plural.

7.04 STATE LAW. The laws of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of this Plan, except to the extent Federal law supersedes State law.

7.05 EMPLOYMENT NOT GUARANTEED. Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any Account, or the payment of any benefit, gives any Employee, Participant or Beneficiary any right to continue employment, any legal or equitable right against the Employer, the Plan Administrator, the Trustee, any other Employee of the Employer, or any agents thereof except as expressly provided by the Plan.

7.06 NOTICE, DESIGNATION, ELECTION, CONSENT AND WAIVER. All notices under the Plan and all Participant or Beneficiary designations, elections, consents or waivers must be in writing and made in a form the Plan Administrator specifies or otherwise approves. To the extent permitted by Treasury regulations or other applicable guidance, any Plan notice, election, consent or waiver may be transmitted electronically. Any person entitled to notice under the Plan may waive the notice or shorten the notice period except as otherwise required by the Code.



**ARTICLE VIII**  
**TRUST PROVISIONS—GOVERNMENTAL ELIGIBLE 457 PLAN**

**8.01 GOVERNMENTAL ELIGIBLE 457 PLAN.** The provisions of this Article VIII apply to a Governmental Eligible 457 Plan and do not apply to a Tax-Exempt Organization Eligible 457 Plan. The Employer in the Adoption Agreement may elect to substitute another trust (attached to this Plan as "Appendix A") or to modify any provision of Article VIII, consistent with Code §457(g) and applicable Treasury regulations.

**8.02 ACCEPTANCE/HOLDING.** The Trustee accepts the Trust created under the Plan and agrees to perform the duties and obligations imposed. The Trustee must hold in trust under this Article VIII, all Deferred Compensation until paid in accordance with the Plan terms.

**8.03 RECEIPT OF CONTRIBUTIONS.** The Trustee is accountable to the Employer for the funds contributed to it by the Employer or the Plan Administrator, but the Trustee does not have any duty to see that the contributions received comply with the provisions of the Plan.

**8.04 FULL INVESTMENT POWERS.** The Trustee has full discretion and authority with regard to the investment of the Trust, except with respect to a Trust asset under Participant direction of investment, in accordance with Section 8.12. The Trustee is authorized and empowered, but not by way of limitation, to exercise and perform the following powers, rights and duties:

(a) To invest any part or all of the Trust in any common or preferred stocks, open-end or closed-end mutual funds, put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U. S. Treasury bills, U. S. Treasury notes and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, and to buy or sell options on common stock on a nationally recognized options exchange with or without holding the underlying common stock, as a prudent person would do under like circumstances. Any investment made or retained by the Trustee in good faith will be proper but must be of a kind constituting a diversification considered by law suitable for trust investments;

(b) To retain in cash so much of the Trust as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust in a bank account at reasonable interest;

(c) To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by a State, in any type of deposit of the Trustee (or a bank related to the Trustee within the meaning of Code §414(b)) at a reasonable rate of interest or in a common trust fund as described in Code §584, or in a collective investment fund, the provisions of which the Trust incorporates by this reference, which the Trustee (or its affiliate, as defined in Code §1504) maintains exclusively for the collective investment of money contributed by the bank (or its affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency;

(d) To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such

considerations and on such terms and conditions as the Trustee decides;

(e) To credit and distribute the Trust as directed by the Plan Administrator of the Plan. The Trustee will not be obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee will be accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the order or direction of the Plan Administrator;

(f) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge;

(g) To compromise, contest, arbitrate or abandon claims and demands, in the Trustee's discretion;

(h) To have with respect to the Trust all of the rights of an individual owner, including the power to exercise any and all voting rights associated with Trust assets, to give proxies, to participate in any voting trusts, mergers, consolidations or liquidations, to tender shares and to exercise or sell stock subscriptions or conversion rights;

(i) To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interest in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders;

(j) To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship;

(k) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;

(l) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until a court of competent jurisdiction makes a final adjudication;

(m) To file all tax returns required of the Trustee;

(n) To furnish to the Employer and the Plan Administrator an annual statement of account showing the condition of the Trust and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which accounts will be conclusive on all persons, including the Employer and the Plan Administrator, except as to any act or transaction concerning which the Employer or the Plan Administrator files with the Trustee written exceptions or objections within 90 days after the receipt of the accounts; and

(o) To begin, maintain or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee will not be obliged or required to do so unless indemnified to its satisfaction.

**(A) Nondiscretionary Trustee.** The Employer in the Adoption Agreement may elect to appoint a Nondiscretionary Trustee, subject to this Section 8.04(A). The Nondiscretionary Trustee does not have any discretion or authority with regard to the

investment of the Trust, but must act solely as a directed Trustee hereunder. The Nondiscretionary Trustee is authorized and empowered to exercise and perform the above Section 8.04 powers, rights and duties provided that the Trustee shall act solely as a directed Trustee and only in accordance with the written direction of the Employer, the Plan Administrator or of a Participant as applicable. The Nondiscretionary Trustee is not liable for making, retaining or disposing of any investment or for taking or failing to take any other action, in accordance with proper Employer, Plan Administrator or Participant direction.

8.05 RECORDS AND STATEMENTS. The records of the Trustee pertaining to the Trust will be open to the inspection of the Plan Administrator and the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer or Plan Administrator may specify in writing. The Trustee will furnish the Plan Administrator whatever information relating to the Trust the Plan Administrator considers necessary.

8.06 FEES AND EXPENSES FROM FUND. The Trustee will receive reasonable annual compensation in accordance with its fee schedule as published from time to time. The Trustee will pay from the Trust all fees and expenses the Trustee reasonably incurs in its administration of the Trust, unless the Employer pays the fees and expenses.

8.07 PROFESSIONAL AGENTS. The Trustee may employ and pay from the Trust reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Trust, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

8.08 DISTRIBUTION OF CASH OR PROPERTY. The Trustee may make distribution under the Plan in cash or property, or partly in each, at its fair market value as determined by the Trustee.

8.09 RESIGNATION AND REMOVAL. The Trustee or the Custodian may resign its position by giving written notice to the Employer and to the Plan Administrator. The Trustee's notice must specify the effective date of the Trustee's resignation, which date must be at least 30 days following the date of the Trustee's notice, unless the Employer consents in writing to shorter notice.

The Employer may remove a Trustee or a Custodian by giving written notice to the affected party. The Employer's notice must specify the effective date of removal which date must be at least 30 days following the date of the Employer's notice, except where the Employer reasonably determines a shorter notice period or immediate removal is necessary to protect Plan assets.

#### 8.10 SUCCESSOR TRUSTEE.

**(A) Appointment.** In the event of the resignation or the removal of a Trustee, where no other Trustee continues to service, the Employer must appoint a successor Trustee if it intends to continue the Plan. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or during any period such person is unable to serve for any reason, the remaining person or persons will act as the Trustee. If the Employer fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal and no other Trustee remains, the Trustee will treat the Employer as

having appointed itself as Trustee and as having filed the Employer's acceptance of appointment as successor Trustee with the former Trustee.

**(B) Automatic Successor.** Any corporation which succeeds to the trust business of the Trustee, or results from any merger or consolidation to which the Trustee is a party, or is the transferee of substantially all the Trustee's assets, will be the successor to the Trustee under this Trust. The successor Trustee will possess all rights, duties and powers under this Trust as if the successor Trustee were the original Trustee. Neither the Trustee nor the successor Trustee need provide notice to any interested person of any transaction resulting in a successor Trustee. The successor Trustee need not file or execute any additional instrument or perform any additional act to become successor Trustee.

8.11 VALUATION OF TRUST. The Trustee will value the Trust as of each Accounting Date to determine the fair market value of the Trust assets. The Trustee will value the Trust on such other date(s) the Plan Administrator may direct.

8.12 PARTICIPANT DIRECTION OF INVESTMENT. Consistent with the Plan Administrator's policy adopted under Section 5.02(1), the Trustee may consent in writing to permit Participants in the Plan to direct the investment to the Trust assets. The Plan Administrator will advise the Trustee of the portion of the Trust credited to each Participant's Account under the Plan, and subject to such Participant direction. As a condition of Participant direction, the Trustee may impose such conditions, limitations and other provisions as the Trustee may deem appropriate and as are consistent with the Plan Administrator's policy. The Trustee will report to the Plan Administrator the net income, gain or losses incurred by each Participant-Directed Account separately from the net income, gain or losses incurred by the general Trust during the Trust Year.

8.13 THIRD PARTY RELIANCE. No person dealing with the Trustee will be obliged to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Trust. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and will not be liable to any person whomsoever in so doing. The certificate of the Trustee that it is acting in accordance with the Trust will be conclusive in favor of any person relying on the certificate.

8.14 INVALIDITY OF ANY TRUST PROVISION. If any clause or provision of this Article VIII proves to be or is adjudged to be invalid or void for any reason, such void or invalid clause or provision will not affect any of the other provisions of this Article VIII and the balance of the Trust provisions will remain operative.

8.15 EXCLUSIVE BENEFIT. The Trustee will hold all the assets of the Trust for the exclusive benefit of the Participants and their Beneficiaries and neither the Employer nor the Trustee will use or divert any part of the corpus or income of the Trust for purposes other than the exclusive benefit of the Participants and Beneficiaries of the Plan. The Employer will not have any right to the assets held by the Trustee and the Trust assets will not be subject to the claims of the Employer's creditors or, except as provided in Section 4.06, of the creditors of any Participant or Beneficiary. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. Notwithstanding the foregoing, the Plan Administrator may pay from a Participant's or Beneficiary's Account the amount the Plan Administrator finds is lawfully

demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary. The Trust created under the Employer's Plan is irrevocable and its assets will not inure to the benefit of the Employer.

8.16 SUBSTITUTION OF CUSTODIAL ACCOUNT OR ANNUITY CONTRACT. The Employer in the Adoption Agreement may elect to use one or more custodial accounts or annuity contracts in lieu of or in addition to the Trust established in this Article VIII. Any such custodial account or annuity contract must satisfy the requirements of Code §457(g)(3) and applicable Treasury regulations.

8.17 GROUP TRUST AUTHORITY. Notwithstanding any contrary provision in this Plan, the Trustee may, unless restricted in writing by the Plan Administrator, transfer assets of the Plan to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code §401(a), individual retirement accounts that are exempt under Code §408(e), and eligible governmental plans that meets the requirements of Code §457(b). For this purpose, a trust includes a custodial account that is treated as a trust under Code §401(f) or under Code §457(g)(3). For purposes of valuation, the value of the interest maintained by the Plan in such group trust shall be the fair market value of the portion of the group trust held for Plan, determined in accordance with generally recognized valuation procedures.

**ARTICLE IX  
AMENDMENT, TERMINATION, TRANSFERS**

9.01 AMENDMENT BY EMPLOYER/SPONSOR. The Employer has the right at any time and from time to time:

(a) To amend this Plan and Trust Agreement and the Adoption Agreement in any manner it deems necessary or advisable in order to continue the status of this Plan as an Eligible 457 Plan; and

(b) To amend this Plan and Trust Agreement and the Adoption Agreement in any other manner, including deletion, substitution or modification of any Plan, Trust or Adoption Agreement provision.

The Employer must make all amendments in writing. The Employer may amend the Plan by an Adoption Agreement election, by addenda, by separate amendment, or by restatement of the Adoption Agreement or Plan. Each amendment must state the date to which it is either retroactively or prospectively effective. The Employer also may not make any amendment that affects the rights, duties or responsibilities of the Trustee or the Plan Administrator without the written consent of the affected Trustee or the Plan Administrator.

9.02 TERMINATION/FREEZING OF PLAN. The Employer has the right, at any time, to terminate this Plan or to cease (freeze) further Deferral Contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued Deferral Contributions) remain operative until distribution of all Accounts. Upon Plan termination, the Plan Administrator or Trustee shall distribute to Participants and Beneficiaries all Deferred Compensation as soon as is reasonably practicable following termination.

9.03 TRANSFERS. The Employer may enter into a Transfer agreement with another employer under which this Plan: (a) may accept a Transfer of a Participant's Account in the other employer's Eligible 457 Plan; or (b) may Transfer a Participant's (or Beneficiary's) Account in this Plan to the other employer's Eligible 457 Plan. The plan sponsors of the plans involved in the Transfer both must be States or both must be Tax-Exempt Organizations and the plans must provide for Transfers. The Participant or Beneficiary, after the Transfer will have Deferred Compensation in the recipient plan at least equal to his or her Deferred Compensation in the transferring plan immediately before the Transfer. Any Transfer also must comply with applicable Treasury regulations, and in particular Treas. Reg. §§1.457-10(b)(2) as to post-severance transfers between Governmental Eligible 457 Plans; 1.457-10(b)(3) as to transfers of all assets between Governmental Eligible 457 Plans; 1.457-10(b)(4) as to transfers between Governmental Eligible 457 Plans of the same Employer; and 1.457-10(b)(5) as to post-severance transfers between Tax-Exempt Organization Eligible 457 Plans. The Plan Administrator will credit any Transfer accepted under this Section 9.03 to the Participant's Account and will treat the transferred amount as a Deferral Contribution for all purposes of this Plan except the Plan Administrator, will not treat such Transfer as a Deferral Contribution subject to the limitations of Article III. In addition, in the case of a Transfer between Tax-Exempt Organization Eligible Plans, the recipient plans shall apply a Participant's distribution elections made under the transferor plan in accordance with Treas. Reg. §1.457-10(b)(6)(ii). The Plan's Transfer of any Participant's or Beneficiary's Account under this Section 9.03 completely discharges the Employer, the Plan Administrator, the Trustee and the Plan from any liability to the Participant or Beneficiary for any Plan benefits.

9.04 PURCHASE OF PERMISSIVE SERVICE CREDIT. A Participant in a Governmental Eligible 457 Plan, prior to otherwise incurring a distributable event under Article IV, may direct the Trustee to transfer all or a portion of his or her Account to a governmental defined benefit plan (under Code §414(d)) for: (a) the purchase of permissive service credit (under Code §415(n)(3)(A)) under such plan, or (b) the repayment of contributions and earnings previously refunded with respect to a forfeiture of service credited under the plan (or under another governmental plan within the same State) to which Code §415 does not apply by reason of Code §415(k)(3).

## Participation Agreement

# VantageTrust

This Participation Agreement is by and between VantageTrust Company, LLC ("Trust Company"), the trustee of VantageTrust, and the employer executing this Participation Agreement ("Employer") on behalf of the retirement plan(s) or retirement trust(s) identified on the signature page (the "Retirement Trust") and is effective as of the date specified at the end of this Agreement.

### RECITALS

1. The Trust Company maintains VantageTrust (including each separate investment fund established as a "Fund") under the Declaration of Trust of VantageTrust Company dated May 19, 2001, and all other attachments thereto, as amended and in effect from time to time (the "Declaration of Trust"), as a medium for the commingling of assets of Deferred Compensation and Qualified Plans.
2. The Retirement Trust desires to become a Participating Trust, as defined below.

### DEFINITIONS

1. "Eligible Trust" shall mean a Deferred Compensation or Qualified Plan as those terms are defined in the Declaration of Trust.
2. "Participating Trust" means an Eligible Trust that has executed this Participation Agreement, has been accepted to VantageTrust by the Trust Company, has transferred assets to VantageTrust, and has a beneficial interest in VantageTrust.
3. "Non-Public Employer" is any entity other than a Public Employer as defined in the Declaration of Trust.
4. Unless otherwise specified herein, capitalized words or phrases shall have the meaning as set forth in the Declaration of Trust.

### AGREEMENT

In consideration of the foregoing and the promises set forth below, the parties agree to the following:

1. **Appointment and Acceptance.** The Employer hereby acknowledges that the Trust Company has appointed Vantagepoint Investment Advisers, LLC ("VIA"), an investment adviser registered under the Investment Advisers Act of 1940, as an investment adviser pursuant to the terms of the Declaration of Trust to provide advice and recommendations to the Trust Company in the management of the Funds. The Employer further acknowledges that The Trust Company has appointed ICMA Retirement Corporation ("Administrator") to perform various administrative functions of the Funds. The Employer further acknowledges and accepts that VIA and the Trust Company are wholly owned subsidiaries of Administrator.
2. **Adoption of Trust.** The Retirement Trust's participation in each Fund will at all times be subject to the terms of the Declaration of Trust, which is hereby adopted as a part of the Retirement Trust and this Participation Agreement. The Retirement Trust's participation in each Fund will also be subject to the terms of the Declaration of Trust.

3. **Acceptance of Plan.** The Trust Company accepts the Retirement Trust (including each plan forming a part thereof) as a Participating Trust as of the date specified on the execution page of this Participation Agreement.
4. **Notice of Disqualification.** In the event that the Retirement Trust ceases to be an Eligible Trust, then, in the case of any such event, the Employer shall deliver to the Trust Company a written notice of its ceasing to be an Eligible Trust within fifteen (15) calendar days of receipt of any notice, execution of any amendment, receipt of any letter or determination of such cessation. Upon the Trust Company's receipt of such information, in writing or otherwise, the Retirement Trust's units shall be redeemed in accordance with the provisions of the Declaration of Trust.
5. **Term and Termination.** This Agreement shall be in effect from the day specified at the end of this Agreement until termination by Employer or Trust Company upon ninety (90) days prior written notice.
  - a. Termination Restriction. Employer acknowledges and agrees that, consistent with the terms applicable to the VT PLUS Fund as outlined in the Disclosure Memorandum, VIA retains full discretion to defer Employer-initiated withdrawals from the VT PLUS Fund for a period of not more than 12 months following notice of termination of this Agreement.

#### **WARRANTIES, REPRESENTATIONS AND COVENANTS OF EMPLOYER AND ELIGIBLE TRUST**

1. Employer and Retirement Trust represent and warrant as follows:
  - a. The Retirement Trust meets the definition of an "Eligible Trust" because it is one of the following, as indicated on the signature page of this Agreement:

Public Employer Deferred Compensation or Qualified Plan. Either a deferred compensation plan maintained by a Public Employer under Section 457 of the Internal Revenue Code (and trusts maintained by such Public Employers in connection with such 457 plans) or a pension or profit-sharing trust that is maintained by a Public Employer and that is exempt under Section 501(a) of the Internal Revenue Code because the qualified Plan related thereto qualifies under Section 401(a) of the Internal Revenue Code; or

Non-Public Employer Qualified Plan. A pension or profit-sharing trust that is maintained by a Non-Public Employer and that is exempt under Section 501(a) of the Internal Revenue Code because the qualified Plan related thereto qualifies under Section 401(a) of the Internal Revenue Code.
  - b. The Retirement Trust is established, maintained and administered under one or more documents that authorize part or all of the assets of the Retirement Trust to be transferred to, and commingled for investment purposes in, a Trust that meets the requirements of Revenue Ruling 81-100, as amended or clarified from time to time;
  - c. The Declaration of Trust (including each Fund thereunder) is adopted as part of the Retirement Trust;

- d. Authorization or license from any foreign, federal, state or local regulatory authority or agency required on the part of the Employer or the Retirement Trust has been obtained and any necessary filing with any of the foregoing has been duly made;
  - e. Employer will not transmit, or cause to be transmitted, any order for purchase or redemption of units of the VT PLUS Fund that are not based on instructions communicated in proper form by Retirement Plan participants; and
  - f. Employer will not use the VT PLUS Fund as a temporary holding account, default investment, or investment account for employer level accounts including revenue sharing accounts or any other non-participant account. Notwithstanding the foregoing, the Employer can use the VT PLUS Fund in a forfeiture account.
2. Employer hereby represents and acknowledges the following:
- a. It has the requisite authority to enter into this Participation Agreement on behalf of the Retirement Trust, to authorize investments under the provisions of the documents of the Retirement Trust and to make, on behalf of the Retirement Trust, any and all certifications, covenants, representations or warranties set forth in this Agreement;
  - b. The Declaration of Trust, any addenda thereto, the Disclosure Memorandum, any applicable Fund Fact Sheets, and any additional materials and information requested by the Employer describing VantageTrust and its business and operation have been made available to the Employer and have been reviewed by the Employer, and that in making a prudent investment decision with respect to the contribution of assets to VantageTrust in exchange for units and the current or future selection of one or more Funds, the Employer has relied solely upon independent investigations made, directly or indirectly, by it;
  - c. It has been given the opportunity to review with the Trust Company the terms and conditions of this Participation Agreement and the Declaration of Trust, and to obtain additional information to verify the accuracy of the information contained in the aforesaid materials, and such other information as it desires to evaluate its investment in VantageTrust and the selection of one or more of the Funds;
  - d. The units of the Funds have not been registered under the Securities Act of 1933 or the applicable securities laws of any states or other jurisdictions;
  - e. Neither VantageTrust nor any Fund is registered under the Investment Company Act of 1940, and investors are not entitled to the protections of that Act; and
  - f. The units of the Funds are not insured by the Federal Deposit Insurance Corporation or any other type of deposit insurance coverage.
3. Employer agrees promptly to notify the Trust Company in the event that any of the representations set forth above or any information provided pursuant to the provisions hereof ceases to be accurate during the term of this Participation Agreement. Until such notice is given to the Trust Company, the Trust Company may rely on the representations contained in, and all other information provided pursuant to or as contemplated by, this Participation Agreement in connection with all matters related to the Funds and VantageTrust.

4. Upon reasonable request by the Trust Company, Employer agrees to provide the Trust Company with a list of all Employer affiliates that provide financial services to Employer, including any broker-dealer.
5. Employer acknowledges that VantageTrust may invest in a range of securities, whether directly or indirectly through another pooled investment vehicle. Employer acknowledges and agrees that it is solely responsible for determining that the Retirement Trust's investment in VantageTrust will not contravene any provision of existing law or regulations applicable to the Retirement Trust, or of the organizational or governing documents of the Retirement Trust.

## FEES AND EXPENSES

1. Fees and expenses incurred with respect to VantageTrust, including compensation of the Trustee, shall be paid in accordance with the Declaration of Trust.

## MISCELLANEOUS

1. **Consent to Electronic Delivery.** By submitting an email address on the signature page of this Agreement, the Employer hereby authorizes, and agrees to, the use of electronic mail or web-based availability to deliver all documents required to be delivered by, or on behalf of, the Fund to the Employer under applicable law or regulation and pursuant to the Declaration of Trust, such delivery or notice of web-based availability to be sent to the email address listed on the signature page of this Agreement, unless Employer otherwise notifies Trust Company in writing. The Employer may elect not to receive such documents by electronic means by submitting a written request to Trust Company.
2. **Construction.** This Participation Agreement shall be deemed to be executed and delivered in the State of New Hampshire, and, except to the extent superseded by federal laws, all laws or rules of construction of the State of New Hampshire shall govern the rights of the parties hereto and the interpretation of provisions of this Participation Agreement.
3. **Counterparts.** This Participation Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but the several counterparts shall together constitute one and the same Participation Agreement of the parties hereto.
4. **Amendments.** This Participation Agreement shall be automatically amended by any amendment to the Declaration of Trust, and all such amendments shall be automatically incorporated by reference herein, and any provisions of this Participation Agreement inconsistent with the terms of such amendment shall be null and void on and after the effective date of such amendment.
5. **Agreement Conflicts.** In the event that any terms of this Participation Agreement conflict with or are in addition to the terms of any other agreement between the parties, the terms of this Participation Agreement and the Declaration of Trust shall prevail. In the event that the terms of this Participation Agreement conflict with the terms of the Declaration of Trust, the terms of the Declaration of Trust shall prevail.
6. **Prohibited Transactions.** If the Trust Company determines that the Retirement Trust's involvement with certain assets, liabilities or transactions will result, or has resulted, in the Trust engaging in a transaction that is prohibited by the Internal Revenue Code, Employee Retirement Income Security Act of 1974, Securities Act of 1933, Investment Company Act of 1940 or other



applicable law, the Trust Company, in its sole discretion, may take action to correct such prohibited transaction, or may treat the Retirement Trust as having withdrawn from participation and shall redeem the Retirement Trust's units, all in accordance with the Declaration of Trust.

7. **Severability.** Each clause or term of this Participation Agreement is severable from the entire Participation Agreement, and if any clause or term is declared invalid, the remaining clauses or terms shall remain in effect.
8. **Notice.** All notices under this Participation Agreement must be sent in writing to the below address:

VantageTrust Company, LLC  
c/o ICMA Retirement Corporation  
Attn: Legal Division  
777 North Capitol Street, NE  
Washington, DC 20002

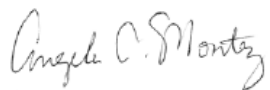
9. **Electronic Signatures.** The parties agree that this document may be electronically signed and that any electronic signatures appearing on this document are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

*[The remainder of this page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date specified below.

**VantageTrust**

By: VantageTrust Company, LLC, as Trustee,

By:   
Angela Montez, Secretary

**ALL EMPLOYERS:**

List below the Plan(s)/Retirement Trust(s):

	Plan/Retirement Trust Name	Public Employer Plan	Non-Public Employer Plan
		(Check one option only)	
1.	LYNX Deferred Compensation Plan	X	
2.			

Check this box to confirm that the documents listed in Section 2(b) of the Warranties, Representations and Covenants section of this Agreement have been made available to the Employer and have been reviewed by the Employer.

If applicable, list below the name and CRD number (if an investment adviser) of the agent that is acting on behalf of the Employer and that is authorized to receive information relating to this Agreement and the Plan's/Retirement Trust's investment in the Funds:

Agent	CRD No.
N/A	

**NON-PUBLIC EMPLOYERS ONLY:**

Check this box to confirm the Employer has provided a copy of the applicable IRS Form W-9.

By: Central Florida Regional Transportation Authority d/b/a LYNX  
Name of Employer or Fiduciary

By: _____ Authorized Officer Signature	_____ Date
James E. Harrison, P.E., Esq., as CEO	(407) 254-6219
_____ Printed Name and Title	_____ Telephone Number
c/o Brian Anderson	c/o
2500 Lynx Lane	banderson@golynx.com
_____ Address Line 1	_____ Email
Orlando, FL 32804	
_____ Address Line 2	

## VantageTrust Participation Agreement – Related Documents

Documents referenced in Section 2(b) of the Warranties, Representations and Covenants section of the Participation Agreement:

1. Declaration of Trust of VantageTrust Company, dated May 19, 2001 with Exhibit A dated November 2020
2. Declaration of Trust for ICMA Retirement Trust as Amended August 2017 (this is the latest amendment and restatement of the October 4, 1982 Declaration of Trust)
3. Amended and Restated Limited Liability Company Agreement of VantageTrust Company, LLC (this is the superseding document for the ICMA Trust By-laws referenced in the 2001 Declaration of Trust)
4. Disclosure Memorandum for VantageTrust Funds dated November 2020
5. Fund Fact Sheet for VantagePoint Plus Fund R10 dated March 31, 2021

**DECLARATION OF TRUST  
OF  
VANTAGETRUST COMPANY, LLC**

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19<sup>th</sup> day of May, 2001, by **VantageTrust Company, LLC**, which declares itself to be the sole Trustee of the trust hereby created.

**WHEREAS**, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

**WHEREAS**, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

**NOW, THEREFORE**, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

1. **Incorporation of ICMA Declaration by Reference; ICMA By-Laws.** Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.


Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

- (a) any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
  - (b) all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.
2. **Compliance with Revenue Procedure 81-100.** The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:
- (a) Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
  - (b) Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.
  - (c) In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.
  - (d) In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.
3. **VantageTrust Funds.** In accordance with 12 C.F.R. Part 9 as issued by the Office of the Comptroller of the Currency, the investment funds known as the VantageTrust Funds are incorporated into this Declaration of Trust. The VantageTrust Funds are listed in Exhibit A.
4. **Governing Law.** Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.
5. **Judicial Proceedings.** The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of

New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

**IN WITNESS WHEREOF**, the Trustee has executed this Declaration of Trust as of the day and year first above written.

**VANTAGETRUST COMPANY, LLC**

By:   
Name: Paul F. Gallagher  
Title: Assistant Secretary

## Exhibit A: List of VantageTrust Funds

November 2020

The VantageTrust (“VT”) Funds are:

### **Stable Value / Cash Management Funds**<sup>1</sup>

VT Cash Management Fund  
VT PLUS Fund

### **VT Vantagepoint Model Portfolio Funds**<sup>1</sup>

VT Vantagepoint Model Portfolio Conservative Growth Fund  
VT Vantagepoint Model Portfolio Traditional Growth Fund  
VT Vantagepoint Model Portfolio Long-Term Growth Fund  
VT Vantagepoint Model Portfolio Global Equity Growth Fund

### **VT Vantagepoint Funds**<sup>1</sup>

VT Vantagepoint 500 Stock Index Fund  
VT Vantagepoint Aggressive Opportunities Fund  
VT Vantagepoint Broad Market Index Fund  
VT Vantagepoint Core Bond Index Fund  
VT Vantagepoint Discovery Fund  
VT Vantagepoint Emerging Markets Fund  
VT Vantagepoint Equity Income Fund  
VT Vantagepoint Growth & Income Fund  
VT Vantagepoint Growth Fund  
VT Vantagepoint High Yield Fund  
VT Vantagepoint Inflation Focused Fund  
VT Vantagepoint International Fund  
VT Vantagepoint Low Duration Bond Fund  
VT Vantagepoint Mid/Small Company Index Fund  
VT Vantagepoint Overseas Equity Index Fund  
VT Vantagepoint Select Value Fund

### **VT Vantagepoint Milestone Funds**<sup>1</sup>

VT Vantagepoint Milestone Retirement Income Fund  
VT Vantagepoint Milestone 2015 Fund  
VT Vantagepoint Milestone 2020 Fund  
VT Vantagepoint Milestone 2025 Fund  
VT Vantagepoint Milestone 2030 Fund  
VT Vantagepoint Milestone 2035 Fund  
VT Vantagepoint Milestone 2040 Fund  
VT Vantagepoint Milestone 2045 Fund  
VT Vantagepoint Milestone 2050 Fund  
VT Vantagepoint Milestone 2055 Fund  
VT Vantagepoint Milestone 2060 Fund

### **VT Trust Series Funds**

VT AMG TimesSquare Mid Cap Growth Fund  
VT ContraFund®  
VT Diversified International Fund  
VT Carillon Eagle Mid Cap Growth Fund  
VT Invesco Diversified Dividend Fund  
VT LSV Small Cap Value Fund  
VT MFS® Value Fund  
VT Nuveen Real Estate Securities Fund  
VT Invesco Discovery Fund  
VT Invesco Main Street Fund  
VT Parnassus Core Equity Fund  
VT PIMCO High Yield Fund  
VT Puritan® Fund  
VT T. Rowe Price® Growth Stock Fund  
VT Victory Sycamore Established Value Fund  
VT Western Asset Core Plus Bond Fund

### **Guaranteed Lifetime Income**

VT Retirement IncomeAdvantage Fund

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<sup>1</sup> Note that the “VT” Prefix is excluded from fund names in marketing materials.

## DECLARATION OF TRUST

### ICMA RETIREMENT TRUST

As Amended

August 2017

#### ARTICLE I

#### NAME AND DEFINITIONS

**Section 1.1 Name.** The name of the trust created hereby is the ICMA Retirement Trust.

**Section 1.2 Definitions.** Wherever they are used herein, the following terms shall have the following respective meanings:

- (a) **By-laws.** The by-laws referred to in Section 4.1 hereof, as amended from time to time.
- (b) **Deferred Compensation Plan.** A deferred compensation plan established and maintained by an Employer for the purpose of providing retirement income and other deferred benefits to its employees in accordance with the provision of Section 457 of the Internal Revenue Code.
- (c) **Employees.** Those employees who participate in Qualified Plans and/or Deferred Compensation Plans.
- (d) **Employer.** An entity, including a Public Employer, that has adopted a plan that is eligible to participate in a group trust under Internal Revenue Service Revenue Ruling 81-100, 1981-1 C.B. 326 as amended by and clarified in Revenue Ruling 2004-67, 2004-2 C.B. 28, Revenue Ruling 2011-1, 2011-2 C.B. 251, Revenue Ruling 2014-24, 2014-37 I.R.B. 529, and Notice 2012-6, 2012-3 I.R.B. 293, and as may be further amended or clarified from time to time, and has adopted this Declaration of Trust.
- (e) **Employer Trust.** A trust that is established by an Employer in connection with its Qualified Plan and that satisfies the requirements of Section 501 of the Internal Revenue Code, or a trust established by an Employer in connection with its Deferred Compensation Plan and that satisfies the requirements of Section 457(b) of the Internal Revenue Code.
- (f) **Investment Contract.** A non-negotiable contract entered into by the Retirement Trust with a financial institution that provides for a fixed rate of return on investment.



- (g) **ICMA.** International City/County Management Association.
- (h) **ICMA Trustees.** Those Trustees elected by the Public Employers in accordance with the provisions of Section 3.1(a) hereof, who are also members or former members of the Executive Board of ICMA.
- (i) **RC Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provisions of Section 3.1(a) hereof, are also members of former members of the Board of Directors of RC.
- (j) **Internal Revenue Code.** The Internal Revenue Code of 1986, as amended
- (k) **Investment Adviser.** The Investment Adviser that enters into a contract with the Retirement Trust to provide advice with respect to investment of the Trust Property.
- (l) **Portfolios.** The separate commingled pools of investment established by the Investment Adviser to the Retirement Trust, under the supervision of the Trustees, for the purpose of providing investments for the Trust Property.
- (m) **Public Employee Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provision of Section 3.1 (a) hereof, are full time employees of Public Employers.
- (n) **Public Employer Trustees.** Public Employers who serve as Trustees of the Qualified Plans or Deferred Compensation Plans.
- (o) **Public Employer.** A unit of state or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan or a Qualified Plan and has executed this Declaration of Trust.
- (p) **Qualified Plan.** A plan that is sponsored by an Employer for the purpose of providing retirement income to its employees and that satisfies the qualification requirements of Section 401 of the Internal Revenue Code.
- (q) **RC.** The International City Management Association Retirement Corporation.
- (s) **Retirement Trust.** The Trust created by this Declaration of Trust.
- (t) **Trust Property.** The amounts held in the Retirement Trust as provided in Section .3. The Trust Property shall include any income resulting from the investment to the amounts so held.

- (u) **Trustees.** The Public Employee Trustees, ICMA Trustees and RC Trustees elected by the Public Employers to serve as members of the Board of Trustees of the Retirement Trust.

**ARTICLE II  
CREATION AND PURPOSE OF THE TRUST;  
OWNERSHIP OF TRUST PROPERTY**

**Section 2.1 Creation.** (a) The Retirement Trust was created by the execution of this Declaration of Trust by the initial Trustees and Public Employers and is established with respect to each participating Public Employer by adoption of this Declaration of Trust.

(b) The Retirement Trust is hereby expressly made a part of the appropriate qualified Plan or Deferred Compensation Plan of each Employer that adopts or executes, or has adopted or executed this Declaration of Trust.

**Section 2.2 Purpose and Participation.** (a) The purpose of the Retirement Trust is to provide for the commingled investment of funds held by the Employers in connection with their Deferred Compensation and Qualified Plans. The Trust Property shall be invested in the Portfolios, in Investment Contracts, and in other investments recommended by the Investment Adviser under the supervision of the Board of Trustees. No part of the Trust Property will be invested in securities issued by Public Employers.

(b) Participation in the Retirement Trust is limited to (i) pension and profit-sharing trusts which are maintained by Employers and that are exempt under Section 501(a) of the Internal Revenue Code because the qualified Plans related thereto qualify under Section 401(a) of the Internal Revenue Code and (ii) deferred compensation plans maintained by Public Employers under Section 457 of the Internal Revenue Code (and trusts maintained by such Public Employers in connection with such 457 plans).

**Section 2.3 Ownership of Trust Property.** (a) The Trustees shall have legal title to the Trust Property. The Trust Property shall be held as follows:

(i) for the Employer Trusts for the exclusive benefit of the Employees; or

(ii) in the case of a Deferred Compensation Plan maintained by a Public Employer that has not established an Employer Trust for the plan, for the Public Employer as beneficial owner of the plan's assets.

(b) The portion of the corpus and income of the Retirement Trust that equitably belongs to any Employer Trust may not be used for or diverted to any

purpose other than for the exclusive benefit of the Employees (or their beneficiaries) who are entitled to benefits under such Employer Trust.

(c) No employer's Employer Trust may assign any part of its equity or interest in the Retirement Trust, and any purported assignment of such equity or interest shall be void.

### **ARTICLE III TRUSTEES**

**Section 3.1 Number and Qualification of Trustees:** (a) The Board of Trustees shall consist of nine Trustees. Five of the Trustees shall be full-time employees of a Public Employer (the Public Employee Trustees) who are authorized by such Public Employer to serve as Trustee. The remaining four Trustees shall consist of two persons who, at the time of election to the Board of Trustees, are members or former members of the Executive Board of ICMA, and two persons who, at the time of election, are members or former members of the Board of Directors of RC. One of the ICMA Trustees and one of the RC Trustees shall, at the time of election, be full-time employees of Public Employers.

(b) No person may serve as a Trustee for more than two terms in any ten-year period.

**Section 3.2 Election and Term:** (a) Except for the Trustees appointed to fill vacancies pursuant to Section 3,5 hereof, the Trustees shall be elected by a vote of a majority of the voting Public Employers in accordance with the procedures set forth in the By-Laws.

(b) At the first election of Trustees, three Trustees shall be elected for a term of three years, three Trustees shall be elected for a term of two years and three Trustees shall be elected for a term of one year. At each subsequent election, three Trustees shall be elected, each to serve for a term of three years and until his or her successor is elected and qualified.

**Section 3.3 Nominations.** The Trustees who are full-time employees of Public Employers shall serve as the Nominating Committee for the Public Employee Trustees. The Nominating Committee shall choose candidates for Public Employee Trustee in accordance with the procedures set forth in the By-Laws.

**Section 3.4 Resignation and Removal.** (a) Any Trustee may resign as Trustee (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the other Trustees and such resignation shall be effective upon such delivery, or at a later date according to the terms of the instrument. Any of the Trustees may be removed for cause, by a vote of a majority of the Public Employers.

(b) Each Public Employee Trustee shall resign his or her position as Trustee within sixty days of the date on which he or she ceases to be a full-time employee of a Public Employer.

**Section 3.5 Vacancies.** The term of office of a Trustee shall terminate and a vacancy shall occur in the event of his or her death, resignation, removal, adjudicated incompetence or other incapacity to perform the duties of the office of a Trustee. In the case of a vacancy, the remaining Trustees shall appoint such person as they in their discretion shall see fit (subject to the limitations set forth in this Section), to serve for the unexpired portion of the term of the Trustee who has resigned or otherwise ceased to be a Trustee. The appointment shall be made by a written instrument signed by a majority of the Trustees. The person appointed must be the same type of Trustee (i.e., Public Employee Trustee, ICMA Trustee or RC Trustee) as the person who has ceased to be a Trustee. An appointment of a Trustee may be made in anticipation of a vacancy to occur at a later date by reason of retirement or resignation, provided that such appointment shall not become effective prior to such retirement or resignation. Whenever a vacancy shall occur, until such vacancy is filled as provided in this Section 3.5, the Trustees in office, regardless of their number, shall have all the powers granted to the Trustees and shall discharge all the duties imposed upon the Trustees by this Declaration. A written instrument certifying the existence of a vacancy signed by a majority of the Trustees shall be conclusive evidence of the existence of such vacancy.

**Section 3.6 Trustees Serve in Representative Capacity.** By executing this Declaration, each Public Employer agrees that the Public Employee Trustees elected by the Public Employers are authorized to act as agents and representatives of the Public Employers collectively.

#### **ARTICLE IV POWERS OF TRUSTEES**

**Section 4.1 General Powers.** The Trustees shall have the power to conduct the business of the Trust and to carry on its operations. Such power shall include, but shall not be limited to, the power to:

(a) receive the Trust Property from the Employers, Public Employers, Public Employer Trustees or the Trustee or administrator under any Employer Trust;

(b) enter into a contract with an Investment Adviser providing, among other things, for the establishment and operation of the Portfolios, selection of the Investment Contracts in which the Trust Property may be invested, selection of the other investments for the Trust Property and the payment of reasonable fees

to the Investment Adviser and to any sub-investment adviser retained by the Investment Adviser;

(c) review annually the performance of the Investment Adviser and approve annually the contract with such Investment Adviser;

(d) invest and reinvest the Trust Property in the Portfolios, the Investment Contracts and in any other investment recommended by the Investment Adviser, but not including securities issued by Public Employers, providing if a Public Employer has directed that its monies be invested in one or more specified Portfolios or in an Investment Contract, the Trustees of the Retirement Trust shall invest such monies in accordance with such directions;

(e) keep such portion of the Trust Property in cash or cash balances as the Trustees, from time-to-time, may deem to be in the best interest of the Retirement Trust created hereby without liability for interest thereon;

(f) accept and retain for such time as they may deem advisable any securities or other property received or acquired by them as Trustees hereunder, whether or not such securities or other property would normally be purchased as investment hereunder;

(g) cause any securities or other property held as part of the Trust Property to be registered in the name of the Retirement Trust or in the name of a nominee, and to hold any investments in bearer form, but the books and records of the Trustees shall at all times show that all such investments are a part of the Trust Property;

(h) make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(i) vote upon any stock, bonds, or other securities; give general or special proxies or powers of attorney with or without power of substitution; exercise any conversion privileges, subscription rights, or other options, and make any payments incidental thereto; oppose, or consent to, or otherwise participate in, corporate reorganizations or to other changes affecting corporate securities, and delegate discretionary powers and pay any assessments or charges in connection therewith; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held as part of the Trust Property.

(j) enter into contracts or arrangements for goods or services required in connection with the operation of the Retirement Trust, including, but not limited to, contracts with custodians and contracts for the provision of administrative services;

(k) borrow or raise money for the purposes of the Retirement Trust in such amount and upon such terms and conditions, as the Trustees shall deem advisable provided that the aggregate amount of such borrowings shall not exceed 30% of the value of the Trust Property. No person lending money to the Trustees shall be bound to see the application of the money lent or to inquire into its validity, expediency or propriety or any such borrowing;

(l) incur reasonable expenses as required for the operation of the Retirement Trust and deduct such expenses from the Trust Property;

(m) pay expenses properly allocable to the Trust Property incurred in connection with the Deferred Compensation Plans, Qualified Plans, or the Employer Trusts and deduct such expenses from that portion of the Trust Property to which such expenses are properly allocable;

(n) pay out of the Trust Property all real and personal property taxes, income taxes and other taxes of any and all kinds which, in the opinion of the Trustees, are properly levied, or assessed under existing or future laws upon, or in respect of, the Trust Property and allocate any such taxes to the appropriate accounts;

(o) adopt, amend and repeal the By-laws, provided that such By-laws are at all times consistent with the terms of this Declaration of Trust;

(p) employ persons to make available interests in the Retirement Trust to employers eligible to maintain a Deferred Compensation Plan under Section 457 or a Qualified Plan under Section 401 of the Internal Revenue Code;

(q) issue the Annual Report of the Retirement Trust, and the disclosure documents and other literature used by the Retirement Trust;

(r) in addition to conducting the investment program authorized in Section 4.1(d), make loans, including the purchase of debt obligations, provided that all such loans shall bear interest at the current market rate;

(s) contract for, and delegate any powers granted hereunder to, such officers, agents, employees, auditors and attorneys as the Trustees may select, provided that the Trustees may not delegate the powers set forth in paragraphs (b), (c) and (o) of this Section 4.1 and may not delegate any powers if such delegation would violate their fiduciary duties;

(t) provide for the indemnification of the Officers and Trustees of the Retirement Trust and purchase fiduciary insurance;

(u) maintain books and records, including separate accounts for each Employer, Public Employer, Public Employer Trustee or Employer Trust and such additional

separate accounts as are required under, and consistent with, the Deferred Compensation or Qualified Plan of each Employer; and

(v) do all such acts, take all such proceedings, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or appropriate to administer the Trust Property and to carry out the purposes of the Retirement Trust.

**Section 4.2 Distribution of Trust Property.** Distributions of the Trust Property shall be made to or on behalf of, the Employer, Public Employer or Public Employer Trustee, in accordance with the terms of the Deferred Compensation Plans, Qualified Plans or Employer Trusts. The Trustees of the Retirement Trust shall be fully protected in making payments in accordance with the directions of the Employers, Public Employers, Public Employer Trustees or Trustees or Administrators of any Employer Trust without ascertaining whether such payments are in compliance with the provisions of the applicable Deferred Compensation or Qualified Plan or Employer Trust.

**Section 4.3 Execution of Instruments.** The Trustees may unanimously designate any one or more of the Trustees to execute any instrument or document on behalf of all, including but not limited to signing or endorsement of any check and the signing of any applications, insurance and other contracts, and the action of such designated Trustee or Trustees shall have the same force and effect as if taken by all the Trustees.

## **ARTICLE V DUTY OF CARE AND LIABILITY OF TRUSTEES**

**Section 5.1 Duty of Care.** In exercising the powers hereinbefore granted to the Trustees, the Trustees shall perform all acts within their authority for the exclusive purpose of providing benefits for Employees, Public Employers in connection with non-trusteed Deferred Compensation Plans for the Public Employer Trustees, and shall perform such acts with the care, skill, prudence and diligence in the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

**Section 5.2 Liability.** The Trustees shall not be liable for any mistake of judgment or other action taken in good faith, and for any action taken or omitted in reliance in good faith upon the books of account or other records of the Retirement Trust by any of its officers, employees or agents or by the Investment Adviser or any sub-investment adviser, accountant, appraiser or other expert or consultant selected with reasonable care by the Trustees, Officers or employees of the Retirement Trust. The Trustees shall also not be liable for any loss sustained by the Trust

Property by reason of any investment made in good faith and in accordance with the standard of care set forth in Section 5.1.

**Section 5.3 Bond.** No Trustee shall be obligated to give any bond or other security for the performance of any of his or her duties hereunder.

## **ARTICLE VI ANNUAL REPORT TO SHAREHOLDERS**

The Trustees shall annually submit to the Employers, Public Employers and Public Employer Trustees a written report of the transactions of the Retirement Trust, including financial statements which shall be certified by independent public accountants chosen by the Trustees.

## **ARTICLE VII DURATION OR AMENDMENT OF RETIREMENT TRUST**

**Section 7.1 Withdrawal.** An Employer or Public Employer Trustee may, at any time, withdraw from this Retirement Trust by delivering to the Board of Trustees or RC a written statement of withdrawal. In such statement, the Employer or Public Employer Trustee shall acknowledge that the Trust Property allocable to the Employer is derived from compensation deferred by Employees of such Employer pursuant to its Deferred Compensation Plan or from contributions to the accounts of Employees pursuant to a Qualified Plan, and shall designate the financial institution to which such property shall be transferred by the Trustees of the Retirement Trust or by the Trustee or Administrator under an Employer Trust.

**Section 7.2 Duration.** The Retirement Trust shall continue until terminated by the vote of a majority of the Public Employers, each casting one vote. Upon termination, all of the Trust Property shall be paid out to the Employers, Public Employer Trustees or the Trustees or Administrators of the Employer Trusts, as appropriate.

**Section 7.3 Amendment.** The Retirement Trust may be amended by the vote of a majority of the Public Employers, each casting one vote.

**Section 7.4 Procedure.** A resolution to terminate or amend the Retirement Trust or to remove a Trustee shall be submitted to a vote of the Public Employers if: (i) a majority of the Trustees so direct, or; (ii) a petition requesting a vote signed by not less than 25 percent of the Public Employers, is submitted to the Trustees.



**ARTICLE VIII  
MISCELLANEOUS**

**Section 8.1 Governing Law.** Except as otherwise required by state or local law, this Declaration of Trust and the Retirement Trust hereby created shall be construed and regulated by the laws of the District of Columbia.

**Section 8.2 Counterparts.** This Declaration may be executed by the Employers and Trustees in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT OF  
VANTAGETRUST COMPANY, LLC**

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**AMENDED AND RESTATED**  
**LIMITED LIABILITY COMPANY AGREEMENT OF**  
**VANTAGETRUST COMPANY, LLC**

**A New Hampshire Limited Liability Nondepository Trust Company**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, dated as of June 17, 2020, is made by and among the Person identified as the sole Member on Schedule A, and each of the Persons identified on Schedule A hereto is a manager (defined herein as a “Director”) and each Person who becomes an additional or substitute Director in accordance herewith.

WHEREAS, the Trust Company was reorganized into a limited liability company from a corporation by the filing of a Certificate of Formation, effective as of January 1, 2012 with the Secretary of State of the State of New Hampshire pursuant to RSA 392:17, which certificate was approved by the Board of Trust Company Incorporation on October 19, 2011.

WHEREAS, subject to applicable New Hampshire banking laws and regulations, the Member is operating the Trust Company as a New Hampshire limited liability company under the Act, and sets forth herein the rights, duties and obligations with respect to the Trust Company;

WHEREAS, the Member intends that the Trust Company be treated as a partnership for federal and state income tax purposes; and

WHEREAS, the Directors and the Member wish to set out fully their respective rights, obligations and duties with respect to the Trust Company and its business, management and operations.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**ARTICLE I.**  
**Definitions**

The following capitalized terms used in this Agreement shall have the respective meanings ascribed to them below.

“*Act*” means the New Hampshire Limited Liability Company Act (RSA 304-C:1, et seq.), as amended from time to time, and any successor thereto.

“*Affiliate*” shall mean, with respect to any specified Person, (i) any Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person; (ii) any Person that directly or indirectly controls 10 percent or more of the outstanding equity

securities of the specified entity or of which the specified Person is directly or indirectly the owner of 10 percent or more of any class of equity securities; or (iii) any Person that is an officer of, director of, partner in, or trustee of, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, director, partner or trustee, or with respect to which the specified Person serves in a similar capacity.

“*Agreement*” means this Amended and Restated Limited Liability Company Agreement as it may be amended, supplemented or restated from time to time.

“*Board of Directors*” or “*Board*” means the Board of Directors described in Article VI of this Agreement.

“*Capital Account*” shall have the meaning set forth in Section 3.1.

“*Capital Contribution*” means, with respect to the Member, the aggregate amount of money and value of property contributed to the capital of the Trust Company by such Member. Unless otherwise provided herein, in the case of a Member who acquires a membership interest in the Trust Company by assignment directly from another Member in accordance with this Agreement, such Member shall be deemed to have made the Capital Contribution made by the assignor of such interest (or made by such assignor’s predecessor in interest).

“*Certificate*” means the Amended and Restated Certificate of Formation creating the Trust Company, as it has been or may be amended, from time to time, in accordance with the Act.

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time.

“*Covered Person*” means any officer of the Trust Company, any Director of the Trust Company, or any of such Director’s Affiliates.

“*Director*” refers to any Person designated as a Director on Schedule A hereto and any Person who becomes an additional, substitute or replacement Director as permitted by this Agreement, in each such Person’s capacity as (and for the period during which such Person serves as) a Director of the Trust Company.

“*Liquidator*” means the Board of Directors, or any Person or Persons appointed by the Board of Directors, to liquidate the assets of the Trust Company, apply and distribute the proceeds thereof and cause the cancellation of the Certificate.

“*Member*” refers to the Person named as a Member in this Agreement and any Person who becomes a substitute Member as permitted by this Agreement, in such Person’s capacity as (and for the period during which such Person serves as) a Member of the Trust Company.

“*Person*” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“*President*” means the person occupying the office of President (as provided in Section 6.4) at any time, or from time to time.

“*Secretary*” means the person occupying the office of Secretary (as provided in Section 6.4) at any time, or from time to time.

“*Securities Act*” means the Securities Act of 1933, as amended.

“*Terminated Director*” shall have the meaning set forth in Section 6.2(a).

“*Transfer*”, and any grammatical variation thereof, means any sale, exchange, issuance, redemption, assignment, distribution, encumbrance, hypothecation, gift, pledge, retirement, resignation, transfer or other withdrawal, disposition or alienation in any way (including, without limitation, the grant of any security interest), whether voluntarily, involuntarily or by operation of law, as to the Member’s interest in the Trust Company. Transfer shall specifically, without limitation of the above, include assignments and distributions resulting from death, incompetency, bankruptcy, liquidation and dissolution.

“*Treasurer*” means the person occupying the office of Treasurer (as provided in Section 6.4) at any time, or from time to time.

“*Treasury Regulations*” means the United States income tax regulations, including temporary regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“*Trust Company*” means the limited liability company formed pursuant to the Certificate and this Agreement, as the Certificate or this Agreement may from time to time be constituted, amended or restated.

## **ARTICLE II. General**

2.1. *Name of the Limited Liability Company.* The name of the limited liability company formed hereby is VantageTrust Company, LLC. The name of the Trust Company may be changed at any time or from time to time with the approval of the Board of Directors, as approved by applicable bank regulatory authorities.

2.2. *Offices of the Limited Liability Company; Registered Agent.* The Trust Company may carry on any portion of its business at such places within or without the State of New Hampshire as may be from time to time permitted under applicable laws, rules, and regulations. The registered agent for service of process on the Trust Company in the State of New Hampshire shall be Gallagher, Callahan & Gartrell, P.C. 214 North Main Street, PO Box 1415, Concord, New Hampshire 03302-1415. The Board of Directors may at any time change the location of a place of business, establish additional places of business and designate a new agent for service of process as it shall deem advisable.

2.3. *Organization.* The Trust Company is organized as a New Hampshire limited

liability company as provided herein. The Board of Directors shall cause to be filed such certificates and documents as may be necessary or appropriate to comply with the Act and any other applicable requirements for the operation of a limited liability company in accordance with the laws of New Hampshire and any other jurisdictions in which the Trust Company shall conduct business, and shall continue to do so for so long as the Trust Company conducts business therein.

Subject to applicable New Hampshire banking laws and regulations, the parties hereto ratify and confirm the authority of each member of the Board of Directors or any other individual authorized by the Board of Directors, acting singly in any case, to execute, acknowledge, deliver, file and record in the appropriate offices, as applicable, (i) any amendments to the Trust Company's Certificate (each of such individuals being an "authorized person" within the meaning of the Act), (ii) such other instruments, certificates, documents and other writings which the Board of Directors determines to be necessary or appropriate to preserve the Trust Company's status as a New Hampshire limited liability company or to qualify the Trust Company to do business in states other than New Hampshire, and (iii) any recordable instrument on behalf of the Trust Company purporting to affect an interest in real property in the State of New Hampshire or any other state, whether to be recorded with a registry of deeds or any other appropriate office or court.

*2.4. Purposes.* The Trust Company shall be a nondepository trust company under the banking laws and regulations of the State of New Hampshire, as such laws and regulations now exist or may be hereafter amended, and shall have and may exercise all the express, implied and incidental powers conferred upon such companies. The Trust Company shall not be authorized to accept deposits or to make loans.

*2.5. Powers.*

(a) Without limiting the generality of Section 2.4, the Trust Company shall have the power and authority to take any and all actions necessary or convenient to, or for the furtherance of, the purposes set forth in Section 2.4, including, but not limited to, the power:

(i) to purchase, subscribe for or otherwise acquire, own, hold, vote, sell, mortgage, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, domestic or foreign corporations, associations, general or limited partnerships, trusts, limited liability companies, or individuals or direct or indirect obligations of the United States or of any government, state, territory, governmental district or municipality or of any instrumentality of any of them;

(ii) to hire and fire employees, consultants and others;

(iii) to acquire (by purchase, lease, contribution of property or otherwise), own, hold, license, operate, maintain, finance, improve, lease, sell, convey, mortgage, transfer, demolish or dispose of any real or personal property that may be necessary or convenient to the accomplishment of the purposes of the Trust Company;

(iv) to negotiate, enter into, perform, amend, extend, waive, terminate or take any other action with respect to contracts of any kind, including, without limitation,



contracts with the Member, any Affiliate thereof, or any employee or agent of the Trust Company in connection with, or necessary or convenient to, the accomplishment of the purposes of the Trust Company, and any lease, contract or security agreement in respect of any assets of the Trust Company;

(v) to invest and reinvest its funds;

(vi) to borrow money and issue evidences of indebtedness, and to secure the same by a mortgage, pledge or other lien on the assets of the Trust Company;

(vii) to sue and be sued, complain and defend, and participate in administrative or other proceedings in its name, and to pay, collect, compromise, litigate, arbitrate or otherwise adjust or settle any and all other claims or demands of or against the Trust Company, and to hold proceeds against the payment of contingent liabilities;

(viii) to elect and designate Directors of the Trust Company and to appoint employees and agents of the Trust Company (who may be designated as officers of the Trust Company), and to define their duties and fix their compensation;

(ix) to indemnify any Person to the extent permitted by the Act;

(x) to make, execute, acknowledge and file any and all documents and instruments necessary, convenient or incidental to the accomplishment of the purposes of the Trust Company; and

(xi) to cease its activities and cancel the Certificate, subject to applicable New Hampshire banking laws and regulations.

(b) Subject to the other provisions of this Agreement, the Trust Company may sell all or substantially all of its assets, or merge with or consolidate into another limited liability company or other business entity (as defined in Section 304-C:1 of the Act), after the affirmative vote or written consent of the Board of Directors.

*2.6. Member.* A Person other than the Member of the Trust Company identified on Schedule A hereto may be admitted to the Trust Company as a substitute Member only (i) pursuant to and in accordance with Article VIII or (ii) with the approval of the Board of Directors and, if applicable under New Hampshire banking laws and regulations, the New Hampshire Bank Commissioner. The admission of any Person as a Member shall not cause dissolution of the Trust Company. Upon the requisite approvals in accordance with this Agreement, a Person shall be admitted as a substitute Member if such Person (x) executes this Agreement, a counterpart of this Agreement or another instrument pursuant to which such Member agrees to be bound by the terms of this Agreement and (y) is named as a Member on Schedule A.

*2.7. Designation of Directors.* The Persons identified on Schedule A hereto as “Directors” are the directors of the Trust Company who have continued in that capacity following the conversion of the Trust Company from a corporation to a limited liability company. Directors shall be elected by the Member in accordance with the provisions of

Section 6.2. Any Director may withdraw or be removed as a director of the Trust Company, and other Persons may be added or substituted as Directors, only in the manner specified in Section 6.2.

2.8. *Liability of Member and Covered Persons.* Except as otherwise provided in the Act, the debts, obligations and liabilities of the Trust Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Trust Company, and no Member or Covered Person shall be obligated personally for any such debt, obligation or liability of the Trust Company solely by reason of being or acting as a Member or Covered Person. Without limiting the foregoing, (i) except as may be provided in a Capital and Liquidity Maintenance Agreement between the Trust Company and the Member, the Member, in its capacity as such, shall not have any liability to restore any negative balance in the Trust Company's Capital Account; and (ii) the failure of the Trust Company to observe any formalities or requirements relating to exercise of the Trust Company's powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Member, Directors or other Covered Persons for liabilities of the Trust Company.

### **ARTICLE III. Capital Contributions; Financing**

3.1. *Capital Accounts.* A capital account shall be maintained for the Member (a "Capital Account") consisting of cash, and/or the fair market value of property other than cash, contributed to the capital of the Trust Company, increased or decreased by Profit and Loss allocated to the Member pursuant to Article IV, and decreased by the cash and fair market value of property other than cash distributed to the Member pursuant to Article V, and reflecting such other matters as the Board of Directors may reasonably determine appropriate.

#### 3.2. *Capital Contributions.*

(a) The Member has contributed to the capital of the Trust Company the property set forth opposite the Member's name on *Schedule A*.

(b) If the Board of Directors determines in good faith at any time, or from time to time, that funds, in addition to the funds generated from the Trust Company's operations and the amounts specified in *Schedule A* hereto, are necessary to carry out the Trust Company's purposes, to conduct its business, to meet its obligations or to make any expenditure authorized by this Agreement, the Member shall contribute any such additional capital within thirty (30) days of such determination.

3.3. *No Withdrawal of or Interest on Capital.* No interest shall accrue on any contributions to the capital of the Trust Company, and the Member shall not have the right to withdraw or to be repaid any capital contributed by it or to receive any other payment in respect of its interest in the Trust Company, including, without limitation, as a result of the withdrawal or resignation of the Member from the Trust Company, except as specifically otherwise provided in this Agreement.

3.4. *Loans.* In the event that the Trust Company requires additional funds to carry out its purposes, conduct its business, meet its obligations, or make any expenditure authorized by this

Agreement, the Trust Company may borrow funds from the Member or third-party lenders on such terms and conditions as may be acceptable to the Board of Directors. However, the Member shall have no obligation to lend any funds to the Trust Company.

#### **ARTICLE IV. Allocations of Profit and Loss**

4.1. *General.* All Profit or Loss of the Trust Company shall be allocated to the Member.

4.2. *Intra-Period Allocation.* For purposes of allocating Profit or Loss between any substitute Member and any transferor Member during a fiscal period, the Trust Company shall allocate according to any method allowed by the Code, to the extent applicable, and selected by the Board of Directors. Such substitute or transferring Member shall not be entitled to any allocation or distribution arising from Trust Company operations prior to its date of admission to the Trust Company or subsequent to its date of resignation from the Trust Company.

4.3. *Definitions.* For purposes of this Article IV, the following terms shall have the following meanings.

(a) “*Profit or Loss*” shall mean, as to any transaction or fiscal period, the taxable income or loss of the Trust Company for United States federal income tax purposes, and each item of income, gain, loss or deduction entering into the computation thereof, with the following adjustments:

(i) Any tax-exempt income or gain of the Trust Company that is not otherwise taken into account in computing Profits or Losses shall increase the amount of such taxable income or decrease the amount of such loss;

(ii) Any expenditures of the Trust Company described in Code Section 705(a)(2)(B) (or treated as such) and not otherwise taken into account in computing Profits or Losses shall decrease the amount of such taxable income or increase the amount of such loss; and

(iii) In the event the Gross Asset Value of any Trust Company asset is adjusted, (i) the amount of such adjustment (including an adjustment resulting from a distribution of such asset but excluding an adjustment resulting from a contribution of such asset) shall be taken into account in the same manner as gain or loss from the disposition of such asset for purposes of computing Profits or Losses, (ii) gain or loss resulting from any disposition of such asset with respect to which gain or loss is recognized for United States federal income tax purposes shall be computed by reference to the Gross Asset Value of such asset, and (iii) in lieu of the cost recovery or similar deductions taken into account with respect to any asset with a Gross Asset Value which differs from its adjusted basis under the Code, such deductions shall be an amount equal to the Depreciation with respect to such asset.

(b) “*Depreciation*” means, for each fiscal year of the Trust Company or other period, an amount equal to the depreciation, depletion, amortization or other cost recovery deduction allowable under the Code with respect to an asset for such fiscal year or other period;

provided, however, that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such fiscal year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction with respect to such asset for such fiscal year or other period bears to such beginning adjusted tax basis; and provided further that if the federal income tax depreciation, amortization or other cost recovery deduction for such fiscal year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board of Directors.

(c) “*Gross Asset Value*” shall mean, with respect to any asset, such asset’s adjusted basis for United States federal income tax purposes, except that, in its discretion, the Board of Directors may determine to adjust the Gross Asset Value of Trust Company assets as required for purposes of maintaining Capital Accounts under relevant Treasury Regulations. If the Gross Asset Value of an asset has been so adjusted, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset.

## **ARTICLE V. Distributions**

5.1. *In General.* Any cash received by the Trust Company in excess of amounts required to cover all expenses of the Trust Company and to fund reserves deemed appropriate by the Board of Directors, in its discretion, for future Trust Company liabilities and expenses may be distributed to the Member at such times and in such amounts as shall be determined by the Board of Directors in its sole discretion.

5.2. *Distribution of Assets in Kind.* The Member shall not have the right to require the Trust Company to distribute any of its assets in kind. If any assets of the Trust Company are distributed in kind, such assets shall be distributed on the basis of their fair market value as determined in good faith by the Board of Directors.

5.3. *Limitations on Distribution.* Notwithstanding any provision to the contrary contained in this Agreement, the Trust Company shall not make a distribution to the Member on account of the Member’s interest in the Trust Company if such distribution would violate Section 304-C:44 of the Act or other applicable law.

## **ARTICLE VI. Management**

6.1. *Management of the Trust Company.* The business and affairs of the Trust Company shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the Trust Company except as otherwise provided by law or this Agreement (including, without limitation, Section 6.6). In the event of a vacancy in the Board of Directors, the remaining Directors (except as otherwise provided by law) may exercise the powers of the full Board until the vacancy is filled. All management and other responsibilities not specifically reserved to the Member in this Agreement shall be vested in the Board of Directors, and the Member shall have no voting rights except as specifically provided in this Agreement. Each

Director shall devote such time to the affairs of the Trust Company as may be reasonably necessary for performance by the Director of such Director's duties hereunder.

Specifically, but not by way of limitation, and subject to the provisions of this Agreement (including, without limitation, Section 6.6), the Board of Directors shall be authorized, in the name and on behalf of the Trust Company, to cause the Trust Company to do all things necessary or appropriate to carry on the business and purposes of the Trust Company, including, without limitation, the following:

(i) to perform all actions as general partner of any partnership as the Board of Directors may deem appropriate or desirable, including, without limitation, appointing members of any management, advisory or other such committees;

(ii) to acquire by purchase, lease, license, exchange or otherwise, and to sell, finance, refinance, license, encumber and otherwise deal with, any real or personal property;

(iii) to borrow money and issue evidences of indebtedness; or to guarantee loans and to secure the same by mortgage, deed of trust, pledge or other lien on any assets or property of the Trust Company; and to pay, prepay, extend, amend or otherwise modify the terms of any such borrowings;

(iv) to employ executive, administrative and support personnel in connection with the business of the Trust Company; and to pay salaries, expense reimbursements, employee benefits, fringe benefits, bonuses and any other form of compensation or employee benefit to such persons and entities, at such times and in such amounts as may be determined by the Board of Directors in its sole discretion, to provide executive, administrative and support services in connection with the business of the Trust Company; provided, however, the Board of Directors may not grant interests in the Trust Company by way of or in lieu of compensation or otherwise without the approval of the Member;

(v) to hire or employ such agents, employees, directors, accountants, attorneys, consultants and other persons necessary or appropriate to carry out the business and operations of the Trust Company, and to pay fees, expenses, salaries, wages and other compensation to such persons;

(vi) to pay, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise, on such terms as it may determine and on such evidence as it may deem sufficient, any obligation, suit, liability, cause of action or claim, including, without limitation, obligations, suits, liabilities, causes of action or claims relating to taxes, either in favor of or against the Trust Company;

(vii) except as expressly otherwise provided in this Agreement, to determine the appropriate accounting method or methods to be used by the Trust Company;

(viii) to cause the Trust Company to make or revoke any applicable

elections referred to in the Code;

(ix) to establish and maintain reserves for such purposes and in such amounts as it deems appropriate from time to time;

(x) to pay all organizational expenses and general and administrative expenses of the Trust Company;

(xi) to deal with, or otherwise engage in business with, or provide services to and receive compensation therefor from, any Person who has provided or may in the future provide any services to, lend money to, sell property to, or purchase property from the Trust Company, including, without limitation, the Member or any Director;

(xii) to engage in any kind of activity, and to perform and carry out contracts of any kind necessary to, in connection with or incidental to the accomplishment of the purposes of the Trust Company;

(xiii) to pay any and all fees and to make any and all expenditures that the Board of Directors, in its sole discretion, deems necessary or appropriate in connection with the organization of the Trust Company, the management of the affairs of the Trust Company, and the carrying out of its obligations and responsibilities under this Agreement, including, without limitation, fees, reimbursements and expenditures payable to the Member or any Director;

(xiv) to exercise all powers and authority granted by the Act to directors, except as otherwise provided in this Agreement;

(xv) to cause the Trust Company and its properties and assets to be maintained and operated in such a manner as the Board of Directors may determine, subject, however, to obligations imposed by applicable laws or by any mortgage or security interest encumbering the Trust Company and such properties and assets from time to time, and by any lease, rental agreement or other agreement pertaining thereto;

(xvi) to cause to be obtained and continued in force all policies of insurance required by any mortgage, lease or other agreement relating to the Trust Company's business or any part thereof, or determined by the Board of Directors to be in the best interests of the Trust Company; and

(xvii) to cause to be paid any and all taxes, charges and assessments that may be levied, assessed or imposed on any of the assets of the Trust Company unless the same are contested by the Trust Company.

## 6.2. *Directors.*

*Number, Election and Qualification.* The number of Directors who shall constitute the whole Board of Directors shall be determined by the Member from time to time, in the Member's sole discretion. In no event shall the number be less than nine persons. Except as

otherwise provided in this Agreement, the Directors shall be elected by the Member. The “Directors” on Schedule A hereto shall serve as its Directors until a successor is elected.

The majority of the Board of Directors shall at all times consist of persons who are not present or former directors, officers, or employees of the Member. A majority of the Directors shall be, at the time of their respective elections to the Board, full-time employees of a Public Employer<sup>1</sup>, or participants in a retirement plan the assets of which are managed or administered by the Trust Company (“Public Sector Directors”<sup>2</sup>). The Directors shall be divided into three classes as follows:

1. Class I Directors. The Board of Directors shall be comprised of three (3) Class I Directors. Class I Directors shall be Public Sector Directors.
2. Class II Directors. The Board of Directors shall be comprised of three (3) Class II Directors. The Class II Directors shall be at-large Directors who shall be elected by the Member.
3. Class III Directors. The Board of Directors shall be comprised of two (2) Class III Directors. Class III Directors shall consist of one Director who is a member or former member of the Board of Directors of the Member and one Director who is a member or a former member of the Executive Board of the International City/County Management Association (“ICMA”).
4. Class IV Director. The President shall serve as an “Ex officio” member of the Board of Directors.

Except as set forth in Schedule B hereto, Directors shall serve a four-year term of office. Except in the case of vacancies, Directors, regardless of class, shall be elected by the vote of the Member to be held in accordance with the procedures set forth this Section 6.2, except that any vacancy resulting from the death, resignation, retirement, disqualification or removal from office of a Director, or from any other cause, shall be filled by the vote of a majority of those Directors then in office. Current Directors of the Trust Company may serve until their eligibility to serve

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<sup>1</sup> A “Public Employer” is any unit of State or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan under Section 457 of the Internal Revenue Code (“IRC”) or a qualified plan under Section 401 of the IRC or other type of retirement plan or investment account that is administered by the Trust Company provided that such Public Employer has adopted a Trust that is administered by the Trust Company or otherwise participates in the ICMA-RC system.

<sup>2</sup> If a non-participating Public Sector Director ceases to be employed in the public sector during his or her term of service on the Board, he or she shall continue to qualify as a “Public Sector Director” for the remainder of his or her term.

has expired. Directors who take office shall be eligible to serve no more than two consecutive four-year terms. There are two exceptions to this limitation:

(1) In the case of a Director who fills a vacancy with a remaining term of two years or less. In that case, the Director filling the vacancy shall be eligible to serve the remainder of the unexpired term, plus two additional four-year terms.

(2) In the case of a Director who, during his or her initial or second term, fills a vacancy in a different Class (I, II or III) than the original Class to which he or she was appointed, and has served not more than two years of the then current term, the Director may serve for an extended term in the new Class, subject to an overall service limit of ten years.

The Chair of the Board shall designate the members of the Nominating Committee from among the Class I and Class II Directors who are not affiliated with the Member. The Nominating Committee shall consist of not fewer than four Directors and shall act with respect to the nomination of Class I and Class II Directors. The Chair of the Board of the Member, or his or her designee, shall serve as an adviser to the Nominating Committee, but shall not be a voting member of the Nominating Committee. The Nominating Committee shall adopt procedures for the submission of the names of candidates for election to the Board. The Board of the Member shall nominate one Class III Director and the Executive Board of ICMA shall nominate one Class III Director. In addition to the election by Member required herein, a majority of the Directors (exclusive of the Class IV Ex-officio Director) shall have been ratified by the Public Employers participating or investing in any trusts administered by the Trust Company. Such ratification to be accomplished through the receipt of a majority of the votes cast by Public Employers.

Upon the election of a candidate by the Member, the candidate shall be subject to ratification by the Public Employers. Should the Public Employers fail to ratify the Director, the nomination/election and ratification process shall be re-initiated.

Should a vacancy occur requiring the nomination/ratification of a Class I Director during a calendar year in which such a process has already occurred or is scheduled to occur, the Board of Directors may appoint a Class I Director to serve the remainder of the term so vacated.

The provisions hereof may not be changed unless authorized by the majority of votes cast by Public Employers in a vote conducted to consider such change.

Each Person elected to serve as a Director of the Trust Company, as a condition to becoming a Director hereunder, shall execute and deliver to the Trust Company's Secretary a written document pursuant to which such Director accepts his or her election and agrees to be bound by the governing principles of the Trust Company, as set forth in the terms hereof, and such additional agreements, instruments, certificates and documents, including, without limitation, an amendment to the Certificate, as the Board of Directors may deem necessary, appropriate or convenient to reflect the foregoing matters and the election of such Person as a Director of the Trust Company. Upon the election of any Person as an additional, substitute or



replacement Director, *Schedule A* shall be amended by the Board of Directors to reflect the name of such Person.

Upon the death, resignation, removal or expiration of the term of any Director (a “Terminated Director”), (i) such Terminated Director shall have no further authority under this Agreement, (ii) such Terminated Director shall have no further obligations or rights under this Agreement (except for liabilities and rights accruing prior to the date of death, resignation, removal or expiration of such Terminated Director’s term as a Director, such as, for example, rights to indemnification under Section 6.9 that relate to actions or omissions occurring during such Person’s service as a Director), and (iii) no writing or instrument shall be required to be executed by the Trust Company or the Terminated Director to reflect such cessation of service, except that the Terminated Director (or such Terminated Director’s legal representative or attorney-in-fact, as provided in the following paragraph) shall execute and deliver any agreement, instrument, certificate or document, including, without limitation, an amendment to the Certificate, that the Board of Directors may deem necessary, appropriate or convenient to reflect the Terminated Director’s cessation of service as a Director hereunder.

Each Person now or hereafter serving as a Director of the Trust Company, by execution of this Agreement or a counterpart hereof, hereby constitutes and appoints each other Person who may, from time to time, serve as a Director, and each of them acting singly, such Director’s agent and attorney-in-fact for the purpose of executing and delivering any and all agreements, instruments and other documents (including, without limitation, an amendment to the Certificate) as the Board of Directors may deem necessary, appropriate or convenient to reflect that such Director has become a Terminated Director, which power of attorney is hereby agreed and acknowledged to be irrevocable, and, to the extent permitted by applicable law, shall survive the death, insanity, disability, incapacity, bankruptcy, retirement, resignation, dissolution, removal or expiration of the term of such Director as a Director.

(a) *Tenure.* Each Director shall hold office until such Director’s successor is duly elected and qualified, unless a different term is specified in the resolution electing or appointing such Director, or until such Director’s earlier death, resignation or removal.

(b) *Vacancies.* Unless and until filled by the Member, any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board, may be filled by vote of a majority of the Directors then in office, although less than a quorum, or by a sole remaining Director. A Director designated to fill a vacancy, and a Director chosen to fill a position resulting from an increase in the number of Directors, shall hold office until such Director’s successor is duly elected and qualified, unless a different term is specified in the resolution electing or appointing such Director, or until such Director’s earlier death, resignation or removal.

(c) *Resignation.* Any Director may resign by delivering such Director’s written resignation to the Trust Company at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the occurrence of some other event.

(d) *Regular Meetings.* Regular meetings of the Board of Directors may be held

without notice at such time and place, either within or without the State of New Hampshire, as shall be determined from time to time by the Board of Directors; provided that any Director who is absent when such a determination is made shall be given notice of the determination.

(e) *Special Meetings.* Special meetings of the Board of Directors may be held at any time and place, within or without the State of New Hampshire, designated in a call by the President, two or more Directors, or by one Director in the event that there is only a single Director in office.

(f) *Notice of Special Meetings.* Notice of any special meeting of Directors shall be given to each Director by the Secretary or by the officer or one of the Directors calling the meeting. Notice shall be duly given to each Director (i) by giving notice to such Director in person or by telephone at least 24 hours in advance of the meeting; (ii) by delivering written notice by facsimile, email or by hand, to the Director's last known business or home address, telephone facsimile number or email address at least 24 hours in advance of the meeting; or (iii) by mailing written notice to the Director's last known business or home address at least 72 hours in advance of the meeting. Notices given in accordance with subpart (i) of the preceding sentence, shall be effective when given, and notices given in accordance with subparts (ii) or (iii) of the preceding sentence shall be effective when sent. Any Director may waive notice of any meeting at any time prior to or after such special meeting by delivering such waiver in writing to the Secretary or the President, and a Director will be deemed to have waived notice of a meeting if such Director attends the meeting without protesting prior thereto or at its commencement the lack of notice to him. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purpose of the meeting.

(g) *Meetings by Telephone Conference Calls.* Directors, or any members of any committee designated by the Directors, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

(h) *Quorum.* A majority of the total number of the whole Board of Directors shall constitute a quorum at all meetings of the Board of Directors. In the event that one or more of the Directors shall be disqualified to vote at any meeting, then the required quorum shall be reduced by one for each such Director so disqualified. In the absence of a quorum at any such meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice, other than announcement at the meeting, until a quorum shall be present.

(i) *Action at Meeting.* At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those present shall be necessary to take any action unless a different vote is specified by law, the Certificate or this Agreement.

(j) *Action by Consent.* Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting, if all members of the Board or committee, as the case may be, consent to the action in writing, and the written consents are filed with the minutes of proceedings of the Board or committee.

(k) *Removal.* Any one or more or all of the Directors may be removed, with or without cause, by the Member.

(l) *Committees.* The Board shall establish an Audit Committee and a Nominating Committee, which shall be governed by charters adopted by the Board. At least two members of the Audit Committee shall be “independent” Directors, as such term is defined in Section 28 of Appendix A to Part 363 of the regulations of the Federal Deposit Insurance Corporation. In addition, such committees (other than the Audit Committee) may include, on an *ex officio* basis, such non-Director employees as may be designated by the Board of Directors. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of the committee’s business, but, unless otherwise provided by the Board of Directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in this Agreement for the Board of Directors.

(m) *Compensation of Directors.* Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any Director from serving the Trust Company, or any other Person that directly or indirectly controls, is controlled by, or is under common control with the Trust Company, in any other capacity and receiving compensation for such service.

### 6.3. *Member.*

(a) *Place of Meetings.* All meetings of the Member shall be held at such place within or without the State of New Hampshire as may be designated from time to time by the Board of Member or the President.

(b) *Annual Meeting.* There shall be held an annual meeting of the Member for the election of Directors and for the transaction of such other business as may properly be brought before the meeting. Each annual meeting shall be held on a date to be fixed by the Board of Member or the President (which date shall not be a legal holiday in the place where the meeting is to be held) at the time and place to be fixed by the Board of Member or the President, and stated in the notice of the meeting. If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and, in such case, all references in this Agreement to the annual meeting of the Member shall be deemed to refer to such special meeting.

(c) *Special Meetings.* Special meetings of the Member may be called at any time by the President or by the Board of Directors. Business transacted at any special meeting of the Member shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

(d) *Notice of Meetings.* Except as otherwise provided by law, written notice of

each meeting, whether annual or special, of the Member, shall be given not less than ten (10) before the date of the meeting to the Member entitled to vote at such meeting. The notices of all meetings shall state the place, date and hour of the meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is deemed given when deposited in the United States mail, postage prepaid, directed to the Member at such Member's address as it appears on the records of the Trust Company. The Member may waive notice of any annual or special meeting before or after any such meeting by delivering such waiver in writing to the Secretary or the President.

(e) *Quorum.* Except as otherwise provided by law, the Certificate or this Agreement, the presence of the Member shall constitute a quorum for the transaction of business at any meeting of the Member.

(f) *Adjournments.* Any meeting of the Member may be adjourned to any other time and to any other place at which a meeting of the Member may be held under this Agreement by consent of the Member. At the adjourned meeting, the Trust Company may transact any business that might have been transacted at the original meeting.

(g) *Voting and Proxies.* The Member shall be entitled to vote at a meeting of the Member. A Member may vote or express such consent or dissent in person or may authorize another person or persons to vote or act for such Member by written proxy executed by the Member or such Member's authorized agent and delivered to any officer of the Trust Company. No such proxy shall be voted or acted on after three (3) years from the date of its execution, unless the proxy expressly provides for a longer period.

(h) *Action at Meeting.* When a quorum is present at any meeting, the Member shall decide any matter to be voted on by the Member at such meeting, except when a different vote is required by express provision of law, the Certificate or this Agreement.

(i) *Action Without Meeting.* Any action required or permitted to be taken at any annual or special meeting of the Member of the Trust Company may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the Member.

#### 6.4. *Officers.*

(a) *Enumeration.* The officers of the Trust Company shall consist of a President, a Treasurer and Assistant Treasurer, a Secretary and Assistant Secretary, and such other officers with such other titles as the Board of Directors may deem appropriate. The Board of Directors may elect a Chairman and Vice- Chairman who shall have the duties prescribed by the Board of Directors.

(b) *Election.* The Officers of the Trust Company shall be elected by the Board of Directors and shall serve until such time as an event described in section 6.4(d) or (e) shall occur. Other officers may be appointed by the Board of Directors at any meeting.

(c) *Qualification.* No officer need be a Director. Any two or more offices may be held by the same person.

(d) *Tenure.* Except as otherwise provided by law, by the Certificate or by this Agreement, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the vote choosing or appointing such officer, or until such officer's earlier death, resignation or removal.

(e) *Resignation and Removal.* Any officer may resign by delivering such officer's written resignation to the Trust Company at the Trust Company's principal office or to the President, Secretary or any Director. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any officer may be removed at any time, with or without cause, by vote of a majority of the entire number of Directors then in office (which entire number shall be determined exclusive of any officer who is the subject of the proposed removal); provided, however, that an officer shall automatically cease to be an officer on the date his or her employment with the Member ends. Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided in a duly authorized written agreement with the Trust Company.

(f) *Vacancies.* The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any office. Each such successor officer shall hold office for the unexpired term of such successor officer's predecessor and until such successor officer's successor is elected and qualified, or until such successor officer's earlier death, resignation or removal.

(g) *President.* The President shall, subject to the direction of the Board of Directors, have general charge and supervision of the business of the Trust Company. Unless otherwise provided by the Board of Directors, if the President is a Director, the President shall preside at all meetings of the Board of Directors. Unless the Board of Directors has designated another officer as Chief Executive Officer, the President shall be the Chief Executive Officer of the Trust Company. The President shall perform such other duties and shall have such other powers as the Board of Directors may from time to time prescribe.

(h) *Secretary and Assistant Secretaries.* The Secretary shall perform such duties and shall have such powers as the Board of Directors or the President may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the Secretary of a New Hampshire corporation and are applicable to the Trust Company, including, without limitation, the duty and power to give notices of all special meetings of the Board of Directors, to attend all meetings of the Board of Directors and keep a record of the proceedings, and to be custodian of the Trust Company records.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the President or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of Directors, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

(i) *Treasurer and Assistant Treasurers.* The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned to the Treasurer by the Board of Directors or the President. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of the treasurer of a New Hampshire corporation and are applicable to the Trust Company, including, without limitation, the duty and power to keep and be responsible for all funds and securities of the Trust Company, to deposit funds of the Trust Company in depositories selected in accordance with this Agreement, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the Trust Company.

The Assistant Treasurer shall perform such duties and possess such powers as the Board of Directors, the President or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

(j) *Trust Officer.* A Trust Officer may be appointed perform such duties and shall have such powers as may from time to time be assigned to the Trust Officer by the Board of Directors or the President. In addition, the Trust Officer may perform such duties and have such powers as are incident to the office of the trust officer of a New Hampshire trust company and are applicable to the Trust Company.

(k) *Salaries.* Officers of the Trust Company shall be entitled to such salaries, compensation or reimbursement, if any, as may be fixed or allowed from time to time by the Board of Directors.

6.5. *Interpretation of Rights and Duties of Directors and Member.* To the fullest extent permitted by the Act and other applicable law, and to the extent not inconsistent with the specific provisions of this Agreement or the Certificate, it is the intention of the parties as follows:

(a) The Board of Directors shall have the power to do any and all acts, statutory and otherwise, with respect to the Trust Company that the board of directors of a New Hampshire trust company in corporate form would have with respect to such New Hampshire trust company; and

(b) the Member shall have no power or authority whatsoever with respect to the management of the business and affairs of the Trust Company.

6.6. *Member Approval Requirements.* Notwithstanding the provisions of Section 6.1 or any other provision of this Agreement to the contrary, without the prior written consent of the Member, the Board of Directors shall not cause the Trust Company to (and the Trust Company shall not) sell all or substantially all of the assets of the Trust Company or merge with, or consolidate into, another limited liability company or other business entity (as defined in Section

304-C:1 of the Act).

6.7. *Binding the Trust Company.* Except as the Board of Directors may generally or in any particular case or cases otherwise authorize, and subject to the other provisions of this Agreement and the Certificate, all deeds, leases, contracts, bonds, notes, checks, drafts or other obligations made, accepted or endorsed by the Trust Company shall be signed by the President or the Treasurer.

6.8. *Contracts with Member, Directors and Affiliates.* The Trust Company may transact business and enter into contracts and other arrangements with any Director, officer, Member or Affiliate of a Director, officer or Member or with any corporation, partnership, organization or other concern in which any one or more of its Directors, officers or Member are directors, officers, stockholders, partners, members, trustees, or otherwise interested; and, in the absence of fraud, no such contract or transaction shall be invalidated or in any way affected by the fact that such Directors, officers or Member of the Trust Company have or may have interests which are or might be adverse to the interest of the Trust Company even though the vote or action of the Directors, officers or Member having such adverse interest may have been necessary to obligate the Trust Company under such contract or transaction. In the absence of fraud, and in the absence of any express agreement to the contrary, no Director, officer or Member having such adverse interest shall be liable to the Trust Company, the Member or any creditor of the Trust Company or to any other Person for loss incurred by it under or by reason of such contract or transaction, nor shall any such Director, officer or Member be accountable for any gains or profits realized thereon.

6.9. *Indemnification and Exculpation.*

(a) No Covered Person shall have any liability to the Trust Company or to the Member for any loss suffered by the Trust Company that arises out of any action or inaction of such Covered Person if such Covered Person conducted himself in good faith, reasonably believed that such course of conduct was in, or not opposed to, the best interests of the Trust Company and such course of conduct did not constitute gross negligence or willful misconduct of such Covered Person.

(b) To the maximum extent permitted by applicable law and subject to the other provisions of this Section, the Trust Company shall indemnify each Covered Person from and against all claims, losses, expenses, liabilities, actions or damages (including, without limitation, any action by the Member or assignee thereof against a Covered Person) due to, arising from, or incurred by reason of any action, inaction or decision performed, taken, not taken or made by such Covered Person in connection with any of the activities and operations of the Trust Company, provided such action, inaction or decision is within the scope of the authority of such Covered Person as provided herein, such Covered Person conducted himself in good faith and in a manner such Covered Person reasonably believed to be in, or not opposed to, the best interests of the Trust Company, and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of such Covered Person was unlawful. The adverse termination of a proceeding by judgment, order, settlement, conviction or plea of nolo contendere, or its equivalent, shall not, by itself, create a presumption that such Covered Person did not act in good faith and in a manner which such Covered Person reasonably believed to be in, or not opposed

to, the best interest of the Trust Company, or that such Covered Person had reasonable cause to believe that such Covered Person's conduct was unlawful (unless there has been a final adjudication in the proceeding that such Covered Person did not act in good faith and in a manner which such Covered Person reasonably believed to be in, or not opposed to, the best interests of the Trust Company, or that such Covered Person did have reasonable cause to believe that such Covered Person's conduct was unlawful). Any Covered Person may consult with counsel selected by such Covered Person and any opinion of such counsel (which may be counsel for any Covered Person or any Affiliate) shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by such Covered Person hereunder in good faith and in accordance with the opinion of such counsel. Any indemnification under this Section shall include reasonable attorneys' fees incurred by such Covered Person in connection with the defense of any proceeding based on any such action, inaction or decision, and shall include, to the extent permitted by law, all such liabilities under United States federal and state securities laws. The reasonable expenses incurred by a Covered Person in connection with the defense of any such proceeding shall be paid or reimbursed by the Trust Company as incurred, upon receipt of an undertaking by such Covered Person to repay such expenses if it shall ultimately be determined that such Covered Person is not entitled to be indemnified hereunder. Indemnification hereunder shall only be made to the extent that such Covered Person is not otherwise reimbursed from insurance or other means. Indemnification hereunder shall only be paid from the assets of the Trust Company, and the Member shall not have any personal liability on account thereof.

(c) Notwithstanding the provisions of Section 6.9(b), a Covered Person shall not be entitled to be indemnified or held harmless from and against any claim, loss, expense, liability, action or damage, to the extent such claim, loss, expense, liability, action or damage:

(i) is due to, or arises from, or is incurred by reason of such Covered Person's gross negligence or willful misconduct;

(ii) arises in connection with, a proceeding by or in the right of the Trust Company, in which such person was adjudged liable to the Trust Company; or

(iii) arises in connection with any proceeding charging improper personal benefit to such Covered Person, whether or not involving action on behalf of the Trust Company, in which such Covered Person was adjudged liable on the basis that personal benefit was improperly received by him or her.

(d) The provisions of this Section shall be in addition to and not in limitation of any other rights of indemnification and reimbursement or limitations of liability to which a Covered Person may be entitled. The provisions of this Section shall apply whether or not at the time of reimbursement the Covered Person entitled to reimbursement is then a Covered Person. Notwithstanding any repeal of this Section or other amendment hereof, its provisions shall be binding upon the Trust Company (subject only to the exceptions above set forth) as to any claim, loss, expense, liability, action or damage due to, arising from or incurred by reason of matters which occur during or refer to the period prior to any such repeal or amendment of this Section.

6.10. *Other Activities.* The Member, Directors and any Affiliates of any of them may



engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others, including serving as directors, officers, stockholders, directors, members and general or limited partners of corporations, partnerships or other limited liability companies with purposes similar to those of the Trust Company. Neither the Trust Company nor any other Director or Member shall have any rights in or to such ventures or opportunities or the income or profits therefrom. Nothing in this Section 6.10, however, shall limit or abrogate any agreement to which any such Member, Director or Affiliate may be bound apart from this Agreement.

## **ARTICLE VII. Fiscal Matters**

7.1. *Books and Records.* At all times during its existence and thereafter until its complete liquidation, dissolution or winding up, the Trust Company shall maintain books of account and records at its registered office. The Trust Company shall keep its books and records as determined by the Board of Directors. The Board of Directors shall keep or cause the Treasurer or another officer to keep such books and records, in addition to any documents and information required to be furnished to the Member under the Act, at the principal office of the Trust Company for examination and copying by the Member or any Director, or such Member's or Director's duly authorized representative, at such Member's or Director's reasonable request, and at such Member's or Director's expense during ordinary business hours. A current list of the full name and last known address of each officer, Member and Director, a copy of this Agreement and any amendments thereto, the Certificate, including all certificates of amendment thereto, and executed copies of all powers of attorney, if any, pursuant to which this Agreement, any amendment, the Certificate or any certificate of amendment has been executed, shall be maintained at the principal office of the Trust Company.

7.2. *Bank Accounts.* The Board of Directors or the President or the Treasurer shall be responsible for causing one or more accounts to be maintained in one or more banks, which accounts shall be used for the payment of the expenditures incurred by the Board of Directors and the officers in connection with the business of the Trust Company, and in which shall be deposited any and all cash receipts of the Trust Company. All deposits and funds not needed for the operations of the Trust Company may be invested in short-term investments, including securities issued or fully guaranteed by United States government agencies, certificates of deposit of banks, bank repurchase agreements covering the securities of the United States government, commercial paper rated A or better by Moody's Investors Services, Inc., money market funds, interest-bearing time deposits in banks and thrift institutions, and such other investments as the Board of Directors may approve. Withdrawals from any Trust Company bank or similar account shall be made and other activity conducted on such signature or signatures as shall be approved by the Board of Directors.

7.3. *Fiscal Year; Audit.* The fiscal year of the Trust Company for tax and for financial accounting purposes shall be fixed by the Board of Directors. The Trust Company shall be subject to an annual financial audit as of the end of its fiscal year by independent certified public accountants appointed by and responsible to the Audit Committee. The Trust Company shall issue a written report on at least an annual basis, containing substantially the same information as is required under Form N-30d under the Investment Company Act of 1940, to all beneficiaries of

any Trusts that it shall administer.

## **ARTICLE VIII. Transfers of Interests**

### *8.1. General Restrictions on Transfer of Interests by Member.*

(a) The Member may not Transfer all or any part of the Member's interest in the Trust Company without the prior written consent of the Board of Directors and, if applicable under New Hampshire banking laws and regulations, the New Hampshire Bank Commissioner. A permitted assignee of the Member's interest shall be admitted as a substitute Member, entitled to exercise the rights and powers of a Member, only with the prior written consent of the Board of Directors.

(b) Any Person who acquires an interest in the Trust Company by permitted Transfer, whether or not such Person has accepted and assumed in writing the terms and provisions of this Agreement or been admitted into the Trust Company as a Member, shall be deemed, by acceptance of the acquisition of such interest, to have agreed to be subject to and bound by all of the obligations of this Agreement with respect to such interest and shall be subject to the provisions of this Agreement with respect to any subsequent Transfer of such interest.

(c) Any Transfer in contravention of any of the provisions of this Agreement shall be null and void and ineffective to transfer any interest in the Trust Company, and shall not bind, or be recognized by, or on the books of, the Trust Company, and any transferee or assignee in such transaction shall not be or be treated as or deemed to be a Member for any purpose.

## **ARTICLE IX. Dissolution and Liquidation**

9.1. *Events Causing Dissolution.* Subject to applicable New Hampshire banking laws and regulations, the Trust Company shall be dissolved and its affairs wound up upon the earlier to occur of the following events:

(a) the effective date specified in a written election adopted by the Board of Directors to dissolve the Trust Company (provided such election to dissolve the Trust Company has been approved by consent of the sole Member);

(b) the time of the dissolution ordered by the New Hampshire Bank Commissioner or other applicable bank regulatory authority;

(c) the occurrence of any event under the Act that terminates the continued membership of the Member in the Trust Company unless, within ninety (90) days after the occurrence of such an event, the legal representative or successor of the Member agrees in writing to continue the Trust Company and to the admission of such legal representative or successor or its nominee or designee as a Member, effective as of the occurrence of such event;  
or

(d) issuance of a notice of administrative dissolution under Section 304-C:53, I of the Act, or entry of a decree of judicial dissolution under Section 304-C:51 of the Act.

*9.2. Procedures on Dissolution.* Dissolution of the Trust Company shall be effective on the day on which the event giving rise to the dissolution occurs, but the Trust Company shall not terminate until the assets of the Trust Company have been applied or distributed as provided herein and the Certificate has been canceled in the manner required by the Act. Notwithstanding the dissolution of the Trust Company, prior to the termination of the Trust Company, the business of the Trust Company shall continue to be governed by this Agreement. Promptly after dissolution, the Liquidator shall liquidate the assets of the Trust Company and apply and distribute the proceeds thereof as provided in Section 9.3 below. As soon as practicable after such liquidation and distribution, the Liquidator shall cause the cancellation of the Certificate.

*9.3. Liquidation Following Dissolution.*

(a) Following the dissolution of the Trust Company in accordance with this Agreement, no further business shall be done in the Trust Company except for the completion of any transactions in process and the taking of such action as is necessary for the performance and discharge of the Trust Company's obligations, the winding-up and liquidation of its affairs and the distribution of its assets. After payment of all liabilities of the Trust Company owing to creditors of the Trust Company, the Liquidator shall set up such reserves as it deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Trust Company. Such reserves shall be paid over by the Liquidator to a bank, to be held in escrow for the purpose of paying any such contingent or unforeseen liabilities or obligations as they become fixed or determined. The Liquidator shall have the power to pay any such liabilities or obligations of the Trust Company from the reserves placed in escrow for that purpose, and, at the expiration of such period as the Liquidator deems advisable, the remainder of such reserves, if any, shall be distributed to the Member in the manner set forth in Section 9.3(b) below.

(b) After paying such liabilities and providing for such reserves, the Liquidator shall cause the remaining net assets of the Trust Company (and the remainder, if any, of the reserves established in accordance with Section 9.3(a) above) to be distributed to the Member. In the event that any part of such net assets consists of notes or accounts receivable or other noncash assets, the Liquidator may take whatever steps it deems appropriate to convert such assets into cash or into any other form which would facilitate the distribution thereof. If any assets of the Trust Company are to be distributed in kind, such assets shall be distributed on the basis of their fair market value net of any liabilities.

*9.4. Claims of the Member.* The Member shall look solely to the Trust Company's assets for the return of its Capital Contribution, and if the assets of the Trust Company remaining after payment of or due provision for all debts, liabilities and obligations of the Trust Company are insufficient to return such Capital Contribution, the Member shall have no recourse against the Trust Company or any Director.

## **ARTICLE X. General Provisions**

10.1. *Notices.* Except for notices of meetings of Directors, which shall be given in the manner provided elsewhere in this Agreement, all notices under this Agreement shall be effective (a) on the fourth business day after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) on the first business day after being sent by express mail, or commercial overnight delivery service, providing a receipt for delivery; (c) on the date of hand delivery or delivery by receipt confirmed telecopier or electronic mail; or (d) on the date actually received, if sent by any other method. To be effective, all such notices shall be addressed, if to the Trust Company, at its registered office under the Act, and if to the Member or a Director, at the last address of record on the Trust Company's books.

10.2. *Word Meanings.* Words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless expressly stated otherwise in any given instance. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Where the context permits, the use of the term "or" shall be equivalent to the use of the term "and/or".

10.3. *Binding Provisions.* Subject to the restrictions on Transfers set forth herein, the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto, all Persons who hereafter become Directors in accordance with this Agreement, and their respective heirs, legal representatives, successors and permitted assigns.

10.4. *Applicable Law.* This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire, including the Act, notwithstanding any rules regarding choice of law to the contrary.

10.5. *Counterparts.* This Agreement may be executed in several counterparts and as so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

10.6. *Separability of Provisions.* Each provision of this Agreement shall be considered separable. To the extent that any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be considered amended to the smallest degree possible in order to make the Agreement effective under the Act (and, if the Act is subsequently amended or interpreted in such manner as to make effective any provision of this Agreement that was formerly rendered invalid, such provision shall automatically be considered to be valid from the effective date of such amendment or interpretation).

10.7. *Section Titles.* Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

10.8. *Amendments.* Except as otherwise specifically provided in this Agreement (including, without limitation, in Article VIII), this Agreement may be amended or modified only by a writing approved and executed by the Member; provided, however, that no such amendment shall increase the liability of or increase the obligations of the Board of Directors

without the prior approval of the Board of Directors.

10.9. *Third-Party Beneficiaries.* The provisions of this Agreement, including, without limitation, Article III, are not intended to be for the benefit of any creditor (other than the Member or a Director who is a creditor) or other Person (other than the Member or a Director in such Member's or Director's capacity as such) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Trust Company or the Member or any of the Directors. Moreover, notwithstanding anything contained in this Agreement, including, without limitation, Article III, no such creditor or other Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in respect of any debt, liability or obligation (or otherwise) against the Trust Company or the Member or any Director.

10.10. *Entire Agreement.* This Agreement embodies the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings between or among them relating to such subject matter. The Member and Directors hereby agree that the Member and each Director shall be entitled to rely on the provisions of this Agreement, and no Member or Director shall be liable to the Trust Company or the Member or any Director for any action or refusal to act taken in good faith reliance on the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Limited Liability Company Agreement under seal as of the day and year first above written.

SOLE MEMBER

ICMA RETIREMENT CORPORATION

By: Lynne Ford (LS)  
Chief Executive Officer and President

777 North Capitol Street, NE  
Washington, DC 20002

DIRECTOR:

Michael Barry (LS)

Michael Barry  
Chevy Chase, Maryland

DIRECTOR:

Tina Byles Williams (LS)

Tina Byles Williams  
Philadelphia, Pennsylvania

DIRECTOR:

Lynne Ford (LS)

Lynne Ford  
Washington, D.C.

DIRECTOR:

Jeanmarie Grisi (LS)

Jeanmarie Grisi  
Berkeley Heights, New Jersey

DIRECTOR:

Carl Harness (LS)

Carl Harness  
Tampa Florida

DIRECTOR:

Christopher Morrill

Christopher Morrill  
Roanoke, Virginia

DIRECTOR:

Christopher McCullion  
Christopher McCullion  
Orlando, Florida

DIRECTOR:

Robert J. O'Neill, Jr. (LS)  
Robert J. O'Neill, Jr.

DIRECTOR:

Gilbert Perales  
Gilbert Perales  
Irving, Texas



SCHEDULE A

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<u>Member Name and Address</u>	<u>% Interest</u>	<u>Capital Contribution</u>
ICMA Retirement Corporation, 777 North Capitol Street, NE Washington, DC 20002	100%	The Member will contribute to the Trust Company all amounts required by New Hampshire banking laws and regulations.

Directors:

Christopher McCullion  
Chief Financial Officer  
Orlando, Florida  
Class I

Robert J. O'Neill, Jr.  
Senior Vice President, Public Finance  
Davenport & Company  
Richmond, Virginia  
Class II

Christopher Morrill  
Executive Director  
Government Finance Officers  
Association  
Chicago, Illinois  
Class I

Tina Byles Williams  
Chief Executive Officer & Chief  
Investment Officer  
Xponance  
Philadelphia, Pennsylvania  
Class III

Gilbert Perales  
Deputy City Manager  
Arlington, Texas  
Class I

Carl Harness  
Chief Human Services Administrator  
Hillsborough County, Florida  
Class III

Michael Barry  
Chief Investment Officer  
Georgetown University  
Washington, D.C.  
Class II

Lynne Ford  
Chief Executive Officer and President  
ICMA Retirement Corporation  
Washington, D.C.  
Class IV, Ex Officio

Jeanmarie Grisi  
Chief Investment Officer  
Pension Investments, Nokia

# DISCLOSURE MEMORANDUM

for the VantageTrust Funds, VantageTrust II Funds and VantageTrust III Funds





**VANTAGETRUST FUNDS, VANTAGETRUST II FUNDS & VANTAGETRUST III FUNDS  
DISCLOSURE MEMORANDUM**

**November 2020**

THIS OFFERING IS BEING MADE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, FOR AN INTEREST IN VANTAGETRUST, VANTAGETRUST II MULTIPLE COLLECTIVE INVESTMENT FUNDS TRUST, AND VANTAGETRUST III MASTER COLLECTIVE INVESTMENT FUNDS TRUST (EACH THE “TRUST” AND TOGETHER THE “TRUSTS”). NO PUBLIC MARKET WILL DEVELOP FOR THE UNITS OF PARTICIPATION IN ONE OR MORE SERIES (EACH A “FUND,” AND COLLECTIVELY, THE “FUNDS”) OF ANY TRUST. THE UNITS ARE NOT TRANSFERABLE OR REDEEMABLE EXCEPT UPON SATISFACTION OF CERTAIN CONDITIONS DESCRIBED IN THIS DISCLOSURE MEMORANDUM AND EACH TRUST’S DECLARATION OF TRUST.

THE UNITS OF PARTICIPATION OFFERED HEREBY HAVE NOT BEEN REGISTERED WITH OR APPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE, NOR HAS ANY SUCH COMMISSION OR REGULATORY AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE MEMORANDUM.

THE TRUSTS AND THE FUNDS ARE NOT REGISTERED AS AN INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED, IN RELIANCE UPON AN EXEMPTION FROM SUCH REGISTRATION.

PROSPECTIVE INVESTORS ARE NOT TO CONSTRUE THE CONTENTS OF THIS DISCLOSURE MEMORANDUM AS INVESTMENT, TAX, OR LEGAL ADVICE. THIS DISCLOSURE MEMORANDUM, AS WELL AS THE NATURE OF THE INVESTMENT, SHOULD BE REVIEWED BY EACH PROSPECTIVE INVESTOR WITH ITS INVESTMENT ADVISERS, ACCOUNTANTS, OR LEGAL COUNSEL.

NO PERSON IS AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION NOT CONTAINED IN THIS DISCLOSURE MEMORANDUM, AND, IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON.

THIS DISCLOSURE MEMORANDUM CONTAINS SUMMARIES, BELIEVED TO BE ACCURATE, OF CERTAIN TERMS OF EACH TRUST’S DECLARATION OF TRUST. FOR COMPLETE INFORMATION CONCERNING THE RIGHTS AND OBLIGATIONS OF THE PARTIES THERETO, REFERENCE IS HEREBY MADE TO THE ACTUAL DOCUMENTS, COPIES OF WHICH WILL BE FURNISHED TO PROSPECTIVE INVESTORS, UPON REQUEST. IN THE EVENT OF ANY INCONSISTENCIES BETWEEN THIS MEMORANDUM AND ANY TRUST’S DECLARATION OF TRUST, THE PROVISIONS OF THE DECLARATION OF TRUST SHALL BE CONTROLLING. ALL SUCH SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY BY THIS REFERENCE.

THE FUNDS AND OTHER INVESTMENT OPTIONS MADE AVAILABLE BY THE TRUSTS ARE NOT GUARANTEED OR INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, ANY OTHER GOVERNMENT AGENCY, THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION OR ITS AFFILIATES, INCLUDING THE VANTAGETRUST COMPANY, LLC (“TRUST COMPANY”). TRUST COMPANY HAS CLAIMED AN EXCLUSION FROM THE DEFINITION OF THE TERM “COMMODITY POOL OPERATOR” UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED (THE “CEA”), AND THUS, IS NOT SUBJECT TO REGISTRATION OR REGULATION AS A COMMODITY POOL OPERATOR UNDER THE CEA.

BEFORE INVESTING IN A FUND THE FOLLOWING SHOULD BE CAREFULLY CONSIDERED:

- INVESTMENT GOALS, TOLERANCE FOR RISK, INVESTMENT TIME HORIZON, AND PERSONAL FINANCIAL CIRCUMSTANCES;
- THERE IS NO GUARANTEE THAT A FUND WILL MEET ITS INVESTMENT OBJECTIVE;
- PAST PERFORMANCE DOES NOT INDICATE OR GUARANTEE FUTURE PERFORMANCE; AND
- AN INVESTOR CAN LOSE MONEY INVESTING IN THE FUNDS.

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## I. INTRODUCTION

This *Disclosure Memorandum* (“**Memorandum**”) provides information about the funds (“**Fund**” or “**Funds**”) within three trusts: the VantageTrust (“**VantageTrust**”), VantageTrust II Multiple Collective Investment Funds Trust (“**VantageTrust II**”), and VantageTrust III Master Collective Investment Funds Trust (“**VantageTrust III**”). Within this Memorandum we refer to each as a **Trust**, and collectively as the **Trusts**. The Funds are not mutual funds. They are collective investment trust funds, or “**CITs**.”

For additional information about VantageTrust Funds and VantageTrust II Funds you should refer to the applicable “**Fact Sheet**” or “**Investment Options Sheet**.” The Fact Sheet provides information about each Fund’s investment objective, strategies, principal risks, expenses, performance and trading restrictions. The Investment Options Sheet provides information about each Fund, including principal risks, investment objectives and investment strategies.

Certain VantageTrust Funds and VantageTrust II Funds invest in VantageTrust III Funds, but the VantageTrust III Funds are not available for direct investment. For additional information about the VantageTrust III Funds, you may request a copy of Appendix A to the VantageTrust III Declaration of Trust. Appendix A includes “**Fund Level Guidelines**” that provide investment objectives, strategies and restrictions for each VantageTrust III Fund.

### A. How Our Funds Are Named

This Memorandum uses the legal name when referring to each of the Funds. In comparison, some of our Funds use the “Vantagepoint” name for general marketing purposes. For your reference, the following table shows the legal name for each category of Funds within each Trust alongside the applicable marketing name.

Trust	Fund Legal Name	Fund Marketing Name	Fund Classes
VantageTrust	VT Vantagepoint Funds	Vantagepoint Funds	R
	VT PLUS Fund	Vantagepoint PLUS Fund	R, F
	VT Trust Series Funds	VT Trust Series Funds	R
	VT Retirement IncomeAdvantage Fund	VT Retirement IncomeAdvantage Fund	R
VantageTrust II	VT II Vantagepoint Funds	Vantagepoint Funds	S
	VT II PLUS Fund	Vantagepoint PLUS Fund	S
	VantageTrust II Model Portfolio Funds	VantageTrust II Model Portfolio Funds	S
VantageTrust III	VT III Vantagepoint Funds	Vantagepoint Funds	-
	VT III PLUS Fund	Vantagepoint PLUS Fund	-

## II. MANAGEMENT OF THE TRUST

### A. Trustee

VantageTrust Company, LLC (“**Trust Company**”) is the trustee for each Trust. It is a New Hampshire non-depository banking institution founded in 2001. It generally makes the VantageTrust III Funds available through VantageTrust and VantageTrust II. The VantageTrust Funds and the VantageTrust II Funds are available to “Eligible Trusts” (as defined in their Declarations of Trust), which typically include public sector plans. The Trust Company is a wholly owned subsidiary of The International City Management Association Retirement Corporation (“**ICMA-RC**”). ICMA-RC is a Delaware non-profit financial services corporation established in 1972 to assist state and local governments and their agencies and instrumentalities in the establishment and maintenance of deferred compensation and qualified retirement plans.

The Trust Company has exclusive management and investment authority with respect to any Fund established pursuant to each Trust's Declaration of Trust ("**Declaration of Trust**"). The Trust Company may retain and consult with such investment advisers or other consultants, including, but not limited to, any affiliate of the Trust Company, as the Trust Company in its sole discretion may deem advisable, to assist it in carrying out its responsibilities under the Declaration of Trust. The Trust Company may, in its sole discretion, incorporate the advice of such investment advisers and other consultants into any investment guidelines, investment objectives, or restrictions.

## **B. Investment Adviser**

ICMA-RC's wholly owned subsidiary, Vantagepoint Investment Advisers, LLC ("**VIA**"), serves as the investment adviser to the Trust Company. VIA is registered as an investment adviser with the Securities and Exchange Commission.

Additional information about the advisory services that VIA provides to the Trust Company is available in VIA's *VantageTrust Company Advisory Services* Form ADV Part 2A (also known as the "**Brochure**") which is available at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **C. Trust**

Each Trust is a group trust established and maintained by the Trust Company and is intended to provide for the collective investment and reinvestment of assets of certain eligible investors ("**Eligible Trusts**") as that term is defined in each Trust's Declaration of Trust. The Trust Company is the sole trustee of each Trust. The Trust property allocable to the Eligible Trusts is held for the trustees of those Eligible Trusts for the exclusive benefit of those Eligible Trusts' investors and beneficiaries.

The Board of Directors of the Trust Company ("**Board**") is responsible for investing Trust property and overseeing the investments, operations, and administration of each Trust, including the supervision and periodic review of VIA's services as investment adviser to the Trust Company with respect to the Funds and ICMA-RC's services as administrator to the Trust Company with respect to the Funds.

## **D. Broker-Dealer Distribution for the VantageTrust Funds & VantageTrust II Funds**

ICMA-RC Services, LLC, ("**RC Services**") an SEC registered broker-dealer and FINRA member firm, offers the VantageTrust Funds and the VantageTrust II Funds to Defined Contribution Investment Only ("**DCIO**") clients. RC Services is a wholly-owned subsidiary of ICMA-RC and an affiliate of the Trust Company. RC Services also provides educational support for ICMA-RC's record keeping services to plans and plan participants.

## **III. EXEMPTION FROM REGISTRATION UNDER FEDERAL SECURITIES LAWS**

Interests in the Funds are not registered under the Securities Act of 1933, in reliance on the exemption under Section 3(a)(2) of that Act, nor are they registered under the Investment Company Act of 1940, in reliance on the exemption under Section 3(c)(11) of that Act.

## **IV. FEDERAL TAX STATUS**

Sections 501(a) and 401(a) of the Internal Revenue Code ("**Code**") provide that a group trust for the commingled investment of assets of qualified plans and other employee benefit plans, such as the Trust, is exempt from taxation.

## **V. ADOPTION OF TRUST AGREEMENT - ELIGIBLE TRUSTS**

Admission to a Trust is governed by the terms of each Trust's Declaration of Trust. Each Eligible Trust that desires to participate in a Trust shall establish to the Trust Company's satisfaction that it meets the conditions of participation

set forth in that Trust’s Declaration of Trust, including that it satisfies the definition of Eligible Trust as defined in the Declaration of Trust. Each Trust’s Declaration of Trust is available upon request.

## VI. THE FUNDS

This section provides an overview of each category of Funds that the Trust Company has established. For the VantageTrust Funds and VantageTrust II Funds, please refer to the applicable Fund Fact Sheet or Investment Options Sheet for additional information about each Fund and class, including expenses, performance, objectives, investment strategies and restrictions. The VantageTrust III Funds are not available for direct investment. Nevertheless, you may request a copy of Appendix A to the VantageTrust III Declaration of Trust which includes the Fund Level Guidelines for each VantageTrust III Fund.

The table below summarizes each general category of Funds within the Trusts. Each category of Funds is discussed in more detail in this section. See Appendix A for a full list of the current Funds.

General Fund Category	Summary Description
Vantagepoint Milestone Funds & Vantagepoint Model Portfolio Funds	A series of target date (Milestone) and target risk (Model) Funds. VT Vantagepoint and VT II Vantagepoint Milestone and Model Funds invest in an underlying VT III Vantagepoint Milestone or Model Fund with a corresponding objective, strategy and risk profile.
Vantagepoint Index Funds	Funds that follow an indexed or passively managed approach to investing. This means that securities are selected to try to approximate the investment characteristics and performance of the specified index. VT Vantagepoint and VT II Vantagepoint Index Funds invest in an underlying VT III Vantagepoint Index Fund with a corresponding objective, strategy and risk profile.
Vantagepoint Actively Managed Funds	Funds that have a distinct investment objective and strategy and follow an actively managed approach to investing. VT Vantagepoint and VT II Vantagepoint Actively Managed Funds invest in an underlying VT III Vantagepoint Actively Managed Fund with a corresponding objective, strategy and risk profile.
Vantagepoint PLUS Fund	A “stable value fund” that primarily invests in a diversified and tiered portfolio of stable value investment contracts. The VT PLUS and VT II PLUS Funds invest in the VT III PLUS Fund which has a corresponding objective, strategy and risk profile.
VT Trust Series Funds	VantageTrust Funds that invest in a single underlying third-party fund.
VT Retirement Income Advantage Fund	A Fund that invests in a Separate Account under a group variable annuity issued by Prudential Retirement Insurance and Annuity Company.
VantageTrust II Model Portfolio Funds	Target risk funds that invest in a combination of VantageTrust III Funds and third party exchange-traded funds. Each Fund is designed to have a different degree of risk and reward.
VT II Cash Management Fund	A Fund that invests in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.
VT II Special Purpose Funds	A group of VantageTrust II Funds that are primarily used to gain exposure to fixed income securities within stable value investment strategies.

### A. Investment Objectives and Strategies

The objectives and strategies described in this Memorandum, and as applicable, the Fact Sheet, Investment Options Sheet and Fund Level Guidelines, are those that the Funds use under normal conditions.



### **1. Temporary Defensive or Liquidity Positions**

Each Fund may, from time to time, take temporary defensive or liquidity positions that are inconsistent with the Fund's investment strategies, in attempting to respond to adverse market, economic, political, or other conditions. During unusual economic or market conditions, or for temporary defensive purposes or liquidity purposes, each Fund may place up to 100% of its assets in securities that would not ordinarily be consistent with the Fund's objectives or in cash and cash equivalents. A Fund will do so only if VIA or a Fund's subadviser believes the risk of loss outweighs the opportunity for capital gains or higher income. A Fund may not be seeking its investment objective(s) while taking a temporary defensive position or a liquidity position.

### **2. Limits on Fund Investments**

A Fund may include investment limitations or restrictions, such as a required minimum or maximum investment in a particular type of security. Any such limitations and restrictions are measured at the time a Fund purchases the investment option. The status, market value, maturity, credit quality, or other characteristics of a Fund's securities may change after they are purchased, and this may cause the amount of the Fund's assets invested in such securities to exceed the stated maximum restriction or fall below the stated minimum restriction. If any of these changes occur, it would not be considered a violation of the investment restriction.

## **B. Vantagepoint Milestone Funds & Vantagepoint Model Portfolio Funds**

The VT Vantagepoint Milestone Funds ("**VT Milestone Funds**"), VT II Vantagepoint Milestone Funds ("**VT II Milestone Funds**") and VT III Vantagepoint Milestone Funds (collectively the "**Vantagepoint Milestone Funds**") are target date funds.

The VT Vantagepoint Model Portfolio Funds ("**VT Model Portfolio Funds**"), VT II Vantagepoint Model Portfolio Funds ("**VT II Model Portfolio Funds**") and VT III Vantagepoint Model Portfolio Funds (collectively the "**Vantagepoint Model Portfolio Funds**") are target risk funds.

Each VT Milestone Fund, VT II Milestone Fund, VT Model Portfolio Fund and VT II Model Portfolio Fund invests in a single VT III Vantagepoint Milestone Fund ("**VT III Milestone Fund**") or VT III Vantagepoint Model Portfolio Fund ("**VT III Model Portfolio Fund**") that shares its name, objective, strategies and risks. In turn, each underlying VT III Milestone Fund or VT III Model Portfolio Fund is a "fund of funds" that invests in a combination of other VantageTrust III Funds and third party exchange-traded funds (ETFs). By investing in this way, each VT III Milestone Fund or VT III Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and of the portfolio holdings and strategies of those funds.

**Changes to the Underlying Funds:** Any changes in the underlying funds, such as changes in investment objectives or strategies, may affect the performance of the Vantagepoint Milestone Funds and Vantagepoint Model Portfolio Funds. VIA may alter the asset class allocations or underlying fund-level allocations of a VT III Milestone Fund or VT III Model Portfolio Fund at its discretion.

**Underlying VT III Milestone Funds:** The targeted allocation of each VT III Milestone Fund's assets among underlying funds and the asset classes they represent is determined by VIA. Over time, VIA will adjust the asset allocation of each "dated" VT III Milestone Fund to seek to become more conservative as the year designated in its name approaches and for approximately 10 years beyond the designated year. This is intended to reduce investment risk as investors move toward and into retirement. However, there is no guarantee that this goal will be achieved, and investors may lose money. Ten years after the date in the VT III Milestone Fund's name, it will reach its "landing point" and its target allocation becomes constant. It is

expected that when a VT III Milestone Fund reaches its “landing point” it will combine with the VT III Vantagepoint Milestone Retirement Income Fund.

Unlike the dated VT III Milestone Funds whose asset allocations change over time, the VT III Vantagepoint Milestone Retirement Income Fund maintains a constant asset allocation and is designed for investors who have begun to make gradual withdrawals or are seeking to preserve principal with some opportunity for inflation protection and capital growth, or who have a low tolerance for price fluctuations or wish to invest for the shorter-term.

**Underlying VT III Model Portfolio Funds:** Each VT III Model Portfolio Fund is designed to have a different degree of potential risk and reward and is diversified among the underlying funds in differing allocations. By investing in this way, each VT III Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and the portfolio holdings and strategies of those funds.

**Asset Allocation:** The allocation of each VT III Model Portfolio Fund among the underlying funds and the asset classes they represent is established by VIA.

**Rebalancing:** VIA monitors the allocations for each VT III Model Portfolio Fund and will “rebalance” its portfolio as necessary to return the VT III Model Portfolio Fund to, or close to, the intended allocations. VIA may, at its discretion, change the allocations to each of the underlying funds. Furthermore, VIA ensures that the underlying fund allocations result in overall asset class allocations that remain within the disclosed asset class allocations to fixed income, equity, and multi-strategy investments.

**VT III Vantagepoint Diversifying Strategies Fund and VT III Vantagepoint Total Return Bond Fund:** Many of the VT III Model Portfolio Funds, VT III Milestone Funds, and VantageTrust II Model Portfolio Funds (discussed later in this Memorandum) invest in the VT III Vantagepoint Diversifying Strategies Fund or VT III Vantagepoint Total Return Bond Fund as part of their investment strategies. These Funds are not available for direct investment or indirectly through VantageTrust or VantageTrust II by Plans or Plan participants. Following are the objectives, strategies and risks for these Funds.

<b>VT III Vantagepoint Diversifying Strategies Fund</b>
<b>Investment Objective:</b> Long-term capital growth.
<b>Principal Investment Strategies:</b> Under normal circumstances, the Fund invests up to 70% of its net assets in alternative investments, including, but not limited to, private equity, private real estate, distressed debt and direct lending (“Alternatives”). The Fund seeks long-term growth of capital with lower volatility over time than that of stocks, in general, and a risk/return profile different from that of traditional asset classes, such as stocks and fixed income securities.  The Fund’s investments in Alternatives typically are expected to be in the form of limited partnerships interests, but may also be in the form of CITs, Limited Liability Companies (“LLCs”), or other pooled vehicles, and may include a broad range of strategies, vintage years, and geographies. The Fund expects to stagger its commitments to Alternatives over several years in order to achieve sufficient vintage year diversification. Once a commitment is made, capital is then expected to be called over a multi-year period. While the Fund’s assets are waiting to be either committed to, or called by, an Alternative investment, the Fund’s assets will be invested in liquid securities, including U.S. and non-U.S. equity securities, fixed income securities, cash and cash equivalents, and derivative instruments. The Fund may use individual securities or pooled investment vehicles to obtain the desired exposure.  The Fund uses multiple managers. Each manager independently selects and maintains a portfolio for this Fund.

**VT III Vantagepoint Diversifying Strategies Fund**

**Principal Risks:**

Alternatives Risk, Convertible Securities Risk, Interest Rate Risk, Credit Risk, High Yield Securities Risk, Small-Cap Securities Risk, Derivative Instruments Risk, Foreign Securities Risk, U.S. Government Agency Securities Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, REITs Risk, Indexing Risk, Foreign Currency Risk, Municipal Securities Risk, Floating Rate Loans Risk, Call Risk, Stock Market Risk, Portfolio Turnover Risk, Multi-Manager Risk.

Please see the “Investment Risks” section of this Memorandum for additional information on risks.

**VT III Vantagepoint Total Return Bond Fund**

**Investment Objective:**

Current income and capital appreciation.

**Principal Investment Strategies:**

Under normal circumstances, this Fund seeks exposure to investment grade fixed income instruments that offer current income with the potential for capital appreciation. The Fund seeks both income and capital appreciation opportunities through diversification across instruments, issuers, sectors and industries with active duration management and yield curve positioning.

This Fund may use fixed income instruments or pooled investment vehicles to gain the desired exposure. It may also invest in other fixed income instruments, cash and cash equivalents, and derivative instruments.

This Fund uses multiple managers. Each manager independently selects and maintains a portfolio for this Fund.

**Principal Risks:**

Leverage Risk, Interest Rate Risk, Credit Risk, Prepayment & Extension Risk, Derivative Instruments Risk, Foreign Securities Risk, Liquidity Risk, Portfolio Turnover Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, U.S. Government Agency Securities Risk, Call Risk, Multi-Manager Risk, Large Investor Risk.

Please see the “Investment Risks” section of this Memorandum for additional information on risks.

**C. Vantagepoint Index Funds & Vantagepoint Actively Managed Funds**

**Index Funds:** Each VT Vantagepoint Index Fund and VT II Vantagepoint Index Fund invests in a single underlying VT III Vantagepoint Index Fund (“**VT III Index Fund**”) that follows an indexed or passively managed approach to investing. This means that securities are selected for investment in a VT III Index Fund to try to approximate the investment characteristics and performance of the specified index.

**Actively Managed Funds:** Each VT Vantagepoint Actively Managed Fund and VT II Vantagepoint Actively Managed Fund invests in a single underlying VT III Vantagepoint Actively Managed Fund (“**VT III Actively Managed Fund**”) that has a distinct investment objective and strategy and follows an actively managed approach to investing.

**Subadviser Selection:** VIA selects the subadvisers that manage the assets or a portion of the assets of the VT III Index Funds and VT III Actively Managed Funds. In selecting these subadvisers and in determining the amount of their asset allocations, VIA considers a variety of factors, which may include but are not limited

to, a manager's investment performance, compliance program and brokerage policies, the qualifications of the manager's investment professionals, the diversity of the manager's investment professionals, the proposed subadvisory fees and their effect on a fund's expense ratios, and the specific investment process proposed by the subadviser.

#### **D. Vantagepoint PLUS Fund**

The VT PLUS Fund and the VT II PLUS Fund invests in the underlying VT III PLUS Fund which has a corresponding objective, strategy and risks (we use "**PLUS Fund**" in this Memorandum to refer to the VT PLUS Fund, VT II PLUS Fund and the VT III PLUS Fund). The PLUS Fund primarily invests in a diversified and tiered portfolio of stable value investment contracts. Other investments of the PLUS Fund may include cash and cash equivalents including short-term investment funds and money market mutual funds, fixed income securities, fixed income mutual funds, VIA's proprietary fixed income funds, and fixed income commingled trust funds ("**fixed income assets**") that back certain stable value investment contracts.

Each stable value investment contract provides for participant withdrawals, under certain conditions, at book value. Book value is the original contract value plus accrued interest, plus additional deposits less withdrawals, fees and expenses, and other unexpected adjustments. The contract rate (rate at which interest is credited) for different stable value investment contracts varies and may include a fixed rate, a floating rate that resets based on an index, or a crediting rate that resets periodically to reflect current interest rates and the performance over time of the underlying fixed income assets.

##### **1. Stable Value Investment Contracts**

Different types of stable value investment contracts are used to seek to accomplish the PLUS Fund's objectives.

**Traditional Guaranteed Investment Contracts ("GICs")** – These are contracts issued by an insurance company that provide a guarantee for payments of interest at a fixed or floating rate and also principal repayments. The amount invested in each GIC becomes part of the insurance company's general account assets, which are managed and invested as the insurance company deems appropriate. Each GIC is an unsecured obligation of the insurance company to pay principal and interest for the period specified in the contract. Assurance of principal and interest payment is based solely on the financial strength of the insurance company.

**Separate Account GICs** – These are contracts issued by insurance companies that are backed by fixed income assets owned by the insurance company but held in a separate account for the PLUS Fund and any other contract holders in the account, separate from the insurance company's general account assets. The underlying fixed income assets are either managed by the insurance company, an affiliate of the insurance company, or a third party manager. Although the underlying assets are owned by the insurance company, the assets of a Separate Account GIC cannot be used to satisfy the insurance company's general obligations until the separate account liabilities have been satisfied. A Separate Account GIC's crediting/contract rate, i.e., interest paid on the Separate Account GIC, can either be fixed or floating, similar to that of a traditional GIC, or dependent upon the value of the underlying fixed income assets relative to the Separate Account GIC's contract value, and is adjusted periodically to reflect that difference over time, plus current yields, less fees and expenses.

**Synthetic GICs** – These contracts are issued by insurance companies, banks, or other financial institutions ("**Synthetic GIC issuer**") and are backed by underlying fixed income assets owned by the PLUS Fund and not by the Synthetic GIC issuer. The Synthetic GIC contract provides for participant withdrawals at book value (subject to certain conditions) and is called a "wrap contract." The Synthetic GIC issuer also may be referred to as a "wrap provider" or "wrapper." The underlying fixed income assets are managed by fixed income managers hired or approved by VIA.

In addition, certain fixed income securities are managed by VIA. The underlying fixed income assets may be comprised of fixed income securities, which include debt obligations issued by governments, corporations, municipalities and other borrowers, but may also include structured securities that provide for participation interests in debt obligations. The fixed income securities are primarily investment grade, but on a limited basis, may include some below investment grade fixed income securities (“junk bonds”). These investments may also include floating rate loans, commonly known as bank loans and sometimes referred to as leveraged loans, syndicated loans, high yield loans and institutional loans. Certain wrap providers require that they or an affiliate manage the portfolio that they wrap. A Synthetic GIC’s crediting rate is dependent on the value of the underlying fixed income assets relative to the Synthetic GIC’s contract value and is adjusted periodically to reflect that difference over time, plus current yields, less fees and expenses.

**Bank Investment Contracts (“BICs”)** – These contracts are similar but not identical to Traditional GICs and are issued by a bank as a benefit responsive bank deposit.

## **2. Investment Strategies of PLUS Fund**

In managing the PLUS Fund, VIA employs investment strategies designed to seek to meet the Fund’s investment objectives by utilizing a diversified and tiered approach to portfolio construction. The Fund’s diversification and tiered structure seeks to address the competing goals of providing (a) capital preservation; (b) a stable rate of return; (c) sufficient liquidity; (d) returns higher than money market funds and short-term bank rates over the longer term; and (e) returns that generally follow interest rate trends over time, but on a lagged basis. In seeking to meet these multiple goals, VIA manages the composition of the PLUS Fund and its allocation to various products and underlying fixed income assets based on prevailing economic and capital market conditions, relative value analysis, and other factors, consistent with the investment guidelines approved by the Board.

The stable value investment contracts held by the PLUS Fund are managed in the following manner to seek to meet the PLUS Fund’s goals:

**Traditional GICs** – VIA uses a laddered maturity strategy for the Fund’s traditional GICs, that is, the GICs are invested in a way so that they have consistent periodic maturities from maturing GIC payments to provide monthly liquidity. This strategy also seeks to provide for smoother returns and moderated reinvestment risk.

**Separate Account and Synthetic GICs** – VIA implements its Separate Account GIC and Synthetic GIC strategies through multiple single provider wraps or with multiple provider wraps, and by using multiple fixed income managers, including VIA, to manage the underlying fixed income assets. Individual managers may focus on a limited or broad set of sectors, and VIA selects managers that employ complementary strategies. VIA believes that the multi-wrapper, multi-manager approach to stable value and fixed income investing provides investors with greater return potential and, through increased diversification, helps to mitigate issuer and manager risks.

In seeking to preserve capital, VIA employs various strategies, with an emphasis on credit analysis and diversification among different issuers and fixed income assets. The PLUS Fund uses multiple issuers that are subject to initial and ongoing financial analysis performed by VIA. To seek to reduce the impact of a possible issuer default, VIA limits the amount of the PLUS Fund’s exposure to individual stable value contract issuers and requires a stable value contract issuer to meet certain credit quality standards. The underlying fixed income assets also are managed to seek diversification among issuers, security types, sectors, industries, and to meet minimum credit quality requirements.

The crediting rates of the Separate Account GICs and Synthetic GICs in which the PLUS Fund invests are intended to result in less return volatility than the returns experienced by underlying fixed income assets backing those stable value investment contracts. The PLUS Fund also may invest in underlying fixed income assets with shorter maturities that generally exhibit less market volatility than longer maturity fixed income assets. Additionally, the purchase of Traditional GICs with a fixed rate in a laddered Traditional GIC portfolio that is consistently reinvested at prevailing interest rates, with different payouts and maturities, may produce smoother returns than fewer larger purchases of Traditional GICs.

The PLUS Fund seeks to address investor-driven liquidity needs through the PLUS Fund's tiered structure, which is also intended to enhance the Fund's reinvestment opportunities. An actively monitored cash buffer that is primarily invested in short-term investment funds is intended to seek to meet daily liquidity needs. VIA actively monitors investor cash flows to seek to determine the proper cash buffer level. The PLUS Fund's portfolio of shorter duration Separate Account or Synthetic GICs is intended to provide a second source of daily liquidity. By drawing upon shorter duration Separate Account and Synthetic GICs for liquidity needs before drawing on longer duration assets, VIA seeks to minimize the impact to the PLUS Fund when liquidating assets, as needed. A portfolio of stable value investment contracts with defined maturities, primarily invested in Traditional GICs using a laddered maturity strategy, is intended to provide a relatively consistent stream of proceeds that can be reinvested into the laddered Traditional GIC portfolio, invested into other stable value investment contracts, or used for investors' liquidity needs. Ultimately, all stable value investment contracts offer investors liquidity through book value payments for certain permitted withdrawals.

VIA's management strategies seek to produce investment returns that over the long term are higher than those of money market mutual funds and short-term bank rates. However, the PLUS Fund's returns normally will lag changes in short-term interest rates and may be lower than the rates available from money market mutual funds in certain market conditions.

**Securities Lending** - The PLUS Fund participates in a securities lending program under which its custodian is authorized to lend a limited amount of fixed income securities backing the Synthetic GICs. The fixed income securities that are on loan require cash or other forms of collateral at least equal to the market value of the securities loaned as provided for in a Securities Lending Agency Agreement with JPMorgan Chase Bank, N.A. The collateral received is reinvested into cash equivalents including money market funds. As with other extensions of credit there are risks of delay in recovery of the securities on loan. In the event of default or insolvency of the borrower, the PLUS Fund will be indemnified by its custodian for the securities lending program conducted through the custodian if, at the time of a default by a borrower, some or all of the loaned securities have not been returned by the borrower.

### ***3. Evaluation and Monitoring of Issuers and Investment Managers***

VIA conducts in-depth credit analysis of financial institutions to compile a list of eligible stable value investment contract issuers. Criteria for initial and ongoing analysis include such factors as issuer asset quality; capital adequacy; product mix; profitability; and competence of senior management. VIA also takes into consideration ratings such as "claims paying ability" available through the major independent rating services, for example Moody's Investors Service, Inc., Standard & Poor's, and Fitch Ratings.

Initial evaluation and ongoing monitoring are also conducted on fixed income managers of assets that back Separate Account GICs or Synthetic GICs. VIA considers factors such as the investment management firm's organization, management and investment professionals; asset management expertise and product focus; investment performance; investment management process and

philosophy; credit research process; policies and procedures for risk management, compliance and controls; client servicing and flexibility for customization; and management fees.

#### **4. Investment Performance of the PLUS Fund**

The investment performance of the PLUS Fund is influenced by several factors, including:

**Default** – A failure by a stable value contract issuer to pay some or all of its interest or principal obligations when due on Traditional GICs, Separate Account GICs, Synthetic GICs or the Separate Account or Synthetic GIC's underlying fixed income assets will lower the return or book value of the PLUS Fund.

**Manager performance** – Exceptional or poor performance by a fixed income manager responsible for managing assets backing a Separate Account or Synthetic GIC can impact the overall returns of the PLUS Fund.

**Current market rates** – Generally, when a new stable value investment contract is purchased at, or an existing contract is reset to, a lower contract rate than the average contract rate of the PLUS Fund, it lowers the overall return on the Fund and vice versa. The PLUS Fund's rate of return may be expected to fall or rise more slowly than a fall or rise in current interest rates because the PLUS Fund's rate of return reflects an average of the rates payable on each of the PLUS Fund's stable value investment contracts that were entered into at different times and at different rates. The underlying fixed income assets of Separate Account GICs and Synthetic Account GICs will usually decline in value when interest rates rise. This may negatively impact the PLUS Fund's crediting rate.

**Cash flows into and out of the PLUS Fund** – The PLUS Fund is managed to seek to meet the cash flow requirements of expected purchases and sales of units of the PLUS Fund based on investor activity. If actual experience is significantly different from expectations, the PLUS Fund may have to buy or sell stable value investments at rates that are lower or higher than the PLUS Fund's average contract rate, which will have an impact on return.

**Length of contracts** – In general, contracts with longer terms have higher expected returns, but may not be able to keep pace with rising interest rates.

#### **5. Crediting Rate of the PLUS Fund**

The PLUS Fund crediting rate is calculated daily. The crediting rate shown is the annualized rate as of the last day of the reported period. The PLUS Fund crediting rate is calculated by taking into account current yields on the PLUS Fund's holdings and prior period performance of certain holdings in the Fund. The PLUS Fund's crediting rate is generally expected to follow interest rate trends over time but will typically do so on a lagged basis and may not move in the same direction as prevailing interest rates over certain time periods.

#### **6. Portfolio Valuation of the PLUS Fund**

In accordance with industry practice, stable value investment contracts are carried at cost plus accrued interest, plus additional deposits less withdrawals, and other adjustments.

Contributions, transfers and disbursements are effected at contract value or book value and not by reference to any alternative valuation method that might attempt to account for changes in market interest rates or credit risk.

## **7. Restrictions on Transfers of PLUS Fund Assets to Competing Funds**

Direct transfers from the PLUS Fund to competing funds are restricted. Competing funds include, but are not limited to, the following types of investment options:

- cash management funds, money market mutual funds, bank collective short-term investment funds, bank accounts or certificates of deposit, stable value funds or substantially similar investment options that offer guarantees of principal or income, such as guaranteed annuity contracts or similar arrangements with financial institutions;
- short-term bond funds that invest in fixed income securities and seek to maintain or have an average portfolio duration of less than two years; and
- any investment option that invests 80% or more of its assets in (i) fixed income securities or funds with a duration of less than two years, or (ii) instruments that seek to provide capital preservation such as stable value funds, bank certificates of deposit or bank accounts, and cash or cash equivalents.

Whether or not a fund is a competing fund will be determined, at the sole discretion of VIA, in consultation with the stable value contract issuers on a case-by-case basis.

To transfer money from the PLUS Fund to a competing fund, you must first transfer the amount to a non-competing fund for a period of at least 90 calendar days. For example, if you want to transfer money from the PLUS Fund to a money market fund, you will first need to transfer the money to a non-competing fund and then, 90 calendar days later or any time thereafter, transfer that amount of money to the money market fund.

## **8. Information About Restrictions on PLUS Fund Employer Withdrawals and Transfer Restrictions**

In the event an Employer initiates withdrawal of all or part of its Plan's assets from the PLUS Fund, the payout of such assets may be deferred for a period of up to twelve months. **In the case of a total withdrawal, participant transfers of PLUS Fund assets to other investment options will be restricted and participants will not be able to make additional investments in the PLUS Fund during this twelve-month period, or "hold period."**

Certain conditions permit participants to redeem their assets from the PLUS Fund during the hold period. These transactions are known as "benefit eligible transactions." Examples of benefit eligible transactions may include the following:

- Hardship/Emergency Withdrawals for active participants;
- Partial Account Distributions for terminated or retired participants;
- Lump Sum Distributions for terminated or retired participants;
- Rollover Distributions to another qualified plan/IRA account for terminated or retired participants; and
- Installment Payments/Required Minimum Distributions for terminated or retired participants.

When a plan chooses to transition from ICMA-RC to a new recordkeeper, also known as a deconversion, plan-directed redemptions will be paid out in an orderly manner for a period not to exceed the hold period (from the formal date of written notification by the plan sponsor). A participant may initiate a PLUS Fund transfer until the start of the blackout period of the deconversion, typically 5 business days prior to the liquidation and transfer of plan assets (other than PLUS Fund assets) to the new recordkeeper. After the beginning of the blackout period and until the expiration of the hold period, no PLUS Fund transfers are permitted, except for benefit



eligible transactions, as described above. At the expiration of the hold period, the participant's PLUS Fund assets are liquidated, and the proceeds are transferred to the new recordkeeper.

## E. VT Trust Series Funds

Each VT Trust Series Fund invests in a single underlying third-party fund. VIA is responsible for selecting each potential third-party fund and the Board reviews and approves each third-party fund selected. VIA is responsible for monitoring the performance and characteristics of these funds and may recommend the addition or removal of such third-party funds from the Fund's line up.

### 1. VT Cash Management Fund

The VT Cash Management Fund invests in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.

## F. VT Retirement IncomeAdvantage Fund

The VT Retirement IncomeAdvantage Fund invests in a Separate Account under a group variable annuity issued by Prudential Retirement Insurance and Annuity Company ("Prudential")<sup>1</sup>. The Separate Account, in turn, invests in a mix of collective trust funds with an allocation of approximately 60% equities (both domestic and foreign) and 40% fixed income. ICMA-RC manages the assets of the Separate Account pursuant to written investment guidelines provided by Prudential.

### 1. Explanation of Fees:

**Guarantee Fee** – In exchange for an annual guarantee fee of 1.00%, Prudential provides downside income protection and lifetime income guarantees. Prudential may change the guarantee fee in the future, up to a maximum of 1.50%. These guarantees are based on the claims-paying ability of Prudential and are subject to certain limitations, terms and conditions. Excess withdrawals will proportionately reduce and potentially terminate future payment guarantees. ***For additional information regarding these guarantees and the underlying assumptions attributable to these guarantees and the terms and conditions, please see the VT Retirement IncomeAdvantage Fund Important Considerations document, which is available through Account Access when you login at [www.icmarc.org](http://www.icmarc.org) or by contacting Investor Services at 800-669-7400.***

**Services Fee** – A fee applied to the assets in the Separate Account and paid to ICMA-RC in exchange for recordkeeping, administrative, and other services provided by ICMA-RC. ICMA-RC may waive or reduce this fee under certain circumstances.

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<sup>1</sup> Prudential Retirement Insurance and Annuity Company (Prudential), CA COA #08003, Hartford, CT. Neither Prudential nor ICMA-RC guarantees the investment performance or return on contributions to Prudential's Separate Account. You should carefully consider the objectives, risks, charges, expenses and underlying guarantee features before purchasing this product. Prudential may increase the Guarantee Fee in the future, from 1.00% up to a maximum of 1.50%. Like all variable investments, this Fund may lose value. Availability and terms may vary by jurisdiction; subject to regulatory approvals. Annuity contracts contain exclusions, limitations, reductions of benefits and terms for keeping them in force. Guarantees are based on Prudential's claims-paying ability. This annuity is issued under Contract form # GA-2020-TGWB4-0805-RC. ICMA-RC provides recordkeeping services to your Plan and is the investment manager of the underlying Prudential separate account. Prudential or its affiliates may compensate ICMA-RC for providing these and related administrative services in connection with the Fund. Variable annuities are suitable for long-term investing, particularly retirement savings. ©2016 Prudential, the Prudential logo, and the Rock symbol and Bring Your Challenges are service marks of the Prudential Insurance Company of America, Newark, NJ, and its related entities, registered in many jurisdictions worldwide. Note: Participants who are interested in the VT Retirement IncomeAdvantage Fund must first receive and read the VT Retirement IncomeAdvantage Fund Important Considerations document, before investing.

**Investment Management Fee** – A fee applied to the assets in the Separate Account and paid to ICMA-RC in exchange for providing investment management services, including investing the assets of the Separate Account, maintaining and rebalancing the assets within the target allocation, and reviewing and reporting on the performance of the Separate Account and its underlying funds.

**Other Separate Account Fees and Expenses** – The funds in which the Separate Account invests charge their own fees and expenses in accordance with the terms of their respective collective trust governing documents. The expense stated is based on the weighted average of underlying funds at the target asset allocation. In addition, operating expenses such as auditing and custody charges and litigation related expenses are deducted from the assets of the Separate Account.

The Separate Account invests a portion of its assets in VantageTrust II Funds, which in turn invest in corresponding VantageTrust III Funds that have the same investment objectives, strategies and risk profiles. ICMA-RC receives fees for administrative services that it provides to certain of these funds. ICMA-RC's subsidiary, VIA also receives fees for the advisory services it provides to the VantageTrust III Funds.

## 2. *VT Retirement Income Advantage Fund – 90 Day Transfer Restriction*

**Before Lock-In** - If you transfer money out of the VT Retirement Income Advantage Fund, you will not be permitted to transfer money back into the Fund for a period of 90 calendar days. However, contributions to the Fund are permitted to continue, even during the 90-day restriction period.

**After Lock-In** - Any excess withdrawals will result in the 90-day transfer restriction on fund transfers into the VT Retirement Income Advantage Fund. For additional information regarding these restrictions, please see the *VT Retirement Income Advantage Fund Important Considerations* document, which is available when you login to Account Access at [www.icmarc.org](http://www.icmarc.org) or by contacting Investor Services at 800-669-7400.

## G. VantageTrust II Model Portfolio Funds

The VantageTrust II Model Portfolio Funds are target risk funds. This means that each VantageTrust II Model Portfolio Fund is a fund of funds that invests in a combination of VantageTrust III Funds and third party exchange-traded funds (together with the VantageTrust III Funds, “underlying funds”).

Each VantageTrust II Model Portfolio Fund is designed to have a different degree of potential risk and reward and is diversified among the underlying funds in differing allocations. By investing in this way, each VantageTrust II Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and the portfolio holdings and strategies of those funds.

**Asset Allocation:** The targeted allocation of each VantageTrust II Model Portfolio Fund among the underlying funds and the asset classes they represent is established by VIA as the investment adviser to the Trust Company.

**Rebalancing:** VIA monitors the allocations for each VantageTrust II Model Portfolio Fund and will “rebalance” its portfolio as necessary to return the VantageTrust II Model Portfolio Fund to, or close to, the intended allocations. VIA may, at its discretion, change the allocations to each of the underlying funds. Furthermore, VIA ensures that the underlying fund allocations result in overall asset class allocations that remain within the disclosed asset class allocations to fixed income, equity, and multi-strategy investments.

**Changes to the Underlying Funds:** Any changes in the underlying funds, such as changes in investment objectives or strategies, may affect the performance of the VantageTrust II Model Portfolio Funds. VIA may alter the asset class allocations or underlying fund-level allocations of a Fund at its discretion.

## H. VT II Cash Management Fund

The VT II Cash Management Fund invests its assets in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.

## I. VT II Special Purpose Funds

The VT II Special Purpose Funds (“**Special Purpose Funds**”) are a group of Funds that are primarily used to gain exposure to fixed income securities within stable value investment strategies. The Special Purpose Funds invest primarily in a portfolio of investment grade fixed income securities designed to provide current income with the potential for capital appreciation. Where VIA exercises investment discretion in the purchase and sale of portfolio securities within a Special Purpose Fund, VIA generally takes a value-driven, long-term strategic view when making its selections, while also seeking to take advantage of short-term tactical opportunities that arise in the market. For other Special Purpose Funds, VIA selects and monitors the third-party investment managers who exercise investment discretion with respect to the portfolio securities within the Funds. Because certain of the Special Purpose Funds are used for operational efficiencies in the stable value advisory services VIA provides to its other clients, VIA seeks diversification across such Funds in terms of managers.

## VII. INVESTMENT RISKS

Key risks of investing in the Funds and any underlying funds are summarized below. This is not an exhaustive list. Developments that cannot be anticipated nor controlled may disrupt global economies and financial markets and magnify the risks below. Examples of such developments include war, pandemics, epidemics, energy blackouts, cyberattacks, and natural disasters.

The key risks applicable to each VantageTrust Fund and VantageTrust II Fund are included in the respective Fund Fact Sheet or Investment Options Sheet. The key risks applicable to each VantageTrust III Fund are included in Appendix A to this Memorandum.

**Alternatives Risk**—In general, alternative investments involve a high degree of risk, including potential loss of principal invested. They are often invested in illiquid investments, making them difficult to exit and price on a regular basis. Certain alternative investments, such as private equity, will be illiquid on a long term basis and the fund managers typically take several years to invest a fund’s capital. Therefore, investors will not realize the full potential benefits of the investment in the near term. Alternative investments are often more complex than traditional investment vehicles. They may be more volatile than traditional investments such as stocks, bonds and mutual funds. The fees and expenses of alternative investments are often substantial in comparison to other investment vehicles, and those fees will offset the profits of the investment. Alternative investments are typically private which means they are subject to fewer regulatory protections than registered public investments.

**Asset Allocation Risk**—Asset allocation risk is the risk that the selection of the underlying funds and the allocation of Fund assets among them will cause a Fund to lose money or to underperform other funds with similar investment objectives. In addition, there is the risk that the asset classes favored by the allocations will not perform as expected. Any changes made in the underlying funds, such as changes in investment objectives or strategies, may affect the Fund’s performance. Similarly, if the Fund’s asset allocations become “out of balance,” this could affect both the Fund’s level of risk and the Fund’s potential for gain or loss.

**Asset-Backed Securities Risk**—Defaults on the assets underlying asset-backed securities may adversely affect the value of these securities. These securities are subject to risks associated with the nature of the underlying assets and are also subject to interest rate risk, credit risk, prepayment risk, and extension risk. Certain asset-backed securities may be more volatile and less liquid than other traditional types of fixed income securities.

**Call Risk**—A fixed income security may include a provision that allows the issuer to purchase the security back from its holder earlier than the final maturity date of the security, known as a “call feature.” Issuers often exercise this

right when interest rates have declined, in which case, the Fund may be forced to reinvest the proceeds received at a lower interest rate.

**Convertible Securities Risk**—The value of a convertible security generally increases and decreases with the value of the underlying common stock but may also be sensitive to changes in interest rates. Convertible securities generally have a higher risk of default and tend to be less liquid than traditional non-convertible securities. In addition, the convertible securities a Fund invests in may be rated below investment grade or may be unrated, which could increase their risks. Below investment grade securities are speculative and involve a greater risk of default than investment grade securities. The market prices of lower rated convertible securities also may experience greater volatility than the market prices of higher quality securities and may decline significantly in periods of general economic difficulty. A Fund could lose money if the issuer of a convertible security is unable to meet its financial obligations or declares bankruptcy.

**Credit Risk**—An issuer of a fixed income security may be unable or unwilling to make payments of principal or interest to the holders of such securities or may declare bankruptcy. These events could cause a Fund to lose money.

**Derivative Instruments Risk**—Use of derivative instruments involves risks different from, or possibly greater than, the risks associated with more traditional investments, and may involve a small amount of investment relative to the amount of risk assumed. Risks associated with derivative instruments include: the risk that the other party to a derivative contract may not fulfill its obligations (counterparty risk); the risk that a particular derivative instrument, such as over-the-counter derivative instruments, may be difficult to purchase or sell (liquidity risk); the risk that certain derivative instruments are more sensitive to interest rate changes and market price fluctuations (interest rate and market risks); the risk of mispricing or improper valuation of the derivative instrument (valuation risk); the inability of the derivative instrument to correlate in value with its underlying asset, reference rate, or index (basis risk); the risk that the Fund may lose substantially more than the amount invested in the derivative instrument, and that the Fund may be forced to liquidate portfolio positions when it may not be advantageous to do so to satisfy its obligations or to meet segregation requirements (leverage risk). There is no assurance that the Fund's use of any derivatives strategy will succeed, or that the Fund will not lose money.

**Emerging Markets Securities Risk**—Investments in securities issued by companies located in emerging market countries may present risks different from, or greater than, the risks of investing in securities issued by companies located in developed foreign countries. Emerging market countries may be more likely to experience political turmoil or rapid changes in market or economic conditions than more developed countries. It is sometimes difficult to obtain and enforce court judgments in such countries and there is often a greater potential for nationalization or expropriation of assets by the government of an emerging market country. In addition, the financial stability of issuers (including governments) in emerging market countries may be more precarious than in developed countries. Investments in securities issued by companies located in emerging market countries tend to be more volatile than investments in securities issued by companies located in developed foreign countries and may be more difficult to value.

**Equity Income/Interest Rate Risk**—A Fund's distributions to shareholders may decline when interest rates fall or when dividend income from investments in stocks declines.

**Exchange-Traded Fund ("ETF") Risks**—In addition to the risks associated with investing in other investment companies, an investment in an ETF may be subject to the following risks: (1) an ETF's shares may trade above or below their net asset value; (2) an active trading market for the ETF's shares may not develop or be maintained; (3) secondary market trading in an ETF's shares may be halted; (4) an ETF may not accurately track the performance of the reference index; and (5) an ETF might hold troubled securities if those securities are held in the reference index.

**Floating Rate Loans Risk**—Investments in floating rate loans have risks that are similar to those of fixed income securities and carry the risk of impairment of collateral. The value of the collateral securing a floating rate loan can decline, be insufficient to meet the obligations of the borrower, or be difficult to liquidate. As such, a floating rate loan may not be fully collateralized and can decline significantly in value.

**Focused Investment Risk**— At times a Fund may emphasize investments in a particular industry or sector. To the extent that the Fund increases its emphasis on investments in a particular industry or sector, the value of its investments may fluctuate more in response to events affecting that industry or sector, such as changes in economic conditions, government regulations, availability of basic resources or supplies, or other events that affect that industry or sector more than others.

**Foreign Currency Risk**—Investments in foreign currencies or securities denominated in foreign currencies (including derivative instruments that provide exposure to foreign currencies) may experience gains or losses solely based on changes in the exchange rate between foreign currencies and the U.S. dollar.

**Foreign Government Securities Risk**—Foreign government securities are fixed income securities issued by a foreign government, a foreign municipality, or an agency or instrumentality thereof. The ability of a foreign governmental obligor to meet its obligations to pay principal and interest to debtholders generally will be adversely affected by rising foreign interest rates, as well as the level of the relevant government's foreign currency reserves and currency devaluations. If a governmental obligor defaults on its obligations, a security holder may have limited legal recourse against the issuer or guarantor. These risks may be heightened during periods of economic or political instability and are generally heightened in emerging market countries.

**Foreign Securities Risk**—Investments in foreign securities may involve the risk of loss due to political, economic, legal, regulatory, and operational uncertainties; differing accounting and financial reporting standards; limited availability of information; currency fluctuations; and higher transaction costs.

**Fund of Funds Risk**—A Fund's investment in another fund is subject to the risks associated with that fund's portfolio of securities. For example, if the fund holds common stocks, a Fund also would be exposed to the risk of investing in common stocks. In addition, when a Fund purchases shares of another fund, the Fund will indirectly bear its proportionate share of the advisory fees and other operating expenses of the purchased fund. The fees and expense of the other fund are in addition to the Fund's own fees and expenses.

**High Yield Securities Risk**—Securities that are rated below "investment grade" (commonly known as "high yield securities" or "junk bonds") or, if unrated, are considered by a subadviser to be of equivalent quality, are speculative and involve a greater risk of default than "investment grade" securities. The values of these securities are particularly sensitive to changes in issuer creditworthiness, and economic and political conditions. The market prices of these securities may decline significantly in periods of general economic difficulty, may be harder to value, and may be less liquid than higher rated securities.

**Inflation-Adjusted Securities Risk**—Investments in inflation-adjusted securities are affected by changes in interest and inflation rates. Interest payments on inflation-adjusted securities will vary as the principal or interest is adjusted for inflation and may be more volatile than interest paid on ordinary fixed income securities. Inflation-adjusted securities may not produce a steady income stream, particularly during deflationary periods, and during periods of extreme deflation these securities may not provide any income.

**Indexing Risk**—Unlike an actively managed strategy, an index or passively managed strategy does not rely on a portfolio manager's decision making with respect to which individual securities may outperform others. Securities in an index or passively managed strategy may be purchased, held, and sold by such underlying funds at times when an actively managed portfolio would not do so. In addition, performance of underlying funds using an index or passively managed strategy will deviate from the performance of the specified index, which is known as tracking error. Tracking error may be caused by: (i) fees and expenses associated with managing the underlying index strategy funds (whereas the benchmark index has no management fees or transaction expenses); (ii) changes to the index and the timing of the rebalancing of the underlying index strategy funds; and (iii) the timing of cash flows into and out of the underlying index strategy funds.

**Interest Rate Risk**—Fixed income securities fluctuate in value as interest rates change. When interest rates rise, the market prices of fixed income securities will usually decrease; when interest rates fall, the market prices of fixed income securities usually will increase. Investments in fixed income securities may be subject to a greater risk of

rising interest rates due to the current period of historically low rates and the effect of potential government fiscal policy initiatives and resulting market reaction to those initiatives.

**Issuer Capacity Risk**—A decrease in the availability of issuers available to issue Traditional GICs, Separate Account GICs, or Synthetic GICs to the PLUS Fund may impose constraints on the PLUS Fund’s portfolio construction.

**Large Investor Risk**—A Fund or an underlying fund may experience large investments or redemptions. While it is impossible to predict the overall impact of these transactions over time, there could be adverse effects on portfolio management. For example, a Fund or an underlying fund may be required to sell securities or invest cash at times when it would not otherwise do so. These transactions can increase transactions costs.

**Leverage Risk**—Leverage, including borrowing, causes the value of a Fund’s shares to be more volatile than if the Fund did not use leverage. This is because leverage tends to exaggerate the effect of any increase or decrease in the value of the Fund’s portfolio securities. A Fund may engage in transactions or purchase instruments that give rise to forms of leverage, such as derivatives, reverse repurchase agreements, or other borrowings, investment of collateral from loans of portfolio securities, or use of when-issued, delayed-delivery or forward commitment transactions.

**Liquidity Risk**—Liquidity risk exists when a particular security or other instrument is difficult to trade. An investment in illiquid assets may reduce the returns of the investment because the holder of such assets may not be able to sell the assets at the time desired for an acceptable price or might not be able to sell the assets at all. Illiquid assets may also be difficult to value.

*PLUS Fund Liquidity Risk:* In addition, stable value investment contracts generally may not be assigned or transferred without the permission of the issuer. Often these contracts include non-standard negotiated terms and do not trade in a secondary market. The PLUS Fund is managed to seek to meet the cash flow requirements of expected purchases and sales of units of the PLUS Fund based on investor activity. If actual experience is significantly different from expectations, the PLUS Fund may have to buy or sell investments at rates that are lower than the PLUS Fund’s average crediting rate, which may lower returns.

**Management Risk**—Individual investments of a Fund may not perform as expected, and that Fund’s portfolio management practices may not achieve the desired result. There is a risk that its portfolio managers may allocate assets to an asset class that underperforms other asset classes.

**Mid-Cap Securities Risk**—Investments in mid-capitalization companies involve greater risk than is customarily associated with investments in larger, more established companies. Equity securities of mid-capitalization companies generally trade in lower volume and are generally subject to greater and less predictable price changes than the securities of larger companies.

**Mortgage-Backed Securities Risk**—Defaults on the mortgages underlying mortgage-backed securities may adversely affect the value of these securities. These securities are also subject to interest rate risk, credit risk, prepayment risk, and extension risk. Certain mortgage-backed securities may be more volatile and less liquid than other traditional types of fixed income securities.

**Multi-Manager Risk**—While VIA monitors each subadviser and the overall management of the Funds, each subadviser makes investment decisions independently from VIA and the other subadvisers. It is possible that the security selection process of one subadviser will not complement that of the other subadvisers. As a result, a Fund’s exposure to a given security, industry, sector or market capitalization could be smaller or larger than if the Fund were managed by a single manager, which could affect the Fund’s performance.

**Municipal Securities Risk**—The value of, payment of interest and repayment of principal with respect to, and the ability of a Fund to sell, a municipal security may be affected by constitutional amendments, legislative enactments, executive orders, administrative regulations and voter initiatives as well as the economics of the regions where the issuer is located. Certain municipal securities may be difficult to value or sell at a fair price.

**Preferred Stock Risk**—Preferred stockholders may have more limited voting rights than common stockholders. Holders of a company’s debt securities are generally paid before holders of the company’s preferred stock. The value and volatility of preferred stock may be dependent on factors that affect both fixed income securities and equity securities.

**Prepayment and Extension Risk**—Mortgage-backed and asset-backed securities are exposed to prepayment risk and extension risk. Prepayment risk may occur when borrowers pay their mortgages or loans more quickly than required under the terms of the mortgage or loan. Most borrowers are likely to prepay their mortgage or loan at a time when it may be least advantageous to a holder of these securities (e.g., during periods of falling interest rates), which may force the holder to reinvest the proceeds of prepayments in lower-yielding instruments and result in a decline in the holder’s income. Extension risk may occur when rising interest rates result in decreased prepayments, which could extend the average life of the security, cause its value to decline more than traditional fixed-income securities and increase its volatility.

**Portfolio Turnover Risk**—A Fund may engage in a significant number of short-term transactions, which may adversely affect performance. Increased portfolio turnover may result in higher brokerage costs or other transactions fees and expenses. These costs are ultimately passed on to shareholders.

**REITs Risk**—Real estate investment trusts (“REITs”) are subject to risks generally associated with investing in real estate, such as declining real estate values, over-building, property tax increases, increases in operating expenses and interest rates, insufficient levels of occupancy, the inability to obtain financing (at all or on acceptable terms), and the national, regional and local economic conditions affecting the real estate market.

**Securities Lending Risk**—A Fund may engage in one or more securities lending programs conducted by the Fund’s custodian or other entities to seek to generate income. These loans are secured by collateral invested in cash or cash equivalents. The collateral that a Fund receives from a borrower is generally invested in money market funds, other cash equivalents, short-term fixed income securities, or other similar instruments. Securities lending subjects a Fund to certain risks. The borrower of the security may fail to return the loaned security in a timely manner, which could cause the Fund to lose money. In addition, the Fund may incur investment losses as a result of investing the collateral received in connection with the loans.

**Short Sale Risk**—A short sale is the sale of a security that a fund does not own or any sale that is consummated by the delivery of a security borrowed by the fund. In general, short selling is used to try to profit from an expected downward price movement of the security, to provide liquidity in response to unanticipated demand, or to hedge the risk of a long position in the same security or in a related security. Short sales create a risk that a fund may be required to close the short position by buying back the security at a time when the security has appreciated in value, thus resulting in a loss to the fund. Because a short position loses value as the security’s price increases and there is no upper limit to a security’s price, the loss on a short sale is theoretically unlimited. In contrast, the loss on a long position is limited to what the fund originally paid for the security. A fund may not always be able to borrow a security it seeks to sell short at a particular time, due to a lack of supply of the security available for borrowing or because the costs to borrow such a security are too high. As a result, a fund may be unable to fully implement its investment strategy. Short sales magnify the potential for gain or loss on monies invested by borrowing securities, and losses can exceed the amount invested in a short position. Assets segregated to cover short sales may decline in value.

**Small-Cap Securities Risk**—Investments in small-capitalization companies involve greater risk than is customarily associated with investments in larger, more established companies. Equity securities of small-capitalization companies are generally subject to greater price volatility than those of larger companies due to less certain growth prospects, the lower degree of liquidity in the markets for their securities, and the greater sensitivity of smaller companies to changing economic conditions. Also, small-capitalization companies may have more limited product lines, fewer capital resources and less experienced management than larger companies.

**Stable Value Issuer Risk**—If the insurance company that issued a GIC defaults, enters rehabilitation or bankruptcy, or fails to pay principal obligations and interest when due, the PLUS Fund may lose money. Each Traditional GIC is an unsecured obligation of the insurance company to pay principal and interest for the period specified in the

contract. Assurance of principal and interest payment is based solely on the financial strength of the insurance company. If the insurance company were to go into rehabilitation or bankruptcy, Traditional GIC investors would have a claim only on the general account assets alongside other GIC investors and policyholders. Although owned by the insurance company, the assets of a Separate Account GIC cannot be used to satisfy the insurance company's general obligations until the separate account liabilities have been satisfied. As such, if the issuer were to go into rehabilitation or bankruptcy, Separate Account GIC investors would have first claims to those assets and would have priority over claims of general account contract holders and third-party creditors of the issuer. To the extent that the separate account liabilities exceed the underlying assets in the separate account, the difference would then be a claim on the issuer's general account, similar to a Traditional GIC claim.

**Stable Value Risk**— Different risks are associated with the different types of stable value investment contracts in which the PLUS Fund invests. Generally, stable value investment contracts are illiquid and may not be assigned, transferred or sold to someone else without the permission of the issuing insurance company or bank. These contracts often include non-standard negotiated terms and do not trade in a secondary market.

Additional risks of investing in the PLUS Fund include, but are not limited to: failure of the issuers of GICs, BICs, Separate Account GICs, or Synthetic GICs to meet their obligations to the PLUS Fund; failure of VIA to meet its objectives or obligations, as investment adviser for the PLUS Fund; default or downgrade of the fixed income assets that back Separate Account GICs and Synthetic GICs; failure of the third-party fixed income managers of the portfolios underlying the Separate Account GICs and Synthetic GICs to meet their investment objectives or their obligations to the PLUS Fund; loss of value or failure to redeem shares or allow withdrawals on a timely basis by one or more of the commingled investment vehicles in which the PLUS Fund invests, which may include one or more STIFs and money market mutual funds or other mutual funds or collective investment trust funds.

**Stock Market Risk**—Stock market risk is the possibility that the prices of equity securities overall will experience increased volatility and decline over short or extended periods. Markets tend to move in cycles, with periods of rising prices and periods of falling prices. Developments that cannot be anticipated nor controlled, including those arising out of geopolitical events or natural disasters, can cause substantial stock market volatility, exchange trading suspensions or restrictions and closures of securities exchanges and businesses.

**Style Risk**—All of the Funds are subject, in varying degrees, to style risk, which is the possibility that returns from a specific type of security in which a Fund invests or the investment style of a Fund's adviser will trail the returns of the overall market. In the past, different types of securities have experienced cycles of outperformance and underperformance in comparison to the market in general. Therefore, investing in a Fund with a specific style will create exposure to this risk. For example, growth stocks have performed best during the later stages of economic expansion and value stocks have performed best during periods of economic recovery. Therefore, both the growth and value investing styles may, over time, go in and out of favor. At times when the investing style used by a Fund is out of favor, that Fund may underperform other Funds that use different investing styles.

**TBA Risk**—In To-Be-Announced ("TBA") transactions, the Fund commits to purchase certain mortgage-backed securities for a fixed price at a future date. TBA transactions involve the risk that the actual securities received by the Fund may be less favorable than what was anticipated when entering into the transaction. TBA transactions also involve the risk that a counterparty will fail to deliver the securities, exposing the Fund to further losses.

**U.S. Government Agency Securities Risk**—Securities issued by U.S. Government agencies or government-sponsored enterprises may not be guaranteed by the U.S. Treasury. Further, there is no assurance that the U.S. Government will provide financial support to its agencies or instrumentalities (including government-sponsored enterprises) that issue or guarantee certain securities. If a government agency or a government-sponsored enterprise is unable to meet its obligations, the Fund may experience a loss.



## **VIII. SERVICES PROVIDED BY VIA AND ICMA-RC TO THE TRUST COMPANY**

The Trust Company has appointed VIA to act as the investment adviser to the Trust Company in respect to the Funds. As investment adviser, VIA advises the Trust Company on the composition and design of investment programs and options. It also advises the Trust Company with respect to investments by the Funds.

ICMA-RC provides administrative support to the Trust Company as may be required to exercise recordkeeping, reporting, disclosure and other support functions in respect to the Funds.

## **IX. FEES AND EXPENSES**

The Trust Company is entitled under each Declaration of Trust to receive reasonable compensation for its services in managing and administering the Trust. The compensation, custodial fees and expenses of the Trust Company are paid from each Trust, except to the extent that investors or plan fiduciaries have arranged for payment from other sources. The Trusts charge the fees and expenses of ICMA-RC and VIA to the Funds.

VIA charges an investment advisory fee for certain advisory services provided to the Trust Company with respect to the Funds. The fees charged vary depending on the advisory service provided and are part of the negotiated Investment Advisory Agreement between the Trust Company and VIA. The fees payable to VIA by a Fund are in addition to any fees payable to any subadvisers VIA selects to manage a portion of the assets of a Fund. VIA does not charge an investment advisory fee with respect to Funds where there is no investment discretion or investment management exercised with respect to such Funds. For example, VIA does not charge an investment advisory fee on the VT PLUS and VT II PLUS Funds. This is because such Funds invest their assets in the VT III PLUS Fund and VIA receives an advisory fee for services it provides to that Fund.

ICMA-RC charges a fee for providing certain administrative services to the Trust Company. The fees charged vary depending on the particular type and level of services required and are part of the negotiated Master Agreement between the Trust Company and ICMA-RC.

ICMA-RC or VIA may waive its fees, in whole or in part, for all or certain investors. The Trust Company may also charge to a class of a Fund any other expense, claim or charge that is specifically allocated to such class.

For the VantageTrust Funds and VantageTrust II Funds, please refer to each Fund's Fact Sheet or Investment Options Sheet for the expenses applicable to that Fund and class.

## **X. CONFLICTS OF INTEREST**

VIA provides investment advice with respect to certain investment options available through the Trust in which VIA or one of its affiliates has a financial interest. When VIA recommends that a Fund invest in another Fund, a potential conflict of interest exists because VIA or ICMA-RC receives compensation in the form of advisory and administrative fees based on the assets invested in the VT III Funds. Similarly, when VIA recommends that a Fund invest in a third-party mutual fund, a potential conflict of interest exists because VIA or one of its affiliates receives payments from third-party mutual fund families or their service providers in the form of 12b-1 fees, service fees, compensation for sub-accounting and other services provided by VIA or its affiliates based on assets in the underlying third-party mutual fund.

All of these payments from other parties are expressly disclosed to and acknowledged by the Trust Company in its Master Agreement with ICMA-RC and its Investment Advisory Agreement with VIA.

### **A. Payments from Third-Party Mutual Funds**

Each of the third-party mutual funds in which the VantageTrust Funds invest, or their service providers, make payments to VIA or its affiliates. These payments may be in the form of 12b-1 fees, service fees, compensation for subaccounting, or for other services provided by VIA or its affiliates. At the time of this

publication, the following fund families pay at the annual percentage rates set forth below based on VantageTrust Fund balances invested in their funds:

AMG TimesSquare	0.25%	Nuveen	0.25%
Carillon Eagle	0.25%	Parnassus	0.25%
Fidelity	0.25%	T. Rowe Price®	0.40%
Invesco	0.25%	Victory	0.25%
LSV	0.25%	PIMCO	0.25%
MFS	0.25%	Western Asset	0.35%

## XI. UNIT ACCOUNTING FOR FUNDS

The beneficial interest in a class of a Fund is represented by units. Eligible Trusts purchase units in the Fund for the benefit of their investors, participants and beneficiaries. Units represent a proportional ownership interest in a Fund. The worth of a unit is known as its Unit Value. The daily Unit Value is determined at the close of each business day by adding the value of all of a Fund's investments, plus cash and other assets, deducting liabilities (which includes fees and expenses charged by ICMA-RC and VIA), and then dividing the result by the number of outstanding units in the Fund as of the end of the prior day and rounding the results to the nearest cent.

The value of an investment in a Fund equals the number of units held multiplied by the current day's Unit Value. Because Unit Values and investment returns will fluctuate, a transfer or disbursement will normally result in the receipt of more or less than the original cost of an investment.

## XII. SHARE CLASSES

All Funds may be made available through different classes and sub-classes. These classes and sub-classes may have different fee structures for the services provided, including but not limited to, advisory, administration, record keeping and participant education services. The Trust Company may divide a Fund or its share classes into different sub-share classes that reflect a different combination of fees or a lower fee structure that the Trust Company may then make available to certain Eligible Trusts. Eligible Trusts may qualify for a class or sub-class based upon a number of factors that reflect savings from economies of scale or other cost savings with respect to services provided. These include, but are not limited to, the asset size, average account balance, the type and scope of services provided, or other features of the Eligible Trust. Investment advisers may aggregate multiple plan clients for purposes of qualifying for the Investment-Only share classes of the PLUS Fund.

The Trust Company reserves the right to open additional classes and adopt eligibility criteria.

## XIII. INVESTING IN THE FUNDS

The following explains how an investment can be made into a Fund, as well as information about when investments can be made, how funds can be transferred, and other policies relating to an investment in the Funds. This information is divided into two sections. The first section applies to all investors in the Funds. The second section only applies to those investors in a retirement plan that also utilizes ICMA-RC for recordkeeping and plan administration services. The second section is not applicable to DCIO. VantageTrust and the VantageTrust II are the only direct investors in the VantageTrust III Funds.

### A. Information for All Fund Investors

**Definition of a Business Day** – The Funds are available on any business day, which is any day when the New York Stock Exchange (“NYSE”) is open for business. “Close of business” means 4:00 p.m. Eastern Time, or

the final close of trading on any day when trading on the NYSE closes at a time other than 4:00 p.m. Eastern Time.

**Transfer and Withdrawal Restrictions** – Under the terms of the Declaration of Trust, the Trust Company has full discretion to defer withdrawals or transfers. Class specific restrictions or limitations will be disclosed on the applicable Fact Sheet or Investment Options Sheet.

**Contributions** – Plan fiduciaries generally may make contributions to their Eligible Trusts as often as weekly. Contributions received in good order prior to the close of business on any business day are posted that business day. Contributions received in good order after the close of business are treated as if received the next business day.

**“Good order”** means that contribution deposits must be accompanied by sufficient detail and in ICMA-RC’s standard format so that ICMA-RC is able to allocate contributions properly. If a contribution is not received in good order, the deposit is held in a non-interest bearing account until all necessary information is received. If a contribution is not in good order after three business days, ICMA-RC will coordinate with the Eligible Trust or Plan Administrator and may return the contribution to the Eligible Trust or Plan Administrator.

Contributions received for an identified participant account that does not have complete allocation instructions will be invested in the Eligible Trust’s default option.

**Distributions and Reinvestment of Earnings** – There is not expected to be distribution of income, dividends or capital gains to holders of units of a Fund. Rather, it is anticipated that such items will be reflected in the net asset value of the Fund.

## **B. Information for Recordkeeping and Plan Administration Clients Only**

**Transfer, Withdrawal and Allocation Changes** – Generally, unless restricted by a plan sponsor, transfer, withdrawal and allocation changes among the Funds may be made on a daily basis by Internet (Account Access), or by speaking to an Investor Services representative at ICMA-RC. Account Access is normally available 24 hours a day, seven days a week. Instructions sent by email correspondence will not be accepted.

*RHS Employer Investment Program* - Transfer, withdrawal and allocation changes may generally be made on a daily basis via fax or mail using the appropriate form. The forms may be obtained by logging into EZLink or by contacting a Plan Sponsor Services representative at the number provided below.

**Automatic Rebalance** – Certain accounts may be eligible for an auto-rebalance feature. This feature periodically returns the account to the investor’s desired asset allocation. Rebalancing strategies do not ensure a profit and do not protect against losses in declining markets.

**Confirmations and Statements** – Investors in the Funds will receive confirmation after each transaction and a quarterly statement that shows quarterly activity. Part-time employees may receive only annual statements. Please review this information carefully and contact ICMA-RC immediately if you see any discrepancies.

**Account Access** – Account Access is an internet site that is available to plan participants. It can be reached via ICMA-RC’s website at [www.icmarc.org](http://www.icmarc.org). Information available includes plan fund lineups, ICMA-RC administered account balances, investment allocations, and investment performance.

**EZLink** – EZLink is an internet site that is available to plan sponsors and provides access to plan and participant data. It can be reached via ICMA-RC’s website at [www.icmarc.org](http://www.icmarc.org). EZLink consists of a number of different online services enabling faster processing of information and greater control over data submission.

**Participant Telephone Access** – Self-service phone access as well as Investor Services representatives are available to participants by calling 800-669-7400.

**Plan Sponsor Telephone Access** – Phone access to Plan Sponsor Services representatives is available to plan sponsors by calling 800-326-7272.

#### **XIV. ADDITIONAL INFORMATION ABOUT VANTAGETRUST FUND TRANSFER RESTRICTIONS**

Transfers may be delayed, restricted or refused if a VantageTrust Fund receives or anticipates simultaneous orders affecting significant portions of its assets. In particular, a pattern of transfers that coincides with volatile market activity could be disruptive to a given VantageTrust Fund. Although the Trust Company and VIA will attempt to provide prior notice whenever reasonably possible, these restrictions may nonetheless be imposed at any time.

#### **XV. FREQUENT TRADING RESTRICTIONS**

The Funds are meant for long-term investment purposes. Frequent trading of the Funds may cause additional costs to be incurred by the Funds, and these costs will affect all investors. Also, the rate of return long-term investors realize from their investments may be impacted by any frequent trading activity of other investors. VIA is committed to curbing frequent trading to protect long-term investors.

VIA defines frequent trading as a buy followed by a sell three times in the same fund during a 90-calendar-day period or a buy followed by a sell ten times in the same fund during a 365-calendar-day period. Systematic withdrawals, contributions, and distributions are not considered frequent trading. In addition, some underlying funds in which a Trust invests define frequent trading differently, and VIA reserves the right to enforce these underlying fund's guidelines. If frequent trading and/or market timing activity are detected in an account with VIA, VIA may communicate by telephone or in writing about these trading activities in an effort to deter such activities. If such communications fail to deter the frequent trading activity, further action may be taken on the account including restricting future purchases in the VIA administered account.

VIA's aim is to monitor and enforce this frequent trading policy consistently. VIA cannot guarantee that all the risks associated with frequent trading will be completely eliminated by this policy and/or restrictions.

##### **A. Restrictions on Frequent Trading – Transfer Restrictions for Certain VantageTrust Funds**

Fund-to-fund transfers involving certain VantageTrust Funds will be limited to reduce excessive trading and its adverse effects on an underlying fund. Excessive trading of underlying funds may lead to increased costs and less efficient portfolio management, potentially diluting the value of shares held by long-term investors. The following VantageTrust Funds impose trade restrictions:

<b>If you transfer this amount:</b>	<b>You must wait at least:</b>	<b>Before buying back into the:</b>
Any \$	30 days	VT T. Rowe Price® Growth Stock Fund
Any \$	91 days	VT Vantagepoint Emerging Markets Fund
Any \$	91 days	VT Vantagepoint Overseas Equity Index Fund
Any \$	91 days	VT Vantagepoint International Fund

Please note that these restrictions apply to participant directed transfers only and will not affect systematic purchases and/or redemptions.

##### **B. Restrictions on Frequent Trading – Redemption Fees for Certain VantageTrust Funds**

In addition to policies on frequent trading, certain underlying funds impose fees on redemptions made soon after purchases. Investors in the VantageTrust Funds that invest in such underlying funds will bear these redemption fees

directly. Redemption fees are designed to offset the brokerage commissions, market impact, and other costs associated with frequent shareholder trading. The fees are deducted from redemption proceeds if the shares are sold (or transferred to another fund) prior to a specified holding period. In calculating the holding period, shares held longest are normally treated as being redeemed first and shares held shortest as being redeemed last. All redemption fees imposed by third-party funds are collected by VIA and remitted back to the underlying fund to which redemption fees apply. As of the date of this document, VIA is unaware of any redemption fees (and applicable holding periods) imposed by underlying funds in which the VantageTrust Funds invest.

VantageTrust Funds that invest in certain funds may be subject to redemption or short-term trading fees on additional transactions such as auto-rebalancing, rollovers, in-service withdrawals, de minimis withdrawals, Plan sponsor-initiated changes, asset allocation programs, and termination payments.

Redemption fee policies and procedures are typically very detailed and are subject to change. The above discussion is just a summary of those policies and procedures. The underlying funds' current disclosure materials contain more detailed information about funds' current redemption fees. Please read each underlying funds' current disclosure materials for an understanding of applicable redemption fees.

## **XVI. INABILITY TO CONDUCT BUSINESS**

ICMA-RC and VIA are normally open for business and operating when the New York Stock Exchange (“**NYSE**”) is open for business. However, unusual circumstances or emergencies including, but not limited to, severe and extraordinary weather conditions, flooding, other natural disasters, pandemic flu or other health epidemics, regional power failures, fires, market disruption, civil disturbances or other events may prevent ICMA-RC and VIA from conducting business on a given day or for longer periods of time. In such an event, transactions in the investment options offered through the Trust may be delayed and not effected until ICMA-RC and VIA resume normal business operations.

## Appendix A

### VANTAGETRUST FUNDS

#### Stable Value / Cash Management Funds

VT Cash Management Fund  
VT PLUS Fund

#### VT Vantagepoint Model Portfolio Funds

VT Vantagepoint Model Portfolio Conservative Growth Fund  
VT Vantagepoint Model Portfolio Traditional Growth Fund  
VT Vantagepoint Model Portfolio Long-Term Growth Fund  
VT Vantagepoint Model Portfolio Global Equity Growth Fund

#### VT Vantagepoint Funds

VT Vantagepoint 500 Stock Index Fund  
VT Vantagepoint Aggressive Opportunities Fund  
VT Vantagepoint Broad Market Index Fund  
VT Vantagepoint Core Bond Index Fund  
VT Vantagepoint Discovery Fund  
VT Vantagepoint Emerging Markets Fund  
VT Vantagepoint Equity Income Fund  
VT Vantagepoint Growth & Income Fund  
VT Vantagepoint Growth Fund  
VT Vantagepoint High Yield Fund  
VT Vantagepoint Inflation Focused Fund  
VT Vantagepoint International Fund  
VT Vantagepoint Low Duration Bond Fund  
VT Vantagepoint Mid/Small Company Index Fund  
VT Vantagepoint Overseas Equity Index Fund  
VT Vantagepoint Select Value Fund

#### VT Vantagepoint Milestone Funds

VT Vantagepoint Milestone Retirement Income Fund  
VT Vantagepoint Milestone 2015 Fund  
VT Vantagepoint Milestone 2020 Fund  
VT Vantagepoint Milestone 2025 Fund  
VT Vantagepoint Milestone 2030 Fund  
VT Vantagepoint Milestone 2035 Fund  
VT Vantagepoint Milestone 2040 Fund  
VT Vantagepoint Milestone 2045 Fund  
VT Vantagepoint Milestone 2050 Fund  
VT Vantagepoint Milestone 2055 Fund  
VT Vantagepoint Milestone 2060 Fund

#### VT Trust Series Funds

VT AMG TimesSquare Mid Cap Growth Fund  
VT ContraFund®  
VT Diversified International Fund  
VT Carillon Eagle Mid Cap Growth Fund  
VT Invesco Diversified Dividend Fund  
VT LSV Small Cap Fund  
VT MFS® Value Fund  
VT Nuveen Real Estate Securities Fund  
VT Invesco Discovery Fund  
VT Invesco Main Street Fund  
VT Parnassus Core Equity Fund  
VT PIMCO High Yield Fund  
VT Puritan® Fund  
VT T. Rowe Price® Growth Stock Fund  
VT Victory Sycamore Established Value Fund  
VT Western Asset Core Plus Bond Fund

#### Guaranteed Lifetime Income

VT Retirement IncomeAdvantage Fund

## VANTAGETRUST II FUNDS

### Stable Value / Cash Management Funds

VT II Cash Management Fund  
VT II PLUS Fund

### VantageTrust II Model Portfolio Funds

VantageTrust II Model Portfolio Aggressive Fund  
VantageTrust II Model Portfolio Conservative Fund  
VantageTrust II Model Portfolio Moderate Fund

### VT II Vantagepoint Model Portfolio Funds

VT II Vantagepoint Model Portfolio Conservative Growth Fund  
VT II Vantagepoint Model Portfolio Traditional Growth Fund  
VT II Vantagepoint Model Portfolio Long-Term Growth Fund  
VT II Vantagepoint Model Portfolio Global Equity Growth Fund

### VT II Vantagepoint Special Purpose Funds

VT II Vantagepoint Core Bond Fund  
VT II Vantagepoint Core Bond II Fund  
VT II Vantagepoint Intermediate Aggregate Bond Fund  
VT II Vantagepoint Intermediate Corporate Bond Fund  
VT II Vantagepoint Mortgage Backed Securities Fund  
VT II Vantagepoint Short Duration Bond Fund

### VT II Vantagepoint Funds

VT II Vantagepoint 500 Stock Index Fund  
VT II Vantagepoint Aggressive Opportunities Fund  
VT II Vantagepoint Broad Market Index Fund  
VT II Vantagepoint Core Bond Index Fund  
VT II Vantagepoint Discovery Fund  
VT II Vantagepoint Emerging Markets Fund  
VT II Vantagepoint Equity Income Fund  
VT II Vantagepoint Growth & Income Fund  
VT II Vantagepoint Growth Fund  
VT II Vantagepoint High Yield Fund  
VT II Vantagepoint Inflation Focused Fund  
VT II Vantagepoint International Fund  
VT II Vantagepoint Low Duration Bond Fund  
VT II Vantagepoint Mid/Small Company Index Fund  
VT II Vantagepoint Overseas Equity Index Fund  
VT II Vantagepoint Select Value Fund

### VT II Vantagepoint Milestone Funds

VT II Vantagepoint Milestone Retirement Income Fund  
VT II Vantagepoint Milestone 2015 Fund  
VT II Vantagepoint Milestone 2020 Fund  
VT II Vantagepoint Milestone 2025 Fund  
VT II Vantagepoint Milestone 2030 Fund  
VT II Vantagepoint Milestone 2035 Fund  
VT II Vantagepoint Milestone 2040 Fund  
VT II Vantagepoint Milestone 2045 Fund  
VT II Vantagepoint Milestone 2050 Fund  
VT II Vantagepoint Milestone 2055 Fund  
VT II Vantagepoint Milestone 2060 Fund

## VANTAGETRUST III FUNDS AND ASSOCIATED RISKS

FUND NAME	RISKS
VT III PLUS Fund	Stable Value Risk, Interest Rate Risk, Credit Risk, Stable Value Issuer Risk, Liquidity Risk, Reinvestment Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Securities Lending Risk, Derivative Instruments Risk, Large Investor Risk.
<b>VantageTrust III Vantagepoint Model Portfolio Funds</b>	
VT III Vantagepoint Model Portfolio Conservative Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Model Portfolio Traditional Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Convertible Securities Risk, High Yield Securities Risk, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk



VT III Vantagepoint Model Portfolio Long-Term Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Convertible Securities Risk, High Yield Securities Risk, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Model Portfolio Global Equity Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Preferred Stock Risk, Equity Income/Interest Rate Risk, Indexing Risk, Large Investor Risk
<b>VantageTrust III Vantagepoint Funds</b>	
VT III Vantagepoint Core Bond Index Fund	Interest Rate Risk, U.S. Government Agency Securities Risk, Mortgage-Backed Securities Risk, TBA Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Credit Risk, Indexing Risk, Portfolio Turnover Risk, Large Investor Risk
VT III Vantagepoint Inflation Focused Fund	Inflation-Adjusted Securities Risk, Interest Rate Risk, Credit Risk, Foreign Securities Risk, Foreign Currency Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Municipal Securities Risk, Multi-Manager Risk, Large Investor Risk

VT III Vantagepoint Low Duration Bond Fund	Credit Risk, Interest Rate Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, Prepayment and Extension Risk, Municipal Securities Risk, Call Risk, U.S. Government Agency Securities Risk, Foreign Securities Risk, Foreign Currency Risk, Floating Rate Loans Risk, High Yield Securities Risk, Derivative Instruments Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Equity Income Fund	Stock Market Risk, Preferred Stock Risk, Style Risk, Equity Income/Interest Rate Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Indexing Risk, Foreign Securities Risk, Foreign Currency Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint 500 Stock Index Fund	Stock Market Risk, Indexing Risk
VT III Vantagepoint Broad Market Index Fund	Stock Market Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Growth & Income Fund	Stock Market Risk, Preferred Stock Risk, Mid-Cap Securities Risk, Foreign Securities Risk, Equity Income/Interest Rate Risk, Foreign Currency Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk, Interest Rate Risk, Credit Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Municipal Securities Risk, High Yield Securities Risk, Derivative Instruments Risk
VT III Vantagepoint Growth Fund	Stock Market Risk, Preferred Stock Risk, Foreign Securities Risk, Foreign Currency Risk, Style Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Select Value Fund	Stock Market Risk, Mid-Cap Securities Risk, Small-Cap Securities Risk, Equity Income/Interest Rate Risk, Style Risk, REITs Risk, Foreign Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk

VT III Vantagepoint Aggressive Opportunities Fund	Stock Market Risk, Mid-Cap Securities Risk, Style Risk, Small-Cap Securities Risk, Indexing Risk, Derivative Instruments Risk, Foreign Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Mid/Small Company Index Fund	Stock Market Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, REITs Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Discovery Fund	Stock Market Risk, Small-Cap Securities Risk, Preferred Stock Risk, Foreign Securities Risk, Foreign Currency Risk, Convertible Securities Risk, High Yield Securities Risk, Municipal Securities Risk, Derivative Instruments Risk, Interest Rate Risk, Credit Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, U.S. Government Agency Securities Risk, Portfolio Turnover Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint International Fund	Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Credit Risk, Interest Rate Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Overseas Equity Index Fund	Stock Market Risk, Foreign Securities Risk, Mid-Cap Securities Risk, Foreign Currency Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint High Yield Fund	High Yield Securities Risk, Credit Risk, Interest Rate Risk, Call Risk, Floating Rate Loans Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Municipal Securities Risk, Foreign Securities Risk, Foreign Government Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Convertible Securities Risk, Derivative Instruments Risk, Liquidity Risk, Multi-Manager Risk, Large Investor Risk

VT III Vantagepoint Diversifying Strategies Fund	Convertible Securities Risk, Interest Rate Risk, Credit Risk, High Yield Securities Risk, Small-Cap Securities Risk, Derivative Instruments Risk, Foreign Securities Risk, U.S. Government Agency Securities Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, REITs Risk, Indexing Risk, Foreign Currency Risk, Municipal Securities Risk, Floating Rate Loans Risk, Call Risk, Stock Market Risk, Portfolio Turnover Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Emerging Markets Fund	Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Total Return Bond Fund	Leverage Risk, Interest Rate Risk, Credit Risk, Prepayment & Extension Risk, Derivative Instruments Risk, Foreign Securities Risk, Liquidity Risk, Portfolio Turnover Risk, Mortgage - Backed Securities Risk, Asset - Backed Securities Risk, U.S. Government Agency Securities Risk, Call Risk, Multi-Manager Risk, Large Investor Risk.
VantageTrust III Vantagepoint Milestone Funds	
VT III Vantagepoint Milestone Retirement Income Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2015 Fund

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Convertible Securities Risk, High Yield Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2020, 2025 Funds

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2030, 2035 Funds

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2040, 2045, 2050, 2055, 2060 Funds	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Asset-Backed Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
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## Appendix B – Additional Information

This Appendix B contains information about certain types of instruments in which a Fund may invest. A Fund may acquire the types of investments described below to the extent consistent with its investment objectives, strategies and guidelines. This is not an exhaustive list of types of investments a Fund may acquire. This information is provided for general reference only and is subject to change without notice. It is not intended as a definitive resource on these instruments. VIA, ICMA-RC, Trust Company and their affiliates make no representations about the accuracy of the following information.

**ASSET-BACKED SECURITIES:** Asset-backed securities are fixed income securities (see below) backed by loan paper or accounts receivable originated by banks, credit card companies or other providers of credit. Asset-backed securities in which a Fund may invest may have underlying assets that include, among others, automobile installment sales or installment loan contracts, home equity loans, leases of various types of real and personal property, and receivables from credit card agreements. There is a risk that borrowers may default on their obligations in respect of those underlying obligations. Certain assets underlying asset-backed securities are subject to prepayment, which may reduce the overall return to asset-backed security holders. Holders also may experience delays in payment on the securities if the full amounts due on underlying sales contracts or receivables are not realized by a trust because of unanticipated legal or administrative costs of enforcing the contracts or because of depreciation or damage to the collateral (usually automobiles) securing certain contracts, or other factors. The values of asset-backed securities may be substantially dependent on the servicing of the underlying asset pools, and are therefore subject to risks associated with the negligence or malfeasance by their servicers and to the credit risk of their servicers. In certain circumstances, the mishandling of related documentation also may affect the rights of security holders in and to the underlying collateral. The insolvency of entities that generate receivables or that utilize the assets may result in added costs and delays in addition to losses associated with a decline in the value of underlying assets.

Certain asset-backed securities do not have the benefit of the same security interest in the related collateral as do mortgage-backed securities; nor are they provided government guarantees of repayment as are some mortgage-backed securities. Credit card receivables generally are unsecured, and the debtors are entitled to the protection of a number of state and federal consumer credit laws, many of which give such debtors the right to set off certain amounts owed on the credit cards, thereby reducing the balance due. In addition, some issuers of automobile receivables permit the servicers to retain possession of the underlying obligations. If the servicer were to sell these obligations to another party, there is a risk that the purchaser would acquire an interest superior to that of the holders of the related automobile receivables. The impairment of the value of collateral or other assets underlying an asset-backed security, such as a result of non-payment of loans or non-performance of other collateral or underlying assets, may result in a reduction in the value of such asset-backed securities and losses to a Fund. It is possible that asset-backed securities will fall out of favor at any time or over time with investors, affecting adversely the values and liquidity of the securities.

**BANKERS' ACCEPTANCES:** Bankers' acceptances are negotiable drafts or bills of exchange, normally drawn by an importer or exporter to pay for specific merchandise, which are "accepted" by a bank, meaning in effect that the bank unconditionally agrees to pay the face value of the instrument on maturity.

**BELOW INVESTMENT GRADE ("HIGH YIELD") SECURITIES:** Below investment grade securities (commonly referred to as high yield securities or "junk bonds") are defined as securities or instruments rated below the four highest rating categories by Standard & Poor's ("S&P"), Moody's Investors Service, Inc. ("Moody's") or Fitch Ratings ("Fitch"), each a major Nationally Recognized Statistical Rating Organization ("NRSRO"). For Moody's, S&P, or Fitch, ratings at or below Ba, BB or BB, respectively, are below investment grade. In the case of different ratings among S&P, Moody's, and Fitch (a split rated security), the rating of such split rated security will be determined as follows: if all three agencies rate a security, the highest and lowest ratings will be dropped and the remaining middle rating will be used; if two of the three agencies rate a security, the security will be considered to have the lower (i.e., more conservative) credit rating. If a security is not rated by S&P, Moody's, or Fitch, it may be determined to be of comparable quality by VIA or a subadviser, as applicable. See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

NRSROs, which include S&P, Moody's, and Fitch, provide ratings on fixed income securities based on their analyses of information they deem relevant. Ratings of each major NRSRO represent its judgment of the safety of principal and interest payments (and not the market risk) of bonds and other fixed income securities it undertakes to rate. NRSRO ratings are not absolute standards of credit quality and may prove to be inaccurate. In addition, there may be a delay between events or circumstances adversely affecting the ability of an issuer to pay interest and or repay principal and a NRSRO's decision to downgrade a security. Any shortcomings or inefficiencies in the NRSROs' processes for determining ratings may adversely affect the ratings of securities held by the Fund and, as a result, may adversely affect those securities' perceived credit risk.

Below investment grade obligations are considered speculative and may be in default. A Fund's investments in below investment grade securities are subject to a substantial degree of credit risk. Adverse economic developments can disrupt the market for below investment grade securities, and severely affect the ability of issuers, especially highly leveraged issuers, to service their debt obligations on a timely basis or to repay their obligations upon maturity, which may lead to a higher incidence of default on such securities. Prices of below investment grade securities rise and fall primarily in response to actual or perceived changes in the issuer's financial health and the issuer's ability to meet principal and interest payments on a timely basis, although legislative and regulatory developments, changes in market interest rates, market perceptions, economic conditions, and general market liquidity may also affect prices. Below investment grade securities are more likely to react to developments affecting certain of these risks than more highly rated securities.

The secondary market for below investment grade securities may not be as liquid as the secondary market for more highly rated securities, which may cause those securities to be more difficult to value, and more difficult to sell at acceptable prices, as compared to higher rated securities. Below investment grade securities may experience reduced liquidity as well as sudden and substantial decreases in price.

Adverse publicity and investor perception, whether or not based on fundamental analysis, may decrease the value and liquidity of below investment grade securities, especially in a thin (low trading volume) market.

Not unlike investment grade fixed income securities, below investment grade securities may contain redemption or call provisions. If an issuer exercised these provisions in a declining interest rate market, a Fund may have to replace the security with a lower yielding security, potentially resulting in a decreased return for investors. Conversely, the value of a below investment grade security held by a Fund may decrease in a rising interest rate market. If a Fund experiences unexpected net redemptions, this may force it to sell below investment grade securities without regard to their investment merits, thereby decreasing the asset base upon which expenses can be spread and possibly reducing the Fund's rate of return.

**CAPITALIZATION:** Capitalization (often referred to as "market cap") estimates the aggregate value of a company or stock and is a basic measure of the value of a company. It is calculated by multiplying the number of the company's shares outstanding by their current price per share. For example, if XYZ company has 15,000,000 shares of common stock outstanding with a share price of \$20 per share, then the company's market capitalization is  $15,000,000 \times \$20 = \$300,000,000$ . Many exchanges and indices take into account, and are weighted by, market capitalization.

Generally, the U.S. market recognizes three market cap ranges: large cap, mid cap and small cap, although the specific cut off points among these categories may differ. A larger market capitalization typically indicates a more valuable and more established company as compared with smaller capitalized companies. In addition, investments in companies with smaller capitalizations, e.g., small or mid capitalization companies, involve greater risks than are customarily associated with companies that have larger capitalizations.

**CASH/CASH EQUIVALENTS:** These include fixed income obligations with maturities of less than one year, including short-term accounts managed by a custodian institution and shares of money market mutual funds. They also include repurchase agreements and reverse repurchase agreements. In a repurchase agreement, a Fund buys a security from a bank or broker-dealer that has agreed to repurchase the same security at a mutually agreed upon date and price. The resale price normally is the purchase price plus a mutually agreed upon interest rate. In a reverse repurchase agreement, a Fund sells a security and agrees to repurchase the same security at a mutually agreed upon date and price. A reverse repurchase agreement is considered as the borrowing of money by the Fund and, therefore, a form of leverage, which may cause any gains or losses for the Fund to become magnified.

**CERTIFICATES OF DEPOSIT:** Certificates of deposit are negotiable interest-bearing instruments with a specific maturity. They are issued by banks and savings and loan institutions in exchange for the deposit of funds and normally can be traded in the secondary market prior to maturity. Certificates of deposit with penalties for early withdrawal will be considered illiquid.

**COMMERCIAL PAPER:** Commercial paper is an unsecured short-term debt instrument issued by corporations and other entities. Maturities on these issues vary from one day up to 270 days.

**CONVERTIBLE SECURITIES:** Convertible securities possess investment characteristics of both equity and fixed income securities. Convertible securities include corporate bonds (i.e., "convertible bonds") and preferred stocks that may be exchanged for a specific number of shares of the issuing company's common stock at a specified conversion price.

Convertible securities tend to be of lower credit quality, have a higher risk of default and tend to be less liquid than traditional, nonconvertible investment grade bonds. Convertible securities may be rated below investment grade or may be unrated, which could increase their risks. The value of a convertible security increases and decreases with the value of the underlying common stock. When the convertible security's conversion price is similar to the price of the underlying common stock, the convertible security itself generally behaves more like the common stock. When the convertible security's conversion price is greater than the price of the underlying common stock, the convertible security generally behaves more like a fixed income security (and thus will be more sensitive to changes in interest rates).

**CYBER SECURITY ISSUES:** The Funds, and their service providers, may be subject to operational and information security risks resulting from cyber-security attacks or incidents (collectively, "cyber-events"). In general, cyber-events can result from deliberate attacks or unintentional events. Cyber-events include, but are not limited to, gaining unauthorized access to digital systems (e.g., through "hacking" or malicious software coding) for purposes of misappropriating assets or sensitive information, corrupting data, or causing operational disruption. Cyber-events may also be carried out in a manner that does not require gaining unauthorized access, such as causing denial-of-service attacks on websites (i.e., efforts to make network services unavailable to intended users). Cyber-events affecting the Trust Company, ICMA-RC, VIA, the Funds or their subadvisers, custodian, and other third-party service providers may adversely impact the Funds. For instance, cyber-events may interfere with the processing of shareholder transactions, impact a Fund's ability to calculate its NAVs, cause the release of private shareholder information or confidential business information, impede trading, subject a Fund to regulatory fines or financial losses and/or cause reputational damage. The Funds may also incur additional costs for cyber security risk management purposes. In addition, cyber-events affecting issuers in which a Fund invests may cause such Fund's investments to lose value.

**DERIVATIVE INSTRUMENTS:** A derivative is a financial instrument whose value is dependent upon the value of an underlying asset or assets. These underlying assets may include, among others, bonds, currency exchange rates, interest rates, stocks, or related indices. Types of derivatives include, but are not limited to, options, futures contracts, options on futures, forward currency contracts, and swaps.

Some derivatives, such as futures contracts and certain options, are traded on U.S. commodity and securities exchanges (exchanged-traded derivatives), while other derivatives are privately negotiated and entered into in the over-the-counter ("OTC") market (OTC derivatives). Certain swaps are traded through swap execution facilities. OTC derivatives are typically less liquid than exchange-traded derivatives since the other party to the transaction may be the only investor with sufficient understanding of the derivative to be interested in bidding for it. Derivative products are highly specialized instruments that require investment techniques and risk analyses different from those associated with stocks,



bonds, and other traditional investments. The use of a derivative requires an understanding not only of the underlying instrument but also of the derivative itself, without the benefit of observing the performance of the derivative under all possible market conditions.

Additional information regarding the different types of derivative instruments used by the Funds (and their associated risks) is set forth below:

**Forward Currency Contracts.** A forward currency contract involves a privately negotiated obligation to purchase or sell a specific currency at a future date at a price set in the contract. Risks of entering into forward currency contracts include the possibility that a fund may lose money. For example, foreign currency values may change unfavorably relative to the U.S. dollar, there may be an illiquid market or a change in the value of the contracts may not correlate with changes in the value of the underlying currency. The use of over-the-counter forward currency contracts includes counterparty risk, which is the risk that the other party to a contract may not fulfill its obligations.

**Futures.** A futures contract is an agreement to buy or sell a specific amount of a commodity or financial instrument at a particular price on a stipulated future date. Futures may involve a small investment of cash relative to the magnitude of the risk assumed. For purposes of meeting a Fund's investment objectives or restrictions, futures contracts are considered to be the same type of security or financial instrument as that underlying the contract. Futures transactions must be made on national exchanges where purchases and sales transactions are regularly executed and regulated.

The risks associated with the use of futures include: a Fund experiencing losses over certain ranges in the market that exceed losses experienced by a Fund that does not use futures contracts; there may be an imperfect correlation between the changes in the prices of futures and options on futures and the market value of their underlying assets; trading restrictions or limitations may be imposed by an exchange, and government regulations may restrict trading in futures contracts; and there may not always be a liquid secondary market for a futures contract, and; therefore, a Fund may be unable to close out its futures contracts at a time that is advantageous.

**Options.** An option is a derivative financial instrument that specifies a contract between two parties for a future transaction on a financial instrument at a reference price (strike price). The buyer of the option gains the right, but not the obligation, to engage in that transaction, while the seller incurs the corresponding obligation to fulfill the transaction. Options have various types of underlying financial instruments, including specific securities, indices of securities prices, futures contracts, and swaps.

When a Fund writes an option, the Fund receives a premium from the buyer and becomes obligated to sell or purchase the underlying financial instrument at a fixed price upon exercise of the option. In writing an option, the Fund bears the market risk of an unfavorable change in the price of the financial instrument underlying the written option. Exercise of an option written by the Fund could result in the Fund buying or selling a financial instrument at a price different from the current market value.

When an option is exercised, the proceeds on a sale for a written call option or the purchase cost for a written put option, or the cost of the security for a purchased put or call option is adjusted by the amount of premium received or paid. The risk in writing a call option is that the Fund gives up the opportunity for profit if the market price of the security increases to or above the strike price and the option is exercised. The risk of writing a put option is that the Fund may incur a loss if the market price of the security decreases and the option is exercised.

The risk in buying an option is that the Fund pays a premium whether or not the option is exercised. By purchasing a put option, the purchaser obtains the right (but not the obligation) to sell the option's underlying financial instrument at a fixed strike price. In return for this right, the purchaser pays the current market price for the option (known as the option premium). The purchaser may terminate its position in a put option by allowing it to expire or by exercising the option. If the option is allowed to expire, the purchaser will lose the entire premium. If the option is exercised, the purchaser completes the sale of the underlying financial instrument at the strike price. A purchaser may also terminate a put option position by closing it out in the secondary market at its current price, if a liquid secondary market exists. The buyer of a typical put option can expect to realize a gain if the price of the underlying financial instrument falls substantially. However, if the underlying financial instrument's price does not fall enough to offset the cost of purchasing the option, a put buyer can expect to suffer a loss (limited to the amount of the premium, plus related transaction costs).

The features of call options are essentially the same as those of put options, except that the purchaser of a call option obtains the right to purchase, rather than sell, the underlying financial instrument at the option's strike price. A call buyer typically attempts to participate in potential price increases of the underlying financial instrument with risk limited to the cost of the option if the price of the underlying financial instrument falls. At the same time, the buyer can expect to suffer a loss if the price of the underlying instrument does not rise sufficiently to offset the cost of the option.

**Swap Option (Swaption)** - A swap option or swaption is a contract that gives a party the right (but not the obligation), in return for payment of a premium, to enter into a new swap agreement or to shorten, extend, cancel or otherwise modify an existing swap agreement, at some designated future time on specified terms. Depending on the terms of the particular swaption agreement, a Fund will generally incur a greater potential loss when it writes a swaption than it will incur when it purchases a swaption. When a Fund purchases a swaption, it risks losing only the amount of the premium it has paid should it decide to let the option expire unexercised. However, when a Fund writes a swaption, upon exercise of the option the Fund will become obligated according to the terms of the underlying agreement.

**Swaps.** Generally, swap agreements are contracts between a Fund and another party (the swap counterparty) involving the exchange of payments on specified terms over periods ranging from a few days to multiple years.

A swap may be negotiated bilaterally and traded over-the-counter between two parties. Such bilateral swaps are entered into primarily by institutional investors. The swap counterparty is typically a brokerage firm, bank, or other financial institution. Certain over-the-counter swaps

may be submitted for central clearing. In addition, certain standardized swaps are subject to mandatory central clearing and certain cleared swaps are subject to mandatory exchange-trading. Cleared swaps are transacted through futures commission merchants (each an “FCM”) that are members of central clearinghouses with the clearinghouse serving as central counterparty and, as applicable, may be executed through a swap execution facility. A fund posts initial and variation margin to support its obligations under cleared swaps. Centralized clearing will be required for additional categories of swaps on a phased-in basis based on the CFTC approval of contracts for central clearing.

In a typical “swap” transaction, two parties agree to exchange one or more payments based, for example, on the returns (or differentials in rates of return) earned or realized on particular predetermined investments or instruments, such as specified interest rates, a particular foreign currency, or a “basket” of securities or commodities as represented by a particular index. Swaps can also be based on credit and other events. The gross payments to be exchanged between the parties are calculated with respect to a notional amount, which is the predetermined dollar principal of the trade representing the hypothetical underlying quantity upon which payment obligations are computed. Forms of swap agreements vary and include, but are not limited to: interest rate caps, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates exceed a specified rate, or “cap”; interest rate floors, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates fall below a specified rate, or “floor”; and interest rate collars, under which a party sells a cap and purchases a floor or vice versa in an attempt to protect itself against interest rate movements exceeding given minimum or maximum levels.

Because bilateral swap agreements are structured as two party contracts and may have terms of greater than seven days, these swap agreements may be considered to be illiquid. Transactions executed on a swap execution facility may increase liquidity. Moreover, a Fund bears the risk of loss of the amount expected to be received under a bilateral swap agreement in the event of the default or bankruptcy of a swap agreement counterparty. If there is a default by the other party to such a transaction, a Fund will have to rely on its contractual remedies (which may be limited by bankruptcy, insolvency or similar laws) pursuant to the agreements related to the transaction. A Fund will enter into bilateral swap agreements only with counterparties that meet certain standards of creditworthiness.

With respect to cleared swaps, central clearing is intended to decrease counterparty risk compared to uncleared swaps because central clearing interposes the central clearinghouse as the counterparty to each participant’s swap. However, central clearing does not eliminate counterparty risk entirely for cleared swaps. The assets of a Fund may not be fully protected in the event of the bankruptcy of the FCM or central counterparty because the Fund might be limited to recovering only a pro rata share of all available funds and margin segregated on behalf of an FCM’s customers. In addition, the credit risk of cleared swap participants is concentrated in a few clearing houses, and the consequences of the insolvency of a clearing house are not clear. Central clearing is also intended to increase liquidity.

In addition, with respect to cleared swaps, an FCM may unilaterally impose position limits or additional margin requirements for certain types of swaps in which the Fund may invest. Central counterparties and FCMs generally can require termination of existing cleared swap transactions at any time and can also require increases in margin above the margin that is required at the initiation of the swap agreement. Margin requirements for cleared swaps vary on a number of factors, and the margin required under the rules of the clearinghouse and FCM may be in excess of the collateral required to be posted by the Fund to support its obligations under a similar uncleared swap. However, regulators have proposed and are expected to adopt rules imposing certain margin requirements on uncleared swaps in the near future, which are likely to impose higher margin requirements on uncleared swaps (see “Regulation of Swaps and Other Derivatives under the Dodd–Frank Wall Street Reform and Consumer Protection Act” below).

**Total Return Swaps** - Total return swap agreements are contracts in which one party agrees to make periodic payments to another party based on the change in market value of the assets underlying the contract, which may include a specified security, basket of securities or securities indices during the specified period, in return for periodic payments based on a fixed or variable interest rate or the total return from other underlying assets. Total return swap agreements may be used to obtain exposure to a security or market without owning or taking physical custody of such security or investing directly in such market. Total return swap agreements may add leverage to a Fund’s portfolio because, in addition to its total net assets, the Fund would be subject to investment exposure on the notional amount of the swap. Generally, a Fund will enter into total return swaps on a net basis (i.e., the two payment streams are netted against one another with the Fund receiving or paying, as the case may be, only the net amount of the two payments).

**Credit Default Swaps** - Credit default swaps are contracts whereby one party makes periodic payments to a counterparty in exchange for the right to receive from the counterparty a payment equal to the par (or other agreed-upon) value of a referenced fixed income security in the event of a default or other agreed upon credit related event by the issuer of the debt obligation. The use of credit default swaps may be limited by a Fund’s limitations on illiquid investments. When used for hedging purposes, a Fund would be the buyer of a credit default swap contract. In that case, the Fund would be entitled to receive the par (or other agreed-upon) value of a referenced debt obligation from the counterparty to the contract in the event of a default or other agreed upon credit related event by a third party, such as a U.S. or foreign issuer, on the debt obligation. In return, the Fund would pay to the counterparty a periodic stream of payments over the term of the contract provided that no applicable event (e.g., default or other agreed upon event) has occurred. If no such event occurs, the Fund would have spent the stream of payments and received no return from the contract. Credit default swaps involve the risk that the investment may expire worthless and would generate income only in the event of an actual default by the issuer of the underlying obligation (as opposed to a credit downgrade or other indication of financial instability). It would also involve credit risk that the seller may fail to satisfy its payment obligations to the Fund in the event of a default. When a Fund is the seller of a credit default swap contract, it receives the stream of payments but is obligated to pay upon default of the referenced debt obligation or other agreed upon credit event. As the seller, a Fund would effectively add leverage to its portfolio because, in addition to its total assets, the Fund would be subject to investment exposure on the notional amount of the swap. In addition to the risks applicable to swaps generally, credit default swaps involve special risks because they are difficult to value, are highly susceptible to liquidity and credit risk, and generally pay a return to the party that has paid the premium only in the event of an actual default by the issuer of the underlying obligation (as opposed to a credit downgrade or other indication of financial difficulty).

**Interest Rate Swaps** - Interest rate swaps involve the exchange by a Fund with another party of their respective commitments to pay or receive interest, e.g., an exchange of floating rate payments for fixed rate payments with respect to a notional amount of principal. A Fund will usually enter into interest rate swaps on a net basis, i.e., the two payment streams are netted out, with the Fund receiving or paying, as the case may be, only the net amount of the two payments on the payment dates.

**Inflation Rate Swaps** - Inflation rate swaps involve the exchange by a Fund with another party of their respective commitments to pay or receive a fixed rate in exchange for the rate of change of an inflation index with respect to a notional amount of principal. A Fund will usually enter into inflation swaps on a net, zero-coupon basis, i.e., the two rates will compound until the swap termination date at which point payments are netted, with the Fund receiving or paying, as the case may be, only the net amount of the two payments.

Regulation of Swaps and Other Derivatives under the Dodd–Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) - The Dodd-Frank Act and related regulatory developments have imposed comprehensive new regulatory requirements on swaps and swap market participants. The new regulatory framework includes: (1) registration and regulation of swap dealers and major swap participants; (2) requiring central clearing and execution of standardized swaps; (3) imposing margin requirements in swap transactions; (4) regulating and monitoring swap transactions through position limits and large trader reporting requirements; and (5) imposing record keeping and centralized and public reporting requirements, on an anonymous basis, for most swaps. The CFTC is responsible for the regulation of most swaps and has completed most of its rules implementing the Dodd-Frank Act swap regulations. The SEC has jurisdiction over a small segment of the market referred to as “security-based swaps,” which includes swaps on single securities or credits, or narrow-based indices of securities or credits, but has not yet completed its rulemaking.

The regulation of cleared and uncleared swaps, as well as other derivatives, is a rapidly changing area of law and is subject to modification by government and judicial action. In addition, the SEC, CFTC and the exchanges are authorized to take extraordinary actions in the event of a market emergency, including, for example, the implementation or reduction of speculative position limits, the implementation of higher margin requirements, the establishment of daily price limits and the suspension of trading.

It is not possible to predict fully the effects of current or future regulation. However, it is possible that developments in government regulation of various types of derivative instruments, such as speculative position limits on certain types of derivatives, or limits or restrictions on the counterparties with which the Funds engage in derivative transactions, may limit or prevent a Fund from using or limit a Fund’s use of these instruments effectively as a part of its investment strategy, and could adversely affect a Fund’s ability to achieve its investment objective(s). The Fund will continue to monitor developments in the area, particularly to the extent regulatory changes affect a Fund’s ability to enter into desired swap agreements. New requirements, even if not directly applicable to a Fund, may increase the cost of the Fund’s investments and cost of doing business.

**DEPOSITARY RECEIPTS:** Those Funds that may invest in foreign securities, as identified in the applicable Fund Level Guidelines, may purchase the foreign securities in the form of sponsored or unsponsored depositary receipts or other securities representing underlying shares of foreign issuers. In sponsored programs, an issuer has made arrangements to have its securities traded in the form of depositary receipts. In unsponsored programs, the issuer may not be directly involved in the creation of the program. The risks associated with depositary receipts are similar to those of investing in foreign securities. In addition, the following risks also apply: the depositary of depositary receipts may not have physical custody of underlying securities; the depositary may charge additional fees for delivery of dividends and interest; a Fund may experience delays in receiving dividends or interest; and with respect to unsponsored programs, it may be harder to obtain financial information about the issuer of the underlying security because the issuer is not directly involved in the program.

#### **EQUITY SECURITIES:**

**Common Stock.** Common stock represents an equity or ownership interest in an issuer. Common stock typically entitles the owner to vote on the election of directors and other important matters as well as to receive dividends on such stock. In the event an issuer is liquidated or declares bankruptcy, the claims of owners of bonds, other debtholders, and owners of preferred stock take precedence over the claims of those who own common stock.

**Preferred Stock.** Preferred stock represents an equity or ownership interest in an issuer. Preferred stock normally pays dividends at a specified rate and has precedence over common stock in the event an issuer liquidates or declares bankruptcy. However, in the event an issuer is liquidated or declares bankruptcy, the claims of owners of bonds take precedence over claims of those who own preferred or common stock. Preferred stock, unlike common stock, often has a stated dividend rate payable from the corporation’s earnings. Preferred stock dividends may be cumulative or noncumulative, participating, or auction rate. “Cumulative” dividend provisions require all or a portion of prior unpaid dividends be paid before dividends can be paid to the issuer’s common stock. “Participating” preferred stock may be entitled to a dividend exceeding the stated dividend in certain cases. If interest rates rise, the fixed dividend on preferred stocks may be less attractive, causing the price of such stocks to decline. Preferred stock may have mandatory sinking fund provisions, as well as provisions allowing the stock to be called or redeemed, which can limit the benefit of a decline in interest rates. Preferred stock is subject to many of the risks to which common stock and fixed income securities are subject.

**Master Limited Partnerships.** Master limited partnerships (“MLPs”) are limited partnerships in which the ownership units are publicly traded. MLP units are registered with the SEC and are freely traded on a securities exchange or in the over-the-counter market. MLPs often own several properties or businesses (or own interests) that are related to real estate development and oil and gas industries, but they also may finance motion pictures, research and development and other projects. Generally, an MLP is operated under the supervision of one or more managing general partners. Limited partners are not involved in the day-to-day management of the partnership.

The risks of investing in an MLP are generally those involved in investing in a partnership as opposed to a corporation. For example, state law governing partnerships is often less restrictive than state law governing corporations. Accordingly, there may be fewer protections afforded investors in an MLP than investors in a corporation. Additional risks involved with investing in an MLP are risks associated with the specific industry or industries in which the partnership invests, such as the risks of investing in real estate, or oil and gas industries.

**EXCHANGE-TRADED FUNDS (“ETFs”):** Most ETFs are registered under the Investment Company Act of 1940 (“1940 Act”) as investment companies. Therefore, an ETF is subject to restrictions under the 1940 Act. In addition, ETFs have their own management fees and other expenses, which increase their cost. See the “Investment Companies” section below. ETFs hold portfolios of securities, commodities, or currencies that are intended to track, as closely as possible before expenses, the price and/or yield of (i) a specified domestic or foreign market or other index, (ii) a basket of securities, commodities or currencies, or (iii) a particular commodity or currency. Because ETFs are based on an underlying basket of stocks or an index, they are subject to the same market fluctuations as these types of securities in volatile market swings. Although the value of an investment in an ETF will rise or decline more or less in correlation with any rise or decline in the value of the index the exchange-traded fund seeks to track, the performance results of ETFs will not exactly track the performance of the pertinent index, basket, commodity or currency due to transaction and other expenses borne by ETFs. Furthermore, there can be no assurance that the portfolio of securities, commodities and/or currencies purchased by an ETF will replicate a particular index or basket or price of a commodity or currency.

ETF shares are sold and redeemed at net asset value only in large blocks called creation units and redemption units, respectively. ETF shares also may be purchased and sold in secondary market trading on national securities exchanges, which allows investors to purchase and sell ETF shares at their market price throughout the day.

Investments in ETFs generally present the same primary risks as an investment in a conventional mutual fund that has the same investment objective, strategy and policies (see “Investment Companies” below). However, investments in ETFs further involve the same risks associated with a direct investment in the security, commodity or currency, or in the types of securities, commodities, or currencies included in the indices or baskets the ETFs are designed to replicate. In addition, shares of an ETF may trade at a market price that is higher or lower than their net asset value, and an active trading market in such shares may not develop or be maintained. Moreover, trading of an ETF’s shares may be halted if the listing exchange’s officials deem such action to be appropriate, the shares are de-listed from the exchange, or the activation of market-wide “circuit breakers” (which are tied to large decreases in stock prices) halts stock trading generally. Lastly, an ETF would not necessarily sell a security because the issuer of the security was in financial trouble unless the security is removed from the index that the ETF seeks to track.

Some Funds may purchase ETF shares for the same reason they might purchase (and as an alternative to purchasing) futures contracts: to obtain exposure to the securities in the ETF’s benchmark index while maintaining flexibility to meet their liquidity needs. ETF shares can be purchased for smaller sums and offer exposure to market sectors and styles for which there is no suitable or liquid futures contract.

**FIXED INCOME SECURITIES:** Fixed income securities consist primarily of debt obligations issued by governments, corporations, municipalities and other borrowers, but may also include structured securities that provide for participation interests in debt obligations. Fixed income securities may also include loan participations and assignments that are privately negotiated notes representing the equivalent of a loan or bank debt. The market value of the fixed income securities in which a Fund invests will change in response to interest rate changes and other factors. During periods of falling interest rates, the values of outstanding fixed income securities generally rise. Conversely, during periods of rising interest rates, the values of such securities generally decline. Moreover, while securities with longer maturities tend to produce higher yields, the prices of longer maturity securities are also subject to greater market fluctuations as a result of changes in interest rates over time. Changes by recognized agencies in the rating of any fixed income security and in the ability of an issuer to make payments of interest and principal also affect the value of these investments, as well as factors such as the market perception of the creditworthiness of the fixed income security’s issuer and general market liquidity. Changes in the value of these securities will not necessarily affect cash income derived from these securities but can affect a Fund’s net asset value.

Instability in the markets for fixed income securities may significantly affect the volatility of the prices of such securities. In the event of redemptions, a Fund that invests in fixed income securities may be forced to sell these portfolio securities at an unfavorable time or price. As a result, a Fund may incur a greater loss on the sale of such securities than under more stable market conditions. Such losses can adversely impact a Fund’s net asset value.

Nationally Recognized Statistical Rating Organizations (each an “NRSRO”), which include S&P, Moody’s and Fitch, provide ratings on fixed income securities based on their analyses of information they deem relevant. Ratings of each major NRSRO represent its judgment of the safety of principal and interest payments (and not the market risk) of bonds and other fixed income securities it undertakes to rate. NRSRO ratings are not absolute standards of credit quality and may prove to be inaccurate. In addition, there may be a delay between events or circumstances adversely affecting the ability of an issuer to pay interest and or repay principal and a NRSRO’s decision to downgrade a security. Any shortcomings or inefficiencies in the NRSROs’ processes for determining ratings may adversely affect the ratings of securities held by the Fund and, as a result, may adversely affect those securities’ perceived credit risk.

The minimum credit rating threshold for fixed income securities must be met immediately after each new acquisition by a Fund. In the event a security owned by a Fund is downgraded, VIA or a subadviser, as applicable, will review the situation and take appropriate action with regard to the security.

Additional information regarding fixed income securities is set forth below:

**Corporate Bonds.** Corporate bonds are fixed income securities issued by private and public corporations. Corporate bonds are issued by a wide variety of corporations involved in a variety of industries. A wide range of choices exist for corporate bonds in regard to bond structures, coupon

rates, maturity dates, credit quality and industry exposure. Corporate bonds are generally considered higher risk than domestically issued government bonds. As a result, coupon rates paid on corporate bonds are generally higher than domestically issued government bonds with similar maturity dates, even for the highest credit quality corporate bonds.

The backing for a corporate bond is usually the payment ability of the corporation, which is typically money to be earned from future operations. In some cases, the corporation's physical assets may be used as collateral for bonds. Corporate bonds are a source of capital for many corporations along with equity offerings and bank loans/lines of credit. Unlike equity securities, corporate bonds do not represent an ownership interest in the issuing corporation. However, in the event of default, corporate bond holders generally have a higher claim on the corporation's unencumbered assets than do stock holders.

**Municipal Securities.** Municipal securities are fixed income securities issued by state and local governments, territories and possessions of the U.S., regional governmental authorities, and their agencies and instrumentalities. In general, municipal securities are issued to obtain funds for a variety of public purposes, such as the construction, repair, or improvement of public facilities, including airports, bridges, housing, hospitals, mass transportation, schools, streets, water, and sewer works. Municipal securities may be issued to refinance outstanding obligations as well as to raise funds for general operating expenses and lending to other public institutions and facilities.

The two principal classifications of municipal securities are general obligation securities and revenue securities. General obligation securities are secured by the issuer's pledge of its full faith, credit, and taxing power for the payment of principal and interest. Characteristics and methods of enforcement of general obligation bonds vary according to the law applicable to a particular issuer, and the taxes that can be levied for the payment of debt instruments may be limited or unlimited as to rates or amounts of special assessments. Revenue securities are payable only from the revenues derived from a particular facility, a class of facilities or, in some cases, from the proceeds of a special excise tax. Revenue bonds are issued to finance a wide variety of capital projects, including (for example) electric, gas, water and sewer systems; highways, bridges, and tunnels; port and airport facilities; colleges and universities; and hospitals. Although the principal security behind these bonds may vary, many provide additional security in the form of a debt service reserve fund the assets of which may be used to make principal and interest payments on the issuer's obligations.

**Duration.** Duration of a fixed income security is a measure of the expected change in value of the security for a given change in interest rates. The duration of a portfolio is the weighted average duration of all the fixed income securities in the portfolio. The effective duration of a portfolio takes into account that expected cash flows will fluctuate as interest rates change. For example, if interest rates change by one percent, the value of a security having an effective duration of two years generally would vary by two percent.

**Investment Grade Fixed Income Securities.** Fixed income securities are considered investment grade if they are rated in one of the four highest rating categories by S&P, Moody's, or Fitch. In the case of different ratings among S&P, Moody's, and Fitch (a split rated security), the rating of such split rated security will be determined as follows: if all three agencies rate a security, the highest and lowest ratings will be dropped and the remaining middle rating will be used; if two of the three agencies rate a security, the security will be considered to have the lower (i.e., more conservative) credit rating. If a security is not rated by S&P, Moody's, or Fitch, it may be determined to be of comparable quality by VIA or a subadviser, as applicable.

See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

**Average Credit Quality.** The average credit quality for a Fund is an average of each fixed income security's stated credit rating calculated on an asset-weighted basis.

**Sensitivity to Economic Changes.** Lower rated fixed income securities are more sensitive to adverse economic changes and corporate developments than their higher rated counterparts. During an economic downturn, highly leveraged issuers may experience financial stress that would adversely affect their ability to service their principal and interest payment obligations, to meet projected business goals, and to obtain additional financing. If the issuer of a fixed income security defaulted on its obligations to pay interest or principal or entered into bankruptcy proceedings, a Fund may incur losses or expenses in seeking recovery of amounts owed to it. In addition, periods of economic uncertainty and change can be expected to result in increased volatility of market prices of lower rated fixed income securities and a Fund's net asset value.

**Call and Similar Risks.** Fixed income securities may contain redemption or call provisions. If an issuer exercised these provisions in a declining interest rate market, a Fund would have to replace the security with a lower yielding security, resulting in a decreased return for investors. Conversely, the value of a fixed income security held by a Fund may decrease in a rising interest rate market. If a Fund experiences unexpected net redemptions, this may force it to sell high yield fixed income securities without regard to their investment merits, thereby decreasing the asset base upon which expenses can be spread and possibly reducing the Fund's rate of return.

**Liquidity and Valuation.** There may be little trading in the secondary market for particular fixed income securities, which may adversely affect a Fund's ability to value accurately or dispose of such fixed income securities. Adverse publicity and investor perception, whether or not based on fundamental analysis, may decrease the value and liquidity of below investment grade fixed income securities, especially in a thin (low trading volume) market.

**Maturity.** The maturity of a fixed income security is the length of time until the date on which the issuer of a fixed income security must repay the principal or full face value in total (and sometimes the final interest payment) to the holder. For example, a bond with a period of 10 years has a maturity date 10 years after its issue. The maturity date also generally indicates the period of time during which the bondholder will receive interest payments.

The maturity date of a fixed income security is important because of interest rate risk. Generally, a security with a longer maturity will fluctuate more in price due to changes in interest rates as compared to a shorter term security. Fixed income securities are often classified by maturity date. Generally, the U.S. market recognizes three maturity ranges – short term, intermediate term and long term, although the specific cut off points among these categories may differ.

Some fixed income securities are callable (meaning that the issuer may redeem them before the maturity date under certain circumstances). Some fixed income securities, such as mortgage-backed securities, pay back their principal over the life of the debt, similar to the way a mortgage is amortized, or paid down. While these instruments also have a maturity date, that date is when the last installment payment of the loan as well as the last interest payment is due.

Maturity can refer to the security's original maturity, meaning the length of time between first issuance and the repayment date, or remaining maturity, meaning the length of time, after first issuance, that remains under the repayment date.

**Coupon Rate.** A coupon payment on a fixed income security is a periodic interest payment that the holder receives during the time between when the security is issued and when it matures. Coupons are normally described in terms of the coupon rate, which is calculated by adding the total amount of coupons paid per year and dividing by the fixed income security's face value.

**Below Investment Grade Fixed Income Securities.** See "Below Investment Grade Securities" for further information (and certain associated risks) of fixed income securities that are below investment grade.

**FLOATING RATE LOANS:** Floating rate loans are debt securities or other interests issued by companies or other entities with floating interest rates that reset periodically. Certain floating rate loans are also known as "bank loans." Most floating rate loans are secured by specific collateral of the borrower and are senior to most other securities of the borrower (e.g., common stock or debt instruments) in the event of bankruptcy. Floating rate loans are often issued in connection with recapitalizations, acquisitions, leveraged buyouts, and refinancings. Floating rate loans are typically structured and administered by a financial institution that acts as the agent of the lenders participating in the floating rate loan. Floating rate loans may be acquired from a lender or through the agent as an assignment from another lender who holds a floating rate loan, or as a participation interest in another lender's floating rate loan or portion thereof.

Investments in floating rate loans have risks that are similar to those of fixed income securities. In addition, floating rate loans carry the risk of impairment of collateral. The value of the collateral securing a floating rate loan can decline, be insufficient to meet the obligations of the borrower, or be difficult to liquidate. As such a floating rate loan may not be fully collateralized and can decline significantly in value. Floating rate loans may also carry liquidity risk. Floating rate loans generally are subject to legal or contractual restrictions on resale. Therefore, the liquidity of floating rate loans, including the volume and frequency of secondary market trading in such loans, varies significantly over time and among individual floating rate loans. If the credit quality of a floating rate loan suffers a significant decline, the secondary trading market for that same loan may also decline, making it more difficult to sell and to value. Difficulty in selling a floating rate loan can result in a loss. In addition, floating rate loans may not be considered "securities," and the holder therefore may not be entitled to rely on the anti-fraud protections of the federal securities laws. There also may be limited public information available regarding floating rate loans. A subadviser may elect to receive material non-public information about an individual floating rate loan that is not available to other lenders of such floating rate loan. If a Fund elects to become restricted on any individual floating rate loan as a result of agreeing to receive material non-public information about the loan, such Fund might be unable to enter into a transaction in a security of that borrower, when it would otherwise be advantageous to do so.

**FOREIGN SECURITIES:** Foreign securities are securities issued by non-U.S. issuers. Investments in foreign securities may subject a Fund to investment risks that differ in some respects from those related to investments in securities of U.S. issuers. Such risks include future adverse political and economic developments, possible imposition of withholding taxes on income and gains, possible seizure, nationalization, or expropriation of foreign assets, possible establishment of exchange controls or taxation at the source or greater fluctuations in value due to changes in the currency exchange rates. Foreign issuers of securities often engage in business practices different from those of domestic issuers of similar securities, and there may be less publicly available information about foreign issuers. In addition, foreign issuers are, generally speaking, subject to less government supervision and regulation and different accounting treatment than are those in the U.S. Foreign branches of U.S. banks and foreign banks may be subject to less stringent reserve requirements than those applicable to domestic branches of U.S. banks.

The value of a Fund's investments denominated in foreign currencies will depend in part on the relative strengths of those currencies and the U.S. dollar, and a Fund may be affected favorably or unfavorably by changes in the exchange rates or exchange or currency control regulations between foreign currencies and the U.S. dollar. Changes in foreign currency exchange rates also may affect the value of dividends and interest earned, gains and losses realized on the sale of securities and net investment income and gains, if any, to be distributed to shareholders by a Fund. Such investments may also entail higher custodial fees and sales commissions than domestic investments.

**Securities of Issuers Located in Emerging Market Countries ("Emerging Market Securities").** Emerging market securities are (a) securities of issuers located in countries not included in the MSCI World Index, and (b) securities included in the MSCI Emerging Markets Index.

A Fund's investments in emerging market securities can be considered speculative, and therefore may offer higher potential for gains and losses than investments in developed markets of the world. With respect to an emerging market country, there may be a greater potential for nationalization, expropriation or confiscatory taxation, political changes, government regulation, social instability or diplomatic developments (including war) which could affect adversely the economies of such countries or investments in such countries. The economies of developing countries generally are heavily dependent upon international trade and, accordingly, have been and may continue to be adversely affected by trade barriers, exchange or currency controls, managed adjustments in relative currency values and other protectionist measures imposed or negotiated by the countries with which they trade.

In addition to the risks of investing in emerging market fixed income securities, a Fund's investment in government or government-related securities of emerging market countries and restructured debt instruments in emerging markets are subject to special risks, including the inability or unwillingness to repay principal and interest, requests to reschedule or restructure outstanding debt, and requests to extend additional loan amounts. A Fund may have limited recourse in the event of default on such debt instruments.

**Foreign Government Securities.** Foreign government securities (also referred to as "sovereign debt securities") are fixed income securities issued by a foreign government, a foreign municipality, or an agency or instrumentality thereof. The ability of a foreign governmental obligor to meet its obligations to pay principal and interest to debtholders generally will be adversely affected by rising foreign interest rates, as well as the level of the relevant government's foreign currency reserves and currency devaluations. If a governmental obligor defaults on its obligations, a Fund may have limited legal recourse against the issuer and/or guarantor. These risks may be heightened during periods of economic or political instability and are generally heightened in emerging markets countries.

**Supranational Entities.** Examples of supranational entities include the International Bank for Reconstruction and Development (the World Bank), the European Union, the Asian Development Bank and the Inter-American Development Bank. The government members, or "stockholders," usually make initial capital contributions to the supranational entity and in many cases are committed to make additional capital contributions if the supranational entity is unable to repay its borrowings. There is no guarantee that one or more stockholders of a supranational entity will continue to make any necessary additional capital contributions. If such contributions are not made, the entity may be unable to pay interest or repay principal on its fixed income securities, and a Fund may lose money on such investments.

**European-related Risks.** Countries in Europe may be significantly affected by fiscal and monetary controls implemented by the European Union ("EU") and European Economic and Monetary Union ("EMU"), which require member countries to comply with restrictions on inflation rates, deficits, interest rates, debt levels and fiscal and monetary controls. Decreasing imports or exports, changes in governmental or other regulations on trade, changes in the exchange rate of the Euro, the default or threat of default by one or more EU member countries on its sovereign debt, and/or an economic recession in one or more EU member countries may have a significant adverse effect on the economies of other EU member countries and major trading partners outside Europe. The exit of any country out of the Euro could have a destabilizing effect on that country and all eurozone countries and their economies and could have an adverse effect on the global economy and on global markets.

**ILLIQUID SECURITIES:** Generally, an illiquid security is a security that cannot be sold or disposed of in the ordinary course of business within seven days at approximately the value at which a Fund has valued it. To the extent that a Fund invests in illiquid securities, it may experience difficulty valuing and selling illiquid securities and, in some cases, may be unable to value or sell certain illiquid securities for an indefinite period of time.

**INFLATION-ADJUSTED SECURITIES:** Inflation-adjusted securities are fixed income securities whose principal values or coupon rates are periodically adjusted to reflect the rate of inflation as indicated by the Consumer Price Index ("CPI") (or an equivalent, see below). Inflation-adjusted securities may be issued by U.S. and foreign governments, agencies and instrumentalities, corporations, or state and local governments. The following two structures are common: (1) the U.S. Treasury and some other issuers use a structure whereby the principal value adjusts with inflation while the coupon rate remains fixed; and (2) other issuers use a structure whereby the principal value is fixed but the coupon rate adjusts with inflation.

The periodic adjustment of U.S. inflation-adjusted securities is tied to the CPI, which is calculated monthly by the U.S. Bureau of Labor Statistics. The CPI is a measurement of changes in the cost of living, made up of components such as housing, food, transportation and energy.

Inflation-adjusted securities issued by foreign governments, agencies, instrumentalities, and corporations are generally adjusted to reflect an inflation index comparable to the CPI. There can be no assurance that the CPI or any foreign inflation index will accurately measure the real rate of inflation in the prices of goods and services. Moreover, there can be no assurance that the rate of inflation in a foreign country will be correlated to the rate of inflation in the U.S.

Inflation, a general rise in prices of goods and services, erodes the purchasing power of an investor's portfolio. For example, if an investment provides a "nominal" total return of 8% in a given year and inflation is 3% during that period, the inflation-adjusted, or real return, is approximately 5%. Inflation, as measured by the CPI, has occurred in the U.S. for each of the past 50 years.

Investors in inflation-adjusted securities funds (such as the Inflation Focused Fund) who do not reinvest the portion of the income distribution that is attributable to inflation adjustments may not maintain the purchasing power of the investment over the long term. This is because interest earned depends on the amount of principal invested, and that principal will not grow with inflation if the investor fails to reinvest the principal adjustment paid out as part of a fund's income distribution.

While inflation-adjusted securities are expected to be protected from long-term inflationary trends, short term increases in inflation may lead to a decline in value. If interest rates rise due to reasons other than inflation (for example, due to changes in monetary policy or currency exchange rates), investors in these securities may not be protected to the extent that the increase is not reflected in the security's inflation measure.

If the periodic adjustment rate measuring inflation (e.g., the CPI) falls, the principal value of inflation-adjusted securities that adjust the principal value will be adjusted downward, and consequently the interest payable on these securities (calculated with respect to a smaller principal amount) will be reduced. Repayment of the original principal upon maturity (or the inflation-adjusted principal, if greater) is guaranteed in the case of U.S. Treasury inflation protected securities, even during a period of deflation. However, the current market value of the inflation-adjusted securities is not guaranteed and will fluctuate. Other inflation-adjusted securities include inflation related fixed income securities, which may or may not provide a principal repayment guarantee. If a guarantee of principal is not provided, the adjusted principal value of the security repaid at maturity may be less than the original principal.

The value of inflation-adjusted securities should change in response to changes in real interest rates. Real interest rates are tied to the relationship between nominal interest rates and the rate of inflation. Therefore, if inflation were to rise at a rate faster than changes in nominal interest rates, real interest rates may decline leading to an increase in value of the inflation adjusted securities. In contrast, if nominal interest rates increased at a rate faster than the rate of inflation, real interest rates may rise, leading to a decrease in value of inflation adjusted securities.

**INITIAL PUBLIC OFFERINGS:** An initial public offering, or IPO, is the first sale of common stock or other securities by a privately held company to the public. Companies frequently initiate public offerings in order to raise capital or reduce debt. Often, smaller, younger and relatively unknown companies will publicly offer their shares in order to raise capital to expand their business. Large, well-established, privately-held companies might conduct an initial public offering so that they can become publicly traded. The price of the security in its first few days of trading may fluctuate quickly and significantly. Additionally, securities issued in IPOs have no trading history, and historical information about the company may be limited.

**INVESTMENT COMPANIES AND OTHER FUNDS:** Securities of investment companies and other funds, including shares of closed-end investment companies, unit investment trusts, open-end investment companies, ETFs and REITs, represent interests in professionally actively or passively managed portfolios that may invest in various types of instruments. Certain types of investment companies, such as closed-end investment companies, issue a fixed number of shares that trade on a stock exchange or over-the-counter at a premium or a discount to their net asset value. Other funds are continuously offered at net asset value but may also be traded in the secondary market.

A Fund's investment in another fund is subject to the risk associated with that underlying fund's portfolio securities. In addition, when a Fund purchases shares of another fund (including a Fund of VantageTrust III), the Fund will indirectly bear its proportionate share of the advisory fees and other operating expenses of such underlying fund.

Because of restrictions on direct investment by U.S. entities in certain countries, investment in other funds may be the most practical or the only manner in which an international and global fund can invest in the securities markets of those countries. A Fund also may incur tax liability to the extent it invests in the stock of a foreign issuer that constitutes a "passive foreign investment company."

**MONEY MARKET SECURITIES:** Money market securities include instruments and securities that are considered "eligible securities" as defined in Rule 2a-7 under the 1940 Act. This includes securities with a remaining maturity of 397 days or less and that, as a general matter, have received a rating from major NRSROs in one of the two highest short-term ratings categories, or are unrated but are determined by the Fund's investment adviser or a subadviser, as applicable, to be of comparable quality at the time of purchase. Security types may include U.S. Government securities, commercial paper, certificates of deposit, asset-backed securities, bank instruments, adjustable or variable rate securities, and any other securities or instruments that meet the definition of "eligible securities" under Rule 2a-7. See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

**MORTGAGE-BACKED SECURITIES:** Mortgage-backed securities generally are issued or guaranteed by the Government National Mortgage Association ("Ginnie Mae"), the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Mortgage-backed securities are also issued by non-agency entities such as banks, brokerage firms, and homebuilders. These "private label" mortgages are subject to credit risk relating to the credit rating of the issuer.

Mortgage-backed securities represent an ownership interest in a pool of mortgage loans originated by lenders such as mortgage banks, commercial banks, savings and loan associations, savings banks and credit unions, to finance purchases of homes, commercial buildings or other real estate. The individual mortgage may have either fixed or adjustable interest rates. These loans are packaged or "pooled" together for sale to investors. As the underlying mortgage loans are repaid, investors receive principal and interest payments. The primary issuers or guarantors of these securities are Ginnie Mae, Fannie Mae and Freddie Mac.

Ginnie Mae guarantees the payment of principal and interest on Ginnie Mae mortgage-backed securities and this guarantee is backed by the full faith and credit of the U.S. Government. Ginnie Mae may borrow U.S. Treasury funds needed to make payments under its guarantee. The guarantee, however, does not cover the value or yield of Ginnie Mae securities nor does it cover the value of the Fund's shares which will fluctuate daily with market conditions.

Mortgage-backed securities issued or guaranteed by Fannie Mae and Freddie Mac are not backed by the full faith and credit of the U.S. Government. Fannie Mae guarantees full and timely payment of all interest and principal, and Freddie Mac guarantees timely payment of interest and the ultimate collection of principal. Fannie Mae and Freddie Mac guarantees are supported by the right to borrow money from the U.S. Treasury under certain circumstances. There is no assurance that the U.S. Government will support Fannie Mae or Freddie Mac guarantees and, accordingly, these involve a risk of non-payment of principal and interest. Due largely to their prepayment or extension risk, the yields on these mortgage-backed securities historically have exceeded the yields on fixed income securities having comparable maturities that are backed by the full faith and credit of the U.S. Government.

Most mortgage-backed securities are pass-through securities, which means that they provide investors with monthly payments consisting of a pro rata share of both regular interest and principal payments, as well as unscheduled early prepayments, on the underlying mortgage pool (less Ginnie Mae's, Freddie Mac's or Fannie Mae's fees and any applicable loan servicing fees). As a result, the holder of the mortgage-backed securities (i.e., the Fund) receives monthly scheduled payments of principal and interest and also may receive unscheduled prepayments of principal on the underlying mortgages. When a Fund reinvests the payments and any unscheduled prepayments it receives, it may have to buy securities that have a lower interest rate than it receives on the mortgage-backed securities. For this reason, pass-through mortgage-backed securities may be less effective than U.S. Government securities as a way to "lock in" long-term interest rates. In general, fixed-rate mortgage-backed securities have greater exposure to this "prepayment risk."



The market value of mortgage-backed securities, like other fixed income securities, will generally vary inversely with changes in market interest rates, declining when interest rates go up and rising when interest rates go down. Mortgage-backed securities may have less potential for capital appreciation than other fixed income securities of comparable maturities as interest rates decline, due to the increased likelihood of mortgage prepayments. Also, an unexpected increase in interest rates could extend the average life of a mortgage-backed security because of a lower than expected level of prepayments, potentially reducing the security's value and increasing its volatility. Generally, coupon rates of adjustable rate mortgage-backed securities tend to move with market interest rates and their values fluctuate less than fixed rate mortgage-backed securities. These factors may limit the ability of the Fund to obtain the desired level of total return under varying market conditions.

In addition, to the extent mortgage-backed securities are purchased at a premium, mortgage foreclosures or unscheduled principal prepayments may result in a loss of the holder's principal investment to the extent of the premium paid. On the other hand, if mortgage-backed securities are bought at a discount, both scheduled payments and unscheduled prepayments of principal will increase current and total returns and accelerate the recognition of income that will be taxable as ordinary income when distributed to shareholders.

**To-Be-Announced ("TBA") Transactions.** A TBA is a forward mortgage-backed securities trade. Pass-through securities issued by Freddie Mac, Fannie Mae and Ginnie Mae trade in the TBA market. The term TBA is derived from the fact that the actual mortgage-backed security that will be delivered to fulfill a TBA trade is not designated at the time the trade is made. The securities are "to be announced" 48 hours prior to the established trade settlement date. The Fund also relies on the seller to complete the transaction. The seller's failure to do so may cause the Fund to miss a price or yield considered advantageous to the Fund, and a Fund bears the risk of loss in the event of the default or bankruptcy of the seller. In the case of a bankruptcy or other organizational proceeding of the counterparty, the Fund may obtain no or limited recovery and any recovery may be significantly delayed.

**U.S. Agency and Non-U.S. Agency Collateralized Mortgage Obligations.** Collateralized mortgage obligations ("CMOs") are mortgage-backed fixed income securities that are collateralized by whole loan mortgages or mortgage pass-through securities. CMOs issued by U.S. Government agencies or Government sponsored enterprises (such as Freddie Mac) are U.S. Agency CMOs, while CMOs issued by private issuers are Non-U.S. Agency CMOs. The securities issued in a CMO offering are divided into groups referred to as tranches, and they are differentiated by the type of return paid by the issuer. A given tranche may receive interest, principal, or a combination of the two, and may include more complex stipulations.

**CMOs may include real estate mortgage investment conduits (REMICs).** REMICs, which were authorized under the Tax Reform Act of 1986, are private entities formed for the purpose of holding a fixed pool of mortgages secured by an interest in real property. A REMIC is a CMO that qualifies for special tax treatment under the Internal Revenue Code of 1986, as amended, and invests in certain mortgages principally secured by interests in real property. Guaranteed REMIC pass-through certificates (REMIC Certificates) issued by Fannie Mae or Freddie Mac represent beneficial ownership interests in a REMIC trust consisting principally of mortgage loans or Fannie Mae-, Freddie Mac-, or Ginnie Mae-guaranteed mortgage pass-through certificates. For Freddie Mac REMIC Certificates, Freddie Mac guarantees the timely payment of interest and also guarantees the payment of principal, as payments are required to be made on the underlying mortgage participation certificates. Fannie Mae REMIC Certificates are issued and guaranteed as to timely distribution of principal and interest by Fannie Mae.

For Agency CMOs, the primary risk is prepayments or extensions of the underlying mortgages serving as collateral and from the structure of the deal (i.e., the priority of the individual tranches). An increase or decrease in prepayment rates will affect the yield, average life, and price of CMOs. For non-Agency CMOs, in addition to prepayment, extension and structure risks, default risk of the underlying collateral is also important. The prices of certain CMOs, depending on their structure and the rate of prepayments, can be volatile. Also, CMOs can be illiquid, which can increase the cost of buying and selling them.

**Commercial Mortgage-Backed Securities.** Commercial mortgage-backed securities ("CMBS") are fixed income securities generally backed by loans on retail, office, industrial, multi-family housing and hotel properties. CMBS are structured like mortgage-backed securities. The CMBS's collateral creates exposure to the commercial real estate market, while the structure of the security itself will behave like a mortgage-backed security. However, the investor in a CMBS has more prepayment protection than with a mortgage-backed security. The prepayment penalties inherent in a CMBS provide the investor with greater protection than a residential backed mortgage security. CMBS may carry greater credit risk as the securities may represent only a few projects, versus a traditional mortgage-backed security that may represent thousands of residential homeowners spread across different regions of the country.

**POOLED INVESTMENT VEHICLE or POOLED VEHICLE:** Means any investment company as defined in section 3(a) of the Investment Company Act of 1940 or any company that would be an investment company under section 3(a) of that Act but for the exclusion provided from that definition by either section 3(c)(1) or section 3(c)(7) or section 3(c)(11) of that Act.

**PRIVATE INVESTMENTS IN PUBLIC COMPANIES:** From time to time, a public company may issue its securities in a non-public transaction in reliance on an exemption from the registration requirements of the Securities Act of 1933 (the "1933 Act"). At the time that the issuer sells the unregistered securities, the issuer may commit to register the securities with the SEC, so that the securities may be resold to the public at a later date. The issuer may commit to register the securities by signing a registration rights agreement, which requires the issuer to file a shelf registration statement with the SEC within a specified number of days after the initial sale of the unregistered securities is completed.

**REAL ESTATE INVESTMENT TRUSTS ("REITs"):** REITs generally are trusts that sell securities to investors and use the proceeds to invest in real estate, real estate-related loans, or interests in real estate. A REIT may focus on a particular project, such as apartment complexes, or a geographic region, or both. REITs are sometimes informally characterized as equity REITs, mortgage REITs, or a combination of equity REITs and mortgage REITs. Equity REITs invest most of their assets directly in real estate property and derive income primarily from the collection of rents. Equity REITs can also realize capital gains by selling properties that have appreciated in value. Mortgage REITs invest most of their assets in real estate mortgages and derive income from interest payments.

Equity REITs may be subject to certain risks associated with the direct ownership of real estate and with the real estate industry in general, including (among others) declines in the value of real estate; extended vacancies of properties; risks related to general and local economic conditions; overbuilding and increased competition; changes in zoning laws; increases in property taxes and operating expenses; costs resulting from the clean-up of, and liability to third parties for damages resulting from, environmental problems; casualty or condemnation losses; uninsured damages from floods, earthquakes or other natural disasters; as well as limitations on and variations in rental income. Mortgage REITs may be subject to risks similar to mortgage-backed securities, notably prepayment risk, default risk, and volatility associated with changes in interest rates and economic conditions.

**RESTRICTED SECURITIES:** Restricted securities generally include securities acquired in a non-public offering that are not registered under the Securities Act of 1933. Rule 144A securities are restricted securities, which while privately placed, are eligible for purchase and sale under Rule 144A under the 1933 Act. This rule permits certain qualified institutional buyers, such as the Funds, to trade in privately placed securities even though such securities are not registered under the 1933 Act. These securities may be sold only in privately negotiated transactions or in a public offering with respect to which a registration statement is in effect under the 1933 Act. Where registration is required a Fund may be obligated to pay all or part of the registration expenses, and a considerable period may elapse between the time of the decision to sell and the time the Fund may be permitted to sell a security under an effective registration statement. If, during such a period, adverse market conditions were to develop, the Fund might obtain a less favorable price than prevailed when it decided to sell. Section 4(2) commercial paper is another type of restricted security that does not meet the requirements of the registration exemption provisions of Section 3(a)(3) of the 1933 Act and that may only be resold by a portfolio in certain private placements or in accordance with Rule 144A.

Certain restricted securities and municipal lease obligations (defined below) that are presumed to be illiquid may be treated as liquid if it is determined that there is a “readily available market” for such security under these procedures. A municipal lease obligation is an obligation in the form of a lease or installment purchase which is issued by a state or local government to acquire equipment and facilities. Leases and installment purchase or conditional sale contracts (which normally provide for title to the leased asset to pass eventually to the governmental issuer) have evolved as a means for governmental issuers to acquire property and equipment without meeting the constitutional and statutory requirements for the issuance of debt.

**RIGHTS AND WARRANTS:** Rights are typically short-term obligations issued in conjunction with new stock issuances. Warrants give the holder the right to buy an issuer’s securities at a stated price for a stated period of time.

**SECURITIES LENDING:** Certain Funds may engage in one or more securities lending programs conducted by the Funds’ custodian as securities lending agent or other entities in an effort to generate additional income. In the securities lending program, the Funds’ custodian is authorized to lend Fund portfolio securities to third parties pursuant to contracts calling for collateral in cash or other forms accepted by the Funds at least equal to the market value of the securities loaned. All securities loaned are marked to market daily in U.S. dollars and collateral is received and released accordingly on the following day to achieve the required collateralization for the previous day’s market value. The Funds receive dividends, distributions and interest on the loaned securities. The Funds also retain all or a portion of the interest received on investment of the cash collateral or receive fees from the borrowers. A Fund may terminate a loan at any time and generally will receive the securities loaned within the normal settlement period for the security involved. However, there are risks of delay in recovery or even loss of rights in collateral in the event of default or insolvency of the borrower. A Fund may not retain voting rights on securities while they are on loan. Voting rights on the loaned securities may pass to the borrower. The Funds, however, are entitled to terminate or recall the loans to vote proxies or otherwise obtain rights to vote or consent with respect to a material event.

A Fund will be indemnified by its custodian for securities lending programs conducted through the custodian if at the time of a default by a borrower some or all of the loaned securities have not been returned by the borrower. The custodian, as soon as practicable after the time of default, will deposit in the Funds’ account securities of the same number, issue, type, class, and series of the unreturned loaned securities. If the custodian is unable to purchase replacement securities, it will credit to the Funds’ account an amount equal to the market value of the unreturned loaned securities.

**TIME DEPOSITS:** A time deposit is a non-negotiable receipt issued by a bank in exchange for the deposit of funds. Like a certificate of deposit, it earns a specified rate of interest over a definite period of time; however, it cannot be traded in the secondary market.

**U.S. GOVERNMENT SECURITIES:** Examples of types of U.S. Government securities in which a Fund may invest include U.S. Treasury obligations and the obligations of U.S. Government agencies or U.S. Government sponsored entities such as Federal Home Loan Banks, Federal Farm Credit Banks, Federal Land Banks, the Federal Housing Administration, Farmers Home Administration, Export-Import Bank of the United States, Small Business Administration, Fannie Mae, Ginnie Mae, General Services Administration, Central Bank for Cooperatives, Freddie Mac, Federal Intermediate Credit Banks, Maritime Administration, and other similar agencies. Whether backed by the full faith and credit of the U.S. Treasury or not, U.S. Government securities are not guaranteed against price movements due to fluctuating interest rates.

**U.S. Treasury Obligations** - U.S. Treasury obligations consist of bills, notes and bonds issued by the U.S. Treasury and separately traded interest and principal component parts of such obligations that are transferable through the federal book-entry system known as Separately Traded Registered Interest and Principal Securities (“STRIPS”) and Treasury Receipts (“TRs”).

**U.S. Government Zero Coupon Securities** - STRIPS and TRs are sold as zero coupon securities, that is, fixed income securities that have been stripped of their unmatured interest coupons. Zero coupon securities are sold at a (usually substantial) discount and redeemed at face value at their maturity date without interim cash payments of interest or principal. The amount of this discount is accreted over the life of the security, and the accretion constitutes the income earned on the security for both accounting and tax purposes. Because of these features, the market prices of zero coupon securities are generally more volatile than the market prices of securities that have similar maturity but that pay interest

periodically. Zero coupon securities are likely to respond to a greater degree to interest rate changes than are non-zero coupon securities with similar maturity and credit qualities.

**U.S. Government Agency Securities** - Some obligations issued or guaranteed by agencies of the U.S. Government are supported by the full faith and credit of the U.S. Treasury (e.g., Treasury bills, notes and bonds, and securities guaranteed by Ginnie Mae), others are supported by the right of the issuer to borrow from the Treasury (e.g., Federal Home Loan Banks), while still others are supported only by the credit of the instrumentality (e.g., Fannie Mae). Guarantees of principal by agencies or instrumentalities of the U.S. Government may be a guarantee of payment at the maturity of the obligation so that in the event of a default prior to maturity there might not be a market and thus no means of realizing on the obligation prior to maturity. Guarantees as to the timely payment of principal and interest do not extend to the value or yield of these securities or to the value of a Fund's shares.

**VARIABLE AND FLOATING RATE SECURITIES:** Variable and floating rate securities provide for adjustment in the interest rate paid on the obligations. The terms of such obligations typically provide that interest rates are adjusted based upon an interest or market rate adjustment as provided in the respective obligations, meaning that they bear interest at rates which are not fixed, but which vary with changes in specified market rates or indices. The adjustment intervals may be regular, and range from daily up to annually, or may be event-based, such as based on a change in the prime rate. Variable rate obligations typically provide for a specified periodic adjustment in the interest rate, while floating rate obligations typically have an interest rate which changes whenever there is a change in the external interest or market rate.

There is a risk that the current interest rate on variable and floating rate securities may not accurately reflect existing market interest rates. These securities may also involve conditional or unconditional demand features. A security with a demand feature that requires a notice period exceeding seven days may be considered illiquid if there is no secondary market for such security.

**WHEN-ISSUED SECURITIES:** Securities may be purchased on a when-issued basis. The purchase price and the interest rate payable, if any, on the securities are fixed on the purchase commitment date or at the time the settlement date is fixed. The value of the securities is subject to market fluctuation beginning on the purchase commitment date. Typically, no income accrues on securities that a Fund has committed to purchase prior to the time delivery of the securities is made, although the Fund may earn income on securities it has segregated to cover these positions.

**YANKEE BONDS AND EURODOLLAR INSTRUMENTS:** Yankee bonds are foreign fixed income securities denominated in U.S. dollars and issued in the United States by foreign banks and corporations. These fixed income securities are usually registered with the SEC. The risks of investing in Yankee bonds include interest rate and credit risk as well as foreign securities risk. Eurodollar instruments are fixed income securities issued by foreign corporations and governments that pay interest and principal in U.S. dollars. These instruments are generally held in banks outside the U.S., often in Europe.

**FUND FACTS**

Inception Date.....	<b>October 11, 2013</b>
Gross Expenses .....	<b>0.53%</b>
Net Expenses .....	<b>0.53%</b>
Fund Net Assets .....	<b>\$11.1 Billion</b>
Credit Quality (M/S&P/F) <sup>1</sup> .....	<b>Aa3/AA-/AA</b>
Effective Duration <sup>2</sup> .....	<b>3.13</b>
Market-to-Book Value Ratio .....	<b>102.22%</b>
CUSIP .....	<b>922081J709</b>

<sup>1</sup> Credit Quality is calculated by ICMA-RC and is only one factor that may be considered in assessing the risks of a fixed income portfolio, and it does not provide a complete picture of the credit risks or the dispersion of those risks within a portfolio. ICMA-RC calculates the average based on the Moody's, S&P, Fitch (M/S&P/F) or a combination of the three credit ratings of the underlying securities or wrap providers. Moody's, S&P, and Fitch are Nationally Recognized Statistical Rating Organizations and are not affiliated with ICMA-RC.

<sup>2</sup> Effective duration measures the interest rate sensitivity of the underlying portfolio. For the portion of the Fund invested in Traditional GICs, effective duration is not applicable and a duration of zero is assigned since their current values are not impacted by interest rate changes. If a duration based on weighted average maturity or cash flows is assigned to the Traditional GICs, the Fund's overall March 31, 2021 duration would be 3.71.

**INVESTMENT OBJECTIVE**

The PLUS Fund's investment objective is to seek to offer a competitive level of income consistent with providing capital preservation and meeting liquidity needs. Key goals are to seek to preserve capital, by limiting the risk of loss of principal and delivering stable returns, and to meet the liquidity needs of those who invest in the PLUS Fund.

**PRINCIPAL INVESTMENT STRATEGIES**

Vantagepoint Investment Advisers, LLC employs a structured, multi-product, multi-manager approach in managing the Fund. The Fund invests primarily in a diversified and tiered portfolio of stable value investment contracts and in fixed income securities, fixed income mutual funds, and fixed income commingled trust funds ("fixed income assets") that back certain stable value investment contracts. In addition, the Fund invests in money market mutual funds, as well as cash and cash equivalents. The Fund's portfolio may include different types of investments with a variety of negotiated terms and maturities and is diversified across sectors and issuers. The composition of the Fund's portfolio and its allocations to various stable value investments and fixed income investment sectors, across the fund's multiple tiers, is determined based on prevailing economic and capital market conditions, relative value analysis, liquidity needs, and other factors. The Fund invests in stable value investment contracts to seek to achieve, over the long run, returns higher than those of money market funds and short-term bank rates and relatively stable returns compared to short-to-intermediate term fixed income funds. The Fund generally will not track shorter-term interest rates as closely as money market mutual funds, because of its longer maturity, potential adverse market changes, and provisions in stable value contracts held by the Fund. In addition, while the Fund's returns are generally expected to follow interest rate trends over time, they typically will do so on a lagged basis.

**PERFORMANCE**

	CREDITING RATE % <sup>3</sup>	PERFORMANCE %			
		1 YEAR	3 YEARS	5 YEARS	10 YEARS
Vantagepoint PLUS Fund R10	1.95	2.12	2.30	2.21	2.30
ICE BofA US 3 Month Treasury Bill Index	—	0.12	1.49	1.19	0.63

Fund past performance, as shown, is no guarantee of how the Fund will perform in the future. The performance shown has been annualized for periods greater than one year. Investment returns and principal value will fluctuate, so that an investor's shares, when redeemed, may be worth more or less than their original cost. For current performance, participants or plan sponsors in an ICMA-RC administered account can log in at [www.icmarc.org](http://www.icmarc.org), or institutions can go to [www.vantagepointfunds.org](http://www.vantagepointfunds.org).

The Intercontinental Exchange Bank of America ("ICE BofA") US Treasury Bill 3 Month Index is comprised of a single U.S. Treasury Bill issue purchased at the beginning of each month and held for a full month, at which time that issue is sold and rolled into a newly selected issue. The issue selected each month is that having a maturity date closest to, but not beyond 90 days from the rebalance date.

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ICMA-RC and your employer may negotiate a different fund management or service fee for your Plan that would lower the total expense ratio. The performance and total expense ratio shown do not reflect any such alternative fee arrangements.

Performance information for this class prior to its inception date is the performance of the Fund adjusted to reflect the estimated fees and expenses of this class.

<sup>3</sup>Annualized crediting rate for the last day of the month.

**STRUCTURE**

Tier 1 - Cash Buffer	6.8%
Tier 2 - Shorter Duration Focus	8.9%
Tier 3 - Laddered Maturity Focus	20.8%
Tier 4 - Total Return Focus	63.5%

**CREDIT QUALITY ALLOCATION**

AAA/Aaa	50.3%
AA/Aa	21.8%
A	14.7%
BBB/Baa	10.9%
Below Baa	2.3%

**SECTOR ALLOCATION**

Traditional GICs	20.8%
Treasuries	13.8%
Agencies	1.9%
Other	0.1%
Credits	28.9%
Mortgage-Backed	25.9%
Asset-Backed	6.0%
Cash & Cash Equivalents	4.3%
Municipals	0.7%
Wrap Providers	-2.2%

**MATURITY ALLOCATION**

<= 30 Days	-0.2%
31 - 90 Days	9.0%
91 - 180 Days	2.9%
180 Days - 1 Year	5.9%
1 - 2 Years	9.4%
2 - 3 Years	10.5%
3 - 5 Years	29.9%
5 - 7 Years	18.5%
7 - 10 Years	10.2%
10+ Years	3.9%

## PORTFOLIO MANAGEMENT

**Investment Adviser:** Vantagepoint Investment Advisers

**Adviser Portfolio Manager(s):**

Karen Chong-Wulff, CFA, CAIA, Managing Vice President, Managed Fund Since 2007

Xin Zhou, CFA, FRM, Director, Senior Fund Manager, Managed Fund Since 2017

Wayne Wicker, CFA, Senior Vice President and Chief Investment Officer, Managed Fund Since 2004

## PRINCIPAL RISKS

Stable Value Risk, Interest Rate Risk, Credit Risk, Stable Value Issuer Risk, Liquidity Risk, Reinvestment Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Securities Lending Risk, Derivative Instruments Risk, Large Investor Risk.

See the Funds' Disclosure Memorandum for risk descriptions.

## ADDITIONAL INFORMATION ABOUT THE PLUS FUND

**Goals:** Key goals are to seek to preserve capital, by limiting the risk of loss of principal and delivering stable returns, and to meet the liquidity needs of those who invest in the PLUS Fund.

**Crediting Rate:** The PLUS Fund crediting rate is calculated daily. The crediting rate shown is the annualized rate as of the last day of the reported period. The PLUS Fund crediting rate is calculated by taking into account current yields on the Fund's holdings and prior period performance of certain holdings in the Fund. The Fund's crediting rate is generally expected to follow interest rate trends over time, but will typically do so on a lagged basis and may not move in the same direction as prevailing interest rates over certain time periods.

**Fund Information:** The Fund is an investment option of VantageTrust, a group trust established and maintained by VantageTrust Company, LLC, a wholly owned subsidiary of ICMA-RC. VantageTrust provides for the commingling of assets of certain trusts and plans as described in its Declaration of Trust, and is only available for investment by such eligible trusts and plans. The Fund is not a mutual fund. Its units are not deposits of VantageTrust Company and are not insured by the Federal Deposit Insurance Corporation or any other agency. The Fund is a security that has not been registered under the Securities Act of 1933 and is exempt from investment company registration under the Investment Company Act of 1940. For additional information regarding the Fund, including a description of the principal risks, please consult the VantageTrust Funds Disclosure Memorandum, which is available when plan administration clients log in at [www.icmarc.org](http://www.icmarc.org), at [www.vantagepointfunds.org](http://www.vantagepointfunds.org) for institutions, or upon request by calling 800-669-7400.

When Funds are marketed to institutional clients by our Investment Only team, the Funds are offered by ICMA-RC Services, LLC (RC Services), an SEC registered broker-dealer and FINRA member firm. RC Services is a wholly-owned subsidiary of ICMA-RC and is an affiliate of VantageTrust Company, LLC and Vantagepoint Investment Advisers, LLC.

Before investing in the Fund you should carefully consider your investment goals, tolerance for risk, investment time horizon, and personal circumstances. There is no guarantee that the Fund will meet its investment objective and you can lose money.

**Transfer Restrictions:** Direct transfers from the PLUS Fund to competing funds are restricted. Competing funds include, but are not limited to, the following types of investment options: (1) cash management funds, money market mutual funds, bank collective short-term investment funds, bank accounts or certificates of deposit, stable value funds or substantially similar investment options that offer guarantees of principal or income, such as guaranteed annuity contracts or similar arrangements with financial institutions; (2) short-term bond funds that invest in fixed income securities and seek to maintain or have an average portfolio duration of less than two years; and (3) any investment option that invests 80% or more of its assets in (i) fixed income securities or funds with a duration of less than two years, or (ii) instruments that seek to provide capital preservation such as stable value funds, bank certificates of deposit or bank accounts, and cash or cash equivalents. To transfer money from the PLUS Fund to a competing fund, you must first transfer the amount to a non-competing fund for a period of at least 90 days. For example, if you want to transfer money from the PLUS Fund to a money market fund, you will first need to transfer the money to a non-competing fund and then, 90 days later or any time thereafter, transfer that amount of money to the money market fund.

**Additional Information About Restrictions on PLUS Fund Public Employer Withdrawals and Transfer Restrictions:** In the event an Employer initiates withdrawal of all or part of its Plan's assets from the PLUS Fund, the payout of such assets may be deferred for a period of up to twelve months. In the case of a total withdrawal, participant transfers of PLUS Fund assets to other investment options will be restricted and participants will not be able to make additional investments in the PLUS Fund during this twelve-month period.

# LYNX Board Agenda

## Consent Agenda Item #6.D. x

**To:** LYNX Board of Directors

**From:** Terri Settington  
Director Of Human Resources  
Brian Anderson  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6106

**Item Name:** Authorization to Amend and Restate the LYNX Money Purchase Plan and Trust Governing Documents

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is seeking the Board of Directors' adoption of Resolution No. 21-008 ("Resolution") to approve the amendment and restatement of the governing documents for the LYNX Money Purchase Plan and Trust.

### **BACKGROUND:**

The LYNX Money Purchase Plan ("Plan") provides tax-qualified retirement benefits to LYNX's administrative employees and employees represented by the Amalgamated Transit Union Local 1749 (commonly referred to as the "supervisors' union").

From time to time it is necessary or desirable to amend and restate the technical terms of the Plan to maintain or confirm the tax-qualified status of the Plan under federal tax law and to reflect all current Plan terms in operation.

The Plan's governing documents are currently in the form of a Governmental Volume Submitter Money Purchase Plan Adoption Agreement with a Governmental Defined Contribution Volume Submitter Plan and Trust Basic Plan Document #05 (collectively, the "Volume Submitter Plan Documents"), offered by Massachusetts Mutual Life Insurance Company ("MassMutual"). MassMutual, the Plan's outgoing service provider, had previously obtained an advisory letter from the United States Internal Revenue Service ("IRS"), during the IRS's second six-year approval cycle for plan document providers ("Cycle 2"), that had favorably opined on the acceptability, under federal tax law, of the Volume Submitter Plan Documents for use by employers for the benefit of their plans and the employees who participate in them. However, the Cycle 2 IRS letter will soon expire.

# LYNX Board Agenda

The Plan's intended new service provider, Voya Retirement Insurance and Annuity Company ("Voya"), offers a Non-Standardized Governmental 401(a) Pre-Approved Plan Basic Plan Document #01 and Adoption Agreement (together, the "Pre-Approved Plan Document"). Voya has obtained a current opinion letter from the IRS, during the IRS's third six-year approval cycle for plan document providers ("Cycle 3"), that favorably opines on the acceptability, under federal tax law, of the Pre-Approved Plan Document for use by employers for the benefit of their plans and the employees who participate in them.

The Plan's Administrative Committee has recommended that the Plan be amended and restated on the Pre-Approved Plan Document in the form attached as composite Exhibit "A" to the Resolution, to maintain and confirm the tax-qualified status of the Plan and to reflect all current Plan terms in operation. For example, a Plan term that is currently in operation, but has not yet been reflected in a formal amendment to the Plan, is a term allowing employer Plan contributions to be made one-time with respect to the uniform allowance paid on April 30, 2021 to Plan participants who are members of the supervisors' union.

In connection with the amendment and restatement of the Plan, the Plan's Board of Trustees has recommended that the Trust Agreement for the LYNX Money Purchase Plan Trust be amended and restated in the form attached as Exhibit "B" to the Resolution.

The Plan's Board of Trustees has selected one or more VantageTrust Company, LLC ("VantageTrust") funds as a new investment menu offering for the Plan's participants and in connection therewith, has recommended that the VantageTrust declaration of trust be adopted as a governing Plan document and that VantageTrust be appointed as a trustee for the Plan with respect to the VantageTrust fund(s), via the form of Participation Agreement and related documents attached as composite Exhibit "C" to the Resolution.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

There is no fiscal impact.

**CFRTA RESOLUTION NO. 21-008**

**RESOLUTION OF THE CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY (d/b/a/ LYNX) TO AMEND AND RESTATE  
THE LYNX MONEY PURCHASE PLAN AND TRUST GOVERNING  
DOCUMENTS**

**WHEREAS**, LYNX, as the sponsoring employer, previously established the LYNX Money Purchase Plan ("Plan") effective October 1, 1993, last amended and restated the Plan's governing documents effective January 1, 2019, and subsequently amended the Plan effective February 8, 2021; and

**WHEREAS**, LYNX has the right to further amend the Plan's governing documents at any time; and

**WHEREAS**, from time to time it is necessary or desirable to amend and restate the technical terms of the Plan to maintain or confirm the tax-qualified status of the Plan under federal tax law and to reflect all current Plan terms; and

**WHEREAS**, the Plan's intended new service provider, Voya Retirement Insurance and Annuity Company ("Voya"), offers a Non-Standardized Governmental 401(a) Pre-Approved Plan Basic Plan Document #01 and Adoption Agreement (together, the "Pre-Approved Plan Document"), which may be used to amend and restate the terms of the Plan; and

**WHEREAS**, Voya has obtained an opinion letter from the United States Internal Revenue Service that favorably opines on the acceptability, under federal tax law, of the Pre-Approved Plan Document for use by governmental employers for the benefit of their plans and the employees who participate in them; and

**WHEREAS**, the Plan's Administrative Committee has recommended that the Plan be amended and restated on the Pre-Approved Plan Document in the form attached hereto as composite Exhibit "A" to maintain and confirm the tax-qualified status of the Plan and to reflect all current Plan terms; and

**WHEREAS**, in connection with the amendment and restatement of the Plan, the Plan's Board of Trustees has recommended that the Trust Agreement for the LYNX Money Purchase Plan Trust be amended and restated in the form attached hereto as Exhibit "B"; and

**WHEREAS**, the Plan's Board of Trustees has selected one or more VantageTrust Company, LLC ("VantageTrust") funds as a new investment menu offering for the Plan's



participants and in connection therewith, has recommended that the VantageTrust declaration of trust be adopted as a governing Plan document and that VantageTrust be appointed as a trustee for the Plan with respect to the VantageTrust fund(s), via the form of the Participation Agreement and related documents attached hereto as composite Exhibit "C"; and

**WHEREAS**, LYNX wishes to amend and restate the Plan on the Pre-Approved Plan Document in the form attached hereto as composite Exhibit "A" to maintain and confirm the tax-qualified status of the Plan and to reflect all current Plan terms; and

**WHEREAS**, LYNX wishes to amend and restate the Trust Agreement for the Trust for the Plan in the form attached hereto as Exhibit "B"; and

**WHEREAS**, LYNX wishes adopt the VantageTrust declaration of trust and appoint VantageTrust as a trustee for the Plan with respect to the VantageTrust fund, via the documents attached hereto as composite Exhibit "C".

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The amendment and restatement of the LYNX Money Purchase Plan contained in the Non-Standardized Governmental 401(a) Pre-Approved Plan Basic Plan Document #01 and Adoption Agreement attached hereto as composite Exhibit "A" is hereby approved and adopted.
2. The Amended and Restated Trust Agreement for the LYNX Money Purchase Plan Trust attached hereto as Exhibit "B" is hereby approved and adopted.
3. The adoption of the VantageTrust Company, LLC declaration of trust as a governing document for the LYNX Money Purchase Plan and the appointment of VantageTrust Company, LLC as a trustee for the LYNX Money Purchase Plan with respect to the VantageTrust Company, LLC fund(s), via the form of the Participation Agreement and related documents attached hereto as composite Exhibit "C", are hereby approved.
4. The LYNX CEO is hereby authorized to execute the Non-Standardized Governmental 401(a) Pre-Approved Plan Basic Plan Document #01 and Adoption Agreement attached hereto as composite Exhibit "A", for and on behalf of LYNX.
5. The LYNX CEO is hereby authorized to execute the Amended and Restated Trust Agreement for the LYNX Money Purchase Plan Trust attached hereto as Exhibit "B", for and on behalf of LYNX.
6. The LYNX CEO is hereby authorized to execute the VantageTrust Company, LLC Participation Agreement in the form attached hereto as part of composite Exhibit "C", for and on behalf of LYNX.

7. The LYNX CEO, with such assistance as he may require from the Plan's Administrative Committee, the Plan's Board of Trustees, and/or LYNX Human Resources, Finance, or Accounting personnel, is authorized and directed to take all other action as he determines necessary or desirable to effectuate these resolutions.
  
8. Any and all actions heretofore or hereinafter taken by the Plan's Administrative Committee, the Plan's Board of Trustees, the LYNX CEO, and/or LYNX Human Resources, Finance, or Accounting personnel in connection with any and all of the matters addressed in these resolutions are hereby confirmed and ratified as properly authorized acts of LYNX.

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ON FOLLOWING PAGE.]

**CFRTA RESOLUTION NO. 21-008**

**RESOLUTION OF THE CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY (d/b/a/ LYNX) TO AMEND AND RESTATE  
THE LYNX MONEY PURCHASE PLAN AND TRUST GOVERNING  
DOCUMENTS**

**APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021 by the  
Governing Board of the Central Florida Regional Transportation Authority.

CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY

By: Governing Board

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

**ADOPTION AGREEMENT FOR  
VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY  
NON-STANDARDIZED  
GOVERNMENTAL 401(a) PRE-APPROVED PLAN**

**CAUTION:** Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

**EMPLOYER INFORMATION**

(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER, TIN AND FISCAL YEAR

Name: Central Florida Regional Transportation Authority d/b/a LYNX

Address: 2500 Lynx Lane

Street

Orlando Florida 32804

City

State

Zip

Telephone: (407) 254-6219

Taxpayer Identification Number (TIN): 59-2982959

Employer's Fiscal Year ends: September 30

2. TYPE OF GOVERNMENTAL ENTITY. This Plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

- a.  State government or state agency  
b.  County or county agency  
c.  Municipality or municipal agency  
d.  Indian tribal government (see Note below)

NOTE: An Indian tribal government may only adopt this Plan if such entity is defined under Code §7701(a)(40), is a subdivision of an Indian tribal government as determined in accordance with Code §7871(d), or is an agency or instrumentality of either, and all of the Participants under this Plan employed by such entity substantially perform services as an Employee in essential governmental functions and not in the performance of commercial activities (whether or not an essential government function).

3. PARTICIPATING EMPLOYERS (Plan Section 1.39). Will any other Employers adopt this Plan as Participating Employers?

- a.  No  
b.  Yes

MULTIPLE EMPLOYER PLAN (Plan Article XI). Will any Employers who are not Affiliated Employers adopt this Plan as part of a multiple employer plan (MEP) arrangement?

- c.  No  
d.  Yes (Complete a Participation Agreement for each Participating Employer.)

**PLAN INFORMATION**

(An amendment to the Adoption Agreement is not needed solely to reflect a change in the information in Question 9.)

4. PLAN NAME:

LYNX Money Purchase Plan

5. PLAN STATUS

- a.  New Plan  
b.  Amendment and restatement of existing Plan  
**CYCLE 3 RESTATEMENT** (leave blank if not applicable)

1.  This is an amendment and restatement to bring a plan into compliance with the legislative and regulatory changes set forth in IRS Notice 2017-37 (i.e., the 6-year pre-approved plan restatement cycle).

6. EFFECTIVE DATE (Plan Section 1.16) (complete a. if new plan; complete a. AND b. if an amendment and restatement)

**Initial Effective Date of Plan** (except for restatements, cannot be earlier than the first day of the current Plan Year)

- a. October 1, 1993 (enter month day, year) (hereinafter called the "Effective Date" unless 6.b. is entered below)

**Restatement Effective Date.** If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

- b. January 1, 2022 (enter month day, year; NOTE: The restatement date may not be prior to the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

7. PLAN YEAR (Plan Section 1.43) means, except as otherwise provided in d. below:

- a.  the calendar year
- b.  the twelve-month period ending on \_\_\_\_\_ (e.g., June 30th)

SHORT PLAN YEAR (Plan Section 1.47). This is a Short Plan Year (if the effective date of participation is based on a Plan Year, then coordinate with Question 14):

- c.  N/A
- d.  beginning on \_\_\_\_\_ (enter month day, year; e.g., July 1, 2020) and ending on \_\_\_\_\_ (enter month day, year).

8. VALUATION DATE (Plan Section 1.53) means:

- a.  every day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, and any stock exchange used by such agent are open for business (daily valuation)
- b.  the last day of each Plan Year
- c.  the last day of each Plan Year quarter
- d.  other (specify day or days): \_\_\_\_\_ (must be at least once each Plan Year)

**NOTE:** The Plan always permits interim valuations.

9. ADMINISTRATOR'S NAME, ADDRESS AND TELEPHONE NUMBER

(If none is named, the Employer will be the Administrator (Plan Section 1.2).)

- a.  Employer (use Employer address and telephone number)
- b.  The Committee appointed by the Employer (use Employer address and telephone number)
- c.  Other:

Name: Administrative Committee appointed by the Employer

Address: 2500 Lynx Lane  
Street

Orlando Florida 32804  
City State Zip

Telephone: (407) 254-6219

10. TYPE OF PLAN (select one)

- a.  Profit Sharing Plan.
- b.  Money Purchase Pension Plan.

11. CONTRIBUTION TYPES

The selections made below must correspond with the selections made under the Contributions and Allocations Section of this Adoption Agreement.

FROZEN PLAN OR CONTRIBUTIONS HAVE BEEN SUSPENDED (Plan Section 4.1(c)) (optional)

- a.  This is a frozen Plan (i.e., all contributions cease) (if this is a temporary suspension, select a.2):
  - 1.  All contributions ceased as of, or prior to, the effective date of this amendment and restatement and the prior Plan provisions are not reflected in this Adoption Agreement (may enter effective date at 3. below and/or select prior contributions at g. - j. (optional), skip questions 12-18 and 22-30)
  - 2.  All contributions ceased or were suspended and the prior Plan provisions are reflected in this Adoption Agreement (must enter effective date at 3. below and select contributions at b. - f.)

**Effective date**

- 3.  as of \_\_\_\_\_ (effective date is optional unless a.2. has been selected above or this is the amendment or restatement to freeze the Plan).

CURRENT CONTRIBUTIONS

The Plan permits the following contributions (select one or more):

- b.  **Employer contributions other than matching** (Questions 24-25)
  - 1.  This Plan qualifies as a Social Security Replacement Plan (Question 24.e. must be selected)
- c.  **Employer matching contributions** (Questions 26-28)
- d.  **Mandatory Employee contributions** (Question 30)

- e.  After-tax voluntary Employee contributions
- f.  Rollover contributions (Question 36)

PRIOR CONTRIBUTIONS

The Plan used to permit, but no longer does, the following contributions (choose all that apply, if any):

- g.  Employer matching contributions
- h.  Employer contributions other than matching contributions
- i.  Rollover contributions
- j.  After-tax voluntary Employee contributions

ELIGIBILITY REQUIREMENTS

12. ELIGIBLE EMPLOYEES (Plan Section 1.17) means all Employees (including Leased Employees) EXCEPT those Employees who are excluded below or elsewhere in the Plan: (select a. or b.)
- a.  **No excluded Employees.** There are no additional excluded Employees under the Plan (skip to Question 13).
  - b.  **Exclusions.** The following Employees are not Eligible Employees for Plan purposes (select one or more):
    1.  Union Employees (as defined in Plan Section 1.17)
    2.  Nonresident aliens (as defined in Plan Section 1.17)
    3.  Leased Employees (Plan Section 1.29)
    4.  Part-time Employees. A part-time Employee is an Employee whose regularly scheduled service is less than \_ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.55).
    5.  Temporary Employees. A temporary Employee is an Employee who is categorized as a temporary Employee on the Employer’s payroll records.
    6.  Seasonal Employees. A seasonal Employee is an Employee who is categorized as a seasonal Employee on the Employer’s payroll records.
    7.  Other: Any Collectively Bargained Employee who is covered by a collective bargaining agreement that does not provide for coverage under the Plan, contract Employees (which the Plan Administrator shall continue to interpret to mean only Employees with nonrenewable project-based contracts, as reflected in the Employer's Human Resources records), casual Employees and interns. For purpose of Matching Contributions only, common law employees of the Employer, determined in accordance with its payroll records, hired (or last hired) as Eligible Employees prior to October 1, 2013. (must be definitely determinable under Regulation §1.401-1(b). Exclusions may be employment title specific but may not be by individual name)

**NOTE:** If option 4. - 6. (part-time, temporary and/or seasonal exclusions) is selected, when any such excluded Employee actually completes 1 Year of Service, then such Employee will no longer be part of this excluded class. For this purpose, the Hours of Service method will be used for the 1 Year of Service override regardless of any contrary selection at Question 16.

13. CONDITIONS OF ELIGIBILITY (Plan Section 3.1)
- a.  **No age and service required.** No age and service required for all Contribution Types (skip to Question 14).
  - b.  **Eligibility.** An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following (complete c. and d., select e. and f. if applicable):

**Eligibility Requirements**

- c.  **Age Requirement**
  1.  No age requirement
  2.  Age 20 1/2
  3.  Age 21
  4.  Age \_\_\_\_\_ (may not exceed 26)
- d.  **Service Requirement**
  1.  No service requirement
  2.  \_\_\_\_\_ (not to exceed 60) months of service (elapsed time)
  3.  1 Year of Service
  4.  \_\_\_\_\_ (not to exceed 5) Years of Service
  5.  \_\_\_\_\_ consecutive month period from the Eligible Employee's employment commencement date and during which at least \_\_\_\_\_ Hours of Service are completed.
  6.  \_\_\_\_\_ consecutive months of employment.
  7.  Other: \_\_\_\_\_ (e.g., date on which 1,000 Hours of Service is completed within the computation period) (must satisfy the Notes below)

**NOTE:** If c.4. or d.7. is selected, the condition must be an age or service requirement that is definitely determinable and may not exceed age 26 and may not exceed 5 Years of Service.

**NOTE:** Year of Service means Period of Service if the elapsed time method is chosen.

**Waiver of conditions.** The service and/or age requirements specified above will be waived in accordance with the following (leave blank if there are no waivers of conditions):

- e.  If employed on \_\_\_\_\_ the following requirements, and the entry date requirement, will be waived. The waiver applies to any Eligible Employee unless 3. selected below. Such Employees will enter the Plan as of such date (select 1. and/or 2. AND 3. if applicable):
  - 1.  service requirement (may let part-time Eligible Employees into the Plan)
  - 2.  age requirement
  - 3.  waiver is for: \_\_\_\_\_

**Amendment or restatement to change eligibility requirements**

- f.  This amendment or restatement (or a prior amendment and restatement) modified the eligibility requirements and the prior eligibility conditions continue to apply to the Eligible Employees specified below. If this option is NOT selected, then all Eligible Employees must satisfy the eligibility conditions set forth above.
  - 1.  The eligibility conditions above only apply to Eligible Employees who were not Participants as of the effective date of the modification.
  - 2.  The eligibility conditions above only apply to individuals who were hired on or after the effective date of the modification.

14. **EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)**

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the:

- a.  date such requirements are met
- b.  first day of the month coinciding with or next following the date on which such requirements are met
- c.  first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met
- d.  earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met
- e.  first day of the Plan Year coinciding with or next following the date on which such requirements are met
- f.  first day of the Plan Year in which such requirements are met
- g.  first day of the Plan Year in which such requirements are met, if such requirements are met in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if such requirements are met in the last 6 months of the Plan Year.
- h.  other: \_\_\_\_\_ (must be definitely determinable)

**SERVICE**

15. **RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Sections 1.40 and 1.55)**

- a.  No service with other employers is recognized except as otherwise required by law (e.g., the Plan already provides for the recognition of service with Employers who have adopted this Plan as well as service with Affiliated Employers and predecessor Employers who maintained this Plan; skip to Question 16).
- b.  Service with the designated employers is recognized as follows (select c. – e. and one or more of columns 1. - 3.; chose other options as applicable) (if more than 3 employers, attach an addendum to the Adoption Agreement or complete option h. under Section B of Appendix A):

<b>Other Employer</b>	<b>1. Eligibility</b>	<b>2. Vesting</b>	<b>3. Contribution Allocation</b>
c. <input checked="" type="checkbox"/> Employer name: <u>First Predecessor Employer (as defined in subsection f. below)</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. <input checked="" type="checkbox"/> Employer name: <u>Second Predecessor Employer (as defined in subsection f. below)</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Employer name: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Limitations**

- f.  The following provisions or limitations apply with respect to the recognition of prior service: For purposes of this Adoption Agreement Section 15, the term "Predecessor Employer" means only a public organization within the State of Florida or any public transportation agency. Years of Service with such a Predecessor Employer will be counted for purposes of vesting under this Plan, but only if the following conditions are satisfied: If the Participant's previous employment that "occurred immediately prior" to the Participant's employment with the Employer (LYNX) was with a Predecessor Employer (i.e., a public organization within the State of Florida or any public transportation agency), then all continuous Years of Service with the Predecessor Employer shall be counted for purposes of vesting under this Plan. The Predecessor Employer described in the preceding sentence is referred to as a First Predecessor Employer. With respect to a First Predecessor Employer scenario, the term "occurred immediately prior" means that both of the following criteria are satisfied: (i) a period of thirty-one (31) calendar days or less had elapsed between the Participant's last day of employment at the First Predecessor Employer and the Participant's first day of employment at the Employer (LYNX); and (ii) the Participant had no other employment (including self-employment) during that 31-calendar-days-or-less period. In addition, if the Participant's previous employment that "occurred immediately prior" to the Participant's employment with the First Predecessor Employer was also with an employer meeting the definition of a Predecessor Employer (i.e., a different public organization within the State of Florida or a different public transportation agency), then all continuous Years of Service with that employer (referred to as a Second Predecessor Employer) will also be counted for purposes of vesting under this Plan so long as the Participant's employment with the Second Predecessor Employer, the First Predecessor Employer, and the Employer (LYNX) "all occurred consecutively and without interruption." With respect to a Second Predecessor Employer scenario, the terms "occurred immediately prior" and "all occurred consecutively and without interruption" mean that all of the following criteria are satisfied: (x) a period of thirty-one (31) calendar days or less had elapsed between the Participant's last day of employment at the Second Predecessor Employer and the Participant's first day of employment at the First Predecessor Employer; and (y) a period of thirty-one (31) calendar days or less had elapsed between the Participant's last day of employment at the First Predecessor Employer and the Participant's first day of employment at the Employer (LYNX); and (z) the Participant had no other employment (including self-employment) during either 31-calendar-days-or-less period described in clauses (x) and (y). (e.g., credit service with X only on/following 1/1/19)
- [ ] [X] [ ]
- g.  The following provisions or limitations apply with respect to the recognition of service with other employers: \_\_\_\_\_ (e.g., credit service with X only on/following 1/1/19 or credit all service with entities the Employer acquires after 12/31/18)

**NOTE:** If the other Employer(s) maintained this qualified Plan, then Years (and/or Periods) of Service with such Employer(s) must be recognized pursuant to Plan Sections 1.40 and 1.55 regardless of any selections above.

16. SERVICE CREDITING METHOD (Plan Sections 1.40 and 1.55)

- NOTE:** If any Plan provision is based on a Year of Service, then the provisions set forth in the definition of Year of Service in Plan Section 1.55 will apply, including the following defaults, except as otherwise elected below:
1. A Year of Service means completion of at least 1,000 Hours of Service during the applicable computation period.
  2. Hours of Service (Plan Section 1.24) will be based on actual Hours of Service except that for Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees), the monthly equivalency will be used.
  3. For eligibility purposes, the computation period will be as defined in Plan Section 1.55 (i.e., shift to the Plan Year if the eligibility condition is one (1) Year of Service or less).
  4. For vesting, allocation, and distribution purposes, the computation period will be the Plan Year.
  5. Upon an Employee's rehire, all prior service with the Employer is taken into account for all purposes.



- a.  **Elapsed time method.** (Period of Service applies instead of Year of Service) Instead of Hours of Service, elapsed time will be used for:
1.  all purposes (skip to Question 17)
  2.  the following purposes (select one or more):
    - a.  eligibility to participate
    - b.  vesting
    - c.  allocations, distributions and contributions

- b.  **Alternative definitions for the Hours of Service method.** Instead of the defaults, the following alternatives will apply for the Hours of Service method (select one or more):

1.  **Eligibility computation period.** Instead of shifting to the Plan Year, the eligibility computation period after the initial eligibility computation period will be based on each anniversary of the date the Employee first completes an Hour of Service
2.  **Vesting computation period.** Instead of the Plan Year, the vesting computation period will be the date an Employee first performs an Hour of Service and each anniversary thereof.
3.  **Equivalency method.** Instead of using actual Hours of Service, an equivalency method will be used to determine Hours of Service for:
  - a.  all purposes
  - b.  the following purposes (select one or more):
    1.  eligibility to participate
    2.  vesting
    3.  allocations, distribution and contributions

Such method will apply to:

- c.  all Employees
- d.  Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees)
- e.  other: \_\_\_\_\_ (e.g., per-diem Employees only)

Hours of Service will be determined on the basis of:

- f.  days worked (10 hours per day)
  - g.  weeks worked (45 hours per week)
  - h.  semi-monthly payroll periods worked (95 hours per semi-monthly pay period)
  - i.  months worked (190 hours per month)
  - j.  bi-weekly payroll periods worked (90 hours per bi-weekly pay period)
  - k.  other: \_\_\_\_\_ (e.g., option f. is used for per-diem Employees and option g. is used for on-call Employees).
4.  **Number of Hours of Service required.** Instead of 1,000 Hours of Service, Year of Service means the applicable computation period during which an Employee has completed at least \_\_\_\_\_ (not to exceed 1,000) Hours of Service for:
- a.  all purposes
  - b.  the following purposes (select one or more):
    1.  eligibility to participate
    2.  vesting
    3.  allocations, distributions and contributions

- c.  **Alternative for counting all prior service.** Instead of the default which recognizes all prior service for rehired Employees, the Plan will not recognize prior service and rehired Employee are treated as new hires for the following purposes: (select one)

1.  all purposes
2.  the following purposes (select one or more):
  - a.  eligibility to participate
  - b.  vesting
  - c.  sharing in allocations or contributions

- d.  **Other service crediting provisions:** \_\_\_\_\_ (must be definitely determinable; e.g., for vesting a Year of Service is based on 1,000 Hours of Service but for eligibility a Year of Service is based on 900 Hours of Service.)

NOTE: Must not list more than 1,000 hours in this Section. This servicing credit provision will be used for:

1.  All purposes
2.  The following purposes (select one or more):
  - a.  eligibility to participate
  - b.  vesting
  - c.  allocations, distributions and contributions

**VESTING**

17. VESTING OF PARTICIPANT'S INTEREST – EMPLOYER CONTRIBUTIONS (Plan Section 6.4(b))

- a.  N/A (no Employer contributions; skip to Question 19)
- b.  The vesting provisions selected below apply. Section B of Appendix A can be used to specify any exceptions to the provisions below.

**NOTE:** The Plan provides that contributions for converted sick leave and/or vacation leave are fully Vested.

**Vesting for Employer contributions other than matching contributions**

- c.  N/A (no Employer contributions (other than matching contributions); skip to f.)
- d.  100% vesting. Participants are 100% Vested in Employer contributions (other than matching contributions) upon entering Plan.
- e.  The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer contributions (other than matching contributions):
  - 1.  6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
  - 2.  4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
  - 3.  5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
  - 4.  Cliff: 100% vesting after 5 (not to exceed 15) years
  - 5.  Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**Vesting for Employer matching contributions**

- f.  N/A (no Employer matching contributions)
- g.  The schedule above will also apply to Employer matching contributions.
- h.  100% vesting. Participants are 100% Vested in Employer matching contributions upon entering Plan.
- i.  The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer matching contributions:
  - 1.  6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
  - 2.  4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
  - 3.  5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
  - 4.  Cliff: 100% vesting after 5 (not to exceed 15) years
  - 5.  Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**NOTE:** If any Part-time/Seasonal/Temporary Employees who are not covered under Social Security are participating in this Plan as a Social Security Replacement Plan, any contributions used to satisfy the minimum contribution requirements of Question 24.e. will be 100% vested.

18. VESTING OPTIONS

**Excluded vesting service.** The following Years of Service will be disregarded for vesting purposes (select all that apply; leave blank if none apply):

- a.  Service prior to the initial Effective Date of the Plan or a predecessor plan (as defined in Regulations §1.411(a)-5(b)(3))
- b.  Service prior to the computation period in which an Employee has attained age \_\_\_\_\_.
- c.  Service during a period for which an Employee did not make mandatory Employee contributions.

**Vesting for death, Total And Permanent Disability and Early/Normal Retirement.** Regardless of the vesting schedule, a Participant will become fully Vested upon (select all that apply; leave blank if none apply):

- d.  Death
- e.  Total and Permanent Disability
- f.  Early Retirement Date
- g.  Normal Retirement Age

RETIREMENT AGES

19. NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.33) means:

This Question 19 and Question 20 may be skipped if the Plan does not base any benefits, distributions or other features on Normal Retirement Age.

- a.  **Specific age.** The date a Participant attains age \_\_\_\_\_
- b.  **Age/participation.** The later of the date a Participant attains age 62 or the 5th anniversary of the first day of the Plan Year in which participation in the Plan commenced
- c.  Other: \_\_\_\_\_ (must be definitely determinable)

**NOTE:** If this is a Money Purchase Pension Plan and in-service distributions at Normal Retirement Age are permitted, then the Normal Retirement Age cannot be less than age 62, or age 50 if substantially all Participants are qualified public safety employees (as defined in Code §72(t)(1)). The "substantially all" requirement for qualified public safety employees will no longer be a requirement as of the effective date of the final regulations once they are issued & effective. If an age less than 62 is inserted (unless the age 50 safe harbor is applicable for a qualified public safety employee), no reliance will be afforded on the Opinion Letter issued to the Plan that such age is reasonably representative of the typical retirement age for the industry in which the Participants works. Effective for Employees hired during Plan Years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three (3) months after the final regulations are published in the Federal Register, an NRA of less than age 62 must comply with the final regulations under §401(a).

**Qualified public safety employees.** Normal Retirement Age for public safety employees (as defined in Code §72(t)(1)) (leave blank if not applicable)

- d.  Age \_\_\_\_\_ (may not be less than 50 for a Money Purchase Pension Plan or 40 for a Profit Sharing Plan)

20. NORMAL RETIREMENT DATE (Plan Section 1.34) means, with respect to any Participant, the:

- a.  date on which the Participant attains "NRA"
- b.  first day of the month coinciding with or next following the Participant's "NRA"
- c.  first day of the month nearest the Participant's "NRA"
- d.  Anniversary Date coinciding with or next following the Participant's "NRA"
- e.  Anniversary Date nearest the Participant's "NRA"
- f.  Other: \_\_\_\_\_ (e.g., first day of the month following the Participant's "NRA").

21. EARLY RETIREMENT DATE (Plan Section 1.15)

- a.  N/A (no early retirement provision provided)
- b.  Early Retirement Date means the:
  - 1.  date on which a Participant satisfies the early retirement requirements
  - 2.  first day of the month coinciding with or next following the date on which a Participant satisfies the early retirement requirements
  - 3.  Anniversary Date coinciding with or next following the date on which a Participant satisfies the early retirement requirements

**Early retirement requirements**

- 4.  Participant attains age \_\_\_\_\_  
**AND, completes....** (leave blank if not applicable)
  - a.  at least \_\_\_\_\_ Years (or Periods) of Service for vesting purposes
  - b.  at least \_\_\_\_\_ Years (or Periods) of Service for eligibility purposes
- c.  Early Retirement Date means: \_\_\_\_\_ (must be definitely determinable)

**COMPENSATION**

22. COMPENSATION with respect to any Participant is defined as follows (Plan Sections 1.10 and 1.23).

**Base definition**

- a.  Wages, tips and other compensation on Form W-2
- b.  Code §3401(a) wages (wages for withholding purposes)
- c.  415 safe harbor compensation

**NOTE:** Plan Section 1.10(c) provides that the base definition of Compensation includes deferrals that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), 402(h)(1)(B)(SEP), 414(h)(2), & 457.

**Determination period.** Compensation will be based on the following "determination period" (this will also be the Limitation Year unless otherwise elected at option f. under Section B of Appendix A):

- d.  the Plan Year
- e.  the Fiscal Year coinciding with or ending within the Plan Year
- f.  the calendar year coinciding with or ending within the Plan Year

**Adjustments to Compensation** (for Plan Section 1.10). Compensation will be adjusted by:

- g.  **No adjustments** (skip to Question 23. below)
- h.  **Adjustments.** Compensation will be adjusted by (select all that apply):
  - 1.  excluding salary reductions (401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2) pickup, & 457)
  - 2.  excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in 1. above) and welfare benefits.
  - 3.  excluding Compensation paid during the "determination period" while not a Participant in the Plan.
  - 4.  excluding Military Differential Pay
  - 5.  excluding overtime
  - 6.  excluding bonuses
  - 7.  other: Notwithstanding the otherwise applicable exclusion of "reimbursements or other expense allowances" from the definition of Plan Compensation, Plan Compensation shall include the uniform expense allowance paid on April 30, 2021 to participants represented by ATU Local 1749. (e.g., describe Compensation from the elections available above or a combination thereof as to a Participant group (e.g., no exclusions as to Division A Employees and exclude bonuses as to Division B Employees); and/or describe another exclusion (e.g., exclude shift differential pay)).

23. POST-SEVERANCE COMPENSATION (415 REGULATIONS)

**415 Compensation (post-severance compensation adjustments)** (select all that apply at a.; leave blank if none apply)

**NOTE:** Unless otherwise elected under a. below, the following defaults apply: 415 Compensation will **include** (to the extent provided in Plan Section 1.23), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.

- a.  The defaults listed above apply except for the following (select one or more):
  - 1.  Leave cash-outs will be **excluded**
  - 2.  Nonqualified unfunded deferred compensation will be **excluded**
  - 3.  Disability continuation payments will be **included** for all Participants and the salary continuation will continue for the following fixed or determinable period: \_\_\_\_\_
  - 4.  Other: \_\_\_\_\_ (must be definitely determinable)

**Plan Compensation (post-severance compensation adjustments)**

- b.  **Defaults apply.** Compensation will **include** (to the extent provided in Plan Section 1.10 and to the extent such amounts would be included in Compensation if paid prior to severance of employment) post-severance regular pay, leave cash-outs, and payments from nonqualified unfunded deferred compensation plans. (skip to Question 24)
- c.  **Exclude all post-severance compensation.** Exclude all post-severance compensation for allocation purposes.
- d.  **Post-severance adjustments.** The defaults listed at b. apply except for the following (select one or more):
  - 1.  Exclude all post-severance compensation
  - 2.  Regular pay will be **excluded**
  - 3.  Leave cash-outs will be **excluded**
  - 4.  Nonqualified unfunded deferred compensation will be **excluded**
  - 5.  Military Differential Pay will be **included**
  - 6.  Disability continuation payments will be **included** for all Participants and the salary continuation will continue for the following fixed or determinable period: \_\_\_\_\_
- e.  Other: The defaults listed at 23.b apply except Nonqualified unfunded deferred compensation will be excluded. For the Participant who is the CEO: The portion of leave cash-outs that is for up to a total of 500 hours for all types of leave combined will be included. The portion of leave cash-outs that is for more than 500 hours will be excluded.  
\_\_\_\_\_ (must be definitely determinable)

**CONTRIBUTIONS AND ALLOCATIONS**

24. EMPLOYER CONTRIBUTIONS (OTHER THAN MATCHING CONTRIBUTIONS) (Plan Section 4.1(b)(3)) (skip to Question 26 if Employer contributions are NOT selected at Question 11.b.)

CONTRIBUTION FORMULA (select one or more of the following contribution formulas:)

- a.  **Discretionary contribution (no groups).** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may make a discretionary contribution, to be determined by the Employer. Any such contribution will be allocated to each Participant eligible to share in allocations in the same ratio as each Participant's Compensation bears to the total of such Compensation of all Participants.
- b.  **Discretionary contribution (Grouping method).** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may designate a discretionary contribution to be made on behalf of each Participant group selected below (only select 1. or 2.). The groups must be clearly defined in a manner that will not violate the definite predetermined allocation formula requirement of Regulation §1.401-1(b)(1)(ii). The Employer must notify the Trustee in writing of the amount of the Employer Contribution being given to each group.
  - 1.  Each Participant constitutes a separate classification.
  - 2.  Participants will be divided into the following classifications with the allocation methods indicated under each classification.

**Definition of classifications.** Define each classification and specify the method of allocating the contribution among members of each classification. Classifications specified below must be clearly defined in a manner that will not violate the definitely determinable allocation requirement of Regulation §1.401-1(b)(1)(ii).

Classification A will consist of \_\_\_\_\_  
 The allocation method will be:  pro rata based on Compensation  
 equal dollar amounts (per capita)

Classification B will consist of \_\_\_\_\_  
 The allocation method will be:  pro rata based on Compensation  
 equal dollar amounts (per capita)

Classification C will consist of \_\_\_\_\_  
 The allocation method will be:  pro rata based on Compensation  
 equal dollar amounts (per capita)

Classification D will consist of \_\_\_\_\_  
 The allocation method will be:  pro rata based on Compensation  
 equal dollar amounts (per capita)

Additional Classifications: \_\_\_\_\_ (specify the classifications and which of the above allocation methods (pro rata or per capita) will be used for each classification).

**NOTE:** If more than four (4) classifications, the additional classifications and allocation methods may be attached as an addendum to the Adoption Agreement or may be entered under Additional Classifications above.

**Determination of applicable group.** If a Participant shifts from one classification to another during a Plan Year, then unless selected below, the Participant is in a classification based on the Participant's status as of the last day of the Plan Year, or if earlier, the date of termination of employment. If selected below, the Administrator will apportion the Participant's allocation during a Plan Year based on the following:

- a.  Beginning of Plan Year. The classification will be based on the Participant's status as of the beginning of the Plan Year.
- b.  Months in each classification. Pro rata based on the number of months the Participant spent in each classification.
- c.  Days in each classification. Pro rata based on the number of days the Participant spent in each classification.
- d.  One classification only. The Employer will direct the Administrator to place the Participant in only one classification for the entire Plan Year during which the shift occurs.

c.  **Fixed contribution** equal to (only select one):

- 1.  \_\_\_\_\_% of each Participant's Compensation for each:
  - a.  Plan Year
  - b.  calendar quarter
  - c.  month
  - d.  pay period
  - e.  week
- 2.  \$ \_\_\_\_\_ per Participant.
- 3.  \$ \_\_\_\_\_ per Hour of Service worked while an Eligible Employee
  - a.  up to \_\_\_\_\_ hours (leave blank if no limit)

4.  other: The fixed Employer Contribution is 6% of each Participant's Plan Compensation per pay period for Participants who were hired or re-hired as Eligible Employees by the Employer on or after October 1, 2013. For Participants who were hired or last hired as Eligible Employees by the Employer prior to October 1,

2013, the fixed Employer Contribution is 12% of each Participant's Plan Compensation per pay period. Notwithstanding the foregoing, for the Participant who is the Chief Executive Officer of Employer, the fixed Employer Contribution is 16% of Plan Compensation per pay period. (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b)) **NOTE:** Under Question 24.c.4., the Employer may only describe the allocation of Nonelective Contributions from the elections available under Question 24.c of this Adoption Agreement and/or a combination thereof as to a Participant group (e.g., a monthly contribution applies to Group A).

- d.  **Sick leave/vacation leave conversion.** The Employer will contribute an amount equal to an Employee's current hourly rate of pay multiplied by the Participant's number of unused accumulated sick leave and/or vacation days (as selected below). Only unpaid sick and vacation leave for which the Employee has no right to receive in cash may be included. In no event will the Employer's contribution for the Plan Year exceed the maximum contribution permitted under Code §415(c).

The following may be converted under the Plan: (select one or both):

1.  Sick leave
2.  Vacation leave

**Eligible Employees.** Only the following Participants shall receive the Employer contribution for sick leave and/or vacation leave (select 3. and/or 4; leave blank if no limitations provided, however, that this Plan may not be used to only provide benefits for terminated Employees)

3.  **Former Employees.** All Employees terminating service with the Employer during the Plan Year and who have satisfied the eligibility requirements based on the terms of the Employer's accumulated benefits plans checked below (select all that apply; leave blank if no exclusions):
  - a.  The Former Employee must be at least age \_\_\_\_\_ (e.g., 55)
  - b.  The value of the sick and/or vacation leave must be at least \$ \_\_\_\_\_ (e.g., \$2,000)
  - c.  A contribution will only be made if the total hours is over \_\_\_\_\_ (e.g., 10) hours
  - d.  A contribution will not be made for hours in excess of \_\_\_\_\_ (e.g., 40) hours
4.  **Active Employees.** Active Employees who have not terminated service during the Plan Year and who meet the following requirements (select all that apply; leave blank if no exclusions):
  - a.  The Employee must be at least age \_\_\_\_\_ (e.g., 55)
  - b.  The value of the sick and/or vacation leave must be at least \$ \_\_\_\_\_ (e.g., \$2,000)
  - c.  A contribution will only be made if the total hours is over \_\_\_\_\_ (e.g., 10) hours
  - d.  A contribution will not be made for hours in excess of \_\_\_\_\_ (e.g., 40) hours

- e.  **Social Security Replacement Plan.** Except as provided below, the Employer will contribute an amount equal to 7.5% of each eligible Participant's Compensation for the entire Plan Year, reduced by mandatory Employee contributions that are picked-up under Code §414(h) and Employer contributions to this Plan actually contributed to the Participant's Account during such Plan Year. (may only be selected if Question 11.b.1. has also been selected)

**AND,** only the following Employees will NOT be eligible for the Social Security Replacement Plan contribution: (select all that apply)

1.  Part-time Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A part-time Employee is an Employee whose regularly scheduled service is less than \_\_\_\_\_ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.55).
2.  Seasonal Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A seasonal Employee is an Employee who is categorized as a seasonal Employee on the Employer's payroll records.
3.  Temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A temporary Employee is an Employee who is categorized as a temporary Employee on the Employer's payroll records.
4.  Employees in elective positions (filled by an election, which may be by legislative body, board or committee, or by a jurisdiction's qualified electorate)
5.  Other: \_\_\_\_\_ (any other group of Employees that is definitely determinable and not eligible for the Social Security Replacement Plan contribution).

The minimum contribution of 7.5% stated above will be satisfied by:

- a.  the Employee only (specify the contribution at the mandatory Employee contributions Question 30)
- b.  the Employer only
- c.  both the Employee and the Employer. The Employee shall contribute the amount specified in Question 30 for mandatory Employee contributions) and the Employer shall contribute \_\_\_\_\_% of each eligible Participant's Compensation.

NOTE: If a. or c. above is selected, then the mandatory Employee contribution must be picked-up by the Employer at Question 30. Also, if b. or c. above is selected, then the allocation conditions in Question 25 below do not apply to the Employer contribution made pursuant to this provision.

- f.  Other: \_\_\_\_\_ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and if this is a Money Purchase Pension, it must not be a discretionary contribution formula). **NOTE:** Under Question 24.f., the Employer may only describe the allocation of Nonelective Contributions from the elections available under Question 24 and/or a combination thereof as to a Participant group or contribution type (e.g., pro rata allocation applies to Group A; contributions to other Employees will be allocated in accordance with the classifications allocation provisions of Plan Section 4.3 with each Participant constituting a separate classification).

25. ALLOCATION CONDITIONS (Plan Section 4.3). If 24.a., b., c., or f. is selected above, indicate requirements to share in allocations of Employer contributions (select a. OR b. and all that apply at c. - e.)

- a.  **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 26).

- b.  **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)

**Conditions for Participants NOT employed on the last day of the Plan Year**

1.  A Participant must complete at least \_\_\_\_\_ (not to exceed 500) Hours of Service if the actual hours/equivalency method is selected (or at least \_\_\_\_\_ (not to exceed 3) months of service if the elapsed time method is selected).
2.  A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
3.  Participants will NOT share in the allocations, regardless of service.
4.  Participants will share in the allocations, regardless of service.
5.  Other: \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion)

**Conditions for Participants employed on the last day of the Plan Year**

6.  No service requirement.
7.  A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8.  A Participant must complete at least \_\_\_\_\_ Hours of Service during the Plan Year.
9.  Other: \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion)

**Waiver of conditions for Participants NOT employed on the last day of the Plan Year.** If b.1., 2., 3., or 5. above is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c.  Death
- d.  Total and Permanent Disability
- e.  Termination of employment on or after Normal Retirement Age
1.  or Early Retirement Date

26. EMPLOYER MATCHING CONTRIBUTIONS (Plan Section 4.1(b)(2) and Plan Section 4.12). (skip to Question 29 if matching contributions are NOT selected at Question 11.c.) The Employer will (or may with respect to any discretionary contribution) make the following matching contributions:

- A. **Employee contributions taken into account.** For purposes of applying the matching contribution provisions below, the following amounts are being matched (hereafter referred to as "matched Employee contributions" (select one or more):

- a.  Elective deferrals to a **457 plan**. Enter Plan name(s): LYNX Deferred Compensation Plan
- b.  Elective deferrals to a **403(b) plan**. Enter Plan name(s): \_\_\_\_\_
- c.  Voluntary Employee Contributions
- d.  Other: \_\_\_\_\_ (specify amounts that are matched under this Plan and are provided for within this Adoption Agreement)

- B. **Matching Formula.** (select one)

- e.  **Fixed - uniform rate/amount.** The Employer will make matching contributions equal to 50 % (e.g., 50) of the Participant's "matched Employee contributions"

1.  that do not exceed 3 % of a Participant's Compensation (leave blank if no limit)

Additional matching contribution (choose 2. if applicable):

2.  plus an additional matching contribution of a discretionary percentage determined by the Employer,

- a.  but not to exceed \_\_\_\_\_ % of Compensation. Such contribution is subject to the Instructions and Notice requirement of Section 4.12.

- f.  **Fixed - tiered.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's "matched Employee contributions", determined as follows:

**NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

- g.  **Fixed - Years of Service.** The Employer will make matching contributions equal to a uniform percentage of each Participant's "matched Employee contributions" based on the Participant's Years of Service (or Periods of Service if the elapsed time method is selected), determined as follows (add additional tiers if necessary):

Years (or Periods) of Service	Matching Percentage
_____	_____ %
_____	_____ %
_____	_____ %

For purposes of the above matching contribution formula, a Year (or Period) of Service means a Year (or Period) of Service for:

1.  vesting purposes
2.  eligibility purposes

- h.  **Flexible Discretionary Match.** (may not be elected if this Plan is a Money Purchase Pension Plan) "Flexible Discretionary Match" means a Matching Contribution which the Employer in its sole discretion elects to make to the Plan. Except as specified below, the Employer retains discretion over the formula or formulas for allocating the Flexible Discretionary Match, including the Discretionary Matching Contribution rate or amount, the limit(s) on Elective Deferrals or Employee Contributions subject to match, the per Participant match allocation limit(s), the Participants or categories of Participants who will receive the allocation, and the time period applicable to any matching formula(s) (collectively, the "Flexible Discretionary Matching Formula"), except as the Employer otherwise elects in its Adoption Agreement. Such contributions will be subject to the Instructions and Notice requirement of Section 4.12, reproduced below, unless the Employer elects to use a "Rigid Discretionary Match" in Election 26.B.h.1. below.

The discretionary matching contribution under this Question 26.B.h. is a "Flexible Discretionary Match" unless the Employer elects to use a "Rigid Discretionary Match." (Choose 1. if applicable.)

1.  **Rigid Discretionary Match.** A "Rigid Discretionary Match" means a Matching Contribution which the Employer in its sole discretion elects to make to the Plan. Such discretion will only pertain to the amount of the annual contribution. The Employer must select the allocation method for this Contribution by selecting among those Adoption Agreement options which confer no Employer Discretion regarding the allocation of such discretionary amount, for example, the limit(s) on Elective Deferrals or Employee Contributions subject to match, the per Participant match allocation limit(s), the Participants who will receive the allocation, and the time period applicable to any matching formula(s). This "Rigid Discretionary Match" is not subject to the Instructions and Notice requirement of Section 4.12.

Section 4.12 provides: INSTRUCTIONS TO ADMINISTRATOR AND NOTIFICATION TO PARTICIPANTS. For Plan Years beginning after the end of the Plan Year in which this document is first adopted, if a "Flexible Discretionary Match" contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to *allocate* a matching contribution to Participants) and the Employer makes a "Flexible Discretionary Match" to the Plan, the Employer must provide the Plan Administrator or Trustee written instructions describing (1) how the "Flexible Discretionary Match" formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount), (2) the computation period(s) to which the "Flexible Discretionary Match" formula applies, and (3) if applicable, a description of each business location or business classification subject to separate "Flexible Discretionary Match" allocation formulas. Such instructions must be provided no later than the date on which the "Flexible Discretionary Match" is made to the Plan. A summary of these instructions must be communicated to Participants who receive an allocation of the "Flexible Discretionary Match" no later than 60 days following the date on which the last "Flexible Discretionary Match" contribution is made to the Plan for the Plan Year.

- i.  **Discretionary - tiered.** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may make matching contributions equal to a discretionary percentage of a Participant's "matched Employee contributions," to be determined by the Employer, of each tier, to be determined by the Employer. Such discretion will only pertain to the



amount of the contribution. The tiers may be based on the rate of a Participant's "matched Employee contributions" or Years of Service. Such contribution is subject to the Instructions and Notice requirement of Section 4.12.  
**NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

- j.  Other: \_\_\_\_\_ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and if this is a Money Purchase Pension Plan, it must not be a discretionary contribution formula. **NOTE:** Under Question 26.B.j., the Employer may only describe the allocation of Matching Contributions from the elections available under Question 26 and/or a combination thereof as to a Participant group or contribution type (e.g., fixed – uniform rate applies to Group A; contributions to other Employees will be allocated as a tiered contribution.)

27. MATCHING CONTRIBUTION PROVISIONS

- A. **Maximum matching contribution.** The total matching contribution made on behalf of any Participant for any Plan Year will not exceed:
- a.  N/A (no Plan specific limit on the amount of matching contribution)
  - b.  \$\_\_\_\_\_.
  - c.  1.5 % of Compensation.
- B. **Period of determination.** Any matching contribution other than a "Flexible Discretionary Match" will be applied on the following basis (and "matched Employee contributions" and any Compensation or dollar limitation used in determining the matching contribution will be based on the applicable period. Skip if the only Matching Contribution is a Flexible Discretionary Match.):
- d.  the Plan Year (potential annual true-up required)
  - e.  each payroll period (no true-up)
  - f.  each month (potential monthly true-up required)
  - g.  each Plan Year quarter (potential quarterly true-up required)
  - h.  each payroll unit (e.g., hour) (no true-up)
  - i.  Other (specify): \_\_\_\_\_ The time period described must be definitely determinable under Treas. Reg. §1.401-1(b). This line may be used to apply different options to different matching contributions (e.g., Discretionary matching contributions will be allocated on a Plan Year period while fixed matching contributions will be allocated on each payroll period.) Such contribution period is subject to the Instructions and Notice requirement of Section 4.12.

28. ALLOCATION CONDITIONS (Plan Section 4.3) Select a. OR b. and all that apply of c. - h.

- a.  **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 29).
- b.  **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)  
**Conditions for Participants NOT employed on the last day of the Plan Year.**
  - 1.  A Participant must complete more than \_\_\_\_\_ Hours of Service (or \_\_\_\_\_ months of service if the elapsed time method is selected).
  - 2.  A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
  - 3.  Participants will NOT share in the allocations, regardless of service.
  - 4.  Participants will share in the allocations, regardless of service.
  - 5.  Other: \_\_\_\_\_ (must be definitely determinable)**Conditions for Participants employed on the last day of the Plan Year**
  - 6.  No service requirement.
  - 7.  A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
  - 8.  A Participant must complete at least \_\_\_\_\_ Hours of Service during the Plan Year.
  - 9.  Other: \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion)

**Waiver of conditions for Participants NOT employed on the last day of the Plan Year.** If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c.  Death
- d.  Total and Permanent Disability
- e.  Termination of employment on or after Normal Retirement Age
  - 1.  or Early Retirement Date

**Conditions based on period other than Plan Year.** The allocation conditions above will be applied based on the Plan Year unless otherwise selected below. If selected, the above provisions will be applied by substituting the term Plan Year with the specified period (e.g., if Plan Year quarter is selected below and the allocation condition is 250 Hours of Service per quarter, enter 250 hours (not 1000) at b.8. above).

- f.  The Plan Year quarter.
- g.  Payroll period.
- h.  Other: \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion and may not be longer than a twelve month period).

29. FORFEITURES (Plan Sections 1.21 and 4.3(e))

**Timing of Forfeitures.** Except as provided in Plan Section 1.21, a Forfeiture will occur:

- a.  N/A (may only be selected if all contributions are fully Vested (default provisions at Plan Section 4.3(e) apply))
- b.  As of the earlier of (1) the last day of the Plan Year in which the former Participant incurs five (5) consecutive 1-Year Breaks in Service, or (2) the distribution of the entire Vested portion of the Participant's Account.
- c.  As of the last day of the Plan Year in which the former Participant incurs five (5) consecutive 1-Year Breaks in Service.
- d.  As soon as reasonably practical after the date the Participant severs employment.

**Use of Forfeitures.** (skip if this is NOT a Money Purchase Pension Plan; for Profit Sharing Plans, Forfeitures are disposed of in accordance with Employer direction that is consistent with Section 4.3(e)).

Forfeitures will be (select one):

- e.  added to the Employer contribution and allocated in the same manner
- f.  used to reduce any Employer contribution
- g.  allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
- h.  other: First used to pay plan expenses and then used to reduce any Employer contribution. Forfeitures of Employer matching contributions will be treated the same as forfeitures of Employer contributions (describe the treatment of Forfeitures in a manner that is definitely determinable and that is not subject to Employer discretion)

30. MANDATORY EMPLOYEE CONTRIBUTIONS (Plan Section 4.8) (skip if mandatory Employee contributions NOT selected at Question 11.d.)

**Type of mandatory Employee Contribution.** The mandatory Employee contribution is being made in accordance with the following: (select one)

- a.  The mandatory Employee contribution is a condition of employment.
- b.  The Employee must make, on or before first being eligible to participate under any Plan of the Employer, an irrevocable election to contribute the mandatory Employee contribution to the Plan. No Eligible Employee will become a Participant unless the Employee makes such an irrevocable election.

**Amount of mandatory Employee Contribution** (select one)

- c.  An Eligible Employee must contribute to the Plan \_\_\_\_\_% (not to exceed 25%) of Compensation.
- d.  An Eligible Employee must, prior to his or her first Entry Date, make a one-time irrevocable election to contribute to the Plan from \_\_\_\_\_% (not less than 1%) to \_\_\_\_\_% (not to exceed 25%) of Compensation.

**Conditions of Mandatory Employee Contributions**

- e.  **Additional provisions and conditions:** \_\_\_\_\_ (must be definitely determinable; e.g., Only full-time Employees must make mandatory Employee contributions)

**Employer pick-up contribution.** The mandatory Employee contribution is "picked-up" by the Employer under Code §414(h)(2) unless elected below. (select if applicable)

- f.  The mandatory Employee contribution is not "picked-up" by the Employer.

**DISTRIBUTIONS**

31. FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)

Distributions under the Plan may be made in (select all that apply; must select at least one):

- a.  lump-sums
- b.  substantially equal installments
- c.  partial withdrawals, provided the minimum withdrawal is \$\_\_\_\_\_ (leave blank if no minimum)
- d.  partial withdrawals or installments are only permitted for Participants or Beneficiaries who must receive required minimum distributions under Code §401(a)(9) except for the following (leave blank if no exceptions):
  - 1.  Only Participants (and not Beneficiaries) may elect partial withdrawals or installments
  - 2.  Other: \_\_\_\_\_ (e.g., partial is not permitted for death benefits. Must be definitely determinable and not subject to Employer discretion.)

**Non-Standardized Governmental 401(a)**

- e.  annuity: \_\_\_\_\_ (describe the form of annuity or annuities)  
f.  other: \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion)

**NOTE:** Regardless of the above, a Participant is not required to request a withdrawal of his or her total Account for an in-service distribution, a hardship distribution, or a distribution from the Participant's Rollover Account.

**Cash or property.** Distributions may be made in:

- g.  cash only, except for (select all that apply; leave blank if none apply):  
1.  insurance Contracts  
2.  annuity Contracts  
3.  Participant loans  
4.  all investments in an open brokerage window or similar arrangement  
h.  cash or property, except that the following limitation(s) apply: (leave blank if there are no limitations on property distributions):  
1.  \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion)

**Joint and Survivor Annuity provisions.** (Plan Sections 6.5(e) and 6.6(e) (select one) The Joint and Survivor Annuity provisions do not apply to the Plan unless selected below (choose if applicable)

- i.  **Joint and Survivor Annuity applicable as normal form of distribution.** The Joint and Survivor annuity rules set forth in Plan Sections 6.5(e) and 6.5(f) apply to all Participants (if selected, then annuities are a form of distribution under the Plan even if e. above is not selected)  
j.  **Joint and Survivor Annuity rules apply based on Participant election.** Plan Section 6.5(f) will apply and the joint and survivor rules of Code §§401(a)(11) and 417 (as set forth in Plan Sections 6.5(e) and 6.6(e) will apply only if an annuity form of distribution is selected by a Participant.

**AND,** if i. or j. is selected above, the one-year marriage rule does not apply unless selected below (choose if applicable).

1.  The one-year marriage rule applies.

**Spousal consent requirements.** Spousal consent is not required for any Plan provisions (except as otherwise elected in i. above for the joint and survivor annuity rules) unless selected below (choose if applicable)

- k.  **Required for all distributions.** A Spouse must consent to all distributions (other than required minimum distributions).  
l.  **Beneficiary designations.** A married Participant's Spouse will be the Beneficiary of the entire death benefit unless the Spouse consents to an alternate Beneficiary.

**AND,** if k. or l. is selected, the one-year marriage rule does not apply unless selected below (choose if applicable).

1.  The one-year marriage rule applies.

32. **CONDITIONS FOR DISTRIBUTIONS UPON SEVERANCE OF EMPLOYMENT.** Distributions upon severance of employment pursuant to Plan Section 6.4(a) will not be made unless the following conditions have been satisfied:

**A. Accounts in excess of \$5,000**

- a.  Distributions may be made as soon as administratively feasible following severance of employment.  
b.  Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.  
c.  Distributions may be made as soon as administratively feasible after the last day of the Plan Year quarter coincident with or next following severance of employment.  
d.  Distributions may be made as soon as administratively feasible after the Valuation Date coincident with or next following severance of employment.  
e.  Distributions may be made as soon as administratively feasible after \_\_\_\_\_ months have elapsed following severance of employment.  
f.  No distributions may be made until a Participant has reached Early or Normal Retirement Date.  
g.  Other: \_\_\_\_\_ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

**B. Accounts of \$5,000 or less**

- h.  Same as above  
i.  Distributions may be made as soon as administratively feasible following severance of employment.  
j.  Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.  
k.  Other: \_\_\_\_\_ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

**C. Timing after initial distributable event.** If a distribution is not made in accordance with the above provisions upon the occurrence of the distributable event, then a Participant may elect a subsequent distribution at any time after the time the amount

was first distributable (assuming the amount is still distributable), unless otherwise selected below (may not be selected with 32.f. and 32.h.):

- l.  Other: \_\_\_\_\_ (e.g., a subsequent distribution request may only be made in accordance with l. above (i.e., the last day of another Plan Year); must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

- D. **Participant consent (i.e., involuntary cash-outs).** Should Vested Account balances less than a certain dollar threshold be automatically distributed without Participant consent (mandatory distributions)?

**NOTE:** The Plan provides that distributions of amounts of \$5,000 or less are only paid as lump-sums.

- m.  No, Participant consent is required for all distributions.  
 n.  Yes, Participant consent is required only if the distribution is over:  
 1.  \$5,000  
 2.  \$1,000  
 3.  \$\_\_\_\_\_ (less than \$1,000)

**NOTE:** If 2. or 3. is selected, rollovers will be included in determining the threshold for Participant consent.

**Automatic IRA rollover.** With respect to mandatory distributions of amounts that are \$1,000 or less, if a Participant makes no election, the amount will be distributed as a lump-sum unless selected below.

4.  If a Participant makes no election, then the amount will be automatically rolled over to an IRA provided the amount is at least \$\_\_\_\_\_ (e.g., \$200).

- E. **Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions, or consent rules.

- o.  Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

**NOTE:** Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

33. DISTRIBUTIONS UPON DEATH (Plan Section 6.8(b)(2))

Distributions upon the death of a Participant prior to the "required beginning date" will:

- a.  be made pursuant to the election of the Participant or "designated Beneficiary"  
 b.  begin within 1 year of death for a "designated Beneficiary" and be payable over the life (or over a period not exceeding the "life expectancy") of such Beneficiary, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2  
 c.  be made within 5 (or if lesser \_\_\_\_\_) years of death for all Beneficiaries  
 d.  be made within 5 (or if lesser \_\_\_\_\_) years of death for all Beneficiaries, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2 and be payable over the life (or over a period not exceeding the "life expectancy") of such "surviving Spouse"

**NOTE:** The elections above must be coordinated with the Form of distributions (e.g., if the Plan only permits lump-sum distributions, then options a., b. and d. would not be applicable).

34. OTHER PERMITTED DISTRIBUTIONS (select all that apply; leave blank if none apply)

A. IN-SERVICE DISTRIBUTIONS (Plan Section 6.11)

In-service distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (if applicable, answer a. - e.; leave blank if not applicable):

- a.  In-service distributions may be made to a Participant who has not separated from service provided the following has been satisfied (select one or more) (options 2. - 5. may only be selected with Profit Sharing Plans):  
 1.  Age. The Participant has reached: (select one)  
     a.  Normal Retirement Age  
     b.  age 62  
     c.  age 59 1/2 (may not be selected if a Money Purchase Pension Plan)  
     d.  age 70 1/2 (may not be less than age 62 for Money Purchase Pension Plans)  
 2.  the Participant has been a Participant in the Plan for at least \_\_\_\_\_ years (may not be less than five (5))  
 3.  the amounts being distributed have accumulated in the Plan for at least 2 years  
 4.  other: \_\_\_\_\_ (must satisfy the definitely determinable requirement under Regulations §401-1(b); may not be subject to Employer discretion; and must be limited to a combination of items a.1. - a.3. or a Participant's disability.)

**More than one condition.** If more than one condition is selected above, then a Participant only needs to satisfy one of the conditions, unless selected below:

5.  A Participant must satisfy each condition

**NOTE:** Distributions from a Transfer Account attributable to a Money Purchase Pension Plan are not permitted prior to age 62.

**Account restrictions.** In-service distributions are permitted from the following Participant Accounts:

- b.  all Accounts
- c.  only from the following Accounts (select one or more):
  - 1.  Account attributable to Employer matching contributions
  - 2.  Account attributable to Employer contributions other than matching contributions
  - 3.  Rollover Account
  - 4.  Transfer Account
 Permitted from the following assets attributable to (select one or both):
  - a.  non-pension assets
  - b.  pension assets (e.g., from a Money Purchase Pension Plan)
- 5.  Mandatory Employee Contribution Account
- 6.  Other: Participants who incur a Total and Permanent Disability while still employed may withdraw amounts attributable to Rollover Contributions. Participants who reach age 70 1/2 while still employed may withdraw amounts from all Accounts. (specify Account(s) and conditions in a manner that satisfies the definitely determinable requirement under Regulation §1.401-1(b) and is not subject to Employer discretion)

**Limitations.** The following limitations apply to in-service distributions:

- d.  N/A (no additional limitations)
- e.  Additional limitations (select one or more):
  - 1.  The minimum amount of a distribution is \$\_\_\_\_\_.
  - 2.  No more than \_\_\_\_\_ distribution(s) may be made to a Participant during a Plan Year.
  - 3.  Distributions may only be made from Accounts which are fully Vested.
  - 4.  In-service distributions may be made subject to the following provisions: \_\_\_\_\_ (must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and not be subject to Employer discretion).

B. **HARDSHIP DISTRIBUTIONS** (Plan Sections 6.12) (may not be selected if this is a Money Purchase Pension Plan)  
 Hardship distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (leave blank if not applicable):

- f.  Hardship distributions are permitted from the following Participant Accounts:
  - 1.  all Accounts
  - 2.  only from the following Accounts (select one or more):
    - a.  Account attributable to Employer matching contributions
    - b.  Account attributable to Employer contributions other than matching contributions
    - c.  Rollover Account (if not available at any time under Question 36)
    - d.  Transfer Account (other than amounts attributable to a money purchase pension plan)
    - e.  Mandatory Employee Contribution Account
    - f.  Other: \_\_\_\_\_ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

**NOTE:** Hardship distributions are NOT permitted from a Transfer Account attributable to pension assets (e.g., from a Money Purchase Pension Plan).

**Additional limitations.** The following limitations apply to hardship distributions:

- 3.  N/A (no additional limitations)
- 4.  Additional limitations (select one or more):
  - a.  The minimum amount of a distribution is \$\_\_\_\_\_.
  - b.  No more than \_\_\_\_\_ distribution(s) may be made to a Participant during a Plan Year.
  - c.  Distributions may only be made from Accounts which are fully Vested.
  - d.  A Participant does not include a Former Employee at the time of the hardship distribution.
  - e.  Hardship distributions may be made subject to the following provisions: \_\_\_\_\_ (must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and not be subject to Employer discretion).

**Beneficiary Hardship.** Hardship distributions for Beneficiary expenses are NOT allowed unless otherwise selected below.

- 5.  Hardship distributions for expenses of Beneficiaries are allowed  
**Special effective date** (may be left blank if effective date is same as the Plan or Restatement Effective Date; select a. and, if applicable, b.)
  - a.  effective as of \_\_\_\_\_
  - b.  eliminated effective as of \_\_\_\_\_.

MISCELLANEOUS

35. LOANS TO PARTICIPANTS (Plan Section 7.4)

- a.  New loans are NOT permitted.
- b.  New loans are permitted.

**NOTE:** Regardless of whether new loans are permitted, if the Plan permits rollovers and/or plan-to-plan transfers, then the Administrator may, in a uniform manner, accept rollovers and/or plan-to-plan transfers of loans into this Plan.

36. ROLLOVERS (Plan Section 4.6) (skip if rollover contributions are NOT selected at 11.f.)

**Eligibility.** Rollovers may be accepted from all Participants who are Employees as well as the following (select all that apply; leave blank if not applicable):

- a.  Any Eligible Employee, even prior to meeting eligibility conditions to be a Participant
- b.  Participants who are Former Employees

**Distributions.** When may distributions be made from a Participant's Rollover Account?

- c.  At any time
- d.  Only when the Participant is otherwise entitled to any distribution under the Plan

37. HEART ACT (Plan Section 4.11) (select one or more)

- a.  **HEART ACT Continued benefit accruals.** Continued benefit accruals will apply
- b.  **Distributions for deemed severance of employment.** The Plan permits distributions for deemed severance of employment.

**Reliance on Provider Opinion Letter.** The Provider has obtained from the IRS an Opinion Letter specifying the form of this document satisfies Code §401 as of the date of the Opinion Letter. An adopting Employer may rely on the Provider’s IRS Opinion Letter *only* to the extent provided in Rev. Proc. 2017-41 or subsequent guidance. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter and in Rev. Proc. 2017-41 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, the Employer must apply for a determination letter to Employee Plans Determinations of the IRS.

An Employer who has ever maintained or who later adopts an individual medical account, as defined in Code §415(l)(2)) in addition to this Plan may not rely on the opinion letter issued by the Internal Revenue Service with respect to the requirements of Code§415.

This Adoption Agreement may be used only in conjunction with the basic Plan document #01. This Adoption Agreement and the basic Plan document will together be known as Voya Retirement Insurance and Annuity Company Non-Standardized Governmental 401(a) Pre-Approved Plan #001.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

**Execution for Page Substitution Amendment Only.** If this paragraph is completed, this Execution Page documents an amendment to Adoption Agreement Election(s) \_\_\_\_\_ effective \_\_\_\_\_, by substitute Adoption Agreement page number(s) \_\_\_\_\_. The Employer should retain all Adoption Agreement Execution Pages and amended pages. (*Note: The Effective Date may be retroactive or may be prospective.*)

The Provider, Voya Retirement Insurance and Annuity Company will notify the Employer of any amendment to this Pre-approved Plan or of any abandonment or discontinuance by the Provider of its maintenance of this Pre-approved Plan. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Voya Retirement Insurance and Annuity Company no longer has any obligations to the Employer that relate to the adoption of this Plan. For inquiries regarding the adoption of the Pre-approved Plan, the Provider's intended meaning of any Plan provisions or the effect of the Opinion Letter issued to the Provider, please contact the Provider or the Provider’s representative.

Provider Name: Voya Retirement Insurance and Annuity Company

Address: One Orange Way  
Windsor Connecticut 06054

Telephone Number: 1-800-584-6001

Email address (optional): \_\_\_\_\_

The Employer, by executing below, hereby adopts this Plan (add additional signature lines as needed). NOTE: If more than one Plan type is adopted, the Plan Provider must provide multiple plan documents for Employer signature.

EMPLOYER: Central Florida Regional Transportation Authority d/b/a LYNX

By: \_\_\_\_\_ DATE SIGNED \_\_\_\_\_

**APPENDIX A**  
**SPECIAL EFFECTIVE DATES AND OTHER PERMITTED ELECTIONS**

A. **Special effective dates** (leave blank if not applicable):

- a.  **Special effective date(s):** With respect to Adoption Agreement section 22.h.7., the effective date is April 30, 2021. With respect to Adoption Agreement sections 23.e. (the two sentences concerning CEO leave cash-outs only) and 24.c.4., the effective date is February 8, 2021. For periods prior to the specified special effective date(s), the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions. A special effective date may not result in the delay of a Plan provision beyond the permissible effective date under any applicable law. (The Employer has reliance on the IRS Opinion Letter only if the features described in the preceding sentence constitute protected benefits within the meaning of Code Section 411(d)(6) and the regulations thereunder, and only if such features are permissible in a "Cycle 3" preapproved plan, i.e., the features are not specifically prohibited by Revenue Procedure 2017-41 (or any superseding guidance))

B. **Other permitted elections** (the following elections are optional):

- a.  **No other permitted elections**

**The following elections apply** (select one or more):

- b.  **Deemed 125 compensation** (Plan Section 1.23). Deemed 125 compensation will be included in Compensation and 415 Compensation.
- c.  **Break-in-Service Rules.** The following Break-in-Service rules apply to the Plan.(select 1. or 2.)
1.  **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions)** (Plan Section 3.5(e)). The "rule of parity" provisions in Plan Section 3.5(d) will apply for (select one or both):
- a.  eligibility purposes
- b.  vesting purposes
2.  **Break-in-Service rules for rehired Employees.** The following Break-in-Service rules set forth in Plan Sections 3.2 and 3.5 apply: (select one or both)
- a.  all Break-in-Service rules set forth in such Sections.
- b.  only the following: Plan Section 3.5(f) (specify which provisions apply to the Plan)
- d.  **Beneficiary if no beneficiary elected by Participant** (Plan Section 6.2(f)). In the event no valid designation of Beneficiary exists, then in lieu of the order set forth in Plan Section 6.2(f), the following order of priority will be used: If no Beneficiary has been designated by the Participant, the default Beneficiary will be as follows: (1) Participant's surviving Spouse (if the Participant was married at the time of death); and (2) the Participant's estate (if the Participant does not have a surviving Spouse at the time of death). (specify an order of beneficiaries; e.g., children per stirpes, parents, and then step-children).
- e.  **Joint and Survivor Annuity/Pre-Retirement Survivor Annuity.** If the Plan applies the Joint and Survivor Annuity rules, then the normal form of annuity will be a joint and 50% survivor annuity (i.e., if 31.i. or 31.j. is selected) and the Pre-Retirement Survivor Annuity will be equal to 50% of a Participant's interest in the Plan unless selected below (select 1. and/or 2.)
1.  **Normal form of annuity.** Instead of a joint and 50% survivor annuity, the normal form of the qualified Joint and Survivor Annuity will be: (select one)
- a.  joint and 100% survivor annuity
- b.  joint and 75% survivor annuity
- c.  joint and 66 2/3% survivor annuity
2.  **Pre-Retirement Survivor Annuity.** The Pre-Retirement Survivor Annuity (minimum Spouse's death benefit) will be equal to 50% of a Participant's interest in the Plan unless a different percentage is selected below: (select one)
- a.  100% of a Participant's interest in the Plan.
- b.  \_\_\_\_\_% (may not be less than 50%) of a Participant's interest in the Plan.
- f.  **Limitation Year** (Plan Section 1.30). The Limitation Year for Code §415 purposes will be \_\_\_\_\_ (must be a consecutive twelve month period) instead of the "determination period" for Compensation.
- g.  **415 Limits when 2 defined contribution plans are maintained** (Plan Section 4.4). If any Participant is covered under another qualified defined contribution plan maintained by the Employer or an Affiliated Employer, or if the Employer or an Affiliated Employer maintains a welfare benefit fund, as defined in Code §419(e), or an individual medical account, as defined in Code §415(l)(2), under which amounts are treated as "annual additions" with respect to any Participant in this Plan, then the provisions of Plan Section 4.4(b) will apply unless otherwise specified below:
1.  Specify, in a manner that precludes Employer discretion, the method under which the plans will limit total "annual additions" to the "maximum permissible amount" and will properly reduce any "excess amounts":  
\_\_\_\_\_
- h.  **Recognition of Service with other employers** (Plan Sections 1.40 and 1.55). Service with the following employers (in addition to those specified at Question 15) will be recognized as follows (select one or more):



	<b>Eligibility</b>	<b>Vesting</b>	<b>Contribution Allocation</b>
1. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
2. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
3. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
4. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
5. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
6. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>

**Limitations**

7.  The following provisions or limitations apply with respect to the recognition of prior service: \_\_\_\_\_ (e.g., credit service with X only on/following 1/1/19)
- a.       b.       c.
- i.  **Other vesting provisions.** The following vesting provisions apply to the Plan (select one or more):
1.  **Special vesting provisions.** The following special provisions apply to the vesting provisions of the Plan: Notwithstanding any other provision that may be to the contrary, Plan benefits are subject to Section 112.3173, Florida Statutes. (must be definitely determinable and satisfy the parameters set forth at Question 17)
  2.  **Pre-amendment vesting schedule.** (Plan Section 6.4(b)). If the vesting schedule has been amended and a different vesting schedule other than the schedule at Question 17 applies to any Participants, then the following provisions apply (must select one of a. – d.):
 

**Applicable Participants.** The vesting schedules in Question 17 only apply to:

    - a.  Participants who are Employees as of \_\_\_\_\_ (enter date).
    - b.  Participants in the Plan who have an Hour of Service on or after \_\_\_\_\_ (enter date).
    - c.  Participants (even if not an Employee) in the Plan on or after \_\_\_\_\_ (enter date).
    - d.  Other: \_\_\_\_\_ (e.g., Participants in division A. Must be definitely determinable.)
- j.  **Minimum distribution transitional rules** (Plan Section 6.8(e)(5))
- NOTE:** This Section does not apply to (1) a new Plan, (2) an amendment or restatement of an existing Plan that never contained the provisions of Code §401(a)(9) as in effect prior to the amendments made by the Small Business Job Protection Act of 1996 (SBJPA), or (3) a Plan where the transition rules below do not affect any current Participants.
- The "required beginning date" for a Participant is:
1.  April 1st of the calendar year following the year in which the Participant attains age 70 1/2. (pre-SBJPA rules continue to apply)
  2.  April 1st of the calendar year following the later of the year in which the Participant attains age 70 1/2 or retires (the post-SBJPA rules), with the following exceptions (select one or both; leave blank if both applied effective as of January 1, 1996):
    - a.  A Participant who was already receiving required minimum distributions under the pre-SBJPA rules as of \_\_\_\_\_ (may not be earlier than January 1, 1996) was allowed to stop receiving distributions and have them recommence in accordance with the post-SBJPA rules. Upon the recommencement of distributions, if the Plan permits annuities as a form of distribution then the following apply:
      1.  N/A (annuity distributions are not permitted)
      2.  Upon the recommencement of distributions, the original Annuity Starting Date will be retained.
      3.  Upon the recommencement of distributions, a new Annuity Starting Date is created.
    - b.  A Participant who had not begun receiving required minimum distributions as of \_\_\_\_\_ (may not be earlier than January 1, 1996) may elect to defer commencement of distributions until retirement. The option to defer the commencement of distributions (i.e., to elect to receive in-service distributions upon attainment of age 70 1/2) applies to all such Participants unless selected below:
      1.  The in-service distribution option was eliminated with respect to Participants who attained age 70 1/2 in or after the calendar year that began after the later of (1) December 31, 1998, or (2) the adoption date of the restatement to bring the Plan into compliance with the SBJPA.

- k.  **Other spousal provisions** (select one or more)
1.  **Definition of Spouse.** The term Spouse includes a spouse under federal law as well as the following: \_\_\_\_\_
  2.  **Automatic revocation of spousal designation** (Plan Section 6.2(g)). The automatic revocation of a spousal Beneficiary designation in the case of divorce does not apply.
  3.  **Timing of QDRO payment.** A distribution to an Alternate Payee shall not be permitted prior to the time a Participant would be entitled to a distribution.
- l.  **Applicable law.** Instead of using the applicable laws set forth in Plan Section 9.4(a), the Plan will be governed by the laws of: \_\_\_\_\_
- m.  **Total and Permanent Disability.** Instead of the definition at Plan Section 1.50, Total and Permanent Disability means: the individual can no longer continue in the service of his Employer because of a mental or physical condition that is likely to result in death or is expected to be of long-continued or indefinite duration of not less than 12 months. A Participant has incurred a Total and Permanent Disability only if the Participant is either (a) eligible for Social Security under Section 223(d) of the Social Security Act for determining eligibility for Social Security benefits, and/or (b) eligible for benefits under the Employer's long term disability program. Each of (a) and (b) require that the permanence and degree of impairment be supported by medical evidence. The Plan Administrator may establish reasonable procedures for determining whether a Participant has incurred a Total and Permanent Disability. (must be definitely determinable).
- n.  **Inclusion of Reclassified Employees** (Plan Section 1.17(a)). The Employer does not exclude Reclassified Employees subject to the following provisions: (leave blank if not applicable): \_\_\_\_\_
- o.  **Claims procedures** (Plan Section 2.10). The claims procedures forth in Plan Section 2.10(a) – (b) apply unless otherwise elected below or unless the Administrator has operationally adopted alternative procedures.
1.  The claims procedures set forth in Plan Section 2.10(c) – (g) apply instead of Plan Section 2.10(a).
  2.  The claims procedures set forth in Plan Section 2.10(c)-(g) apply as follows: \_\_\_\_\_  
(specify which provisions apply and/or modified)
- p.  **Age 62 In-Service Distributions For Transferred Money Purchase Assets** (Plan Section 6.11)  
In-service distributions will be allowed for Participants at age 62. (applies only for Transfer Accounts from a Money Purchase Pension Plan) (skip this question if the Plan is a Money Purchase Pension Plan or if in-service distributions are already permitted for Transferred Accounts at Question 34)
- Limitations.** The following limitations apply to these in-service distributions:
1.  The Plan already provides for in-service distributions and the restrictions set forth in the Plan (e.g., minimum amount of distributions or frequency of distributions) are applicable to in-service distributions at age 62.
  2.  N/A (no limitations)
  3.  The following elections apply to in-service distributions at age 62 (select one or more):
    - a.  The minimum amount of a distribution is \$\_\_\_\_\_ (may not exceed \$1,000).
    - b.  No more than \_\_\_\_\_ distribution(s) may be made to a Participant during a Plan Year.
    - c.  Distributions may only be made from Accounts which are fully Vested.
    - d.  In-service distributions may be made subject to the following provisions: \_\_\_\_\_ (must be definitely determinable and not subject to discretion).
- q.  **QLACs.** (Plan Section 6.8(e)(4)) A Participant may elect a QLAC (as defined in Plan Section 6.8(e)(4)) or any alternative form of annuity permitted pursuant to a QLAC in which the Participant's Account has been invested.

**ADMINISTRATIVE PROCEDURES**

The following are optional administrative provisions. The Administrator may implement procedures that override any elections in this Section without a formal Plan amendment. In addition, modifications to these procedures will not affect an Employer's reliance on the Plan.

**A. Loan Limitations.** (complete only if loans to Participants are permitted; leave blank if none apply)

- a.  Limitations (select one or more):
    - 1.  Loans will be treated as Participant directed investments.
    - 2.  Loans will only be made for hardship or financial necessity as specified below (select a. or b.)
      - a.  hardship reasons specified in Plan Section 6.12
      - b.  financial necessity (as defined in the loan program).
    - 3.  The minimum loan will be \$\_\_\_\_\_.
    - 4.  A Participant may only have \_\_\_\_\_ (e.g., one (1)) loan(s) outstanding at any time.
    - 5.  All outstanding loan balances will become due and payable in their entirety upon the occurrence of a distributable event (other than satisfaction of the conditions for an in-service distribution (including a hardship distribution), if applicable).
    - 6.  The home loan term will be \_\_\_\_\_ years. (if not selected, the Administrator establishes the term for repayment of a home loan)
    - 7.  **Account restrictions.** Loans will only be permitted from the following Participant Accounts (select all that apply or leave blank if no limitations apply):
      - a.  Account(s) attributable to Employer matching contributions
      - b.  Account attributable to Employer contributions other than matching contributions
      - c.  Rollover Account
      - d.  Transfer Account
      - e.  Other: \_\_\_\_\_
- AND**, if loans are restricted to certain accounts, the limitations of Code §72(p) will be applied:
- f.  by determining the limits by only considering the restricted accounts.
  - g.  by determining the limits taking into account a Participant's entire interest in the Plan.

**Additional Loan Provisions** (select all that apply; leave blank if none apply)

- b.  **Loan payments.** Loans are repaid by (if left blank, then payroll deduction applies unless Participant is not subject to payroll (e.g., partner who only has a draw)):
  - 1.  payroll deduction
  - 2.  ACH (Automated Clearing House)
  - 3.  check
    - a.  Only for prepayment
- c.  **Interest rate.** Loans will be granted at the following interest rate (if left blank, then 3. below applies):
  - 1.  \_\_\_\_\_ percentage points over the prime interest rate
  - 2.  \_\_\_\_\_%
  - 3.  the Administrator establishes the rate at the time the loan is made
- d.  **Refinancing.** Loan refinancing is allowed.

**B. Life Insurance.** (Plan Section 7.5)

- a.  Life insurance may not be purchased.
- b.  Life insurance may be purchased...
  - 1.  at the option of the Administrator
  - 2.  at the option of the Participant

**Limitations**

- 3.  N/A (no limitations)
- 4.  The purchase of initial or additional life insurance will be subject to the following limitations (select one or more):
  - a.  Each initial Contract will have a minimum face amount of \$\_\_\_\_\_.
  - b.  Each additional Contract will have a minimum face amount of \$\_\_\_\_\_.
  - c.  The Participant has completed \_\_\_\_\_ Years (or Periods) of Service.
  - d.  The Participant has completed \_\_\_\_\_ Years (or Periods) of Service while a Participant in the Plan.
  - e.  The Participant is under age \_\_\_\_\_ on the Contract issue date.
  - f.  The maximum amount of all Contracts on behalf of a Participant may not exceed \$\_\_\_\_\_.
  - g.  The maximum face amount of any life insurance Contract will be \$\_\_\_\_\_.

**C. Plan Expenses.** Will the Plan assess against an individual Participant's Account certain Plan expenses that are incurred by, or are attributable to, a particular Participant based on use of a particular Plan service?

- a.  No
- b.  Yes

**Use of Forfeitures**

Forfeitures of Employer contributions other than matching contributions will be:

- c.  added to the Employer contribution and allocated in the same manner
- d.  used to reduce any Employer contribution
- e.  allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
- f.  other: \_\_\_\_\_ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion)

Forfeitures of Employer matching contributions will be:

- g.  N/A. Same as above or no Employer matching contributions.
- h.  used to reduce the Employer matching contribution.
- i.  used to reduce any Employer contribution.
- j.  other: First used to pay plan expenses and then used to reduce any Employer matching contribution. (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion)

**D. Directed investments**

- a.  Participant directed investments are NOT permitted.
- b.  Participant directed investments are permitted from the following Participant Accounts:
  - 1.  all Accounts
  - 2.  only from the following Accounts (select one or more):
    - a.  Account attributable to Employer contributions
    - b.  Rollover Account
    - c.  Transfer Account
    - d.  Other: Participant directed investments are permitted from all Accounts. It is the sole and exclusive responsibility of the Board of Trustees (and no other party) to select the menu of investment options available for Participant direction of investments. The Board of Trustees (and no other party) will designate how accounts will be invested in the absence of proper affirmative direction from the Participant. The Board of Trustees (and no other party) may designate a default fund under the Plan for contributions made on behalf of Participants who have been identified by the Plan Administrator as having not specified investment choices under the Plan. The Board of Trustees (and no other party) may appoint, at its option, one or more Investment Managers, investment advisers, or other agents to provide investment direction with respect to Plan assets. (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

**E. Rollover Limitations.** Will the Plan accept rollover contributions and/or direct rollovers from the sources specified below?

- a.  No, Administrator determines in operation which sources will be accepted.
- b.  Yes

**Rollover sources.** Indicate the sources of rollovers that will be accepted (select one or more)

- 1.  **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from (select one or more):
  - a.  a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), excluding after-tax employee contributions
  - b.  a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), including after-tax employee contributions
  - c.  a plan described in Code §403(a) (an annuity plan), excluding after-tax employee contributions
  - d.  a plan described in Code §403(a) (an annuity plan), including after-tax employee contributions
  - e.  a plan described in Code §403(b) (a tax-sheltered annuity), excluding after-tax employee contributions
  - f.  a plan described in Code §403(b) (a tax-sheltered annuity), including after-tax employee contributions
  - g.  a plan described in Code §457(b) (eligible deferred compensation plan)

**Direct Rollovers of Participant Loan.** The Plan will NOT accept a direct rollover of a Participant loan from another plan unless selected below (leave blank if default applies)

- h.  The Plan will accept a direct rollover of a Participant loan
- i.  The Plan will only accept a direct rollover of a Participant loan only in the following situation(s):  
 \_\_\_\_\_ (e.g., only from Participants who were employees of an acquired organization).

- 2.  **Participant Rollover Contributions from Other Plans (i.e., not via a direct plan-to-plan transfer).** The Plan will accept a contribution of an eligible rollover distribution (select one or more):

- a.  a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan)
- b.  a plan described in Code §403(a) (an annuity plan)
- c.  a plan described in Code §403(b) (a tax-sheltered annuity)
- d.  a governmental plan described in Code §457(b) (eligible deferred compensation plan)

3. [X] **Participant Rollover Contributions from IRAs:** The Plan will accept a rollover contribution of the portion of a distribution from a traditional IRA that is eligible to be rolled over and would otherwise be includible in gross income. Rollovers from Roth IRAs or a Coverdell Education Savings Account (formerly known as an Education IRA) are not permitted because they are not traditional IRAs. A rollover from a SIMPLE IRA is allowed if the amounts are rolled over after the individual has been in the SIMPLE IRA for at least two years.

F. **Trustee(s) or Insurer(s).** Information regarding Trustee(s)/Insurer(s) (required for the Summary Plan Description and, if requested, the Trust Agreement)

(Note: Select a. if not using provided trust. MUST select b and following questions as applicable):

- a. [ ] Do not produce the trust agreement  
 b. [X] Complete the following UNLESS not selecting supporting forms:

**Trustee/Insurer** (select a. OR one or more of d. - e.)

- c. [ ] **Insurer.** This Plan is funded exclusively with Contracts (select one or more of 1. - 4)

**Name of Insurer(s)**

1. [ ] \_\_\_\_\_  
 2. [ ] \_\_\_\_\_  
 3. [ ] Use Employer address/telephone number/email  
 4. [ ] Use following address/telephone number/email  
     a. Street: \_\_\_\_\_  
     b. City: \_\_\_\_\_  
     c. State: \_\_\_\_\_  
     d. Zip: \_\_\_\_\_  
     e. Telephone: \_\_\_\_\_  
     f. Email: \_\_\_\_\_

- d. [X] Individual Trustee(s)  
 e. [X] Corporate Trustee

**Name of Trust**

- f. Specify name of Trust (required for FIS trust): LYNX Money Purchase Plan Trust

**Individual Trustees (if d. selected above, complete g. - j.)**

**Directed/Discretionary Trustees.** The individual Trustee(s) executing this Adoption Agreement are (select g. or h.)

- g. [X] Select for each individual Trustee (skip to next question)  
 h. [ ] The following selections apply to all individual Trustee(s) (select 1. - 4. as applicable)  
     1. [ ] A discretionary Trustee over all plan assets (may not be selected with 2. - 4.)  
     2. [ ] A nondiscretionary (directed) Trustee over all plan assets (may not be selected with 1., 3. or 4.)  
     3. [ ] The individual Trustee(s) will serve as a discretionary Trustee over the following assets: \_\_\_\_\_  
         (may not be selected with 1. or 2.)  
     4. [ ] The individual Trustee(s) will serve as a nondiscretionary (directed) Trustee over the following assets:  
         \_\_\_\_\_ (may not be selected with 1. or 2.)

**Individual Trustee(s)** (complete if d. selected above)

- i. [X] Individual Trustee(s) are (select one or more of a. - j.; enter address at j. below)  
 a. **Name** Brian Anderson  
     **Title/Email:**  
     1. Title member of the Board of Trustees  
     2. Email \_\_\_\_\_ (optional)  
     **Trustee is:** (complete if g. selected above; select 3. - 6. as applicable)  
     3. [X] Discretionary Trustee over all plan assets (may not be selected with 4. - 6.)  
     4. [ ] A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
     5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
     6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)  
 b. **Name** Dana Baker  
     **Title/Email:**  
     1. Title member of the Board of Trustees  
     2. Email \_\_\_\_\_ (optional)  
     **Trustee is:** (complete if g. selected above; select 3. - 6. as applicable)  
     3. [X] Discretionary Trustee over all plan assets (may not be selected with 4. - 6.)  
     4. [ ] A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
     5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
     6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)

- c. Name Albert J Francis II  
Title/Email:  
1. Title member of the Board of Trustees  
2. Email \_\_\_\_\_ (optional)  
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)  
3.  Discretionary Trustee over all plan assets (may not be selected with 4. – 6.)  
4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be select with 3. or 5.)  
5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)
- d. Name \_\_\_\_\_  
Title/Email:  
1. Title \_\_\_\_\_  
2. Email \_\_\_\_\_ (optional)  
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)  
3.  Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)  
4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)
- e. Name \_\_\_\_\_  
Title/Email:  
1. Title \_\_\_\_\_  
2. Email \_\_\_\_\_ (optional)  
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)  
3.  Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)  
4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)
- f. Name \_\_\_\_\_  
Title/Email:  
1. Title \_\_\_\_\_  
2. Email \_\_\_\_\_ (optional)  
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)  
3.  Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)  
4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)
- g. Name \_\_\_\_\_  
Title/Email:  
1. Title \_\_\_\_\_  
2. Email \_\_\_\_\_ (optional)  
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)  
3.  Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)  
4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)
- h. Name \_\_\_\_\_  
Title/Email:  
1. Title \_\_\_\_\_  
2. Email \_\_\_\_\_ (optional)  
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)  
3.  Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)  
4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)

- i. **Name** \_\_\_\_\_  
**Title/Email:**  
 1. Title \_\_\_\_\_  
 2. Email \_\_\_\_\_ (optional)  
**Trustee is:** (complete if g. selected above; select 3. – 6. as applicable)  
 3.  Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)  
 4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
 5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
 6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)

- j. **Name** \_\_\_\_\_  
**Title/Email:**  
 1. Title \_\_\_\_\_  
 2. Email \_\_\_\_\_ (optional)  
**Trustee is:** (complete if g. selected above; select 3. – 6. as applicable)  
 3.  Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)  
 4.  A discretionary Trustee over the following plan assets: \_\_\_\_\_ (may not be selected with 3. or 5.)  
 5.  Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)  
 6.  A nondiscretionary (directed) Trustee or Custodian over the following plan assets \_\_\_\_\_ (may not be selected with 3. or 5.)

j.  **Individual Trustee Address** (complete if d. selected above)

1.  Use Employer address/telephone number/email  
 2.  Use following address/telephone number/email  
 a. Street: \_\_\_\_\_  
 b. City: \_\_\_\_\_  
 c. State: \_\_\_\_\_  
 d. Zip: \_\_\_\_\_  
 e. Telephone: \_\_\_\_\_  
 f. Email: \_\_\_\_\_

**Corporate Trustee Name/Type/Address** (complete if e. selected above)

- k.  Name Voya Institutional Trust Company

**Address/telephone number/email**

1.  Use Employer address/telephone number/email  
 2.  Use following address/telephone number/email  
 a. Street: One Orange Way  
 b. City: Windsor  
 c. State: Connecticut  
 d. Zip: 06019  
 e. Telephone: 1800-584-6001  
 f. Email: \_\_\_\_\_

**Directed/Discretionary.** The Corporate Trustee is (select 3. - 6. as applicable)

3.  A discretionary Trustee over all plan assets (may not be selected with 4. – 6.)  
 4.  A nondiscretionary (directed) Trustee over all plan assets (may not be selected with 3., 5. or 6.)  
 5.  A discretionary Trustee over the following plan assets over the following assets: \_\_\_\_\_ (may not be selected with 3. – 4.)  
 6.  A nondiscretionary (directed) Trustee over the following plan assets \_\_\_\_\_ (may not be selected with 3. – 4.)

**Signee** (optional):

7.  Name of person signing on behalf of the corporate Trustee \_\_\_\_\_  
 8.  Email address of person signing on behalf of the corporate Trustee \_\_\_\_\_

**Special Trustee for collection of contributions.** The Employer appoints the following Special Trustee with the responsibility to collect delinquent contributions (*optional*)

- l.  **Name** Board of Trustees

**Title:**

1. Fiduciary

**Address/telephone number/email**

2.  Use Employer address/telephone number/email

3.  Use following address/telephone number/email
- a. Street: \_\_\_\_\_
  - b. City: \_\_\_\_\_
  - c. State: \_\_\_\_\_
  - d. Zip: \_\_\_\_\_
  - e. Telephone: \_\_\_\_\_
  - f. Email: \_\_\_\_\_

**Custodian(s) Name/Address .** The Custodian(s) are *(optional)*

- m.  **Name(s)** \_\_\_\_\_
- Address/telephone number/email**
- 1.  Use Employer address/telephone number/email
  - 2.  Use following address/telephone number/email
    - a. Street: \_\_\_\_\_
    - b. City: \_\_\_\_\_
    - c. State: \_\_\_\_\_
    - d. Zip: \_\_\_\_\_
    - e. Telephone: \_\_\_\_\_
    - f. Email: \_\_\_\_\_

**Investment in common, collective or pooled trust funds.** The nondiscretionary Trustee, as directed or the discretionary Trustee acting without direction (and in addition to the discretionary Trustee's authority to invest in its own funds), may invest in any of the following trust funds: *(optional)*

- n.  VantageTrust and such other additional or replacement common, collective or pooled trust funds as the Board of Trustees may from time to time select. (Specify the names of one or more trust funds in which the Plan can invest)

**Choice of law**

- o.  This trust will be governed by the laws of the state of:
- 1.  State in which the Employer's principal office is located
  - 2.  State in which the corporate trustee or insurer is located
  - 3.  Other \_\_\_\_\_





TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Plan Description: Non-Standardized Pre-Approved Money Purchase/Profit Sharing  
FFN: 31799070703-001 Case: 201900539 EIN: 23-2139612  
Letter Serial No: Q702626a  
Date of Submission: 12/31/2018

FIS BUSINESS SYSTEMS LLC  
701 SAN MARCO BLVD.  
JACKSONVILLE, FL 32207

Contact Person:  
Janell Hayes  
Telephone Number:  
513-975-6319  
In Reference To: TEGE:EP:7521  
Date: 06/30/2020

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:

- . A copy of this letter
- . A copy of the approved plan
- . Copies of any subsequent amendments including their dates of adoption
- . Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

Except as provided below, our opinion doesn't apply to the requirements of IRC Sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion doesn't apply to IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:

- . The employer terminated the other plan before the effective date of this plan
- . No annual additions have been credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan, if the employer maintains any of the following:

- . A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)

- . An individual medical account as defined in IRC Section 415(1)(2), which is part of a pension or annuity plan maintained by the employer
- . A simplified employee pension plan

Our opinion doesn't apply to Treasury Regulations Section 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions which are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

Our opinion applies to the requirements of IRC Section 410(b) if 100 percent of all non-excludable employees benefit under the plan.

Employers who choose a safe harbor allocation formula and a safe harbor compensation definition may also rely on this opinion letter for the non-discriminatory amounts requirement under IRC Section 401(a)(4).

If this plan includes a cash or deferred arrangement (CODA) or otherwise provides for contributions subject to IRC Sections 401(k) and/or 401(m), the employer may rely on the opinion letter regarding the form of the non-discrimination tests of IRC Sections 401(k)(3) and 401(m)(2), if the employer uses a safe harbor compensation definition. For plans described in IRC Sections 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan. For SIMPLE plans described in IRC Sections 401(k)(11) and 401(m)(10), employers may also rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:

- . the plan is being used to amend or restate a plan of the employer which was not previously qualified
- . the employer's adoption of the plan precedes the issuance of the letter
- . the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
- . the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement.

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use.

Individual participants or adopting eligible employers with questions about the plan should contact you.

You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,



Khin M. Chow  
Director, EP Rulings and Agreements

**Letter 6186 (June-2020)**  
**Catalog Number 72434C**

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VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY  
**NON-STANDARDIZED GOVERNMENTAL 401(a) PRE-APPROVED PLAN**

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**ARTICLE I  
DEFINITIONS**

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context:

**1.1 "Account"** means any separate notational account established and maintained by the Administrator for each Participant under the Plan. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

- (a) "Combined Account" means the account representing the Participant's total interest under the Plan resulting from Employer contributions. In addition, Forfeitures are part of the Combined Account to the extent they are reallocated.
- (b) "Mandatory Contribution Account" means the account established hereunder to which mandatory Employee contributions made pursuant to Section 4.8 are allocated, to the extent such contributions are not picked-up by the Employer pursuant to Code §414(h). A Participant's Mandatory Contribution Account shall be fully Vested at all times.
- (c) "Rollover Account" means the account established hereunder to which amounts transferred from a qualified plan or individual retirement account in accordance with Section 4.6 are allocated.
- (d) "Transfer Account" means the account established hereunder to which amounts transferred to this Plan from a direct plan-to-plan transfer in accordance with Section 4.7 are allocated.
- (e) "Voluntary Contribution Account" means the account established hereunder to which after-tax voluntary Employee contributions made pursuant to Section 4.9 are allocated.

**1.2 "Administrator"** means the Employer unless another person, entity or committee has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

**1.3 "Adoption Agreement"** means the separate agreement which is executed by the Employer and sets forth the elective provisions of this Plan as specified by the Employer.

**1.4 "Affiliated Employer"** means any entity required to be aggregated with the Employer pursuant to Code §414.

**1.5 "Alternate Payee"** means an alternate payee pursuant to a qualified domestic relations order that meets the requirements of Code §414(p).

**1.6 "Anniversary Date"** means the last day of the Plan Year.

**1.7 "Annuity Starting Date"** means, with respect to any Participant, the first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitles the Participant to such benefit.

**1.8 "Beneficiary"** means the person (or entity) to whom all or a portion of a deceased Participant's interest in the Plan is, or may become, payable upon the Participant's death as identified in records maintained by the Plan, subject to the restrictions of Sections 6.2 and 6.6.

**1.9 "Code"** means the Internal Revenue Code of 1986, as it may be amended from time to time and includes applicable Internal Revenue Service (IRS) guidance.

**1.10 "Compensation"** means, with respect to any Participant, the amount determined in accordance with the following provisions, except as otherwise provided in the Adoption Agreement.

- (a) **Base definition.** One of the following, as elected in the Adoption Agreement:
  - (1) Information required to be reported under Code §§6041, 6051 and 6052 (Wages, tips and other compensation as reported on Form W-2). Compensation means wages, within the meaning of Code §3401(a), and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Code §§6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Code §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).
  - (2) Code §3401(a) Wages. Compensation means an Employee's wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in



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wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(3) 415 safe harbor compensation. Compensation means wages, salaries, Military Differential Pay, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Regulation §1.62-2(c))), and excluding the following:

- (i) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are excludable from the Employee's gross income, or any distributions from a plan of deferred compensation;
- (ii) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
- (iv) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts under Code §125), whether or not the contributions are actually excludable from the gross income of the Employee.

(b) **Paid during "determination period."** Compensation shall include only that Compensation which is actually paid to the Participant during the "determination period". Except as otherwise provided in this Plan, the "determination period" is the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the "determination period" shall be the Plan Year.

(c) **Inclusion of deferrals.** Notwithstanding the above, unless otherwise elected in the Adoption Agreement, Compensation shall include all of the following types of elective contributions and all of the following types of deferred compensation:

(1) Elective contributions that are made by the Employer on behalf of a Participant that are not includible in gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) and 403(b). If specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), amounts under Code §125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(2) Compensation deferred under an eligible deferred compensation plan within the meaning of Code §457(b).

(3) Employee contributions described in Code §414(h)(2) that are picked-up by the employing unit and thus are treated as Employer contributions.

(d) **Post-severance compensation – Code §415 Regulations.** The Administrator shall adjust Compensation for amounts that would otherwise be included in the definition of Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Plan Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of Compensation) if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

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(2) **Leave cash-outs.** Compensation shall include leave cash-outs if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** Compensation shall include deferred compensation if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled.

(e) **Compensation Dollar limitation.** For any Plan Year (or other applicable determination period) Compensation in excess of \$290,000 shall be disregarded for all. The dollar amount shall be adjusted by the Commissioner for increases in the cost-of-living in accordance with Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any "determination period" beginning with or within such calendar year. If a "determination period" consists of fewer than twelve (12) months, the \$290,000 annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the "determination period," and the denominator of which is twelve (12). In applying any Plan limitation on the amount of matching contributions, where such limits are expressed as a percentage of Compensation, the Administrator may apply the Compensation limit under this Section annually, even if the matching contribution formula is applied on any time interval which is less than the full Plan Year or the Administrator may pro rate the Compensation limit.

In the case of an "eligible Participant," the dollar limitation under Code §401(a)(17) shall not apply to the extent the amount under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993. For purposes of this provision, an "eligible Participant" is an individual who first became a Participant before the first Plan Year beginning after the earlier of (i) the Plan Year in which the Plan was amended to reflect Code §401(a)(17), or (ii) December 31, 1995.

(f) **Non-eligible Employee.** If, in the Adoption Agreement, the Employer elects to exclude a class of Employees from the Plan, then Compensation for any Employee who becomes eligible or ceases to be eligible to participate during a "determination period" shall only include Compensation while the Employee is an Eligible Employee.

(g) **Amendment.** If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

(h) **Affiliated Employers.** Affiliated Employers are treated as one Employer for purposes of Compensation. If, however, one or more Affiliated Employers are Participating Employers and the Plan (including the Adoption Agreement or a participation agreement) allocate Employer Contributions separately among the Employees directly employed by a Participating Employer, then, in computing such allocations, Compensation paid by other Participating Employers is excluded Compensation.

**1.11 "Contract" or "Policy"** means any life insurance policy, retirement income policy, or annuity contract (group or individual) issued by the Insurer. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

**1.12 "Custodian"** means a person or entity that has custody of all or any portion of the Plan assets.

**1.13 "Directed Trustee"** means a Trustee who, with respect to the investment of Plan assets, is subject to the direction of the Administrator, the Employer, a properly appointed Investment Manager, or Plan Participant.

**1.14 "Discretionary Trustee"** means a Trustee who has the authority and discretion to invest, manage or control any portion of the Plan assets.

**1.15 "Early Retirement Date"** means the date specified in the Adoption Agreement on which a Participant has satisfied the requirements specified in the Adoption Agreement (Early Retirement Age). If elected in the Adoption Agreement, a Participant shall become fully Vested upon satisfying such requirements if the Participant is still employed at the Early Retirement Age.

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A Participant who severs from employment after satisfying any service requirement but before satisfying the age requirement for Early Retirement Age and who thereafter reaches the age requirement contained herein shall be entitled to receive benefits under this Plan (other than any accelerated vesting and allocations of Employer contributions) as though the requirements for Early Retirement Age had been satisfied.

**1.16 "Effective Date"** means the date this Plan, including any restatement or amendment of this Plan, is effective. Where the Plan is restated or amended, a reference to Effective Date is the effective date of the restatement or amendment, except where the context indicates a reference to an earlier Effective Date. If any provision of this Plan is retroactively effective, the provisions of this Plan generally control. However, if the provision of this Plan is different from the provision of the Employer's prior plan document and, after the retroactive Effective Date of this Plan, the Employer operated in compliance with the provisions of the prior plan, then the provision of such prior plan is incorporated into this Plan for purposes of determining whether the Employer operated the Plan in compliance with its terms, provided operation in compliance with the terms of the prior plan do not violate any qualification requirements under the Code, Regulations, or other IRS guidance.

The Employer may designate special effective dates for individual provisions under the Plan where provided in the Adoption Agreement or under Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). If one or more qualified retirement plans have been merged into this Plan, the provisions of the merging plan(s) will remain in full force and effect until the effective date of the plan merger(s).

**1.17 "Eligible Employee"** means any Eligible Employee as elected in the Adoption Agreement and as provided herein.

(a) **"Reclassified Employees."** An individual shall not be an Eligible Employee (unless otherwise elected in Appendix A to the Adoption Agreement) if such individual is a "Reclassified Employee." A "Reclassified Employee" is any person the Employer does not treat as a common law employee or as a self-employed individual (including, but not limited to, independent contractors, persons the Employer pays outside of its payroll system and out-sourced workers) for federal income tax withholding purposes under Code §3401(a), irrespective of whether there is a binding determination that the individual is an Employee or a Leased Employee of the Employer. Self-Employed Individuals are not "Reclassified Employees."

(b) **Affiliated Employers.** Employees of an Affiliated Employer will not be treated as Eligible Employees prior to the date the Affiliated Employer adopts the Plan as a Participating Employer.

(c) **Union Employees.** If, in the Adoption Agreement, the Employer elects to exclude union employees, then Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining, shall not be eligible to participate in this Plan to the extent of employment covered by such agreement, unless the agreement provides for coverage in the Plan (see Section 4.1(d)). For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service in each respective category are treated separately.

(d) **Nonresident Employees.** If, in the Adoption Agreement, the Employer elects to exclude nonresident aliens, then Employees who are nonresident aliens (within the meaning of Code §7701(b)(1)(B)) who received no earned income (within the meaning of Code §911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code §861(a)(3)) shall not be eligible to participate in this Plan. In addition, this paragraph shall also apply to exclude from participation in the Plan an Employee who is a nonresident alien (within the meaning of Code §7701(b)(1)(B)) but who receives earned income (within the meaning of Code §911(d)(2)) from the Employer that constitutes income from sources within the United States (within the meaning of Code §861(a)(3)), if all of the Employee's earned income from the Employer from sources within the United States is exempt from United States income tax under an applicable income tax convention. The preceding sentence will apply only if all Employees described in the preceding sentence are excluded from the Plan.

**1.18 "Employee"** means any person who is employed by the Employer. The term "Employee" shall also include any person who is an employee of an Affiliated Employer and any Leased Employee deemed to be an Employee as provided in Code §414(n) or (o).

**1.19 "Employer"** means the governmental entity specified in the Adoption Agreement, any successor which shall maintain this Plan and any predecessor which has maintained this Plan. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan. This plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government, and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

**1.20 "Fiscal Year"** means the Employer's accounting year.

**1.21 "Forfeiture"** means that portion of a Participant's Account that is not Vested and is disposed of in accordance with the provisions of the Plan.

A Forfeiture will occur on the following, as elected by the Employer in the Adoption Agreement:

- (a) The last day of the Plan Year in which a Participant incurs five (5) consecutive 1-Year Breaks in Service, or
- (b) The distribution of the entire Vested portion of the Participant's Account of a Participant who has severed employment with the Employer. For purposes of this provision, if the Participant has a Vested benefit of zero, then such Participant shall be deemed to have received a distribution of such Vested benefit as of the year in which the severance of employment occurs. For this purpose, a Participant's Vested benefit shall not include: (i) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B), and (ii) the Participant's Rollover Account.
- (c) As soon as reasonably practical after the date a Participant severs employment.

Regardless of the preceding, if a Participant is eligible to share in the allocation of Forfeitures in the year in which the Forfeiture would otherwise occur, then the Forfeiture will not occur until the end of the first Plan Year for which the Participant is not eligible to share in the allocation of Forfeitures. Furthermore, the term "Forfeiture" shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

**1.22 "Former Employee"** means an individual who has severed employment with the Employer or an Affiliated Employer.

**1.23 "415 Compensation"** means, with respect to any Participant, such Participant's (a) Wages, tips and other compensation on Form W-2, (b) Code §3401(a) wages or (c) 415 safe harbor compensation as elected in the Adoption Agreement for purposes of Compensation (and as defined in Subsections 1.10(a)(1)-3 respectively). 415 Compensation shall be based on the full Limitation Year regardless of when participation in the Plan commences. Furthermore, regardless of any election made in the Adoption Agreement, 415 Compensation shall include any elective deferral (as defined in Code §§402(e)(3), 402(k) and 402(h)(1)(B)) and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code §§125, 457, and 132(f)(4). If the Plan contains pick-up provisions (certain contributions designated as employee contributions, that are then "picked-up" by the Employer), then those pick-up contributions are not includible as Compensation for purposes of IRC §415 & Reg. §1.415-2(d)(2)(i). In addition, Military Differential Pay is treated as 415 Compensation.

(a) **Deemed 125 compensation.** If elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), 415 Compensation shall also include deemed §125 compensation. Deemed §125 compensation is an amount that is excludable under §106 that is not available to a participant in cash in lieu of group health coverage under a §125 arrangement solely because the participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(b) **Post-severance compensation.** The Administrator shall adjust 415 Compensation for amounts that would otherwise be included in the definition of 415 Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered 415 Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** 415 Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of 415 Compensation) if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cash-outs.** 415 Compensation shall include leave cash-outs if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** 415 Compensation shall include deferred compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the

payment would have been paid if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** 415 Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** 415 Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee (within the meaning of Code §414(q)) immediately before becoming disabled.

(c) **Back pay.** Back pay, within the meaning of Regulations §1.415(c)-2(g)(8), shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(d) **Dollar limitation.** 415 Compensation will be limited to the same dollar limitations set forth in Section 1.10(e) adjusted in such manner as permitted under Code §415(d).

(e) **Amendment.** Except as otherwise provided herein, if, in connection with the adoption of any amendment, the definition of 415 Compensation has been modified, then for Plan Years prior to the Plan Year which includes the adoption date of such amendment, 415 Compensation means compensation determined pursuant to the terms of the Plan then in effect.

**1.24 "Hour of Service"** means (a) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties during the applicable computation period (these hours will be credited to the Employee for the computation period in which the duties are performed); (b) each hour for which an Employee is directly or indirectly compensated or entitled to Compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, incapacity (including disability), jury duty, lay-off, military duty or leave of absence) during the applicable computation period; (c) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages (these hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made). The same Hours of Service shall not be credited both under (a) or (b), as the case may be, and under (c).

Notwithstanding (b) above, (1) no more than 501 Hours of Service will be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (2) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation, or unemployment compensation or disability insurance laws; and (3) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. Furthermore, for purposes of (b) above, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

Hours of Service will be credited for employment with all Affiliated Employers and for any individual considered to be a Leased Employee pursuant to Code §414(n) or 414(o) and the Regulations thereunder.

Hours of Service will be determined using the actual hours method unless one of the methods below is elected in the Adoption Agreement. If the **actual hours** method is used to determine Hours of Service, an Employee is credited with the actual Hours of Service the Employee completes with the Employer or the number of Hours of Service for which the Employee is paid (or entitled to payment).

If the **days worked** method is elected, an Employee will be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the day.

If the **weeks worked** method is elected, an Employee will be credited with forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the week.

If the **semi-monthly payroll periods worked** method is elected, an Employee will be credited with ninety-five (95) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the semi-monthly payroll period.

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If the **months worked** method is elected, an Employee will be credited with one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.

If the **bi-weekly payroll periods worked** method is elected, an Employee will be credited with ninety (90) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the bi-weekly payroll period.

**1.25 "Insurer"** means any legal reserve insurance company which has issued or shall issue one or more Contracts or Policies under the Plan.

**1.26 "Investment Manager"** means a person or entity which renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or property of the Plan and which is appointed in accordance with Section 2.1(b).

**1.27 "Joint and Survivor Annuity"** means an immediate annuity for the life of a Participant with a survivor annuity for the life of the Participant's Spouse which is not less than fifty percent (50%), nor more than one hundred percent (100%) of the amount of the annuity payable during the joint lives of the Participant and the Participant's Spouse which can be purchased with the Participant's Vested interest in the Plan reduced by any outstanding loan balances pursuant to Section 7.4.

**1.28 "Late Retirement Date"** means the date of, or the first day of the month or the Anniversary Date coinciding with or next following, whichever corresponds to the election in the Adoption Agreement for the Normal Retirement Date, a Participant's actual retirement after having reached the Normal Retirement Date.

**1.29 "Leased Employee"** means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated workforce.

**1.30 "Limitation Year"** means the "determination period" used to determine Compensation. However, the Employer may elect a different Limitation Year in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). All qualified plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change to a new Limitation Year, the Limitation Year will be a twelve (12) consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve (12) consecutive month period ending on the last day of the period specified in the Adoption Agreement. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new "Limitation Year" must begin on a date within the "Limitation Year" in which the amendment is made. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year.

**1.31 "Military Differential Pay"** means any differential wage payments made to an individual that represents an amount which, when added to the individual's military pay, approximates the amount of Compensation that was paid to the individual while working for the Employer. An individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment.

**1.32 "Nonelective Contribution"** means the Employer's contributions to the Plan.

**1.33 "Normal Retirement Age"** means the age elected in the Adoption Agreement at which time a Participant's Account shall be nonforfeitable (if elected in the Adoption Agreement and if the Participant is employed by the Employer on or after that date). For money purchase pension plans, if the employer enforces a mandatory retirement age, then the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement. Upon attaining Normal Retirement Age or the stated age and completion of the required years of service and any other reasonable requirements set forth in the Plan, the Plan will provide for full vesting of an Employee's interest.

**1.34 "Normal Retirement Date"** means the date elected in the Adoption Agreement.

**1.35 "1-Year Break in Service"** means, if the Hour of Service method is used, the applicable computation period that is used to determine a Year of Service during which an Employee or Former Employee has not completed more than 500 Hours of Service. However, if the Employer selected, in the Service Crediting Method Section of the Adoption Agreement, to define a Year of Service as less than 1,000 Hours of Service, then the 500 Hours of Service in this definition of 1-Year Break in Service shall be proportionately reduced. Further, solely for the purpose of determining whether an Employee has incurred a 1-Year Break in Service, Hours of Service shall be

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recognized for "authorized leaves of absence" and "maternity and paternity leaves of absence." For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a 1-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a "maternity or paternity leave of absence" shall be those which would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a "maternity or paternity leave of absence" shall not exceed the number of Hours of Service needed to prevent the Employee from incurring a 1-Year Break in Service.

"Authorized leave of absence" means an unpaid, temporary cessation from active employment with the Employer pursuant to an established policy, whether occasioned by illness, military service, or any other reason.

A "maternity or paternity leave of absence" means an absence from work for any period by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement.

If the elapsed time method is elected in the Service Crediting Method Section of the Adoption Agreement, then a "1-Year Break in Service" means a twelve (12) consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date; provided, however, that the Employee or Former Employee does not perform an Hour of Service for the Employer during such twelve (12) consecutive month period.

**1.36 "Participant"** means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the individual has an Account balance in the Plan).

**1.37 "Participant Directed Account"** means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

**1.38 "Participant Direction Procedures"** means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.10 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

**1.39 "Participating Employer"** means an Employer which, with the consent of the "lead Employer" adopts the Plan pursuant to Section 10.1 or Article XI. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan.

**1.40 "Period of Service"** means the aggregate of all periods of service commencing with an Employee's first day of employment or reemployment with the Employer or an Affiliated Employer and ending on the first day of a Period of Severance, or for benefit accrual purposes, ending on the severance from service date. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee who incurs a Period of Severance of twelve (12) months or less will also receive service-spanning credit by treating any such period as a Period of Service for purposes of eligibility and vesting (but not benefit accrual). For purposes of benefit accrual, a Participant's whole year Periods of Service is equal to the sum of all full and partial periods of service, whether or not such service is continuous or contiguous, expressed in the number of whole years represented by such sum. For this purpose, fractional periods of a year will be expressed in terms of days.

Periods of Service with any Affiliated Employer shall be recognized. Furthermore, Periods of Service with any predecessor employer that maintained this Plan shall be recognized. Periods of Service with any other predecessor employer shall be recognized as elected in the Adoption Agreement.

In determining Periods of Service for purposes of vesting under the Plan, Periods of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

In the event the method of crediting service is amended from the Hour of Service method to the elapsed time method, an Employee will receive credit for a Period of Service consisting of:

- (a) A number of years equal to the number of Years of Service credited to the Employee before the computation period during which the amendment occurs; and
- (b) The greater of (1) the Periods of Service that would be credited to the Employee under the elapsed time method for service during the entire computation period in which the transfer occurs or (2) the service taken into account under the Hour of Service method as of the date of the amendment.

In addition, the Employee will receive credit for service subsequent to the amendment commencing on the day after the last day of the computation period in which the transfer occurs.

**1.41 "Period of Severance"** means a continuous period of time during which an Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of an individual who is absent from work for "maternity or paternity" reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a one year Period of Severance. For purposes of this paragraph, an absence from work for "maternity or paternity" reasons means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

**1.42 "Plan"** means this instrument (hereinafter referred to as Voya Retirement Insurance and Annuity Company Non-Standardized Governmental 401(a) Pre-Approved Plan (Basic Plan Document #01 and the Adoption Agreement) as adopted by the Employer, including all amendments thereto and any appendix which is specifically permitted pursuant to the terms of the Plan.

**1.43 "Plan Year"** means the Plan's accounting year as specified in the Adoption Agreement. Unless there is a Short Plan Year, the Plan Year will be a twelve-consecutive month period.

**1.44 "Pre-Retirement Survivor Annuity"** means an immediate annuity for the life of a Participant's Spouse, the payments under which must be equal to the benefit which can be provided with the percentage, as specified in the Adoption Agreement, of the Participant's Vested interest in the Plan as of the date of death. If no election is made in the Adoption Agreement, the percentage shall be equal to fifty percent (50%). Furthermore, if less than one hundred percent (100%) of the Participant's Vested interest in the Plan is used to provide the Pre-Retirement Survivor Annuity, a proportionate share of each of the Participant's Accounts subject to the Pre-Retirement Survivor Annuity shall be used to provide the Pre-Retirement Survivor Annuity.

**1.45 "Regulation"** means the Income Tax Regulations as promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time.

**1.46 "Retirement Date"** means the date as of which a Participant retires for reasons other than Total and Permanent Disability, regardless of whether such retirement occurs on a Participant's Normal Retirement Date, Early Retirement Date or Late Retirement Date (see Section 6.1).

**1.47 "Short Plan Year"** means, if specified in the Adoption Agreement or as the result of an amendment, a Plan Year of less than a twelve (12) month period. If there is a Short Plan Year, the following rules shall apply in the administration of this Plan. In determining whether an Employee has completed a Year of Service (or Period of Service if the elapsed time method is used) for benefit accrual purposes in the Short Plan Year, the number of the Hours of Service (or months of service if the elapsed time method is used) required shall be proportionately reduced based on the number of days (or months) in the Short Plan Year.

**1.48 "Spouse"** means, a spouse as determined under federal tax law. In addition, with respect to benefits or rights not mandated by law, Spouse also includes a spouse as elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

**1.49 "Terminated Participant"** means a person who has been a Participant, but whose employment has been terminated with the Employer (including an Affiliated Employer) or applicable Participating Employer, other than by death, Total and Permanent Disability or retirement.

**1.50 "Total and Permanent Disability"** means, unless otherwise specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The disability of a Participant shall be determined by a licensed physician. However, if the condition constitutes total disability under the federal Social Security Acts, the Administrator may rely upon such determination that the Participant is Totally and Permanently Disabled for the purposes of this Plan. The determination shall be applied uniformly to all Participants.

**1.51 "Trustee"** means any person or entity that has agreed to serve as Trustee pursuant to the terms of the Trust agreement, or any successors thereto. The Employer may designate Trustees by business position or title. In addition, unless the context means, or the Plan provides, otherwise, the term "Trustee" shall mean the Insurer if the Plan is fully insured. The Employer has no reliance on the IRS opinion letter with respect to the separate Trust agreement.

**1.52 "Trust Fund"** means, if the Plan is funded with a trust, the assets of the Plan and Trust as the same shall exist from time to time.

**1.53 "Valuation Date"** means the date or dates specified in the Adoption Agreement. Regardless of any election to the contrary, for purposes of the determination and allocation of earnings and losses, the Valuation Date shall include the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of Participants' Accounts during the Plan



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Year, which may include any day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, or any stock exchange used by such agent, are open for business.

**1.54 "Vested"** means the nonforfeitable portion of any Account maintained on behalf of a Participant.

**1.55 "Year of Service"** means the computation period of twelve (12) consecutive months, herein set forth, and during which an Employee has completed at least 1,000 Hours of Service (unless a different number of Hours of Service is specified in the Adoption Agreement).

For purposes of eligibility for participation, the initial computation period shall begin with the date on which the Employee first performs an Hour of Service (employment commencement date). Unless otherwise elected in the Service Crediting Method Section of the Adoption Agreement, the succeeding computation periods shall begin on the anniversary of the Employee's employment commencement date. However, unless otherwise elected in the Adoption Agreement, if one (1) Year of Service or less is required as a condition of eligibility, then the computation period after the initial computation period shall shift to the current Plan Year which includes the anniversary of the date on which the Employee first performed an Hour of Service, and subsequent computation periods shall be the Plan Year. If there is a shift to the Plan Year, an Employee who is credited with the number of Hours of Service to be credited with a Year of Service in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two (2) Years of Service for purposes of eligibility to participate.

If two (2) (or more) Years of Service are required as a condition of eligibility, a Participant will only have completed two (2) (or more) Years of Service for eligibility purposes upon completing two (2) or more consecutive Years of Service without an intervening 1-Year Break in Service.

For vesting purposes, and all other purposes not specifically addressed in this Section, the computation period shall be the period elected in the Service Crediting Method Section of the Adoption Agreement. If no election is made in the Service Crediting Method Section of the Adoption Agreement, then the computation period shall be the Plan Year.

In determining Years of Service for purposes of vesting under the Plan, Years of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

Years of Service and 1-Year Breaks in Service for eligibility purposes will be measured on the same eligibility computation period. Years of Service and 1-Year Breaks in Service for vesting purposes will be measured on the same vesting computation period.

Years of Service with any Affiliated Employer shall be recognized. Furthermore, Years of Service with any predecessor employer that maintained this Plan shall be recognized. Years of Service with any other employer shall be recognized as elected in the Adoption Agreement.

In the event the method of crediting service is amended from the elapsed time method to the Hour of Service method, an Employee will receive credit for Years of Service equal to:

- (a) The number of Years of Service equal to the number of 1-year Periods of Service credited to the Employee as of the date of the amendment; and
- (b) In the computation period which includes the date of the amendment, a number of Hours of Service (using the Hours of Service equivalency method, if any, elected in the Adoption Agreement) to any fractional part of a year credited to the Employee under this Section as of the date of the amendment.

## ARTICLE II ADMINISTRATION

### 2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) **Appointment of Trustee (or Insurer) and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove one or more Trustees (or Insurers) and Administrators from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

(b) **Appointment of Investment Manager.** Unless prohibited by the terms of the Trust agreement, the Employer may appoint, at its option, one or more Investment Managers, investment advisers, or other agents to provide investment direction to the Trustee (or Insurer) with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form

acceptable to the Trustee (or Insurer) and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have the authority to direct the investment.

(c) **Indemnity.** To the extent permitted by the Code, and unless otherwise specified in a separate agreement, the Employer will indemnify and hold harmless the Administrator, officers, directors, shareholders, employees, and agents of the Employer; the Plan; the Trustees, Fiduciaries, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, and other sanctions or compliance fees) arising out of or relating to the Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan. This indemnity provision shall continue to apply to the Employer with respect to the period the entity was maintaining this Plan, even if the Employer ceases to maintain the Plan.

## **2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY**

The Employer may appoint one or more Administrators. If the Employer does not appoint an Administrator, the Employer will be the Administrator. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written or electronic acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. Upon the resignation or removal of an Administrator, the Employer may designate in writing a successor to this position.

## **2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES**

If more than one person is appointed as Administrator, then the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. If no such delegation is made by the Employer, then the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee (or Insurer) in writing of such action and specify the responsibilities of each Administrator. The Trustee (or Insurer) thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee (or Insurer) a written revocation of such designation.

## **2.4 POWERS AND DUTIES OF THE ADMINISTRATOR**

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Benefits under this Plan will be paid only if the Administrator decides in its discretion that the applicant is entitled to them. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done based upon uniform principles consistently applied and shall be consistent with the intent that the Plan continue to be deemed a qualified plan under the terms of Code §401(a). The Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan.

The Administrator shall be charged with the duties of the general administration of the Plan and the powers necessary to carry out such duties as set forth under the terms of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of an Employee to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's benefit formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (c) to compute, certify, and direct agents of the Plan respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (d) to authorize and direct the Trustee (or Insurer) with respect to all discretionary or otherwise directed disbursements from the Trust Fund;
- (e) to maintain all necessary records for the administration of the Plan;
- (f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan that are consistent with the terms hereof;

- (g) to determine the size and type of any Contract to be purchased from any Insurer, and to designate the Insurer from which such Contract shall be purchased;
- (h) to compute and certify to the Employer and to the Trustee (or Insurer) from time to time the sums of money necessary or desirable to be contributed to the Plan;
- (i) to consult with the Employer and agents of the Plan regarding the short and long-term liquidity needs of the Plan;
- (j) to assist Participants regarding their rights, benefits, or elections available under the Plan; and
- (k) to determine the validity of, and take appropriate action with respect to, any "qualified domestic relations order" received by it.

## **2.5 RECORDS AND REPORTS**

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by applicable law.

## **2.6 APPOINTMENT OF ADVISERS**

The Administrator may appoint counsel, specialists, advisers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) and other persons as the Administrator deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and, if applicable, to Plan Participants.

## **2.7 INFORMATION FROM EMPLOYER**

The Employer shall supply full and timely information to the Administrator on all pertinent facts as the Administrator may require in order to perform its functions hereunder and the Administrator shall advise appropriate agents of the Plan of such of the foregoing facts as may be pertinent to the agent's duties with respect to the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

## **2.8 PAYMENT OF EXPENSES**

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) appointed for the purpose of assisting the Administrator or Trustee (or Insurer) in carrying out the instructions of Participants as to the directed investment of their Accounts (if permitted) and other specialists and their agents and other costs of administering the Plan. If liquid assets of the Plan are insufficient to cover the fees of the Trustee (or Insurer) or the Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

**Expenses may be charged to Account.** Unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or Alternate Payee.

## **2.9 MAJORITY ACTIONS**

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there is more than one Administrator, then they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf.

## **2.10 CLAIMS PROCEDURES**

(a) Non-ERISA provisions. Sections 2.10(a) and (b) apply unless (1) the Administrator has adopted other Plan provisions or other claims procedures that override all or a portion of the provisions set forth in this Plan Section 2.10, or (2) the Employer has elected in the Adoption Agreement to apply all or some of Subsections (c) – (g) below (which are based on provisions of the Employee Retirement Security Act even though ERISA does not apply to this Plan).

Any person who believes that he or she is entitled to a benefit under the Plan shall file with the Administrator a written notice of claim for such benefit within 45 days of such right accruing or shall forever waive entitlement to such benefit. Within 120 days after its receipt of such written notice of claim, the Administrator shall either grant or deny such claim provided, however, any delay on the part of the

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Administrator is arriving at a decision shall not adversely affect benefits payable under a granted claim. The Administrator may, however, implement claims procedures in addition to those provided in this Plan. The implementation of such procedures shall not be considered a Plan amendment that affects an Employer's reliance on this pre-approved plan.

The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

(b) Plan Administrator discretion; court review. The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

(c) Initial Claim. Claims for benefits under the Plan may be filed in writing with the Administrator. Written or electronic notice of the disposition of a claim shall be furnished to the claimant within ninety (90) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) after the application is filed, or such period as is required by applicable law or Department of Labor regulation. Any electronic notification shall comply with the standards imposed by Department of Labor Regulation §2520.104b 1(c)(1)(i), (iii) and (iv) or any subsequent guidance. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claims review procedure.

(d) Claims review. Any Employee, Former Employee, or Beneficiary of either, who has been denied a benefit by a decision of the Administrator pursuant to Section 2.10 shall be entitled to request the Administrator to give further consideration to the claim by filing with the Administrator a written request. Such request, together with a written statement of the reasons why the claimant believes such claim should be allowed, shall be filed with the Administrator no later than sixty (60) days after receipt of the written notification provided for in this Section 2.10(c). A final decision as to the allowance of the claim shall be made by the Administrator within sixty (60) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) of receipt of the appeal (unless there has been an extension of sixty (60) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the sixty (60) day period (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts)). Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. The communication may be written or electronic (provided the electronic communication complies with the standards imposed by Department of Labor Regulation §2520.104b 1(c)(1)(i), (iii) and (iv) or any subsequent guidance). Notwithstanding the preceding, to the extent any of the time periods specified in this Section are amended by law or Department of Labor regulation, then the time frames specified herein shall automatically be changed in accordance with such law or regulation.

(e) Deadline to file claim. To be considered timely under the Plan's claims procedures, a claim must be filed under Sections 2.10(c) or (d) above within one year after the claimant knew or reasonably should have known of the principal facts upon which the claim is based. Knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to the claimant for the purpose of applying this deadline.

(f) Exhaustion of administrative remedies. The exhaustion of the claims procedures is mandatory for resolving every claim and dispute arising under this Plan. As to such claims and disputes: (1) no claimant shall be permitted to commence any legal action to recover Plan benefits or to enforce or clarify rights under the Plan or under any other provision of law, whether or not statutory, until the claims procedures set forth in Subsections (a) and (b) above have been exhausted in their entirety; and (2) in any such legal action all explicit and all implicit determinations by the Administrator (including, but not limited to, determinations as to whether the claim, or a request for a review of a denied claim, was timely filed) shall be afforded the maximum deference permitted by law.

(g) Deadline to file action. No legal action to recover Plan benefits or to enforce or clarify rights under the Plan or under any other provision of law, whether or not statutory, may be brought by any claimant on any matter pertaining to this Plan unless the legal action is commenced in the proper forum before the earlier of: (1) thirty (30) months after the claimant knew or reasonably should have known of the principal facts on which the claim is based, or (2) six (6) months after the claimant has exhausted the claims procedure under this Plan. Knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to every claimant who is or claims to be a Beneficiary of the Participant or otherwise claims to derive an entitlement by reference to the Participant for purposes of applying the previously specified periods.

**ARTICLE III  
ELIGIBILITY**

**3.1 CONDITIONS OF ELIGIBILITY**

An Eligible Employee shall be eligible to participate hereunder on the date such Employee has satisfied the conditions of eligibility, if any, elected in the Adoption Agreement.

**3.2 EFFECTIVE DATE OF PARTICIPATION**

(a) **General rule.** An Eligible Employee who has satisfied the conditions of eligibility pursuant to Section 3.1 shall become a Participant effective as of the date elected in the Adoption Agreement.

(b) **Rehired Employee.** This Subsection only applies to the extent the Employer elects to apply the Break-in-Service rules in Appendix A to the Adoption Agreement. If the Break-in-Service rules do not apply, then a rehired Employee is treated as a new hire. If the Break-in-Service rules do apply, then if an Eligible Employee is not employed on the date determined pursuant to (a) above, but is reemployed before a 1-Year Break in Service has occurred, then such Eligible Employee shall become a Participant on the date of reemployment or, if later, the date that the Employee would have otherwise entered the Plan had the Employee not terminated employment. If such Employee incurs a 1-Year Break in Service, then eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5.

(c) **Recognition of predecessor service.** Unless specifically provided otherwise in the Adoption Agreement, an Eligible Employee who satisfies the Plan's eligibility requirement conditions by reason of recognition of service with a predecessor employer will become a Participant as of the day the Plan credits service with a predecessor employer or, if later, the date the Employee would have otherwise entered the Plan had the service with the predecessor employer been service with the Employer.

(d) **Noneligible to eligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant, shall go from a classification of a noneligible Employee to an Eligible Employee, such Employee shall become a Participant on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee.

(e) **Eligible to noneligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise become a Participant, shall go from a classification of an Eligible Employee to a noneligible class of Employees, such Employee shall become a Participant in the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee. However, if such Employee incurs a 1-Year Break in Service, eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5 (if applicable to the Plan).

**3.3 DETERMINATION OF ELIGIBILITY**

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan.

**3.4 TERMINATION OF ELIGIBILITY**

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, such Participant shall continue to vest in the Plan for each Year of Service (or Period of Service, if the elapsed time method is used) completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund in the same manner as Participants.

**3.5 REHIRED EMPLOYEES AND 1-YEAR BREAKS IN SERVICE**

(a) **Application of Break-in Service rules.** The Break-in-Service rules set forth in this Section only apply if the Employer elects to apply the Break-in-Service rules in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). If the Employer does not elect to apply the Break-in-Service rules, then rehired Employees are treated as new hires.

(b) **Rehired Participant/immediate re-entry.** If any Former Employee who had been a Participant is reemployed by the Employer, then the Employee shall become a Participant as of the reemployment date, unless the Employee is not an Eligible Employee or unless the Employee does not satisfy the eligibility conditions taking into account prior service to the extent such prior service is not disregarded pursuant to Section 3.5(e) below. If such prior service is disregarded, then the rehired Eligible Employee shall be treated as a new hire.

(c) **Rehired Eligible Employee who satisfied eligibility.** If any Eligible Employee had satisfied the Plan's eligibility requirements but, due to a severance of employment, did not become a Participant, then such Eligible Employee shall become a Participant as of the later of (1) the entry date on which he or she would have entered the Plan had there been no severance of

employment, or (2) the date of his or her re-employment. Notwithstanding the preceding, if the rehired Eligible Employee's prior service is disregarded pursuant to Section 3.5(e) below, then the rehired Eligible Employee shall be treated as a new hire.

(d) **Rehired Eligible Employee who had not satisfied eligibility.** If any Eligible Employee who had not satisfied the Plan's eligibility requirements is rehired after severance from employment, then such Eligible Employee shall become a Participant in the Plan in accordance with the eligibility requirements set forth in the Adoption Agreement and the Plan. However, in applying any shift in an eligibility computation period, the Eligible Employee is not treated as a new hire unless prior service is disregarded in accordance with Section 3.5(e) below.

(e) **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions).** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the "rule of parity" provisions, then if any Employee is reemployed after five (5) 1-Year Breaks in Service has occurred, Years of Service (or Periods of Service if the elapsed time method is being used) shall include Years of Service (or Periods of Service if the elapsed time method is being used) prior to the 5-Year Break in Service subject to the rules set forth below. The Employer may elect in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to make the provisions of this paragraph applicable for purposes of eligibility and/or vesting.

(1) In the case of a Former Employee who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions, Years of Service (or Periods of Service) before a period of 1-Year Breaks in Service will not be taken into account if the number of consecutive 1-Year Breaks in Service equals or exceeds the greater of (i) five (5) or (ii) the aggregate number of pre-break Years of Service (or Periods of Service). Such aggregate number of Years of Service (or Periods of Service) will not include any Years of Service (or Periods of Service) disregarded under the preceding sentence by reason of prior 1-Year Breaks in Service;

(2) A Former Employee who has not had Years of Service (or Periods of Service) before a 1-Year Break in Service disregarded pursuant to (1) above, shall participate in the Plan as of the date of reemployment, or if later, as of the date the Former Employee would otherwise enter the Plan pursuant to Sections 3.1 and 3.2 taking into account all service not disregarded.

(f) **Vesting after five (5) 1-Year Breaks in Service.** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the Break-in-Service rules, then if f. a Participant incurs five (5) consecutive 1-Year Breaks in Service, the Vested portion of such Participant's Account attributable to pre-break service shall not be increased as a result of post-break service. In such case, separate accounts will be maintained as follows:

(1) one account for nonforfeitable benefits attributable to pre-break service; and

(2) one account representing the Participant's Employer-derived Account balance in the Plan attributable to post-break service.

(g) **Waiver of allocation or contribution conditions.** If the Employer elects in the Adoption Agreement to waive allocations or contributions due to retirement (early or normal retirement), then a Participant shall only be entitled to one such waiver. Accordingly, if a Participant retires and allocation or contribution conditions are waived, then the Plan will not waive the allocation or contribution conditions if the Participant is rehired and then retires again.

### **3.6 ELECTION NOT TO PARTICIPATE**

An Employee may, subject to the approval of the Employer, elect voluntarily not to participate in any component of the Plan before the Employee first becomes eligible to participate in any qualified plan (subject to Code §401(a)), or any other plan or arrangement of the employer that is described in Code section 219(g)(5)(A) (whether or not terminated) maintained by the Employer. Such election must be made upon inception of the Plan or such other plan or arrangement or at any time prior to the time the Employee first becomes eligible to participate under any such plan maintained by the Employer. The election not to participate must be irrevocable and communicated to the Employer, in writing, within a reasonable period of time before the date the Employee would have otherwise entered the Plan. Notwithstanding anything in this Section to the contrary, if any prior Plan document of this Plan contained a provision permitting an Employee to make a revocable election not to participate and an Employee made such revocable election not to participate while that prior Plan document was in effect, then such Employee's waiver shall continue to be in effect.

### **3.7 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE**

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer may take corrective actions consistent with the IRS Employee Plans Compliance Resolution System (i.e., Rev. Proc. 2018-52, Rev. Proc. 2019-19, or any subsequent guidance).

ARTICLE IV  
CONTRIBUTION AND ALLOCATION

4.1 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

(a) **For a Money Purchase Plan.** All contributions made by the Employer will be made in cash. For each Plan Year, the Employer will contribute to the Plan the following:

- (1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions made by Participants; plus
- (2) On behalf of each Participant eligible to share in allocations, for each year of such Participant's participation in this Plan, the Employer will contribute the amount specified in the Adoption Agreement; plus
- (3) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution.

(b) **For a 401(a) Plan.** For each Plan Year, the Employer will (or may with respect to any discretionary contributions) contribute to the Plan:

- (1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions; plus
- (2) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution; plus
- (3) If elected in the Adoption Agreement, an Employer contribution equal to a specified contribution or a discretionary amount determined each year by the Employer.

(c) **Frozen Plans.** The Employer may designate that the Plan is a frozen Plan at the Contribution Types Section of the Adoption Agreement. As a frozen Plan, the Employer will not make any Employer contributions with respect to Compensation earned after the date the Plan is frozen. In addition, once a Plan is frozen, no additional Employees shall become Participants.

(d) **Union Employees.** Regardless of any provision in this Plan to the contrary, Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining shall be eligible to participate in this Plan to the extent of employment covered by such agreement provided the agreement provides for coverage in the Plan. The benefits, including but not limited to, contributions, allocations and vesting, under this Plan shall be those set forth in the Adoption Agreement. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service and Compensation in each respective category are treated separately for purposes of the Plan.

(e) **Social Security Replacement Plan.** The Employer may elect under the Adoption Agreement to indicate its intention to qualify this Plan as a Social Security Replacement Plan under Code §3121(b)(7)(F). If the Employer makes the election to qualify the Plan as a Social Security Replacement Plan, the Plan will allocate a minimum contribution amount (Employer and Employee Contributions) of seven and one-half percent (7.5%) of Compensation. The Plan will consider each Participant a member of a retirement system that provides benefits comparable to the benefits he or she would have received under Social Security. In the case of part-time, seasonal and temporary Employees, the benefit will be nonforfeitable.

4.2 TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION

Unless otherwise provided by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

4.3 ALLOCATION OF CONTRIBUTION, FORFEITURES AND EARNINGS

(a) **Separate accounting.** The Administrator shall establish and maintain an Account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other Valuation Date, all amounts allocated to each such Participant as set forth herein.

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(b) **Allocation of contributions.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution, if any, for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate any contributions as follows:

(1) **Money Purchase Pension Plan.** For a Money Purchase Plan:

- (i) The Employer's contribution shall be allocated to each Participant's Account in the manner set forth in Section 4.1 herein and as specified in the Adoption Agreement.
- (ii) Notwithstanding the preceding provisions, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(2) **401(a) Plan.** For a 401(a) Plan (which is a profit sharing plan within the meaning of Code §401(a)):

- (i) The Employer's contribution shall be allocated to each Participant's Account in accordance with the allocation method that corresponds with the elections in the Adoption Agreement. The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the allocation shall be made in accordance with the elections in the Adoption Agreement.
- (ii) Notwithstanding the preceding provision, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(c) **Gains or losses.** Except as otherwise provided in Section 4.10 with respect to Participant Directed Accounts, as of each Valuation Date, before allocation of any Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund (exclusive of assets segregated for distribution) shall be allocated in accordance with such rules and procedures that are established by the Administrator and that are applied in a uniform and nondiscriminatory manner based upon the investments of the Trust Fund and the Participants' accounts to which the net income is allocated. For purposes of this Section, the term "net income" means the net of any interest, dividends, unrealized appreciation and depreciation, capital gains and losses, and investment expenses of the Trust Fund determined on each Valuation Date. However, Participants' accounts which have been segregated for investment purposes (including any Participant Directed Accounts) will only have the net income earned thereon allocated thereto. Policy dividends or credits will be allocated to the Participant's Account for whose benefit the Policy is held.

**Recapture account.** The Administrator in its discretion may use a "Recapture Account" to pay non settlor Plan expenses and may allocate funds in the "Recapture Account" (or excess funds therein after payment of Plan expenses) as earnings or as otherwise permitted by applicable law. The Administrator will exercise its discretion in a reasonable, uniform and nondiscriminatory manner. A "Recapture Account" is an account designated to receive amounts which a Plan service provider receives in the form of 12b 1 fees, sub transfer agency fees, shareholder servicing fees or similar amounts (also known as "revenue sharing"), which are received by the service provider from a source other than the Plan and which the service provider may remit to the Plan.

**Late trading and market timing settlement.** In the event the Plan becomes entitled to a settlement from a mutual fund or other investment relating to late trading, market timing or other activities, the Administrator will allocate the settlement proceeds to Participants and Beneficiaries in accordance with Department of Labor Field Assistance Bulletin 2006-01 or other applicable law.

(d) **Contracts.** Participants' Accounts shall be debited for any insurance or annuity premiums paid, if any, and credited with any dividends or interest received on Contracts.

(e) **Forfeitures.** Forfeitures must be disposed of no later than the last day of the Plan Year following the Plan Year in which the Forfeiture occurs. The Employer may direct the Administrator to use Forfeitures to satisfy any contribution that may be required pursuant to Section 6.10 or to pay any Plan expenses. With respect to a Money Purchase Plan, any remaining Forfeitures will be disposed of in accordance with the elections in the Adoption Agreement. With respect to all other plans, the Employer must direct the Administrator to use any remaining Forfeitures in accordance with any combination of the following methods, including a different method based on the source of such Forfeitures. Forfeitures may be:

- (1) Added to any Employer discretionary contribution and allocated in the same manner
- (2) Used to reduce any Employer contribution
- (3) Added to any Employer matching contribution and allocated as an additional matching contribution
- (4) Allocated to all Participants in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year



If Forfeitures are allocated to Participants (rather than used to reduce Employer contributions) then the Employer must also direct the Administrator as to which Participants are eligible to share in such allocation.

(f) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, force majeure, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

#### 4.4 MAXIMUM ANNUAL ADDITIONS

(a) **Calculation of "annual additions."**

(1) If a Participant does not participate in, and has never participated in another qualified plan maintained by the "employer," or a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer," or an individual medical benefit account (as defined in Code §415(l)(2)) maintained by the "employer," or a simplified employee pension (as defined in Code §408(k)) maintained by the "employer" which provides "annual additions," the amount of "annual additions" which may be credited to the Participant's Accounts for any Limitation Year shall not exceed the lesser of the "maximum permissible amount" or any other limitation contained in this Plan. If the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the "annual additions" for the Limitation Year to exceed the "maximum permissible amount," the amount contributed or allocated will be reduced so that the "annual additions" for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year, the Administrator shall determine the "maximum permissible amount" for each Participant for such Limitation Year on the basis of the Participant's actual 415 Compensation for such Limitation Year.

(b) **"Annual additions" if a Participant is in more than one plan.**

(1) Except as provided in Subsection (c) below, this Subsection applies if, in addition to this Plan, a Participant is covered under another "employer" maintained qualified defined contribution plan, welfare benefit fund (as defined in Code §419(e)), individual medical benefit account (as defined in Code §415(l)(2)), or simplified employee pension (as defined in Code §408(k)), which provides "annual additions," during any Limitation Year. The "annual additions" which may be credited to a Participant's Accounts under this Plan for any such Limitation Year shall not exceed the "maximum permissible amount" reduced by the "annual additions" credited to a Participant's Accounts under the other plans and welfare benefit funds, individual medical benefit accounts, and simplified employee pensions for the same Limitation Year. If the "annual additions" with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the "employer" are less than the "maximum permissible amount" and the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts under this Plan would cause the "annual additions" for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the "annual additions" under all such plans and welfare benefit funds for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants. If the "annual additions" with respect to the Participant under such other defined contribution plans, welfare benefit funds, individual medical benefit accounts and simplified employee pensions in the aggregate are equal to or greater than the "maximum permissible amount," no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year, the Administrator shall determine the "maximum permissible amount" for each Participant for such Limitation Year on the basis of the Participant's actual 415 Compensation for the Limitation Year.

(4) If, pursuant to Section 4.4(b)(2), a Participant's "annual additions" under this Plan and such other plans would result in an "excess amount" for a Limitation Year, the "excess amount" will be deemed to consist of the "annual additions" last allocated, except that "annual additions" attributable to a simplified employee pension will be deemed to have been allocated first,

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followed by "annual additions" to a welfare benefit fund or individual medical benefit account, and then by "annual additions" to a plan subject to Code §412, regardless of the actual allocation date.

(5) If an "excess amount" was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the "excess amount" attributed to this Plan will be the product of:

- (i) the total "excess amount" allocated as of such date, times
- (ii) the ratio of (A) the "annual additions" allocated to the Participant for the Limitation Year as of such date under this Plan to (B) the total "annual additions" allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.

(c) **Coverage under another plan.** If the Participant is covered under another qualified defined contribution plan maintained by the "employer," "annual additions" which may be credited to the Participant's Accounts under this Plan for any Limitation Year will be limited in accordance with Section 4.4(b), unless the "employer" provides other limitations in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

(d) **Time when "annual additions" credited.** An "annual addition" is credited to the Account of a Participant for a particular Limitation Year if it is allocated to the Participant's Account under the Plan as of any date within that Limitation Year. However, an amount is not deemed allocated as of any date within a Limitation Year if such allocation is dependent upon participation in the Plan as of any date subsequent to such date.

For purposes of this subparagraph, "employer" contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or Fiscal Year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

(e) **Definitions.** For purposes of this Section, the following terms shall be defined as follows:

(1) **"Annual additions"** means the sum credited to a Participant's Accounts for any Limitation Year of (a) "employer" contributions, (b) Employee contributions (except as provided below), (c) Forfeitures, (d) amounts allocated to an individual medical benefit account, as defined in Code §415(l)(2), which is part of a pension or annuity plan maintained by the "employer," (e) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer" and (f) allocations under a simplified employee pension. Except, however, the Compensation percentage limitation referred to in paragraph (e)(5)(ii) below shall not apply to: (1) any contribution for medical benefits (within the meaning of Code §419A(f)(2)) after separation from service which is otherwise treated as an "annual addition," or (2) any amount otherwise treated as an "annual addition" under Code §415(l)(1).

(i) **Restorative payments.** "Annual additions" for purposes of Code §415 and this Section shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered "annual additions."

(ii) **Other amounts.** "Annual additions" for purposes of Code §415 and this Section shall not include: (A) The direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (B) Rollover contributions (as described in Code §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (C) Repayments of loans made to a Participant from the Plan; and (D) Repayments of amounts described in Code §411(a)(7)(B) (in accordance with Code §411(a)(7)(C)) and Code §411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code §414(d)) as described in Code §415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.

(2) **"Defined contribution dollar limitation"** means \$56,000 (or the amount as adjusted under Code §415(d)).

(3) **"Employer"** means, for purposes of this Section, the Employer that adopts this Plan and all Affiliated Employers.

(4) **"Excess amount"** means the excess of the Participant's "annual additions" for the Limitation Year over the "maximum permissible amount."

(5) "**Maximum permissible amount**" means, except to the extent permitted under this Plan and Code §414(v), the maximum "annual addition" that may be contributed or allocated to a Participant's Accounts under the Plan for any Limitation Year, which shall not exceed the lesser of:

- (i) the "defined contribution dollar limitation," or
- (ii) one hundred percent (100%) of the Participant's 415 Compensation for the Limitation Year.

The 415 Compensation Limitation referred to in (ii) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Code §§401(h) or 419A(f)(2)) which is otherwise treated as an "annual addition."

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the "maximum permissible amount" will not exceed the "defined contribution dollar limitation" multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is twelve (12).

(f) **Special rules.**

(1) **Aggregation of plans.** For purposes of applying the limitations of Code §415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the "employer" (or a "predecessor employer") under which the Participant receives "annual additions" (including voluntary employee contribution accounts in a defined benefit plan, mandatory contributions to a defined benefit plan, individual medical benefit accounts under §401(h), key employee accounts under a welfare benefit plan described in §419, and simplified employee pensions under §408(k)) of the employer or a predecessor employer, whether or not terminated, will be treated as one defined contribution plan for purposes of the limitations under § 415(c). Where the employer is a member of a controlled group of corporations or commonly controlled trades or businesses, or a member of an affiliated service group, within the meaning of §§414(b), (c) or (m) and §415(g) and (h), the plan must provide that all such employers are treated as a single employer for purposes of the Plan's application of the §415 limitations. Notwithstanding the preceding, multiemployer plans are not aggregated with other multiemployer plans for purposes of §415. For purposes of this Section:

- (i) A former "employer" is a "predecessor employer" with respect to a participant in a plan maintained by an "employer" if the "employer" maintains a plan under which the participant had accrued a benefit while performing services for the former "employer", but only if that benefit is provided under the plan maintained by the "employer". For this purpose, the "formerly affiliated plan" rules in Regulation §1.415(f)-1(b)(2) apply as if the "employer" and "predecessor employer" constituted a single employer under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately prior to the "cessation of affiliation" (and as if they constituted two, unrelated employers under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately after the "cessation of affiliation") and "cessation of affiliation" was the event that gives rise to the "predecessor employer" relationship, such as a transfer of benefits or plan sponsorship.
- (ii) With respect to an "employer" of a Participant, a former entity that antedates the "employer" is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the "employer" constitutes a continuation of all or a portion of the trade or business of the former entity.

(2) **Break-up of an affiliated employer or an affiliated service group.** For purposes of aggregating plans for Code §415, a "formerly affiliated plan" of an "employer" is taken into account for purposes of applying the Code §415 limitations to the "employer," but the "formerly affiliated plan" is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this paragraph, a "formerly affiliated plan" of an "employer" is a plan that, immediately prior to the "cessation of affiliation," was actually maintained by one or more of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)), and immediately after the "cessation of affiliation," is not actually maintained by any of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)). For purposes of this paragraph, a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single "employer" under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the "employer" under the employer affiliation rules of Regulation §1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

(3) **Mid-year aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code §415(f) and the Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code §415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no "annual additions" are credited to the Participant's Account after the date on which the plans are required to be aggregated.

#### 4.5 ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS

Notwithstanding any provision of the Plan to the contrary, if the "annual additions" (as defined in Section 4.4) are exceeded for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2018-52, Rev. Proc. 2019-19, or any superseding guidance.

#### 4.6 ROLLOVERS

(a) **Acceptance of "rollovers" into the Plan.** If elected in the Adoption Agreement and with the consent of the Administrator, the Plan may accept a "rollover," provided the "rollover" will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The amounts rolled over shall be separately accounted for in a "Participant's Rollover Account." A Participant's Rollover Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees. In addition, for purposes of this Section the term Participant shall also include Former Employees elected in the Adoption Agreement. Regardless of whether new loans are permitted, if the Plan permits rollovers, the Administrator may, in a uniform and nondiscriminatory manner, accept rollovers of loans into this Plan if the terms of such loans meet the requirements of being definite, have a reasonable rate of interest, and/or have a definite repayment period (e.g., an asset purchase acquisition whereby the Employer may choose to accept the rollover of Participant loans from a prior employer in a uniform and nondiscriminatory manner).

(b) **Treatment of "rollovers" under the Plan.** Amounts in a Participant's Rollover Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (c) below. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan.

(c) **Distribution of "rollovers."** At such time as the conditions set forth in the Adoption Agreement have been satisfied, the Administrator, at the election of the Participant, shall direct the distribution of up to the entire amount credited to the Rollover Account maintained on behalf of such Participant. Any distribution of amounts held in a Participant's Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, unless otherwise elected in the Adoption Agreement, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **"Rollovers" maintained in a separate account.** The Administrator may direct that "rollovers" made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Limits on accepting "rollovers."** Prior to accepting any "rollovers" to which this Section applies, the Administrator may require the Employee to establish (by providing opinion of counsel or otherwise) that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally, to limit the source of "rollover" contributions that may be accepted by the Plan.

(f) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) A "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within sixty (60) days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code or any other federally enacted legislation.

(2) An "eligible retirement plan" means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code §401(a) which is exempt from tax under Code §501(a)), an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by an eligible employer described in Code §457(e)(1)(A), and an annuity contract described in Code §403(b).

(g) **Pre-Participation Rollovers.** If an Eligible Employee makes a Rollover Contribution to the Plan prior to satisfying the Plan's eligibility conditions or prior to reaching his or her Entry Date, then the Administrator will treat the Employee as a limited Participant (as described in Rev. Rul. 96 48). A limited Participant does not share in the Plan's allocation of Employer Contributions nor Forfeitures until the Employee actually becomes a Participant in the Plan.

#### 4.7 PLAN-TO-PLAN TRANSFERS FROM QUALIFIED PLANS

(a) **Transfers into this Plan.** With the consent of the Administrator, amounts may be transferred (within the meaning of Code §414(l)) to this Plan from other tax qualified plans under Code §401(a), provided the plan from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax-exempt status of the Plan or Trust or create adverse tax consequences for the Employer. Prior to accepting any transfers to which this Section applies, the Administrator may require an opinion of counsel that the amounts to be transferred meet the requirements of this Section. The amounts transferred shall be set up in a separate account herein referred to as a "Participant's Transfer Account." Furthermore, for vesting purposes, the Participant's Transfer Account may be treated as a separate "Participant's Account."

(b) **Accounting of transfers.** Amounts in a Participant's Transfer Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (d) below, provided the restrictions of Subsection (c) below and Section 6.16 are satisfied. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination.

(c) **Distribution of plan-to-plan transfer amounts.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Participant's Transfer Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distribution of amounts held in a Participant's Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Pre-Participation Transfers.** The Administrator has the discretion to accept a Transfer of plan assets on behalf of an Employee prior to the date the Employee satisfies the Plan's eligibility conditions or prior to reaching the Entry Date in a uniform and nondiscretionary manner. If the Plan accepts such a direct transfer of plan assets, then the Administrator will treat the Employee as a limited Participant pursuant to Section 4.6(g).

#### 4.8 MANDATORY EMPLOYEE CONTRIBUTIONS

(a) **Mandatory Employee contributions.** An Employer may elect in the Adoption Agreement to provide for mandatory Employee contributions. If the Employer elects to provide for such contributions, each Participant, will make a mandatory Employee contribution in the amount elected in the Adoption Agreement. Alternatively, the Employer may elect to provide a range of mandatory Employee contribution percentages from which the Participant may choose to contribute. Under this option, the Employee, if required as a condition of employment, must make an irrevocable election to contribute a percentage of his or her Compensation no later than his or her effective date of participation. If not required as a condition of employment, such mandatory Employee contribution election shall be made prior to participation in the Plan. During the period of the Participant's participation in the Plan, the Participant may not revoke the election and receive cash in lieu of the contribution, nor may the Participant change the amount of the mandatory Employee contribution. Amounts attributable to mandatory Employee contributions shall be fully Vested.

(b) **Employer pick-up contribution.** Unless otherwise elected in the Adoption Agreement, the Employer will "pick-up" the mandatory Employee contributions and will pay the mandatory Employee contributions to the Plan as an Employer contribution. This provision is effective only after the Employer provides for the treatment of the mandatory Employee contributions as described in this paragraph, through a person authorized to take such action, and evidenced in writing by minutes of a meeting, resolution, ordinance, or other formal action by the Employer, which will effectuate the "pick-up" provision. Furthermore, as of the date of the "pick-up," Participants are not permitted to opt-out of the "pick-up" or to receive the mandatory Employee contributions directly instead of having them paid to the Plan. Mandatory Employee contributions that are "picked-up" by the Employer are excludible from the Employee's gross income.

#### 4.9 AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS

(a) **After-tax voluntary Employee contributions.** If elected in the Adoption Agreement, each Participant may, in accordance with procedures established by the Administrator, elect to make after-tax voluntary Employee contributions to this Plan. Such contributions must generally be paid to the Trustee (or Insurer) within a reasonable period of time after being received by the Employer. An after-tax voluntary Employee contribution is any contribution made to the Plan by or on behalf of a Participant that is included in the Participant's gross income in the year in which made and that is separately accounted for under the Plan.

(b) **Full vesting.** The balance in each Participant's Voluntary Contribution Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason.

(c) **Distribution at any time.** A Participant may elect at any time to withdraw after-tax voluntary Employee contributions from such Participant's Voluntary Contribution Account and the actual earnings thereon in a manner which is consistent with and satisfies the provisions of Section 6.5. If the Administrator maintains sub-accounts with respect to after-tax voluntary Employee contributions (and earnings thereon) which were made on or before a specified date, a Participant shall be permitted to designate which sub-account shall be the source for the withdrawal. Forfeitures of Employer contributions shall not occur solely as a result of an Employee's withdrawal of after-tax voluntary Employee contributions.

(d) **Used to provide benefits.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary is entitled to receive benefits, the Participant's Voluntary Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

#### 4.10 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed investment options allowed.** If permitted by the Administrator and the terms of the Trust, Participants may direct the Trustee (or Insurer) as to the investment of all or a portion of their individual Account balances in accordance with the Plan's procedures. Participants may direct the Trustee (or Insurer), in writing (or in such other form which is acceptable to the Trustee (or Insurer)), to invest their accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the Account of any Participant that is subject to investment direction of such Participant will be considered a Participant Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

(c) **Administrative discretion.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

(d) **Allocation of gains or losses.** As of each Valuation Date, all Participant Directed Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

- (1) to the extent the assets in a Participant Directed Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Account shall be based upon the total amount of funds so invested in a manner proportionate to the Participant's share of such pooled investment; and
- (2) to the extent the assets in a Participant Directed Account are accounted for as segregated assets, the allocation of earnings, gains on and losses from such assets shall be made on a separate and distinct basis.

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee (or Insurer) that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or Discretionary Trustee (or Insurer) reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or Discretionary Trustee (or Insurer). Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider) or force majeure. The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Other documents required by directed investments.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to Participants in one or more documents (or in any other form, including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

#### 4.11 QUALIFIED MILITARY SERVICE

(a) **USERRA.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code §414(u). Furthermore, loan repayments may be suspended under this Plan as permitted under Code §414(u)(4).

(b) **Benefit accrual.** If the Employer elects in the Adoption Agreement to apply this Subsection, then effective as of the date specified in the Adoption Agreement, for benefit accrual purposes, the Plan treats an individual who becomes Totally and Permanently disabled while performing "qualified military service" (as defined in Code §414(u)) with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), on the day preceding Total and Permanent Disability and terminated employment on the actual date of death or Total and Permanent Disability.

The Plan will determine the amount of after-tax voluntary Employee contributions of an individual treated as reemployed under this Section for purposes of applying paragraph Code §414(u)(8)(C) on the basis of the individual's average actual after-tax voluntary Employee contributions for the lesser of: (1) the 12-month period of service with the Employer immediately prior to "qualified military service" (as defined in Code §414(u)); or (2) the actual length of continuous service with the Employer.

(c) **Death benefits.** If a Participant dies while performing "qualified military service" (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of "qualified military service" but including vesting credit for such period and any other ancillary life insurance or other survivor benefits) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's "qualified military service" as service for vesting purposes, as though the Participant had resumed employment under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA) immediately prior to the Participant's death.

(d) **Military Differential Pay.** The following applies with respect to Military Differential Pay: (1) an individual receiving Military Differential Pay is treated as an Employee of the Employer making the payment; (2) the Military Differential Pay is treated as 415 Compensation (and Compensation unless otherwise elected in the Adoption Agreement); and (3) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding Plan provisions) by reason of any contribution or benefit which is based on the Military Differential Pay. The Administrator operationally may determine, for purposes of the provisions described in Code §414(u)(1)(C), whether to take into account any matching contributions, attributable to Military Differential Pay.

(e) **Deemed Severance.** Notwithstanding Subsection (b)(1) above, if elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), a Participant who performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than thirty (30) days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not attributable to Employer contributions to a money purchase pension plan. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then the individual may not make an after-tax voluntary Employee contribution during the six (6) month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the six (6) month suspension will not apply.

#### 4.12 INSTRUCTIONS TO ADMINISTRATOR AND NOTIFICATION TO PARTICIPANTS

For Plan Years beginning after the end of the Plan Year in which this document is first adopted, if a "Flexible Discretionary Match" contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to *allocate* a matching contribution to Participants) and the Employer makes a "Flexible Discretionary Match" to the Plan, the Employer must provide the Plan Administrator or Trustee written instructions describing (1) how the "Flexible Discretionary Match" formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount), (2) the computation period(s) to which the "Flexible Discretionary Match" formula applies, and (3) if applicable, a description of each business location or business classification subject to separate "Flexible Discretionary Match" allocation formulas. Such instructions must be provided no later than the date on which the "Flexible Discretionary Match" is made to the Plan. A summary of these instructions must be communicated to Participants who receive an allocation of the "Flexible Discretionary Match" no later than 60 days following the date on which the last "Flexible Discretionary Match" contribution is made to the Plan for the Plan Year.

Solely for purposes of this Section, a matching contribution is to be considered as being a "Flexible Discretionary Match" contribution unless the Employer has provided a definitely determinable allocation formula for the matching contribution on the Adoption Agreement. In order to be definitely determinable, then the components of the allocation formula described in the preceding sentence must be specified on the Adoption Agreement and cannot themselves be discretionary. Thus, regardless of whether the contribution formula for the matching contribution is fixed or discretionary, the provisions of the preceding paragraph apply unless the amount to be allocated to the Participant for the Plan Year can be determined without any discretion on the part of the Employer.

**ARTICLE V  
VALUATIONS**

**5.1 VALUATION OF THE TRUST FUND**

The Administrator shall direct the Trustee (or Insurer), as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee (or Insurer) shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date and may deduct all expenses for which the Trustee (or Insurer) has not yet been paid by the Employer or the Trust Fund. The Trustee (or Insurer), when determining the net worth of the assets, may update the value of any shares held in a Participant Directed Account by reference to the number of shares held on behalf of the Participant, priced at the market value as of the Valuation Date.

**5.2 METHOD OF VALUATION**

Except as otherwise provided in the Trust agreement, in determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee (or Insurer) to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee, the Administrator (if the Trustee is a directed Trustee), or Insurer may appraise such assets itself (assuming it has the appropriate expertise), or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

**ARTICLE VI  
DETERMINATION AND DISTRIBUTION OF BENEFITS**

**6.1 DETERMINATION OF BENEFITS UPON RETIREMENT**

Every Participant may terminate employment with the Employer and retire for purposes hereof on the Participant's Normal Retirement Date or Early Retirement Date. However, a Participant may postpone the severance of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until such Participant's Retirement Date. Upon a Participant's Retirement Date, or if elected in the Adoption Agreement, the attainment of Normal Retirement Date without severance of employment with the Employer (subject to Section 6.11), or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant (unless a distribution is mandatory under the other terms of the Plan), of the Participant's entire Vested interest in the Plan in accordance with Section 6.5.

**6.2 DETERMINATION OF BENEFITS UPON DEATH**

- (a) **100% vesting on death.** Upon the death of a Participant before the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. The Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of the deceased Participant's Vested accounts to the Participant's Beneficiary.
- (b) **Distribution upon death.** Upon the death of a Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of any remaining Vested amounts credited to the accounts of such deceased Participant to such Participant's Beneficiary.
- (c) **Determination of death benefit by Administrator.** The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.
- (d) **Beneficiary designation.** Each Participant must designate a Beneficiary on a form and in such manner as provided by the Administrator.
- (e) **Spousal consent to alternative Beneficiary.** This Subsection applies if the Employer has elected in the Adoption Agreement either to apply the Joint and Survivor Annuity rules or to provide that a Participant's Spouse is the Beneficiary unless the Spouse consents to an alternative Beneficiary. Unless otherwise elected in the manner prescribed in Section 6.6, the Beneficiary of the Pre-Retirement Survivor Annuity (or if applicable, the entire death benefit) shall be the Participant's surviving Spouse. Except, however, the Participant may designate a Beneficiary other than the Spouse if:

- (1) the Participant and the Participant's Spouse have validly waived the Pre-Retirement Survivor Annuity in the manner prescribed in Section 6.6, and the Spouse has waived the right to be the Participant's Beneficiary,



- (2) the Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no "qualified domestic relations order" as defined in Code §414(p) which provides otherwise),
- (3) the Participant has no Spouse, or
- (4) the Spouse cannot be located.

In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke a designation of a Beneficiary or change a Beneficiary by filing written (or in such other form as permitted by the IRS) notice of such revocation or change with the Administrator. However, the Participant's Spouse must again consent in writing (or in such other form as permitted by the IRS) to any change in Beneficiary unless the original consent acknowledged that the Spouse had the right to limit consent only to a specific Beneficiary and that the Spouse voluntarily elected to relinquish such right.

(f) **Beneficiary if no Beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists, or if the Beneficiary with respect to a portion of a Participant's death benefit is not alive at the time of the Participant's death and no contingent Beneficiary has been designated, then such portion of the death benefit will be paid in the following order of priority, unless the Employer specifies a different order of priority in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), to:

- (1) The Participant's surviving Spouse;
- (2) The Participant's issue, per stirpes;
- (3) The Participant's surviving parents, in equal shares; or
- (4) The Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's "designated Beneficiary" (or if there is no "designated Beneficiary," to the Beneficiary's estate). For purposes of these provisions, and with respect to any Beneficiary designations, adopted children shall be treated as children.

(g) **Divorce revokes spousal Beneficiary designation.** Notwithstanding anything in this Section to the contrary, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) or prohibited by applicable State law, if a Participant has designated the Spouse as a Beneficiary, then a divorce decree that relates to such Spouse shall revoke the Participant's designation of the Spouse as a Beneficiary unless the decree or a "qualified domestic relations order" (within the meaning of Code §414(p)) provides otherwise or a subsequent Beneficiary designation is made.

(h) **Insured death benefit.** If the Plan provides an insured death benefit and a Participant dies before any insurance coverage to which the Participant is entitled under the Plan is effected, the death benefit from such insurance coverage shall be limited to the premium which was or otherwise would have been used for such purpose.

(i) **Plan terms control.** In the event of any conflict between the terms of this Plan and the terms of any Contract issued hereunder, the Plan provisions shall control.

### 6.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. In the event of a Participant's Total and Permanent Disability, the Participant's entire Vested interest in the Plan will be distributable and may be distributed in accordance with the provisions of Sections 6.5 and 6.7.

### 6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on severance of employment.** If a Participant's employment with the Employer and any Affiliated Employer is severed for any reason other than death, Total and Permanent Disability, or attainment of the Participant's Retirement Date, then such Participant shall be entitled to such benefits as are provided herein.

Distribution of the funds due to a Terminated Participant shall be made on the occurrence of an event which would result in the distribution had the Terminated Participant remained in the employ of the Employer (upon the Participant's death, Total and Permanent Disability, Early or Normal Retirement). However, at the election of the Participant, the Administrator shall direct that the entire Vested portion of the Terminated Participant's Combined Account be payable to such Terminated Participant provided the

conditions, if any, set forth in the Adoption Agreement have been satisfied. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

Regardless of whether distributions in kind are permitted, in the event the amount of the Vested portion of the Terminated Participant's Combined Account equals or exceeds the fair market value of any insurance Contracts, the Administrator may direct the Trustee (or Insurer), when agreed to by the Terminated Participant, to assign, transfer, and set over to such Terminated Participant all Contracts on such Terminated Participant's life in such form or with such endorsements, so that the settlement options and forms of payment are consistent with the provisions of Section 6.5. In the event that the Terminated Participant's Vested portion does not at least equal the fair market value of the Contracts, if any, the Terminated Participant may pay over to the Trustee (or Insurer) the sum needed to make the distribution equal to the value of the Contracts being assigned or transferred, or the Trustee (or Insurer), pursuant to the Participant's election, may borrow the cash value of the Contracts from the Insurer so that the value of the Contracts is equal to the Vested portion of the Terminated Participant's Combined Account and then assign the Contracts to the Terminated Participant.

Notwithstanding the above, unless otherwise elected in the Adoption Agreement, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000 (or such lower amount as elected in the Adoption Agreement), the Administrator shall direct that the entire Vested benefit be paid to such Participant in a single lump-sum as soon as practical without regard to the consent of the Participant, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. A Participant's Vested benefit shall not include (1) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B) and (2) if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account. If a mandatory distribution is made pursuant to this paragraph and such distribution is greater than \$1,000 and the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" specified by the Participant in a "direct rollover" in accordance with Section 6.14 or to receive the distribution directly, then the Administrator shall transfer such amount to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) designated by the Administrator. However, if the Participant elects to receive or make a "direct rollover" of such amount, then the Administrator shall direct the Trustee (or Insurer) to cause the entire Vested benefit to be paid to such Participant in a single lump sum, or make a "direct rollover" pursuant to Section 6.14, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. The Administrator may establish a procedure as to whether a Participant who fails to make an affirmative election with respect to a mandatory distribution of \$1,000 or less is treated as having made or not made a "direct rollover" election. For purposes of determining whether the \$1,000 threshold set forth in this paragraph is met, the mandatory distribution includes amounts in a Participant's Rollover Account. For purposes of determining whether the \$5,000 threshold in this paragraph is met, a Participant's Rollover Account is taken into account unless otherwise elected in the Adoption Agreement.

(b) **Vesting schedule.** The Vested portion of any Participant's Account shall be a percentage of such Participant's Account determined on the basis of the Participant's number of Years of Service (or Periods of Service if the elapsed time method is elected) according to the vesting schedule specified in the Adoption Agreement. However, a Participant's entire interest in the Plan shall be non-forfeitable upon the Participant's Normal Retirement Age (if the Participant is employed by the Employer on or after such date). In addition, Employee contributions (voluntary and mandatory) and contributions for sick leave/vacation leave conversions shall be fully Vested.

## 6.5 DISTRIBUTION OF BENEFITS

(a) **Forms of distributions.** Subject to the Joint and Survivor Annuity requirements in Subsection (c) below (if the Employer elects to apply such provisions), the Administrator, pursuant to the election of the Participant, shall direct the distribution to a Participant or Beneficiary any amount to which the Participant or Beneficiary is entitled under the Plan in one or more of the following methods which are permitted pursuant to the Adoption Agreement.

- (1) One lump-sum payment in cash or in property, provided that if a distribution of property is permitted, it shall be limited to property that is specifically allocated and identifiable with respect to such Participant.
- (2) Partial withdrawals.
- (3) Payments over a period certain in monthly, quarterly, semi-annual, or annual cash installments. The period over which such payment is to be made shall not extend beyond the earlier of the Participant's life expectancy (or the joint life expectancy of the Participant and the Participant's designated Beneficiary). Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).
- (4) Purchase of or providing an annuity. However, such annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and the Participant's designated Beneficiary).

(b) **Consent to distributions.** Benefits may not be paid without a Participant's consent if the value of the Participant's Accounts exceed the dollar threshold specified in the Adoption Agreement. If the value of the Participant's Accounts does not exceed such

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threshold, then the Administrator may only distribute such benefit in a lump-sum. For purposes of this Subsection, the Participant's Accounts shall not include, if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity Contract, shall be made in accordance with the requirements of Section 6.8.

(d) **Annuity Contracts.** All annuity Contracts under this Plan shall be non-transferable when distributed. Furthermore, the terms of any annuity Contract purchased and distributed to a Participant or Spouse shall comply with all of the requirements of this Plan.

(e) **Qualified Joint and Survivor Annuity.**

(1) The provisions of this Subsection (e) apply if the Employer elects to apply the Joint and Survivor Annuity rules in the Adoption Agreement. A Participant who is married on the Annuity Starting Date and who does not die before the Annuity Starting Date shall receive the value of all Plan benefits in the form of a Joint and Survivor Annuity. The Joint and Survivor Annuity is an annuity that commences immediately and shall be equal in value to a single life annuity. Such joint and survivor benefits following the Participant's death shall continue to the Spouse during the Spouse's lifetime at a rate equal to either fifty percent (50%), seventy-five percent (75%) (or, sixty-six and two-thirds percent (66 2/3%) if the Insurer used to provide the annuity does not offer a joint and seventy-five percent (75%) survivor annuity), or one hundred percent (100%) of the rate at which such benefits were payable to the Participant. Unless otherwise elected in the Adoption Agreement, a joint and fifty percent (50%) survivor annuity shall be considered the designated qualified Joint and Survivor Annuity and the normal form of payment for the purposes of this Plan. However, the Participant may, without spousal consent, elect an alternative Joint and Survivor Annuity, which alternative shall be equal in value to the designated qualified Joint and Survivor Annuity. An unmarried Participant shall receive the value of such Participant's benefit in the form of a life annuity. Such unmarried Participant, however, may elect to waive the life annuity. The election must comply with the provisions of this Section as if it were an election to waive the Joint and Survivor Annuity by a married Participant, but without fulfilling the spousal consent requirement. The Participant may elect to have any annuity provided for in this Section distributed upon the attainment of the "earliest retirement age" under the Plan. The "earliest retirement age" is the earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.

(2) Any election to waive the Joint and Survivor Annuity must be made by the Participant in writing (or in such other form as permitted by the IRS) during the election period and be consented to in writing (or in such other form as permitted by the IRS) by the Participant's Spouse. If the Spouse is legally incompetent to give consent, the Spouse's legal guardian, even if such guardian is the Participant, may give consent. Such election shall designate a Beneficiary (or a form of benefits) that may not be changed without spousal consent (unless the consent of the Spouse expressly permits designations by the Participant without the requirement of further consent by the Spouse). Such Spouse's consent shall be irrevocable and must acknowledge the effect of such election and be witnessed by a Plan representative or a notary public. Such consent shall not be required if it is established to the satisfaction of the Administrator that the required consent cannot be obtained because there is no Spouse, the Spouse cannot be located, or other circumstances that may be prescribed by Regulations. The election made by the Participant and consented to by such Participant's Spouse may be revoked by the Participant in writing (or in such other form as permitted by the IRS) without the consent of the Spouse at any time during the election period. A revocation of a prior election shall cause the Participant's benefits to be distributed as a Joint and Survivor Annuity. The number of revocations shall not be limited. Any new election must comply with the requirements of this paragraph. A former Spouse's waiver shall not be binding on a new Spouse.

(3) The election period to waive the Joint and Survivor Annuity shall be the one-hundred eighty (180) day period ending on the Annuity Starting Date.

(4) For purposes of this Section and Section 6.6, Spouse or surviving Spouse means the Spouse or surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or surviving Spouse and a current Spouse will not be treated as the Spouse or surviving Spouse to the extent provided under a "qualified domestic relations order" as described in Code §414(p).

(5) With regard to the election, except as otherwise provided herein, the Administrator shall, in accordance with Regulation §1.417(a)(3)-1, provide to the Participant no less than thirty (30) days and no more than one-hundred eighty (180) days before the Annuity Starting Date a written (or such other form as permitted by the IRS) explanation of:

- (i) the terms and conditions of the qualified Joint and Survivor Annuity and the "qualified optional survivor annuity" that is payable in lieu of the qualified Joint and Survivor Annuity,
- (ii) the Participant's right to make and the effect of an election to waive the Joint and Survivor Annuity,

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- (iii) the right of the Participant's Spouse to consent to any election to waive the Joint and Survivor Annuity, and
  - (iv) the right of the Participant to revoke such election, and the effect of such revocation.
- (6) Any distribution provided for in this Section may commence less than thirty (30) days after the notice required by Code §417(a)(3) is given provided the following requirements are satisfied:
- (i) the Administrator clearly informs the Participant that the Participant has a right to a period of thirty (30) days after receiving the notice to consider whether to waive the Joint and Survivor Annuity and to elect (with spousal consent) a form of distribution other than a Joint and Survivor Annuity;
  - (ii) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the seven (7) day period that begins the day after the explanation of the Joint and Survivor Annuity is provided to the Participant;
  - (iii) the Annuity Starting Date is after the time that the explanation of the Joint and Survivor Annuity is provided to the Participant. However, the Annuity Starting Date may be before the date that any affirmative distribution election is made by the Participant and before the date that the distribution is permitted to commence under (iv) below; and
  - (iv) distribution in accordance with the affirmative distribution election does not commence before the expiration of the seven (7) day period that begins the day after the explanation of the Joint and Survivor Annuity is provided to the Participant.
- (f) **Qualified Joint and Survivor Annuity but not the normal form.** The provisions of this Section apply if the Employer has elected in the Adoption Agreement to apply the Joint and Survivor Annuity requirement to a Participant, but the Qualified Joint and Survivor Annuity is not the normal form of distribution.
- (1) The Joint and Survivor Annuity provisions of Section 6.5(e) shall not apply if a Participant does not elect an annuity form of distribution. Furthermore, Subsection (3) below shall not apply if a Participant elects an annuity form of distribution.
  - (2) Notwithstanding anything in Sections 6.2 and 6.6 to the contrary, upon the death of a Participant, the automatic form of distribution will be a lump-sum rather than a Qualified Pre-Retirement Survivor Annuity. Furthermore, the Participant's Spouse will be the Beneficiary of the Participant's entire Vested interest in the Plan unless an election is made to waive the Spouse as Beneficiary. The other provisions in Section 6.2 shall be applied by treating the death benefit in this Subsection as though it is a Qualified Pre-Retirement Survivor Annuity.
  - (3) Except to the extent otherwise provided in this Section, the provisions of Sections 6.2 and 6.5 regarding spousal consent shall be inoperative with respect to this Plan.
  - (4) The distribution may commence less than thirty (30) days after the notice required under Regulation §1.411(a)-11(c) is given, provided:
    - (1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and
    - (2) the Participant, after receiving the notice, affirmatively elects a distribution.

### 6.6 DISTRIBUTION OF BENEFITS UPON DEATH

- (a) **Consent.** If the value of the death benefit derived from Employer and Employee contributions does not exceed \$5,000, the Administrator shall direct the distribution of such amount to the Participant's Beneficiary in a single lump-sum as soon as practicable. If the value exceeds \$5,000, an immediate distribution of the entire amount may be made to the Beneficiary, provided such Beneficiary consents to the distribution.
- (b) **Forms of distribution.** Death benefits may be paid to a Participant's Beneficiary in one of the following optional forms of benefits subject to the rules specified in Section 6.8 and the elections made in the Adoption Agreement. Such optional forms of distributions may be elected by the Participant. However, if no optional form of distribution was elected by the Participant prior to death, then the Participant's Beneficiary may elect the form of distribution.
- (1) One lump-sum payment in cash or in property that is allocated to the Accounts of the Participant at the time of the distribution.

- (2) Partial withdrawals.
- (3) Payment in monthly, quarterly, semi-annual, or annual cash installments over a period to be determined by the Participant or the Participant's Beneficiary. In order to provide such installment payments, the Administrator may (A) segregate the aggregate amount thereof in a separate, federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security or (B) purchase a nontransferable annuity Contract for a term certain (with no life contingencies) providing for such payment. After periodic installments commence, the Beneficiary shall have the right to reduce the period over which such periodic installments shall be made, and the cash amount of such periodic installments shall be adjusted accordingly.
- (4) In the form of an annuity over the life expectancy of the Beneficiary.
- (c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.
- (d) **Payment to a child.** For purposes of this Section, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving Spouse if the amount becomes payable to the surviving Spouse when the child reaches the age of majority.
- (e) **Voluntary Contribution Account.** In the event that less than one hundred percent (100%) of a Participant's interest in the Plan is distributed to such Participant's Spouse, the portion of the distribution attributable to the Participant's Voluntary Contribution Account shall be in the same proportion that the Participant's Voluntary Contribution Account bears to the Participant's total interest in the Plan.
- (f) **TEFRA 242(b)(2) election.** The provisions of this Section shall not apply to distributions made in accordance with Section 6.8(a)(4).

## 6.7 TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable. Notwithstanding anything in the Plan to the contrary, unless a Participant otherwise elects, payments of benefits under the Plan will be begin not later than the later of the sixtieth (60th) day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates service with the Employer. The failure of a Participant to request a distribution shall be deemed to be an election to defer the commencement of payment of any benefit until the time otherwise permitted under the Plan.

## 6.8 REQUIRED MINIMUM DISTRIBUTIONS

### (a) General rules

- (1) **Effective Date.** Subject to the good faith interpretation standard, the requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and will take precedence over any inconsistent provisions of this Plan.
- (2) **Requirements of Treasury Regulations incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G).
- (3) **Limits on distribution periods.** As of the first "distribution calendar year," distributions to a Participant may only be made in accordance with the selections made in the Form of Distributions Section of the Adoption Agreement. If such distributions are not made in a single-sum, then they may only be made over one of the following periods: (i) the life of the Participant, (ii) the joint lives of the Participant and a "designated Beneficiary," (iii) a period certain not extending beyond the "life expectancy" of the Participant, or (iv) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a "designated Beneficiary."
- (4) **TEFRA Section 242(b)(2) elections.**
  - (i) Notwithstanding the other provisions of this Section, other than the Spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and in accordance with all of the following requirements (regardless of when such distribution commences):

- (A) The distribution by the Plan is one which would not have disqualified such Plan under Code §401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

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(B) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

(C) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

(D) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(E) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

(ii) A distribution upon death will not be covered by the transitional rule of this Subsection unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

(iii) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (i)(A) and (i)(E) of this Subsection.

(iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code §401(a)(9) and the Regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).

(v) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation §1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

(5) **Good faith interpretation standard.** In applying any provision of this section, the Plan will apply a reasonable good faith interpretation of Code §401(a)(9).

### (b) Time and manner of distribution

(1) **Required beginning date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's "required beginning date."

(2) **Death of Participant before distributions begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows as elected in the Distributions Upon Death Section of the Adoption Agreement (or if no election is made, then the Beneficiary may elect either the lifetime method or the five-year method and if the Beneficiary makes no election, the five-year method shall apply):

(i) **Lifetime method (Spouse).** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," then, except as otherwise provided herein, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(ii) **Lifetime method (non-Spouse).** If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," then, except as provided in Section 6.8(b)(3) below, distributions to the "designated Beneficiary" will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) **Five-year method.** If there is no "designated Beneficiary" as of September 30 of the year following the year of the Participant's death or if otherwise elected pursuant to the Adoption Agreement with respect to a "designated Beneficiary," the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) **Death of Spouse.** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary" and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 6.8(b)(2), other than Section 6.8(b)(2)(i), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 6.8(b)(2) and Section 6.8(b)(3), unless Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the Participant's "required beginning date." If Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's "required beginning date" (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) **Forms of distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the "required beginning date," as of the first "distribution calendar year" distributions will be made in accordance with Sections 6.8(c) and 6.8(d) and only in a form of distribution provided in Section 6.5 or 6.6, as applicable. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Regulations thereunder.

(c) **Required minimum distributions during Participant's lifetime**

(1) **Amount of required minimum distribution for each "distribution calendar year."** During the Participant's lifetime, the minimum amount that will be distributed for each "distribution calendar year" is the lesser of the following:

- (i) the quotient obtained by dividing the "Participant's account balance" by the distribution period in the Uniform Lifetime Table set forth in Regulation §1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the "distribution calendar year"; or
- (ii) if the Participant's sole "designated Beneficiary" for the "distribution calendar year" is the Participant's Spouse, the quotient obtained by dividing the "Participant's account balance" by the number in the Joint and Last Survivor Table set forth in Regulation §1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the "distribution calendar year."

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death.

(d) **Required minimum distributions after Participant's death**

(1) **Death on or after date distributions begin.**

(i) **Participant survived by "designated Beneficiary."** If the Participant dies on or after the date distributions begin and there is a "designated Beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the longer of the remaining "life expectancy" of the Participant or the remaining "life expectancy" of the Participant's "designated Beneficiary," determined as follows:

(A) The Participant's remaining "life expectancy" is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," the remaining "life expectancy" of the surviving Spouse is calculated for each "distribution calendar year" after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For "distribution calendar years" after the year of the surviving Spouse's death, the remaining "life expectancy" of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," the "designated Beneficiary's" remaining "life expectancy" is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) **No "designated Beneficiary."** If the Participant dies on or after the date distributions begin and there is no "designated Beneficiary" as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the Participant's remaining "life expectancy" calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) **Death before date distributions begin.**

(i) **Participant survived by "designated Beneficiary."** Except as provided in Section 6.8(b)(3), if the Participant dies before the date distributions begin and there is a "designated Beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the remaining "life expectancy" of the Participant's "designated Beneficiary," determined as provided in Section 6.8(d)(1).

(ii) **No "designated Beneficiary."** If the Participant dies before the date distributions begin and there is no "designated Beneficiary" as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) **Death of surviving Spouse before distributions to surviving Spouse are required to begin.** If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i), this Section 6.8(d)(2) will apply as if the surviving Spouse were the Participant.

(e) **Definitions.** For purposes of this Section, the following definitions apply:

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the "designated Beneficiary" under Code §401(a)(9) and Regulation §1.401(a)(9)-4.

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first "distribution calendar year" is the calendar year immediately preceding the calendar year which contains the Participant's "required beginning date." For distributions beginning after the Participant's death, the first "distribution calendar year" is the calendar year in which distributions are required to begin under Section 6.8(b). The required minimum distribution for the Participant's first "distribution calendar year" will be made on or before the Participant's "required beginning date." The required minimum distribution for other "distribution calendar years," including the required minimum distribution for the "distribution calendar year" in which the Participant's "required beginning date" occurs, will be made on or before December 31 of that "distribution calendar year."

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation §1.401(a)(9)-9.

(4) "Participant's account balance" means the Participant's account balance as of the last Valuation Date in the calendar year immediately preceding the "distribution calendar year" (valuation calendar year) increased by the amount of any contributions made and allocated or Forfeitures allocated to the account balance as of the dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the "distribution calendar year" if distributed or transferred in the valuation calendar year.

(a) **Reduction for QLACs.** A Participant's account balance is reduced by any QLACs (as defined below). This paragraph applies only to QLACs purchased on or after July 2, 2014.

(b) **Definition of QLAC.** A QLAC is qualifying longevity annuity contract as defined in A-17 of Regulation §1.401(a)(9)-6. Pursuant to such Regulation, a QLAC is an annuity contract that is purchased from an insurance company for a Participant and that, in accordance with the rules of application of paragraph (c) below, satisfies each of the following requirements:

(1) The premiums paid with respect to the contract on a date do not exceed the lesser of the following amounts, determined in accordance with the provisions of paragraph (b) of A-17 of Regulation §1.401(a)(9)-6.

(a) An amount equal to the excess of \$125,000 (as adjusted under paragraph (d)(2) of A-17 of Regulation §1.401(a)(9)-6), over the sum of the premiums paid before that date with respect to the contract, and the premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the Participant under the Plan, or any other plan, annuity, or account described in Code §401(a), 403(a), 403(b), or 408 or eligible governmental plan under §457(b).

(b) An amount equal to the excess of 25% of the Participant's account balance under the Plan (including the value of any QLAC held under the Plan for the Participant) as of that date, over the sum of the premiums paid before that date with respect to the contract, and the premiums paid on



or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the Participant under the Plan.

- (2) The contract provides that distributions under the contract must commence not later than a specified annuity starting date that is no later than the first day of the month next following the eighty-fifth (85<sup>th</sup>) anniversary of the Employee's birth;
- (3) The contract provides that, after distributions under the contract commence, those distributions must satisfy the requirements of paragraph (c) of A-17 of Regulation §1.401(a)(9)-6 (other than the requirement that annuity payments commence on or before the required beginning date (RBD));
- (4) The contract does not make available any commutation benefit, cash surrender right, or other similar feature except as otherwise permitted under A-17 of Regulation §1.401(a)(9)-6;
- (5) No benefits are provided under the contract after the death of the employee other than the benefits described in paragraph (c) of A-17 of Regulation §1.401(a)(9)-6;
- (6) Except as otherwise permitted under A-17 of Regulation §1.401(a)(9)-6, when the contract is issued, the contract (or a rider or endorsement with respect to that contract) states that the contract is intended to be a QLAC; and
- (7) The contract is not a variable contract under Code §817, an indexed contract, or a similar contract, except to the extent provided by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

**(c) Rules of application relating to premiums.**

**(1) Reliance on representations.** For purposes of the limitation on premiums described in paragraphs (b)(1) and (2) above, unless the Administrator has actual knowledge to the contrary, the Administrator may rely on an Employee's representation (made in writing or such other form as may be prescribed by the Commissioner) of the amount of the premiums described in such paragraphs, but only with respect to premiums that are not paid under a plan, annuity, or contract that is maintained by the Employer or an entity that is treated as a single employer with the Employer under Code §414(b), (c), (m), or (o).

**(2) Consequences of excess premiums.** If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the limits under paragraph (b)(1)(a) above, then the contract is not a QLAC beginning on the date that premium payment is made unless the excess premium is returned to the non-QLAC portion of the Participant's account in accordance with paragraph (d)(1)(ii)(B) of A-17 of Regulation §1.401(a)(9)-6. If the contract fails to be a QLAC, then the value of the contract may not be disregarded under paragraph (a) above as of the date on which the contract ceases to be a QLAC.

If the excess premium is returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the Participant's account by the end of the calendar year following the calendar year in which the excess premium was originally paid, then the contract will not be treated as exceeding the limits under paragraph (b)(1)(a) above at any time, and the value of the contract will not be included in the employee's account balance under paragraph (a) above. If the excess premium (including the fair market value of an annuity contract that is not intended to be a QLAC, if applicable) is returned to the non-QLAC portion of the Participant's account after the last valuation date for the calendar year in which the excess premium was originally paid, then the Participant's account balance for that calendar year must be increased to reflect that excess premium in the same manner as a Participant's account balance is increased under Regulation §1.401(a)(9)-7, A-2 to reflect a rollover received after the last valuation date.

**(3) Application of 25-percent limit.** For purposes of the 25% limit under paragraph (b)(1)(b) above, a Participant's account balance on the date on which premiums for a contract are paid is the account balance as of the last valuation date preceding the date of the premium payment, adjusted as follows. The account balance is increased for contributions allocated to the account during the period that begins after the valuation date and ends before the date the premium is paid and decreased for distributions made from the account during that period.

**(d) Dollar and age limitations subject to adjustments.** In the case of calendar years beginning on or after January 1, 2015, the \$125,000 amount under paragraph (b)(1)(a) will be adjusted at the same time and in the same manner as the limits are adjusted under Code §415(d), except that the base period shall be the calendar quarter beginning July 1, 2013, and any increase under this paragraph that is not a multiple of \$10,000 will be rounded to the next lowest multiple of \$10,000. The maximum age set forth in paragraph (b)(2) may be adjusted to reflect changes in mortality, with any such adjusted age to be prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin and made available by the Superintendent of Documents.

If a contract fails to be a QLAC because it does not satisfy the dollar limitation in paragraph (b)(1)(a) or the age limitation in paragraph (b)(2), any subsequent adjustment that is made pursuant to this paragraph (d) will not cause the contract to become a QLAC.

(5) "Required beginning date" means, except as otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires.

#### **6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL**

If, in the opinion of the Administrator, a Participant or Beneficiary entitled to a distribution is not able to care for his her affairs because of a mental condition, a physical condition, or by reason of age in the case of a minor, Administrator shall direct the distribution to the Participant's or Beneficiary's valid power of attorney, court appointed guardian, or any other person authorized under state law to receive the benefit (including a custodian under a Uniform Transfers or Gifts to Minors Act), upon furnishing evidence of such status satisfactory to the Administrator. The Administrator and the Trustee (or Insurer) do not have any liability with respect to payments so made and neither the Administrator nor the Trustee (or Insurer) has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

#### **6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN**

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). Before treating any Participant as being missing, the Administrator must conduct a reasonable and diligent search for the Participant, using one or more of search methods the Plan Administrator determines are appropriate under the circumstances, such as the methods suggested by DOL Field Assistance Bulletin 2014-01. Such search methods include:

- (1) provide a distribution notice to the lost Participant at the Participant's last known address by certified or registered mail;
- (2) check with the administrator of other employee benefit plans of the Employer that may have more up-to-date information regarding the Participant's whereabouts;
- (3) identify and contact the Participant's Designated Beneficiary;
- (4) use one or more free internet search tools;
- (5) attempt contact via email or telephone, or
- (6) use proprietary internet search tools, commercial locator services, credit reporting agencies, information brokers, or other search methods. Regarding search methods (2) and (3) above, if the Plan Administrator encounters privacy concerns, the Plan Administrator may request that the Employer or other plan fiduciary (under (2)), or the Designated Beneficiary (under (3)), contact the Participant or forward a letter requesting that the Participant contact the Plan Administrator.

In addition, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed \$1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) or use the PBGC Missing Participant Program, or any successor program, at the time it is determined that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture and prior to the time the Plan has been terminated, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer contribution if necessary. Upon Plan termination, the portion of the distributable amount that is an "eligible rollover distribution" as defined in Section 6.14(b)(1) may be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

#### **6.11 IN-SERVICE DISTRIBUTION**

If elected in the Adoption Agreement, at such time as the conditions set forth in the Adoption Agreement have been satisfied, then the Administrator, at the election of a Participant who has not severed employment with the Employer, shall direct the distribution of up to the entire Vested amount then credited to the Accounts as elected in the Adoption Agreement maintained on behalf of such Participant. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. In the event that the Administrator makes such a distribution, the Participant shall continue to be eligible to participate in the Plan on the same basis as any other Employee. Any distribution made pursuant to this Section shall be made in a manner consistent with Section 6.5. Furthermore, if an in-service distribution is permitted from more than one account type, the Administrator may determine any ordering of a Participant's in-service distribution from such accounts. The Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions on in-service distributions made pursuant to this Section.

## 6.12 DISTRIBUTION FOR HARDSHIP

(a) **Hardship events.** If elected in the Adoption Agreement, the Administrator, at the election of the Participant, shall direct the distribution to any Participant in any one Plan Year to an amount necessary to satisfy the Participant's immediate and heavy financial need, determined in accordance with the remaining provisions of this Section. A hardship distribution may only be made on account of an immediate and heavy financial need of the Participant and where the distribution is necessary to satisfy the immediate and heavy financial need. Such distributions may also be made from those Accounts from which such distribution are authorized by the remaining provisions of this Section. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. Any distribution made pursuant to this Section shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution, and the Account from which the distribution is made shall be reduced accordingly. Withdrawal under this Section shall be authorized only if the distribution is for an immediate and heavy financial need. The Administrator will determine whether there is an immediate and heavy financial need based on the facts and circumstances. An immediate and heavy financial need includes, but is not limited to, a distribution for one of the following:

- (1) Expenses for (or necessary to obtain) medical care (as defined in Code §213(d));
- (2) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children or dependents (as defined in Code §152, and without regard to Code §152(d)(1)(B));
- (4) 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, the Participant's Spouse, children, or dependents (as defined in Code §152, and without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B));
- (5) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence; or
- (6) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).

(b) **Beneficiary-based distribution.** If elected in the Adoption Agreement, then effective as of the date specified in the Adoption Agreement, a Participant's hardship event includes an immediate and heavy financial need of the Participant's "primary Beneficiary under the Plan," that would constitute a hardship event if it occurred with respect to the Participant's Spouse or dependent as defined under Code §152 (such hardship events being limited to educational expenses, funeral expenses and certain medical expenses). For purposes of this Section, a Participant's "primary Beneficiary under the Plan" is an individual who is named as a Beneficiary under the Plan (by the Participant or pursuant to Section 6.2(d)) and has an unconditional right to all or a portion of the Participant's Account balance under the Plan upon the Participant's death.

(c) **Other limits and conditions.** If elected in the Adoption Agreement, no distribution shall be made pursuant to this Section from the Participant's Account until such Account has become fully Vested. Furthermore, if a hardship distribution is permitted from more than one Account, the Administrator may determine any ordering of a Participant's hardship distribution from such Accounts.

(d) **Distribution rules apply.** Any distribution made pursuant to this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

## 6.13 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All benefits provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a "qualified domestic relations order." Furthermore, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a "qualified domestic relations order," even if the affected Participant has not reached the "earliest retirement age." For the purposes of this Section, "qualified domestic relations order" and "earliest retirement age" shall have the meanings set forth under Code §414(p). For purposes of this Section, however, a distribution that is made pursuant to a domestic relations order which meets the requirements of Code §414(p)(1)(A)(i) will be treated as being made pursuant to a "qualified domestic relations order."

A domestic relations order that otherwise satisfies the requirements for a "qualified domestic relations order" will not fail to be a "qualified domestic relations order": (i) solely because the order is issued after, or revises, another domestic relations order or "qualified domestic relations order"; or (ii) solely because of the time at which the order is issued, including issuance after the Annuity Starting Date or after the Participant's death.

## 6.14 DIRECT ROLLOVERS

(a) **Right to direct rollover.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a "distributee's" election under this Section, a "distributee" may elect, at the time and in the manner prescribed by the Administrator, to have an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the "distributee" in a "direct rollover." However, if less than the entire amount of the "eligible rollover distribution" is being paid directly to an "eligible retirement plan," then the Administrator may require that the amount paid directly to such plan be at least \$500.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) **Eligible rollover distribution.** An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes any distribution of all or any portion of the balance to the credit of the "distributee," except that an "eligible rollover distribution" does not include: (a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the "distributee" or the joint lives (or joint life expectancies) of the "distributee" and the "distributee's" "designated Beneficiary," or for a specified period of ten (10) years or more; (b) any distribution to the extent such distribution is required under Code §401(a)(9); (c) any hardship distribution; (d) the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); (e) any loans that are treated as deemed distributions under Code §72(p) which are not also an offset distribution; (f) the costs of life insurance coverage (P.S. 58 costs); (g) any other distributions described in Regulation §1.402(c)-2; and any other distribution reasonably expected to total less than \$200 during a year.

Notwithstanding the above, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax voluntary Employee contributions which are not includible in gross income. However, such portion may be transferred only to:

- (i) a traditional individual retirement account or annuity described in Code §408(a) or (b) (a "traditional IRA")
- (ii) for taxable years beginning after December 31, 2006, a Roth individual account or annuity described in Code §408A (a "Roth IRA"), or
- (iii) a qualified defined contribution plan or an annuity contract described in Code §401(a) or Code §403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) **Eligible retirement plan.** An "eligible retirement plan" is a "traditional IRA," a "Roth IRA," a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a), an annuity plan described in Code §403(a), an eligible plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision and which agrees to separately account for amounts transferred into such plan from this Plan, and an annuity contract described in Code §403(b), and for distributions made after December 18, 2015, a SIMPLE IRA to the extent permitted under Code §408(p)(1)(B), that accepts the "distributee's" "eligible rollover distribution." The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is an Alternate Payee. If any portion of an "eligible rollover distribution" is attributable to payments or distributions from a designated Roth account, an "eligible retirement plan" with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual. In the case of a "distributee" who is a non-Spouse designated Beneficiary, (i) the "direct rollover" may be made only to a traditional or Roth individual retirement account or an annuity described in Code §408(b) ("IRA") that is established on behalf of the designated non-Spouse Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (ii) the determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

(3) **Distributee.** A "distributee" includes an Employee or Former Employee. In addition, the Employee's or Former Employee's surviving Spouse and the Employee's or Former Employee's Spouse or former Spouse who is the Alternate Payee, are "distributees" with regard to the interest of the Spouse or former Spouse.

(4) **Direct rollover.** A "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the "distributee."

(c) **Participant notice.** A Participant entitled to an "eligible rollover distribution" must receive a written explanation of the right to a "direct rollover," the tax consequences of not making a "direct rollover," and, if applicable, any available special income tax elections. The notice must be provided no less than thirty (30) days and no more than one-hundred eighty (180) days before the Annuity Starting Date. The "direct rollover" notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than \$200.

(d) **Non-Spouse Beneficiary rollover right.** A non-Spouse Beneficiary who is a "designated Beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion an "eligible rollover distribution" to an IRA the Beneficiary establishes for purposes of receiving the distribution. If the Participant's named Beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated Beneficiary."

#### **6.15 RESTRICTIONS ON DISTRIBUTION OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN**

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's retirement, death, Total and Permanent Disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code §414(l), to this Plan from a money purchase pension plan qualified under Code §401(a) (other than any portion of those assets and liabilities attributable to after-tax voluntary Employee contributions or to a direct or indirect rollover contribution). A Participant may not obtain an in-service distribution with respect to such transferred amounts prior to the earlier of the Participant's Normal Retirement Age or attainment of age 62.

#### **6.16 CORRECTIVE DISTRIBUTIONS**

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with the corrective procedures under the IRS' Employee Plans Compliance Resolution System or any other voluntary compliance programs established by the IRS.

#### **6.17 SERVICE CREDIT PURCHASES**

The Administrator, upon Participant request, may direct the transfer of all or a portion of the Participant's Account to a governmental defined benefit plan (as defined in Code §414(d)) in which he or she participates for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)).

#### **6.18 UNCASHED CHECKS**

Subject to the provisions of Section 6.10, the Plan Administrator operationally may dispose of an uncashed distribution from the Plan to a lost Participant at the time and in the manner described in this Section). Prior to doing so, the Plan Administrator must make reasonable and diligent efforts to contact the lost Participant, including using such search methods the Plan Administrator determines are appropriate under the circumstances. At the discretion of the Administrator, Plan distributions that remain uncashed, and which the Administrator chooses not to reinvest in the Plan may be: (1) voluntarily remitted to a State unclaimed property department, but no sooner than the appropriate state dormancy period has expired; or (2) deposited for the benefit of the lost Participant either to a: (a) bank account, or (b) individual retirement account if the original distribution was an eligible rollover distribution.

For purposes of this Section 6.18, a distribution is "uncashed" if it remains uncashed by the "cash-by" date on the check or in an accompanying notice, e.g., a date prescribed by the bank or the Plan. This "cash-by" date must be at least forty-five (45) days after the check is issued. If there is no prescribed "cash-by" date, then the amount is considered uncashed if it is not cashed by the check's stale date.

#### **6.19 HEALTH INSURANCE PAYMENTS FOR PUBLIC SAFETY OFFICERS**

An "eligible retired public safety officer" may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the "eligible retired public safety officer" otherwise would receive and include in income. The Plan will pay such deducted amounts directly to pay "qualified health insurance premiums" as defined in Code §402(l). Any election made under this Plan must conform to the requirements of Code §402(l). A "qualified retired public safety officer" is a public safety officer (as defined in §1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C 3796b(9)(A)) who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a public safety officer with the Employer. "Qualified health insurance premiums" means the premiums for coverage for the "eligible retired public safety officer," his or her Spouse, and dependents (as defined in Code §152), by an accident or health plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

### **ARTICLE VII TRUSTEE AND CUSTODIAN**

#### **7.1 CONFLICT WITH PLAN**

In the event of any conflicts between the provisions of this Plan and the Trust agreement, the provisions of this Plan control.

## 7.2 POWERS AND DUTIES OF CUSTODIAN

Subject to the terms of the Trust agreement, the Employer may appoint a Custodian of the Plan assets. The duties of the Custodian are those set forth in the agreement with the Custodian. Any reference in the Plan to a Trustee also is a reference to a Custodian unless the Employer has appointed a Custodian separate from the Trustee or the context of the Plan indicates otherwise.

## 7.3 LIFE INSURANCE

(a) **Permitted insurance.** To the extent not prohibited under the terms of the Trust agreement, the Trustee (or Insurer), in accordance with operational procedures of the Administrator, shall ratably apply for, own, and pay all premiums on Contracts on the lives of the Participants or, in the case of a 401(a) Plan, on the life of a member of the Participant's family or on the joint lives of a Participant and a member of the Participant's family. Furthermore, if a Contract is purchased on the joint lives of the Participant and another person and such other person predeceases the Participant, then the Contract may not be maintained under this Plan. Any initial or additional Contract purchased on behalf of a Participant shall have a face amount of not less than \$1,000, an amount set forth in the Administrator's procedures, or the limitation of the Insurer, whichever is greater. If a life insurance Contract is to be purchased for a Participant, then the aggregate premium for ordinary life insurance for each Participant must be less than 50% of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. For purposes of this limitation, ordinary life insurance Contracts are Contracts with both non-decreasing death benefits and non-increasing premiums. If term insurance or universal life insurance is purchased, then the aggregate premium must be 25% or less of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. If both term insurance and ordinary life insurance are purchased, then the premium for term insurance plus one-half of the premium for ordinary life insurance may not in the aggregate exceed 25% of the aggregate Employer contributions and Forfeitures allocated to the Participant's Combined Account. Notwithstanding the preceding, the limitations imposed herein with respect to the purchase of life insurance shall not apply, in the case of a 401(a) Plan, to the portion of the Participant's Account that has accumulated for at least two (2) Plan Years or to the entire Participant's Account if the Participant has been a Participant in the Plan for at least five (5) years. In addition, amounts transferred to this Plan in accordance with Section 4.6(f)(1)(ii) or (iii) and a Participant's Voluntary Contribution Account may be used to purchase Contracts without limitation. Thus, amounts that are not subject to the limitations contained herein may be used to purchase life insurance on any person in whom a Participant has an insurable interest or on the joint lives of a Participant and any person in whom the Participant has an insurable interest, and without regard to the amount of premiums paid to purchase any life insurance hereunder.

(b) **Contract conversion at retirement.** The Administrator must direct the Trustee (or Insurer) to distribute any Contracts to the Participant or convert the entire value of the Contracts at or before retirement into cash or provide for a periodic income so that no portion of such value may be used to continue life insurance protection beyond the Participant's actual retirement date.

(c) **Limitations on purchase.** No life insurance Contracts shall be required to be obtained on an individual's life if, for any reason (other than the nonpayment of premiums) the Insurer will not issue a Contract on such individual's life.

(d) **Proceeds payable to plan.** The Trustee (or Insurer) must be the owner of any life insurance Contract purchased under the terms of this Plan. The Contract must provide that the proceeds will be payable to the Trustee (or Insurer); however, the Trustee (or Insurer) shall be required to pay over all proceeds of the Contract to the Participant's "designated Beneficiary" in accordance with the distribution provisions of Article VI as directed by the Administrator. A Participant's Spouse will be the "designated Beneficiary" pursuant to Section 6.2, unless a qualified election has been made in accordance with Sections 6.5 and 6.6 of the Plan, if applicable. Under no circumstances shall the Trust retain any part of the proceeds that are in excess of the cash surrender value immediately prior to death. However, the Trustee (or Insurer) shall not pay the proceeds in a method that would violate the requirements of the Retirement Equity Act of 1984, as stated in Article VI of the Plan, or Code §401(a)(9) and the Regulations thereunder. In the event of any conflict between the terms of this Plan and the terms of any insurance Contract purchased hereunder, the Plan provisions shall control.

(e) **No responsibility for act of Insurer.** The Employer, the Administrator and the Trustee shall not be responsible for the validity of the provisions under a Contract issued hereunder or for the failure or refusal by the Insurer to provide benefits under such Contract. The Employer, Administrator and the Trustee are also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the Contract or which renders the Contract invalid or unenforceable in whole or in part.

## 7.4 LOANS TO PARTICIPANTS

(a) **Permitted Loans.** To the extent not prohibited under the terms of the Trust agreement, the Administrator may, in the Administrator's sole discretion, make loans to Participants. If loans are permitted, then the following shall apply: (1) loans shall be made available to all Participants on a reasonably equivalent basis; (2) loans shall bear a reasonable rate of interest; (3) loans shall be adequately secured; and (4) loans shall provide for periodic repayment over a reasonable period of time. Furthermore, no Participant loan shall exceed the Participant's Vested interest in the Plan. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees.

(b) **Loan program.** The Administrator shall be authorized to establish a Participant loan program to provide for loans under the Plan. In order for the Administrator to implement such loan program, a separate written document forming a part of this Plan must be adopted, which document shall specifically include, but need not be limited to, the following:

- (1) the identity of the person or positions authorized to administer the Participant loan program;
- (2) a procedure for applying for loans;
- (3) the basis on which loans will be approved or denied;
- (4) limitations, if any, on the types and amounts of loans offered;
- (5) the procedure under the program for determining a reasonable rate of interest;
- (6) the types of collateral which may secure a Participant loan; and
- (7) the events constituting default and the steps that will be taken to preserve Plan assets in the event such default.

(c) **Loan default.** Notwithstanding anything in this Plan to the contrary, if a Participant or Beneficiary defaults on a loan made pursuant to this Section that is secured by the Participant's interest in the Plan, then a Participant's interest may be offset by the amount subject to the security to the extent there is a distributable event permitted by the Code or Regulations. Notwithstanding anything in the Plan's loan policy to the contrary, if a loan is accelerated due to a Participant's termination of employment, then the Plan may direct that the loan note be transferred or directly rolled over to another plan that will accept the transfer or rollover of the note.

(d) **Loans subject to Plan terms.** Notwithstanding anything in this Section to the contrary, if this is an amendment and restatement of an existing Plan, any loans made prior to the date this amendment and restatement is adopted shall be subject to the terms of the Plan in effect at the time such loan was made.

## 7.5 PLAN TO PLAN TRANSFERS

Notwithstanding any other provision contained in this Plan and to the extent not prohibited under the terms of the Trust agreement, the Administrator may direct the Trustee to transfer the interest, if any, of a Participant to another trust forming part of a pension, profit sharing, or stock bonus plan that meets the requirements of Code §401(a), provided that the trust to which such transfers are made permits the transfer to be made and further provided that the terms of the transferee plan properly allocates the funds in each account to a transferee account that preserves all the required features and restrictions applicable to such account under this Plan. However, the transfer of amounts from this Plan to a nonqualified foreign trust is treated as a distribution and the transfer of assets and liabilities from this Plan to a plan that satisfies Section 1165 of the Puerto Rico Code is also treated as distribution from the transferor plan.

## ARTICLE VIII AMENDMENT, TERMINATION AND MERGERS

### 8.1 AMENDMENT

(a) **General rule on Employer amendment.** The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. However, any amendment that affects the rights, duties or responsibilities of the Trustee (or Insurer) or Administrator may only be made with the Trustee's (or Insurer's) or Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee (or Insurer) shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee (or Insurer) hereunder.

(b) **Permissible amendments.** The Employer amend the Plan to accomplish any of the following items without affecting reliance on the opinion letter: (1) change the choice of options in the Adoption Agreement or Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), (2) add certain sample or model amendments published by the Internal Revenue Service or other required good-faith amendments where the IRS has provided that their adoption will not cause the Plan to be treated as an individually designed plan, (3) add a list of any protected benefits" which must be preserved, (4) adjust the limitations under Code §§415, 402(g), 401(a)(17) and 414(q)(1)(B) to reflect annual cost-of-living increases, and (5) change the pre-approved plan Provider's name. "Provider" pursuant to this Section 8 means the entity that contracts with the mass submitter to provide the Basic Plan Document and Adoption Agreement for use by the Employer or, in the alternative, the mass submitter that provides such documents directly to its clients. An Employer that amends the Plan for any other reason, including a waiver of the minimum funding requirement under Code §412(c), will no longer participate in this pre-approved plan and this Plan will be considered to be an individually designed plan for purposes of reliance. A Plan amendment does not include an amendment or substitution of the Trust.

(c) **Provider amendments.** The Employer (and every Participating Employer) expressly delegates authority to the Provider, the right to amend the Plan by submitting a copy of the amendment to each Employer (and Participating Employer) who has adopted

this pre-approved plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the pre-approved Plan as amended qualifies under Code §401(a) (unless a ruling or determination is not required by the IRS). The Provider will amend the Plan Documents from time to time in accordance with this Section 8.1(c). For purposes of this Section, the mass submitter shall be recognized as the agent of the Provider. If the Provider does not adopt any amendment made by the mass submitter, it will no longer be identical to, or a minor modifier of, the mass submitter plan.

(d) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Trust Fund to revert to or become property of the Employer.

## 8.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee (or Insurer) and Administrator written notice of such termination. The Employer has no obligation or liability whatsoever to maintain the Plan for any specific length of time and may terminate the Plan or discontinue contributions under the Plan at any time without liability hereunder for any such discontinuance. Upon any full or partial termination or upon the complete discontinuance of the Employer's Contributions to the Plan (in the case of a Profit Sharing Plan), all amounts credited to the affected Participants' Combined Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner that is consistent with and satisfies the provisions of Section 6.5. Distributions to a Participant shall be made in cash (or in property if permitted in the Adoption Agreement) or through the purchase of irrevocable nontransferable deferred commitments from the Insurer.

## 8.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan provided the benefits which would be received by a Participant of this Plan, in the event of a termination of the plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

## ARTICLE IX MISCELLANEOUS

### 9.1 EMPLOYER ADOPTIONS

(a) **Method of adoption.** Any organization may become the Employer hereunder by executing the Adoption Agreement.

(b) **Separate affiliation.** Except as otherwise provided in this Plan, the affiliation of the Employer and the participation of its Participants shall be separate and apart from that of any other employer and its participants hereunder.

### 9.2 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant of this Plan.

### 9.3 ALIENATION

(a) **General rule.** Subject to the exceptions provided below and as otherwise permitted by the Code, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.

(b) **Exception for loans.** Subsection (a) shall not apply to the extent a Participant or Beneficiary is indebted to the Plan by reason of a loan made pursuant to Section 7.4. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such portion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's interest in the Plan. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against the Participant's interest in the Plan, the Participant or Beneficiary shall be entitled to a review of the validity of the claim in accordance with procedures provided in Section 2.10.



(c) **Exception for QDRO.** Subsection (a) shall not apply to a "qualified domestic relations order" defined in Code §414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984.

#### 9.4 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION

(a) **Applicable law.** This Plan shall be construed and enforced according to the Code, and the laws of the state or commonwealth in which the Employer's principal office is located (unless otherwise designated in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), other than its laws respecting choice of law, to the extent not pre-empted by federal law.

(b) **Administrator's discretion.** The Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Administrator makes under the Plan is final and binding upon any affected person. The Administrator must exercise all of its Plan powers and discretion, and perform all of its duties, in a uniform manner.

(c) **Communications.** All Participant or Beneficiary notices, designations, elections, consents or waivers must be made in a form the Administrator (or, as applicable, the Trustee or Insurer) specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to applicable law.

(d) **Evidence.** Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Administrator, Trustee and Insurer are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.

(e) **Plan terms binding.** The Plan is binding upon all parties, including but not limited to, the Employer, Trustee, Insurer, Administrator, Participants and Beneficiaries.

(f) **Parties to litigation.** Except as otherwise provided by applicable law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, the Trust or any fiduciary. Any final judgment (not subject to further appeal) entered in any such proceeding will be binding upon all parties, including the Employer, the Administrator, Trustee, Insurer, Participants and Beneficiaries.

(g) **Fiduciaries not insurers.** The Trustee, Administrator and the Employer in no way guarantee the Plan assets from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Plan. The liability of the Employer, the Administrator and the Trustee to make any distribution from the Trust at any time and all times is limited to the then available assets of the Trust.

(h) **Construction/severability.** The Plan, the Adoption Agreement, the Trust and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation, is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.

(i) **Uniformity.** All provisions of this Plan shall be interpreted and applied in a uniform manner.

(j) **Headings.** The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

#### 9.5 GENDER, NUMBER AND TENSE

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply; whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply; and whenever any words are used herein in the past or present tense, they shall be construed as though they were also used in the other form in all cases where they would so apply.

#### 9.6 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee (or Insurer), the Employer or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee (or Insurer), the Employer or the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

## 9.7 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) **General rule.** Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries.

(b) **Mistake of fact.** In the event the Employer shall make a contribution under a mistake of fact, the Employer may demand repayment of such contribution at any time within one (1) year following the time of payment and the Trustee (or Insurer) shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

## 9.8 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

The Employer, Administrator and Trustee, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

## 9.9 INSURER'S PROTECTIVE CLAUSE

Except as otherwise agreed upon in writing between the Employer and the Insurer, an Insurer which issues any Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Administrator or Trustee and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Administrator or Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

## 9.10 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, including those referenced in Section 6.9, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee (or Insurer) and the Employer.

## 9.11 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

## 9.12 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification is made by the time prescribed by law or such later date as the Secretary of Treasury may prescribe, the Commissioner of the Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code §§401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one (1) year and the Plan shall terminate, and the Trustee (or Insurer) shall be discharged from all further obligations. If the disqualification relates to a Plan amendment, then the Plan shall operate as if it had not been amended. If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this pre-approved plan and will be considered an individually designed plan.

## 9.13 PAYMENT OF BENEFITS

Except as otherwise provided in the Plan, benefits under this Plan shall be paid, subject to Sections 6.11 and 6.12, only upon death, Total and Permanent Disability, normal or early retirement, severance of employment, or termination of the Plan.

## 9.14 ELECTRONIC MEDIA

The Administrator may use any electronic medium to give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under applicable law. A Participant or a Participant's Spouse, to the extent authorized by the Administrator, may use any electronic medium to make or provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under applicable law. Any reference in this Plan to a "form," a "notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under applicable law.

Notwithstanding the foregoing, any Participant or Beneficiary notices and consent that are required pursuant to the Code must satisfy Regulation §1.401(a)-21.

### **9.15 PLAN CORRECTION**

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §401(a) or to correct a fiduciary breach under state or local law. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and Employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") or any successor program to EPCRS. Furthermore, the Employer may make corrective contributions pursuant to this Section regardless of whether the Plan otherwise permits such contribution source. In addition, the Plan is authorized to recover benefits from Participants or Beneficiaries that have been improperly distributed.

### **9.16 NONTRUSTEED PLANS**

If the Plan is funded solely with Contracts, then notwithstanding Sections 9.7 and 9.12, no Contract will be purchased under the Plan unless such Contract or a separate definite written agreement between the Employer and the Insurer provides that no value under Contracts providing benefits under the Plan or credits determined by the Insurer (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) with respect to such Contracts may be paid or returned to the Employer or diverted to or used for other than the exclusive benefit of the Participants or their Beneficiaries. However, any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.

If this Plan is funded by individual Contracts that provide a Participant's benefit under the Plan, such individual Contracts shall constitute the Participant's Account balance. If this Plan is funded by group Contracts, under the group annuity or group insurance Contract, premiums or other consideration received by the Insurer must be allocated to Participants' Accounts under the Plan.

## **ARTICLE X PARTICIPATING EMPLOYERS**

### **10.1 ELECTION TO BECOME A PARTICIPATING EMPLOYER**

Notwithstanding anything herein to the contrary, with the consent of the Employer, any Employer may adopt the Employer's Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer (a participation agreement). In the event a Participating Employer is not an Affiliated Employer, then the provisions of Article XI shall apply rather than the provision of this Article XI.

### **10.2 REQUIREMENTS OF PARTICIPATING EMPLOYERS**

- (a) **Permissible variations of participation agreement.** The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the Employer shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the Employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the Employer's Adoption Agreement. To the extent that the participation agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the Employer. If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."
- (b) **Holding and investing assets.** The Trustee (or Insurer) may, but shall not be required to, commingle, hold and invest as one Trust Fund all contributions made by Participating Employers, as well as all increments thereof. However, the assets of the Plan shall, on an ongoing basis, be available to pay benefits to all Participants and Beneficiaries under the Plan without regard to the Employer or Participating Employer who contributed such assets.
- (c) **Payment of expenses.** Unless the Employer otherwise directs, any expenses of the Plan which are to be paid by the Employer or borne by the Trust Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

### **10.3 DESIGNATION OF AGENT**

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all of its relations with the Trustee (or Insurer) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates otherwise, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

#### 10.4 EMPLOYEE TRANSFERS

In the event an Employee is transferred between Participating Employers, accumulated service and eligibility shall be carried with the Employee involved. No such transfer shall effect a severance of employment hereunder, and the Participating Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Participating Employer from whom the Employee was transferred.

#### 10.5 PARTICIPATING EMPLOYER'S CONTRIBUTION AND FORFEITURES

Any contribution and/or Forfeiture subject to allocation during each Plan Year shall be determined and allocated separately by each Participating Employer and shall be allocated only among the Participants eligible to share in the contribution and Forfeiture allocation of the Employer or Participating Employer making the contribution or by which the forfeiting Participant was employed.

On the basis of the information furnished by the Administrator, the Trustee (or Insurer) shall keep separate books and records concerning the affairs of each Participating Employer hereunder and as to the accounts and credits of the Employees of each Participating Employer. The Trustee (or Insurer) may, but need not, register Contracts so as to evidence that a particular Participating Employer is the interested Employer hereunder, but in the event of an Employee transfer from one Participating Employer to another, the employing Employer shall immediately notify the Trustee (or Insurer) thereof.

#### 10.6 AMENDMENT

Any Participating Employer hereby authorizes the Employer to make amendments on its behalf, unless otherwise agreed among all affected parties. Any such amendment is effective and binding upon existing Participating Employers.

#### 10.7 DISCONTINUANCE OF PARTICIPATION

Any Participating Employer that is an Affiliated Employer shall be permitted to discontinue or revoke its participation in the Plan at any time. At the time of any such discontinuance or revocation, satisfactory evidence thereof and of any applicable conditions imposed shall be delivered to the Trustee (or Insurer). The Trustee (or Insurer) shall thereafter transfer, deliver and assign Contracts and other Trust Fund assets allocable to the Participants of such Participating Employer to such new trustee (or insurer) or custodian as shall have been designated by such Participating Employer, in the event that it has established a separate qualified retirement plan for its employees. If no successor is designated, the Trustee (or Insurer) shall retain such assets for the Employees of said Participating Employer pursuant to the provisions of Article VII hereof. In no such event shall any part of the corpus or income of the Trust Fund as it relates to such Participating Employer be used for or diverted to purposes other than for the exclusive benefit of the Employees of such Participating Employer.

#### 10.8 ADMINISTRATOR'S AUTHORITY

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purpose of this Article.

### ARTICLE XI MULTIPLE EMPLOYER PROVISIONS

#### 11.1 ELECTION AND OVERRIDING EFFECT

If a Participating Employer that is not an Affiliated Employer adopts this Plan, then the provisions of this Article XI shall apply to each Participating Employer as of the Effective Date specified in its participation agreement and supersede any contrary provisions in the basic Plan document or the Adoption Agreement. If this Article XI applies, then the Plan shall be a multiple employer plan as described in Code §413(c). In this case, the Employer and each Participating Employer acknowledge that the Plan is a multiple employer plan subject to the rules of Code §413(c) and the Regulations thereunder, and specific annual reporting requirements.

#### 11.2 DEFINITIONS

The following definitions shall apply to this Article XI and shall supersede any conflicting definitions in the Plan:

- (a) **Employee.** "Employee" means any common law employee, Leased Employee or other person the Code treats as an employee of a Participating Employer for purposes of the Participating Employer's qualified plan. Either the Adoption Agreement or a participation agreement to the Adoption Agreement may designate any Employee, or class of Employees, as not eligible to participate in the Plan.
- (b) **Lead Employer.** "Lead Employer" means the signatory Employer to the Adoption Agreement execution page, and does not include any Affiliated Employer or Participating Employer. The "lead Employer" has the same meaning as the Employer for purposes of making Plan amendments and other purposes regardless of whether the "lead Employer" is also a Participating Employer under this Article XI. The "lead Employer" may execute a Participation Agreement setting forth elections which are specific to the "lead Employer".

### 11.3 PARTICIPATING EMPLOYER ELECTIONS

The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the "lead Employer" shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the "lead Employer's" Adoption Agreement. To the extent that the Adoption Agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the "lead Employer." If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

### 11.4 TESTING

The Administrator shall apply the Code §415 limitation in Section 4.4 for the Plan as a whole.

### 11.5 COMPENSATION

(a) **Separate determination.** A Participant's Compensation shall be determined separately for each Participating Employer for purposes of allocations under Article IV.

(b) **Joint status.** For all Plan purposes, including but not limited to determining the Code §415 limits in Section 4.4, Compensation includes all Compensation paid by or for any Participating Employer.

### 11.6 SERVICE

An Employee's service includes all Hours of Service and Years of Service with any and all Participating Employers. An Employee who terminates employment with one Participating Employer and immediately commences employment with another Participating Employer has not separated from service or had a severance from employment.

### 11.7 COOPERATION AND INDEMNIFICATION

(a) **Cooperation.** Each Participating Employer agrees to timely provide all information the Administrator deems necessary to insure the Plan is operated in accordance with the requirements of the Code and will cooperate fully with the "lead Employer," the Plan, the Plan fiduciaries and other proper representatives in maintaining the qualified status of the Plan. Such cooperation will include payment of such amounts into the Plan, to be allocated to employees of the Participating Employer, which are reasonably required to maintain the tax-qualified status of the Plan.

(b) **Indemnity.** Each Participating Employer will indemnify and hold harmless the Administrator, the "lead Employer" and its subsidiaries; officers, directors, shareholders, employees, and agents of the "lead Employer"; the Plan; the Trustees, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, other sanctions or compliance fees and penalties) arising out of or relating to the Participating Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Participating Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan. This indemnity provision shall continue to apply to a Participating Employer with respect to the period such entity was a Participating Employer, even if the Participating Employer withdraws or is removed pursuant to Sections 11.8 or 11.9.

### 11.8 INVOLUNTARY TERMINATION

Unless the "lead Employer" provides otherwise in an addendum hereto, the "lead Employer" shall have the power to terminate the participation of any Participating Employer (hereafter "Terminated Employer") in this Plan. If and when the "lead Employer" wishes to exercise this power, the following shall occur:

(a) **Notice.** The "lead Employer" shall give the "Terminated Employer" a notice of the "lead Employer's" intent to terminate the "Terminated Employer's" status as a Participating Employer of the Plan. The "lead Employer" will provide such notice not less than thirty (30) days prior to the date of termination unless the "lead Employer" determines that the interest of Plan Participants requires earlier termination.

(b) **Spin-off.** The "lead Employer" shall establish a new defined contribution plan, using the provisions of this Plan with any modifications contained in the "Terminated Employer's" participation agreement, as a guide to establish a new defined contribution plan (the "spin-off plan"). The "lead Employer" will direct the Trustee to transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to the "spin-off plan." The "Terminated

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Employer" shall be the Employer, Administrator, and sponsor of the "spin-off plan." The Trustee of the "spin-off plan" shall be the person or entity designated by the "Terminated Employer." However, the "lead Employer" shall have the option to designate an appropriate financial institution as Trustee instead if necessary to protect the interest of the Participants. The "lead Employer" shall have the authority to charge the "Terminated Employer" or the Accounts of the Employees of the "Terminated Employer" a reasonable fee to pay the expenses of establishing the "spin-off plan."

(c) **Alternatives.** The "Terminated Employer," in lieu of creation of the "spin-off plan" under (b) above, has the option to elect a transfer alternative in accordance with this Subsection (c).

(1) **Election.** To exercise the option described in this Subsection, the "Terminated Employer" must inform the "lead Employer" of its choice and must supply any reasonably required documentation as soon as practical. If the "lead Employer" has not received notice of a "Terminated Employer's" exercise of this option within ten (10) days prior to the stated date of termination, the "lead Employer" can choose to disregard the exercise and proceed with the Spin-off.

(2) **Transfer.** If the "Terminated Employer" selects this option, the Administrator shall transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to a qualified plan the "Terminated Employer" maintains. To exercise this option, the "Terminated Employer" must deliver to the "lead Employer" or Administrator in writing the name and other relevant information of the transferee plan and must provide such assurances that the Administrator shall reasonably require to demonstrate that the transferee plan is a qualified plan.

(d) **Participants.** The Employees of the "Terminated Employer" shall cease to be eligible to accrue additional benefits under the Plan with respect to Compensation paid by the "Terminated Employer," effective as of the date of termination. To the extent that these Employees have accrued but unpaid contributions as of the date of termination, the "Terminated Employer" shall pay such amounts to the Plan or the "spin-off plan" no later than thirty (30) days after the date of termination, unless the "Terminated Employer" effectively selects the Transfer option under Subsection (c)(2) above.

(e) **Consent.** By its signature on the participation agreement, the "Terminated Employer" specifically consents to the provisions of this Article and agrees to perform its responsibilities with regard to the "spin-off plan," if necessary.

### 11.9 VOLUNTARY TERMINATION

A Participating Employer (hereafter "withdrawing employer") may voluntarily withdraw from participation in this Plan at any time. If and when a "withdrawing employer" wishes to withdraw, the following shall occur:

(a) **Notice.** The "withdrawing employer" shall inform the "lead Employer" and the Administrator of its intention to withdraw from the Plan. The "withdrawing employer" must give the notice not less than thirty (30) days prior to the effective date of its withdrawal.

(b) **Procedure.** The "withdrawing employer" and the "lead Employer" shall agree upon procedures for the orderly withdrawal of the "withdrawing employer" from the plan. Such procedures may include any of the optional spin-off or transfer options described in Section 11.8.

(c) **Costs.** The "withdrawing employer" shall bear all reasonable costs associated with withdrawal and transfer under this Section.

(d) **Participants.** The Employees of the "withdrawing employer" shall cease to be eligible to accrue additional benefits under the Plan as to Compensation paid by the "withdrawing employer," effective as of the effective date of withdrawal. To the extent that such Employees have accrued but unpaid contributions as of the effective date of withdrawal, the "withdrawing employer" shall contribute such amounts to the Plan or the "spin-off plan" promptly after the effective date of withdrawal, unless the accounts are transferred to a qualified plan the "withdrawing employer" maintains.

### 11.10 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all its relations with the Trustee (or Insurer) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates otherwise, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

MODIFICATIONS TO Voya Retirement Insurance and Annuity Company'S Non-Standardized Governmental 401(a).

LYNX MONEY PURCHASE PLAN

**Non-Standardized Governmental 401(a) Pre-Approved Plan**

VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY NON-STANDARDIZED GOVERNMENTAL 401(A)  
MODIFICATIONS

LYNX MONEY PURCHASE PLAN

The enclosed Plan is being submitted for expedited review as a Volume Submitter Plan.

No modifications from the approved specimen plan have been made to this Plan.



**Amended and Restated Trust Agreement  
for the  
LYNX Money Purchase Plan Trust  
(01/01/2022)**

This Amended and Restated Trust Agreement for the LYNX Money Purchase Plan Trust ("Trust agreement" or "Agreement") is entered into by and between the Central Florida Regional Transportation Authority d/b/a LYNX ("Employer") and the Board of Trustees for the LYNX Money Purchase Plan, the members of which are identified on the signature page hereto (collectively, the "Trustee"), effective as of January 1, 2022.

1. **Continuation of Trust.** In conjunction with the amendment and restatement of the LYNX Money Purchase Plan ("Plan"), the Employer and the Trustee agree to continue to maintain in the United States the domestic Trust for the Plan consisting of such sums as have been paid, and shall from time to time be paid, to the Trustee under the Plan and such earnings, income and appreciation as may accrue thereon. The Trustee shall carry out the duties and responsibilities herein specified, but shall be under no duty to determine whether the amount of any contribution by the Employer or any Plan participant is in accordance with the terms of the Plan.

The Trust shall be held, invested, reinvested and administered by the Trustee in accordance with the terms of the Plan and this Agreement solely in the interest of Plan participants and their beneficiaries and for the exclusive purpose of providing benefits to Plan participants and their beneficiaries and defraying reasonable expenses of administering the Plan. Except to the limited extent provided in the Plan, no assets of the Plan shall inure to the benefit of the Employer.

2. **Type of Trustee.** A "Directed Trustee" is a trustee who, with respect to the investment of Plan assets, is subject to the direction of the Plan Administrator, the Employer, a properly appointed investment manager, or Plan participant. A "Discretionary Trustee" is a trustee who has the authority and discretion to invest, manage or control any portion of the Plan assets. Notwithstanding a designation as a "Discretionary Trustee," a trustee's discretion is limited, and the trustee shall be considered a "Directed Trustee", to the extent the trustee is subject to the direction of the Plan Administrator, the Employer, or a properly appointed investment manager, under an agreement between the trustee and the Employer or Plan Administrator. A trustee also is considered a "Directed Trustee" to the extent the trustee is subject to investment direction of Plan participants.

The Trustee shall act as a Discretionary Trustee; provided, however, that the Trustee shall comply with the Plan's provisions specifying the Trustee's responsibilities with regard to participant-directed investments. The Trustee shall serve as the "Special Trustee," as referenced in the Plan, with the responsibility to collect delinquent Plan contributions, to the extent applicable.

3. **Responsibilities of the Trustee.** In addition to the powers, rights and responsibilities enumerated under this Agreement, the Trustee has all powers necessary to carry out its

duties in a prudent manner. The Trustee's powers, rights and responsibilities may be modified, supplemented or limited by a separate trust agreement, investment policy, funding agreement, or other binding document entered into by the Trustee and, if applicable, the Plan Administrator or Employer. Such binding document must designate the Trustee's responsibilities with respect to the Plan. A separate trust agreement, investment policy, funding agreement, or other binding document must be consistent with the terms of the Plan and must comply with all qualification requirements under the Internal Revenue Code of 1986, as amended ("Code") and regulations.

It is the sole and exclusive responsibility of the Trustee (and no other party) to select the menu of investment options available for Plan participant direction of investments. The Trustee (and no other party) will designate how accounts will be invested in the absence of proper affirmative direction from the Plan participant. The Trustee (and no other party) may designate a default fund under the Plan for contributions made on behalf of Plan participants who have been identified by the Plan Administrator as having not specified investment choices under the Plan. The Trustee (and no other party) may appoint, at its option, one or more investment managers, investment advisers, or other agents to provide investment direction with respect to Plan assets.

**(a) Responsibilities regarding administration of Trust.**

- (1) The Trustee, the Employer and the Plan Administrator shall each discharge their assigned duties and responsibilities under this Agreement and the Plan solely in the interest of Plan participants and their beneficiaries in the following manner:
- (2) for the exclusive purpose of providing benefits to Plan participants and their beneficiaries and defraying reasonable expenses of administering the Plan;
- (3) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and
- (4) by diversifying the available investments under the Plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
- (5) The Trustee will receive all contributions, earnings and other amounts made to and under the terms of the Plan. The Trustee is not obligated in any manner to ensure that such amounts are correct in amount or that such amounts comply with the terms of the Plan or the Code. The Trustee is not liable for the manner in which such amounts are deposited or the allocation between Plan participants' accounts, to the extent the Trustee follows the written direction of the Plan Administrator or Employer.

- (6) The Trustee will make distributions from the Trust in accordance with the written directions of the Plan Administrator or other authorized Plan representative. To the extent the Trustee follows such written direction, the Trustee is not obligated in any manner to ensure a distribution complies with the terms of the Plan, that a Plan participant or beneficiary is entitled to such a distribution, or that the amount distributed is proper under the terms of the Plan. If there is a dispute as to a payment from the Trust, the Trustee may decline to make payment of such amounts until the proper payment of such amounts is determined by a court of competent jurisdiction, or the Trustee has been indemnified to its satisfaction.
- (7) The Trustee may employ agents, attorneys, accountants and other third parties to provide counsel on behalf of the Plan, where the Trustee deems advisable. The Trustee may reimburse such persons from the Trust for reasonable expenses and compensation incurred as a result of such employment. The Trustee shall not be liable for the actions of such persons, provided the Trustee acted prudently in the employment and retention of such persons. In addition, the Trustee will not be liable for any actions taken as a result of good faith reliance on the advice of such persons.
- (8) The Trustee shall keep full and accurate accounts of all receipts, investments, disbursements and other transactions hereunder, including such specific records as may be agreed upon in writing between the Employer and the Trustee. All such accounts, books and records shall be open to inspection and audit at all reasonable times by any authorized representative of the Trustee or the Plan Administrator. A Plan participant may examine only those individual account records pertaining directly to such Plan participant's own Plan account(s) except to the extent applicable law permits the Plan participant to examine other records.
- (9) Except to the limited extent provided in the Plan, at no time prior to the satisfaction of all liabilities with respect to Plan participants and their beneficiaries under the Plan shall any part of the corpus or income of the Trust Fund be used for, or diverted to, purposes other than for the exclusive benefit of Plan participants or their beneficiaries, or for defraying reasonable expenses of administering the Plan.

**(b) Responsibilities regarding investment of Plan assets.**

- (1) The Trustee shall be responsible for holding the assets of the Trust in accordance with the provisions of the Plan.
- (2) The Trustee may invest and reinvest, manage and control the Plan assets in a manner that is consistent with the Plan's funding policy and

investment objectives of the Plan. The Trustee may invest in any investment, as authorized under this subsection (b), which the Trustee deems advisable and prudent, subject to the proper written direction of the Plan Administrator, the Employer, a properly appointed investment manager, or a Plan participant. The Trustee is not liable for the investment of Plan assets to the extent the Trustee is following the proper direction of the Plan Administrator, the Employer, a Plan participant, an investment manager, or other person or persons duly appointed to provide investment direction. In addition, the Trustee does not guarantee the Trust in any manner against investment loss or depreciation in asset value, or guarantee the adequacy of the Trust to meet and discharge any or all liabilities of the Plan.

- (3) The Trustee may hold any securities or other property in the name of the Trustee or in the name of the Trustee's nominee, and may hold any investments in bearer form, provided the books and records of the Trustee at all times show such investment to be part of the Trust.
- (4) The Trustee may retain such portion of the Plan assets in cash or cash balances as the Trustee may, from time to time, deem to be in the best interests of the Plan, without liability for interest thereon.
- (5) The Trustee may collect and receive any and all moneys and other property due the Plan and to settle, compromise, or submit to arbitration any claims, debts, or damages with respect to the Plan, and to commence or defend on behalf of the Plan any lawsuit, or other legal or administrative proceedings.
- (6) The Trustee may pay expenses out of Plan assets as necessary to administer the Trust and as authorized under the Plan.
- (7) The Trustee may borrow or raise money on behalf of the Plan in such amount, and upon such terms and conditions, as the Trustee deems advisable. The Trustee may issue a promissory note as Trustee to secure the repayment of such amounts and may pledge all, or any part, of the Trust as security.
- (8) The Trustee is authorized to execute, acknowledge and deliver all documents of transfer and conveyance, receipts, releases, and any other instruments that the Trustee deems necessary or appropriate to carry out its powers, rights and duties hereunder.
- (9) The Trustee, upon the written direction of the Plan Administrator, is authorized to enter into a transfer agreement with the trustee of another qualified retirement plan and to accept a transfer of assets from such retirement plan on behalf of any employee of the Employer. The Trustee

is also authorized, upon the written direction of the Plan Administrator, to transfer some or all of a Plan participant's vested Plan account balance to another qualified retirement plan on behalf of such Plan participant.

- (10) If the Employer maintains more than one plan, the assets of such plans may be commingled for investment purposes. The Trustee must separately account for the assets of each plan. A commingling of assets does not cause the trusts maintained with respect to the Employer's plans to be treated as a single trust, except as provided in a separate document authorized in the first paragraph of this Section 3.
- (11) If the Trustee is a bank or similar financial institution, the Trustee is authorized to invest in any type of deposit of the Trustee (including its own money market fund) at a reasonable rate of interest.
- (12) The Trustee is authorized to invest Plan assets in a common/collective trust fund, or in a group trust fund that satisfies the requirements of IRS Revenue Ruling 81-100, as clarified by Revenue Ruling 2004-67. All of the terms and provisions of any such common/collective trust fund or group trust into which Plan assets are invested are incorporated by reference into the provisions of the Trust for this Plan. The assets in a group trust may be pooled with the assets of a custodial account under Code §403(b)(7), a retirement income account under Code §403(b)(9), and Code §401(a)(24) governmental plans without affecting the tax status of the group trust, subject to the requirements under Rev. Rul. 2011-1 (as modified by Notice 2012-6).

4. **Responsibilities of the Employer.** The Employer will provide to the Trustee written notification of the appointment of any person or persons as Plan Administrator and the names, titles and authorities of any individuals who are authorized to act on behalf of such persons. The Trustee shall be entitled to rely upon such information until it receives written notice of a change in such appointments or authorizations.

The Employer may authorize the Trustee to enter into a merger agreement with the Trustee of another plan to effect such merger or consolidation. A merger agreement entered into by the Trustee is not part of the Plan and does not affect the assets transferred to the Plan from another plan.

5. **Effect of Plan Amendment.** Any amendment that affects the rights, duties or responsibilities of the Trustee or Plan Administrator may only be made with the Trustee's or Plan Administrator's written consent. Any amendment to the Plan must be in writing and a copy of the resolution (or similar instrument) setting forth such amendment (with the applicable effective date of such amendment) must be delivered to the Trustee.
6. **More than One Trustee.** If the Plan has more than one person acting as Trustee, the Trustees may allocate the Trustee responsibilities by mutual agreement. The Trustees

may agree to make decisions by a majority vote or may permit any one of the Trustees to make any decision, undertake any action or execute any documents affecting this Trust without the approval of the remaining Trustees. The Trustees may agree to the allocation of responsibilities in a separate trust agreement or other binding document.

7. **Annual Valuation.** The Plan assets will be valued at least on an annual basis. The Employer may designate more frequent valuation dates under the Plan. Notwithstanding any election under the Plan, the Trustee and Plan Administrator may agree to value the Trust on a more frequent basis, and/or to perform an interim valuation of the Trust. The Trustee's determination of the value of Trust assets shall be final and conclusive.
8. **Reporting to Plan Administrator and Employer.** Within a reasonable time after the end of each Plan year or within a reasonable time after its removal or resignation, the Trustee shall file with the Plan Administrator a written account of the administration of the Trust showing all transactions effected by the Trustee from the last preceding accounting to the end of such Plan year or date of removal or resignation. The accounting will include a statement of cash receipts, disbursements and other transactions effected by the Trustee since the date of its last accounting, and such further information as the Trustee and/or Employer deems appropriate. Upon approval of such accounting by the Plan Administrator, neither the Employer nor the Plan Administrator shall be entitled to any further accounting by the Trustee. The Trustee shall have a reasonable time following its receipt of a written disapproval from the Employer to provide the Employer with a written explanation of the terms in question. If the Employer again disapproves of the accounting, the Trustee may file its accounting with a court of competent jurisdiction for audit and adjudication.
9. **Reasonable Compensation.** The Trustee shall be paid reasonable compensation in an amount agreed upon by the Plan Administrator and Trustee. The Trustee also will be reimbursed for any reasonable expenses or fees incurred in its function as Trustee. An individual Trustee who is already receiving pay as an employee or independent contractor of the Employer may not receive any additional compensation for services as Trustee. The Plan will pay the reasonable compensation and expenses incurred by the Trustee, unless the Employer pays such compensation and expenses. Any compensation or expense paid directly by the Employer to the Trustee is not an Employer contribution to the Plan.
10. **Resignation and Removal of Trustee.** The Trustee may resign at any time by delivering to the Employer a written notice of resignation at least thirty (30) calendar days prior to the effective date of such resignation, unless the Employer consents in writing to a shorter notice period. The Employer and Trustee may agree to a longer notification period prior to the resignation of the Trustee. The Employer may remove the Trustee at any time, with or without cause, by delivering written notice to the Trustee at least thirty (30) calendar days prior to the effective date of such removal. The Employer may remove the Trustee upon a shorter written notice period if the Employer reasonably determines such shorter period is necessary to protect Plan assets or to ensure the Plan is being operated for the exclusive benefit of Plan participants and their beneficiaries. Upon

the resignation, removal, death or incapacity of a Trustee, the Employer may appoint a successor Trustee which, upon accepting such appointment, will have all the powers, rights and duties conferred upon the preceding Trustee. In the event there is a period of time following the effective date of a Trustee's removal or resignation before a successor Trustee is appointed, the Employer is deemed to be the Trustee. During such period, the Trust continues to be in existence and legally enforceable, and the assets of the Plan shall continue to be protected by the provisions of the Trust.

**11. Indemnification of Trustee.** Except to the extent that it is judicially determined that the Trustee has acted with gross negligence or willful misconduct, the Employer shall indemnify the Trustee (whether or not the Trustee has resigned or been removed) against any liabilities, losses, damages, and expenses, including attorney, accountant, and other advisory fees, incurred as a result of:

- (a) any action of the Trustee taken in good faith in accordance with any information, instruction, direction, or opinion given to the Trustee by the Employer, the Plan Administrator, investment manager, or legal counsel of the Employer, or any person or entity appointed by any of them and authorized to give any information, instruction, direction, or opinion to the Trustee;
- (b) the failure of the Employer, the Plan Administrator, investment manager, or any person or entity appointed by any of them to make timely disclosure to the Trustee of information which any of them or any appointee knows or should know if it acted in a reasonably prudent manner; or
- (c) any breach of fiduciary duty by the Employer, the Plan Administrator, investment manager, or any person or entity appointed by any of them, other than such a breach which is caused by any failure of the Trustee to perform its duties under this Trust.

**12. Liability of Trustee.** The duties and obligations of the Trustee shall be limited to those expressly imposed upon it by the Plan document and Trust agreement or as subsequently agreed upon by the parties. Responsibility for administrative duties required under the Plan or applicable law not expressly imposed upon or agreed to by the Trustee shall rest solely with the Plan Administrator and the Employer. The Employer agrees that the Trustee shall have no liability with regard to the investment or management of illiquid Plan assets transferred from a prior trustee, and shall have no responsibility for investments made before the transfer of Plan assets to it, or for the viability or prudence of any investment made by a prior trustee, including those represented by assets now transferred to the custody of the Trustee, or for any dealings whatsoever with respect to Plan assets before the transfer of such assets to the Trustee. The Employer shall indemnify and hold the Trustee harmless for any and all claims, actions or causes of action for loss or damage, or any liability whatsoever relating to the assets of the Plan transferred to the Trustee by any prior trustee of the Plan, including any liability arising out of or related to any act or event, including prohibited transactions, occurring prior to the date the Trustee accepts such assets, including all claims, actions, causes of action,

loss, damage, or any liability whatsoever arising out of or related to that act or event, although that claim, action, cause of action, loss, damage, or liability may not be asserted, may not have accrued, or may not have been made known until after the date the Trustee accepts the Plan assets. Such indemnification shall extend to all applicable periods, including periods for which the Plan is retroactively restated to comply with any tax law or regulation.

13. **Appointment of Custodian.** The Employer may appoint a Custodian to hold all or any portion of the Plan assets. A Custodian has the powers, rights and responsibilities similar to those of a Directed Trustee. The Custodian will be protected from any liability with respect to actions taken pursuant to the direction of the Trustee, Plan Administrator, the Employer, an investment manager, or other third party with authority to provide direction to the Custodian. The Custodian may designate its acceptance of the responsibilities and obligations described under the Plan by entering into a separate agreement with the Custodian. Such separate agreement must be consistent with the responsibilities and obligations set forth in the Plan document.
14. **Modification of Trust Provisions.** The Employer may amend the administrative trust or custodial provisions under the Plan (such as provisions relating to investments and the duties of trustees), provided the amended provisions are in writing, do not conflict with any other provision of the Plan, do not cause the Plan to fail to qualify under Code §401(a), and comply with Section 5 herein. Consistently with the foregoing conditions, the Trustee and Employer may amend this Agreement in a writing signed by both parties hereto.
15. **Custodial Accounts, Annuity Contracts and Insurance Contracts.** As provided under Code §401(f), a custodial account, an annuity contract or a contract issued by an insurer is treated as a qualified trust under the Plan if (i) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under Code §401(a) and (ii) in the case of a custodial account the assets thereof are held by a bank (as defined in Code §408(n)) or another person who demonstrates to the IRS that the manner in which the assets are held are consistent with the requirements of Code §401(a). No insurance contract will be purchased under the Plan unless such contract or a separate definite written agreement between the Employer and the insurer provides that: (1) no value under contracts providing benefits under the Plan or credits determined by the insurer (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) with respect to such contracts may be paid or returned to the Employer or diverted to or used for other than the exclusive benefit of the Plan participants or their beneficiaries. However, any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution as provided in the Plan. If the Plan is funded by individual contracts that provide a Plan participant's benefit under the Plan, such individual contracts shall constitute the Plan participant's Plan account balance. If the Plan is funded by group contracts, under the group annuity or group insurance contract, premiums or other consideration received by the insurance company must be allocated to Plan participants' accounts under the Plan.



16. **Governing Law and Construction.** The provisions of this Trust agreement shall be construed, administered, and enforced in accordance with the provisions of applicable federal law and, to the extent applicable, the laws of the state of Florida.

Notwithstanding any provision in the Plan or Trust agreement to the contrary, including but not limited to Sections 11 and 12 herein and section 7.1 of the Plan, the Trustee's exercise of the Trustee's powers, and the Trustee's power to invoke any Plan or Trust provision providing for limitation of the Trustee's liability (or providing for indemnification of the Trustee), are subject to applicable Florida law governing or limiting same, including but not limited to, any applicable provisions on Chapter 112 of the Florida Statutes.

The Trust agreement and all other documents to which it refers, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan or Trust agreement) determines to be inconsistent with such construction and interpretation, is deemed severed and is of no force or effect, and the remaining Trust agreement terms will remain in full force and effect.

17. **Trustee Declaration.** By executing this Trust agreement, the designated Trustee(s) accept the responsibilities and obligations set forth under the Plan and this Trust agreement.

[THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURES CONTINUE ON FOLLOWING PAGE.]

**IN WITNESS WHEREOF**, the undersigned have executed this Amended and Restated Trust Agreement for the LYNX Money Purchase Plan Trust as of the 23<sup>rd</sup> day of September, 2021, to be effective January 1, 2022.

**EMPLOYER:**

Central Florida Regional Transportation Authority  
d/b/a LYNX

By: \_\_\_\_\_  
Name: James E. Harrison, Esq., P.E.  
Title: CEO

**TRUSTEE:**

Board of Trustees for the LYNX Money Purchase Plan

By: \_\_\_\_\_  
Name: Brian Anderson  
Title: member of the Board of Trustees

By: \_\_\_\_\_  
Name: Dana Baker  
Title: member of the Board of Trustees

By: \_\_\_\_\_  
Name: Albert J. Francis II  
Title: member of the Board of Trustees

## Participation Agreement

# VantageTrust

This Participation Agreement is by and between VantageTrust Company, LLC ("Trust Company"), the trustee of VantageTrust, and the employer executing this Participation Agreement ("Employer") on behalf of the retirement plan(s) or retirement trust(s) identified on the signature page (the "Retirement Trust") and is effective as of the date specified at the end of this Agreement.

### RECITALS

1. The Trust Company maintains VantageTrust (including each separate investment fund established as a "Fund") under the Declaration of Trust of VantageTrust Company dated May 19, 2001, and all other attachments thereto, as amended and in effect from time to time (the "Declaration of Trust"), as a medium for the commingling of assets of Deferred Compensation and Qualified Plans.
2. The Retirement Trust desires to become a Participating Trust, as defined below.

### DEFINITIONS

1. "Eligible Trust" shall mean a Deferred Compensation or Qualified Plan as those terms are defined in the Declaration of Trust.
2. "Participating Trust" means an Eligible Trust that has executed this Participation Agreement, has been accepted to VantageTrust by the Trust Company, has transferred assets to VantageTrust, and has a beneficial interest in VantageTrust.
3. "Non-Public Employer" is any entity other than a Public Employer as defined in the Declaration of Trust.
4. Unless otherwise specified herein, capitalized words or phrases shall have the meaning as set forth in the Declaration of Trust.

### AGREEMENT

In consideration of the foregoing and the promises set forth below, the parties agree to the following:

1. **Appointment and Acceptance.** The Employer hereby acknowledges that the Trust Company has appointed Vantagepoint Investment Advisers, LLC ("VIA"), an investment adviser registered under the Investment Advisers Act of 1940, as an investment adviser pursuant to the terms of the Declaration of Trust to provide advice and recommendations to the Trust Company in the management of the Funds. The Employer further acknowledges that The Trust Company has appointed ICMA Retirement Corporation ("Administrator") to perform various administrative functions of the Funds. The Employer further acknowledges and accepts that VIA and the Trust Company are wholly owned subsidiaries of Administrator.
2. **Adoption of Trust.** The Retirement Trust's participation in each Fund will at all times be subject to the terms of the Declaration of Trust, which is hereby adopted as a part of the Retirement Trust and this Participation Agreement. The Retirement Trust's participation in each Fund will also be subject to the terms of the Declaration of Trust.

3. **Acceptance of Plan.** The Trust Company accepts the Retirement Trust (including each plan forming a part thereof) as a Participating Trust as of the date specified on the execution page of this Participation Agreement.
4. **Notice of Disqualification.** In the event that the Retirement Trust ceases to be an Eligible Trust, then, in the case of any such event, the Employer shall deliver to the Trust Company a written notice of its ceasing to be an Eligible Trust within fifteen (15) calendar days of receipt of any notice, execution of any amendment, receipt of any letter or determination of such cessation. Upon the Trust Company's receipt of such information, in writing or otherwise, the Retirement Trust's units shall be redeemed in accordance with the provisions of the Declaration of Trust.
5. **Term and Termination.** This Agreement shall be in effect from the day specified at the end of this Agreement until termination by Employer or Trust Company upon ninety (90) days prior written notice.
  - a. Termination Restriction. Employer acknowledges and agrees that, consistent with the terms applicable to the VT PLUS Fund as outlined in the Disclosure Memorandum, VIA retains full discretion to defer Employer-initiated withdrawals from the VT PLUS Fund for a period of not more than 12 months following notice of termination of this Agreement.

#### **WARRANTIES, REPRESENTATIONS AND COVENANTS OF EMPLOYER AND ELIGIBLE TRUST**

1. Employer and Retirement Trust represent and warrant as follows:
  - a. The Retirement Trust meets the definition of an "Eligible Trust" because it is one of the following, as indicated on the signature page of this Agreement:

Public Employer Deferred Compensation or Qualified Plan. Either a deferred compensation plan maintained by a Public Employer under Section 457 of the Internal Revenue Code (and trusts maintained by such Public Employers in connection with such 457 plans) or a pension or profit-sharing trust that is maintained by a Public Employer and that is exempt under Section 501(a) of the Internal Revenue Code because the qualified Plan related thereto qualifies under Section 401(a) of the Internal Revenue Code; or

Non-Public Employer Qualified Plan. A pension or profit-sharing trust that is maintained by a Non-Public Employer and that is exempt under Section 501(a) of the Internal Revenue Code because the qualified Plan related thereto qualifies under Section 401(a) of the Internal Revenue Code.
  - b. The Retirement Trust is established, maintained and administered under one or more documents that authorize part or all of the assets of the Retirement Trust to be transferred to, and commingled for investment purposes in, a Trust that meets the requirements of Revenue Ruling 81-100, as amended or clarified from time to time;
  - c. The Declaration of Trust (including each Fund thereunder) is adopted as part of the Retirement Trust;

- d. Authorization or license from any foreign, federal, state or local regulatory authority or agency required on the part of the Employer or the Retirement Trust has been obtained and any necessary filing with any of the foregoing has been duly made;
  - e. Employer will not transmit, or cause to be transmitted, any order for purchase or redemption of units of the VT PLUS Fund that are not based on instructions communicated in proper form by Retirement Plan participants; and
  - f. Employer will not use the VT PLUS Fund as a temporary holding account, default investment, or investment account for employer level accounts including revenue sharing accounts or any other non-participant account. Notwithstanding the foregoing, the Employer can use the VT PLUS Fund in a forfeiture account.
2. Employer hereby represents and acknowledges the following:
- a. It has the requisite authority to enter into this Participation Agreement on behalf of the Retirement Trust, to authorize investments under the provisions of the documents of the Retirement Trust and to make, on behalf of the Retirement Trust, any and all certifications, covenants, representations or warranties set forth in this Agreement;
  - b. The Declaration of Trust, any addenda thereto, the Disclosure Memorandum, any applicable Fund Fact Sheets, and any additional materials and information requested by the Employer describing VantageTrust and its business and operation have been made available to the Employer and have been reviewed by the Employer, and that in making a prudent investment decision with respect to the contribution of assets to VantageTrust in exchange for units and the current or future selection of one or more Funds, the Employer has relied solely upon independent investigations made, directly or indirectly, by it;
  - c. It has been given the opportunity to review with the Trust Company the terms and conditions of this Participation Agreement and the Declaration of Trust, and to obtain additional information to verify the accuracy of the information contained in the aforesaid materials, and such other information as it desires to evaluate its investment in VantageTrust and the selection of one or more of the Funds;
  - d. The units of the Funds have not been registered under the Securities Act of 1933 or the applicable securities laws of any states or other jurisdictions;
  - e. Neither VantageTrust nor any Fund is registered under the Investment Company Act of 1940, and investors are not entitled to the protections of that Act; and
  - f. The units of the Funds are not insured by the Federal Deposit Insurance Corporation or any other type of deposit insurance coverage.
3. Employer agrees promptly to notify the Trust Company in the event that any of the representations set forth above or any information provided pursuant to the provisions hereof ceases to be accurate during the term of this Participation Agreement. Until such notice is given to the Trust Company, the Trust Company may rely on the representations contained in, and all other information provided pursuant to or as contemplated by, this Participation Agreement in connection with all matters related to the Funds and VantageTrust.

4. Upon reasonable request by the Trust Company, Employer agrees to provide the Trust Company with a list of all Employer affiliates that provide financial services to Employer, including any broker-dealer.
5. Employer acknowledges that VantageTrust may invest in a range of securities, whether directly or indirectly through another pooled investment vehicle. Employer acknowledges and agrees that it is solely responsible for determining that the Retirement Trust's investment in VantageTrust will not contravene any provision of existing law or regulations applicable to the Retirement Trust, or of the organizational or governing documents of the Retirement Trust.

## FEES AND EXPENSES

1. Fees and expenses incurred with respect to VantageTrust, including compensation of the Trustee, shall be paid in accordance with the Declaration of Trust.

## MISCELLANEOUS

1. **Consent to Electronic Delivery.** By submitting an email address on the signature page of this Agreement, the Employer hereby authorizes, and agrees to, the use of electronic mail or web-based availability to deliver all documents required to be delivered by, or on behalf of, the Fund to the Employer under applicable law or regulation and pursuant to the Declaration of Trust, such delivery or notice of web-based availability to be sent to the email address listed on the signature page of this Agreement, unless Employer otherwise notifies Trust Company in writing. The Employer may elect not to receive such documents by electronic means by submitting a written request to Trust Company.
2. **Construction.** This Participation Agreement shall be deemed to be executed and delivered in the State of New Hampshire, and, except to the extent superseded by federal laws, all laws or rules of construction of the State of New Hampshire shall govern the rights of the parties hereto and the interpretation of provisions of this Participation Agreement.
3. **Counterparts.** This Participation Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but the several counterparts shall together constitute one and the same Participation Agreement of the parties hereto.
4. **Amendments.** This Participation Agreement shall be automatically amended by any amendment to the Declaration of Trust, and all such amendments shall be automatically incorporated by reference herein, and any provisions of this Participation Agreement inconsistent with the terms of such amendment shall be null and void on and after the effective date of such amendment.
5. **Agreement Conflicts.** In the event that any terms of this Participation Agreement conflict with or are in addition to the terms of any other agreement between the parties, the terms of this Participation Agreement and the Declaration of Trust shall prevail. In the event that the terms of this Participation Agreement conflict with the terms of the Declaration of Trust, the terms of the Declaration of Trust shall prevail.
6. **Prohibited Transactions.** If the Trust Company determines that the Retirement Trust's involvement with certain assets, liabilities or transactions will result, or has resulted, in the Trust engaging in a transaction that is prohibited by the Internal Revenue Code, Employee Retirement Income Security Act of 1974, Securities Act of 1933, Investment Company Act of 1940 or other

applicable law, the Trust Company, in its sole discretion, may take action to correct such prohibited transaction, or may treat the Retirement Trust as having withdrawn from participation and shall redeem the Retirement Trust's units, all in accordance with the Declaration of Trust.

7. **Severability.** Each clause or term of this Participation Agreement is severable from the entire Participation Agreement, and if any clause or term is declared invalid, the remaining clauses or terms shall remain in effect.
8. **Notice.** All notices under this Participation Agreement must be sent in writing to the below address:

VantageTrust Company, LLC  
c/o ICMA Retirement Corporation  
Attn: Legal Division  
777 North Capitol Street, NE  
Washington, DC 20002

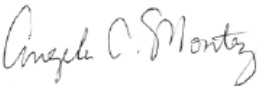
9. **Electronic Signatures.** The parties agree that this document may be electronically signed and that any electronic signatures appearing on this document are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

*[The remainder of this page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date specified below.

**VantageTrust**

By: VantageTrust Company, LLC, as Trustee,

By:   
 Angela Montez, Secretary

**ALL EMPLOYERS:**

List below the Plan(s)/Retirement Trust(s):

	Plan/Retirement Trust Name	Public Employer Plan	Non-Public Employer Plan
		(Check one option only)	
1.	LYNX Money Purchase Plan	X	
2.			

Check this box to confirm that the documents listed in Section 2(b) of the Warranties, Representations and Covenants section of this Agreement have been made available to the Employer and have been reviewed by the Employer.

If applicable, list below the name and CRD number (if an investment adviser) of the agent that is acting on behalf of the Employer and that is authorized to receive information relating to this Agreement and the Plan's/Retirement Trust's investment in the Funds:

Agent	CRD No.
N/A	

**NON-PUBLIC EMPLOYERS ONLY:**

Check this box to confirm the Employer has provided a copy of the applicable IRS Form W-9.

By: Central Florida Regional Transportation Authority d/b/a LYNX  
 Name of Employer or Fiduciary

By: _____ Authorized Officer Signature James E. Harrison, P.E., Esq., as CEO _____ Printed Name and Title c/o Brian Anderson 2500 Lynx Lane _____ Address Line 1 _____ Orlando, FL 32804 _____ Address Line 2	_____ Date (407) 254-6219 _____ Telephone Number c/o banderson@golynx.com _____ Email
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## VantageTrust Participation Agreement – Related Documents

Documents referenced in Section 2(b) of the Warranties, Representations and Covenants section of the Participation Agreement:

1. Declaration of Trust of VantageTrust Company, dated May 19, 2001 with Exhibit A dated November 2020
2. Declaration of Trust for ICMA Retirement Trust as Amended August 2017 (this is the latest amendment and restatement of the October 4, 1982 Declaration of Trust)
3. Amended and Restated Limited Liability Company Agreement of VantageTrust Company, LLC (this is the superseding document for the ICMA Trust By-laws referenced in the 2001 Declaration of Trust)
4. Disclosure Memorandum for VantageTrust Funds dated November 2020
5. Fund Fact Sheet for VantagePoint Plus Fund R10 dated March 31, 2021

**DECLARATION OF TRUST  
OF  
VANTAGETRUST COMPANY, LLC**

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19<sup>th</sup> day of May, 2001, by **VantageTrust Company, LLC**, which declares itself to be the sole Trustee of the trust hereby created.

**WHEREAS**, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

**WHEREAS**, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

**NOW, THEREFORE**, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

1. **Incorporation of ICMA Declaration by Reference; ICMA By-Laws.** Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.


Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

- (a) any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
  - (b) all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.
2. **Compliance with Revenue Procedure 81-100.** The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:
- (a) Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
  - (b) Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.
  - (c) In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.
  - (d) In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.
3. **VantageTrust Funds.** In accordance with 12 C.F.R. Part 9 as issued by the Office of the Comptroller of the Currency, the investment funds known as the VantageTrust Funds are incorporated into this Declaration of Trust. The VantageTrust Funds are listed in Exhibit A.
4. **Governing Law.** Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.
5. **Judicial Proceedings.** The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of

New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

**IN WITNESS WHEREOF**, the Trustee has executed this Declaration of Trust as of the day and year first above written.

**VANTAGETRUST COMPANY, LLC**

By:   
Name: Paul F. Gallagher  
Title: Assistant Secretary

## Exhibit A: List of VantageTrust Funds

November 2020

The VantageTrust (“VT”) Funds are:

### **Stable Value / Cash Management Funds**<sup>1</sup>

VT Cash Management Fund  
VT PLUS Fund

### **VT Vantagepoint Model Portfolio Funds**<sup>1</sup>

VT Vantagepoint Model Portfolio Conservative Growth Fund  
VT Vantagepoint Model Portfolio Traditional Growth Fund  
VT Vantagepoint Model Portfolio Long-Term Growth Fund  
VT Vantagepoint Model Portfolio Global Equity Growth Fund

### **VT Vantagepoint Funds**<sup>1</sup>

VT Vantagepoint 500 Stock Index Fund  
VT Vantagepoint Aggressive Opportunities Fund  
VT Vantagepoint Broad Market Index Fund  
VT Vantagepoint Core Bond Index Fund  
VT Vantagepoint Discovery Fund  
VT Vantagepoint Emerging Markets Fund  
VT Vantagepoint Equity Income Fund  
VT Vantagepoint Growth & Income Fund  
VT Vantagepoint Growth Fund  
VT Vantagepoint High Yield Fund  
VT Vantagepoint Inflation Focused Fund  
VT Vantagepoint International Fund  
VT Vantagepoint Low Duration Bond Fund  
VT Vantagepoint Mid/Small Company Index Fund  
VT Vantagepoint Overseas Equity Index Fund  
VT Vantagepoint Select Value Fund

### **VT Vantagepoint Milestone Funds**<sup>1</sup>

VT Vantagepoint Milestone Retirement Income Fund  
VT Vantagepoint Milestone 2015 Fund  
VT Vantagepoint Milestone 2020 Fund  
VT Vantagepoint Milestone 2025 Fund  
VT Vantagepoint Milestone 2030 Fund  
VT Vantagepoint Milestone 2035 Fund  
VT Vantagepoint Milestone 2040 Fund  
VT Vantagepoint Milestone 2045 Fund  
VT Vantagepoint Milestone 2050 Fund  
VT Vantagepoint Milestone 2055 Fund  
VT Vantagepoint Milestone 2060 Fund

### **VT Trust Series Funds**

VT AMG TimesSquare Mid Cap Growth Fund  
VT ContraFund®  
VT Diversified International Fund  
VT Carillon Eagle Mid Cap Growth Fund  
VT Invesco Diversified Dividend Fund  
VT LSV Small Cap Value Fund  
VT MFS® Value Fund  
VT Nuveen Real Estate Securities Fund  
VT Invesco Discovery Fund  
VT Invesco Main Street Fund  
VT Parnassus Core Equity Fund  
VT PIMCO High Yield Fund  
VT Puritan® Fund  
VT T. Rowe Price® Growth Stock Fund  
VT Victory Sycamore Established Value Fund  
VT Western Asset Core Plus Bond Fund

### **Guaranteed Lifetime Income**

VT Retirement IncomeAdvantage Fund

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<sup>1</sup> Note that the “VT” Prefix is excluded from fund names in marketing materials.

## DECLARATION OF TRUST

### ICMA RETIREMENT TRUST

As Amended

August 2017

#### ARTICLE I

#### NAME AND DEFINITIONS

**Section 1.1 Name.** The name of the trust created hereby is the ICMA Retirement Trust.

**Section 1.2 Definitions.** Wherever they are used herein, the following terms shall have the following respective meanings:

- (a) **By-laws.** The by-laws referred to in Section 4.1 hereof, as amended from time to time.
- (b) **Deferred Compensation Plan.** A deferred compensation plan established and maintained by an Employer for the purpose of providing retirement income and other deferred benefits to its employees in accordance with the provision of Section 457 of the Internal Revenue Code.
- (c) **Employees.** Those employees who participate in Qualified Plans and/or Deferred Compensation Plans.
- (d) **Employer.** An entity, including a Public Employer, that has adopted a plan that is eligible to participate in a group trust under Internal Revenue Service Revenue Ruling 81-100, 1981-1 C.B. 326 as amended by and clarified in Revenue Ruling 2004-67, 2004-2 C.B. 28, Revenue Ruling 2011-1, 2011-2 C.B. 251, Revenue Ruling 2014-24, 2014-37 I.R.B. 529, and Notice 2012-6, 2012-3 I.R.B. 293, and as may be further amended or clarified from time to time, and has adopted this Declaration of Trust.
- (e) **Employer Trust.** A trust that is established by an Employer in connection with its Qualified Plan and that satisfies the requirements of Section 501 of the Internal Revenue Code, or a trust established by an Employer in connection with its Deferred Compensation Plan and that satisfies the requirements of Section 457(b) of the Internal Revenue Code.
- (f) **Investment Contract.** A non-negotiable contract entered into by the Retirement Trust with a financial institution that provides for a fixed rate of return on investment.

- (g) **ICMA.** International City/County Management Association.
- (h) **ICMA Trustees.** Those Trustees elected by the Public Employers in accordance with the provisions of Section 3.1(a) hereof, who are also members or former members of the Executive Board of ICMA.
- (i) **RC Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provisions of Section 3.1(a) hereof, are also members of former members of the Board of Directors of RC.
- (j) **Internal Revenue Code.** The Internal Revenue Code of 1986, as amended
- (k) **Investment Adviser.** The Investment Adviser that enters into a contract with the Retirement Trust to provide advice with respect to investment of the Trust Property.
- (l) **Portfolios.** The separate commingled pools of investment established by the Investment Adviser to the Retirement Trust, under the supervision of the Trustees, for the purpose of providing investments for the Trust Property.
- (m) **Public Employee Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provision of Section 3.1 (a) hereof, are full time employees of Public Employers.
- (n) **Public Employer Trustees.** Public Employers who serve as Trustees of the Qualified Plans or Deferred Compensation Plans.
- (o) **Public Employer.** A unit of state or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan or a Qualified Plan and has executed this Declaration of Trust.
- (p) **Qualified Plan.** A plan that is sponsored by an Employer for the purpose of providing retirement income to its employees and that satisfies the qualification requirements of Section 401 of the Internal Revenue Code.
- (q) **RC.** The International City Management Association Retirement Corporation.
- (s) **Retirement Trust.** The Trust created by this Declaration of Trust.
- (t) **Trust Property.** The amounts held in the Retirement Trust as provided in Section .3. The Trust Property shall include any income resulting from the investment to the amounts so held.

- (u) **Trustees.** The Public Employee Trustees, ICMA Trustees and RC Trustees elected by the Public Employers to serve as members of the Board of Trustees of the Retirement Trust.

**ARTICLE II  
CREATION AND PURPOSE OF THE TRUST;  
OWNERSHIP OF TRUST PROPERTY**

**Section 2.1 Creation.** (a) The Retirement Trust was created by the execution of this Declaration of Trust by the initial Trustees and Public Employers and is established with respect to each participating Public Employer by adoption of this Declaration of Trust.

(b) The Retirement Trust is hereby expressly made a part of the appropriate qualified Plan or Deferred Compensation Plan of each Employer that adopts or executes, or has adopted or executed this Declaration of Trust.

**Section 2.2 Purpose and Participation.** (a) The purpose of the Retirement Trust is to provide for the commingled investment of funds held by the Employers in connection with their Deferred Compensation and Qualified Plans. The Trust Property shall be invested in the Portfolios, in Investment Contracts, and in other investments recommended by the Investment Adviser under the supervision of the Board of Trustees. No part of the Trust Property will be invested in securities issued by Public Employers.

(b) Participation in the Retirement Trust is limited to (i) pension and profit-sharing trusts which are maintained by Employers and that are exempt under Section 501(a) of the Internal Revenue Code because the qualified Plans related thereto qualify under Section 401(a) of the Internal Revenue Code and (ii) deferred compensation plans maintained by Public Employers under Section 457 of the Internal Revenue Code (and trusts maintained by such Public Employers in connection with such 457 plans).

**Section 2.3 Ownership of Trust Property.** (a) The Trustees shall have legal title to the Trust Property. The Trust Property shall be held as follows:

(i) for the Employer Trusts for the exclusive benefit of the Employees; or

(ii) in the case of a Deferred Compensation Plan maintained by a Public Employer that has not established an Employer Trust for the plan, for the Public Employer as beneficial owner of the plan's assets.

(b) The portion of the corpus and income of the Retirement Trust that equitably belongs to any Employer Trust may not be used for or diverted to any



purpose other than for the exclusive benefit of the Employees (or their beneficiaries) who are entitled to benefits under such Employer Trust.

(c) No employer's Employer Trust may assign any part of its equity or interest in the Retirement Trust, and any purported assignment of such equity or interest shall be void.

### **ARTICLE III TRUSTEES**

**Section 3.1 Number and Qualification of Trustees:** (a) The Board of Trustees shall consist of nine Trustees. Five of the Trustees shall be full-time employees of a Public Employer (the Public Employee Trustees) who are authorized by such Public Employer to serve as Trustee. The remaining four Trustees shall consist of two persons who, at the time of election to the Board of Trustees, are members or former members of the Executive Board of ICMA, and two persons who, at the time of election, are members or former members of the Board of Directors of RC. One of the ICMA Trustees and one of the RC Trustees shall, at the time of election, be full-time employees of Public Employers.

(b) No person may serve as a Trustee for more than two terms in any ten-year period.

**Section 3.2 Election and Term:** (a) Except for the Trustees appointed to fill vacancies pursuant to Section 3,5 hereof, the Trustees shall be elected by a vote of a majority of the voting Public Employers in accordance with the procedures set forth in the By-Laws.

(b) At the first election of Trustees, three Trustees shall be elected for a term of three years, three Trustees shall be elected for a term of two years and three Trustees shall be elected for a term of one year. At each subsequent election, three Trustees shall be elected, each to serve for a term of three years and until his or her successor is elected and qualified.

**Section 3.3 Nominations.** The Trustees who are full-time employees of Public Employers shall serve as the Nominating Committee for the Public Employee Trustees. The Nominating Committee shall choose candidates for Public Employee Trustee in accordance with the procedures set forth in the By-Laws.

**Section 3.4 Resignation and Removal.** (a) Any Trustee may resign as Trustee (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the other Trustees and such resignation shall be effective upon such delivery, or at a later date according to the terms of the instrument. Any of the Trustees may be removed for cause, by a vote of a majority of the Public Employers.

(b) Each Public Employee Trustee shall resign his or her position as Trustee within sixty days of the date on which he or she ceases to be a full-time employee of a Public Employer.

**Section 3.5 Vacancies.** The term of office of a Trustee shall terminate and a vacancy shall occur in the event of his or her death, resignation, removal, adjudicated incompetence or other incapacity to perform the duties of the office of a Trustee. In the case of a vacancy, the remaining Trustees shall appoint such person as they in their discretion shall see fit (subject to the limitations set forth in this Section), to serve for the unexpired portion of the term of the Trustee who has resigned or otherwise ceased to be a Trustee. The appointment shall be made by a written instrument signed by a majority of the Trustees. The person appointed must be the same type of Trustee (i.e., Public Employee Trustee, ICMA Trustee or RC Trustee) as the person who has ceased to be a Trustee. An appointment of a Trustee may be made in anticipation of a vacancy to occur at a later date by reason of retirement or resignation, provided that such appointment shall not become effective prior to such retirement or resignation. Whenever a vacancy shall occur, until such vacancy is filled as provided in this Section 3.5, the Trustees in office, regardless of their number, shall have all the powers granted to the Trustees and shall discharge all the duties imposed upon the Trustees by this Declaration. A written instrument certifying the existence of a vacancy signed by a majority of the Trustees shall be conclusive evidence of the existence of such vacancy.

**Section 3.6 Trustees Serve in Representative Capacity.** By executing this Declaration, each Public Employer agrees that the Public Employee Trustees elected by the Public Employers are authorized to act as agents and representatives of the Public Employers collectively.

#### **ARTICLE IV POWERS OF TRUSTEES**

**Section 4.1 General Powers.** The Trustees shall have the power to conduct the business of the Trust and to carry on its operations. Such power shall include, but shall not be limited to, the power to:

(a) receive the Trust Property from the Employers, Public Employers, Public Employer Trustees or the Trustee or administrator under any Employer Trust;

(b) enter into a contract with an Investment Adviser providing, among other things, for the establishment and operation of the Portfolios, selection of the Investment Contracts in which the Trust Property may be invested, selection of the other investments for the Trust Property and the payment of reasonable fees

to the Investment Adviser and to any sub-investment adviser retained by the Investment Adviser;

(c) review annually the performance of the Investment Adviser and approve annually the contract with such Investment Adviser;

(d) invest and reinvest the Trust Property in the Portfolios, the Investment Contracts and in any other investment recommended by the Investment Adviser, but not including securities issued by Public Employers, providing if a Public Employer has directed that its monies be invested in one or more specified Portfolios or in an Investment Contract, the Trustees of the Retirement Trust shall invest such monies in accordance with such directions;

(e) keep such portion of the Trust Property in cash or cash balances as the Trustees, from time-to-time, may deem to be in the best interest of the Retirement Trust created hereby without liability for interest thereon;

(f) accept and retain for such time as they may deem advisable any securities or other property received or acquired by them as Trustees hereunder, whether or not such securities or other property would normally be purchased as investment hereunder;

(g) cause any securities or other property held as part of the Trust Property to be registered in the name of the Retirement Trust or in the name of a nominee, and to hold any investments in bearer form, but the books and records of the Trustees shall at all times show that all such investments are a part of the Trust Property;

(h) make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(i) vote upon any stock, bonds, or other securities; give general or special proxies or powers of attorney with or without power of substitution; exercise any conversion privileges, subscription rights, or other options, and make any payments incidental thereto; oppose, or consent to, or otherwise participate in, corporate reorganizations or to other changes affecting corporate securities, and delegate discretionary powers and pay any assessments or charges in connection therewith; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held as part of the Trust Property.

(j) enter into contracts or arrangements for goods or services required in connection with the operation of the Retirement Trust, including, but not limited to, contracts with custodians and contracts for the provision of administrative services;

(k) borrow or raise money for the purposes of the Retirement Trust in such amount and upon such terms and conditions, as the Trustees shall deem advisable provided that the aggregate amount of such borrowings shall not exceed 30% of the value of the Trust Property. No person lending money to the Trustees shall be bound to see the application of the money lent or to inquire into its validity, expediency or propriety or any such borrowing;

(l) incur reasonable expenses as required for the operation of the Retirement Trust and deduct such expenses from the Trust Property;

(m) pay expenses properly allocable to the Trust Property incurred in connection with the Deferred Compensation Plans, Qualified Plans, or the Employer Trusts and deduct such expenses from that portion of the Trust Property to which such expenses are properly allocable;

(n) pay out of the Trust Property all real and personal property taxes, income taxes and other taxes of any and all kinds which, in the opinion of the Trustees, are properly levied, or assessed under existing or future laws upon, or in respect of, the Trust Property and allocate any such taxes to the appropriate accounts;

(o) adopt, amend and repeal the By-laws, provided that such By-laws are at all times consistent with the terms of this Declaration of Trust;

(p) employ persons to make available interests in the Retirement Trust to employers eligible to maintain a Deferred Compensation Plan under Section 457 or a Qualified Plan under Section 401 of the Internal Revenue Code;

(q) issue the Annual Report of the Retirement Trust, and the disclosure documents and other literature used by the Retirement Trust;

(r) in addition to conducting the investment program authorized in Section 4.1(d), make loans, including the purchase of debt obligations, provided that all such loans shall bear interest at the current market rate;

(s) contract for, and delegate any powers granted hereunder to, such officers, agents, employees, auditors and attorneys as the Trustees may select, provided that the Trustees may not delegate the powers set forth in paragraphs (b), (c) and (o) of this Section 4.1 and may not delegate any powers if such delegation would violate their fiduciary duties;

(t) provide for the indemnification of the Officers and Trustees of the Retirement Trust and purchase fiduciary insurance;

(u) maintain books and records, including separate accounts for each Employer, Public Employer, Public Employer Trustee or Employer Trust and such additional

separate accounts as are required under, and consistent with, the Deferred Compensation or Qualified Plan of each Employer; and

(v) do all such acts, take all such proceedings, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or appropriate to administer the Trust Property and to carry out the purposes of the Retirement Trust.

**Section 4.2 Distribution of Trust Property.** Distributions of the Trust Property shall be made to or on behalf of, the Employer, Public Employer or Public Employer Trustee, in accordance with the terms of the Deferred Compensation Plans, Qualified Plans or Employer Trusts. The Trustees of the Retirement Trust shall be fully protected in making payments in accordance with the directions of the Employers, Public Employers, Public Employer Trustees or Trustees or Administrators of any Employer Trust without ascertaining whether such payments are in compliance with the provisions of the applicable Deferred Compensation or Qualified Plan or Employer Trust.

**Section 4.3 Execution of Instruments.** The Trustees may unanimously designate any one or more of the Trustees to execute any instrument or document on behalf of all, including but not limited to signing or endorsement of any check and the signing of any applications, insurance and other contracts, and the action of such designated Trustee or Trustees shall have the same force and effect as if taken by all the Trustees.

## **ARTICLE V DUTY OF CARE AND LIABILITY OF TRUSTEES**

**Section 5.1 Duty of Care.** In exercising the powers hereinbefore granted to the Trustees, the Trustees shall perform all acts within their authority for the exclusive purpose of providing benefits for Employees, Public Employers in connection with non-trusteed Deferred Compensation Plans for the Public Employer Trustees, and shall perform such acts with the care, skill, prudence and diligence in the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

**Section 5.2 Liability.** The Trustees shall not be liable for any mistake of judgment or other action taken in good faith, and for any action taken or omitted in reliance in good faith upon the books of account or other records of the Retirement Trust by any of its officers, employees or agents or by the Investment Adviser or any sub-investment adviser, accountant, appraiser or other expert or consultant selected with reasonable care by the Trustees, Officers or employees of the Retirement Trust. The Trustees shall also not be liable for any loss sustained by the Trust

Property by reason of any investment made in good faith and in accordance with the standard of care set forth in Section 5.1.

**Section 5.3 Bond.** No Trustee shall be obligated to give any bond or other security for the performance of any of his or her duties hereunder.

## **ARTICLE VI ANNUAL REPORT TO SHAREHOLDERS**

The Trustees shall annually submit to the Employers, Public Employers and Public Employer Trustees a written report of the transactions of the Retirement Trust, including financial statements which shall be certified by independent public accountants chosen by the Trustees.

## **ARTICLE VII DURATION OR AMENDMENT OF RETIREMENT TRUST**

**Section 7.1 Withdrawal.** An Employer or Public Employer Trustee may, at any time, withdraw from this Retirement Trust by delivering to the Board of Trustees or RC a written statement of withdrawal. In such statement, the Employer or Public Employer Trustee shall acknowledge that the Trust Property allocable to the Employer is derived from compensation deferred by Employees of such Employer pursuant to its Deferred Compensation Plan or from contributions to the accounts of Employees pursuant to a Qualified Plan, and shall designate the financial institution to which such property shall be transferred by the Trustees of the Retirement Trust or by the Trustee or Administrator under an Employer Trust.

**Section 7.2 Duration.** The Retirement Trust shall continue until terminated by the vote of a majority of the Public Employers, each casting one vote. Upon termination, all of the Trust Property shall be paid out to the Employers, Public Employer Trustees or the Trustees or Administrators of the Employer Trusts, as appropriate.

**Section 7.3 Amendment.** The Retirement Trust may be amended by the vote of a majority of the Public Employers, each casting one vote.

**Section 7.4 Procedure.** A resolution to terminate or amend the Retirement Trust or to remove a Trustee shall be submitted to a vote of the Public Employers if: (i) a majority of the Trustees so direct, or; (ii) a petition requesting a vote signed by not less than 25 percent of the Public Employers, is submitted to the Trustees.

**ARTICLE VIII  
MISCELLANEOUS**

**Section 8.1 Governing Law.** Except as otherwise required by state or local law, this Declaration of Trust and the Retirement Trust hereby created shall be construed and regulated by the laws of the District of Columbia.

**Section 8.2 Counterparts.** This Declaration may be executed by the Employers and Trustees in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT OF  
VANTAGETRUST COMPANY, LLC**



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**AMENDED AND RESTATED**  
**LIMITED LIABILITY COMPANY AGREEMENT OF**  
**VANTAGETRUST COMPANY, LLC**

**A New Hampshire Limited Liability Nondepository Trust Company**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, dated as of June 17, 2020, is made by and among the Person identified as the sole Member on Schedule A, and each of the Persons identified on Schedule A hereto is a manager (defined herein as a “Director”) and each Person who becomes an additional or substitute Director in accordance herewith.

WHEREAS, the Trust Company was reorganized into a limited liability company from a corporation by the filing of a Certificate of Formation, effective as of January 1, 2012 with the Secretary of State of the State of New Hampshire pursuant to RSA 392:17, which certificate was approved by the Board of Trust Company Incorporation on October 19, 2011.

WHEREAS, subject to applicable New Hampshire banking laws and regulations, the Member is operating the Trust Company as a New Hampshire limited liability company under the Act, and sets forth herein the rights, duties and obligations with respect to the Trust Company;

WHEREAS, the Member intends that the Trust Company be treated as a partnership for federal and state income tax purposes; and

WHEREAS, the Directors and the Member wish to set out fully their respective rights, obligations and duties with respect to the Trust Company and its business, management and operations.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**ARTICLE I.**  
**Definitions**

The following capitalized terms used in this Agreement shall have the respective meanings ascribed to them below.

“*Act*” means the New Hampshire Limited Liability Company Act (RSA 304-C:1, et seq.), as amended from time to time, and any successor thereto.

“*Affiliate*” shall mean, with respect to any specified Person, (i) any Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person; (ii) any Person that directly or indirectly controls 10 percent or more of the outstanding equity

securities of the specified entity or of which the specified Person is directly or indirectly the owner of 10 percent or more of any class of equity securities; or (iii) any Person that is an officer of, director of, partner in, or trustee of, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, director, partner or trustee, or with respect to which the specified Person serves in a similar capacity.

“*Agreement*” means this Amended and Restated Limited Liability Company Agreement as it may be amended, supplemented or restated from time to time.

“*Board of Directors*” or “*Board*” means the Board of Directors described in Article VI of this Agreement.

“*Capital Account*” shall have the meaning set forth in Section 3.1.

“*Capital Contribution*” means, with respect to the Member, the aggregate amount of money and value of property contributed to the capital of the Trust Company by such Member. Unless otherwise provided herein, in the case of a Member who acquires a membership interest in the Trust Company by assignment directly from another Member in accordance with this Agreement, such Member shall be deemed to have made the Capital Contribution made by the assignor of such interest (or made by such assignor’s predecessor in interest).

“*Certificate*” means the Amended and Restated Certificate of Formation creating the Trust Company, as it has been or may be amended, from time to time, in accordance with the Act.

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time.

“*Covered Person*” means any officer of the Trust Company, any Director of the Trust Company, or any of such Director’s Affiliates.

“*Director*” refers to any Person designated as a Director on Schedule A hereto and any Person who becomes an additional, substitute or replacement Director as permitted by this Agreement, in each such Person’s capacity as (and for the period during which such Person serves as) a Director of the Trust Company.

“*Liquidator*” means the Board of Directors, or any Person or Persons appointed by the Board of Directors, to liquidate the assets of the Trust Company, apply and distribute the proceeds thereof and cause the cancellation of the Certificate.

“*Member*” refers to the Person named as a Member in this Agreement and any Person who becomes a substitute Member as permitted by this Agreement, in such Person’s capacity as (and for the period during which such Person serves as) a Member of the Trust Company.

“*Person*” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“*President*” means the person occupying the office of President (as provided in Section 6.4) at any time, or from time to time.

“*Secretary*” means the person occupying the office of Secretary (as provided in Section 6.4) at any time, or from time to time.

“*Securities Act*” means the Securities Act of 1933, as amended.

“*Terminated Director*” shall have the meaning set forth in Section 6.2(a).

“*Transfer*”, and any grammatical variation thereof, means any sale, exchange, issuance, redemption, assignment, distribution, encumbrance, hypothecation, gift, pledge, retirement, resignation, transfer or other withdrawal, disposition or alienation in any way (including, without limitation, the grant of any security interest), whether voluntarily, involuntarily or by operation of law, as to the Member’s interest in the Trust Company. Transfer shall specifically, without limitation of the above, include assignments and distributions resulting from death, incompetency, bankruptcy, liquidation and dissolution.

“*Treasurer*” means the person occupying the office of Treasurer (as provided in Section 6.4) at any time, or from time to time.

“*Treasury Regulations*” means the United States income tax regulations, including temporary regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“*Trust Company*” means the limited liability company formed pursuant to the Certificate and this Agreement, as the Certificate or this Agreement may from time to time be constituted, amended or restated.

## **ARTICLE II. General**

2.1. *Name of the Limited Liability Company.* The name of the limited liability company formed hereby is VantageTrust Company, LLC. The name of the Trust Company may be changed at any time or from time to time with the approval of the Board of Directors, as approved by applicable bank regulatory authorities.

2.2. *Offices of the Limited Liability Company; Registered Agent.* The Trust Company may carry on any portion of its business at such places within or without the State of New Hampshire as may be from time to time permitted under applicable laws, rules, and regulations. The registered agent for service of process on the Trust Company in the State of New Hampshire shall be Gallagher, Callahan & Gartrell, P.C. 214 North Main Street, PO Box 1415, Concord, New Hampshire 03302-1415. The Board of Directors may at any time change the location of a place of business, establish additional places of business and designate a new agent for service of process as it shall deem advisable.

2.3. *Organization.* The Trust Company is organized as a New Hampshire limited

liability company as provided herein. The Board of Directors shall cause to be filed such certificates and documents as may be necessary or appropriate to comply with the Act and any other applicable requirements for the operation of a limited liability company in accordance with the laws of New Hampshire and any other jurisdictions in which the Trust Company shall conduct business, and shall continue to do so for so long as the Trust Company conducts business therein.

Subject to applicable New Hampshire banking laws and regulations, the parties hereto ratify and confirm the authority of each member of the Board of Directors or any other individual authorized by the Board of Directors, acting singly in any case, to execute, acknowledge, deliver, file and record in the appropriate offices, as applicable, (i) any amendments to the Trust Company's Certificate (each of such individuals being an "authorized person" within the meaning of the Act), (ii) such other instruments, certificates, documents and other writings which the Board of Directors determines to be necessary or appropriate to preserve the Trust Company's status as a New Hampshire limited liability company or to qualify the Trust Company to do business in states other than New Hampshire, and (iii) any recordable instrument on behalf of the Trust Company purporting to affect an interest in real property in the State of New Hampshire or any other state, whether to be recorded with a registry of deeds or any other appropriate office or court.

*2.4. Purposes.* The Trust Company shall be a nondepository trust company under the banking laws and regulations of the State of New Hampshire, as such laws and regulations now exist or may be hereafter amended, and shall have and may exercise all the express, implied and incidental powers conferred upon such companies. The Trust Company shall not be authorized to accept deposits or to make loans.

*2.5. Powers.*

(a) Without limiting the generality of Section 2.4, the Trust Company shall have the power and authority to take any and all actions necessary or convenient to, or for the furtherance of, the purposes set forth in Section 2.4, including, but not limited to, the power:

(i) to purchase, subscribe for or otherwise acquire, own, hold, vote, sell, mortgage, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, domestic or foreign corporations, associations, general or limited partnerships, trusts, limited liability companies, or individuals or direct or indirect obligations of the United States or of any government, state, territory, governmental district or municipality or of any instrumentality of any of them;

(ii) to hire and fire employees, consultants and others;

(iii) to acquire (by purchase, lease, contribution of property or otherwise), own, hold, license, operate, maintain, finance, improve, lease, sell, convey, mortgage, transfer, demolish or dispose of any real or personal property that may be necessary or convenient to the accomplishment of the purposes of the Trust Company;

(iv) to negotiate, enter into, perform, amend, extend, waive, terminate or take any other action with respect to contracts of any kind, including, without limitation,

contracts with the Member, any Affiliate thereof, or any employee or agent of the Trust Company in connection with, or necessary or convenient to, the accomplishment of the purposes of the Trust Company, and any lease, contract or security agreement in respect of any assets of the Trust Company;

(v) to invest and reinvest its funds;

(vi) to borrow money and issue evidences of indebtedness, and to secure the same by a mortgage, pledge or other lien on the assets of the Trust Company;

(vii) to sue and be sued, complain and defend, and participate in administrative or other proceedings in its name, and to pay, collect, compromise, litigate, arbitrate or otherwise adjust or settle any and all other claims or demands of or against the Trust Company, and to hold proceeds against the payment of contingent liabilities;

(viii) to elect and designate Directors of the Trust Company and to appoint employees and agents of the Trust Company (who may be designated as officers of the Trust Company), and to define their duties and fix their compensation;

(ix) to indemnify any Person to the extent permitted by the Act;

(x) to make, execute, acknowledge and file any and all documents and instruments necessary, convenient or incidental to the accomplishment of the purposes of the Trust Company; and

(xi) to cease its activities and cancel the Certificate, subject to applicable New Hampshire banking laws and regulations.

(b) Subject to the other provisions of this Agreement, the Trust Company may sell all or substantially all of its assets, or merge with or consolidate into another limited liability company or other business entity (as defined in Section 304-C:1 of the Act), after the affirmative vote or written consent of the Board of Directors.

*2.6. Member.* A Person other than the Member of the Trust Company identified on Schedule A hereto may be admitted to the Trust Company as a substitute Member only (i) pursuant to and in accordance with Article VIII or (ii) with the approval of the Board of Directors and, if applicable under New Hampshire banking laws and regulations, the New Hampshire Bank Commissioner. The admission of any Person as a Member shall not cause dissolution of the Trust Company. Upon the requisite approvals in accordance with this Agreement, a Person shall be admitted as a substitute Member if such Person (x) executes this Agreement, a counterpart of this Agreement or another instrument pursuant to which such Member agrees to be bound by the terms of this Agreement and (y) is named as a Member on Schedule A.

*2.7. Designation of Directors.* The Persons identified on Schedule A hereto as “Directors” are the directors of the Trust Company who have continued in that capacity following the conversion of the Trust Company from a corporation to a limited liability company. Directors shall be elected by the Member in accordance with the provisions of

Section 6.2. Any Director may withdraw or be removed as a director of the Trust Company, and other Persons may be added or substituted as Directors, only in the manner specified in Section 6.2.

2.8. *Liability of Member and Covered Persons.* Except as otherwise provided in the Act, the debts, obligations and liabilities of the Trust Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Trust Company, and no Member or Covered Person shall be obligated personally for any such debt, obligation or liability of the Trust Company solely by reason of being or acting as a Member or Covered Person. Without limiting the foregoing, (i) except as may be provided in a Capital and Liquidity Maintenance Agreement between the Trust Company and the Member, the Member, in its capacity as such, shall not have any liability to restore any negative balance in the Trust Company's Capital Account; and (ii) the failure of the Trust Company to observe any formalities or requirements relating to exercise of the Trust Company's powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Member, Directors or other Covered Persons for liabilities of the Trust Company.

### **ARTICLE III. Capital Contributions; Financing**

3.1. *Capital Accounts.* A capital account shall be maintained for the Member (a "Capital Account") consisting of cash, and/or the fair market value of property other than cash, contributed to the capital of the Trust Company, increased or decreased by Profit and Loss allocated to the Member pursuant to Article IV, and decreased by the cash and fair market value of property other than cash distributed to the Member pursuant to Article V, and reflecting such other matters as the Board of Directors may reasonably determine appropriate.

#### 3.2. *Capital Contributions.*

(a) The Member has contributed to the capital of the Trust Company the property set forth opposite the Member's name on *Schedule A*.

(b) If the Board of Directors determines in good faith at any time, or from time to time, that funds, in addition to the funds generated from the Trust Company's operations and the amounts specified in *Schedule A* hereto, are necessary to carry out the Trust Company's purposes, to conduct its business, to meet its obligations or to make any expenditure authorized by this Agreement, the Member shall contribute any such additional capital within thirty (30) days of such determination.

3.3. *No Withdrawal of or Interest on Capital.* No interest shall accrue on any contributions to the capital of the Trust Company, and the Member shall not have the right to withdraw or to be repaid any capital contributed by it or to receive any other payment in respect of its interest in the Trust Company, including, without limitation, as a result of the withdrawal or resignation of the Member from the Trust Company, except as specifically otherwise provided in this Agreement.

3.4. *Loans.* In the event that the Trust Company requires additional funds to carry out its purposes, conduct its business, meet its obligations, or make any expenditure authorized by this



Agreement, the Trust Company may borrow funds from the Member or third-party lenders on such terms and conditions as may be acceptable to the Board of Directors. However, the Member shall have no obligation to lend any funds to the Trust Company.

#### **ARTICLE IV. Allocations of Profit and Loss**

4.1. *General.* All Profit or Loss of the Trust Company shall be allocated to the Member.

4.2. *Intra-Period Allocation.* For purposes of allocating Profit or Loss between any substitute Member and any transferor Member during a fiscal period, the Trust Company shall allocate according to any method allowed by the Code, to the extent applicable, and selected by the Board of Directors. Such substitute or transferring Member shall not be entitled to any allocation or distribution arising from Trust Company operations prior to its date of admission to the Trust Company or subsequent to its date of resignation from the Trust Company.

4.3. *Definitions.* For purposes of this Article IV, the following terms shall have the following meanings.

(a) “*Profit or Loss*” shall mean, as to any transaction or fiscal period, the taxable income or loss of the Trust Company for United States federal income tax purposes, and each item of income, gain, loss or deduction entering into the computation thereof, with the following adjustments:

(i) Any tax-exempt income or gain of the Trust Company that is not otherwise taken into account in computing Profits or Losses shall increase the amount of such taxable income or decrease the amount of such loss;

(ii) Any expenditures of the Trust Company described in Code Section 705(a)(2)(B) (or treated as such) and not otherwise taken into account in computing Profits or Losses shall decrease the amount of such taxable income or increase the amount of such loss; and

(iii) In the event the Gross Asset Value of any Trust Company asset is adjusted, (i) the amount of such adjustment (including an adjustment resulting from a distribution of such asset but excluding an adjustment resulting from a contribution of such asset) shall be taken into account in the same manner as gain or loss from the disposition of such asset for purposes of computing Profits or Losses, (ii) gain or loss resulting from any disposition of such asset with respect to which gain or loss is recognized for United States federal income tax purposes shall be computed by reference to the Gross Asset Value of such asset, and (iii) in lieu of the cost recovery or similar deductions taken into account with respect to any asset with a Gross Asset Value which differs from its adjusted basis under the Code, such deductions shall be an amount equal to the Depreciation with respect to such asset.

(b) “*Depreciation*” means, for each fiscal year of the Trust Company or other period, an amount equal to the depreciation, depletion, amortization or other cost recovery deduction allowable under the Code with respect to an asset for such fiscal year or other period;

provided, however, that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such fiscal year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction with respect to such asset for such fiscal year or other period bears to such beginning adjusted tax basis; and provided further that if the federal income tax depreciation, amortization or other cost recovery deduction for such fiscal year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board of Directors.

(c) “*Gross Asset Value*” shall mean, with respect to any asset, such asset’s adjusted basis for United States federal income tax purposes, except that, in its discretion, the Board of Directors may determine to adjust the Gross Asset Value of Trust Company assets as required for purposes of maintaining Capital Accounts under relevant Treasury Regulations. If the Gross Asset Value of an asset has been so adjusted, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset.

## **ARTICLE V. Distributions**

5.1. *In General.* Any cash received by the Trust Company in excess of amounts required to cover all expenses of the Trust Company and to fund reserves deemed appropriate by the Board of Directors, in its discretion, for future Trust Company liabilities and expenses may be distributed to the Member at such times and in such amounts as shall be determined by the Board of Directors in its sole discretion.

5.2. *Distribution of Assets in Kind.* The Member shall not have the right to require the Trust Company to distribute any of its assets in kind. If any assets of the Trust Company are distributed in kind, such assets shall be distributed on the basis of their fair market value as determined in good faith by the Board of Directors.

5.3. *Limitations on Distribution.* Notwithstanding any provision to the contrary contained in this Agreement, the Trust Company shall not make a distribution to the Member on account of the Member’s interest in the Trust Company if such distribution would violate Section 304-C:44 of the Act or other applicable law.

## **ARTICLE VI. Management**

6.1. *Management of the Trust Company.* The business and affairs of the Trust Company shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the Trust Company except as otherwise provided by law or this Agreement (including, without limitation, [Section 6.6](#)). In the event of a vacancy in the Board of Directors, the remaining Directors (except as otherwise provided by law) may exercise the powers of the full Board until the vacancy is filled. All management and other responsibilities not specifically reserved to the Member in this Agreement shall be vested in the Board of Directors, and the Member shall have no voting rights except as specifically provided in this Agreement. Each

Director shall devote such time to the affairs of the Trust Company as may be reasonably necessary for performance by the Director of such Director's duties hereunder.

Specifically, but not by way of limitation, and subject to the provisions of this Agreement (including, without limitation, Section 6.6), the Board of Directors shall be authorized, in the name and on behalf of the Trust Company, to cause the Trust Company to do all things necessary or appropriate to carry on the business and purposes of the Trust Company, including, without limitation, the following:

(i) to perform all actions as general partner of any partnership as the Board of Directors may deem appropriate or desirable, including, without limitation, appointing members of any management, advisory or other such committees;

(ii) to acquire by purchase, lease, license, exchange or otherwise, and to sell, finance, refinance, license, encumber and otherwise deal with, any real or personal property;

(iii) to borrow money and issue evidences of indebtedness; or to guarantee loans and to secure the same by mortgage, deed of trust, pledge or other lien on any assets or property of the Trust Company; and to pay, prepay, extend, amend or otherwise modify the terms of any such borrowings;

(iv) to employ executive, administrative and support personnel in connection with the business of the Trust Company; and to pay salaries, expense reimbursements, employee benefits, fringe benefits, bonuses and any other form of compensation or employee benefit to such persons and entities, at such times and in such amounts as may be determined by the Board of Directors in its sole discretion, to provide executive, administrative and support services in connection with the business of the Trust Company; provided, however, the Board of Directors may not grant interests in the Trust Company by way of or in lieu of compensation or otherwise without the approval of the Member;

(v) to hire or employ such agents, employees, directors, accountants, attorneys, consultants and other persons necessary or appropriate to carry out the business and operations of the Trust Company, and to pay fees, expenses, salaries, wages and other compensation to such persons;

(vi) to pay, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise, on such terms as it may determine and on such evidence as it may deem sufficient, any obligation, suit, liability, cause of action or claim, including, without limitation, obligations, suits, liabilities, causes of action or claims relating to taxes, either in favor of or against the Trust Company;

(vii) except as expressly otherwise provided in this Agreement, to determine the appropriate accounting method or methods to be used by the Trust Company;

(viii) to cause the Trust Company to make or revoke any applicable

elections referred to in the Code;

(ix) to establish and maintain reserves for such purposes and in such amounts as it deems appropriate from time to time;

(x) to pay all organizational expenses and general and administrative expenses of the Trust Company;

(xi) to deal with, or otherwise engage in business with, or provide services to and receive compensation therefor from, any Person who has provided or may in the future provide any services to, lend money to, sell property to, or purchase property from the Trust Company, including, without limitation, the Member or any Director;

(xii) to engage in any kind of activity, and to perform and carry out contracts of any kind necessary to, in connection with or incidental to the accomplishment of the purposes of the Trust Company;

(xiii) to pay any and all fees and to make any and all expenditures that the Board of Directors, in its sole discretion, deems necessary or appropriate in connection with the organization of the Trust Company, the management of the affairs of the Trust Company, and the carrying out of its obligations and responsibilities under this Agreement, including, without limitation, fees, reimbursements and expenditures payable to the Member or any Director;

(xiv) to exercise all powers and authority granted by the Act to directors, except as otherwise provided in this Agreement;

(xv) to cause the Trust Company and its properties and assets to be maintained and operated in such a manner as the Board of Directors may determine, subject, however, to obligations imposed by applicable laws or by any mortgage or security interest encumbering the Trust Company and such properties and assets from time to time, and by any lease, rental agreement or other agreement pertaining thereto;

(xvi) to cause to be obtained and continued in force all policies of insurance required by any mortgage, lease or other agreement relating to the Trust Company's business or any part thereof, or determined by the Board of Directors to be in the best interests of the Trust Company; and

(xvii) to cause to be paid any and all taxes, charges and assessments that may be levied, assessed or imposed on any of the assets of the Trust Company unless the same are contested by the Trust Company.

## 6.2. *Directors.*

*Number, Election and Qualification.* The number of Directors who shall constitute the whole Board of Directors shall be determined by the Member from time to time, in the Member's sole discretion. In no event shall the number be less than nine persons. Except as

otherwise provided in this Agreement, the Directors shall be elected by the Member. The “Directors” on Schedule A hereto shall serve as its Directors until a successor is elected.

The majority of the Board of Directors shall at all times consist of persons who are not present or former directors, officers, or employees of the Member. A majority of the Directors shall be, at the time of their respective elections to the Board, full-time employees of a Public Employer<sup>1</sup>, or participants in a retirement plan the assets of which are managed or administered by the Trust Company (“Public Sector Directors”<sup>2</sup>). The Directors shall be divided into three classes as follows:

1. Class I Directors. The Board of Directors shall be comprised of three (3) Class I Directors. Class I Directors shall be Public Sector Directors.
2. Class II Directors. The Board of Directors shall be comprised of three (3) Class II Directors. The Class II Directors shall be at-large Directors who shall be elected by the Member.
3. Class III Directors. The Board of Directors shall be comprised of two (2) Class III Directors. Class III Directors shall consist of one Director who is a member or former member of the Board of Directors of the Member and one Director who is a member or a former member of the Executive Board of the International City/County Management Association (“ICMA”).
4. Class IV Director. The President shall serve as an “Ex officio” member of the Board of Directors.

Except as set forth in Schedule B hereto, Directors shall serve a four-year term of office. Except in the case of vacancies, Directors, regardless of class, shall be elected by the vote of the Member to be held in accordance with the procedures set forth this Section 6.2, except that any vacancy resulting from the death, resignation, retirement, disqualification or removal from office of a Director, or from any other cause, shall be filled by the vote of a majority of those Directors then in office. Current Directors of the Trust Company may serve until their eligibility to serve

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<sup>1</sup> A “Public Employer” is any unit of State or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan under Section 457 of the Internal Revenue Code (“IRC”) or a qualified plan under Section 401 of the IRC or other type of retirement plan or investment account that is administered by the Trust Company provided that such Public Employer has adopted a Trust that is administered by the Trust Company or otherwise participates in the ICMA-RC system.

<sup>2</sup> If a non-participating Public Sector Director ceases to be employed in the public sector during his or her term of service on the Board, he or she shall continue to qualify as a “Public Sector Director” for the remainder of his or her term.

has expired. Directors who take office shall be eligible to serve no more than two consecutive four-year terms. There are two exceptions to this limitation:

(1) In the case of a Director who fills a vacancy with a remaining term of two years or less. In that case, the Director filling the vacancy shall be eligible to serve the remainder of the unexpired term, plus two additional four-year terms.

(2) In the case of a Director who, during his or her initial or second term, fills a vacancy in a different Class (I, II or III) than the original Class to which he or she was appointed, and has served not more than two years of the then current term, the Director may serve for an extended term in the new Class, subject to an overall service limit of ten years.

The Chair of the Board shall designate the members of the Nominating Committee from among the Class I and Class II Directors who are not affiliated with the Member. The Nominating Committee shall consist of not fewer than four Directors and shall act with respect to the nomination of Class I and Class II Directors. The Chair of the Board of the Member, or his or her designee, shall serve as an adviser to the Nominating Committee, but shall not be a voting member of the Nominating Committee. The Nominating Committee shall adopt procedures for the submission of the names of candidates for election to the Board. The Board of the Member shall nominate one Class III Director and the Executive Board of ICMA shall nominate one Class III Director. In addition to the election by Member required herein, a majority of the Directors (exclusive of the Class IV Ex-officio Director) shall have been ratified by the Public Employers participating or investing in any trusts administered by the Trust Company. Such ratification to be accomplished through the receipt of a majority of the votes cast by Public Employers.

Upon the election of a candidate by the Member, the candidate shall be subject to ratification by the Public Employers. Should the Public Employers fail to ratify the Director, the nomination/election and ratification process shall be re-initiated.

Should a vacancy occur requiring the nomination/ratification of a Class I Director during a calendar year in which such a process has already occurred or is scheduled to occur, the Board of Directors may appoint a Class I Director to serve the remainder of the term so vacated.

The provisions hereof may not be changed unless authorized by the majority of votes cast by Public Employers in a vote conducted to consider such change.

Each Person elected to serve as a Director of the Trust Company, as a condition to becoming a Director hereunder, shall execute and deliver to the Trust Company's Secretary a written document pursuant to which such Director accepts his or her election and agrees to be bound by the governing principles of the Trust Company, as set forth in the terms hereof, and such additional agreements, instruments, certificates and documents, including, without limitation, an amendment to the Certificate, as the Board of Directors may deem necessary, appropriate or convenient to reflect the foregoing matters and the election of such Person as a Director of the Trust Company. Upon the election of any Person as an additional, substitute or

replacement Director, *Schedule A* shall be amended by the Board of Directors to reflect the name of such Person.

Upon the death, resignation, removal or expiration of the term of any Director (a “Terminated Director”), (i) such Terminated Director shall have no further authority under this Agreement, (ii) such Terminated Director shall have no further obligations or rights under this Agreement (except for liabilities and rights accruing prior to the date of death, resignation, removal or expiration of such Terminated Director’s term as a Director, such as, for example, rights to indemnification under Section 6.9 that relate to actions or omissions occurring during such Person’s service as a Director), and (iii) no writing or instrument shall be required to be executed by the Trust Company or the Terminated Director to reflect such cessation of service, except that the Terminated Director (or such Terminated Director’s legal representative or attorney-in-fact, as provided in the following paragraph) shall execute and deliver any agreement, instrument, certificate or document, including, without limitation, an amendment to the Certificate, that the Board of Directors may deem necessary, appropriate or convenient to reflect the Terminated Director’s cessation of service as a Director hereunder.

Each Person now or hereafter serving as a Director of the Trust Company, by execution of this Agreement or a counterpart hereof, hereby constitutes and appoints each other Person who may, from time to time, serve as a Director, and each of them acting singly, such Director’s agent and attorney-in-fact for the purpose of executing and delivering any and all agreements, instruments and other documents (including, without limitation, an amendment to the Certificate) as the Board of Directors may deem necessary, appropriate or convenient to reflect that such Director has become a Terminated Director, which power of attorney is hereby agreed and acknowledged to be irrevocable, and, to the extent permitted by applicable law, shall survive the death, insanity, disability, incapacity, bankruptcy, retirement, resignation, dissolution, removal or expiration of the term of such Director as a Director.

(a) *Tenure.* Each Director shall hold office until such Director’s successor is duly elected and qualified, unless a different term is specified in the resolution electing or appointing such Director, or until such Director’s earlier death, resignation or removal.

(b) *Vacancies.* Unless and until filled by the Member, any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board, may be filled by vote of a majority of the Directors then in office, although less than a quorum, or by a sole remaining Director. A Director designated to fill a vacancy, and a Director chosen to fill a position resulting from an increase in the number of Directors, shall hold office until such Director’s successor is duly elected and qualified, unless a different term is specified in the resolution electing or appointing such Director, or until such Director’s earlier death, resignation or removal.

(c) *Resignation.* Any Director may resign by delivering such Director’s written resignation to the Trust Company at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the occurrence of some other event.

(d) *Regular Meetings.* Regular meetings of the Board of Directors may be held

without notice at such time and place, either within or without the State of New Hampshire, as shall be determined from time to time by the Board of Directors; provided that any Director who is absent when such a determination is made shall be given notice of the determination.

(e) *Special Meetings.* Special meetings of the Board of Directors may be held at any time and place, within or without the State of New Hampshire, designated in a call by the President, two or more Directors, or by one Director in the event that there is only a single Director in office.

(f) *Notice of Special Meetings.* Notice of any special meeting of Directors shall be given to each Director by the Secretary or by the officer or one of the Directors calling the meeting. Notice shall be duly given to each Director (i) by giving notice to such Director in person or by telephone at least 24 hours in advance of the meeting; (ii) by delivering written notice by facsimile, email or by hand, to the Director's last known business or home address, telephone facsimile number or email address at least 24 hours in advance of the meeting; or (iii) by mailing written notice to the Director's last known business or home address at least 72 hours in advance of the meeting. Notices given in accordance with subpart (i) of the preceding sentence, shall be effective when given, and notices given in accordance with subparts (ii) or (iii) of the preceding sentence shall be effective when sent. Any Director may waive notice of any meeting at any time prior to or after such special meeting by delivering such waiver in writing to the Secretary or the President, and a Director will be deemed to have waived notice of a meeting if such Director attends the meeting without protesting prior thereto or at its commencement the lack of notice to him. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purpose of the meeting.

(g) *Meetings by Telephone Conference Calls.* Directors, or any members of any committee designated by the Directors, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

(h) *Quorum.* A majority of the total number of the whole Board of Directors shall constitute a quorum at all meetings of the Board of Directors. In the event that one or more of the Directors shall be disqualified to vote at any meeting, then the required quorum shall be reduced by one for each such Director so disqualified. In the absence of a quorum at any such meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice, other than announcement at the meeting, until a quorum shall be present.

(i) *Action at Meeting.* At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those present shall be necessary to take any action unless a different vote is specified by law, the Certificate or this Agreement.

(j) *Action by Consent.* Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting, if all members of the Board or committee, as the case may be, consent to the action in writing, and the written consents are filed with the minutes of proceedings of the Board or committee.



(k) *Removal.* Any one or more or all of the Directors may be removed, with or without cause, by the Member.

(l) *Committees.* The Board shall establish an Audit Committee and a Nominating Committee, which shall be governed by charters adopted by the Board. At least two members of the Audit Committee shall be “independent” Directors, as such term is defined in Section 28 of Appendix A to Part 363 of the regulations of the Federal Deposit Insurance Corporation. In addition, such committees (other than the Audit Committee) may include, on an *ex officio* basis, such non-Director employees as may be designated by the Board of Directors. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of the committee’s business, but, unless otherwise provided by the Board of Directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in this Agreement for the Board of Directors.

(m) *Compensation of Directors.* Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any Director from serving the Trust Company, or any other Person that directly or indirectly controls, is controlled by, or is under common control with the Trust Company, in any other capacity and receiving compensation for such service.

### 6.3. *Member.*

(a) *Place of Meetings.* All meetings of the Member shall be held at such place within or without the State of New Hampshire as may be designated from time to time by the Board of Member or the President.

(b) *Annual Meeting.* There shall be held an annual meeting of the Member for the election of Directors and for the transaction of such other business as may properly be brought before the meeting. Each annual meeting shall be held on a date to be fixed by the Board of Member or the President (which date shall not be a legal holiday in the place where the meeting is to be held) at the time and place to be fixed by the Board of Member or the President, and stated in the notice of the meeting. If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and, in such case, all references in this Agreement to the annual meeting of the Member shall be deemed to refer to such special meeting.

(c) *Special Meetings.* Special meetings of the Member may be called at any time by the President or by the Board of Directors. Business transacted at any special meeting of the Member shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

(d) *Notice of Meetings.* Except as otherwise provided by law, written notice of

each meeting, whether annual or special, of the Member, shall be given not less than ten (10) before the date of the meeting to the Member entitled to vote at such meeting. The notices of all meetings shall state the place, date and hour of the meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is deemed given when deposited in the United States mail, postage prepaid, directed to the Member at such Member's address as it appears on the records of the Trust Company. The Member may waive notice of any annual or special meeting before or after any such meeting by delivering such waiver in writing to the Secretary or the President.

(e) *Quorum.* Except as otherwise provided by law, the Certificate or this Agreement, the presence of the Member shall constitute a quorum for the transaction of business at any meeting of the Member.

(f) *Adjournments.* Any meeting of the Member may be adjourned to any other time and to any other place at which a meeting of the Member may be held under this Agreement by consent of the Member. At the adjourned meeting, the Trust Company may transact any business that might have been transacted at the original meeting.

(g) *Voting and Proxies.* The Member shall be entitled to vote at a meeting of the Member. A Member may vote or express such consent or dissent in person or may authorize another person or persons to vote or act for such Member by written proxy executed by the Member or such Member's authorized agent and delivered to any officer of the Trust Company. No such proxy shall be voted or acted on after three (3) years from the date of its execution, unless the proxy expressly provides for a longer period.

(h) *Action at Meeting.* When a quorum is present at any meeting, the Member shall decide any matter to be voted on by the Member at such meeting, except when a different vote is required by express provision of law, the Certificate or this Agreement.

(i) *Action Without Meeting.* Any action required or permitted to be taken at any annual or special meeting of the Member of the Trust Company may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the Member.

#### 6.4. *Officers.*

(a) *Enumeration.* The officers of the Trust Company shall consist of a President, a Treasurer and Assistant Treasurer, a Secretary and Assistant Secretary, and such other officers with such other titles as the Board of Directors may deem appropriate. The Board of Directors may elect a Chairman and Vice- Chairman who shall have the duties prescribed by the Board of Directors.

(b) *Election.* The Officers of the Trust Company shall be elected by the Board of Directors and shall serve until such time as an event described in section 6.4(d) or (e) shall occur. Other officers may be appointed by the Board of Directors at any meeting.

(c) *Qualification.* No officer need be a Director. Any two or more offices may be held by the same person.

(d) *Tenure.* Except as otherwise provided by law, by the Certificate or by this Agreement, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the vote choosing or appointing such officer, or until such officer's earlier death, resignation or removal.

(e) *Resignation and Removal.* Any officer may resign by delivering such officer's written resignation to the Trust Company at the Trust Company's principal office or to the President, Secretary or any Director. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any officer may be removed at any time, with or without cause, by vote of a majority of the entire number of Directors then in office (which entire number shall be determined exclusive of any officer who is the subject of the proposed removal); provided, however, that an officer shall automatically cease to be an officer on the date his or her employment with the Member ends. Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided in a duly authorized written agreement with the Trust Company.

(f) *Vacancies.* The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any office. Each such successor officer shall hold office for the unexpired term of such successor officer's predecessor and until such successor officer's successor is elected and qualified, or until such successor officer's earlier death, resignation or removal.

(g) *President.* The President shall, subject to the direction of the Board of Directors, have general charge and supervision of the business of the Trust Company. Unless otherwise provided by the Board of Directors, if the President is a Director, the President shall preside at all meetings of the Board of Directors. Unless the Board of Directors has designated another officer as Chief Executive Officer, the President shall be the Chief Executive Officer of the Trust Company. The President shall perform such other duties and shall have such other powers as the Board of Directors may from time to time prescribe.

(h) *Secretary and Assistant Secretaries.* The Secretary shall perform such duties and shall have such powers as the Board of Directors or the President may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the Secretary of a New Hampshire corporation and are applicable to the Trust Company, including, without limitation, the duty and power to give notices of all special meetings of the Board of Directors, to attend all meetings of the Board of Directors and keep a record of the proceedings, and to be custodian of the Trust Company records.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the President or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of Directors, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

(i) *Treasurer and Assistant Treasurers.* The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned to the Treasurer by the Board of Directors or the President. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of the treasurer of a New Hampshire corporation and are applicable to the Trust Company, including, without limitation, the duty and power to keep and be responsible for all funds and securities of the Trust Company, to deposit funds of the Trust Company in depositories selected in accordance with this Agreement, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the Trust Company.

The Assistant Treasurer shall perform such duties and possess such powers as the Board of Directors, the President or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

(j) *Trust Officer.* A Trust Officer may be appointed perform such duties and shall have such powers as may from time to time be assigned to the Trust Officer by the Board of Directors or the President. In addition, the Trust Officer may perform such duties and have such powers as are incident to the office of the trust officer of a New Hampshire trust company and are applicable to the Trust Company.

(k) *Salaries.* Officers of the Trust Company shall be entitled to such salaries, compensation or reimbursement, if any, as may be fixed or allowed from time to time by the Board of Directors.

6.5. *Interpretation of Rights and Duties of Directors and Member.* To the fullest extent permitted by the Act and other applicable law, and to the extent not inconsistent with the specific provisions of this Agreement or the Certificate, it is the intention of the parties as follows:

(a) The Board of Directors shall have the power to do any and all acts, statutory and otherwise, with respect to the Trust Company that the board of directors of a New Hampshire trust company in corporate form would have with respect to such New Hampshire trust company; and

(b) the Member shall have no power or authority whatsoever with respect to the management of the business and affairs of the Trust Company.

6.6. *Member Approval Requirements.* Notwithstanding the provisions of Section 6.1 or any other provision of this Agreement to the contrary, without the prior written consent of the Member, the Board of Directors shall not cause the Trust Company to (and the Trust Company shall not) sell all or substantially all of the assets of the Trust Company or merge with, or consolidate into, another limited liability company or other business entity (as defined in Section

304-C:1 of the Act).

6.7. *Binding the Trust Company.* Except as the Board of Directors may generally or in any particular case or cases otherwise authorize, and subject to the other provisions of this Agreement and the Certificate, all deeds, leases, contracts, bonds, notes, checks, drafts or other obligations made, accepted or endorsed by the Trust Company shall be signed by the President or the Treasurer.

6.8. *Contracts with Member, Directors and Affiliates.* The Trust Company may transact business and enter into contracts and other arrangements with any Director, officer, Member or Affiliate of a Director, officer or Member or with any corporation, partnership, organization or other concern in which any one or more of its Directors, officers or Member are directors, officers, stockholders, partners, members, trustees, or otherwise interested; and, in the absence of fraud, no such contract or transaction shall be invalidated or in any way affected by the fact that such Directors, officers or Member of the Trust Company have or may have interests which are or might be adverse to the interest of the Trust Company even though the vote or action of the Directors, officers or Member having such adverse interest may have been necessary to obligate the Trust Company under such contract or transaction. In the absence of fraud, and in the absence of any express agreement to the contrary, no Director, officer or Member having such adverse interest shall be liable to the Trust Company, the Member or any creditor of the Trust Company or to any other Person for loss incurred by it under or by reason of such contract or transaction, nor shall any such Director, officer or Member be accountable for any gains or profits realized thereon.

6.9. *Indemnification and Exculpation.*

(a) No Covered Person shall have any liability to the Trust Company or to the Member for any loss suffered by the Trust Company that arises out of any action or inaction of such Covered Person if such Covered Person conducted himself in good faith, reasonably believed that such course of conduct was in, or not opposed to, the best interests of the Trust Company and such course of conduct did not constitute gross negligence or willful misconduct of such Covered Person.

(b) To the maximum extent permitted by applicable law and subject to the other provisions of this Section, the Trust Company shall indemnify each Covered Person from and against all claims, losses, expenses, liabilities, actions or damages (including, without limitation, any action by the Member or assignee thereof against a Covered Person) due to, arising from, or incurred by reason of any action, inaction or decision performed, taken, not taken or made by such Covered Person in connection with any of the activities and operations of the Trust Company, provided such action, inaction or decision is within the scope of the authority of such Covered Person as provided herein, such Covered Person conducted himself in good faith and in a manner such Covered Person reasonably believed to be in, or not opposed to, the best interests of the Trust Company, and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of such Covered Person was unlawful. The adverse termination of a proceeding by judgment, order, settlement, conviction or plea of nolo contendere, or its equivalent, shall not, by itself, create a presumption that such Covered Person did not act in good faith and in a manner which such Covered Person reasonably believed to be in, or not opposed

to, the best interest of the Trust Company, or that such Covered Person had reasonable cause to believe that such Covered Person's conduct was unlawful (unless there has been a final adjudication in the proceeding that such Covered Person did not act in good faith and in a manner which such Covered Person reasonably believed to be in, or not opposed to, the best interests of the Trust Company, or that such Covered Person did have reasonable cause to believe that such Covered Person's conduct was unlawful). Any Covered Person may consult with counsel selected by such Covered Person and any opinion of such counsel (which may be counsel for any Covered Person or any Affiliate) shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by such Covered Person hereunder in good faith and in accordance with the opinion of such counsel. Any indemnification under this Section shall include reasonable attorneys' fees incurred by such Covered Person in connection with the defense of any proceeding based on any such action, inaction or decision, and shall include, to the extent permitted by law, all such liabilities under United States federal and state securities laws. The reasonable expenses incurred by a Covered Person in connection with the defense of any such proceeding shall be paid or reimbursed by the Trust Company as incurred, upon receipt of an undertaking by such Covered Person to repay such expenses if it shall ultimately be determined that such Covered Person is not entitled to be indemnified hereunder. Indemnification hereunder shall only be made to the extent that such Covered Person is not otherwise reimbursed from insurance or other means. Indemnification hereunder shall only be paid from the assets of the Trust Company, and the Member shall not have any personal liability on account thereof.

(c) Notwithstanding the provisions of Section 6.9(b), a Covered Person shall not be entitled to be indemnified or held harmless from and against any claim, loss, expense, liability, action or damage, to the extent such claim, loss, expense, liability, action or damage:

(i) is due to, or arises from, or is incurred by reason of such Covered Person's gross negligence or willful misconduct;

(ii) arises in connection with, a proceeding by or in the right of the Trust Company, in which such person was adjudged liable to the Trust Company; or

(iii) arises in connection with any proceeding charging improper personal benefit to such Covered Person, whether or not involving action on behalf of the Trust Company, in which such Covered Person was adjudged liable on the basis that personal benefit was improperly received by him or her.

(d) The provisions of this Section shall be in addition to and not in limitation of any other rights of indemnification and reimbursement or limitations of liability to which a Covered Person may be entitled. The provisions of this Section shall apply whether or not at the time of reimbursement the Covered Person entitled to reimbursement is then a Covered Person. Notwithstanding any repeal of this Section or other amendment hereof, its provisions shall be binding upon the Trust Company (subject only to the exceptions above set forth) as to any claim, loss, expense, liability, action or damage due to, arising from or incurred by reason of matters which occur during or refer to the period prior to any such repeal or amendment of this Section.

6.10. *Other Activities.* The Member, Directors and any Affiliates of any of them may

engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others, including serving as directors, officers, stockholders, directors, members and general or limited partners of corporations, partnerships or other limited liability companies with purposes similar to those of the Trust Company. Neither the Trust Company nor any other Director or Member shall have any rights in or to such ventures or opportunities or the income or profits therefrom. Nothing in this Section 6.10, however, shall limit or abrogate any agreement to which any such Member, Director or Affiliate may be bound apart from this Agreement.

## **ARTICLE VII. Fiscal Matters**

7.1. *Books and Records.* At all times during its existence and thereafter until its complete liquidation, dissolution or winding up, the Trust Company shall maintain books of account and records at its registered office. The Trust Company shall keep its books and records as determined by the Board of Directors. The Board of Directors shall keep or cause the Treasurer or another officer to keep such books and records, in addition to any documents and information required to be furnished to the Member under the Act, at the principal office of the Trust Company for examination and copying by the Member or any Director, or such Member's or Director's duly authorized representative, at such Member's or Director's reasonable request, and at such Member's or Director's expense during ordinary business hours. A current list of the full name and last known address of each officer, Member and Director, a copy of this Agreement and any amendments thereto, the Certificate, including all certificates of amendment thereto, and executed copies of all powers of attorney, if any, pursuant to which this Agreement, any amendment, the Certificate or any certificate of amendment has been executed, shall be maintained at the principal office of the Trust Company.

7.2. *Bank Accounts.* The Board of Directors or the President or the Treasurer shall be responsible for causing one or more accounts to be maintained in one or more banks, which accounts shall be used for the payment of the expenditures incurred by the Board of Directors and the officers in connection with the business of the Trust Company, and in which shall be deposited any and all cash receipts of the Trust Company. All deposits and funds not needed for the operations of the Trust Company may be invested in short-term investments, including securities issued or fully guaranteed by United States government agencies, certificates of deposit of banks, bank repurchase agreements covering the securities of the United States government, commercial paper rated A or better by Moody's Investors Services, Inc., money market funds, interest-bearing time deposits in banks and thrift institutions, and such other investments as the Board of Directors may approve. Withdrawals from any Trust Company bank or similar account shall be made and other activity conducted on such signature or signatures as shall be approved by the Board of Directors.

7.3. *Fiscal Year; Audit.* The fiscal year of the Trust Company for tax and for financial accounting purposes shall be fixed by the Board of Directors. The Trust Company shall be subject to an annual financial audit as of the end of its fiscal year by independent certified public accountants appointed by and responsible to the Audit Committee. The Trust Company shall issue a written report on at least an annual basis, containing substantially the same information as is required under Form N-30d under the Investment Company Act of 1940, to all beneficiaries of

any Trusts that it shall administer.

## **ARTICLE VIII. Transfers of Interests**

### *8.1. General Restrictions on Transfer of Interests by Member.*

(a) The Member may not Transfer all or any part of the Member's interest in the Trust Company without the prior written consent of the Board of Directors and, if applicable under New Hampshire banking laws and regulations, the New Hampshire Bank Commissioner. A permitted assignee of the Member's interest shall be admitted as a substitute Member, entitled to exercise the rights and powers of a Member, only with the prior written consent of the Board of Directors.

(b) Any Person who acquires an interest in the Trust Company by permitted Transfer, whether or not such Person has accepted and assumed in writing the terms and provisions of this Agreement or been admitted into the Trust Company as a Member, shall be deemed, by acceptance of the acquisition of such interest, to have agreed to be subject to and bound by all of the obligations of this Agreement with respect to such interest and shall be subject to the provisions of this Agreement with respect to any subsequent Transfer of such interest.

(c) Any Transfer in contravention of any of the provisions of this Agreement shall be null and void and ineffective to transfer any interest in the Trust Company, and shall not bind, or be recognized by, or on the books of, the Trust Company, and any transferee or assignee in such transaction shall not be or be treated as or deemed to be a Member for any purpose.

## **ARTICLE IX. Dissolution and Liquidation**

9.1. *Events Causing Dissolution.* Subject to applicable New Hampshire banking laws and regulations, the Trust Company shall be dissolved and its affairs wound up upon the earlier to occur of the following events:

(a) the effective date specified in a written election adopted by the Board of Directors to dissolve the Trust Company (provided such election to dissolve the Trust Company has been approved by consent of the sole Member);

(b) the time of the dissolution ordered by the New Hampshire Bank Commissioner or other applicable bank regulatory authority;

(c) the occurrence of any event under the Act that terminates the continued membership of the Member in the Trust Company unless, within ninety (90) days after the occurrence of such an event, the legal representative or successor of the Member agrees in writing to continue the Trust Company and to the admission of such legal representative or successor or its nominee or designee as a Member, effective as of the occurrence of such event;  
or



(d) issuance of a notice of administrative dissolution under Section 304-C:53, I of the Act, or entry of a decree of judicial dissolution under Section 304-C:51 of the Act.

*9.2. Procedures on Dissolution.* Dissolution of the Trust Company shall be effective on the day on which the event giving rise to the dissolution occurs, but the Trust Company shall not terminate until the assets of the Trust Company have been applied or distributed as provided herein and the Certificate has been canceled in the manner required by the Act. Notwithstanding the dissolution of the Trust Company, prior to the termination of the Trust Company, the business of the Trust Company shall continue to be governed by this Agreement. Promptly after dissolution, the Liquidator shall liquidate the assets of the Trust Company and apply and distribute the proceeds thereof as provided in Section 9.3 below. As soon as practicable after such liquidation and distribution, the Liquidator shall cause the cancellation of the Certificate.

*9.3. Liquidation Following Dissolution.*

(a) Following the dissolution of the Trust Company in accordance with this Agreement, no further business shall be done in the Trust Company except for the completion of any transactions in process and the taking of such action as is necessary for the performance and discharge of the Trust Company's obligations, the winding-up and liquidation of its affairs and the distribution of its assets. After payment of all liabilities of the Trust Company owing to creditors of the Trust Company, the Liquidator shall set up such reserves as it deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Trust Company. Such reserves shall be paid over by the Liquidator to a bank, to be held in escrow for the purpose of paying any such contingent or unforeseen liabilities or obligations as they become fixed or determined. The Liquidator shall have the power to pay any such liabilities or obligations of the Trust Company from the reserves placed in escrow for that purpose, and, at the expiration of such period as the Liquidator deems advisable, the remainder of such reserves, if any, shall be distributed to the Member in the manner set forth in Section 9.3(b) below.

(b) After paying such liabilities and providing for such reserves, the Liquidator shall cause the remaining net assets of the Trust Company (and the remainder, if any, of the reserves established in accordance with Section 9.3(a) above) to be distributed to the Member. In the event that any part of such net assets consists of notes or accounts receivable or other noncash assets, the Liquidator may take whatever steps it deems appropriate to convert such assets into cash or into any other form which would facilitate the distribution thereof. If any assets of the Trust Company are to be distributed in kind, such assets shall be distributed on the basis of their fair market value net of any liabilities.

*9.4. Claims of the Member.* The Member shall look solely to the Trust Company's assets for the return of its Capital Contribution, and if the assets of the Trust Company remaining after payment of or due provision for all debts, liabilities and obligations of the Trust Company are insufficient to return such Capital Contribution, the Member shall have no recourse against the Trust Company or any Director.

## **ARTICLE X. General Provisions**

10.1. *Notices.* Except for notices of meetings of Directors, which shall be given in the manner provided elsewhere in this Agreement, all notices under this Agreement shall be effective (a) on the fourth business day after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) on the first business day after being sent by express mail, or commercial overnight delivery service, providing a receipt for delivery; (c) on the date of hand delivery or delivery by receipt confirmed telecopier or electronic mail; or (d) on the date actually received, if sent by any other method. To be effective, all such notices shall be addressed, if to the Trust Company, at its registered office under the Act, and if to the Member or a Director, at the last address of record on the Trust Company's books.

10.2. *Word Meanings.* Words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless expressly stated otherwise in any given instance. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Where the context permits, the use of the term "or" shall be equivalent to the use of the term "and/or".

10.3. *Binding Provisions.* Subject to the restrictions on Transfers set forth herein, the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto, all Persons who hereafter become Directors in accordance with this Agreement, and their respective heirs, legal representatives, successors and permitted assigns.

10.4. *Applicable Law.* This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire, including the Act, notwithstanding any rules regarding choice of law to the contrary.

10.5. *Counterparts.* This Agreement may be executed in several counterparts and as so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

10.6. *Separability of Provisions.* Each provision of this Agreement shall be considered separable. To the extent that any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be considered amended to the smallest degree possible in order to make the Agreement effective under the Act (and, if the Act is subsequently amended or interpreted in such manner as to make effective any provision of this Agreement that was formerly rendered invalid, such provision shall automatically be considered to be valid from the effective date of such amendment or interpretation).

10.7. *Section Titles.* Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

10.8. *Amendments.* Except as otherwise specifically provided in this Agreement (including, without limitation, in Article VIII), this Agreement may be amended or modified only by a writing approved and executed by the Member; provided, however, that no such amendment shall increase the liability of or increase the obligations of the Board of Directors

without the prior approval of the Board of Directors.

10.9. *Third-Party Beneficiaries.* The provisions of this Agreement, including, without limitation, Article III, are not intended to be for the benefit of any creditor (other than the Member or a Director who is a creditor) or other Person (other than the Member or a Director in such Member's or Director's capacity as such) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Trust Company or the Member or any of the Directors. Moreover, notwithstanding anything contained in this Agreement, including, without limitation, Article III, no such creditor or other Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in respect of any debt, liability or obligation (or otherwise) against the Trust Company or the Member or any Director.

10.10. *Entire Agreement.* This Agreement embodies the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings between or among them relating to such subject matter. The Member and Directors hereby agree that the Member and each Director shall be entitled to rely on the provisions of this Agreement, and no Member or Director shall be liable to the Trust Company or the Member or any Director for any action or refusal to act taken in good faith reliance on the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Limited Liability Company Agreement under seal as of the day and year first above written.

SOLE MEMBER

ICMA RETIREMENT CORPORATION

By: Lynne Ford (LS)  
Chief Executive Officer and President

777 North Capitol Street, NE  
Washington, DC 20002

DIRECTOR:

Michael Barry (LS)

Michael Barry  
Chevy Chase, Maryland

DIRECTOR:

Tina Byles Williams (LS)

Tina Byles Williams  
Philadelphia, Pennsylvania

DIRECTOR:

Lynne Ford (LS)

Lynne Ford  
Washington, D.C.

DIRECTOR:

Jeanmarie Grisi (LS)

Jeanmarie Grisi  
Berkeley Heights, New Jersey

DIRECTOR:

Carl Harness (LS)

Carl Harness  
Tampa Florida

DIRECTOR:

Christopher Morrill

Christopher Morrill  
Roanoke, Virginia

DIRECTOR:

Christopher McCullion  
Christopher McCullion  
Orlando, Florida

DIRECTOR:

Robert J. O'Neill, Jr. (LS)  
Robert J. O'Neill, Jr.

DIRECTOR:

Gilbert Perales  
Gilbert Perales  
Irving, Texas

SCHEDULE A

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<u>Member Name and Address</u>	<u>% Interest</u>	<u>Capital Contribution</u>
ICMA Retirement Corporation, 777 North Capitol Street, NE Washington, DC 20002	100%	The Member will contribute to the Trust Company all amounts required by New Hampshire banking laws and regulations.

Directors:

Christopher McCullion  
Chief Financial Officer  
Orlando, Florida  
Class I

Robert J. O'Neill, Jr.  
Senior Vice President, Public Finance  
Davenport & Company  
Richmond, Virginia  
Class II

Christopher Morrill  
Executive Director  
Government Finance Officers  
Association  
Chicago, Illinois  
Class I

Tina Byles Williams  
Chief Executive Officer & Chief  
Investment Officer  
Xponance  
Philadelphia, Pennsylvania  
Class III

Gilbert Perales  
Deputy City Manager  
Arlington, Texas  
Class I

Carl Harness  
Chief Human Services Administrator  
Hillsborough County, Florida  
Class III

Michael Barry  
Chief Investment Officer  
Georgetown University  
Washington, D.C.  
Class II

Lynne Ford  
Chief Executive Officer and President  
ICMA Retirement Corporation  
Washington, D.C.  
Class IV, Ex Officio

Jeanmarie Grisi  
Chief Investment Officer  
Pension Investments, Nokia

# DISCLOSURE MEMORANDUM

for the VantageTrust Funds, VantageTrust II Funds and VantageTrust III Funds







**VANTAGETRUST FUNDS, VANTAGETRUST II FUNDS & VANTAGETRUST III FUNDS  
DISCLOSURE MEMORANDUM**

**November 2020**

THIS OFFERING IS BEING MADE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, FOR AN INTEREST IN VANTAGETRUST, VANTAGETRUST II MULTIPLE COLLECTIVE INVESTMENT FUNDS TRUST, AND VANTAGETRUST III MASTER COLLECTIVE INVESTMENT FUNDS TRUST (EACH THE “TRUST” AND TOGETHER THE “TRUSTS”). NO PUBLIC MARKET WILL DEVELOP FOR THE UNITS OF PARTICIPATION IN ONE OR MORE SERIES (EACH A “FUND,” AND COLLECTIVELY, THE “FUNDS”) OF ANY TRUST. THE UNITS ARE NOT TRANSFERABLE OR REDEEMABLE EXCEPT UPON SATISFACTION OF CERTAIN CONDITIONS DESCRIBED IN THIS DISCLOSURE MEMORANDUM AND EACH TRUST’S DECLARATION OF TRUST.

THE UNITS OF PARTICIPATION OFFERED HEREBY HAVE NOT BEEN REGISTERED WITH OR APPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE, NOR HAS ANY SUCH COMMISSION OR REGULATORY AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE MEMORANDUM.

THE TRUSTS AND THE FUNDS ARE NOT REGISTERED AS AN INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED, IN RELIANCE UPON AN EXEMPTION FROM SUCH REGISTRATION.

PROSPECTIVE INVESTORS ARE NOT TO CONSTRUE THE CONTENTS OF THIS DISCLOSURE MEMORANDUM AS INVESTMENT, TAX, OR LEGAL ADVICE. THIS DISCLOSURE MEMORANDUM, AS WELL AS THE NATURE OF THE INVESTMENT, SHOULD BE REVIEWED BY EACH PROSPECTIVE INVESTOR WITH ITS INVESTMENT ADVISERS, ACCOUNTANTS, OR LEGAL COUNSEL.

NO PERSON IS AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION NOT CONTAINED IN THIS DISCLOSURE MEMORANDUM, AND, IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON.

THIS DISCLOSURE MEMORANDUM CONTAINS SUMMARIES, BELIEVED TO BE ACCURATE, OF CERTAIN TERMS OF EACH TRUST’S DECLARATION OF TRUST. FOR COMPLETE INFORMATION CONCERNING THE RIGHTS AND OBLIGATIONS OF THE PARTIES THERETO, REFERENCE IS HEREBY MADE TO THE ACTUAL DOCUMENTS, COPIES OF WHICH WILL BE FURNISHED TO PROSPECTIVE INVESTORS, UPON REQUEST. IN THE EVENT OF ANY INCONSISTENCIES BETWEEN THIS MEMORANDUM AND ANY TRUST’S DECLARATION OF TRUST, THE PROVISIONS OF THE DECLARATION OF TRUST SHALL BE CONTROLLING. ALL SUCH SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY BY THIS REFERENCE.

THE FUNDS AND OTHER INVESTMENT OPTIONS MADE AVAILABLE BY THE TRUSTS ARE NOT GUARANTEED OR INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, ANY OTHER GOVERNMENT AGENCY, THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION OR ITS AFFILIATES, INCLUDING THE VANTAGETRUST COMPANY, LLC (“TRUST COMPANY”). TRUST COMPANY HAS CLAIMED AN EXCLUSION FROM THE DEFINITION OF THE TERM “COMMODITY POOL OPERATOR” UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED (THE “CEA”), AND THUS, IS NOT SUBJECT TO REGISTRATION OR REGULATION AS A COMMODITY POOL OPERATOR UNDER THE CEA.

BEFORE INVESTING IN A FUND THE FOLLOWING SHOULD BE CAREFULLY CONSIDERED:

- INVESTMENT GOALS, TOLERANCE FOR RISK, INVESTMENT TIME HORIZON, AND PERSONAL FINANCIAL CIRCUMSTANCES;
- THERE IS NO GUARANTEE THAT A FUND WILL MEET ITS INVESTMENT OBJECTIVE;
- PAST PERFORMANCE DOES NOT INDICATE OR GUARANTEE FUTURE PERFORMANCE; AND
- AN INVESTOR CAN LOSE MONEY INVESTING IN THE FUNDS.

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## I. INTRODUCTION

This *Disclosure Memorandum* (“**Memorandum**”) provides information about the funds (“**Fund**” or “**Funds**”) within three trusts: the VantageTrust (“**VantageTrust**”), VantageTrust II Multiple Collective Investment Funds Trust (“**VantageTrust II**”), and VantageTrust III Master Collective Investment Funds Trust (“**VantageTrust III**”). Within this Memorandum we refer to each as a **Trust**, and collectively as the **Trusts**. The Funds are not mutual funds. They are collective investment trust funds, or “**CITs**.”

For additional information about VantageTrust Funds and VantageTrust II Funds you should refer to the applicable “**Fact Sheet**” or “**Investment Options Sheet**.” The Fact Sheet provides information about each Fund’s investment objective, strategies, principal risks, expenses, performance and trading restrictions. The Investment Options Sheet provides information about each Fund, including principal risks, investment objectives and investment strategies.

Certain VantageTrust Funds and VantageTrust II Funds invest in VantageTrust III Funds, but the VantageTrust III Funds are not available for direct investment. For additional information about the VantageTrust III Funds, you may request a copy of Appendix A to the VantageTrust III Declaration of Trust. Appendix A includes “**Fund Level Guidelines**” that provide investment objectives, strategies and restrictions for each VantageTrust III Fund.

### A. How Our Funds Are Named

This Memorandum uses the legal name when referring to each of the Funds. In comparison, some of our Funds use the “Vantagepoint” name for general marketing purposes. For your reference, the following table shows the legal name for each category of Funds within each Trust alongside the applicable marketing name.

Trust	Fund Legal Name	Fund Marketing Name	Fund Classes
VantageTrust	VT Vantagepoint Funds	Vantagepoint Funds	R
	VT PLUS Fund	Vantagepoint PLUS Fund	R, F
	VT Trust Series Funds	VT Trust Series Funds	R
	VT Retirement IncomeAdvantage Fund	VT Retirement IncomeAdvantage Fund	R
VantageTrust II	VT II Vantagepoint Funds	Vantagepoint Funds	S
	VT II PLUS Fund	Vantagepoint PLUS Fund	S
	VantageTrust II Model Portfolio Funds	VantageTrust II Model Portfolio Funds	S
VantageTrust III	VT III Vantagepoint Funds	Vantagepoint Funds	-
	VT III PLUS Fund	Vantagepoint PLUS Fund	-

## II. MANAGEMENT OF THE TRUST

### A. Trustee

VantageTrust Company, LLC (“**Trust Company**”) is the trustee for each Trust. It is a New Hampshire non-depository banking institution founded in 2001. It generally makes the VantageTrust III Funds available through VantageTrust and VantageTrust II. The VantageTrust Funds and the VantageTrust II Funds are available to “Eligible Trusts” (as defined in their Declarations of Trust), which typically include public sector plans. The Trust Company is a wholly owned subsidiary of The International City Management Association Retirement Corporation (“**ICMA-RC**”). ICMA-RC is a Delaware non-profit financial services corporation established in 1972 to assist state and local governments and their agencies and instrumentalities in the establishment and maintenance of deferred compensation and qualified retirement plans.

The Trust Company has exclusive management and investment authority with respect to any Fund established pursuant to each Trust's Declaration of Trust ("**Declaration of Trust**"). The Trust Company may retain and consult with such investment advisers or other consultants, including, but not limited to, any affiliate of the Trust Company, as the Trust Company in its sole discretion may deem advisable, to assist it in carrying out its responsibilities under the Declaration of Trust. The Trust Company may, in its sole discretion, incorporate the advice of such investment advisers and other consultants into any investment guidelines, investment objectives, or restrictions.

## **B. Investment Adviser**

ICMA-RC's wholly owned subsidiary, Vantagepoint Investment Advisers, LLC ("**VIA**"), serves as the investment adviser to the Trust Company. VIA is registered as an investment adviser with the Securities and Exchange Commission.

Additional information about the advisory services that VIA provides to the Trust Company is available in VIA's *VantageTrust Company Advisory Services* Form ADV Part 2A (also known as the "**Brochure**") which is available at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **C. Trust**

Each Trust is a group trust established and maintained by the Trust Company and is intended to provide for the collective investment and reinvestment of assets of certain eligible investors ("**Eligible Trusts**") as that term is defined in each Trust's Declaration of Trust. The Trust Company is the sole trustee of each Trust. The Trust property allocable to the Eligible Trusts is held for the trustees of those Eligible Trusts for the exclusive benefit of those Eligible Trusts' investors and beneficiaries.

The Board of Directors of the Trust Company ("**Board**") is responsible for investing Trust property and overseeing the investments, operations, and administration of each Trust, including the supervision and periodic review of VIA's services as investment adviser to the Trust Company with respect to the Funds and ICMA-RC's services as administrator to the Trust Company with respect to the Funds.

## **D. Broker-Dealer Distribution for the VantageTrust Funds & VantageTrust II Funds**

ICMA-RC Services, LLC, ("**RC Services**") an SEC registered broker-dealer and FINRA member firm, offers the VantageTrust Funds and the VantageTrust II Funds to Defined Contribution Investment Only ("**DCIO**") clients. RC Services is a wholly-owned subsidiary of ICMA-RC and an affiliate of the Trust Company. RC Services also provides educational support for ICMA-RC's record keeping services to plans and plan participants.

## **III. EXEMPTION FROM REGISTRATION UNDER FEDERAL SECURITIES LAWS**

Interests in the Funds are not registered under the Securities Act of 1933, in reliance on the exemption under Section 3(a)(2) of that Act, nor are they registered under the Investment Company Act of 1940, in reliance on the exemption under Section 3(c)(11) of that Act.

## **IV. FEDERAL TAX STATUS**

Sections 501(a) and 401(a) of the Internal Revenue Code ("**Code**") provide that a group trust for the commingled investment of assets of qualified plans and other employee benefit plans, such as the Trust, is exempt from taxation.

## **V. ADOPTION OF TRUST AGREEMENT - ELIGIBLE TRUSTS**

Admission to a Trust is governed by the terms of each Trust's Declaration of Trust. Each Eligible Trust that desires to participate in a Trust shall establish to the Trust Company's satisfaction that it meets the conditions of participation

set forth in that Trust’s Declaration of Trust, including that it satisfies the definition of Eligible Trust as defined in the Declaration of Trust. Each Trust’s Declaration of Trust is available upon request.

## VI. THE FUNDS

This section provides an overview of each category of Funds that the Trust Company has established. For the VantageTrust Funds and VantageTrust II Funds, please refer to the applicable Fund Fact Sheet or Investment Options Sheet for additional information about each Fund and class, including expenses, performance, objectives, investment strategies and restrictions. The VantageTrust III Funds are not available for direct investment. Nevertheless, you may request a copy of Appendix A to the VantageTrust III Declaration of Trust which includes the Fund Level Guidelines for each VantageTrust III Fund.

The table below summarizes each general category of Funds within the Trusts. Each category of Funds is discussed in more detail in this section. See Appendix A for a full list of the current Funds.

General Fund Category	Summary Description
Vantagepoint Milestone Funds & Vantagepoint Model Portfolio Funds	A series of target date (Milestone) and target risk (Model) Funds. VT Vantagepoint and VT II Vantagepoint Milestone and Model Funds invest in an underlying VT III Vantagepoint Milestone or Model Fund with a corresponding objective, strategy and risk profile.
Vantagepoint Index Funds	Funds that follow an indexed or passively managed approach to investing. This means that securities are selected to try to approximate the investment characteristics and performance of the specified index. VT Vantagepoint and VT II Vantagepoint Index Funds invest in an underlying VT III Vantagepoint Index Fund with a corresponding objective, strategy and risk profile.
Vantagepoint Actively Managed Funds	Funds that have a distinct investment objective and strategy and follow an actively managed approach to investing. VT Vantagepoint and VT II Vantagepoint Actively Managed Funds invest in an underlying VT III Vantagepoint Actively Managed Fund with a corresponding objective, strategy and risk profile.
Vantagepoint PLUS Fund	A “stable value fund” that primarily invests in a diversified and tiered portfolio of stable value investment contracts. The VT PLUS and VT II PLUS Funds invest in the VT III PLUS Fund which has a corresponding objective, strategy and risk profile.
VT Trust Series Funds	VantageTrust Funds that invest in a single underlying third-party fund.
VT Retirement Income Advantage Fund	A Fund that invests in a Separate Account under a group variable annuity issued by Prudential Retirement Insurance and Annuity Company.
VantageTrust II Model Portfolio Funds	Target risk funds that invest in a combination of VantageTrust III Funds and third party exchange-traded funds. Each Fund is designed to have a different degree of risk and reward.
VT II Cash Management Fund	A Fund that invests in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.
VT II Special Purpose Funds	A group of VantageTrust II Funds that are primarily used to gain exposure to fixed income securities within stable value investment strategies.

### A. Investment Objectives and Strategies

The objectives and strategies described in this Memorandum, and as applicable, the Fact Sheet, Investment Options Sheet and Fund Level Guidelines, are those that the Funds use under normal conditions.

### **1. Temporary Defensive or Liquidity Positions**

Each Fund may, from time to time, take temporary defensive or liquidity positions that are inconsistent with the Fund's investment strategies, in attempting to respond to adverse market, economic, political, or other conditions. During unusual economic or market conditions, or for temporary defensive purposes or liquidity purposes, each Fund may place up to 100% of its assets in securities that would not ordinarily be consistent with the Fund's objectives or in cash and cash equivalents. A Fund will do so only if VIA or a Fund's subadviser believes the risk of loss outweighs the opportunity for capital gains or higher income. A Fund may not be seeking its investment objective(s) while taking a temporary defensive position or a liquidity position.

### **2. Limits on Fund Investments**

A Fund may include investment limitations or restrictions, such as a required minimum or maximum investment in a particular type of security. Any such limitations and restrictions are measured at the time a Fund purchases the investment option. The status, market value, maturity, credit quality, or other characteristics of a Fund's securities may change after they are purchased, and this may cause the amount of the Fund's assets invested in such securities to exceed the stated maximum restriction or fall below the stated minimum restriction. If any of these changes occur, it would not be considered a violation of the investment restriction.

## **B. Vantagepoint Milestone Funds & Vantagepoint Model Portfolio Funds**

The VT Vantagepoint Milestone Funds ("**VT Milestone Funds**"), VT II Vantagepoint Milestone Funds ("**VT II Milestone Funds**") and VT III Vantagepoint Milestone Funds (collectively the "**Vantagepoint Milestone Funds**") are target date funds.

The VT Vantagepoint Model Portfolio Funds ("**VT Model Portfolio Funds**"), VT II Vantagepoint Model Portfolio Funds ("**VT II Model Portfolio Funds**") and VT III Vantagepoint Model Portfolio Funds (collectively the "**Vantagepoint Model Portfolio Funds**") are target risk funds.

Each VT Milestone Fund, VT II Milestone Fund, VT Model Portfolio Fund and VT II Model Portfolio Fund invests in a single VT III Vantagepoint Milestone Fund ("**VT III Milestone Fund**") or VT III Vantagepoint Model Portfolio Fund ("**VT III Model Portfolio Fund**") that shares its name, objective, strategies and risks. In turn, each underlying VT III Milestone Fund or VT III Model Portfolio Fund is a "fund of funds" that invests in a combination of other VantageTrust III Funds and third party exchange-traded funds (ETFs). By investing in this way, each VT III Milestone Fund or VT III Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and of the portfolio holdings and strategies of those funds.

**Changes to the Underlying Funds:** Any changes in the underlying funds, such as changes in investment objectives or strategies, may affect the performance of the Vantagepoint Milestone Funds and Vantagepoint Model Portfolio Funds. VIA may alter the asset class allocations or underlying fund-level allocations of a VT III Milestone Fund or VT III Model Portfolio Fund at its discretion.

**Underlying VT III Milestone Funds:** The targeted allocation of each VT III Milestone Fund's assets among underlying funds and the asset classes they represent is determined by VIA. Over time, VIA will adjust the asset allocation of each "dated" VT III Milestone Fund to seek to become more conservative as the year designated in its name approaches and for approximately 10 years beyond the designated year. This is intended to reduce investment risk as investors move toward and into retirement. However, there is no guarantee that this goal will be achieved, and investors may lose money. Ten years after the date in the VT III Milestone Fund's name, it will reach its "landing point" and its target allocation becomes constant. It is

expected that when a VT III Milestone Fund reaches its “landing point” it will combine with the VT III Vantagepoint Milestone Retirement Income Fund.

Unlike the dated VT III Milestone Funds whose asset allocations change over time, the VT III Vantagepoint Milestone Retirement Income Fund maintains a constant asset allocation and is designed for investors who have begun to make gradual withdrawals or are seeking to preserve principal with some opportunity for inflation protection and capital growth, or who have a low tolerance for price fluctuations or wish to invest for the shorter-term.

**Underlying VT III Model Portfolio Funds:** Each VT III Model Portfolio Fund is designed to have a different degree of potential risk and reward and is diversified among the underlying funds in differing allocations. By investing in this way, each VT III Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and the portfolio holdings and strategies of those funds.

**Asset Allocation:** The allocation of each VT III Model Portfolio Fund among the underlying funds and the asset classes they represent is established by VIA.

**Rebalancing:** VIA monitors the allocations for each VT III Model Portfolio Fund and will “rebalance” its portfolio as necessary to return the VT III Model Portfolio Fund to, or close to, the intended allocations. VIA may, at its discretion, change the allocations to each of the underlying funds. Furthermore, VIA ensures that the underlying fund allocations result in overall asset class allocations that remain within the disclosed asset class allocations to fixed income, equity, and multi-strategy investments.

**VT III Vantagepoint Diversifying Strategies Fund and VT III Vantagepoint Total Return Bond Fund:** Many of the VT III Model Portfolio Funds, VT III Milestone Funds, and VantageTrust II Model Portfolio Funds (discussed later in this Memorandum) invest in the VT III Vantagepoint Diversifying Strategies Fund or VT III Vantagepoint Total Return Bond Fund as part of their investment strategies. These Funds are not available for direct investment or indirectly through VantageTrust or VantageTrust II by Plans or Plan participants. Following are the objectives, strategies and risks for these Funds.

<b>VT III Vantagepoint Diversifying Strategies Fund</b>
<b>Investment Objective:</b> Long-term capital growth.
<b>Principal Investment Strategies:</b> Under normal circumstances, the Fund invests up to 70% of its net assets in alternative investments, including, but not limited to, private equity, private real estate, distressed debt and direct lending (“Alternatives”). The Fund seeks long-term growth of capital with lower volatility over time than that of stocks, in general, and a risk/return profile different from that of traditional asset classes, such as stocks and fixed income securities.  The Fund’s investments in Alternatives typically are expected to be in the form of limited partnerships interests, but may also be in the form of CITs, Limited Liability Companies (“LLCs”), or other pooled vehicles, and may include a broad range of strategies, vintage years, and geographies. The Fund expects to stagger its commitments to Alternatives over several years in order to achieve sufficient vintage year diversification. Once a commitment is made, capital is then expected to be called over a multi-year period. While the Fund’s assets are waiting to be either committed to, or called by, an Alternative investment, the Fund’s assets will be invested in liquid securities, including U.S. and non-U.S. equity securities, fixed income securities, cash and cash equivalents, and derivative instruments. The Fund may use individual securities or pooled investment vehicles to obtain the desired exposure.  The Fund uses multiple managers. Each manager independently selects and maintains a portfolio for this Fund.



**VT III Vantagepoint Diversifying Strategies Fund**

**Principal Risks:**

Alternatives Risk, Convertible Securities Risk, Interest Rate Risk, Credit Risk, High Yield Securities Risk, Small-Cap Securities Risk, Derivative Instruments Risk, Foreign Securities Risk, U.S. Government Agency Securities Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, REITs Risk, Indexing Risk, Foreign Currency Risk, Municipal Securities Risk, Floating Rate Loans Risk, Call Risk, Stock Market Risk, Portfolio Turnover Risk, Multi-Manager Risk.

Please see the “Investment Risks” section of this Memorandum for additional information on risks.

**VT III Vantagepoint Total Return Bond Fund**

**Investment Objective:**

Current income and capital appreciation.

**Principal Investment Strategies:**

Under normal circumstances, this Fund seeks exposure to investment grade fixed income instruments that offer current income with the potential for capital appreciation. The Fund seeks both income and capital appreciation opportunities through diversification across instruments, issuers, sectors and industries with active duration management and yield curve positioning.

This Fund may use fixed income instruments or pooled investment vehicles to gain the desired exposure. It may also invest in other fixed income instruments, cash and cash equivalents, and derivative instruments.

This Fund uses multiple managers. Each manager independently selects and maintains a portfolio for this Fund.

**Principal Risks:**

Leverage Risk, Interest Rate Risk, Credit Risk, Prepayment & Extension Risk, Derivative Instruments Risk, Foreign Securities Risk, Liquidity Risk, Portfolio Turnover Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, U.S. Government Agency Securities Risk, Call Risk, Multi-Manager Risk, Large Investor Risk.

Please see the “Investment Risks” section of this Memorandum for additional information on risks.

**C. Vantagepoint Index Funds & Vantagepoint Actively Managed Funds**

**Index Funds:** Each VT Vantagepoint Index Fund and VT II Vantagepoint Index Fund invests in a single underlying VT III Vantagepoint Index Fund (“**VT III Index Fund**”) that follows an indexed or passively managed approach to investing. This means that securities are selected for investment in a VT III Index Fund to try to approximate the investment characteristics and performance of the specified index.

**Actively Managed Funds:** Each VT Vantagepoint Actively Managed Fund and VT II Vantagepoint Actively Managed Fund invests in a single underlying VT III Vantagepoint Actively Managed Fund (“**VT III Actively Managed Fund**”) that has a distinct investment objective and strategy and follows an actively managed approach to investing.

**Subadviser Selection:** VIA selects the subadvisers that manage the assets or a portion of the assets of the VT III Index Funds and VT III Actively Managed Funds. In selecting these subadvisers and in determining the amount of their asset allocations, VIA considers a variety of factors, which may include but are not limited

to, a manager's investment performance, compliance program and brokerage policies, the qualifications of the manager's investment professionals, the diversity of the manager's investment professionals, the proposed subadvisory fees and their effect on a fund's expense ratios, and the specific investment process proposed by the subadviser.

#### **D. Vantagepoint PLUS Fund**

The VT PLUS Fund and the VT II PLUS Fund invests in the underlying VT III PLUS Fund which has a corresponding objective, strategy and risks (we use "**PLUS Fund**" in this Memorandum to refer to the VT PLUS Fund, VT II PLUS Fund and the VT III PLUS Fund). The PLUS Fund primarily invests in a diversified and tiered portfolio of stable value investment contracts. Other investments of the PLUS Fund may include cash and cash equivalents including short-term investment funds and money market mutual funds, fixed income securities, fixed income mutual funds, VIA's proprietary fixed income funds, and fixed income commingled trust funds ("**fixed income assets**") that back certain stable value investment contracts.

Each stable value investment contract provides for participant withdrawals, under certain conditions, at book value. Book value is the original contract value plus accrued interest, plus additional deposits less withdrawals, fees and expenses, and other unexpected adjustments. The contract rate (rate at which interest is credited) for different stable value investment contracts varies and may include a fixed rate, a floating rate that resets based on an index, or a crediting rate that resets periodically to reflect current interest rates and the performance over time of the underlying fixed income assets.

##### **1. Stable Value Investment Contracts**

Different types of stable value investment contracts are used to seek to accomplish the PLUS Fund's objectives.

**Traditional Guaranteed Investment Contracts ("GICs")** – These are contracts issued by an insurance company that provide a guarantee for payments of interest at a fixed or floating rate and also principal repayments. The amount invested in each GIC becomes part of the insurance company's general account assets, which are managed and invested as the insurance company deems appropriate. Each GIC is an unsecured obligation of the insurance company to pay principal and interest for the period specified in the contract. Assurance of principal and interest payment is based solely on the financial strength of the insurance company.

**Separate Account GICs** – These are contracts issued by insurance companies that are backed by fixed income assets owned by the insurance company but held in a separate account for the PLUS Fund and any other contract holders in the account, separate from the insurance company's general account assets. The underlying fixed income assets are either managed by the insurance company, an affiliate of the insurance company, or a third party manager. Although the underlying assets are owned by the insurance company, the assets of a Separate Account GIC cannot be used to satisfy the insurance company's general obligations until the separate account liabilities have been satisfied. A Separate Account GIC's crediting/contract rate, i.e., interest paid on the Separate Account GIC, can either be fixed or floating, similar to that of a traditional GIC, or dependent upon the value of the underlying fixed income assets relative to the Separate Account GIC's contract value, and is adjusted periodically to reflect that difference over time, plus current yields, less fees and expenses.

**Synthetic GICs** – These contracts are issued by insurance companies, banks, or other financial institutions ("**Synthetic GIC issuer**") and are backed by underlying fixed income assets owned by the PLUS Fund and not by the Synthetic GIC issuer. The Synthetic GIC contract provides for participant withdrawals at book value (subject to certain conditions) and is called a "wrap contract." The Synthetic GIC issuer also may be referred to as a "wrap provider" or "wrapper." The underlying fixed income assets are managed by fixed income managers hired or approved by VIA.

In addition, certain fixed income securities are managed by VIA. The underlying fixed income assets may be comprised of fixed income securities, which include debt obligations issued by governments, corporations, municipalities and other borrowers, but may also include structured securities that provide for participation interests in debt obligations. The fixed income securities are primarily investment grade, but on a limited basis, may include some below investment grade fixed income securities (“junk bonds”). These investments may also include floating rate loans, commonly known as bank loans and sometimes referred to as leveraged loans, syndicated loans, high yield loans and institutional loans. Certain wrap providers require that they or an affiliate manage the portfolio that they wrap. A Synthetic GIC’s crediting rate is dependent on the value of the underlying fixed income assets relative to the Synthetic GIC’s contract value and is adjusted periodically to reflect that difference over time, plus current yields, less fees and expenses.

**Bank Investment Contracts (“BICs”)** – These contracts are similar but not identical to Traditional GICs and are issued by a bank as a benefit responsive bank deposit.

## **2. Investment Strategies of PLUS Fund**

In managing the PLUS Fund, VIA employs investment strategies designed to seek to meet the Fund’s investment objectives by utilizing a diversified and tiered approach to portfolio construction. The Fund’s diversification and tiered structure seeks to address the competing goals of providing (a) capital preservation; (b) a stable rate of return; (c) sufficient liquidity; (d) returns higher than money market funds and short-term bank rates over the longer term; and (e) returns that generally follow interest rate trends over time, but on a lagged basis. In seeking to meet these multiple goals, VIA manages the composition of the PLUS Fund and its allocation to various products and underlying fixed income assets based on prevailing economic and capital market conditions, relative value analysis, and other factors, consistent with the investment guidelines approved by the Board.

The stable value investment contracts held by the PLUS Fund are managed in the following manner to seek to meet the PLUS Fund’s goals:

**Traditional GICs** – VIA uses a laddered maturity strategy for the Fund’s traditional GICs, that is, the GICs are invested in a way so that they have consistent periodic maturities from maturing GIC payments to provide monthly liquidity. This strategy also seeks to provide for smoother returns and moderated reinvestment risk.

**Separate Account and Synthetic GICs** – VIA implements its Separate Account GIC and Synthetic GIC strategies through multiple single provider wraps or with multiple provider wraps, and by using multiple fixed income managers, including VIA, to manage the underlying fixed income assets. Individual managers may focus on a limited or broad set of sectors, and VIA selects managers that employ complementary strategies. VIA believes that the multi-wrapper, multi-manager approach to stable value and fixed income investing provides investors with greater return potential and, through increased diversification, helps to mitigate issuer and manager risks.

In seeking to preserve capital, VIA employs various strategies, with an emphasis on credit analysis and diversification among different issuers and fixed income assets. The PLUS Fund uses multiple issuers that are subject to initial and ongoing financial analysis performed by VIA. To seek to reduce the impact of a possible issuer default, VIA limits the amount of the PLUS Fund’s exposure to individual stable value contract issuers and requires a stable value contract issuer to meet certain credit quality standards. The underlying fixed income assets also are managed to seek diversification among issuers, security types, sectors, industries, and to meet minimum credit quality requirements.

The crediting rates of the Separate Account GICs and Synthetic GICs in which the PLUS Fund invests are intended to result in less return volatility than the returns experienced by underlying fixed income assets backing those stable value investment contracts. The PLUS Fund also may invest in underlying fixed income assets with shorter maturities that generally exhibit less market volatility than longer maturity fixed income assets. Additionally, the purchase of Traditional GICs with a fixed rate in a laddered Traditional GIC portfolio that is consistently reinvested at prevailing interest rates, with different payouts and maturities, may produce smoother returns than fewer larger purchases of Traditional GICs.

The PLUS Fund seeks to address investor-driven liquidity needs through the PLUS Fund's tiered structure, which is also intended to enhance the Fund's reinvestment opportunities. An actively monitored cash buffer that is primarily invested in short-term investment funds is intended to seek to meet daily liquidity needs. VIA actively monitors investor cash flows to seek to determine the proper cash buffer level. The PLUS Fund's portfolio of shorter duration Separate Account or Synthetic GICs is intended to provide a second source of daily liquidity. By drawing upon shorter duration Separate Account and Synthetic GICs for liquidity needs before drawing on longer duration assets, VIA seeks to minimize the impact to the PLUS Fund when liquidating assets, as needed. A portfolio of stable value investment contracts with defined maturities, primarily invested in Traditional GICs using a laddered maturity strategy, is intended to provide a relatively consistent stream of proceeds that can be reinvested into the laddered Traditional GIC portfolio, invested into other stable value investment contracts, or used for investors' liquidity needs. Ultimately, all stable value investment contracts offer investors liquidity through book value payments for certain permitted withdrawals.

VIA's management strategies seek to produce investment returns that over the long term are higher than those of money market mutual funds and short-term bank rates. However, the PLUS Fund's returns normally will lag changes in short-term interest rates and may be lower than the rates available from money market mutual funds in certain market conditions.

**Securities Lending** - The PLUS Fund participates in a securities lending program under which its custodian is authorized to lend a limited amount of fixed income securities backing the Synthetic GICs. The fixed income securities that are on loan require cash or other forms of collateral at least equal to the market value of the securities loaned as provided for in a Securities Lending Agency Agreement with JPMorgan Chase Bank, N.A. The collateral received is reinvested into cash equivalents including money market funds. As with other extensions of credit there are risks of delay in recovery of the securities on loan. In the event of default or insolvency of the borrower, the PLUS Fund will be indemnified by its custodian for the securities lending program conducted through the custodian if, at the time of a default by a borrower, some or all of the loaned securities have not been returned by the borrower.

### ***3. Evaluation and Monitoring of Issuers and Investment Managers***

VIA conducts in-depth credit analysis of financial institutions to compile a list of eligible stable value investment contract issuers. Criteria for initial and ongoing analysis include such factors as issuer asset quality; capital adequacy; product mix; profitability; and competence of senior management. VIA also takes into consideration ratings such as "claims paying ability" available through the major independent rating services, for example Moody's Investors Service, Inc., Standard & Poor's, and Fitch Ratings.

Initial evaluation and ongoing monitoring are also conducted on fixed income managers of assets that back Separate Account GICs or Synthetic GICs. VIA considers factors such as the investment management firm's organization, management and investment professionals; asset management expertise and product focus; investment performance; investment management process and

philosophy; credit research process; policies and procedures for risk management, compliance and controls; client servicing and flexibility for customization; and management fees.

#### **4. Investment Performance of the PLUS Fund**

The investment performance of the PLUS Fund is influenced by several factors, including:

**Default** – A failure by a stable value contract issuer to pay some or all of its interest or principal obligations when due on Traditional GICs, Separate Account GICs, Synthetic GICs or the Separate Account or Synthetic GIC's underlying fixed income assets will lower the return or book value of the PLUS Fund.

**Manager performance** – Exceptional or poor performance by a fixed income manager responsible for managing assets backing a Separate Account or Synthetic GIC can impact the overall returns of the PLUS Fund.

**Current market rates** – Generally, when a new stable value investment contract is purchased at, or an existing contract is reset to, a lower contract rate than the average contract rate of the PLUS Fund, it lowers the overall return on the Fund and vice versa. The PLUS Fund's rate of return may be expected to fall or rise more slowly than a fall or rise in current interest rates because the PLUS Fund's rate of return reflects an average of the rates payable on each of the PLUS Fund's stable value investment contracts that were entered into at different times and at different rates. The underlying fixed income assets of Separate Account GICs and Synthetic Account GICs will usually decline in value when interest rates rise. This may negatively impact the PLUS Fund's crediting rate.

**Cash flows into and out of the PLUS Fund** – The PLUS Fund is managed to seek to meet the cash flow requirements of expected purchases and sales of units of the PLUS Fund based on investor activity. If actual experience is significantly different from expectations, the PLUS Fund may have to buy or sell stable value investments at rates that are lower or higher than the PLUS Fund's average contract rate, which will have an impact on return.

**Length of contracts** – In general, contracts with longer terms have higher expected returns, but may not be able to keep pace with rising interest rates.

#### **5. Crediting Rate of the PLUS Fund**

The PLUS Fund crediting rate is calculated daily. The crediting rate shown is the annualized rate as of the last day of the reported period. The PLUS Fund crediting rate is calculated by taking into account current yields on the PLUS Fund's holdings and prior period performance of certain holdings in the Fund. The PLUS Fund's crediting rate is generally expected to follow interest rate trends over time but will typically do so on a lagged basis and may not move in the same direction as prevailing interest rates over certain time periods.

#### **6. Portfolio Valuation of the PLUS Fund**

In accordance with industry practice, stable value investment contracts are carried at cost plus accrued interest, plus additional deposits less withdrawals, and other adjustments.

Contributions, transfers and disbursements are effected at contract value or book value and not by reference to any alternative valuation method that might attempt to account for changes in market interest rates or credit risk.

## **7. Restrictions on Transfers of PLUS Fund Assets to Competing Funds**

Direct transfers from the PLUS Fund to competing funds are restricted. Competing funds include, but are not limited to, the following types of investment options:

- cash management funds, money market mutual funds, bank collective short-term investment funds, bank accounts or certificates of deposit, stable value funds or substantially similar investment options that offer guarantees of principal or income, such as guaranteed annuity contracts or similar arrangements with financial institutions;
- short-term bond funds that invest in fixed income securities and seek to maintain or have an average portfolio duration of less than two years; and
- any investment option that invests 80% or more of its assets in (i) fixed income securities or funds with a duration of less than two years, or (ii) instruments that seek to provide capital preservation such as stable value funds, bank certificates of deposit or bank accounts, and cash or cash equivalents.

Whether or not a fund is a competing fund will be determined, at the sole discretion of VIA, in consultation with the stable value contract issuers on a case-by-case basis.

To transfer money from the PLUS Fund to a competing fund, you must first transfer the amount to a non-competing fund for a period of at least 90 calendar days. For example, if you want to transfer money from the PLUS Fund to a money market fund, you will first need to transfer the money to a non-competing fund and then, 90 calendar days later or any time thereafter, transfer that amount of money to the money market fund.

## **8. Information About Restrictions on PLUS Fund Employer Withdrawals and Transfer Restrictions**

In the event an Employer initiates withdrawal of all or part of its Plan's assets from the PLUS Fund, the payout of such assets may be deferred for a period of up to twelve months. **In the case of a total withdrawal, participant transfers of PLUS Fund assets to other investment options will be restricted and participants will not be able to make additional investments in the PLUS Fund during this twelve-month period, or "hold period."**

Certain conditions permit participants to redeem their assets from the PLUS Fund during the hold period. These transactions are known as "benefit eligible transactions." Examples of benefit eligible transactions may include the following:

- Hardship/Emergency Withdrawals for active participants;
- Partial Account Distributions for terminated or retired participants;
- Lump Sum Distributions for terminated or retired participants;
- Rollover Distributions to another qualified plan/IRA account for terminated or retired participants; and
- Installment Payments/Required Minimum Distributions for terminated or retired participants.

When a plan chooses to transition from ICMA-RC to a new recordkeeper, also known as a deconversion, plan-directed redemptions will be paid out in an orderly manner for a period not to exceed the hold period (from the formal date of written notification by the plan sponsor). A participant may initiate a PLUS Fund transfer until the start of the blackout period of the deconversion, typically 5 business days prior to the liquidation and transfer of plan assets (other than PLUS Fund assets) to the new recordkeeper. After the beginning of the blackout period and until the expiration of the hold period, no PLUS Fund transfers are permitted, except for benefit

eligible transactions, as described above. At the expiration of the hold period, the participant's PLUS Fund assets are liquidated, and the proceeds are transferred to the new recordkeeper.

## E. VT Trust Series Funds

Each VT Trust Series Fund invests in a single underlying third-party fund. VIA is responsible for selecting each potential third-party fund and the Board reviews and approves each third-party fund selected. VIA is responsible for monitoring the performance and characteristics of these funds and may recommend the addition or removal of such third-party funds from the Fund's line up.

### 1. VT Cash Management Fund

The VT Cash Management Fund invests in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.

## F. VT Retirement IncomeAdvantage Fund

The VT Retirement IncomeAdvantage Fund invests in a Separate Account under a group variable annuity issued by Prudential Retirement Insurance and Annuity Company ("Prudential")<sup>1</sup>. The Separate Account, in turn, invests in a mix of collective trust funds with an allocation of approximately 60% equities (both domestic and foreign) and 40% fixed income. ICMA-RC manages the assets of the Separate Account pursuant to written investment guidelines provided by Prudential.

### 1. Explanation of Fees:

**Guarantee Fee** – In exchange for an annual guarantee fee of 1.00%, Prudential provides downside income protection and lifetime income guarantees. Prudential may change the guarantee fee in the future, up to a maximum of 1.50%. These guarantees are based on the claims-paying ability of Prudential and are subject to certain limitations, terms and conditions. Excess withdrawals will proportionately reduce and potentially terminate future payment guarantees. ***For additional information regarding these guarantees and the underlying assumptions attributable to these guarantees and the terms and conditions, please see the VT Retirement IncomeAdvantage Fund Important Considerations document, which is available through Account Access when you login at [www.icmarc.org](http://www.icmarc.org) or by contacting Investor Services at 800-669-7400.***

**Services Fee** – A fee applied to the assets in the Separate Account and paid to ICMA-RC in exchange for recordkeeping, administrative, and other services provided by ICMA-RC. ICMA-RC may waive or reduce this fee under certain circumstances.

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<sup>1</sup> Prudential Retirement Insurance and Annuity Company (Prudential), CA COA #08003, Hartford, CT. Neither Prudential nor ICMA-RC guarantees the investment performance or return on contributions to Prudential's Separate Account. You should carefully consider the objectives, risks, charges, expenses and underlying guarantee features before purchasing this product. Prudential may increase the Guarantee Fee in the future, from 1.00% up to a maximum of 1.50%. Like all variable investments, this Fund may lose value. Availability and terms may vary by jurisdiction; subject to regulatory approvals. Annuity contracts contain exclusions, limitations, reductions of benefits and terms for keeping them in force. Guarantees are based on Prudential's claims-paying ability. This annuity is issued under Contract form # GA-2020-TGWB4-0805-RC. ICMA-RC provides recordkeeping services to your Plan and is the investment manager of the underlying Prudential separate account. Prudential or its affiliates may compensate ICMA-RC for providing these and related administrative services in connection with the Fund. Variable annuities are suitable for long-term investing, particularly retirement savings. ©2016 Prudential, the Prudential logo, and the Rock symbol and Bring Your Challenges are service marks of the Prudential Insurance Company of America, Newark, NJ, and its related entities, registered in many jurisdictions worldwide. Note: Participants who are interested in the VT Retirement IncomeAdvantage Fund must first receive and read the VT Retirement IncomeAdvantage Fund Important Considerations document, before investing.

**Investment Management Fee** – A fee applied to the assets in the Separate Account and paid to ICMA-RC in exchange for providing investment management services, including investing the assets of the Separate Account, maintaining and rebalancing the assets within the target allocation, and reviewing and reporting on the performance of the Separate Account and its underlying funds.

**Other Separate Account Fees and Expenses** – The funds in which the Separate Account invests charge their own fees and expenses in accordance with the terms of their respective collective trust governing documents. The expense stated is based on the weighted average of underlying funds at the target asset allocation. In addition, operating expenses such as auditing and custody charges and litigation related expenses are deducted from the assets of the Separate Account.

The Separate Account invests a portion of its assets in VantageTrust II Funds, which in turn invest in corresponding VantageTrust III Funds that have the same investment objectives, strategies and risk profiles. ICMA-RC receives fees for administrative services that it provides to certain of these funds. ICMA-RC's subsidiary, VIA also receives fees for the advisory services it provides to the VantageTrust III Funds.

## 2. ***VT Retirement Income Advantage Fund – 90 Day Transfer Restriction***

**Before Lock-In** - If you transfer money out of the VT Retirement Income Advantage Fund, you will not be permitted to transfer money back into the Fund for a period of 90 calendar days. However, contributions to the Fund are permitted to continue, even during the 90-day restriction period.

**After Lock-In** - Any excess withdrawals will result in the 90-day transfer restriction on fund transfers into the VT Retirement Income Advantage Fund. For additional information regarding these restrictions, please see the *VT Retirement Income Advantage Fund Important Considerations* document, which is available when you login to Account Access at [www.icmarc.org](http://www.icmarc.org) or by contacting Investor Services at 800-669-7400.

## G. **VantageTrust II Model Portfolio Funds**

The VantageTrust II Model Portfolio Funds are target risk funds. This means that each VantageTrust II Model Portfolio Fund is a fund of funds that invests in a combination of VantageTrust III Funds and third party exchange-traded funds (together with the VantageTrust III Funds, “underlying funds”).

Each VantageTrust II Model Portfolio Fund is designed to have a different degree of potential risk and reward and is diversified among the underlying funds in differing allocations. By investing in this way, each VantageTrust II Model Portfolio Fund is exposed to the risks as well as the potential rewards of its underlying funds and the portfolio holdings and strategies of those funds.

**Asset Allocation:** The targeted allocation of each VantageTrust II Model Portfolio Fund among the underlying funds and the asset classes they represent is established by VIA as the investment adviser to the Trust Company.

**Rebalancing:** VIA monitors the allocations for each VantageTrust II Model Portfolio Fund and will “rebalance” its portfolio as necessary to return the VantageTrust II Model Portfolio Fund to, or close to, the intended allocations. VIA may, at its discretion, change the allocations to each of the underlying funds. Furthermore, VIA ensures that the underlying fund allocations result in overall asset class allocations that remain within the disclosed asset class allocations to fixed income, equity, and multi-strategy investments.

**Changes to the Underlying Funds:** Any changes in the underlying funds, such as changes in investment objectives or strategies, may affect the performance of the VantageTrust II Model Portfolio Funds. VIA may alter the asset class allocations or underlying fund-level allocations of a Fund at its discretion.



## H. VT II Cash Management Fund

The VT II Cash Management Fund invests its assets in a single underlying third-party fund. The underlying fund generally invests in a diversified portfolio of high quality, short-term debt securities.

## I. VT II Special Purpose Funds

The VT II Special Purpose Funds (“**Special Purpose Funds**”) are a group of Funds that are primarily used to gain exposure to fixed income securities within stable value investment strategies. The Special Purpose Funds invest primarily in a portfolio of investment grade fixed income securities designed to provide current income with the potential for capital appreciation. Where VIA exercises investment discretion in the purchase and sale of portfolio securities within a Special Purpose Fund, VIA generally takes a value-driven, long-term strategic view when making its selections, while also seeking to take advantage of short-term tactical opportunities that arise in the market. For other Special Purpose Funds, VIA selects and monitors the third-party investment managers who exercise investment discretion with respect to the portfolio securities within the Funds. Because certain of the Special Purpose Funds are used for operational efficiencies in the stable value advisory services VIA provides to its other clients, VIA seeks diversification across such Funds in terms of managers.

## VII. INVESTMENT RISKS

Key risks of investing in the Funds and any underlying funds are summarized below. This is not an exhaustive list. Developments that cannot be anticipated nor controlled may disrupt global economies and financial markets and magnify the risks below. Examples of such developments include war, pandemics, epidemics, energy blackouts, cyberattacks, and natural disasters.

The key risks applicable to each VantageTrust Fund and VantageTrust II Fund are included in the respective Fund Fact Sheet or Investment Options Sheet. The key risks applicable to each VantageTrust III Fund are included in Appendix A to this Memorandum.

**Alternatives Risk**—In general, alternative investments involve a high degree of risk, including potential loss of principal invested. They are often invested in illiquid investments, making them difficult to exit and price on a regular basis. Certain alternative investments, such as private equity, will be illiquid on a long term basis and the fund managers typically take several years to invest a fund’s capital. Therefore, investors will not realize the full potential benefits of the investment in the near term. Alternative investments are often more complex than traditional investment vehicles. They may be more volatile than traditional investments such as stocks, bonds and mutual funds. The fees and expenses of alternative investments are often substantial in comparison to other investment vehicles, and those fees will offset the profits of the investment. Alternative investments are typically private which means they are subject to fewer regulatory protections than registered public investments.

**Asset Allocation Risk**—Asset allocation risk is the risk that the selection of the underlying funds and the allocation of Fund assets among them will cause a Fund to lose money or to underperform other funds with similar investment objectives. In addition, there is the risk that the asset classes favored by the allocations will not perform as expected. Any changes made in the underlying funds, such as changes in investment objectives or strategies, may affect the Fund’s performance. Similarly, if the Fund’s asset allocations become “out of balance,” this could affect both the Fund’s level of risk and the Fund’s potential for gain or loss.

**Asset-Backed Securities Risk**—Defaults on the assets underlying asset-backed securities may adversely affect the value of these securities. These securities are subject to risks associated with the nature of the underlying assets and are also subject to interest rate risk, credit risk, prepayment risk, and extension risk. Certain asset-backed securities may be more volatile and less liquid than other traditional types of fixed income securities.

**Call Risk**—A fixed income security may include a provision that allows the issuer to purchase the security back from its holder earlier than the final maturity date of the security, known as a “call feature.” Issuers often exercise this

right when interest rates have declined, in which case, the Fund may be forced to reinvest the proceeds received at a lower interest rate.

**Convertible Securities Risk**—The value of a convertible security generally increases and decreases with the value of the underlying common stock but may also be sensitive to changes in interest rates. Convertible securities generally have a higher risk of default and tend to be less liquid than traditional non-convertible securities. In addition, the convertible securities a Fund invests in may be rated below investment grade or may be unrated, which could increase their risks. Below investment grade securities are speculative and involve a greater risk of default than investment grade securities. The market prices of lower rated convertible securities also may experience greater volatility than the market prices of higher quality securities and may decline significantly in periods of general economic difficulty. A Fund could lose money if the issuer of a convertible security is unable to meet its financial obligations or declares bankruptcy.

**Credit Risk**—An issuer of a fixed income security may be unable or unwilling to make payments of principal or interest to the holders of such securities or may declare bankruptcy. These events could cause a Fund to lose money.

**Derivative Instruments Risk**—Use of derivative instruments involves risks different from, or possibly greater than, the risks associated with more traditional investments, and may involve a small amount of investment relative to the amount of risk assumed. Risks associated with derivative instruments include: the risk that the other party to a derivative contract may not fulfill its obligations (counterparty risk); the risk that a particular derivative instrument, such as over-the-counter derivative instruments, may be difficult to purchase or sell (liquidity risk); the risk that certain derivative instruments are more sensitive to interest rate changes and market price fluctuations (interest rate and market risks); the risk of mispricing or improper valuation of the derivative instrument (valuation risk); the inability of the derivative instrument to correlate in value with its underlying asset, reference rate, or index (basis risk); the risk that the Fund may lose substantially more than the amount invested in the derivative instrument, and that the Fund may be forced to liquidate portfolio positions when it may not be advantageous to do so to satisfy its obligations or to meet segregation requirements (leverage risk). There is no assurance that the Fund's use of any derivatives strategy will succeed, or that the Fund will not lose money.

**Emerging Markets Securities Risk**—Investments in securities issued by companies located in emerging market countries may present risks different from, or greater than, the risks of investing in securities issued by companies located in developed foreign countries. Emerging market countries may be more likely to experience political turmoil or rapid changes in market or economic conditions than more developed countries. It is sometimes difficult to obtain and enforce court judgments in such countries and there is often a greater potential for nationalization or expropriation of assets by the government of an emerging market country. In addition, the financial stability of issuers (including governments) in emerging market countries may be more precarious than in developed countries. Investments in securities issued by companies located in emerging market countries tend to be more volatile than investments in securities issued by companies located in developed foreign countries and may be more difficult to value.

**Equity Income/Interest Rate Risk**—A Fund's distributions to shareholders may decline when interest rates fall or when dividend income from investments in stocks declines.

**Exchange-Traded Fund ("ETF") Risks**—In addition to the risks associated with investing in other investment companies, an investment in an ETF may be subject to the following risks: (1) an ETF's shares may trade above or below their net asset value; (2) an active trading market for the ETF's shares may not develop or be maintained; (3) secondary market trading in an ETF's shares may be halted; (4) an ETF may not accurately track the performance of the reference index; and (5) an ETF might hold troubled securities if those securities are held in the reference index.

**Floating Rate Loans Risk**—Investments in floating rate loans have risks that are similar to those of fixed income securities and carry the risk of impairment of collateral. The value of the collateral securing a floating rate loan can decline, be insufficient to meet the obligations of the borrower, or be difficult to liquidate. As such, a floating rate loan may not be fully collateralized and can decline significantly in value.

**Focused Investment Risk**— At times a Fund may emphasize investments in a particular industry or sector. To the extent that the Fund increases its emphasis on investments in a particular industry or sector, the value of its investments may fluctuate more in response to events affecting that industry or sector, such as changes in economic conditions, government regulations, availability of basic resources or supplies, or other events that affect that industry or sector more than others.

**Foreign Currency Risk**—Investments in foreign currencies or securities denominated in foreign currencies (including derivative instruments that provide exposure to foreign currencies) may experience gains or losses solely based on changes in the exchange rate between foreign currencies and the U.S. dollar.

**Foreign Government Securities Risk**—Foreign government securities are fixed income securities issued by a foreign government, a foreign municipality, or an agency or instrumentality thereof. The ability of a foreign governmental obligor to meet its obligations to pay principal and interest to debtholders generally will be adversely affected by rising foreign interest rates, as well as the level of the relevant government's foreign currency reserves and currency devaluations. If a governmental obligor defaults on its obligations, a security holder may have limited legal recourse against the issuer or guarantor. These risks may be heightened during periods of economic or political instability and are generally heightened in emerging market countries.

**Foreign Securities Risk**—Investments in foreign securities may involve the risk of loss due to political, economic, legal, regulatory, and operational uncertainties; differing accounting and financial reporting standards; limited availability of information; currency fluctuations; and higher transaction costs.

**Fund of Funds Risk**—A Fund's investment in another fund is subject to the risks associated with that fund's portfolio of securities. For example, if the fund holds common stocks, a Fund also would be exposed to the risk of investing in common stocks. In addition, when a Fund purchases shares of another fund, the Fund will indirectly bear its proportionate share of the advisory fees and other operating expenses of the purchased fund. The fees and expense of the other fund are in addition to the Fund's own fees and expenses.

**High Yield Securities Risk**—Securities that are rated below "investment grade" (commonly known as "high yield securities" or "junk bonds") or, if unrated, are considered by a subadviser to be of equivalent quality, are speculative and involve a greater risk of default than "investment grade" securities. The values of these securities are particularly sensitive to changes in issuer creditworthiness, and economic and political conditions. The market prices of these securities may decline significantly in periods of general economic difficulty, may be harder to value, and may be less liquid than higher rated securities.

**Inflation-Adjusted Securities Risk**—Investments in inflation-adjusted securities are affected by changes in interest and inflation rates. Interest payments on inflation-adjusted securities will vary as the principal or interest is adjusted for inflation and may be more volatile than interest paid on ordinary fixed income securities. Inflation-adjusted securities may not produce a steady income stream, particularly during deflationary periods, and during periods of extreme deflation these securities may not provide any income.

**Indexing Risk**—Unlike an actively managed strategy, an index or passively managed strategy does not rely on a portfolio manager's decision making with respect to which individual securities may outperform others. Securities in an index or passively managed strategy may be purchased, held, and sold by such underlying funds at times when an actively managed portfolio would not do so. In addition, performance of underlying funds using an index or passively managed strategy will deviate from the performance of the specified index, which is known as tracking error. Tracking error may be caused by: (i) fees and expenses associated with managing the underlying index strategy funds (whereas the benchmark index has no management fees or transaction expenses); (ii) changes to the index and the timing of the rebalancing of the underlying index strategy funds; and (iii) the timing of cash flows into and out of the underlying index strategy funds.

**Interest Rate Risk**—Fixed income securities fluctuate in value as interest rates change. When interest rates rise, the market prices of fixed income securities will usually decrease; when interest rates fall, the market prices of fixed income securities usually will increase. Investments in fixed income securities may be subject to a greater risk of

rising interest rates due to the current period of historically low rates and the effect of potential government fiscal policy initiatives and resulting market reaction to those initiatives.

**Issuer Capacity Risk**—A decrease in the availability of issuers available to issue Traditional GICs, Separate Account GICs, or Synthetic GICs to the PLUS Fund may impose constraints on the PLUS Fund’s portfolio construction.

**Large Investor Risk**—A Fund or an underlying fund may experience large investments or redemptions. While it is impossible to predict the overall impact of these transactions over time, there could be adverse effects on portfolio management. For example, a Fund or an underlying fund may be required to sell securities or invest cash at times when it would not otherwise do so. These transactions can increase transactions costs.

**Leverage Risk**—Leverage, including borrowing, causes the value of a Fund’s shares to be more volatile than if the Fund did not use leverage. This is because leverage tends to exaggerate the effect of any increase or decrease in the value of the Fund’s portfolio securities. A Fund may engage in transactions or purchase instruments that give rise to forms of leverage, such as derivatives, reverse repurchase agreements, or other borrowings, investment of collateral from loans of portfolio securities, or use of when-issued, delayed-delivery or forward commitment transactions.

**Liquidity Risk**—Liquidity risk exists when a particular security or other instrument is difficult to trade. An investment in illiquid assets may reduce the returns of the investment because the holder of such assets may not be able to sell the assets at the time desired for an acceptable price or might not be able to sell the assets at all. Illiquid assets may also be difficult to value.

*PLUS Fund Liquidity Risk:* In addition, stable value investment contracts generally may not be assigned or transferred without the permission of the issuer. Often these contracts include non-standard negotiated terms and do not trade in a secondary market. The PLUS Fund is managed to seek to meet the cash flow requirements of expected purchases and sales of units of the PLUS Fund based on investor activity. If actual experience is significantly different from expectations, the PLUS Fund may have to buy or sell investments at rates that are lower than the PLUS Fund’s average crediting rate, which may lower returns.

**Management Risk**—Individual investments of a Fund may not perform as expected, and that Fund’s portfolio management practices may not achieve the desired result. There is a risk that its portfolio managers may allocate assets to an asset class that underperforms other asset classes.

**Mid-Cap Securities Risk**—Investments in mid-capitalization companies involve greater risk than is customarily associated with investments in larger, more established companies. Equity securities of mid-capitalization companies generally trade in lower volume and are generally subject to greater and less predictable price changes than the securities of larger companies.

**Mortgage-Backed Securities Risk**—Defaults on the mortgages underlying mortgage-backed securities may adversely affect the value of these securities. These securities are also subject to interest rate risk, credit risk, prepayment risk, and extension risk. Certain mortgage-backed securities may be more volatile and less liquid than other traditional types of fixed income securities.

**Multi-Manager Risk**—While VIA monitors each subadviser and the overall management of the Funds, each subadviser makes investment decisions independently from VIA and the other subadvisers. It is possible that the security selection process of one subadviser will not complement that of the other subadvisers. As a result, a Fund’s exposure to a given security, industry, sector or market capitalization could be smaller or larger than if the Fund were managed by a single manager, which could affect the Fund’s performance.

**Municipal Securities Risk**—The value of, payment of interest and repayment of principal with respect to, and the ability of a Fund to sell, a municipal security may be affected by constitutional amendments, legislative enactments, executive orders, administrative regulations and voter initiatives as well as the economics of the regions where the issuer is located. Certain municipal securities may be difficult to value or sell at a fair price.

**Preferred Stock Risk**—Preferred stockholders may have more limited voting rights than common stockholders. Holders of a company’s debt securities are generally paid before holders of the company’s preferred stock. The value and volatility of preferred stock may be dependent on factors that affect both fixed income securities and equity securities.

**Prepayment and Extension Risk**—Mortgage-backed and asset-backed securities are exposed to prepayment risk and extension risk. Prepayment risk may occur when borrowers pay their mortgages or loans more quickly than required under the terms of the mortgage or loan. Most borrowers are likely to prepay their mortgage or loan at a time when it may be least advantageous to a holder of these securities (e.g., during periods of falling interest rates), which may force the holder to reinvest the proceeds of prepayments in lower-yielding instruments and result in a decline in the holder’s income. Extension risk may occur when rising interest rates result in decreased prepayments, which could extend the average life of the security, cause its value to decline more than traditional fixed-income securities and increase its volatility.

**Portfolio Turnover Risk**—A Fund may engage in a significant number of short-term transactions, which may adversely affect performance. Increased portfolio turnover may result in higher brokerage costs or other transactions fees and expenses. These costs are ultimately passed on to shareholders.

**REITs Risk**—Real estate investment trusts (“REITs”) are subject to risks generally associated with investing in real estate, such as declining real estate values, over-building, property tax increases, increases in operating expenses and interest rates, insufficient levels of occupancy, the inability to obtain financing (at all or on acceptable terms), and the national, regional and local economic conditions affecting the real estate market.

**Securities Lending Risk**—A Fund may engage in one or more securities lending programs conducted by the Fund’s custodian or other entities to seek to generate income. These loans are secured by collateral invested in cash or cash equivalents. The collateral that a Fund receives from a borrower is generally invested in money market funds, other cash equivalents, short-term fixed income securities, or other similar instruments. Securities lending subjects a Fund to certain risks. The borrower of the security may fail to return the loaned security in a timely manner, which could cause the Fund to lose money. In addition, the Fund may incur investment losses as a result of investing the collateral received in connection with the loans.

**Short Sale Risk**—A short sale is the sale of a security that a fund does not own or any sale that is consummated by the delivery of a security borrowed by the fund. In general, short selling is used to try to profit from an expected downward price movement of the security, to provide liquidity in response to unanticipated demand, or to hedge the risk of a long position in the same security or in a related security. Short sales create a risk that a fund may be required to close the short position by buying back the security at a time when the security has appreciated in value, thus resulting in a loss to the fund. Because a short position loses value as the security’s price increases and there is no upper limit to a security’s price, the loss on a short sale is theoretically unlimited. In contrast, the loss on a long position is limited to what the fund originally paid for the security. A fund may not always be able to borrow a security it seeks to sell short at a particular time, due to a lack of supply of the security available for borrowing or because the costs to borrow such a security are too high. As a result, a fund may be unable to fully implement its investment strategy. Short sales magnify the potential for gain or loss on monies invested by borrowing securities, and losses can exceed the amount invested in a short position. Assets segregated to cover short sales may decline in value.

**Small-Cap Securities Risk**—Investments in small-capitalization companies involve greater risk than is customarily associated with investments in larger, more established companies. Equity securities of small-capitalization companies are generally subject to greater price volatility than those of larger companies due to less certain growth prospects, the lower degree of liquidity in the markets for their securities, and the greater sensitivity of smaller companies to changing economic conditions. Also, small-capitalization companies may have more limited product lines, fewer capital resources and less experienced management than larger companies.

**Stable Value Issuer Risk**—If the insurance company that issued a GIC defaults, enters rehabilitation or bankruptcy, or fails to pay principal obligations and interest when due, the PLUS Fund may lose money. Each Traditional GIC is an unsecured obligation of the insurance company to pay principal and interest for the period specified in the

contract. Assurance of principal and interest payment is based solely on the financial strength of the insurance company. If the insurance company were to go into rehabilitation or bankruptcy, Traditional GIC investors would have a claim only on the general account assets alongside other GIC investors and policyholders. Although owned by the insurance company, the assets of a Separate Account GIC cannot be used to satisfy the insurance company's general obligations until the separate account liabilities have been satisfied. As such, if the issuer were to go into rehabilitation or bankruptcy, Separate Account GIC investors would have first claims to those assets and would have priority over claims of general account contract holders and third-party creditors of the issuer. To the extent that the separate account liabilities exceed the underlying assets in the separate account, the difference would then be a claim on the issuer's general account, similar to a Traditional GIC claim.

**Stable Value Risk**— Different risks are associated with the different types of stable value investment contracts in which the PLUS Fund invests. Generally, stable value investment contracts are illiquid and may not be assigned, transferred or sold to someone else without the permission of the issuing insurance company or bank. These contracts often include non-standard negotiated terms and do not trade in a secondary market.

Additional risks of investing in the PLUS Fund include, but are not limited to: failure of the issuers of GICs, BICs, Separate Account GICs, or Synthetic GICs to meet their obligations to the PLUS Fund; failure of VIA to meet its objectives or obligations, as investment adviser for the PLUS Fund; default or downgrade of the fixed income assets that back Separate Account GICs and Synthetic GICs; failure of the third-party fixed income managers of the portfolios underlying the Separate Account GICs and Synthetic GICs to meet their investment objectives or their obligations to the PLUS Fund; loss of value or failure to redeem shares or allow withdrawals on a timely basis by one or more of the commingled investment vehicles in which the PLUS Fund invests, which may include one or more STIFs and money market mutual funds or other mutual funds or collective investment trust funds.

**Stock Market Risk**—Stock market risk is the possibility that the prices of equity securities overall will experience increased volatility and decline over short or extended periods. Markets tend to move in cycles, with periods of rising prices and periods of falling prices. Developments that cannot be anticipated nor controlled, including those arising out of geopolitical events or natural disasters, can cause substantial stock market volatility, exchange trading suspensions or restrictions and closures of securities exchanges and businesses.

**Style Risk**—All of the Funds are subject, in varying degrees, to style risk, which is the possibility that returns from a specific type of security in which a Fund invests or the investment style of a Fund's adviser will trail the returns of the overall market. In the past, different types of securities have experienced cycles of outperformance and underperformance in comparison to the market in general. Therefore, investing in a Fund with a specific style will create exposure to this risk. For example, growth stocks have performed best during the later stages of economic expansion and value stocks have performed best during periods of economic recovery. Therefore, both the growth and value investing styles may, over time, go in and out of favor. At times when the investing style used by a Fund is out of favor, that Fund may underperform other Funds that use different investing styles.

**TBA Risk**—In To-Be-Announced ("TBA") transactions, the Fund commits to purchase certain mortgage-backed securities for a fixed price at a future date. TBA transactions involve the risk that the actual securities received by the Fund may be less favorable than what was anticipated when entering into the transaction. TBA transactions also involve the risk that a counterparty will fail to deliver the securities, exposing the Fund to further losses.

**U.S. Government Agency Securities Risk**—Securities issued by U.S. Government agencies or government-sponsored enterprises may not be guaranteed by the U.S. Treasury. Further, there is no assurance that the U.S. Government will provide financial support to its agencies or instrumentalities (including government-sponsored enterprises) that issue or guarantee certain securities. If a government agency or a government-sponsored enterprise is unable to meet its obligations, the Fund may experience a loss.

## **VIII. SERVICES PROVIDED BY VIA AND ICMA-RC TO THE TRUST COMPANY**

The Trust Company has appointed VIA to act as the investment adviser to the Trust Company in respect to the Funds. As investment adviser, VIA advises the Trust Company on the composition and design of investment programs and options. It also advises the Trust Company with respect to investments by the Funds.

ICMA-RC provides administrative support to the Trust Company as may be required to exercise recordkeeping, reporting, disclosure and other support functions in respect to the Funds.

## **IX. FEES AND EXPENSES**

The Trust Company is entitled under each Declaration of Trust to receive reasonable compensation for its services in managing and administering the Trust. The compensation, custodial fees and expenses of the Trust Company are paid from each Trust, except to the extent that investors or plan fiduciaries have arranged for payment from other sources. The Trusts charge the fees and expenses of ICMA-RC and VIA to the Funds.

VIA charges an investment advisory fee for certain advisory services provided to the Trust Company with respect to the Funds. The fees charged vary depending on the advisory service provided and are part of the negotiated Investment Advisory Agreement between the Trust Company and VIA. The fees payable to VIA by a Fund are in addition to any fees payable to any subadvisers VIA selects to manage a portion of the assets of a Fund. VIA does not charge an investment advisory fee with respect to Funds where there is no investment discretion or investment management exercised with respect to such Funds. For example, VIA does not charge an investment advisory fee on the VT PLUS and VT II PLUS Funds. This is because such Funds invest their assets in the VT III PLUS Fund and VIA receives an advisory fee for services it provides to that Fund.

ICMA-RC charges a fee for providing certain administrative services to the Trust Company. The fees charged vary depending on the particular type and level of services required and are part of the negotiated Master Agreement between the Trust Company and ICMA-RC.

ICMA-RC or VIA may waive its fees, in whole or in part, for all or certain investors. The Trust Company may also charge to a class of a Fund any other expense, claim or charge that is specifically allocated to such class.

For the VantageTrust Funds and VantageTrust II Funds, please refer to each Fund's Fact Sheet or Investment Options Sheet for the expenses applicable to that Fund and class.

## **X. CONFLICTS OF INTEREST**

VIA provides investment advice with respect to certain investment options available through the Trust in which VIA or one of its affiliates has a financial interest. When VIA recommends that a Fund invest in another Fund, a potential conflict of interest exists because VIA or ICMA-RC receives compensation in the form of advisory and administrative fees based on the assets invested in the VT III Funds. Similarly, when VIA recommends that a Fund invest in a third-party mutual fund, a potential conflict of interest exists because VIA or one of its affiliates receives payments from third-party mutual fund families or their service providers in the form of 12b-1 fees, service fees, compensation for sub-accounting and other services provided by VIA or its affiliates based on assets in the underlying third-party mutual fund.

All of these payments from other parties are expressly disclosed to and acknowledged by the Trust Company in its Master Agreement with ICMA-RC and its Investment Advisory Agreement with VIA.

### **A. Payments from Third-Party Mutual Funds**

Each of the third-party mutual funds in which the VantageTrust Funds invest, or their service providers, make payments to VIA or its affiliates. These payments may be in the form of 12b-1 fees, service fees, compensation for subaccounting, or for other services provided by VIA or its affiliates. At the time of this

publication, the following fund families pay at the annual percentage rates set forth below based on VantageTrust Fund balances invested in their funds:

AMG TimesSquare	0.25%	Nuveen	0.25%
Carillon Eagle	0.25%	Parnassus	0.25%
Fidelity	0.25%	T. Rowe Price®	0.40%
Invesco	0.25%	Victory	0.25%
LSV	0.25%	PIMCO	0.25%
MFS	0.25%	Western Asset	0.35%

## XI. UNIT ACCOUNTING FOR FUNDS

The beneficial interest in a class of a Fund is represented by units. Eligible Trusts purchase units in the Fund for the benefit of their investors, participants and beneficiaries. Units represent a proportional ownership interest in a Fund. The worth of a unit is known as its Unit Value. The daily Unit Value is determined at the close of each business day by adding the value of all of a Fund's investments, plus cash and other assets, deducting liabilities (which includes fees and expenses charged by ICMA-RC and VIA), and then dividing the result by the number of outstanding units in the Fund as of the end of the prior day and rounding the results to the nearest cent.

The value of an investment in a Fund equals the number of units held multiplied by the current day's Unit Value. Because Unit Values and investment returns will fluctuate, a transfer or disbursement will normally result in the receipt of more or less than the original cost of an investment.

## XII. SHARE CLASSES

All Funds may be made available through different classes and sub-classes. These classes and sub-classes may have different fee structures for the services provided, including but not limited to, advisory, administration, record keeping and participant education services. The Trust Company may divide a Fund or its share classes into different sub-share classes that reflect a different combination of fees or a lower fee structure that the Trust Company may then make available to certain Eligible Trusts. Eligible Trusts may qualify for a class or sub-class based upon a number of factors that reflect savings from economies of scale or other cost savings with respect to services provided. These include, but are not limited to, the asset size, average account balance, the type and scope of services provided, or other features of the Eligible Trust. Investment advisers may aggregate multiple plan clients for purposes of qualifying for the Investment-Only share classes of the PLUS Fund.

The Trust Company reserves the right to open additional classes and adopt eligibility criteria.

## XIII. INVESTING IN THE FUNDS

The following explains how an investment can be made into a Fund, as well as information about when investments can be made, how funds can be transferred, and other policies relating to an investment in the Funds. This information is divided into two sections. The first section applies to all investors in the Funds. The second section only applies to those investors in a retirement plan that also utilizes ICMA-RC for recordkeeping and plan administration services. The second section is not applicable to DCIO. VantageTrust and the VantageTrust II are the only direct investors in the VantageTrust III Funds.

### A. Information for All Fund Investors

**Definition of a Business Day** – The Funds are available on any business day, which is any day when the New York Stock Exchange (“NYSE”) is open for business. “Close of business” means 4:00 p.m. Eastern Time, or



the final close of trading on any day when trading on the NYSE closes at a time other than 4:00 p.m. Eastern Time.

**Transfer and Withdrawal Restrictions** – Under the terms of the Declaration of Trust, the Trust Company has full discretion to defer withdrawals or transfers. Class specific restrictions or limitations will be disclosed on the applicable Fact Sheet or Investment Options Sheet.

**Contributions** – Plan fiduciaries generally may make contributions to their Eligible Trusts as often as weekly. Contributions received in good order prior to the close of business on any business day are posted that business day. Contributions received in good order after the close of business are treated as if received the next business day.

“**Good order**” means that contribution deposits must be accompanied by sufficient detail and in ICMA-RC’s standard format so that ICMA-RC is able to allocate contributions properly. If a contribution is not received in good order, the deposit is held in a non-interest bearing account until all necessary information is received. If a contribution is not in good order after three business days, ICMA-RC will coordinate with the Eligible Trust or Plan Administrator and may return the contribution to the Eligible Trust or Plan Administrator.

Contributions received for an identified participant account that does not have complete allocation instructions will be invested in the Eligible Trust’s default option.

**Distributions and Reinvestment of Earnings** – There is not expected to be distribution of income, dividends or capital gains to holders of units of a Fund. Rather, it is anticipated that such items will be reflected in the net asset value of the Fund.

## **B. Information for Recordkeeping and Plan Administration Clients Only**

**Transfer, Withdrawal and Allocation Changes** – Generally, unless restricted by a plan sponsor, transfer, withdrawal and allocation changes among the Funds may be made on a daily basis by Internet (Account Access), or by speaking to an Investor Services representative at ICMA-RC. Account Access is normally available 24 hours a day, seven days a week. Instructions sent by email correspondence will not be accepted.

*RHS Employer Investment Program* - Transfer, withdrawal and allocation changes may generally be made on a daily basis via fax or mail using the appropriate form. The forms may be obtained by logging into EZLink or by contacting a Plan Sponsor Services representative at the number provided below.

**Automatic Rebalance** – Certain accounts may be eligible for an auto-rebalance feature. This feature periodically returns the account to the investor’s desired asset allocation. Rebalancing strategies do not ensure a profit and do not protect against losses in declining markets.

**Confirmations and Statements** – Investors in the Funds will receive confirmation after each transaction and a quarterly statement that shows quarterly activity. Part-time employees may receive only annual statements. Please review this information carefully and contact ICMA-RC immediately if you see any discrepancies.

**Account Access** – Account Access is an internet site that is available to plan participants. It can be reached via ICMA-RC’s website at [www.icmarc.org](http://www.icmarc.org). Information available includes plan fund lineups, ICMA-RC administered account balances, investment allocations, and investment performance.

**EZLink** – EZLink is an internet site that is available to plan sponsors and provides access to plan and participant data. It can be reached via ICMA-RC’s website at [www.icmarc.org](http://www.icmarc.org). EZLink consists of a number of different online services enabling faster processing of information and greater control over data submission.

**Participant Telephone Access** – Self-service phone access as well as Investor Services representatives are available to participants by calling 800-669-7400.

**Plan Sponsor Telephone Access** – Phone access to Plan Sponsor Services representatives is available to plan sponsors by calling 800-326-7272.

#### **XIV. ADDITIONAL INFORMATION ABOUT VANTAGETRUST FUND TRANSFER RESTRICTIONS**

Transfers may be delayed, restricted or refused if a VantageTrust Fund receives or anticipates simultaneous orders affecting significant portions of its assets. In particular, a pattern of transfers that coincides with volatile market activity could be disruptive to a given VantageTrust Fund. Although the Trust Company and VIA will attempt to provide prior notice whenever reasonably possible, these restrictions may nonetheless be imposed at any time.

#### **XV. FREQUENT TRADING RESTRICTIONS**

The Funds are meant for long-term investment purposes. Frequent trading of the Funds may cause additional costs to be incurred by the Funds, and these costs will affect all investors. Also, the rate of return long-term investors realize from their investments may be impacted by any frequent trading activity of other investors. VIA is committed to curbing frequent trading to protect long-term investors.

VIA defines frequent trading as a buy followed by a sell three times in the same fund during a 90-calendar-day period or a buy followed by a sell ten times in the same fund during a 365-calendar-day period. Systematic withdrawals, contributions, and distributions are not considered frequent trading. In addition, some underlying funds in which a Trust invests define frequent trading differently, and VIA reserves the right to enforce these underlying fund's guidelines. If frequent trading and/or market timing activity are detected in an account with VIA, VIA may communicate by telephone or in writing about these trading activities in an effort to deter such activities. If such communications fail to deter the frequent trading activity, further action may be taken on the account including restricting future purchases in the VIA administered account.

VIA's aim is to monitor and enforce this frequent trading policy consistently. VIA cannot guarantee that all the risks associated with frequent trading will be completely eliminated by this policy and/or restrictions.

##### **A. Restrictions on Frequent Trading – Transfer Restrictions for Certain VantageTrust Funds**

Fund-to-fund transfers involving certain VantageTrust Funds will be limited to reduce excessive trading and its adverse effects on an underlying fund. Excessive trading of underlying funds may lead to increased costs and less efficient portfolio management, potentially diluting the value of shares held by long-term investors. The following VantageTrust Funds impose trade restrictions:

<b>If you transfer this amount:</b>	<b>You must wait at least:</b>	<b>Before buying back into the:</b>
Any \$	30 days	VT T. Rowe Price® Growth Stock Fund
Any \$	91 days	VT Vantagepoint Emerging Markets Fund
Any \$	91 days	VT Vantagepoint Overseas Equity Index Fund
Any \$	91 days	VT Vantagepoint International Fund

Please note that these restrictions apply to participant directed transfers only and will not affect systematic purchases and/or redemptions.

##### **B. Restrictions on Frequent Trading – Redemption Fees for Certain VantageTrust Funds**

In addition to policies on frequent trading, certain underlying funds impose fees on redemptions made soon after purchases. Investors in the VantageTrust Funds that invest in such underlying funds will bear these redemption fees

directly. Redemption fees are designed to offset the brokerage commissions, market impact, and other costs associated with frequent shareholder trading. The fees are deducted from redemption proceeds if the shares are sold (or transferred to another fund) prior to a specified holding period. In calculating the holding period, shares held longest are normally treated as being redeemed first and shares held shortest as being redeemed last. All redemption fees imposed by third-party funds are collected by VIA and remitted back to the underlying fund to which redemption fees apply. As of the date of this document, VIA is unaware of any redemption fees (and applicable holding periods) imposed by underlying funds in which the VantageTrust Funds invest.

VantageTrust Funds that invest in certain funds may be subject to redemption or short-term trading fees on additional transactions such as auto-rebalancing, rollovers, in-service withdrawals, de minimis withdrawals, Plan sponsor-initiated changes, asset allocation programs, and termination payments.

Redemption fee policies and procedures are typically very detailed and are subject to change. The above discussion is just a summary of those policies and procedures. The underlying funds' current disclosure materials contain more detailed information about funds' current redemption fees. Please read each underlying funds' current disclosure materials for an understanding of applicable redemption fees.

## **XVI. INABILITY TO CONDUCT BUSINESS**

ICMA-RC and VIA are normally open for business and operating when the New York Stock Exchange (“**NYSE**”) is open for business. However, unusual circumstances or emergencies including, but not limited to, severe and extraordinary weather conditions, flooding, other natural disasters, pandemic flu or other health epidemics, regional power failures, fires, market disruption, civil disturbances or other events may prevent ICMA-RC and VIA from conducting business on a given day or for longer periods of time. In such an event, transactions in the investment options offered through the Trust may be delayed and not effected until ICMA-RC and VIA resume normal business operations.

## Appendix A

### VANTAGETRUST FUNDS

#### Stable Value / Cash Management Funds

VT Cash Management Fund  
VT PLUS Fund

#### VT Vantagepoint Model Portfolio Funds

VT Vantagepoint Model Portfolio Conservative Growth Fund  
VT Vantagepoint Model Portfolio Traditional Growth Fund  
VT Vantagepoint Model Portfolio Long-Term Growth Fund  
VT Vantagepoint Model Portfolio Global Equity Growth Fund

#### VT Vantagepoint Funds

VT Vantagepoint 500 Stock Index Fund  
VT Vantagepoint Aggressive Opportunities Fund  
VT Vantagepoint Broad Market Index Fund  
VT Vantagepoint Core Bond Index Fund  
VT Vantagepoint Discovery Fund  
VT Vantagepoint Emerging Markets Fund  
VT Vantagepoint Equity Income Fund  
VT Vantagepoint Growth & Income Fund  
VT Vantagepoint Growth Fund  
VT Vantagepoint High Yield Fund  
VT Vantagepoint Inflation Focused Fund  
VT Vantagepoint International Fund  
VT Vantagepoint Low Duration Bond Fund  
VT Vantagepoint Mid/Small Company Index Fund  
VT Vantagepoint Overseas Equity Index Fund  
VT Vantagepoint Select Value Fund

#### VT Vantagepoint Milestone Funds

VT Vantagepoint Milestone Retirement Income Fund  
VT Vantagepoint Milestone 2015 Fund  
VT Vantagepoint Milestone 2020 Fund  
VT Vantagepoint Milestone 2025 Fund  
VT Vantagepoint Milestone 2030 Fund  
VT Vantagepoint Milestone 2035 Fund  
VT Vantagepoint Milestone 2040 Fund  
VT Vantagepoint Milestone 2045 Fund  
VT Vantagepoint Milestone 2050 Fund  
VT Vantagepoint Milestone 2055 Fund  
VT Vantagepoint Milestone 2060 Fund

#### VT Trust Series Funds

VT AMG TimesSquare Mid Cap Growth Fund  
VT ContraFund®  
VT Diversified International Fund  
VT Carillon Eagle Mid Cap Growth Fund  
VT Invesco Diversified Dividend Fund  
VT LSV Small Cap Fund  
VT MFS® Value Fund  
VT Nuveen Real Estate Securities Fund  
VT Invesco Discovery Fund  
VT Invesco Main Street Fund  
VT Parnassus Core Equity Fund  
VT PIMCO High Yield Fund  
VT Puritan® Fund  
VT T. Rowe Price® Growth Stock Fund  
VT Victory Sycamore Established Value Fund  
VT Western Asset Core Plus Bond Fund

#### Guaranteed Lifetime Income

VT Retirement IncomeAdvantage Fund

## VANTAGETRUST II FUNDS

### Stable Value / Cash Management Funds

VT II Cash Management Fund  
VT II PLUS Fund

### VantageTrust II Model Portfolio Funds

VantageTrust II Model Portfolio Aggressive Fund  
VantageTrust II Model Portfolio Conservative Fund  
VantageTrust II Model Portfolio Moderate Fund

### VT II Vantagepoint Model Portfolio Funds

VT II Vantagepoint Model Portfolio Conservative Growth Fund  
VT II Vantagepoint Model Portfolio Traditional Growth Fund  
VT II Vantagepoint Model Portfolio Long-Term Growth Fund  
VT II Vantagepoint Model Portfolio Global Equity Growth Fund

### VT II Vantagepoint Special Purpose Funds

VT II Vantagepoint Core Bond Fund  
VT II Vantagepoint Core Bond II Fund  
VT II Vantagepoint Intermediate Aggregate Bond Fund  
VT II Vantagepoint Intermediate Corporate Bond Fund  
VT II Vantagepoint Mortgage Backed Securities Fund  
VT II Vantagepoint Short Duration Bond Fund

### VT II Vantagepoint Funds

VT II Vantagepoint 500 Stock Index Fund  
VT II Vantagepoint Aggressive Opportunities Fund  
VT II Vantagepoint Broad Market Index Fund  
VT II Vantagepoint Core Bond Index Fund  
VT II Vantagepoint Discovery Fund  
VT II Vantagepoint Emerging Markets Fund  
VT II Vantagepoint Equity Income Fund  
VT II Vantagepoint Growth & Income Fund  
VT II Vantagepoint Growth Fund  
VT II Vantagepoint High Yield Fund  
VT II Vantagepoint Inflation Focused Fund  
VT II Vantagepoint International Fund  
VT II Vantagepoint Low Duration Bond Fund  
VT II Vantagepoint Mid/Small Company Index Fund  
VT II Vantagepoint Overseas Equity Index Fund  
VT II Vantagepoint Select Value Fund

### VT II Vantagepoint Milestone Funds

VT II Vantagepoint Milestone Retirement Income Fund  
VT II Vantagepoint Milestone 2015 Fund  
VT II Vantagepoint Milestone 2020 Fund  
VT II Vantagepoint Milestone 2025 Fund  
VT II Vantagepoint Milestone 2030 Fund  
VT II Vantagepoint Milestone 2035 Fund  
VT II Vantagepoint Milestone 2040 Fund  
VT II Vantagepoint Milestone 2045 Fund  
VT II Vantagepoint Milestone 2050 Fund  
VT II Vantagepoint Milestone 2055 Fund  
VT II Vantagepoint Milestone 2060 Fund

## VANTAGETRUST III FUNDS AND ASSOCIATED RISKS

FUND NAME	RISKS
VT III PLUS Fund	Stable Value Risk, Interest Rate Risk, Credit Risk, Stable Value Issuer Risk, Liquidity Risk, Reinvestment Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Securities Lending Risk, Derivative Instruments Risk, Large Investor Risk.
<b>VantageTrust III Vantagepoint Model Portfolio Funds</b>	
VT III Vantagepoint Model Portfolio Conservative Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Model Portfolio Traditional Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Convertible Securities Risk, High Yield Securities Risk, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

VT III Vantagepoint Model Portfolio Long-Term Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Convertible Securities Risk, High Yield Securities Risk, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Model Portfolio Global Equity Growth Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Preferred Stock Risk, Equity Income/Interest Rate Risk, Indexing Risk, Large Investor Risk
<b>VantageTrust III Vantagepoint Funds</b>	
VT III Vantagepoint Core Bond Index Fund	Interest Rate Risk, U.S. Government Agency Securities Risk, Mortgage-Backed Securities Risk, TBA Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Credit Risk, Indexing Risk, Portfolio Turnover Risk, Large Investor Risk
VT III Vantagepoint Inflation Focused Fund	Inflation-Adjusted Securities Risk, Interest Rate Risk, Credit Risk, Foreign Securities Risk, Foreign Currency Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Municipal Securities Risk, Multi-Manager Risk, Large Investor Risk

VT III Vantagepoint Low Duration Bond Fund	Credit Risk, Interest Rate Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, Prepayment and Extension Risk, Municipal Securities Risk, Call Risk, U.S. Government Agency Securities Risk, Foreign Securities Risk, Foreign Currency Risk, Floating Rate Loans Risk, High Yield Securities Risk, Derivative Instruments Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Equity Income Fund	Stock Market Risk, Preferred Stock Risk, Style Risk, Equity Income/Interest Rate Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Indexing Risk, Foreign Securities Risk, Foreign Currency Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint 500 Stock Index Fund	Stock Market Risk, Indexing Risk
VT III Vantagepoint Broad Market Index Fund	Stock Market Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Growth & Income Fund	Stock Market Risk, Preferred Stock Risk, Mid-Cap Securities Risk, Foreign Securities Risk, Equity Income/Interest Rate Risk, Foreign Currency Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk, Interest Rate Risk, Credit Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Municipal Securities Risk, High Yield Securities Risk, Derivative Instruments Risk
VT III Vantagepoint Growth Fund	Stock Market Risk, Preferred Stock Risk, Foreign Securities Risk, Foreign Currency Risk, Style Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Select Value Fund	Stock Market Risk, Mid-Cap Securities Risk, Small-Cap Securities Risk, Equity Income/Interest Rate Risk, Style Risk, REITs Risk, Foreign Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk



VT III Vantagepoint Aggressive Opportunities Fund	Stock Market Risk, Mid-Cap Securities Risk, Style Risk, Small-Cap Securities Risk, Indexing Risk, Derivative Instruments Risk, Foreign Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Mid/Small Company Index Fund	Stock Market Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, REITs Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint Discovery Fund	Stock Market Risk, Small-Cap Securities Risk, Preferred Stock Risk, Foreign Securities Risk, Foreign Currency Risk, Convertible Securities Risk, High Yield Securities Risk, Municipal Securities Risk, Derivative Instruments Risk, Interest Rate Risk, Credit Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, U.S. Government Agency Securities Risk, Portfolio Turnover Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint International Fund	Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Preferred Stock Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Credit Risk, Interest Rate Risk, Convertible Securities Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Overseas Equity Index Fund	Stock Market Risk, Foreign Securities Risk, Mid-Cap Securities Risk, Foreign Currency Risk, Indexing Risk, Large Investor Risk
VT III Vantagepoint High Yield Fund	High Yield Securities Risk, Credit Risk, Interest Rate Risk, Call Risk, Floating Rate Loans Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Municipal Securities Risk, Foreign Securities Risk, Foreign Government Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Convertible Securities Risk, Derivative Instruments Risk, Liquidity Risk, Multi-Manager Risk, Large Investor Risk

VT III Vantagepoint Diversifying Strategies Fund	Convertible Securities Risk, Interest Rate Risk, Credit Risk, High Yield Securities Risk, Small-Cap Securities Risk, Derivative Instruments Risk, Foreign Securities Risk, U.S. Government Agency Securities Risk, Asset-Backed Securities Risk, Mortgage-Backed Securities Risk, REITs Risk, Indexing Risk, Foreign Currency Risk, Municipal Securities Risk, Floating Rate Loans Risk, Call Risk, Stock Market Risk, Portfolio Turnover Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Emerging Markets Fund	Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Foreign Currency Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Multi-Manager Risk, Large Investor Risk
VT III Vantagepoint Total Return Bond Fund	Leverage Risk, Interest Rate Risk, Credit Risk, Prepayment & Extension Risk, Derivative Instruments Risk, Foreign Securities Risk, Liquidity Risk, Portfolio Turnover Risk, Mortgage - Backed Securities Risk, Asset - Backed Securities Risk, U.S. Government Agency Securities Risk, Call Risk, Multi-Manager Risk, Large Investor Risk.
<b>VantageTrust III Vantagepoint Milestone Funds</b>	
VT III Vantagepoint Milestone Retirement Income Fund	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2015 Fund

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Interest Rate Risk, Credit Risk, Mortgage-Backed Securities Risk, Convertible Securities Risk, High Yield Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Mid-Cap Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2020, 2025 Funds

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, U.S. Government Agency Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2030, 2035 Funds

Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Prepayment and Extension Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk

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VT III Vantagepoint Milestone 2040, 2045, 2050, 2055, 2060 Funds	Asset Allocation Risk, Fund of Funds Risk, ETF Risks, Stock Market Risk, Foreign Securities Risk, Emerging Markets Securities Risk, Small-Cap Securities Risk, Mid-Cap Securities Risk, Equity Income/Interest Rate Risk, Interest Rate Risk, Credit Risk, Convertible Securities Risk, High Yield Securities Risk, Asset-Backed Securities Risk, Derivative Instruments Risk, Indexing Risk, Large Investor Risk
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## Appendix B – Additional Information

This Appendix B contains information about certain types of instruments in which a Fund may invest. A Fund may acquire the types of investments described below to the extent consistent with its investment objectives, strategies and guidelines. This is not an exhaustive list of types of investments a Fund may acquire. This information is provided for general reference only and is subject to change without notice. It is not intended as a definitive resource on these instruments. VIA, ICMA-RC, Trust Company and their affiliates make no representations about the accuracy of the following information.

**ASSET-BACKED SECURITIES:** Asset-backed securities are fixed income securities (see below) backed by loan paper or accounts receivable originated by banks, credit card companies or other providers of credit. Asset-backed securities in which a Fund may invest may have underlying assets that include, among others, automobile installment sales or installment loan contracts, home equity loans, leases of various types of real and personal property, and receivables from credit card agreements. There is a risk that borrowers may default on their obligations in respect of those underlying obligations. Certain assets underlying asset-backed securities are subject to prepayment, which may reduce the overall return to asset-backed security holders. Holders also may experience delays in payment on the securities if the full amounts due on underlying sales contracts or receivables are not realized by a trust because of unanticipated legal or administrative costs of enforcing the contracts or because of depreciation or damage to the collateral (usually automobiles) securing certain contracts, or other factors. The values of asset-backed securities may be substantially dependent on the servicing of the underlying asset pools, and are therefore subject to risks associated with the negligence or malfeasance by their servicers and to the credit risk of their servicers. In certain circumstances, the mishandling of related documentation also may affect the rights of security holders in and to the underlying collateral. The insolvency of entities that generate receivables or that utilize the assets may result in added costs and delays in addition to losses associated with a decline in the value of underlying assets.

Certain asset-backed securities do not have the benefit of the same security interest in the related collateral as do mortgage-backed securities; nor are they provided government guarantees of repayment as are some mortgage-backed securities. Credit card receivables generally are unsecured, and the debtors are entitled to the protection of a number of state and federal consumer credit laws, many of which give such debtors the right to set off certain amounts owed on the credit cards, thereby reducing the balance due. In addition, some issuers of automobile receivables permit the servicers to retain possession of the underlying obligations. If the servicer were to sell these obligations to another party, there is a risk that the purchaser would acquire an interest superior to that of the holders of the related automobile receivables. The impairment of the value of collateral or other assets underlying an asset-backed security, such as a result of non-payment of loans or non-performance of other collateral or underlying assets, may result in a reduction in the value of such asset-backed securities and losses to a Fund. It is possible that asset-backed securities will fall out of favor at any time or over time with investors, affecting adversely the values and liquidity of the securities.

**BANKERS' ACCEPTANCES:** Bankers' acceptances are negotiable drafts or bills of exchange, normally drawn by an importer or exporter to pay for specific merchandise, which are "accepted" by a bank, meaning in effect that the bank unconditionally agrees to pay the face value of the instrument on maturity.

**BELOW INVESTMENT GRADE ("HIGH YIELD") SECURITIES:** Below investment grade securities (commonly referred to as high yield securities or "junk bonds") are defined as securities or instruments rated below the four highest rating categories by Standard & Poor's ("S&P"), Moody's Investors Service, Inc. ("Moody's") or Fitch Ratings ("Fitch"), each a major Nationally Recognized Statistical Rating Organization ("NRSRO"). For Moody's, S&P, or Fitch, ratings at or below Ba, BB or BB, respectively, are below investment grade. In the case of different ratings among S&P, Moody's, and Fitch (a split rated security), the rating of such split rated security will be determined as follows: if all three agencies rate a security, the highest and lowest ratings will be dropped and the remaining middle rating will be used; if two of the three agencies rate a security, the security will be considered to have the lower (i.e., more conservative) credit rating. If a security is not rated by S&P, Moody's, or Fitch, it may be determined to be of comparable quality by VIA or a subadviser, as applicable. See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

NRSROs, which include S&P, Moody's, and Fitch, provide ratings on fixed income securities based on their analyses of information they deem relevant. Ratings of each major NRSRO represent its judgment of the safety of principal and interest payments (and not the market risk) of bonds and other fixed income securities it undertakes to rate. NRSRO ratings are not absolute standards of credit quality and may prove to be inaccurate. In addition, there may be a delay between events or circumstances adversely affecting the ability of an issuer to pay interest and or repay principal and a NRSRO's decision to downgrade a security. Any shortcomings or inefficiencies in the NRSROs' processes for determining ratings may adversely affect the ratings of securities held by the Fund and, as a result, may adversely affect those securities' perceived credit risk.

Below investment grade obligations are considered speculative and may be in default. A Fund's investments in below investment grade securities are subject to a substantial degree of credit risk. Adverse economic developments can disrupt the market for below investment grade securities, and severely affect the ability of issuers, especially highly leveraged issuers, to service their debt obligations on a timely basis or to repay their obligations upon maturity, which may lead to a higher incidence of default on such securities. Prices of below investment grade securities rise and fall primarily in response to actual or perceived changes in the issuer's financial health and the issuer's ability to meet principal and interest payments on a timely basis, although legislative and regulatory developments, changes in market interest rates, market perceptions, economic conditions, and general market liquidity may also affect prices. Below investment grade securities are more likely to react to developments affecting certain of these risks than more highly rated securities.

The secondary market for below investment grade securities may not be as liquid as the secondary market for more highly rated securities, which may cause those securities to be more difficult to value, and more difficult to sell at acceptable prices, as compared to higher rated securities. Below investment grade securities may experience reduced liquidity as well as sudden and substantial decreases in price.

Adverse publicity and investor perception, whether or not based on fundamental analysis, may decrease the value and liquidity of below investment grade securities, especially in a thin (low trading volume) market.

Not unlike investment grade fixed income securities, below investment grade securities may contain redemption or call provisions. If an issuer exercised these provisions in a declining interest rate market, a Fund may have to replace the security with a lower yielding security, potentially resulting in a decreased return for investors. Conversely, the value of a below investment grade security held by a Fund may decrease in a rising interest rate market. If a Fund experiences unexpected net redemptions, this may force it to sell below investment grade securities without regard to their investment merits, thereby decreasing the asset base upon which expenses can be spread and possibly reducing the Fund's rate of return.

**CAPITALIZATION:** Capitalization (often referred to as "market cap") estimates the aggregate value of a company or stock and is a basic measure of the value of a company. It is calculated by multiplying the number of the company's shares outstanding by their current price per share. For example, if XYZ company has 15,000,000 shares of common stock outstanding with a share price of \$20 per share, then the company's market capitalization is  $15,000,000 \times \$20 = \$300,000,000$ . Many exchanges and indices take into account, and are weighted by, market capitalization.

Generally, the U.S. market recognizes three market cap ranges: large cap, mid cap and small cap, although the specific cut off points among these categories may differ. A larger market capitalization typically indicates a more valuable and more established company as compared with smaller capitalized companies. In addition, investments in companies with smaller capitalizations, e.g., small or mid capitalization companies, involve greater risks than are customarily associated with companies that have larger capitalizations.

**CASH/CASH EQUIVALENTS:** These include fixed income obligations with maturities of less than one year, including short-term accounts managed by a custodian institution and shares of money market mutual funds. They also include repurchase agreements and reverse repurchase agreements. In a repurchase agreement, a Fund buys a security from a bank or broker-dealer that has agreed to repurchase the same security at a mutually agreed upon date and price. The resale price normally is the purchase price plus a mutually agreed upon interest rate. In a reverse repurchase agreement, a Fund sells a security and agrees to repurchase the same security at a mutually agreed upon date and price. A reverse repurchase agreement is considered as the borrowing of money by the Fund and, therefore, a form of leverage, which may cause any gains or losses for the Fund to become magnified.

**CERTIFICATES OF DEPOSIT:** Certificates of deposit are negotiable interest-bearing instruments with a specific maturity. They are issued by banks and savings and loan institutions in exchange for the deposit of funds and normally can be traded in the secondary market prior to maturity. Certificates of deposit with penalties for early withdrawal will be considered illiquid.

**COMMERCIAL PAPER:** Commercial paper is an unsecured short-term debt instrument issued by corporations and other entities. Maturities on these issues vary from one day up to 270 days.

**CONVERTIBLE SECURITIES:** Convertible securities possess investment characteristics of both equity and fixed income securities. Convertible securities include corporate bonds (i.e., "convertible bonds") and preferred stocks that may be exchanged for a specific number of shares of the issuing company's common stock at a specified conversion price.

Convertible securities tend to be of lower credit quality, have a higher risk of default and tend to be less liquid than traditional, nonconvertible investment grade bonds. Convertible securities may be rated below investment grade or may be unrated, which could increase their risks. The value of a convertible security increases and decreases with the value of the underlying common stock. When the convertible security's conversion price is similar to the price of the underlying common stock, the convertible security itself generally behaves more like the common stock. When the convertible security's conversion price is greater than the price of the underlying common stock, the convertible security generally behaves more like a fixed income security (and thus will be more sensitive to changes in interest rates).

**CYBER SECURITY ISSUES:** The Funds, and their service providers, may be subject to operational and information security risks resulting from cyber-security attacks or incidents (collectively, "cyber-events"). In general, cyber-events can result from deliberate attacks or unintentional events. Cyber-events include, but are not limited to, gaining unauthorized access to digital systems (e.g., through "hacking" or malicious software coding) for purposes of misappropriating assets or sensitive information, corrupting data, or causing operational disruption. Cyber-events may also be carried out in a manner that does not require gaining unauthorized access, such as causing denial-of-service attacks on websites (i.e., efforts to make network services unavailable to intended users). Cyber-events affecting the Trust Company, ICMA-RC, VIA, the Funds or their subadvisers, custodian, and other third-party service providers may adversely impact the Funds. For instance, cyber-events may interfere with the processing of shareholder transactions, impact a Fund's ability to calculate its NAVs, cause the release of private shareholder information or confidential business information, impede trading, subject a Fund to regulatory fines or financial losses and/or cause reputational damage. The Funds may also incur additional costs for cyber security risk management purposes. In addition, cyber-events affecting issuers in which a Fund invests may cause such Fund's investments to lose value.

**DERIVATIVE INSTRUMENTS:** A derivative is a financial instrument whose value is dependent upon the value of an underlying asset or assets. These underlying assets may include, among others, bonds, currency exchange rates, interest rates, stocks, or related indices. Types of derivatives include, but are not limited to, options, futures contracts, options on futures, forward currency contracts, and swaps.

Some derivatives, such as futures contracts and certain options, are traded on U.S. commodity and securities exchanges (exchanged-traded derivatives), while other derivatives are privately negotiated and entered into in the over-the-counter ("OTC") market (OTC derivatives). Certain swaps are traded through swap execution facilities. OTC derivatives are typically less liquid than exchange-traded derivatives since the other party to the transaction may be the only investor with sufficient understanding of the derivative to be interested in bidding for it. Derivative products are highly specialized instruments that require investment techniques and risk analyses different from those associated with stocks,

bonds, and other traditional investments. The use of a derivative requires an understanding not only of the underlying instrument but also of the derivative itself, without the benefit of observing the performance of the derivative under all possible market conditions.

Additional information regarding the different types of derivative instruments used by the Funds (and their associated risks) is set forth below:

**Forward Currency Contracts.** A forward currency contract involves a privately negotiated obligation to purchase or sell a specific currency at a future date at a price set in the contract. Risks of entering into forward currency contracts include the possibility that a fund may lose money. For example, foreign currency values may change unfavorably relative to the U.S. dollar, there may be an illiquid market or a change in the value of the contracts may not correlate with changes in the value of the underlying currency. The use of over-the-counter forward currency contracts includes counterparty risk, which is the risk that the other party to a contract may not fulfill its obligations.

**Futures.** A futures contract is an agreement to buy or sell a specific amount of a commodity or financial instrument at a particular price on a stipulated future date. Futures may involve a small investment of cash relative to the magnitude of the risk assumed. For purposes of meeting a Fund's investment objectives or restrictions, futures contracts are considered to be the same type of security or financial instrument as that underlying the contract. Futures transactions must be made on national exchanges where purchases and sales transactions are regularly executed and regulated.

The risks associated with the use of futures include: a Fund experiencing losses over certain ranges in the market that exceed losses experienced by a Fund that does not use futures contracts; there may be an imperfect correlation between the changes in the prices of futures and options on futures and the market value of their underlying assets; trading restrictions or limitations may be imposed by an exchange, and government regulations may restrict trading in futures contracts; and there may not always be a liquid secondary market for a futures contract, and; therefore, a Fund may be unable to close out its futures contracts at a time that is advantageous.

**Options.** An option is a derivative financial instrument that specifies a contract between two parties for a future transaction on a financial instrument at a reference price (strike price). The buyer of the option gains the right, but not the obligation, to engage in that transaction, while the seller incurs the corresponding obligation to fulfill the transaction. Options have various types of underlying financial instruments, including specific securities, indices of securities prices, futures contracts, and swaps.

When a Fund writes an option, the Fund receives a premium from the buyer and becomes obligated to sell or purchase the underlying financial instrument at a fixed price upon exercise of the option. In writing an option, the Fund bears the market risk of an unfavorable change in the price of the financial instrument underlying the written option. Exercise of an option written by the Fund could result in the Fund buying or selling a financial instrument at a price different from the current market value.

When an option is exercised, the proceeds on a sale for a written call option or the purchase cost for a written put option, or the cost of the security for a purchased put or call option is adjusted by the amount of premium received or paid. The risk in writing a call option is that the Fund gives up the opportunity for profit if the market price of the security increases to or above the strike price and the option is exercised. The risk of writing a put option is that the Fund may incur a loss if the market price of the security decreases and the option is exercised.

The risk in buying an option is that the Fund pays a premium whether or not the option is exercised. By purchasing a put option, the purchaser obtains the right (but not the obligation) to sell the option's underlying financial instrument at a fixed strike price. In return for this right, the purchaser pays the current market price for the option (known as the option premium). The purchaser may terminate its position in a put option by allowing it to expire or by exercising the option. If the option is allowed to expire, the purchaser will lose the entire premium. If the option is exercised, the purchaser completes the sale of the underlying financial instrument at the strike price. A purchaser may also terminate a put option position by closing it out in the secondary market at its current price, if a liquid secondary market exists. The buyer of a typical put option can expect to realize a gain if the price of the underlying financial instrument falls substantially. However, if the underlying financial instrument's price does not fall enough to offset the cost of purchasing the option, a put buyer can expect to suffer a loss (limited to the amount of the premium, plus related transaction costs).

The features of call options are essentially the same as those of put options, except that the purchaser of a call option obtains the right to purchase, rather than sell, the underlying financial instrument at the option's strike price. A call buyer typically attempts to participate in potential price increases of the underlying financial instrument with risk limited to the cost of the option if the price of the underlying financial instrument falls. At the same time, the buyer can expect to suffer a loss if the price of the underlying instrument does not rise sufficiently to offset the cost of the option.

**Swap Option (Swaption)** - A swap option or swaption is a contract that gives a party the right (but not the obligation), in return for payment of a premium, to enter into a new swap agreement or to shorten, extend, cancel or otherwise modify an existing swap agreement, at some designated future time on specified terms. Depending on the terms of the particular swaption agreement, a Fund will generally incur a greater potential loss when it writes a swaption than it will incur when it purchases a swaption. When a Fund purchases a swaption, it risks losing only the amount of the premium it has paid should it decide to let the option expire unexercised. However, when a Fund writes a swaption, upon exercise of the option the Fund will become obligated according to the terms of the underlying agreement.

**Swaps.** Generally, swap agreements are contracts between a Fund and another party (the swap counterparty) involving the exchange of payments on specified terms over periods ranging from a few days to multiple years.

A swap may be negotiated bilaterally and traded over-the-counter between two parties. Such bilateral swaps are entered into primarily by institutional investors. The swap counterparty is typically a brokerage firm, bank, or other financial institution. Certain over-the-counter swaps

may be submitted for central clearing. In addition, certain standardized swaps are subject to mandatory central clearing and certain cleared swaps are subject to mandatory exchange-trading. Cleared swaps are transacted through futures commission merchants (each an “FCM”) that are members of central clearinghouses with the clearinghouse serving as central counterparty and, as applicable, may be executed through a swap execution facility. A fund posts initial and variation margin to support its obligations under cleared swaps. Centralized clearing will be required for additional categories of swaps on a phased-in basis based on the CFTC approval of contracts for central clearing.

In a typical “swap” transaction, two parties agree to exchange one or more payments based, for example, on the returns (or differentials in rates of return) earned or realized on particular predetermined investments or instruments, such as specified interest rates, a particular foreign currency, or a “basket” of securities or commodities as represented by a particular index. Swaps can also be based on credit and other events. The gross payments to be exchanged between the parties are calculated with respect to a notional amount, which is the predetermined dollar principal of the trade representing the hypothetical underlying quantity upon which payment obligations are computed. Forms of swap agreements vary and include, but are not limited to: interest rate caps, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates exceed a specified rate, or “cap”; interest rate floors, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates fall below a specified rate, or “floor”; and interest rate collars, under which a party sells a cap and purchases a floor or vice versa in an attempt to protect itself against interest rate movements exceeding given minimum or maximum levels.

Because bilateral swap agreements are structured as two party contracts and may have terms of greater than seven days, these swap agreements may be considered to be illiquid. Transactions executed on a swap execution facility may increase liquidity. Moreover, a Fund bears the risk of loss of the amount expected to be received under a bilateral swap agreement in the event of the default or bankruptcy of a swap agreement counterparty. If there is a default by the other party to such a transaction, a Fund will have to rely on its contractual remedies (which may be limited by bankruptcy, insolvency or similar laws) pursuant to the agreements related to the transaction. A Fund will enter into bilateral swap agreements only with counterparties that meet certain standards of creditworthiness.

With respect to cleared swaps, central clearing is intended to decrease counterparty risk compared to uncleared swaps because central clearing interposes the central clearinghouse as the counterparty to each participant’s swap. However, central clearing does not eliminate counterparty risk entirely for cleared swaps. The assets of a Fund may not be fully protected in the event of the bankruptcy of the FCM or central counterparty because the Fund might be limited to recovering only a pro rata share of all available funds and margin segregated on behalf of an FCM’s customers. In addition, the credit risk of cleared swap participants is concentrated in a few clearing houses, and the consequences of the insolvency of a clearing house are not clear. Central clearing is also intended to increase liquidity.

In addition, with respect to cleared swaps, an FCM may unilaterally impose position limits or additional margin requirements for certain types of swaps in which the Fund may invest. Central counterparties and FCMs generally can require termination of existing cleared swap transactions at any time and can also require increases in margin above the margin that is required at the initiation of the swap agreement. Margin requirements for cleared swaps vary on a number of factors, and the margin required under the rules of the clearinghouse and FCM may be in excess of the collateral required to be posted by the Fund to support its obligations under a similar uncleared swap. However, regulators have proposed and are expected to adopt rules imposing certain margin requirements on uncleared swaps in the near future, which are likely to impose higher margin requirements on uncleared swaps (see “Regulation of Swaps and Other Derivatives under the Dodd–Frank Wall Street Reform and Consumer Protection Act” below).

**Total Return Swaps** - Total return swap agreements are contracts in which one party agrees to make periodic payments to another party based on the change in market value of the assets underlying the contract, which may include a specified security, basket of securities or securities indices during the specified period, in return for periodic payments based on a fixed or variable interest rate or the total return from other underlying assets. Total return swap agreements may be used to obtain exposure to a security or market without owning or taking physical custody of such security or investing directly in such market. Total return swap agreements may add leverage to a Fund’s portfolio because, in addition to its total net assets, the Fund would be subject to investment exposure on the notional amount of the swap. Generally, a Fund will enter into total return swaps on a net basis (i.e., the two payment streams are netted against one another with the Fund receiving or paying, as the case may be, only the net amount of the two payments).

**Credit Default Swaps** - Credit default swaps are contracts whereby one party makes periodic payments to a counterparty in exchange for the right to receive from the counterparty a payment equal to the par (or other agreed-upon) value of a referenced fixed income security in the event of a default or other agreed upon credit related event by the issuer of the debt obligation. The use of credit default swaps may be limited by a Fund’s limitations on illiquid investments. When used for hedging purposes, a Fund would be the buyer of a credit default swap contract. In that case, the Fund would be entitled to receive the par (or other agreed-upon) value of a referenced debt obligation from the counterparty to the contract in the event of a default or other agreed upon credit related event by a third party, such as a U.S. or foreign issuer, on the debt obligation. In return, the Fund would pay to the counterparty a periodic stream of payments over the term of the contract provided that no applicable event (e.g., default or other agreed upon event) has occurred. If no such event occurs, the Fund would have spent the stream of payments and received no return from the contract. Credit default swaps involve the risk that the investment may expire worthless and would generate income only in the event of an actual default by the issuer of the underlying obligation (as opposed to a credit downgrade or other indication of financial instability). It would also involve credit risk that the seller may fail to satisfy its payment obligations to the Fund in the event of a default. When a Fund is the seller of a credit default swap contract, it receives the stream of payments but is obligated to pay upon default of the referenced debt obligation or other agreed upon credit event. As the seller, a Fund would effectively add leverage to its portfolio because, in addition to its total assets, the Fund would be subject to investment exposure on the notional amount of the swap. In addition to the risks applicable to swaps generally, credit default swaps involve special risks because they are difficult to value, are highly susceptible to liquidity and credit risk, and generally pay a return to the party that has paid the premium only in the event of an actual default by the issuer of the underlying obligation (as opposed to a credit downgrade or other indication of financial difficulty).



**Interest Rate Swaps** - Interest rate swaps involve the exchange by a Fund with another party of their respective commitments to pay or receive interest, e.g., an exchange of floating rate payments for fixed rate payments with respect to a notional amount of principal. A Fund will usually enter into interest rate swaps on a net basis, i.e., the two payment streams are netted out, with the Fund receiving or paying, as the case may be, only the net amount of the two payments on the payment dates.

**Inflation Rate Swaps** - Inflation rate swaps involve the exchange by a Fund with another party of their respective commitments to pay or receive a fixed rate in exchange for the rate of change of an inflation index with respect to a notional amount of principal. A Fund will usually enter into inflation swaps on a net, zero-coupon basis, i.e., the two rates will compound until the swap termination date at which point payments are netted, with the Fund receiving or paying, as the case may be, only the net amount of the two payments.

Regulation of Swaps and Other Derivatives under the Dodd–Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) - The Dodd-Frank Act and related regulatory developments have imposed comprehensive new regulatory requirements on swaps and swap market participants. The new regulatory framework includes: (1) registration and regulation of swap dealers and major swap participants; (2) requiring central clearing and execution of standardized swaps; (3) imposing margin requirements in swap transactions; (4) regulating and monitoring swap transactions through position limits and large trader reporting requirements; and (5) imposing record keeping and centralized and public reporting requirements, on an anonymous basis, for most swaps. The CFTC is responsible for the regulation of most swaps and has completed most of its rules implementing the Dodd-Frank Act swap regulations. The SEC has jurisdiction over a small segment of the market referred to as “security-based swaps,” which includes swaps on single securities or credits, or narrow-based indices of securities or credits, but has not yet completed its rulemaking.

The regulation of cleared and uncleared swaps, as well as other derivatives, is a rapidly changing area of law and is subject to modification by government and judicial action. In addition, the SEC, CFTC and the exchanges are authorized to take extraordinary actions in the event of a market emergency, including, for example, the implementation or reduction of speculative position limits, the implementation of higher margin requirements, the establishment of daily price limits and the suspension of trading.

It is not possible to predict fully the effects of current or future regulation. However, it is possible that developments in government regulation of various types of derivative instruments, such as speculative position limits on certain types of derivatives, or limits or restrictions on the counterparties with which the Funds engage in derivative transactions, may limit or prevent a Fund from using or limit a Fund’s use of these instruments effectively as a part of its investment strategy, and could adversely affect a Fund’s ability to achieve its investment objective(s). The Fund will continue to monitor developments in the area, particularly to the extent regulatory changes affect a Fund’s ability to enter into desired swap agreements. New requirements, even if not directly applicable to a Fund, may increase the cost of the Fund’s investments and cost of doing business.

**DEPOSITARY RECEIPTS:** Those Funds that may invest in foreign securities, as identified in the applicable Fund Level Guidelines, may purchase the foreign securities in the form of sponsored or unsponsored depositary receipts or other securities representing underlying shares of foreign issuers. In sponsored programs, an issuer has made arrangements to have its securities traded in the form of depositary receipts. In unsponsored programs, the issuer may not be directly involved in the creation of the program. The risks associated with depositary receipts are similar to those of investing in foreign securities. In addition, the following risks also apply: the depositary of depositary receipts may not have physical custody of underlying securities; the depositary may charge additional fees for delivery of dividends and interest; a Fund may experience delays in receiving dividends or interest; and with respect to unsponsored programs, it may be harder to obtain financial information about the issuer of the underlying security because the issuer is not directly involved in the program.

#### **EQUITY SECURITIES:**

**Common Stock.** Common stock represents an equity or ownership interest in an issuer. Common stock typically entitles the owner to vote on the election of directors and other important matters as well as to receive dividends on such stock. In the event an issuer is liquidated or declares bankruptcy, the claims of owners of bonds, other debtholders, and owners of preferred stock take precedence over the claims of those who own common stock.

**Preferred Stock.** Preferred stock represents an equity or ownership interest in an issuer. Preferred stock normally pays dividends at a specified rate and has precedence over common stock in the event an issuer liquidates or declares bankruptcy. However, in the event an issuer is liquidated or declares bankruptcy, the claims of owners of bonds take precedence over claims of those who own preferred or common stock. Preferred stock, unlike common stock, often has a stated dividend rate payable from the corporation’s earnings. Preferred stock dividends may be cumulative or noncumulative, participating, or auction rate. “Cumulative” dividend provisions require all or a portion of prior unpaid dividends be paid before dividends can be paid to the issuer’s common stock. “Participating” preferred stock may be entitled to a dividend exceeding the stated dividend in certain cases. If interest rates rise, the fixed dividend on preferred stocks may be less attractive, causing the price of such stocks to decline. Preferred stock may have mandatory sinking fund provisions, as well as provisions allowing the stock to be called or redeemed, which can limit the benefit of a decline in interest rates. Preferred stock is subject to many of the risks to which common stock and fixed income securities are subject.

**Master Limited Partnerships.** Master limited partnerships (“MLPs”) are limited partnerships in which the ownership units are publicly traded. MLP units are registered with the SEC and are freely traded on a securities exchange or in the over-the-counter market. MLPs often own several properties or businesses (or own interests) that are related to real estate development and oil and gas industries, but they also may finance motion pictures, research and development and other projects. Generally, an MLP is operated under the supervision of one or more managing general partners. Limited partners are not involved in the day-to-day management of the partnership.

The risks of investing in an MLP are generally those involved in investing in a partnership as opposed to a corporation. For example, state law governing partnerships is often less restrictive than state law governing corporations. Accordingly, there may be fewer protections afforded investors in an MLP than investors in a corporation. Additional risks involved with investing in an MLP are risks associated with the specific industry or industries in which the partnership invests, such as the risks of investing in real estate, or oil and gas industries.

**EXCHANGE-TRADED FUNDS (“ETFs”):** Most ETFs are registered under the Investment Company Act of 1940 (“1940 Act”) as investment companies. Therefore, an ETF is subject to restrictions under the 1940 Act. In addition, ETFs have their own management fees and other expenses, which increase their cost. See the “Investment Companies” section below. ETFs hold portfolios of securities, commodities, or currencies that are intended to track, as closely as possible before expenses, the price and/or yield of (i) a specified domestic or foreign market or other index, (ii) a basket of securities, commodities or currencies, or (iii) a particular commodity or currency. Because ETFs are based on an underlying basket of stocks or an index, they are subject to the same market fluctuations as these types of securities in volatile market swings. Although the value of an investment in an ETF will rise or decline more or less in correlation with any rise or decline in the value of the index the exchange-traded fund seeks to track, the performance results of ETFs will not exactly track the performance of the pertinent index, basket, commodity or currency due to transaction and other expenses borne by ETFs. Furthermore, there can be no assurance that the portfolio of securities, commodities and/or currencies purchased by an ETF will replicate a particular index or basket or price of a commodity or currency.

ETF shares are sold and redeemed at net asset value only in large blocks called creation units and redemption units, respectively. ETF shares also may be purchased and sold in secondary market trading on national securities exchanges, which allows investors to purchase and sell ETF shares at their market price throughout the day.

Investments in ETFs generally present the same primary risks as an investment in a conventional mutual fund that has the same investment objective, strategy and policies (see “Investment Companies” below). However, investments in ETFs further involve the same risks associated with a direct investment in the security, commodity or currency, or in the types of securities, commodities, or currencies included in the indices or baskets the ETFs are designed to replicate. In addition, shares of an ETF may trade at a market price that is higher or lower than their net asset value, and an active trading market in such shares may not develop or be maintained. Moreover, trading of an ETF’s shares may be halted if the listing exchange’s officials deem such action to be appropriate, the shares are de-listed from the exchange, or the activation of market-wide “circuit breakers” (which are tied to large decreases in stock prices) halts stock trading generally. Lastly, an ETF would not necessarily sell a security because the issuer of the security was in financial trouble unless the security is removed from the index that the ETF seeks to track.

Some Funds may purchase ETF shares for the same reason they might purchase (and as an alternative to purchasing) futures contracts: to obtain exposure to the securities in the ETF’s benchmark index while maintaining flexibility to meet their liquidity needs. ETF shares can be purchased for smaller sums and offer exposure to market sectors and styles for which there is no suitable or liquid futures contract.

**FIXED INCOME SECURITIES:** Fixed income securities consist primarily of debt obligations issued by governments, corporations, municipalities and other borrowers, but may also include structured securities that provide for participation interests in debt obligations. Fixed income securities may also include loan participations and assignments that are privately negotiated notes representing the equivalent of a loan or bank debt. The market value of the fixed income securities in which a Fund invests will change in response to interest rate changes and other factors. During periods of falling interest rates, the values of outstanding fixed income securities generally rise. Conversely, during periods of rising interest rates, the values of such securities generally decline. Moreover, while securities with longer maturities tend to produce higher yields, the prices of longer maturity securities are also subject to greater market fluctuations as a result of changes in interest rates over time. Changes by recognized agencies in the rating of any fixed income security and in the ability of an issuer to make payments of interest and principal also affect the value of these investments, as well as factors such as the market perception of the creditworthiness of the fixed income security’s issuer and general market liquidity. Changes in the value of these securities will not necessarily affect cash income derived from these securities but can affect a Fund’s net asset value.

Instability in the markets for fixed income securities may significantly affect the volatility of the prices of such securities. In the event of redemptions, a Fund that invests in fixed income securities may be forced to sell these portfolio securities at an unfavorable time or price. As a result, a Fund may incur a greater loss on the sale of such securities than under more stable market conditions. Such losses can adversely impact a Fund’s net asset value.

Nationally Recognized Statistical Rating Organizations (each an “NRSRO”), which include S&P, Moody’s and Fitch, provide ratings on fixed income securities based on their analyses of information they deem relevant. Ratings of each major NRSRO represent its judgment of the safety of principal and interest payments (and not the market risk) of bonds and other fixed income securities it undertakes to rate. NRSRO ratings are not absolute standards of credit quality and may prove to be inaccurate. In addition, there may be a delay between events or circumstances adversely affecting the ability of an issuer to pay interest and or repay principal and a NRSRO’s decision to downgrade a security. Any shortcomings or inefficiencies in the NRSROs’ processes for determining ratings may adversely affect the ratings of securities held by the Fund and, as a result, may adversely affect those securities’ perceived credit risk.

The minimum credit rating threshold for fixed income securities must be met immediately after each new acquisition by a Fund. In the event a security owned by a Fund is downgraded, VIA or a subadviser, as applicable, will review the situation and take appropriate action with regard to the security.

Additional information regarding fixed income securities is set forth below:

**Corporate Bonds.** Corporate bonds are fixed income securities issued by private and public corporations. Corporate bonds are issued by a wide variety of corporations involved in a variety of industries. A wide range of choices exist for corporate bonds in regard to bond structures, coupon

rates, maturity dates, credit quality and industry exposure. Corporate bonds are generally considered higher risk than domestically issued government bonds. As a result, coupon rates paid on corporate bonds are generally higher than domestically issued government bonds with similar maturity dates, even for the highest credit quality corporate bonds.

The backing for a corporate bond is usually the payment ability of the corporation, which is typically money to be earned from future operations. In some cases, the corporation's physical assets may be used as collateral for bonds. Corporate bonds are a source of capital for many corporations along with equity offerings and bank loans/lines of credit. Unlike equity securities, corporate bonds do not represent an ownership interest in the issuing corporation. However, in the event of default, corporate bond holders generally have a higher claim on the corporation's unencumbered assets than do stock holders.

**Municipal Securities.** Municipal securities are fixed income securities issued by state and local governments, territories and possessions of the U.S., regional governmental authorities, and their agencies and instrumentalities. In general, municipal securities are issued to obtain funds for a variety of public purposes, such as the construction, repair, or improvement of public facilities, including airports, bridges, housing, hospitals, mass transportation, schools, streets, water, and sewer works. Municipal securities may be issued to refinance outstanding obligations as well as to raise funds for general operating expenses and lending to other public institutions and facilities.

The two principal classifications of municipal securities are general obligation securities and revenue securities. General obligation securities are secured by the issuer's pledge of its full faith, credit, and taxing power for the payment of principal and interest. Characteristics and methods of enforcement of general obligation bonds vary according to the law applicable to a particular issuer, and the taxes that can be levied for the payment of debt instruments may be limited or unlimited as to rates or amounts of special assessments. Revenue securities are payable only from the revenues derived from a particular facility, a class of facilities or, in some cases, from the proceeds of a special excise tax. Revenue bonds are issued to finance a wide variety of capital projects, including (for example) electric, gas, water and sewer systems; highways, bridges, and tunnels; port and airport facilities; colleges and universities; and hospitals. Although the principal security behind these bonds may vary, many provide additional security in the form of a debt service reserve fund the assets of which may be used to make principal and interest payments on the issuer's obligations.

**Duration.** Duration of a fixed income security is a measure of the expected change in value of the security for a given change in interest rates. The duration of a portfolio is the weighted average duration of all the fixed income securities in the portfolio. The effective duration of a portfolio takes into account that expected cash flows will fluctuate as interest rates change. For example, if interest rates change by one percent, the value of a security having an effective duration of two years generally would vary by two percent.

**Investment Grade Fixed Income Securities.** Fixed income securities are considered investment grade if they are rated in one of the four highest rating categories by S&P, Moody's, or Fitch. In the case of different ratings among S&P, Moody's, and Fitch (a split rated security), the rating of such split rated security will be determined as follows: if all three agencies rate a security, the highest and lowest ratings will be dropped and the remaining middle rating will be used; if two of the three agencies rate a security, the security will be considered to have the lower (i.e., more conservative) credit rating. If a security is not rated by S&P, Moody's, or Fitch, it may be determined to be of comparable quality by VIA or a subadviser, as applicable.

See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

**Average Credit Quality.** The average credit quality for a Fund is an average of each fixed income security's stated credit rating calculated on an asset-weighted basis.

**Sensitivity to Economic Changes.** Lower rated fixed income securities are more sensitive to adverse economic changes and corporate developments than their higher rated counterparts. During an economic downturn, highly leveraged issuers may experience financial stress that would adversely affect their ability to service their principal and interest payment obligations, to meet projected business goals, and to obtain additional financing. If the issuer of a fixed income security defaulted on its obligations to pay interest or principal or entered into bankruptcy proceedings, a Fund may incur losses or expenses in seeking recovery of amounts owed to it. In addition, periods of economic uncertainty and change can be expected to result in increased volatility of market prices of lower rated fixed income securities and a Fund's net asset value.

**Call and Similar Risks.** Fixed income securities may contain redemption or call provisions. If an issuer exercised these provisions in a declining interest rate market, a Fund would have to replace the security with a lower yielding security, resulting in a decreased return for investors. Conversely, the value of a fixed income security held by a Fund may decrease in a rising interest rate market. If a Fund experiences unexpected net redemptions, this may force it to sell high yield fixed income securities without regard to their investment merits, thereby decreasing the asset base upon which expenses can be spread and possibly reducing the Fund's rate of return.

**Liquidity and Valuation.** There may be little trading in the secondary market for particular fixed income securities, which may adversely affect a Fund's ability to value accurately or dispose of such fixed income securities. Adverse publicity and investor perception, whether or not based on fundamental analysis, may decrease the value and liquidity of below investment grade fixed income securities, especially in a thin (low trading volume) market.

**Maturity.** The maturity of a fixed income security is the length of time until the date on which the issuer of a fixed income security must repay the principal or full face value in total (and sometimes the final interest payment) to the holder. For example, a bond with a period of 10 years has a maturity date 10 years after its issue. The maturity date also generally indicates the period of time during which the bondholder will receive interest payments.

The maturity date of a fixed income security is important because of interest rate risk. Generally, a security with a longer maturity will fluctuate more in price due to changes in interest rates as compared to a shorter term security. Fixed income securities are often classified by maturity date. Generally, the U.S. market recognizes three maturity ranges – short term, intermediate term and long term, although the specific cut off points among these categories may differ.

Some fixed income securities are callable (meaning that the issuer may redeem them before the maturity date under certain circumstances). Some fixed income securities, such as mortgage-backed securities, pay back their principal over the life of the debt, similar to the way a mortgage is amortized, or paid down. While these instruments also have a maturity date, that date is when the last installment payment of the loan as well as the last interest payment is due.

Maturity can refer to the security's original maturity, meaning the length of time between first issuance and the repayment date, or remaining maturity, meaning the length of time, after first issuance, that remains under the repayment date.

**Coupon Rate.** A coupon payment on a fixed income security is a periodic interest payment that the holder receives during the time between when the security is issued and when it matures. Coupons are normally described in terms of the coupon rate, which is calculated by adding the total amount of coupons paid per year and dividing by the fixed income security's face value.

**Below Investment Grade Fixed Income Securities.** See "Below Investment Grade Securities" for further information (and certain associated risks) of fixed income securities that are below investment grade.

**FLOATING RATE LOANS:** Floating rate loans are debt securities or other interests issued by companies or other entities with floating interest rates that reset periodically. Certain floating rate loans are also known as "bank loans." Most floating rate loans are secured by specific collateral of the borrower and are senior to most other securities of the borrower (e.g., common stock or debt instruments) in the event of bankruptcy. Floating rate loans are often issued in connection with recapitalizations, acquisitions, leveraged buyouts, and refinancings. Floating rate loans are typically structured and administered by a financial institution that acts as the agent of the lenders participating in the floating rate loan. Floating rate loans may be acquired from a lender or through the agent as an assignment from another lender who holds a floating rate loan, or as a participation interest in another lender's floating rate loan or portion thereof.

Investments in floating rate loans have risks that are similar to those of fixed income securities. In addition, floating rate loans carry the risk of impairment of collateral. The value of the collateral securing a floating rate loan can decline, be insufficient to meet the obligations of the borrower, or be difficult to liquidate. As such a floating rate loan may not be fully collateralized and can decline significantly in value. Floating rate loans may also carry liquidity risk. Floating rate loans generally are subject to legal or contractual restrictions on resale. Therefore, the liquidity of floating rate loans, including the volume and frequency of secondary market trading in such loans, varies significantly over time and among individual floating rate loans. If the credit quality of a floating rate loan suffers a significant decline, the secondary trading market for that same loan may also decline, making it more difficult to sell and to value. Difficulty in selling a floating rate loan can result in a loss. In addition, floating rate loans may not be considered "securities," and the holder therefore may not be entitled to rely on the anti-fraud protections of the federal securities laws. There also may be limited public information available regarding floating rate loans. A subadviser may elect to receive material non-public information about an individual floating rate loan that is not available to other lenders of such floating rate loan. If a Fund elects to become restricted on any individual floating rate loan as a result of agreeing to receive material non-public information about the loan, such Fund might be unable to enter into a transaction in a security of that borrower, when it would otherwise be advantageous to do so.

**FOREIGN SECURITIES:** Foreign securities are securities issued by non-U.S. issuers. Investments in foreign securities may subject a Fund to investment risks that differ in some respects from those related to investments in securities of U.S. issuers. Such risks include future adverse political and economic developments, possible imposition of withholding taxes on income and gains, possible seizure, nationalization, or expropriation of foreign assets, possible establishment of exchange controls or taxation at the source or greater fluctuations in value due to changes in the currency exchange rates. Foreign issuers of securities often engage in business practices different from those of domestic issuers of similar securities, and there may be less publicly available information about foreign issuers. In addition, foreign issuers are, generally speaking, subject to less government supervision and regulation and different accounting treatment than are those in the U.S. Foreign branches of U.S. banks and foreign banks may be subject to less stringent reserve requirements than those applicable to domestic branches of U.S. banks.

The value of a Fund's investments denominated in foreign currencies will depend in part on the relative strengths of those currencies and the U.S. dollar, and a Fund may be affected favorably or unfavorably by changes in the exchange rates or exchange or currency control regulations between foreign currencies and the U.S. dollar. Changes in foreign currency exchange rates also may affect the value of dividends and interest earned, gains and losses realized on the sale of securities and net investment income and gains, if any, to be distributed to shareholders by a Fund. Such investments may also entail higher custodial fees and sales commissions than domestic investments.

**Securities of Issuers Located in Emerging Market Countries ("Emerging Market Securities").** Emerging market securities are (a) securities of issuers located in countries not included in the MSCI World Index, and (b) securities included in the MSCI Emerging Markets Index.

A Fund's investments in emerging market securities can be considered speculative, and therefore may offer higher potential for gains and losses than investments in developed markets of the world. With respect to an emerging market country, there may be a greater potential for nationalization, expropriation or confiscatory taxation, political changes, government regulation, social instability or diplomatic developments (including war) which could affect adversely the economies of such countries or investments in such countries. The economies of developing countries generally are heavily dependent upon international trade and, accordingly, have been and may continue to be adversely affected by trade barriers, exchange or currency controls, managed adjustments in relative currency values and other protectionist measures imposed or negotiated by the countries with which they trade.

In addition to the risks of investing in emerging market fixed income securities, a Fund's investment in government or government-related securities of emerging market countries and restructured debt instruments in emerging markets are subject to special risks, including the inability or unwillingness to repay principal and interest, requests to reschedule or restructure outstanding debt, and requests to extend additional loan amounts. A Fund may have limited recourse in the event of default on such debt instruments.

**Foreign Government Securities.** Foreign government securities (also referred to as "sovereign debt securities") are fixed income securities issued by a foreign government, a foreign municipality, or an agency or instrumentality thereof. The ability of a foreign governmental obligor to meet its obligations to pay principal and interest to debtholders generally will be adversely affected by rising foreign interest rates, as well as the level of the relevant government's foreign currency reserves and currency devaluations. If a governmental obligor defaults on its obligations, a Fund may have limited legal recourse against the issuer and/or guarantor. These risks may be heightened during periods of economic or political instability and are generally heightened in emerging markets countries.

**Supranational Entities.** Examples of supranational entities include the International Bank for Reconstruction and Development (the World Bank), the European Union, the Asian Development Bank and the Inter-American Development Bank. The government members, or "stockholders," usually make initial capital contributions to the supranational entity and in many cases are committed to make additional capital contributions if the supranational entity is unable to repay its borrowings. There is no guarantee that one or more stockholders of a supranational entity will continue to make any necessary additional capital contributions. If such contributions are not made, the entity may be unable to pay interest or repay principal on its fixed income securities, and a Fund may lose money on such investments.

**European-related Risks.** Countries in Europe may be significantly affected by fiscal and monetary controls implemented by the European Union ("EU") and European Economic and Monetary Union ("EMU"), which require member countries to comply with restrictions on inflation rates, deficits, interest rates, debt levels and fiscal and monetary controls. Decreasing imports or exports, changes in governmental or other regulations on trade, changes in the exchange rate of the Euro, the default or threat of default by one or more EU member countries on its sovereign debt, and/or an economic recession in one or more EU member countries may have a significant adverse effect on the economies of other EU member countries and major trading partners outside Europe. The exit of any country out of the Euro could have a destabilizing effect on that country and all eurozone countries and their economies and could have an adverse effect on the global economy and on global markets.

**ILLIQUID SECURITIES:** Generally, an illiquid security is a security that cannot be sold or disposed of in the ordinary course of business within seven days at approximately the value at which a Fund has valued it. To the extent that a Fund invests in illiquid securities, it may experience difficulty valuing and selling illiquid securities and, in some cases, may be unable to value or sell certain illiquid securities for an indefinite period of time.

**INFLATION-ADJUSTED SECURITIES:** Inflation-adjusted securities are fixed income securities whose principal values or coupon rates are periodically adjusted to reflect the rate of inflation as indicated by the Consumer Price Index ("CPI") (or an equivalent, see below). Inflation-adjusted securities may be issued by U.S. and foreign governments, agencies and instrumentalities, corporations, or state and local governments. The following two structures are common: (1) the U.S. Treasury and some other issuers use a structure whereby the principal value adjusts with inflation while the coupon rate remains fixed; and (2) other issuers use a structure whereby the principal value is fixed but the coupon rate adjusts with inflation.

The periodic adjustment of U.S. inflation-adjusted securities is tied to the CPI, which is calculated monthly by the U.S. Bureau of Labor Statistics. The CPI is a measurement of changes in the cost of living, made up of components such as housing, food, transportation and energy.

Inflation-adjusted securities issued by foreign governments, agencies, instrumentalities, and corporations are generally adjusted to reflect an inflation index comparable to the CPI. There can be no assurance that the CPI or any foreign inflation index will accurately measure the real rate of inflation in the prices of goods and services. Moreover, there can be no assurance that the rate of inflation in a foreign country will be correlated to the rate of inflation in the U.S.

Inflation, a general rise in prices of goods and services, erodes the purchasing power of an investor's portfolio. For example, if an investment provides a "nominal" total return of 8% in a given year and inflation is 3% during that period, the inflation-adjusted, or real return, is approximately 5%. Inflation, as measured by the CPI, has occurred in the U.S. for each of the past 50 years.

Investors in inflation-adjusted securities funds (such as the Inflation Focused Fund) who do not reinvest the portion of the income distribution that is attributable to inflation adjustments may not maintain the purchasing power of the investment over the long term. This is because interest earned depends on the amount of principal invested, and that principal will not grow with inflation if the investor fails to reinvest the principal adjustment paid out as part of a fund's income distribution.

While inflation-adjusted securities are expected to be protected from long-term inflationary trends, short term increases in inflation may lead to a decline in value. If interest rates rise due to reasons other than inflation (for example, due to changes in monetary policy or currency exchange rates), investors in these securities may not be protected to the extent that the increase is not reflected in the security's inflation measure.

If the periodic adjustment rate measuring inflation (e.g., the CPI) falls, the principal value of inflation-adjusted securities that adjust the principal value will be adjusted downward, and consequently the interest payable on these securities (calculated with respect to a smaller principal amount) will be reduced. Repayment of the original principal upon maturity (or the inflation-adjusted principal, if greater) is guaranteed in the case of U.S. Treasury inflation protected securities, even during a period of deflation. However, the current market value of the inflation-adjusted securities is not guaranteed and will fluctuate. Other inflation-adjusted securities include inflation related fixed income securities, which may or may not provide a principal repayment guarantee. If a guarantee of principal is not provided, the adjusted principal value of the security repaid at maturity may be less than the original principal.

The value of inflation-adjusted securities should change in response to changes in real interest rates. Real interest rates are tied to the relationship between nominal interest rates and the rate of inflation. Therefore, if inflation were to rise at a rate faster than changes in nominal interest rates, real interest rates may decline leading to an increase in value of the inflation adjusted securities. In contrast, if nominal interest rates increased at a rate faster than the rate of inflation, real interest rates may rise, leading to a decrease in value of inflation adjusted securities.

**INITIAL PUBLIC OFFERINGS:** An initial public offering, or IPO, is the first sale of common stock or other securities by a privately held company to the public. Companies frequently initiate public offerings in order to raise capital or reduce debt. Often, smaller, younger and relatively unknown companies will publicly offer their shares in order to raise capital to expand their business. Large, well-established, privately-held companies might conduct an initial public offering so that they can become publicly traded. The price of the security in its first few days of trading may fluctuate quickly and significantly. Additionally, securities issued in IPOs have no trading history, and historical information about the company may be limited.

**INVESTMENT COMPANIES AND OTHER FUNDS:** Securities of investment companies and other funds, including shares of closed-end investment companies, unit investment trusts, open-end investment companies, ETFs and REITs, represent interests in professionally actively or passively managed portfolios that may invest in various types of instruments. Certain types of investment companies, such as closed-end investment companies, issue a fixed number of shares that trade on a stock exchange or over-the-counter at a premium or a discount to their net asset value. Other funds are continuously offered at net asset value but may also be traded in the secondary market.

A Fund's investment in another fund is subject to the risk associated with that underlying fund's portfolio securities. In addition, when a Fund purchases shares of another fund (including a Fund of VantageTrust III), the Fund will indirectly bear its proportionate share of the advisory fees and other operating expenses of such underlying fund.

Because of restrictions on direct investment by U.S. entities in certain countries, investment in other funds may be the most practical or the only manner in which an international and global fund can invest in the securities markets of those countries. A Fund also may incur tax liability to the extent it invests in the stock of a foreign issuer that constitutes a "passive foreign investment company."

**MONEY MARKET SECURITIES:** Money market securities include instruments and securities that are considered "eligible securities" as defined in Rule 2a-7 under the 1940 Act. This includes securities with a remaining maturity of 397 days or less and that, as a general matter, have received a rating from major NRSROs in one of the two highest short-term ratings categories, or are unrated but are determined by the Fund's investment adviser or a subadviser, as applicable, to be of comparable quality at the time of purchase. Security types may include U.S. Government securities, commercial paper, certificates of deposit, asset-backed securities, bank instruments, adjustable or variable rate securities, and any other securities or instruments that meet the definition of "eligible securities" under Rule 2a-7. See the website of the respective NRSRO for information about the credit rating categories used by that NRSRO.

**MORTGAGE-BACKED SECURITIES:** Mortgage-backed securities generally are issued or guaranteed by the Government National Mortgage Association ("Ginnie Mae"), the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Mortgage-backed securities are also issued by non-agency entities such as banks, brokerage firms, and homebuilders. These "private label" mortgages are subject to credit risk relating to the credit rating of the issuer.

Mortgage-backed securities represent an ownership interest in a pool of mortgage loans originated by lenders such as mortgage banks, commercial banks, savings and loan associations, savings banks and credit unions, to finance purchases of homes, commercial buildings or other real estate. The individual mortgage may have either fixed or adjustable interest rates. These loans are packaged or "pooled" together for sale to investors. As the underlying mortgage loans are repaid, investors receive principal and interest payments. The primary issuers or guarantors of these securities are Ginnie Mae, Fannie Mae and Freddie Mac.

Ginnie Mae guarantees the payment of principal and interest on Ginnie Mae mortgage-backed securities and this guarantee is backed by the full faith and credit of the U.S. Government. Ginnie Mae may borrow U.S. Treasury funds needed to make payments under its guarantee. The guarantee, however, does not cover the value or yield of Ginnie Mae securities nor does it cover the value of the Fund's shares which will fluctuate daily with market conditions.

Mortgage-backed securities issued or guaranteed by Fannie Mae and Freddie Mac are not backed by the full faith and credit of the U.S. Government. Fannie Mae guarantees full and timely payment of all interest and principal, and Freddie Mac guarantees timely payment of interest and the ultimate collection of principal. Fannie Mae and Freddie Mac guarantees are supported by the right to borrow money from the U.S. Treasury under certain circumstances. There is no assurance that the U.S. Government will support Fannie Mae or Freddie Mac guarantees and, accordingly, these involve a risk of non-payment of principal and interest. Due largely to their prepayment or extension risk, the yields on these mortgage-backed securities historically have exceeded the yields on fixed income securities having comparable maturities that are backed by the full faith and credit of the U.S. Government.

Most mortgage-backed securities are pass-through securities, which means that they provide investors with monthly payments consisting of a pro rata share of both regular interest and principal payments, as well as unscheduled early prepayments, on the underlying mortgage pool (less Ginnie Mae's, Freddie Mac's or Fannie Mae's fees and any applicable loan servicing fees). As a result, the holder of the mortgage-backed securities (i.e., the Fund) receives monthly scheduled payments of principal and interest and also may receive unscheduled prepayments of principal on the underlying mortgages. When a Fund reinvests the payments and any unscheduled prepayments it receives, it may have to buy securities that have a lower interest rate than it receives on the mortgage-backed securities. For this reason, pass-through mortgage-backed securities may be less effective than U.S. Government securities as a way to "lock in" long-term interest rates. In general, fixed-rate mortgage-backed securities have greater exposure to this "prepayment risk."

The market value of mortgage-backed securities, like other fixed income securities, will generally vary inversely with changes in market interest rates, declining when interest rates go up and rising when interest rates go down. Mortgage-backed securities may have less potential for capital appreciation than other fixed income securities of comparable maturities as interest rates decline, due to the increased likelihood of mortgage prepayments. Also, an unexpected increase in interest rates could extend the average life of a mortgage-backed security because of a lower than expected level of prepayments, potentially reducing the security's value and increasing its volatility. Generally, coupon rates of adjustable rate mortgage-backed securities tend to move with market interest rates and their values fluctuate less than fixed rate mortgage-backed securities. These factors may limit the ability of the Fund to obtain the desired level of total return under varying market conditions.

In addition, to the extent mortgage-backed securities are purchased at a premium, mortgage foreclosures or unscheduled principal prepayments may result in a loss of the holder's principal investment to the extent of the premium paid. On the other hand, if mortgage-backed securities are bought at a discount, both scheduled payments and unscheduled prepayments of principal will increase current and total returns and accelerate the recognition of income that will be taxable as ordinary income when distributed to shareholders.

**To-Be-Announced ("TBA") Transactions.** A TBA is a forward mortgage-backed securities trade. Pass-through securities issued by Freddie Mac, Fannie Mae and Ginnie Mae trade in the TBA market. The term TBA is derived from the fact that the actual mortgage-backed security that will be delivered to fulfill a TBA trade is not designated at the time the trade is made. The securities are "to be announced" 48 hours prior to the established trade settlement date. The Fund also relies on the seller to complete the transaction. The seller's failure to do so may cause the Fund to miss a price or yield considered advantageous to the Fund, and a Fund bears the risk of loss in the event of the default or bankruptcy of the seller. In the case of a bankruptcy or other organizational proceeding of the counterparty, the Fund may obtain no or limited recovery and any recovery may be significantly delayed.

**U.S. Agency and Non-U.S. Agency Collateralized Mortgage Obligations.** Collateralized mortgage obligations ("CMOs") are mortgage-backed fixed income securities that are collateralized by whole loan mortgages or mortgage pass-through securities. CMOs issued by U.S. Government agencies or Government sponsored enterprises (such as Freddie Mac) are U.S. Agency CMOs, while CMOs issued by private issuers are Non-U.S. Agency CMOs. The securities issued in a CMO offering are divided into groups referred to as tranches, and they are differentiated by the type of return paid by the issuer. A given tranche may receive interest, principal, or a combination of the two, and may include more complex stipulations.

**CMOs may include real estate mortgage investment conduits (REMICs).** REMICs, which were authorized under the Tax Reform Act of 1986, are private entities formed for the purpose of holding a fixed pool of mortgages secured by an interest in real property. A REMIC is a CMO that qualifies for special tax treatment under the Internal Revenue Code of 1986, as amended, and invests in certain mortgages principally secured by interests in real property. Guaranteed REMIC pass-through certificates (REMIC Certificates) issued by Fannie Mae or Freddie Mac represent beneficial ownership interests in a REMIC trust consisting principally of mortgage loans or Fannie Mae-, Freddie Mac-, or Ginnie Mae-guaranteed mortgage pass-through certificates. For Freddie Mac REMIC Certificates, Freddie Mac guarantees the timely payment of interest and also guarantees the payment of principal, as payments are required to be made on the underlying mortgage participation certificates. Fannie Mae REMIC Certificates are issued and guaranteed as to timely distribution of principal and interest by Fannie Mae.

For Agency CMOs, the primary risk is prepayments or extensions of the underlying mortgages serving as collateral and from the structure of the deal (i.e., the priority of the individual tranches). An increase or decrease in prepayment rates will affect the yield, average life, and price of CMOs. For non-Agency CMOs, in addition to prepayment, extension and structure risks, default risk of the underlying collateral is also important. The prices of certain CMOs, depending on their structure and the rate of prepayments, can be volatile. Also, CMOs can be illiquid, which can increase the cost of buying and selling them.

**Commercial Mortgage-Backed Securities.** Commercial mortgage-backed securities ("CMBS") are fixed income securities generally backed by loans on retail, office, industrial, multi-family housing and hotel properties. CMBS are structured like mortgage-backed securities. The CMBS's collateral creates exposure to the commercial real estate market, while the structure of the security itself will behave like a mortgage-backed security. However, the investor in a CMBS has more prepayment protection than with a mortgage-backed security. The prepayment penalties inherent in a CMBS provide the investor with greater protection than a residential backed mortgage security. CMBS may carry greater credit risk as the securities may represent only a few projects, versus a traditional mortgage-backed security that may represent thousands of residential homeowners spread across different regions of the country.

**POOLED INVESTMENT VEHICLE or POOLED VEHICLE:** Means any investment company as defined in section 3(a) of the Investment Company Act of 1940 or any company that would be an investment company under section 3(a) of that Act but for the exclusion provided from that definition by either section 3(c)(1) or section 3(c)(7) or section 3(c)(11) of that Act.

**PRIVATE INVESTMENTS IN PUBLIC COMPANIES:** From time to time, a public company may issue its securities in a non-public transaction in reliance on an exemption from the registration requirements of the Securities Act of 1933 (the "1933 Act"). At the time that the issuer sells the unregistered securities, the issuer may commit to register the securities with the SEC, so that the securities may be resold to the public at a later date. The issuer may commit to register the securities by signing a registration rights agreement, which requires the issuer to file a shelf registration statement with the SEC within a specified number of days after the initial sale of the unregistered securities is completed.

**REAL ESTATE INVESTMENT TRUSTS ("REITs"):** REITs generally are trusts that sell securities to investors and use the proceeds to invest in real estate, real estate-related loans, or interests in real estate. A REIT may focus on a particular project, such as apartment complexes, or a geographic region, or both. REITs are sometimes informally characterized as equity REITs, mortgage REITs, or a combination of equity REITs and mortgage REITs. Equity REITs invest most of their assets directly in real estate property and derive income primarily from the collection of rents. Equity REITs can also realize capital gains by selling properties that have appreciated in value. Mortgage REITs invest most of their assets in real estate mortgages and derive income from interest payments.

Equity REITs may be subject to certain risks associated with the direct ownership of real estate and with the real estate industry in general, including (among others) declines in the value of real estate; extended vacancies of properties; risks related to general and local economic conditions; overbuilding and increased competition; changes in zoning laws; increases in property taxes and operating expenses; costs resulting from the clean-up of, and liability to third parties for damages resulting from, environmental problems; casualty or condemnation losses; uninsured damages from floods, earthquakes or other natural disasters; as well as limitations on and variations in rental income. Mortgage REITs may be subject to risks similar to mortgage-backed securities, notably prepayment risk, default risk, and volatility associated with changes in interest rates and economic conditions.

**RESTRICTED SECURITIES:** Restricted securities generally include securities acquired in a non-public offering that are not registered under the Securities Act of 1933. Rule 144A securities are restricted securities, which while privately placed, are eligible for purchase and sale under Rule 144A under the 1933 Act. This rule permits certain qualified institutional buyers, such as the Funds, to trade in privately placed securities even though such securities are not registered under the 1933 Act. These securities may be sold only in privately negotiated transactions or in a public offering with respect to which a registration statement is in effect under the 1933 Act. Where registration is required a Fund may be obligated to pay all or part of the registration expenses, and a considerable period may elapse between the time of the decision to sell and the time the Fund may be permitted to sell a security under an effective registration statement. If, during such a period, adverse market conditions were to develop, the Fund might obtain a less favorable price than prevailed when it decided to sell. Section 4(2) commercial paper is another type of restricted security that does not meet the requirements of the registration exemption provisions of Section 3(a)(3) of the 1933 Act and that may only be resold by a portfolio in certain private placements or in accordance with Rule 144A.

Certain restricted securities and municipal lease obligations (defined below) that are presumed to be illiquid may be treated as liquid if it is determined that there is a “readily available market” for such security under these procedures. A municipal lease obligation is an obligation in the form of a lease or installment purchase which is issued by a state or local government to acquire equipment and facilities. Leases and installment purchase or conditional sale contracts (which normally provide for title to the leased asset to pass eventually to the governmental issuer) have evolved as a means for governmental issuers to acquire property and equipment without meeting the constitutional and statutory requirements for the issuance of debt.

**RIGHTS AND WARRANTS:** Rights are typically short-term obligations issued in conjunction with new stock issuances. Warrants give the holder the right to buy an issuer’s securities at a stated price for a stated period of time.

**SECURITIES LENDING:** Certain Funds may engage in one or more securities lending programs conducted by the Funds’ custodian as securities lending agent or other entities in an effort to generate additional income. In the securities lending program, the Funds’ custodian is authorized to lend Fund portfolio securities to third parties pursuant to contracts calling for collateral in cash or other forms accepted by the Funds at least equal to the market value of the securities loaned. All securities loaned are marked to market daily in U.S. dollars and collateral is received and released accordingly on the following day to achieve the required collateralization for the previous day’s market value. The Funds receive dividends, distributions and interest on the loaned securities. The Funds also retain all or a portion of the interest received on investment of the cash collateral or receive fees from the borrowers. A Fund may terminate a loan at any time and generally will receive the securities loaned within the normal settlement period for the security involved. However, there are risks of delay in recovery or even loss of rights in collateral in the event of default or insolvency of the borrower. A Fund may not retain voting rights on securities while they are on loan. Voting rights on the loaned securities may pass to the borrower. The Funds, however, are entitled to terminate or recall the loans to vote proxies or otherwise obtain rights to vote or consent with respect to a material event.

A Fund will be indemnified by its custodian for securities lending programs conducted through the custodian if at the time of a default by a borrower some or all of the loaned securities have not been returned by the borrower. The custodian, as soon as practicable after the time of default, will deposit in the Funds’ account securities of the same number, issue, type, class, and series of the unreturned loaned securities. If the custodian is unable to purchase replacement securities, it will credit to the Funds’ account an amount equal to the market value of the unreturned loaned securities.

**TIME DEPOSITS:** A time deposit is a non-negotiable receipt issued by a bank in exchange for the deposit of funds. Like a certificate of deposit, it earns a specified rate of interest over a definite period of time; however, it cannot be traded in the secondary market.

**U.S. GOVERNMENT SECURITIES:** Examples of types of U.S. Government securities in which a Fund may invest include U.S. Treasury obligations and the obligations of U.S. Government agencies or U.S. Government sponsored entities such as Federal Home Loan Banks, Federal Farm Credit Banks, Federal Land Banks, the Federal Housing Administration, Farmers Home Administration, Export-Import Bank of the United States, Small Business Administration, Fannie Mae, Ginnie Mae, General Services Administration, Central Bank for Cooperatives, Freddie Mac, Federal Intermediate Credit Banks, Maritime Administration, and other similar agencies. Whether backed by the full faith and credit of the U.S. Treasury or not, U.S. Government securities are not guaranteed against price movements due to fluctuating interest rates.

**U.S. Treasury Obligations** - U.S. Treasury obligations consist of bills, notes and bonds issued by the U.S. Treasury and separately traded interest and principal component parts of such obligations that are transferable through the federal book-entry system known as Separately Traded Registered Interest and Principal Securities (“STRIPS”) and Treasury Receipts (“TRs”).

**U.S. Government Zero Coupon Securities** - STRIPS and TRs are sold as zero coupon securities, that is, fixed income securities that have been stripped of their unmatured interest coupons. Zero coupon securities are sold at a (usually substantial) discount and redeemed at face value at their maturity date without interim cash payments of interest or principal. The amount of this discount is accreted over the life of the security, and the accretion constitutes the income earned on the security for both accounting and tax purposes. Because of these features, the market prices of zero coupon securities are generally more volatile than the market prices of securities that have similar maturity but that pay interest



periodically. Zero coupon securities are likely to respond to a greater degree to interest rate changes than are non-zero coupon securities with similar maturity and credit qualities.

**U.S. Government Agency Securities** - Some obligations issued or guaranteed by agencies of the U.S. Government are supported by the full faith and credit of the U.S. Treasury (e.g., Treasury bills, notes and bonds, and securities guaranteed by Ginnie Mae), others are supported by the right of the issuer to borrow from the Treasury (e.g., Federal Home Loan Banks), while still others are supported only by the credit of the instrumentality (e.g., Fannie Mae). Guarantees of principal by agencies or instrumentalities of the U.S. Government may be a guarantee of payment at the maturity of the obligation so that in the event of a default prior to maturity there might not be a market and thus no means of realizing on the obligation prior to maturity. Guarantees as to the timely payment of principal and interest do not extend to the value or yield of these securities or to the value of a Fund's shares.

**VARIABLE AND FLOATING RATE SECURITIES:** Variable and floating rate securities provide for adjustment in the interest rate paid on the obligations. The terms of such obligations typically provide that interest rates are adjusted based upon an interest or market rate adjustment as provided in the respective obligations, meaning that they bear interest at rates which are not fixed, but which vary with changes in specified market rates or indices. The adjustment intervals may be regular, and range from daily up to annually, or may be event-based, such as based on a change in the prime rate. Variable rate obligations typically provide for a specified periodic adjustment in the interest rate, while floating rate obligations typically have an interest rate which changes whenever there is a change in the external interest or market rate.

There is a risk that the current interest rate on variable and floating rate securities may not accurately reflect existing market interest rates. These securities may also involve conditional or unconditional demand features. A security with a demand feature that requires a notice period exceeding seven days may be considered illiquid if there is no secondary market for such security.

**WHEN-ISSUED SECURITIES:** Securities may be purchased on a when-issued basis. The purchase price and the interest rate payable, if any, on the securities are fixed on the purchase commitment date or at the time the settlement date is fixed. The value of the securities is subject to market fluctuation beginning on the purchase commitment date. Typically, no income accrues on securities that a Fund has committed to purchase prior to the time delivery of the securities is made, although the Fund may earn income on securities it has segregated to cover these positions.

**YANKEE BONDS AND EURODOLLAR INSTRUMENTS:** Yankee bonds are foreign fixed income securities denominated in U.S. dollars and issued in the United States by foreign banks and corporations. These fixed income securities are usually registered with the SEC. The risks of investing in Yankee bonds include interest rate and credit risk as well as foreign securities risk. Eurodollar instruments are fixed income securities issued by foreign corporations and governments that pay interest and principal in U.S. dollars. These instruments are generally held in banks outside the U.S., often in Europe.

**FUND FACTS**

Inception Date.....	<b>October 11, 2013</b>
Gross Expenses .....	<b>0.53%</b>
Net Expenses .....	<b>0.53%</b>
Fund Net Assets .....	<b>\$11.1 Billion</b>
Credit Quality (M/S&P/F) <sup>1</sup> .....	<b>Aa3/AA-/AA</b>
Effective Duration <sup>2</sup> .....	<b>3.13</b>
Market-to-Book Value Ratio .....	<b>102.22%</b>
CUSIP .....	<b>922081J709</b>

<sup>1</sup> Credit Quality is calculated by ICMA-RC and is only one factor that may be considered in assessing the risks of a fixed income portfolio, and it does not provide a complete picture of the credit risks or the dispersion of those risks within a portfolio. ICMA-RC calculates the average based on the Moody's, S&P, Fitch (M/S&P/F) or a combination of the three credit ratings of the underlying securities or wrap providers. Moody's, S&P, and Fitch are Nationally Recognized Statistical Rating Organizations and are not affiliated with ICMA-RC.

<sup>2</sup> Effective duration measures the interest rate sensitivity of the underlying portfolio. For the portion of the Fund invested in Traditional GICs, effective duration is not applicable and a duration of zero is assigned since their current values are not impacted by interest rate changes. If a duration based on weighted average maturity or cash flows is assigned to the Traditional GICs, the Fund's overall March 31, 2021 duration would be 3.71.

**INVESTMENT OBJECTIVE**

The PLUS Fund's investment objective is to seek to offer a competitive level of income consistent with providing capital preservation and meeting liquidity needs. Key goals are to seek to preserve capital, by limiting the risk of loss of principal and delivering stable returns, and to meet the liquidity needs of those who invest in the PLUS Fund.

**PRINCIPAL INVESTMENT STRATEGIES**

Vantagepoint Investment Advisers, LLC employs a structured, multi-product, multi-manager approach in managing the Fund. The Fund invests primarily in a diversified and tiered portfolio of stable value investment contracts and in fixed income securities, fixed income mutual funds, and fixed income commingled trust funds ("fixed income assets") that back certain stable value investment contracts. In addition, the Fund invests in money market mutual funds, as well as cash and cash equivalents. The Fund's portfolio may include different types of investments with a variety of negotiated terms and maturities and is diversified across sectors and issuers. The composition of the Fund's portfolio and its allocations to various stable value investments and fixed income investment sectors, across the fund's multiple tiers, is determined based on prevailing economic and capital market conditions, relative value analysis, liquidity needs, and other factors. The Fund invests in stable value investment contracts to seek to achieve, over the long run, returns higher than those of money market funds and short-term bank rates and relatively stable returns compared to short-to-intermediate term fixed income funds. The Fund generally will not track shorter-term interest rates as closely as money market mutual funds, because of its longer maturity, potential adverse market changes, and provisions in stable value contracts held by the Fund. In addition, while the Fund's returns are generally expected to follow interest rate trends over time, they typically will do so on a lagged basis.

**PERFORMANCE**

	CREDITING RATE % <sup>3</sup>	PERFORMANCE %			
		1 YEAR	3 YEARS	5 YEARS	10 YEARS
Vantagepoint PLUS Fund R10	1.95	2.12	2.30	2.21	2.30
ICE BofA US 3 Month Treasury Bill Index	—	0.12	1.49	1.19	0.63

Fund past performance, as shown, is no guarantee of how the Fund will perform in the future. The performance shown has been annualized for periods greater than one year. Investment returns and principal value will fluctuate, so that an investor's shares, when redeemed, may be worth more or less than their original cost. For current performance, participants or plan sponsors in an ICMA-RC administered account can log in at [www.icmarc.org](http://www.icmarc.org), or institutions can go to [www.vantagepointfunds.org](http://www.vantagepointfunds.org).

The Intercontinental Exchange Bank of America ("ICE BofA") US Treasury Bill 3 Month Index is comprised of a single U.S. Treasury Bill issue purchased at the beginning of each month and held for a full month, at which time that issue is sold and rolled into a newly selected issue. The issue selected each month is that having a maturity date closest to, but not beyond 90 days from the rebalance date.

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ICMA-RC and your employer may negotiate a different fund management or service fee for your Plan that would lower the total expense ratio. The performance and total expense ratio shown do not reflect any such alternative fee arrangements.

Performance information for this class prior to its inception date is the performance of the Fund adjusted to reflect the estimated fees and expenses of this class.

<sup>3</sup>Annualized crediting rate for the last day of the month.

**STRUCTURE**

Tier 1 - Cash Buffer	6.8%
Tier 2 - Shorter Duration Focus	8.9%
Tier 3 - Laddered Maturity Focus	20.8%
Tier 4 - Total Return Focus	63.5%

**CREDIT QUALITY ALLOCATION**

AAA/Aaa	50.3%
AA/Aa	21.8%
A	14.7%
BBB/Baa	10.9%
Below Baa	2.3%

**SECTOR ALLOCATION**

Traditional GICs	20.8%
Treasuries	13.8%
Agencies	1.9%
Other	0.1%
Credits	28.9%
Mortgage-Backed	25.9%
Asset-Backed	6.0%
Cash & Cash Equivalents	4.3%
Municipals	0.7%
Wrap Providers	-2.2%

**MATURITY ALLOCATION**

<= 30 Days	-0.2%
31 - 90 Days	9.0%
91 - 180 Days	2.9%
180 Days - 1 Year	5.9%
1 - 2 Years	9.4%
2 - 3 Years	10.5%
3 - 5 Years	29.9%
5 - 7 Years	18.5%
7 - 10 Years	10.2%
10+ Years	3.9%

## PORTFOLIO MANAGEMENT

**Investment Adviser:** Vantagepoint Investment Advisers

**Adviser Portfolio Manager(s):**

Karen Chong-Wulff, CFA, CAIA, Managing Vice President, Managed Fund Since 2007

Xin Zhou, CFA, FRM, Director, Senior Fund Manager, Managed Fund Since 2017

Wayne Wicker, CFA, Senior Vice President and Chief Investment Officer, Managed Fund Since 2004

## PRINCIPAL RISKS

Stable Value Risk, Interest Rate Risk, Credit Risk, Stable Value Issuer Risk, Liquidity Risk, Reinvestment Risk, Call Risk, Mortgage-Backed Securities Risk, Asset-Backed Securities Risk, Securities Lending Risk, Derivative Instruments Risk, Large Investor Risk.

See the Funds' Disclosure Memorandum for risk descriptions.

## ADDITIONAL INFORMATION ABOUT THE PLUS FUND

**Goals:** Key goals are to seek to preserve capital, by limiting the risk of loss of principal and delivering stable returns, and to meet the liquidity needs of those who invest in the PLUS Fund.

**Crediting Rate:** The PLUS Fund crediting rate is calculated daily. The crediting rate shown is the annualized rate as of the last day of the reported period. The PLUS Fund crediting rate is calculated by taking into account current yields on the Fund's holdings and prior period performance of certain holdings in the Fund. The Fund's crediting rate is generally expected to follow interest rate trends over time, but will typically do so on a lagged basis and may not move in the same direction as prevailing interest rates over certain time periods.

**Fund Information:** The Fund is an investment option of VantageTrust, a group trust established and maintained by VantageTrust Company, LLC, a wholly owned subsidiary of ICMA-RC. VantageTrust provides for the commingling of assets of certain trusts and plans as described in its Declaration of Trust, and is only available for investment by such eligible trusts and plans. The Fund is not a mutual fund. Its units are not deposits of VantageTrust Company and are not insured by the Federal Deposit Insurance Corporation or any other agency. The Fund is a security that has not been registered under the Securities Act of 1933 and is exempt from investment company registration under the Investment Company Act of 1940. For additional information regarding the Fund, including a description of the principal risks, please consult the VantageTrust Funds Disclosure Memorandum, which is available when plan administration clients log in at [www.icmarc.org](http://www.icmarc.org), at [www.vantagepointfunds.org](http://www.vantagepointfunds.org) for institutions, or upon request by calling 800-669-7400.

When Funds are marketed to institutional clients by our Investment Only team, the Funds are offered by ICMA-RC Services, LLC (RC Services), an SEC registered broker-dealer and FINRA member firm. RC Services is a wholly-owned subsidiary of ICMA-RC and is an affiliate of VantageTrust Company, LLC and Vantagepoint Investment Advisers, LLC.

Before investing in the Fund you should carefully consider your investment goals, tolerance for risk, investment time horizon, and personal circumstances. There is no guarantee that the Fund will meet its investment objective and you can lose money.

**Transfer Restrictions:** Direct transfers from the PLUS Fund to competing funds are restricted. Competing funds include, but are not limited to, the following types of investment options: (1) cash management funds, money market mutual funds, bank collective short-term investment funds, bank accounts or certificates of deposit, stable value funds or substantially similar investment options that offer guarantees of principal or income, such as guaranteed annuity contracts or similar arrangements with financial institutions; (2) short-term bond funds that invest in fixed income securities and seek to maintain or have an average portfolio duration of less than two years; and (3) any investment option that invests 80% or more of its assets in (i) fixed income securities or funds with a duration of less than two years, or (ii) instruments that seek to provide capital preservation such as stable value funds, bank certificates of deposit or bank accounts, and cash or cash equivalents. To transfer money from the PLUS Fund to a competing fund, you must first transfer the amount to a non-competing fund for a period of at least 90 days. For example, if you want to transfer money from the PLUS Fund to a money market fund, you will first need to transfer the money to a non-competing fund and then, 90 days later or any time thereafter, transfer that amount of money to the money market fund.

**Additional Information About Restrictions on PLUS Fund Public Employer Withdrawals and Transfer Restrictions:** In the event an Employer initiates withdrawal of all or part of its Plan's assets from the PLUS Fund, the payout of such assets may be deferred for a period of up to twelve months. In the case of a total withdrawal, participant transfers of PLUS Fund assets to other investment options will be restricted and participants will not be able to make additional investments in the PLUS Fund during this twelve-month period.

# LYNX Board Agenda

## Action Agenda Item #7.A

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Michelle Daley  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Approval of the FY2022 Proposed Operating and Capital Budgets

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

LYNX Staff is requesting the Board of Directors to adopt the FY2022 Operating and Capital Budgets as presented.

### **BACKGROUND:**

On March 11, 2021, staff presented a Preliminary Operating budget to LYNX Finance and Audit Committee for discussion and input. On April 15, 2021 LYNX staff presented a revised FY2021 Preliminary Operating Budget to the Finance and Audit Committee for approval to present to the oversight committee in April. LYNX staff presented the Preliminary Operating budget to the LYNX Oversight Committee on April 22, 2021.

The following are the overall key assumptions in developing the operating budget:

- Maintain 2021 level of service
- Continue Paratransit cost containment strategies
- Maintain the total Local Partner Funding at FY2021 levels
- Maintain and replace the current fleet as necessary
- Maximize the use of Federal Stimulus funding
- Maintain COVID Protocols as provided by the CDC

The FY2022 Proposed Operating Budget totals \$175,022,663 in revenues and \$175,022,663 in expenses. The Proposed Operating Budget is funded by a combination of LYNX - generated revenue and federal, state and local dollars. These funds are used to fund personnel expenses, services, materials, supplies, taxes, utilities, casualty and liability expenses, purchased

# LYNX Board Agenda

transportation expenses, leases and miscellaneous expenses. Specifically, this budget includes funds from the following sources:

	PROPOSED FY2022 Budget
<b>REVENUES</b>	
Customer fares	\$ 18,480,166
Contract services	5,739,863
Advertising	3,550,000
Interest & Other income	790,900
Federal Revenue	8,310,944
State Revenue	13,691,519
Local Revenue	9,037,152
Local Revenue Funding Partner	71,422,119
CARES/CRRSA/ARP Funding	44,000,000
<b>TOTAL REVENUE</b>	<b>\$ 175,022,663</b>

The funds are programmed to fund the following types of expenses:

	PROPOSED FY2022 Budget
<b>EXPENSE</b>	
Salaries, Wages & Fringe Benefits	\$ 88,144,812
Other services	12,997,815
Fuel	12,158,746
Materials and supplies	9,630,955
Utilities	1,717,676
Casualty & Liability	3,189,832
Taxes and licenses	598,048
Purchased transportation services	31,468,965
Leases & Miscellaneous	1,670,104
Transfer to Reserves	13,445,710
<b>TOTAL EXPENSE</b>	<b>\$ 175,022,663</b>

With the financial challenges from COVID-19, and the award of Federal CARES, CRRSA and the American Rescue plan (ARP) funding to LYNX, the partner local funding will be kept in total at the FY2021 Contribution level. LYNX will utilize the regional funding model to allocate each jurisdiction's share of the costs of operations in FY2022.

# LYNX Board Agenda

The following chart shows the local funding breakdown:

	<u>Orange County</u>	<u>Osceola County</u>	<u>Seminole County</u>	<u>TOTAL</u>
Operating	\$ 52,805,637	\$ 9,482,620	\$ 9,133,862	\$ 71,422,119
Capital	<u>1,784,602</u>	<u>251,570</u>	<u>227,473</u>	<u>2,263,645</u>
Total	<u>\$ 54,590,239</u>	<u>\$ 9,734,190</u>	<u>\$ 9,361,335</u>	<u>\$ 73,685,764</u>

At the May 20, 2021 Finance and Audit Committee meeting, staff presented the FY2022 Preliminary Capital Budget in the total amount of \$86,467,311. Staff presented to the Oversight Committee meeting on May 27, 2021. Since then, we held a capital meeting with all departments to reviewed the status of projects programed for FY2021.

LYNX staff will present the revised FY2022 Capital Budget in the amount of \$86,642,311. This is an increase of \$175,000 from the preliminary budget presented. The addition is in the support vehicle category.

The capital budget is funded from a combination of federal, state and local sources, and includes items such as the planned purchase of replacement buses and vans, bus shelters, and the use of technology to assist in service delivery and improvements. The majority of the capital budget is funded through federal grants, the remainder comes from state and local sources.

The table below identifies capital expenditures by program:

	<b>Proposed FY22 Budget</b>
Vehicles	\$43,725,086
Facilities	18,644,575
Passenger Amenities	17,184,145
Support	2,235,618
Technology	1,998,500
Security	1,754,387
LYMMO	1,100,000
<b>Grand Total</b>	<b><u>\$86,642,311</u></b>

# LYNX Board Agenda

The following are the details of each category:

- 1) Vehicles: include expansion and replacement vehicles for fixed-route, vanpool, paratransit services and support vehicles.
  - 1) (50) 40 Ft CNG Buses (25 - Carryover from FY2021)
  - 2) (6) 35 Ft Electric Buses (All Carryover from FY2021)
  - 3) (15) Paratransit Replacement Vehicles (Carryover from FY2021)
  - 4) (12) Paratransit Expansion Vehicles
  - 5) Sub-recipient 5310 Vehicles
  - 6) Road Ranger, Vanpool and Support vehicles
- 2) Support equipment: includes maintenance equipment, road ranger equipment, marketing equipment and other equipment.
- 3) Passenger amenities: include shelter installations, and Superstop construction.
  - 1) Pine Hills Superstop
  - 2) Rosemont Superstop
  - 3) Florida Mall Superstop
  - 4) New and Rehab Shelters in the system (210)
- 4) Facilities: include funds to complete the LOC expansion; site selection for the southern operations facility and other facility improvements.
- 5) Technology: includes items to improve communication and information delivery, software enhancement for paratransit, network improvements, server replacements, software upgrades, and hardware upgrades.
- 6) Security: includes equipment to enhance security and surveillance at LYNX, security gate installations at several locations and camera system upgrades on paratransit and NeighborLink fleet.

# LYNX Board Agenda

## Action Agenda Item #7.B

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Michelle Daley  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Enter into the FY2022 Service Funding Agreements with the Regional Funding Partners

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to enter into funding agreements with the Regional Funding Partners listed below for the provision of public transportation services corresponding with its respective funding contribution for the Fiscal Year 2022 Budget.

To the extent there are any changes to the funding agreements, LYNX staff will negotiate those changes through an amendment to the addendum. This will allow the Chief Executive Officer or designee to enter into those funding agreements without further Board approval.

### **BACKGROUND:**

The Counties of Orange, Osceola and Seminole (hereinafter, the Regional Funding Partners) all recognize the need to provide public transportation services in an efficient manner and acknowledge the benefits of increased ridership on the regional public transportation system.

LYNX and the Regional Funding Partners desire to formally enter into service funding agreements to establish the most prudent utilization of resources and to target service improvements based upon traffic, levels of service, transit operations, and customer demand considerations.

The services and enhancements, which will be made and approved in this agreement, are in conformance with the LYNX Transportation Development Program (TDP).



# LYNX Board Agenda

The funding partner agreement for FY2022 contains the following:

- a) A uniform funding agreement for all funding partners.
- b) A provision that allows for continued monthly or quarterly payments by the funding partners subsequent to the end of each fiscal year.
- c) An “addendum” to the contract that will provide for particular or unique requirements by the various funding partners.

A copy of the proposed service funding agreement that will be entered into between LYNX and each of the Regional Funding Partners for Fiscal Year 2022 is attached. The proposed addendums for each of the partners is also attached. Authorization is requested from the Board for LYNX staff to complete the funding agreement with each funding partner, including completion of the exhibits and addenda incorporating all edits agreed upon by all funding partners. This will permit the funding agreements to be executed more quickly after the beginning of LYNX’s fiscal year. Changes will be permitted to the funding agreement by way of changes to the addendum provided that said changes are not materially adverse to LYNX.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

Please reference the following **Exhibit “C”**, which is included in each of the Regional Funding Partners’ Agreements.

# LYNX Board Agenda

Exhibit C

	FY2022 Funding Model Amount	Additional Capital *	FY2022 Funding Agreement
<u>Operating Funding</u>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
Subtotal	<u>\$ 71,422,119</u>	<u>\$ -</u>	<u>\$ 71,422,119</u>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
Subtotal	<u>\$ 9,037,152</u>	<u>\$ 1,168,824</u>	<u>\$ 10,205,976</u>
Subtotal Operating Funding	<u>\$ 80,459,271</u>	<u>\$ 1,168,824</u>	<u>\$ 81,628,095</u>
<u>Capital Contributions</u>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
Subtotal	<u>\$ 2,263,645</u>	<u>\$ -</u>	<u>\$ 2,263,645</u>
Total Local Funds	<u><u>\$ 82,722,916</u></u>	<u><u>\$ 1,168,824</u></u>	<u><u>\$ 83,891,740</u></u>

\*Local match towards vehicle replacement.

**Service Funding Agreement  
by and between  
Orange County, Florida  
and  
Central Florida Regional Transportation Authority**

DRAFT

**THIS SERVICE FUNDING AGREEMENT (“Agreement”)** is made and entered into by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, whose principal address is Post Office Box 1393, Orlando, Florida 32802-1393 (hereinafter the “**Funding Partner**”), and the **CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**, a body politic and corporate created pursuant to Part III, Chapter 343, Florida Statutes, whose principal address is 455 North Garland Avenue, Orlando, Florida 32801 (hereinafter “**LYNX**”).

**WITNESSETH**

**WHEREAS**, Part II, Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), provides, *inter alia*, that specific public facilities and services must be available concurrently with the impacts of development; and

**WHEREAS**, the Funding Partner recognizes the need to provide Public Transportation (as hereinafter defined) in an efficient manner and acknowledges the benefits of increased ridership on the regional transportation system; and

**WHEREAS**, increasing traffic congestion and continued population growth require mass transit service improvements; and

**WHEREAS**, reliable and convenient mass transit service offers a viable alternative to private automobile travel; and

**WHEREAS**, the Funding Partner recognizes the need to maintain and improve transit services; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the authority to own, operate, maintain, and manage a Public Transportation system in the area of Orange, Seminole and Osceola Counties; and

**WHEREAS**, LYNX currently provides mass transit services within the geographical limits of the Funding Partner; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the right to contract with other governmental entities, including the Funding Partner, and has the right to accept funds from such other governmental entities; and

**WHEREAS**, the Funding Partner and LYNX entered into an Interlocal Agreement for Public Transit Services dated as of November 10, 2020 (the “**Prior Fiscal Year Funding Agreement**”) pursuant to which the Funding Partner agreed to appropriate funds to LYNX for

fiscal year from October 1, 2020 to September 30, 2021 to support LYNX Public Transportation services within the Service Area (as hereinafter defined); and

**WHEREAS**, the term of the Prior Fiscal Year Funding Agreement ended on September 30, 2021; and

**WHEREAS**, the Funding Partner has budgeted funds for the fiscal year beginning on October 1, 2021 and ending on September 30, 2022 ("**Fiscal Year**") to support LYNX's Public Transportation services for such fiscal year; and

**WHEREAS**, LYNX and the Funding Partner wish to acknowledge that appropriate methodology has been used to determine the recommended level of funding by each Funding Partner; and

**WHEREAS**, at present, LYNX and the Funding Partner acknowledge that the funds provided by the Funding Partner to LYNX are used as the Funding Partner's support of the regional Public Transportation System only within the Service Area (as hereinafter defined).

**NOW, THEREFORE**, in and for consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the Funding Partner and LYNX agree as follows:

1. **Recitals.** The Funding Partner and LYNX hereby declare that the Recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **Definitions.** The following capitalized terms shall have the following meanings:

**"Access LYNX"** means LYNX's van transit service for medically-qualified, physically challenged transit customers.

**"ADA"** means the Americans with Disabilities Act of 1990.

**"Agreement"** means this Service Funding Agreement and its Exhibits and Addenda.

**"Appropriated Amount"** means the amount to be paid to LYNX by the Funding Partner for the Current Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder, as set forth in Paragraph 3 hereof.

**"Current Fiscal Year"** shall mean the fiscal year beginning on October 1, 2021 and ending on September 30, 2022.

**"Deadhead Hours"** means the vehicle hours of operation incurred in non-Revenue Service in support of Revenue Service (i.e., hours from the garage to the beginning of a route).

**"Deadhead Miles"** means the vehicle miles incurred in non-Revenue Service in support of Revenue Service (i.e., miles from the garage to the beginning of a route).

**"Demand Response Service" or "NeighborLink"** means service provided in response to passenger requests made in advance to LYNX, which then dispatches a vehicle to pick up the

passengers and transport them to their destinations or to a fixed-route transfer point within a designated demand response service area.

“**Fiscal Year**” or “**Current Fiscal Year**” means the twelve (12) month period commencing October 1, 2021 and ending the following September 30, 2022.

“**Fixed-Route Service**” means service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations. Unlike demand response service, Fixed-Route Service services the same origins and destinations. Fixed-Route Service includes route deviation service, where revenue vehicles deviate from fixed-routes on a discretionary basis.

“**FDOT**” means the Florida Department of Transportation.

“**FTA**” means the Federal Transit Association.

“**New Appropriated Amount**” means the amount that is approved or appropriated by the Funding Partner for the Next Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder for the Next Fiscal Year, as set forth in Paragraph 3 below.

“**Next Fiscal Year**” means the twelve (12) month period immediately following the Current Fiscal Year, and is the period commencing October 1, 2022 and ending the following September 30, 2023.

“**Operating Expenses**” mean the expenses associated with the operations of LYNX, and which are classified by function or activity.

“**Passenger Fares**” means the revenue earned from carrying passengers in regularly scheduled service. Passenger Fares include the base fare, distance premiums, express service premiums, transfers and quantity purchased discount fares (i.e., daily, seven-day, thirty-day, student, senior, etc. tickets and passes).

“**Passenger Trips**” means the number of fare-paying individuals who ride LYNX’s buses in any given period with each individual being counted once per boarding.

“**Public Transportation**” means transportation by a conveyance (e.g., by bus or van) that provides regular and continuing general or special transportation to the public, but does not include light rail. “Special transportation” includes transportation services being provided to the public pursuant to the ADA.

“**Revenue Hours**” means the hours a vehicle travels while in Revenue Service, which excludes Deadhead Hours.

“**Revenue Miles**” means the miles a vehicle travels while in Revenue Service, which excludes Deadhead Miles.

“**Revenue Service**” means the portion of the trip and/or period of time when a vehicle is available to board and alight fare-paying transit passengers.

“**Service Area**” means generally the geographic area of the Fixed-Route Service, as the case may be, described and set forth in **Exhibit “A”** attached hereto.

3. **Funding Partner Obligations.**

(a) **Current Fiscal Year.**

(i) The Funding Partner agrees to appropriate the amount specified on **Exhibit “B”** attached hereto (the “**Appropriated Amount**”) to LYNX for the Fiscal Year for the provision of Public Transportation within the Service Area.

(ii) The Appropriated Amount shall be paid by the Funding Partner to LYNX in twelve (12) equal monthly installments, with each installment being due on the first day of each month. The first installment payment shall be due upon the later of (x) October 1, 2021 or (y) thirty (30) days after the execution date of this Agreement; and any other installment payments which would be due prior to the execution date of this Agreement shall also be paid within thirty (30) days after the execution date of this Agreement.

(iii) In the event that the Appropriated Amount is less than the amount suggested by the Funding Model to fully fund the agreed upon service level in the Funding Partner’s Service Area, or in the event that the Appropriated Amount is less than the actual cost to fully fund the agreed upon service level in the Funding Partner’s Service Area, LYNX may, at its discretion, (x) utilize reserves to fund the difference and continue to provide the requested service level, or (y) reduce the service level in the Funding Partner’s Service Area to a level equivalent to the Appropriated Amount. However, in the event clause (x) is applicable, then the Funding Partner will promptly pay said difference to LYNX within thirty (30) days after the execution date of this Agreement.

(iv) In regard to Paragraph 3(a)(ii), above, for each monthly installment, LYNX will invoice the Funding Partner on a monthly basis and said amount shall be paid within thirty (30) days after the receipt by the Funding Partner of said invoice. However, in regard to any monthly installments that remain unpaid prior to the execution of this Agreement, those unpaid monthly installments (for which LYNX will furnish the Funding Partner invoices) will be paid within thirty (30) days after the execution date of the Agreement.

(b) **Next Fiscal Year.** If, prior to the termination date of this Agreement (as set forth in Paragraph 20 below), the Funding Partner and LYNX have not reached a written agreement setting forth an appropriation to LYNX for the Next Fiscal Year, then, notwithstanding the expiration of this Agreement at the end of the Current Fiscal Year and in order to continue the Public Transportation after said expiration, the Funding Partner shall continue to pay LYNX for the Next Fiscal Year the amount set forth below:

(i) The amount to be paid shall be the Appropriated Amount for the Current Fiscal Year. This Appropriated Amount for the Current Fiscal Year (the “**Post-Termination Payment**”) shall be paid as provided herein.

(ii) LYNX will prepare and submit invoices for the Post Termination Payments and the Funding Partner will make such Post-Termination Payments within thirty (30) days after its receipt of such invoices from LYNX.

(iii) The Post Termination Payment shall be paid in equal monthly installments due on the first day of each month commencing October 1, 2022 until the earliest to occur of the following: (x) LYNX and the Funding Partner reach a written agreement setting forth a different appropriation for the Next Fiscal Year; (y) one hundred twenty (120) days following the date that the Funding Partner, through action taken by its governing board, notifies LYNX in writing that it wishes to terminate this Agreement and no longer receives from LYNX the Public Transportation services provided herein; or (z) the date that LYNX actually discontinues the Public Transportation services to the Funding Partner, at which time this Agreement and specifically the provisions of this Subparagraph 3(b) will no longer be applicable. LYNX may, within its discretion, reduce, eliminate or discontinue the provision of Public Transportation services to the Funding Partner immediately upon providing the Funding Partner with written notice of same. If this Subparagraph 3(b) is applicable, the parties will reconcile the difference between the amount that was paid by the Funding Partner and the amount that has been agreed upon for the Next Fiscal Year in the first month following the earliest of the occurrences set forth above.

(iv) If a written agreement for the Next Fiscal Year is not entered into between LYNX and the Funding Partner by November 30 of the Next Fiscal Year, then, in that event, LYNX will undertake the necessary procedure for the discontinuation of the service which process takes approximately one hundred and twenty (120) days. If a new Funding Agreement for the Next Fiscal Year is not entered into by January 31 of the Next Fiscal Year, then LYNX may discontinue the service in accordance with its policies and the Funding Partner will in any event pay for any service provided for the Next Fiscal Year, including any service that may be provided of necessity by LYNX after January 31 in accordance with its procedures.

(c) Notwithstanding anything to the contrary set forth herein, the payment of all amounts due to LYNX hereunder shall be made in compliance with the Florida Prompt Payment Act, codified at Sections 218.70 to 218.80, Florida Statutes.

#### 4. **LYNX Obligations.**

(a) **Service.** LYNX agrees to provide Public Transportation within the Service Area during the Fiscal Year. LYNX shall request written approval from the Funding Partner prior to implementing any of the following changes which may result in a greater than two percent (2%) increase or decrease of Fixed-Route Service hours within the Service Area (as computed on an annual basis), which written approval shall not be unreasonably withheld or delayed:

- (i) Addition of route(s).
- (ii) Elimination of route(s).

- (iii) Combination of routes.
- (iv) Changes to service span.
- (v) Change to service frequency.
- (vi) Changes in days of operation.

To the extent that there is any increase or decrease of Fixed-Route Service hours greater than two percent (2%) (which would require approval of the Funding Partner), then, in that case, there will be a corresponding increase or decrease in the Appropriated Amount to be paid to LYNX by the Funding Partner from and after said increase or decrease is put into effect.

(b) **Quarterly Reporting.** For the purposes of operations and management analysis, LYNX agrees to provide the Funding Partner quarterly written performance reports reflecting the LYNX operations of the prior quarter. The quarterly reporting periods shall end on December 31, March 31, June 30 and September 30 and said reports shall be submitted to the Funding Partner's Office of Management and Budget and Office of Regional Mobility within forty-five (45) days after the end of each quarter. Each quarterly report will include the following items:

- (i) Maps and schedules for each route operating in the Service Area.
- (ii) Official LYNX monthly ridership reports showing a breakdown of actual aggregate ridership by mode (i.e., Fixed-Route Service, Demand Response Service, LYMMO, Access LYNX, Van Plan and special shuttles).
- (iii) An operational service characteristics report for current services provided, which would include (1) revenue hours, (2) revenue miles, and (3) unlinked passenger trips.
- (iv) A comparison of actual revenue and expenditures to budgeted revenues and expenditures with explanations for variances that are plus or minus 10% and exceed \$50,000.
- (v) A route performance report, which reports and ranks each route which is located in the County for the Funding Partner, monthly based on the following:
  - (A) Subsidy per Passenger Trip.
  - (B) Passengers per trip.
  - (C) Passengers per Revenue Hour.
  - (D) Passengers per Revenue Mile.
  - (E) Percent farebox return (i.e., percent of Operating Expenses



recovered through farebox).

(vi) Current and contemporaneous versions of the LYNX regional model, which is the model used by LYNX to apportion total Operating Expenses, less adjustments, to the Funding Partners based on Fixed-Route Service hours, ADA client trips, and flex-service hours in their service area. The following criteria will be utilized to determine this amount:

- (A) A comparison of scheduled versus actual Revenue Miles.
- (B) A comparison of scheduled versus actual Revenue Hours.
- (C) A schedule of unanticipated extraordinary expenses for the prior quarter.
- (D) A list of changes to authorized staffing.
- (E) A schedule of total training and travel expenditures for each LYNX board member and employee for the immediately preceding quarter. This schedule should specify the training event name, attendee name(s), date(s) of travel and/or training, event location, and total expenses of each trip.

(vii) Funding Model Information. Attached hereto as **Exhibit "C"** is a schedule listing including the following:

- (A) All of LYNX's funding partners;
- (B) The amount of funding required of each funding partner by the Funding Model for the Current Fiscal Year ; and
- (C) The amount each funding partner actually budgeted for the Current Fiscal Year to contribute for the services contemplated in the LYNX Funding Model.
- (D) LYNX shall provide quarterly updates to **Exhibit "C"** by listing the amount each funding partner has paid to LYNX to date.

(viii) The amount of fund balance allocated to reserves.

(ix) Any other information the Funding Partner reasonably requests.

(c) **Additional Reporting.** On an annual basis, within thirty (30) days of receipt, LYNX shall provide the Funding Partner with a copy of all external audits, a copy of the Comprehensive Annual Financial Report, which shall include the Report on Internal Controls, Report on Compliance with Laws and Regulations, and a copy of the management letter.

5. **Independent Contractor.** LYNX expressly acknowledges that it is acting as an independent contractor, and nothing in this Agreement is intended or shall be construed to establish an agency, partnership or joint venture relationship between the parties, their employees, agents, subcontractors, or assigns, during or after performance of this Agreement. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

6. **Amendments.** This Agreement may be amended only through a written document approved by both the Funding Partner's Board of Commissioners and the LYNX Governing Board, and executed by all parties hereto.

7. **Termination of Agreement.**

(a) **For Cause.** If LYNX or the Funding Partner (the "**Breaching Party**") fails to fulfill any material covenant, term or condition of this Agreement, the other party (the "**Non-Breaching Party**") shall give the Breaching Party written notice of such failure or violation. If such failure or violation is not cured within thirty (30) days from the date on which the Breaching Party receives such notice, the Non-Breaching Party may terminate this Agreement, which shall be effective upon thirty (30) days following the Breaching Party's receipt of a written notice from the Non-Breaching Party to that effect or such later date as specified in the notice. In the event the Funding Partner is the Breaching Party, the Funding Partner will nonetheless continue to pay to LYNX for any fixed route service furnished by LYNX up to the actual date that LYNX terminates said fixed route service, taking into account the policies and procedures to be followed by LYNX to terminate bus service generally (but not to exceed one hundred twenty (120) days).

(b) **For Convenience.** Either LYNX or the Funding Partner may terminate this Agreement at any time upon giving notice to that effect. Such termination shall be effective upon one hundred twenty (120) days receipt of written notice of termination from the party desiring to terminate this Agreement or such later date as specified in the notice.

The provisions of this Paragraph 7 are further subject to the provisions of Subparagraph 3(c) above as to the rights of the parties to terminate this Agreement after the end of any fiscal year as provided in said Paragraph 3(c).

8. **Audit.** The Funding Partner (or its lawfully designated designee), shall have the right to audit LYNX's books and records on an annual basis to determine compliance with the terms, conditions and obligations imposed by this Agreement. The Funding Partner shall have full access to all records, documents and information, whether on paper or electronic or other media as is necessary or convenient to perform the audit.

9. **Public Records.** If LYNX has questions regarding the application of Chapter 119, Florida Statutes, to LYNX's duty to provide public records relating to this agreement, contact the funding partner's custodian of public records at:

Orange County Comptroller's Office  
109 E. Church Street, Suite 300  
Orlando, FL 32801  
407-836-5115  
[comptroller@occompt.com](mailto:comptroller@occompt.com)

LYNX understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If LYNX will act on behalf of the Funding Partner, as provided under section 119.011(2), Florida Statutes, LYNX, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

(a) Keep and maintain public records required by the Funding Partner to perform the service.

(b) Upon request from the Funding Partner's custodian of public records, provide the Funding Partner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LYNX does not transfer the records to the Funding Partner.

(d) Subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, upon completion of the contract, transfer, at no cost, to the Funding Partner all public records in possession of the LYNX or keep and maintain public records required by the Funding Partner to perform the service. If LYNX transfers all public records to the Funding Partner upon completion of the contract, LYNX shall, subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LYNX keeps and maintains public records upon completion of the contract, LYNX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Funding Partner, upon request from the Funding Partner's custodian of public records, in a format that is compatible with the information technology systems of the Funding Partner.

(e) If LYNX does not comply with a public records request, the Funding Partner shall enforce the contract provisions in accordance with the Agreement.

10. **Record Keeping Procedure.** LYNX shall keep and maintain accurate records of all services rendered in the performance of this Agreement and shall keep such records open to inspection by the Funding Partner at reasonable hours during the entire term of this Agreement, plus three (3) years after expiration or termination of this Agreement. If any litigation, claim or audit is commenced prior to the expiration of the three (3) year period and extends beyond such period, the records shall be maintained until all litigation, including appeals, claims or audits have been concluded or resolved. Any person authorized by the Funding Partner shall have access to and the right to examine any of the records.

11. **Compliance with FTA/FDOT Requirements.** The provisions of this Agreement, and the Public Transportation to be provided by LYNX hereunder, is subject at all times to the applicable statutes and rules and regulations of all applicable governmental authorities, including those of the FTA and FDOT. In the event any such statutes or rules or regulations would require a substantial and material change to this Agreement, then the parties will immediately meet to review and make acceptable adjustments to this Agreement so as to comply with such statutes and rules and regulations.

12. **Litigation and Venue.** In the event any party deems it necessary to take legal action to enforce any provision of this Agreement, the venue shall be in the Circuit Court of the Ninth Judicial Circuit, in Orange County, Florida or the United States District Court for the Middle District of Florida, Orlando Division.

13. **Remedies.** No remedy herein conferred upon any part is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

14. **Severability.** In the event that any section, paragraph, sentence, clause or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement which remaining portions shall remain in full force and effect.

15. **Waiver.** Performance of this Agreement by any party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of Florida. The parties to this Agreement agree to comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

17. **Construction.** Captions and section headings in this Agreement are for convenience and reference only, and shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

18. **Notices.** All notices, consents, approvals, waivers, and deletions which any party shall be required or shall desire to make or give under and in accordance with this Agreement shall

be in writing and must be sent by certified United States mail with return receipt required, or by personal delivery with receipt required to the following addresses:

As to Funding Partner: Orange County  
P.O. Box 1393  
Orlando, Florida 32802-1393  
Attn: Byron W. Brooks, AICP, County Administrator

With copy to: Orange County Office of Management and Budget  
P.O. Box 1393  
Orlando, Florida 32802-1393  
Attn: Manager, OMB

As to LYNX: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: James E. Harrison, Esq., P.E., Chief Executive Officer

With copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Leonard Antmann, Chief Financial Officer

With a copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Carrie L. Sarver, Esq., B.C.S., Senior Staff Attorney

19. **Binding Agreement.** This Agreement is binding upon the parties and shall inure to their successors or assigns.

20. **Effective Date.** The effective date of this Agreement shall be October 1, 2021. Unless terminated earlier in accordance with Paragraph 7 of this Agreement, this Agreement will terminate on September 30, 2022, except for the provisions of this Agreement which by their terms survive the termination of this Agreement.

21. **Negotiations.** The parties to this Agreement acknowledge that all terms of this Agreement were negotiated at arms-length and that this Agreement and all documents executed in connection herewith were prepared and executed without undue influence exerted by any party or on any party. Further, all parties drafted this Agreement jointly, and no parties are entitled to the benefit of any rules of construction with respect to the interpretation of any terms, conditions, or provisions of this Agreement in favor of or against any person or party who drafted this Agreement.

22. **No Third-Party Beneficiaries.** This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties in this Agreement.

23. **Entirety of the Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the specific matters contained herein and shall supersede all previous discussions, understandings, and agreements.

24. **Addendum.** There is attached hereto a certain Addendum consisting of one (NA) page. To the extent there is a conflict between the terms of this Agreement and the terms of the Addendum, the terms of the Addendum will govern.

**IN WITNESS WHEREOF,** the Funding Partner and LYNX have duly and lawfully approved this Agreement and have authorized its execution and delivery by their respective officers, who have set their hands and their respective seals affixed below, all as of the date first written hereinabove.

**[Signatures appear on following page]**

DRAFT

**SIGNATURE PAGE FOR FUNDING PARTNER**

**ATTEST:**

**FUNDING PARTNER:**

**BOARD OF COUNTY COMMISSIONERS  
OF ORANGE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Jerry L. Demings, County Mayor

For the use and reliance of Orange County  
only. Approved as to form and legal  
sufficiency.

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

\_\_\_\_\_  
County Attorney

DRAFT

**SIGNATURE PAGE FOR LYNX**

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
Name: James E. Harrison, Esq., P.E.  
Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_  
Name: Carrie L, Sarver, Esq., B.C.S.  
Title: Senior Staff Attorney

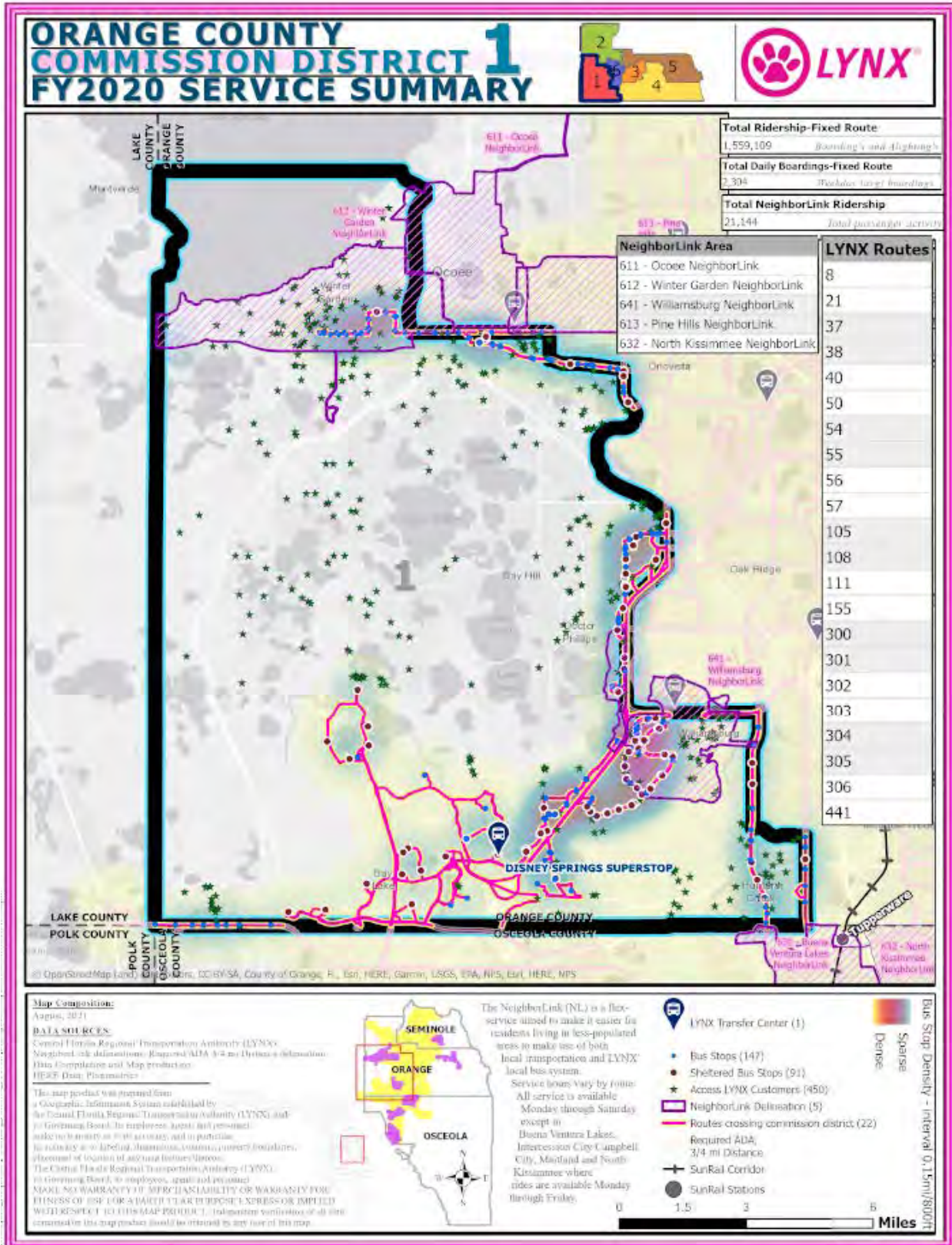
Date: \_\_\_\_\_

DRAFT

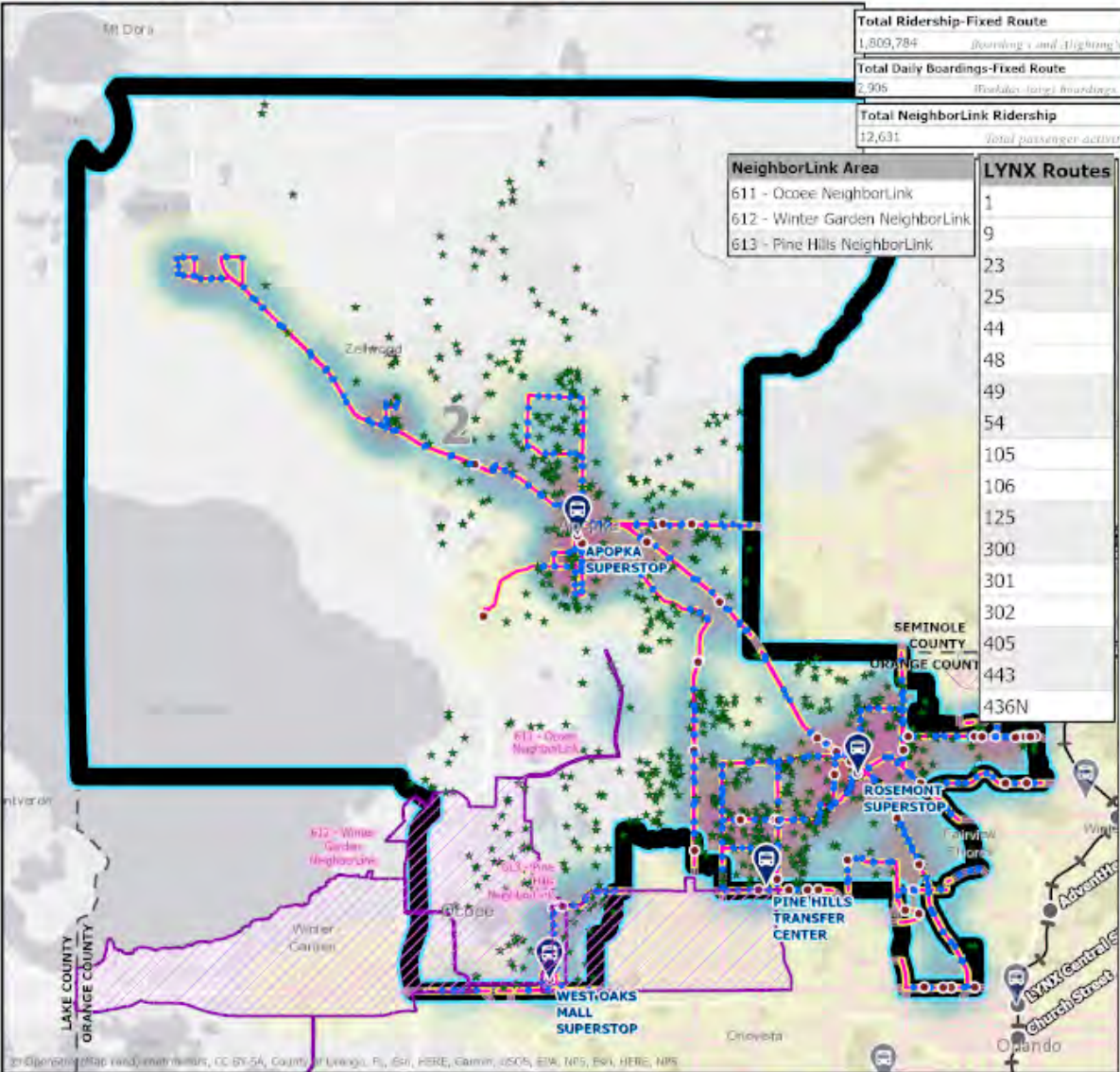


# Exhibit "A"

## DESCRIPTION OF SERVICE AREA



# ORANGE COUNTY COMMISSION DISTRICT 2 FY2020 SERVICE SUMMARY



<b>Total Ridership-Fixed Route</b>	1,809,784	<i>Boardings and Alightings</i>
<b>Total Daily Boardings-Fixed Route</b>	2,906	<i>Boardings (not Boardings)</i>
<b>Total NeighborLink Ridership</b>	12,631	<i>Total passenger activity</i>

NeighborLink Area	LYNX Routes
611 - Ocoee NeighborLink	1
612 - Winter Garden NeighborLink	9
613 - Pine Hills NeighborLink	23
	25
	44
	48
	49
	54
	105
	106
	125
	300
	301
	302
	405
	443
	436N

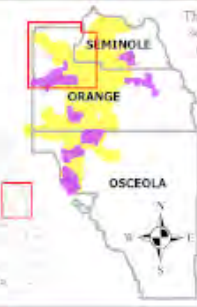
**Map Composition:**

August, 2021

**DATA SOURCES:**

Central Florida Regional Transportation Authority (LYNX)  
 NeighborLink Delineations, Reported ADA 3/4 mi Distance delineations  
 Data Compilation and Map production  
 HARK Data Productions

This map product was prepared from...  
 a Geographic Information System established by  
 the Central Florida Regional Transportation Authority (LYNX) and  
 its Governing Board. Its employees, agents and personnel,  
 make no warranty as to its accuracy and its use for  
 the purpose of labeling, dimensions, contents, property boundaries,  
 placement or location of any map features thereon.  
 The Central Florida Regional Transportation Authority (LYNX),  
 its Governing Board, its employees, agents and personnel,  
 MAKE NO WARRANTY OF MERCHANTABILITY OR WARRANTY OF  
 FITNESS OF THE JOB FOR ANY PARTICULAR PURPOSE EXPRESS OR IMPLIED,  
 WITH RESPECT TO THIS MAP PRODUCT. Individual verification of all data  
 contained on this map product should be obtained by any user of this map.



The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX local bus system. Service lanes vary by route. All service is available Monday through Sunday except in Buena Vista/Lake Wales, Intercession City/Campbell City, Millfield and North Kissimmee where rides are available Monday through Friday.

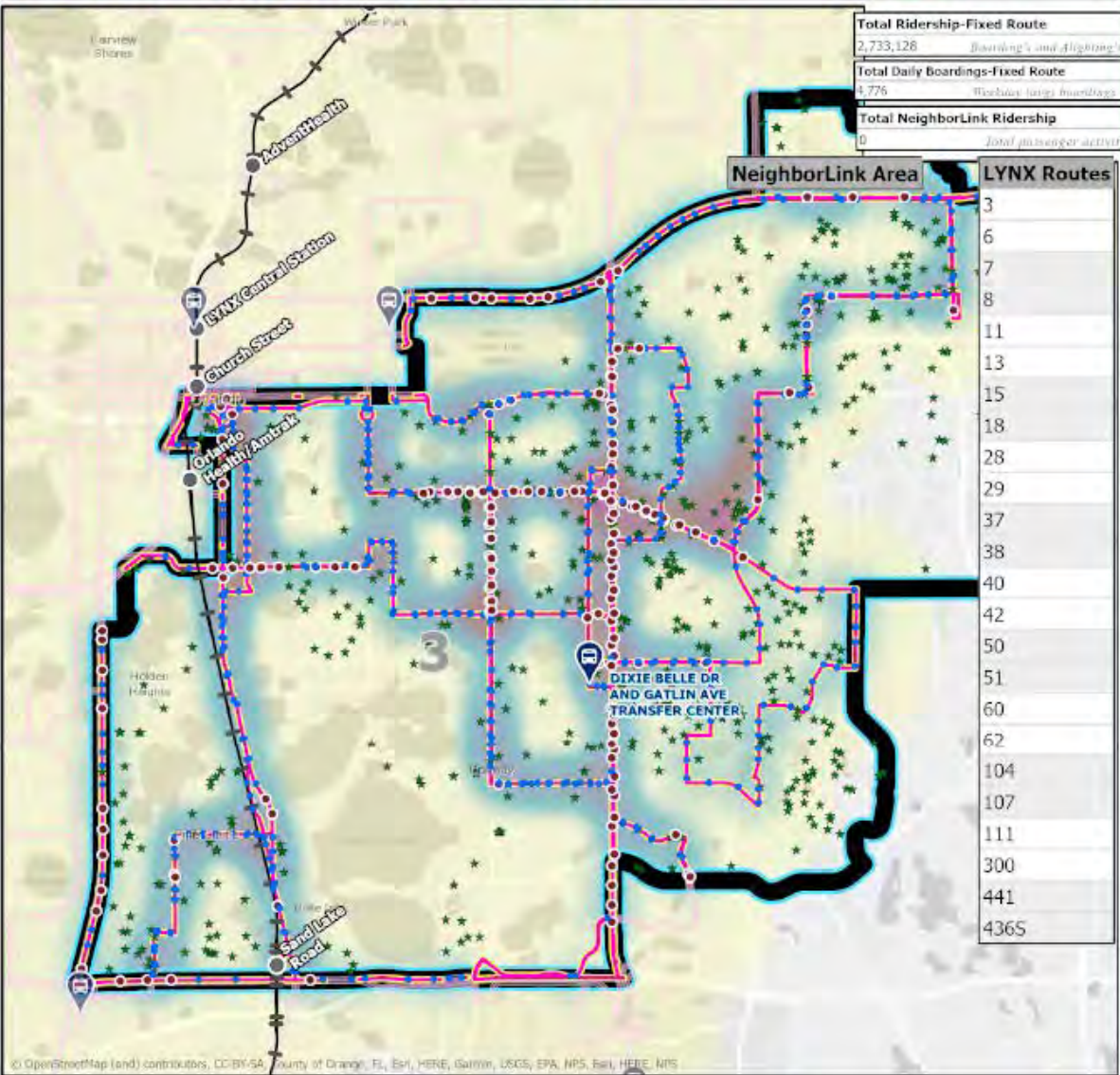
- LYNX Transfer Center (4)
- Bus Stops (434)
- Sheltered Bus Stops (59)
- Access (LYNX Customers (999))
- NeighborLink Delineation (3)
- Routes crossing commission district (17)
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

**Bus Stop Density - Interval 0.125mi/800ft**

Dense Sparse

0 1.25 2.5 5 Miles

# ORANGE COUNTY COMMISSION DISTRICT 3 FY2020 SERVICE SUMMARY



<b>Total Ridership-Fixed Route</b>	2,733,128	<i>Boarding's and Alighting's</i>
<b>Total Daily Boardings-Fixed Route</b>	4,776	<i>Weekdays (avg) boardings</i>
<b>Total NeighborLink Ridership</b>	0	<i>Total passenger activity</i>

LYNX Routes
3
6
7
8
11
13
15
18
28
29
37
38
40
42
50
51
60
62
104
107
111
300
441
436S

**Map Composition:**

(August, 2021)

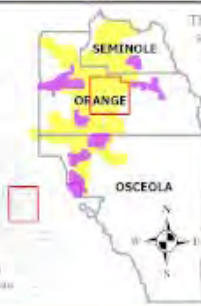
**DATA SOURCES:**

Central Florida Regional Transportation Authority (LYNX)  
 NorthWest 1st Administration, Regional ADA 5/4 mi Distance delineation  
 Data Compilation and Map generation  
 DFR's Data Management

**This map product was prepared from:**

Geographic Information Systems installed by the Central Florida Regional Transportation Authority (LYNX) and its Governing Board. Its employees, agents and personnel make no warranty as to its accuracy, and in particular, its accuracy with labeling, dimensions, content, property boundaries, placement or location of any map features thereon.

The Central Florida Regional Transportation Authority (LYNX), its Governing Board, its employees, agents and personnel MAKE NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR FITNESS OF USE FOR A PARTICULAR PURPOSE. EXPRESS OR IMPLIED WITH RESPECT TO THIS MAP PRODUCT. Indemnification of all laws contained on this map product should be obtained by any user of this map.



The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX local bus system.  
 Service hours vary by route. All service is available Monday through Saturday except in Bona Ventem Lakes, Inverness City/Campbell City, Maitland and North Kissimmee where rides are available Monday through Friday.

- LYNX Transfer Center (1)
- Bus Stops (468)
- Sheltered Bus Stops (161)
- Access LYNX Customers (915)
- Routes crossing commission district (24)
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

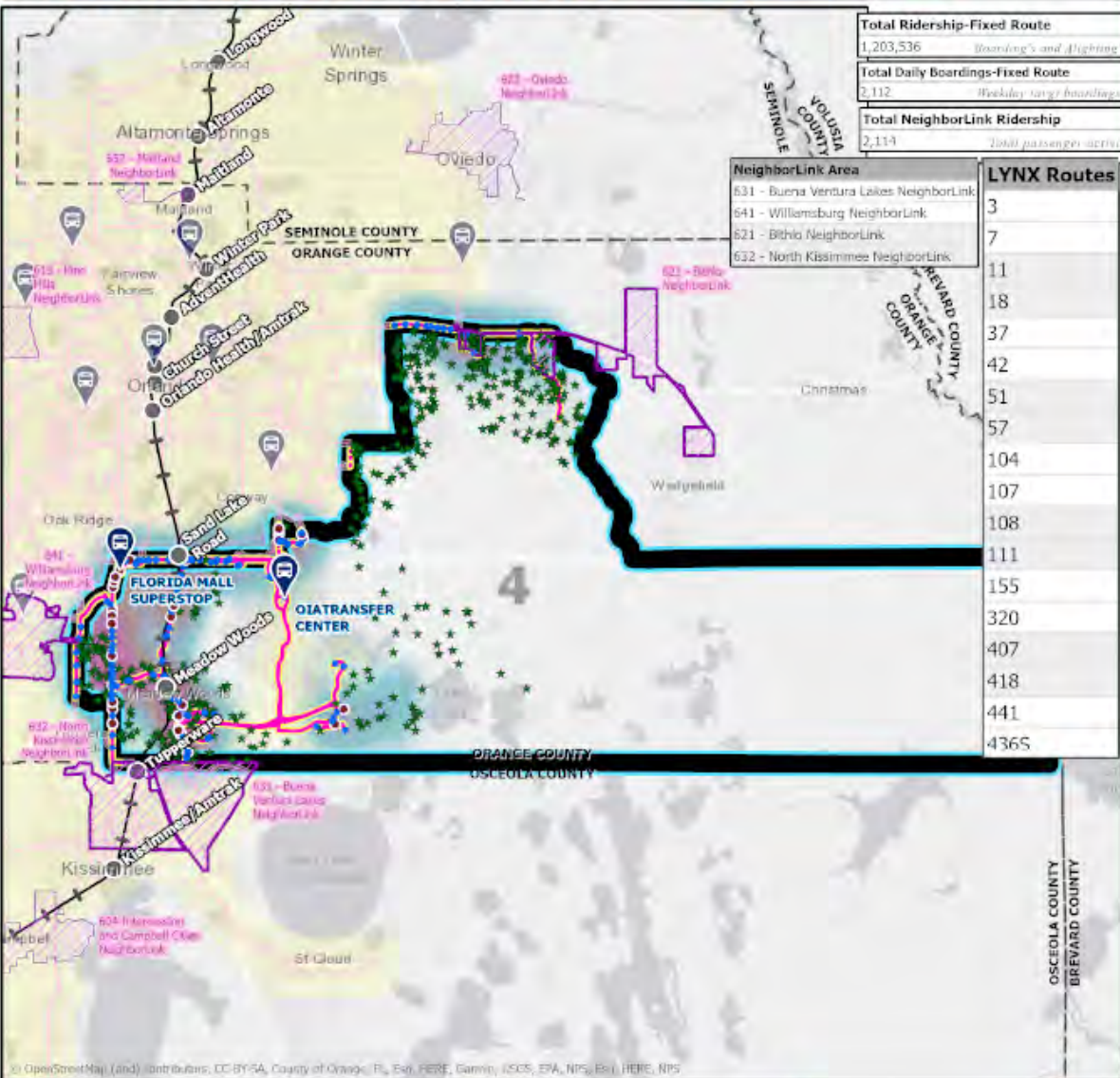
**Bus Stop Density - Interval 0.1mi/800ft**

Sparse  
Dense

**Miles**

0 0.75 1.5 3

# ORANGE COUNTY COMMISSION DISTRICT 4 FY2020 SERVICE SUMMARY



<b>Total Ridership-Fixed Route</b>	1,203,536	<i>Boarding's and Alighting's</i>
<b>Total Daily Boardings-Fixed Route</b>	2,112	<i>Weekday average boardings</i>
<b>Total NeighborLink Ridership</b>	2,114	<i>Total passenger activity</i>

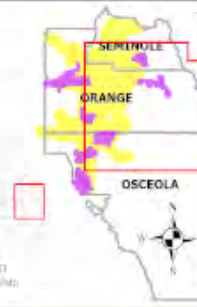
NeighborLink Area	LYNX Routes
631 - Buena Ventura Lakes NeighborLink	3
641 - Williamsburg NeighborLink	7
621 - Bithia NeighborLink	11
632 - North Kissimmee NeighborLink	18
	37
	42
	51
	57
	104
	107
	108
	111
	155
	320
	407
	418
	441
	4365

**Map Composition:**

August, 2021

**DATA SOURCES:**

Central Florida Regional Transportation Authority (LYNX)  
 NeighborLink delineations, Routes ADA 3/4 mi Distance Alternation  
 Data Compilation and Map production:  
 HERE Data, Proximote  
 The map product was prepared from  
 Geographic Information System established by  
 the Central Florida Regional Transportation Authority (LYNX), and  
 its Governing Board. The information is provided as is and no warranty  
 is made as to its accuracy or applicability  
 in any way to its intended use. The information is provided as is  
 without any liability or warranty of any kind.  
 The Central Florida Regional Transportation Authority (LYNX)  
 Governing Board, its employees, agents and personnel  
 MAKE NO WARRANTY OF MERCHANTABILITY OR WARRANTY OF  
 FITNESS OF USE FOR A PARTICULAR PURPOSE, USES OR IMPLICATION  
 WITH RESPECT TO THIS MAP PRODUCT. Independent verification of all data  
 contained on this map product should be obtained by user using their own map.



The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX' local bus system. Service hours vary by route. All service is available Monday through Saturday except in Buena Ventura Lakes, Intercession City/Campbell City, Mistland and North Kissimmee where rides are available Monday through Friday.

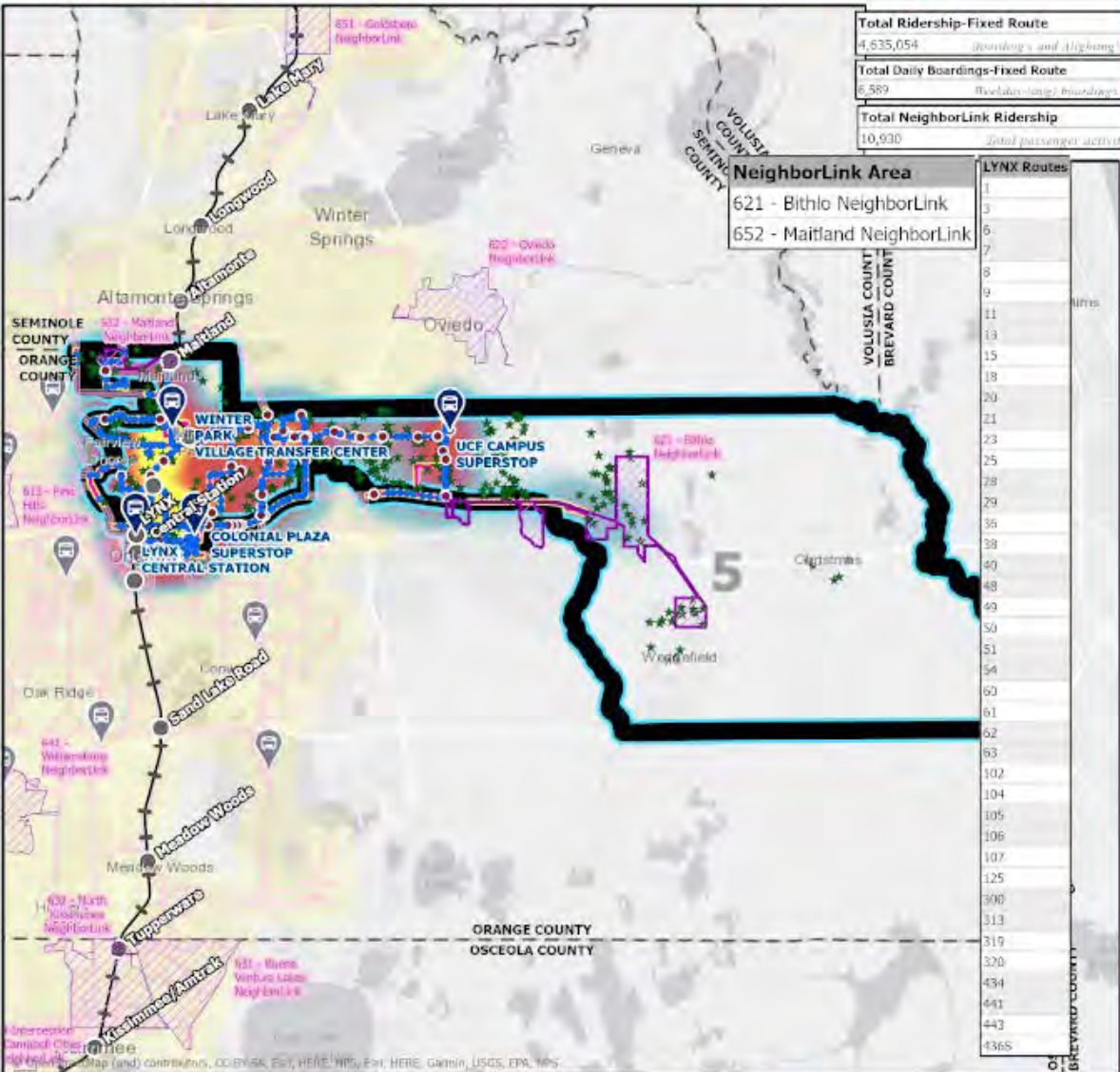
- Bus Stops (140)
- Sheltered Bus Stops (33)
- Access LYNX Customers (674)
- NeighborLink Delineation (4)
- Routes crossing commission district (18)
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

**Bus Stop Density - Interval 0.1mi/100ft**

Sparse  
Dense

**Miles**  
0 2.75 5.5 11

# ORANGE COUNTY COMMISSION DISTRICT 5 FY2020 SERVICE SUMMARY



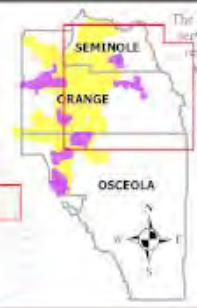
<b>Total Ridership-Fixed Route</b>	4,635,054	<i>(weekdays and evenings)</i>
<b>Total Daily Boardings-Fixed Route</b>	6,589	<i>(weekdays-evening boardings)</i>
<b>Total NeighborLink Ridership</b>	10,930	<i>(total passenger activity)</i>

NeighborLink Area		LYNX Routes
621 - Bithlo NeighborLink		1
652 - Maitland NeighborLink		3
		6
		7
		8
		9
		11
		13
		15
		18
		20
		21
		23
		25
		29
		36
		39
		40
		48
		49
		50
		51
		54
		60
		61
		62
		63
		102
		104
		105
		106
		107
		125
		300
		313
		319
		320
		434
		441
		443
		436S

**Map Composition:**  
August, 2021

**DATA SOURCES:**  
Central Florida Regional Transportation Authority (LYNX)  
NeighborLink delineation, Request ADA 508 for District delineation.  
Data Compilation and Map production  
HF20 Data Parameters

This map product was prepared from a Geographic Information System established by the Central Florida Regional Transportation Authority (LYNX) and its Governing Board, its employees, agents and personnel, under no warranty as to its accuracy, and in particular, no warranty with labeling, dimensions, colors, presentation, and accuracy or location of any map location shown. The Central Florida Regional Transportation Authority (LYNX), its Governing Board, its employees, agents and personnel, MAKING NO WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS OF USE, FOR A PARTICULAR PURPOSE EXPRESS OR IMPLIED WITH RESPECT TO THIS MAP PRODUCT. Indemnification of all risks associated with this map product could be obtained by any user of this map.



The NeighborLink (NL) is a flexi-bus aimed to make it easier for riders living in less-populated areas to make use of both local transportation and LYNX local bus system. Service hours vary by route. All service is available Monday through Sunday except in Buena Vista, Lake, Intercession City/Campbell City, Maitland and North Kissimmee where rides are available Monday through Friday.

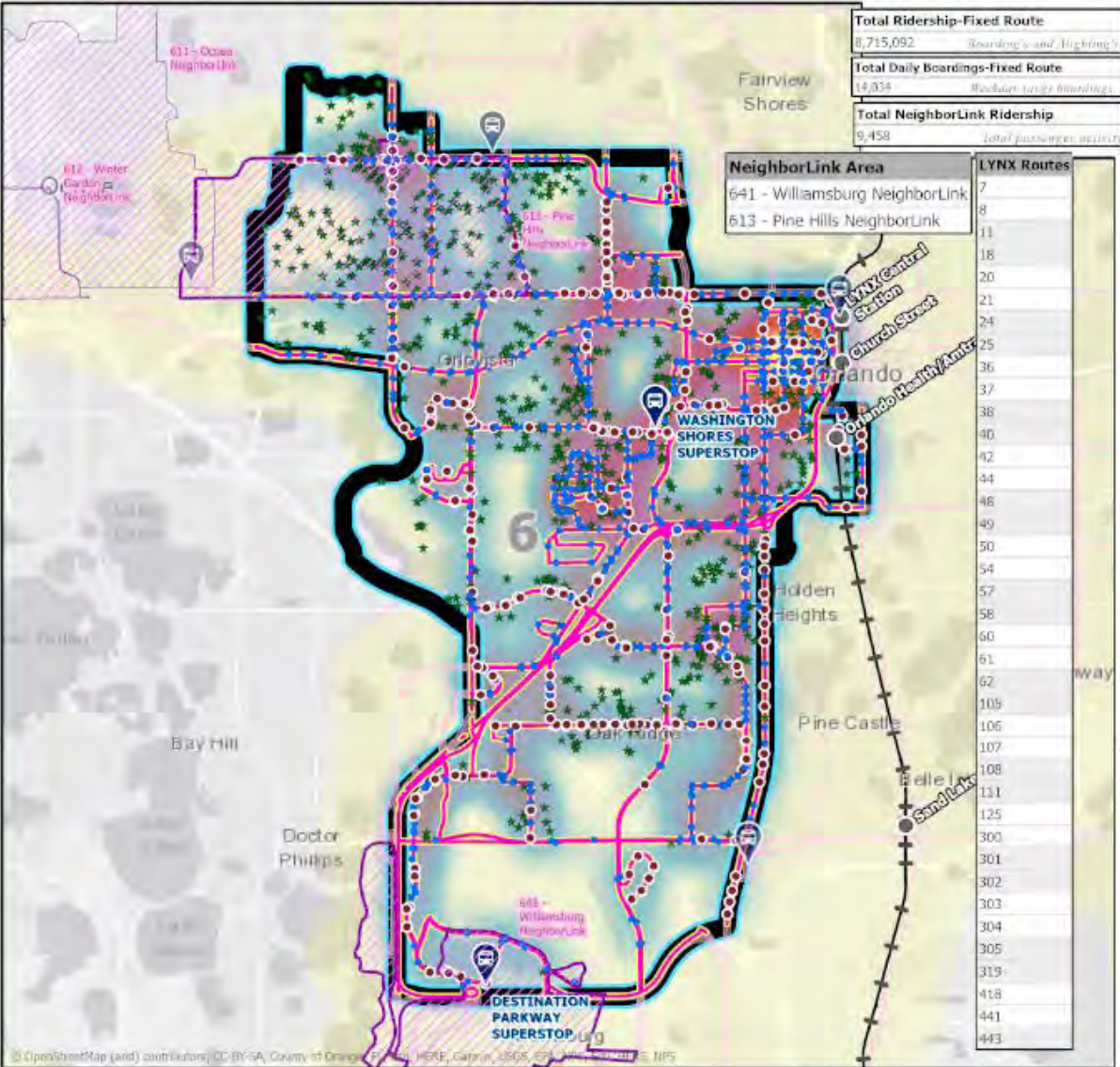
- LYNX Transfer Center (4)
- Bus Stops (514)
- Sheltered Bus Stops (100)
- Access LYNX Customers (662)
- NeighborLink Delineation (2)
- Routes crossing commission district (42)
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

Bus Stop Density - Interval 0.15mi/800ft

0 2.5 5 10 Miles

Volusia County: www.volusia.com; Seminole County: www.seminole.net; Osceola County: www.osceola.net; Orange County: www.orangetransit.com; LYNX: www.lynx.com

# ORANGE COUNTY COMMISSION DISTRICT 6 FY2020 SERVICE SUMMARY



### Map Composition:

August 2021

### DATA SOURCES:

Central Florida Regional Transportation Authority (LYNX)  
 NeighborLink definitions, Required ADA 3/4 mile distance definition,  
 Data Compilations and Map restrictions

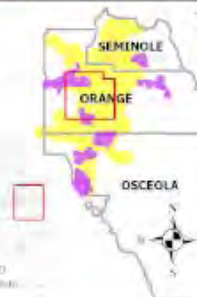
GIS Data: Plannormat

This map product was prepared from:

• Geographic Information System (GIS) data for the Central Florida Regional Transportation Authority (LYNX) and the Orange County Board of County Commissioners (OCC) and the Orange County Board of Planning and Economic Development (OCCPED) as well as the Orange County Board of Planning and Economic Development (OCCPED) as well as the Orange County Board of Planning and Economic Development (OCCPED).

The Central Florida Regional Transportation Authority (LYNX):

• Government Board, its employees, agents and personnel  
 MAKE NO WARRANTY OF MERCHANTABILITY OR WARRANTY FOR  
 FITNESS OF USE FOR A PARTICULAR PURPOSE OR IMPLIED  
 WITH RESPECT TO THE DATA PROVIDED. Independent verification of all data  
 contained on this map product should be obtained by users of all data maps.



The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX' local bus system. Service hours vary by route. All service is available Monday through Saturday except in Ocala, Ventura Lakes, Jasper, Maitland and North Kissimmee where rides are available Monday through Friday.

- LYNX Transfer Center (2)
- Bus Stops (755)
- Sheltered Bus Stops (301)
- Access LYNX Customers (1,200)
- NeighborLink Delineation (2)
- Routes crossing commission district (39)
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations



Bus Stop Density - Interval: 0.15mi/800ft

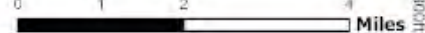


Exhibit "B"

**Orange County Transit Service Costs**

Description of Appropriated Amount  
**October 1, 2021 through September 30, 2022**

***FY2022 Billing Schedule***

October-21	\$4,549,187
November-21	\$4,549,187
December-21	\$4,549,187
January-22	\$4,549,187
February-22	\$4,549,187
March-22	\$4,549,187
April-22	\$4,549,187
May-22	\$4,549,187
June-22	\$4,549,187
July-22	\$4,549,187
August-22	\$4,549,187
September-22	\$4,549,182
<b>Annual Funding Request from County</b>	<b>\$54,590,239</b>

**Exhibit "C"**

**FUNDING MODEL INFORMATION**

	<b><u>FY2022 Funding Model Amount</u></b>	<b><u>Additional Capital *</u></b>	<b><u>FY2022 Funding Agreement</u></b>
<b><u>Operating Funding</u></b>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
Subtotal	<u>\$ 71,422,119</u>	<u>\$ -</u>	<u>\$ 71,422,119</u>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
Subtotal	<u>\$ 9,037,152</u>	<u>\$ 1,168,824</u>	<u>\$ 10,205,976</u>
Subtotal Operating Funding	<u>\$ 80,459,271</u>	<u>\$ 1,168,824</u>	<u>\$ 81,628,095</u>
<b><u>Capital Contributions</u></b>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
Subtotal	<u>\$ 2,263,645</u>	<u>\$ -</u>	<u>\$ 2,263,645</u>
<b>Total Local Funds</b>	<b><u>\$ 82,722,916</u></b>	<b><u>\$ 1,168,824</u></b>	<b><u>\$ 83,891,740</u></b>

\*Local match towards vehicle replacement.



**Service Funding Agreement  
by and between  
Osceola County, Florida  
and  
Central Florida Regional Transportation Authority**

DRAFT

**THIS SERVICE FUNDING AGREEMENT (“Agreement”)** is made and entered into by and between **OSCEOLA COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, whose principal address is 1 Courthouse Square, Kissimmee, Florida 34741 (hereinafter the “**Funding Partner**”), and the **CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**, a body politic and corporate created pursuant to Part III, Chapter 343, Florida Statutes, whose principal address is 455 North Garland Avenue, Orlando, Florida 32801 (hereinafter “**LYNX**”).

**WITNESSETH**

**WHEREAS**, Part II, Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), provides, *inter alia*, that specific public facilities and services must be available concurrently with the impacts of development; and

**WHEREAS**, the Funding Partner recognizes the need to provide Public Transportation (as hereinafter defined) in an efficient manner and acknowledges the benefits of increased ridership on the regional transportation system; and

**WHEREAS**, increasing traffic congestion and continued population growth require mass transit service improvements; and

**WHEREAS**, reliable and convenient mass transit service offers a viable alternative to private automobile travel; and

**WHEREAS**, the Funding Partner recognizes the need to maintain and improve transit services; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the authority to own, operate, maintain, and manage a Public Transportation system in the area of Orange, Seminole and Osceola Counties; and

**WHEREAS**, LYNX currently provides mass transit services within the geographical limits of the Funding Partner; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the right to contract with other governmental entities, including the Funding Partner, and has the right to accept funds from such other governmental entities; and

**WHEREAS**, the Funding Partner and LYNX entered into an Interlocal Agreement for Public Transit Services dated as of October 12, 2020 (the “**Prior Fiscal Year Funding Agreement**”) pursuant to which the Funding Partner agreed to appropriate funds to LYNX for

fiscal year from October 1, 2020 to September 30, 2021 to support LYNX Public Transportation services within the Service Area (as hereinafter defined); and

**WHEREAS**, the term of the Prior Fiscal Year Funding Agreement ended on September 30, 2021; and

**WHEREAS**, the Funding Partner has budgeted funds for the fiscal year beginning on October 1, 2021 and ending on September 30, 2022 (“**Fiscal Year**”) to support LYNX’s Public Transportation services for such fiscal year; and

**WHEREAS**, LYNX and the Funding Partner wish to acknowledge that appropriate methodology has been used to determine the recommended level of funding by each Funding Partner; and

**WHEREAS**, at present, LYNX and the Funding Partner acknowledge that the funds provided by the Funding Partner to LYNX are used as the Funding Partner’s support of the regional Public Transportation System only within the Service Area (as hereinafter defined).

**NOW, THEREFORE**, in and for consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the Funding Partner and LYNX agree as follows:

1. **Recitals**. The Funding Partner and LYNX hereby declare that the Recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **Definitions**. The following capitalized terms shall have the following meanings:

“**Access LYNX**” means LYNX’s van transit service for medically-qualified, physically challenged transit customers.

“**ADA**” means the Americans with Disabilities Act of 1990.

“**Agreement**” means this Service Funding Agreement and its Exhibits and Addenda.

“**Appropriated Amount**” means the amount to be paid to LYNX by the Funding Partner for the Current Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder, as set forth in Paragraph 3 hereof.

“**Current Fiscal Year**” shall mean the fiscal year beginning on October 1, 2021 and ending on September 30, 2022

“**Deadhead Hours**” means the vehicle hours of operation incurred in non-Revenue Service in support of Revenue Service (i.e., hours from the garage to the beginning of a route).

“**Deadhead Miles**” means the vehicle miles incurred in non-Revenue Service in support of Revenue Service (i.e., miles from the garage to the beginning of a route).

“**Demand Response Service**” or “**NeighborLink**” means service provided in response to passenger requests made in advance to LYNX, which then dispatches a vehicle to pick up the

passengers and transport them to their destinations or to a fixed-route transfer point within a designated demand response service area.

“**Fiscal Year**” or “**Current Fiscal Year**” means the twelve (12) month period commencing October 1, 2021 and ending the following September 30, 2022.

“**Fixed-Route Service**” means service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations. Unlike demand response service, Fixed-Route Service services the same origins and destinations. Fixed-Route Service includes route deviation service, where revenue vehicles deviate from fixed-routes on a discretionary basis.

“**FDOT**” means the Florida Department of Transportation.

“**FTA**” means the Federal Transit Association.

“**New Appropriated Amount**” means the amount that is approved or appropriated by the Funding Partner for the Next Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder for the Next Fiscal Year, as set forth in Paragraph 3 below.

“**Next Fiscal Year**” means the twelve (12) month period immediately following the Current Fiscal Year, and is the period commencing October 1, 2022 and ending the following September 30, 2023.

“**Operating Expenses**” mean the expenses associated with the operations of LYNX, and which are classified by function or activity.

“**Passenger Fares**” means the revenue earned from carrying passengers in regularly scheduled service. Passenger Fares include the base fare, distance premiums, express service premiums, transfers and quantity purchased discount fares (i.e., daily, seven-day, thirty-day, student, senior, etc. tickets and passes).

“**Passenger Trips**” means the number of fare-paying individuals who ride LYNX’s buses in any given period with each individual being counted once per boarding.

“**Public Transportation**” means transportation by a conveyance (e.g., by bus or van) that provides regular and continuing general or special transportation to the public, but does not include light rail. “Special transportation” includes transportation services being provided to the public pursuant to the ADA.

“**Revenue Hours**” means the hours a vehicle travels while in Revenue Service, which excludes Deadhead Hours.

“**Revenue Miles**” means the miles a vehicle travels while in Revenue Service, which excludes Deadhead Miles.

“**Revenue Service**” means the portion of the trip and/or period of time when a vehicle is available to board and alight fare-paying transit passengers.

“**Service Area**” means generally the geographic area of the Fixed-Route Service, as the case may be, described and set forth in **Exhibit “A”** attached hereto.

3. **Funding Partner Obligations.**

(a) **Current Fiscal Year.**

(i) The Funding Partner agrees to appropriate the amount specified on **Exhibit ”B”** attached hereto (the “**Appropriated Amount**”) to LYNX for the Fiscal Year for the provision of Public Transportation within the Service Area.

(ii) The Appropriated Amount shall be paid by the Funding Partner to LYNX in twelve (12) equal monthly installments, with each installment being due on the first day of each month. The first installment payment shall be due upon the later of (x) October 1, 2021 or (y) thirty (30) days after the execution date of this Agreement; and any other installment payments which would be due prior to the execution date of this Agreement shall also be paid within thirty (30) days after the execution date of this Agreement.

(iii) In the event that the Appropriated Amount is less than the amount suggested by the Funding Model to fully fund the agreed upon service level in the Funding Partner’s Service Area, or in the event that the Appropriated Amount is less than the actual cost to fully fund the agreed upon service level in the Funding Partner’s Service Area, LYNX may, at its discretion, (x) utilize reserves to fund the difference and continue to provide the requested service level, or (y) reduce the service level in the Funding Partner’s Service Area to a level equivalent to the Appropriated Amount. However, in the event clause (x) is applicable, then the Funding Partner will promptly pay said difference to LYNX within thirty (30) days after the execution date of this Agreement.

(iv) In regard to Paragraph 3(a)(ii), above, for each monthly installment, LYNX will invoice the Funding Partner on a monthly basis and said amount shall be paid within thirty (30) days after the receipt by the Funding Partner of said invoice. However, in regard to any monthly installments that remain unpaid prior to the execution of this Agreement, those unpaid monthly installments (for which LYNX will furnish the Funding Partner invoices) will be paid within thirty (30) days after the execution date of the Agreement.

(b) **Next Fiscal Year.** If, prior to the termination date of this Agreement (as set forth in Paragraph 20 below), the Funding Partner and LYNX have not reached a written agreement setting forth an appropriation to LYNX for the Next Fiscal Year, then, notwithstanding the expiration of this Agreement at the end of the Current Fiscal Year and in order to continue the Public Transportation after said expiration, the Funding Partner shall continue to pay LYNX for the Next Fiscal Year the amount set forth below:

(i) The amount to be paid shall be the Appropriated Amount for the Current Fiscal Year. This Appropriated Amount for the Current Fiscal Year (the “**Post-Termination Payment**”) shall be paid as provided herein.

(ii) LYNX will prepare and submit invoices for the Post Termination Payments and the Funding Partner will make such Post-Termination Payments within thirty (30) days after its receipt of such invoices from LYNX.

(iii) The Post Termination Payment shall be paid in equal monthly installments due on the first day of each month commencing October 1, 2021 until the earliest to occur of the following: (x) LYNX and the Funding Partner reach a written agreement setting forth a different appropriation for the Next Fiscal Year; (y) one hundred twenty (120) days following the date that the Funding Partner, through action taken by its governing board, notifies LYNX in writing that it wishes to terminate this Agreement and no longer receives from LYNX the Public Transportation services provided herein; or (z) the date that LYNX actually discontinues the Public Transportation services to the Funding Partner, at which time this Agreement and specifically the provisions of this Subparagraph 3(b) will no longer be applicable. LYNX may, within its discretion, reduce, eliminate or discontinue the provision of Public Transportation services to the Funding Partner immediately upon providing the Funding Partner with written notice of same. If this Subparagraph 3(b) is applicable, the parties will reconcile the difference between the amount that was paid by the Funding Partner and the amount that has been agreed upon for the Next Fiscal Year in the first month following the earliest of the occurrences set forth above.

(iv) If a written agreement for the Next Fiscal Year is not entered into between LYNX and the Funding Partner by November 30 of the Next Fiscal Year, then, in that event, LYNX will undertake the necessary procedure for the discontinuation of the service which process takes approximately one hundred and twenty (120) days. If a new Funding Agreement for the Next Fiscal Year is not entered into by January 31 of the Next Fiscal Year, then LYNX may discontinue the service in accordance with its policies and the Funding Partner will in any event pay for any service provided for the Next Fiscal Year, including any service that may be provided of necessity by LYNX after January 31 in accordance with its procedures.

(c) Notwithstanding anything to the contrary set forth herein, the payment of all amounts due to LYNX hereunder shall be made in compliance with the Florida Prompt Payment Act, codified at Sections 218.70 to 218.80, Florida Statutes.

#### 4. **LYNX Obligations.**

(a) **Service.** LYNX agrees to provide Public Transportation within the Service Area during the Fiscal Year. LYNX shall request written approval from the Funding Partner prior to implementing any of the following changes which may result in a greater than two percent (2%) increase or decrease of Fixed-Route Service hours within the Service Area (as computed on an annual basis), which written approval shall not be unreasonably withheld or delayed:

(i) Addition of route(s).

(ii) Elimination of route(s).

- (iii) Combination of routes.
- (iv) Changes to service span.
- (v) Change to service frequency.
- (vi) Changes in days of operation.

To the extent that there is any increase or decrease of Fixed-Route Service hours greater than two percent (2%) (which would require approval of the Funding Partner), then, in that case, there will be a corresponding increase or decrease in the Appropriated Amount to be paid to LYNX by the Funding Partner from and after said increase or decrease is put into effect.

(b) **Quarterly Reporting.** For the purposes of operations and management analysis, LYNX agrees to provide the Funding Partner quarterly written performance reports reflecting the LYNX operations of the prior quarter. The quarterly reporting periods shall end on December 31, March 31, June 30 and September 30 and said reports shall be submitted to the Funding Partner's Office of Management and Budget and Office of Regional Mobility within forty-five (45) days after the end of each quarter. Each quarterly report will include the following items:

- (i) Maps and schedules for each route operating in the Service Area.
- (ii) Official LYNX monthly ridership reports showing a breakdown of actual aggregate ridership by mode (i.e., Fixed-Route Service, Demand Response Service, LYMMO, Access LYNX, Van Plan and special shuttles).
- (iii) An operational service characteristics report for current services provided, which would include (1) revenue hours, (2) revenue miles, and (3) unlinked passenger trips.
- (iv) A comparison of actual revenue and expenditures to budgeted revenues and expenditures with explanations for variances that are plus or minus 10% and exceed \$50,000.
- (v) A route performance report, which reports and ranks each route which is located in the County for the Funding Partner, monthly based on the following:
  - (A) Subsidy per Passenger Trip
  - (B) Passengers per trip
  - (C) Passengers per Revenue Hour
  - (D) Passengers per Revenue Mile
  - (E) Percent farebox return (i.e., percent of Operating Expenses recovered through farebox).

(vi) Current and contemporaneous versions of the LYNX regional model, which is the model used by LYNX to apportion total Operating Expenses, less adjustments, to the Funding Partners based on Fixed-Route Service hours, ADA client trips, and flex-service hours in their service area. The following criteria will be utilized to determine this amount.

- (A) A comparison of scheduled versus actual Revenue Miles.
- (B) A comparison of scheduled versus actual Revenue Hours.
- (C) A schedule of unanticipated extraordinary expenses for the prior quarter.
- (D) A list of changes to authorized staffing.
- (E) A schedule of total training and travel expenditures for each LYNX board member and employee for the immediately preceding quarter. This schedule should specify the training event name, attendee name(s), date(s) of travel and/or training, event location, and total expenses of each trip.

(vii) Funding Model Information. Attached hereto as **Exhibit "C"** is a schedule listing including the following:

- (A) All of LYNX's funding partners;
- (B) The amount of funding required of each funding partner by the Funding Model for the Current Fiscal Year ; and
- (C) The amount each funding partner actually budgeted for the Current Fiscal Year to contribute for the services contemplated in the LYNX Funding Model.
- (D) LYNX shall provide quarterly updates to **Exhibit "C"** by listing the amount each funding partner has paid to LYNX to date.

(viii) The amount of fund balance allocated to reserves.

(ix) Any other information the Funding Partner reasonably requests.

(c) **Additional Reporting.** On an annual basis, within thirty (30) days of receipt, LYNX shall provide the Funding Partner with a copy of all external audits, a copy of the Comprehensive Annual Financial Report, which shall include the Report on Internal Controls, Report on Compliance with Laws and Regulations, and a copy of the management letter.

5. **Independent Contractor.** LYNX expressly acknowledges that it is acting as an independent contractor, and nothing in this Agreement is intended or shall be construed to establish

an agency, partnership or joint venture relationship between the parties, their employees, agents, subcontractors, or assigns, during or after performance of this Agreement. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

6. **Amendments.** This Agreement may be amended only through a written document approved by both the Funding Partner's Board of Commissioners and the LYNX Governing Board, and executed by all parties hereto.

7. **Termination of Agreement.**

(a) **For Cause.** If LYNX or the Funding Partner (the "**Breaching Party**") fails to fulfill any material covenant, term or condition of this Agreement, the other party (the "**Non-Breaching Party**") shall give the Breaching Party written notice of such failure or violation. If such failure or violation is not cured within thirty (30) days from the date on which the Breaching Party receives such notice, the Non-Breaching Party may terminate this Agreement, which shall be effective upon thirty (30) days following the Breaching Party's receipt of a written notice from the Non-Breaching Party to that effect or such later date as specified in the notice. In the event the Funding Partner is the Breaching Party, the Funding Partner will nonetheless continue to pay to LYNX for any fixed route service furnished by LYNX up to the actual date that LYNX terminates said fixed route service, taking into account the policies and procedures to be followed by LYNX to terminate bus service generally (but not to exceed one hundred twenty (120) days).

(b) **For Convenience.** Either LYNX or the Funding Partner may terminate this Agreement at any time upon giving notice to that effect. Such termination shall be effective upon one hundred twenty (120) days receipt of written notice of termination from the party desiring to terminate this Agreement or such later date as specified in the notice.

The provisions of this Paragraph 7 are further subject to the provisions of Subparagraph 3(c) above as to the rights of the parties to terminate this Agreement after the end of any fiscal year as provided in said Paragraph 3(c).

8. **Audit.** The Funding Partner (or its lawfully designated designee), shall have the right to audit LYNX's books and records on an annual basis to determine compliance with the terms, conditions and obligations imposed by this Agreement. The Funding Partner shall have full access to all records, documents and information, whether on paper or electronic or other media as is necessary or convenient to perform the audit.

9. **Public Records.** If LYNX has questions regarding the application of Chapter 119, Florida Statutes, to LYNX's duty to provide public records relating to this agreement, contact the funding partner's custodian of public records at:

Public Information Office



1 Courthouse Square  
Kissimmee, FL 34741  
407-742-0100  
[BCCPIO@osceola.org](mailto:BCCPIO@osceola.org)

LYNX understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If LYNX will act on behalf of the Funding Partner, as provided under section 119.011(2), Florida Statutes, LYNX, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

(a) Keep and maintain public records required by the Funding Partner to perform the service.

(b) Upon request from the Funding Partner's custodian of public records, provide the Funding Partner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LYNX does not transfer the records to the Funding Partner.

(d) Subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, upon completion of the contract, transfer, at no cost, to the Funding Partner all public records in possession of the LYNX or keep and maintain public records required by the Funding Partner to perform the service. If LYNX transfers all public records to the Funding Partner upon completion of the contract, LYNX shall, subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LYNX keeps and maintains public records upon completion of the contract, LYNX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Funding Partner, upon request from the Funding Partner's custodian of public records, in a format that is compatible with the information technology systems of the Funding Partner.

(e) If LYNX does not comply with a public records request, the Funding Partner shall enforce the contract provisions in accordance with the Agreement.

10. **Record Keeping Procedure.** LYNX shall keep and maintain accurate records of all services rendered in the performance of this Agreement and shall keep such records open to inspection by the Funding Partner at reasonable hours during the entire term of this Agreement, plus three (3) years after expiration or termination of this Agreement. If any litigation, claim or audit is commenced prior to the expiration of the three (3) year period and extends beyond such

period, the records shall be maintained until all litigation, including appeals, claims or audits have been concluded or resolved. Any person authorized by the Funding Partner shall have access to and the right to examine any of the records.

11. **Compliance with FTA/FDOT Requirements.** The provisions of this Agreement, and the Public Transportation to be provided by LYNX hereunder, is subject at all times to the applicable statutes and rules and regulations of all applicable governmental authorities, including those of the FTA and FDOT. In the event any such statutes or rules or regulations would require a substantial and material change to this Agreement, then the parties will immediately meet to review and make acceptable adjustments to this Agreement so as to comply with such statutes and rules and regulations.

12. **Litigation and Venue.** In the event any party deems it necessary to take legal action to enforce any provision of this Agreement, the venue shall be in the Circuit Court of the Ninth Judicial Circuit, in Orange County, Florida or the United States District Court for the Middle District of Florida, Orlando Division.

13. **Remedies.** No remedy herein conferred upon any part is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

14. **Severability.** In the event that any section, paragraph, sentence, clause or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement which remaining portions shall remain in full force and effect.

15. **Waiver.** Performance of this Agreement by any party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of Florida. The parties to this Agreement agree to comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

17. **Construction.** Captions and section headings in this Agreement are for convenience and reference only, and shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

18. **Notices.** All notices, consents, approvals, waivers, and deletions which any party shall be required or shall desire to make or give under and in accordance with this Agreement shall be in writing and must be sent by certified United States mail with return receipt required, or by personal delivery with receipt required to the following addresses:

As to Funding Partner: Osceola County  
1 Courthouse Square, Suite 4700  
Kissimmee, Florida 34741  
Attn: Don Fisher, County Manager

With copy to: Osceola County  
1 Courthouse Square, Suite 4700  
Kissimmee, Florida 34741  
Attn: County Attorney

With copy to: Osceola County  
1 Courthouse Square, Suite 4700  
Kissimmee, Florida 34741  
Attn: Transportation Planning

As to LYNX: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: James E. Harrison, Esq., P.E., Chief Executive Officer

With copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Leonard Antmann, Chief Financial Officer

With a copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Carrie L. Sarver, Esq., B.C.S., Senior Staff Attorney

19. **Binding Agreement.** This Agreement is binding upon the parties and shall inure to their successors or assigns.

20. **Effective Date.** The effective date of this Agreement shall be October 1, 2021. Unless terminated earlier in accordance with Paragraph 7 of this Agreement, this Agreement will terminate on September 30, 2022, except for the provisions of this Agreement which by their terms survive the termination of this Agreement.

21. **Negotiations.** The parties to this Agreement acknowledge that all terms of this Agreement were negotiated at arms-length and that this Agreement and all documents executed in connection herewith were prepared and executed without undue influence exerted by any party or on any party. Further, all parties drafted this Agreement jointly, and no parties are entitled to the benefit of any rules of construction with respect to the interpretation of any terms, conditions, or provisions of this Agreement in favor of or against any person or party who drafted this Agreement.

22. **No Third-Party Beneficiaries.** This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties in this Agreement.

23. **Entirety of the Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the specific matters contained herein and shall supersede all previous discussions, understandings, and agreements.

24. **Addendum.** There is attached hereto a certain Addendum consisting of one (NA) page. To the extent there is a conflict between the terms of this Agreement and the terms of the Addendum, the terms of the Addendum will govern.

**IN WITNESS WHEREOF**, the Funding Partner and LYNX have duly and lawfully approved this Agreement and have authorized its execution and delivery by their respective officers, who have set their hands and their respective seals affixed below, all as of the date first written hereinabove.

**[Signatures appear on following page]**

DRAFT

**SIGNATURE PAGE FOR FUNDING PARTNER**

**ATTEST:**

**FUNDING PARTNER:**

**BOARD OF COUNTY COMMISSIONERS  
OF OSCEOLA COUNTY, FLORIDA**

By: \_\_\_\_\_  
Clerk to the Board of County  
Commissioners

By: \_\_\_\_\_  
Viviana Janer, Vice Chair

For the use and reliance of Osceola  
County only. Approved as to form and  
legal sufficiency.

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

\_\_\_\_\_  
County Attorney

DRAFT

**SIGNATURE PAGE FOR LYNX**

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Name: James E. Harrison, Esq., P.E.

Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_

Name: Carrie L. Sarver, Esq., B.C.S.

Title: Senior Staff Attorney

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

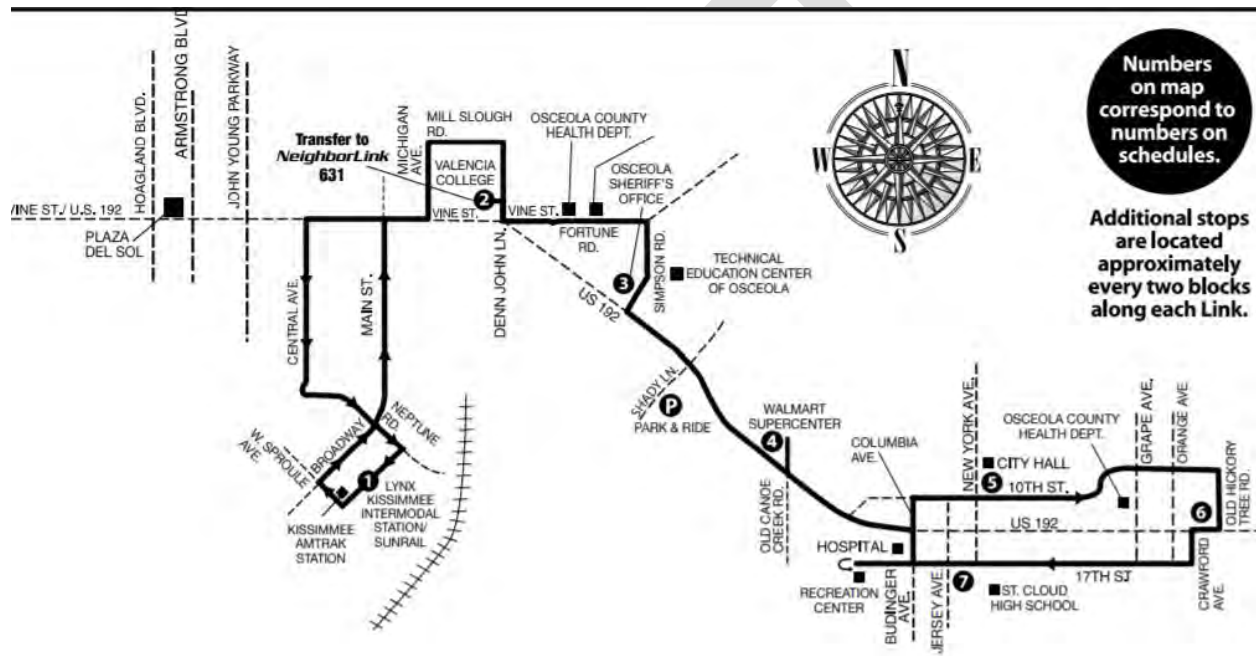
DRAFT

Exhibit "A"

DESCRIPTION OF SERVICE AREA

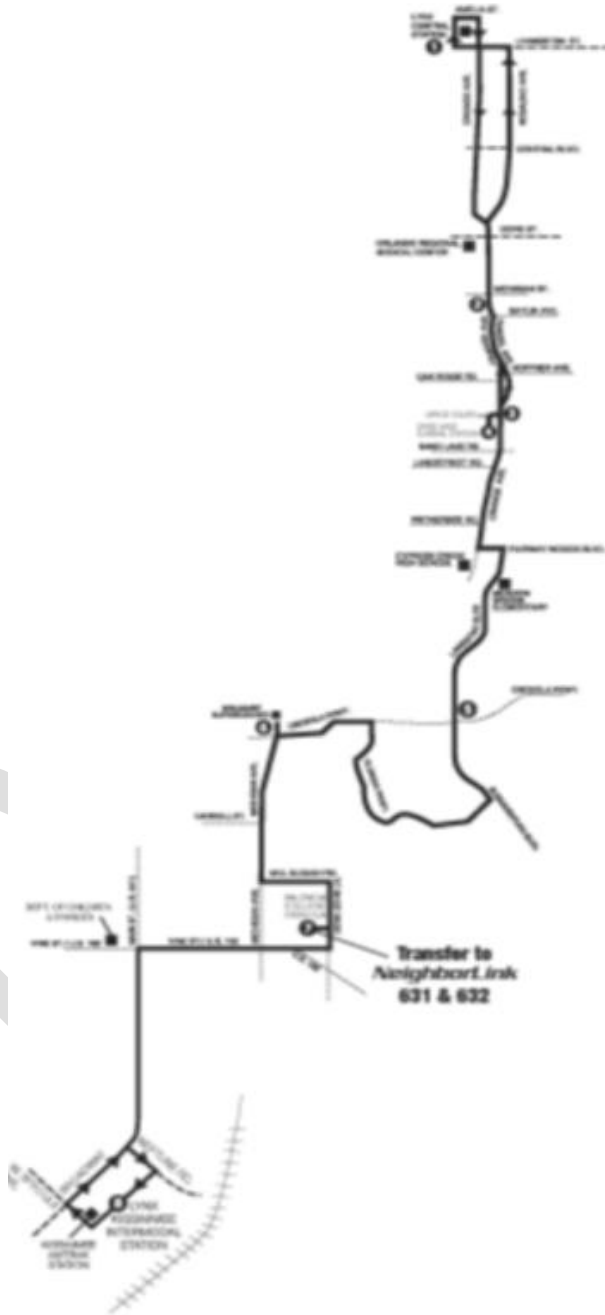
**Link 10 E. US 192/St. Cloud**

**Serving:** LYNX Kissimmee Intermodal Station, Dept. of Children & Families, Mill Creek, Valencia College- Osceola, Osceola County Health Department- Kissimmee, Center for Women & Family Health, Technical Education Center of Osceola, Osceola Sheriff's Office, St. Cloud Walmart Supercenter, St. Cloud City Hall, Osceola County Health Department- St. Cloud, St. Cloud High School, Orlando Health- St. Cloud, St. Cloud Recreation Center, NeighborLink 631 and NeighborLink 632.



# Link 18 S. Orange Ave. /Kissimmee

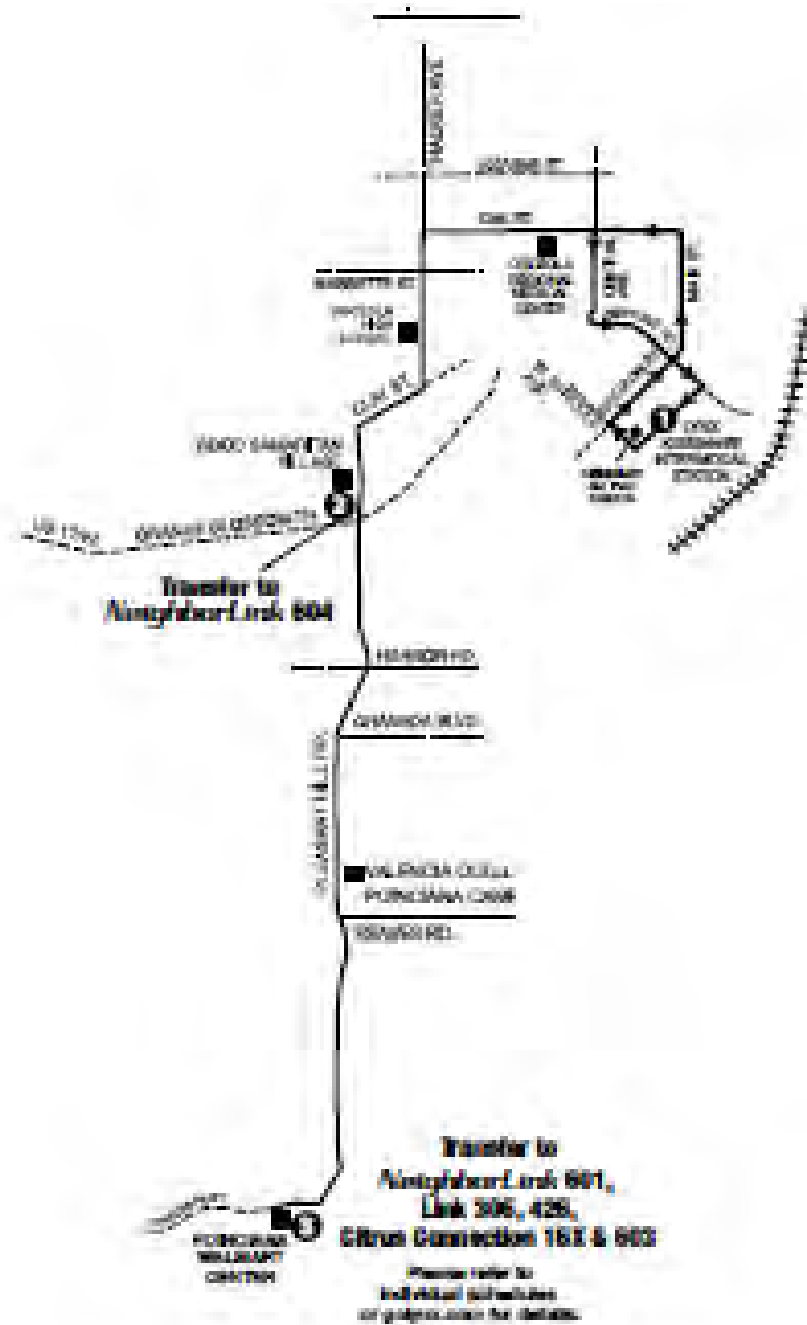
**Serving:** LYNX Central Station, Orlando Regional Medical Center, Pine Castle, Taft, Meadow Woods SunRail Station, Cypress Creek High School, Valencia College Osceola, NeighborLink 631, NeighborLink 632, Vine Street, LYNX Kissimmee Intermodal Station and Sand Lake SunRail Station





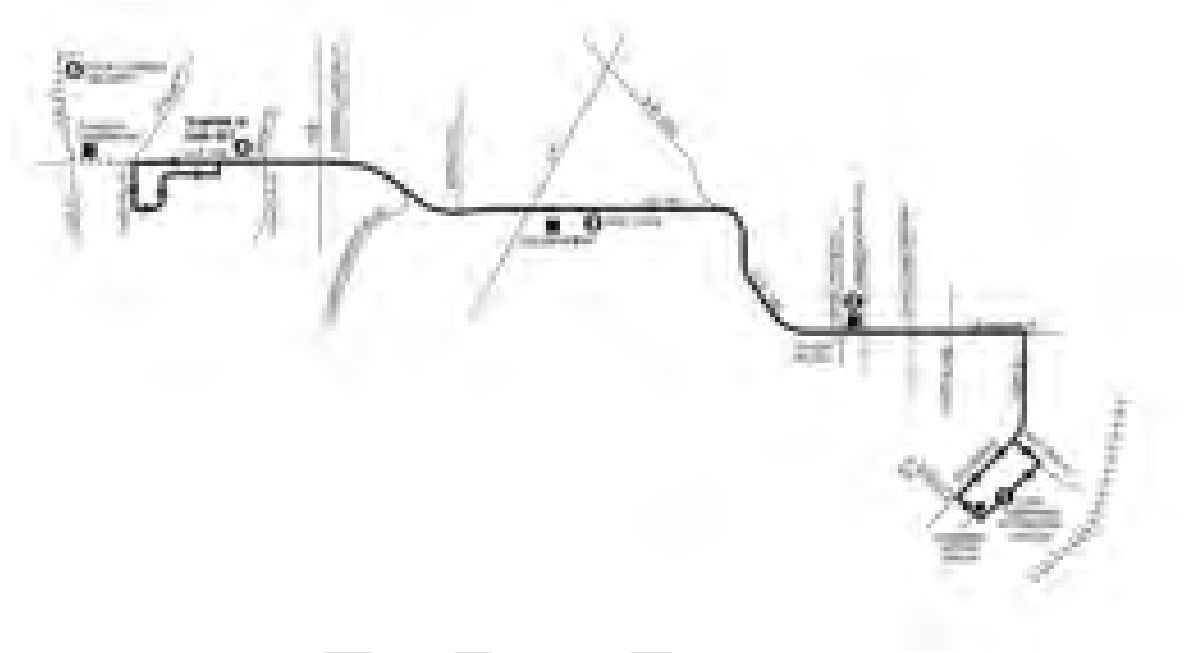
## Link 26 Pleasant Hill Road/Poinciana

**Serving:** LYNX Kissimmee Intermodal Station/SunRaid, Osceola Regional Medical Center, Thacker Ave., Osceola High School, Good Samaritan Village, NeighborLink 601, Citrus Connection 603 & 16x, NeighborLink 604, Valencia College – Poinciana Campus and Walmart Poinciana



## Link 55 w. US 192/Four Cornersz

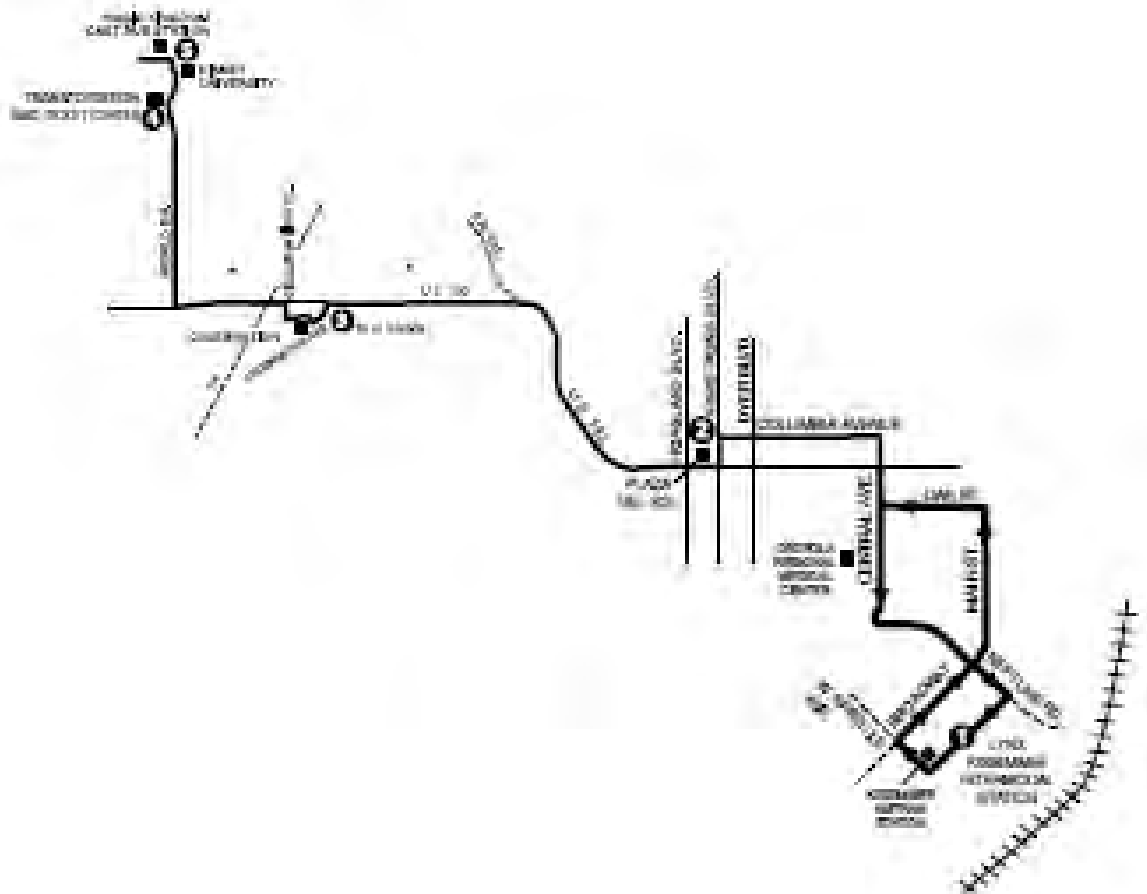
Serving: LYNX Kissimmee Intermodal Station/SunRail, Old Town, Celebration, Orange Lake, Four Corners Walmart, Plaza Del Sol and Citrus Connection 18X



DFI

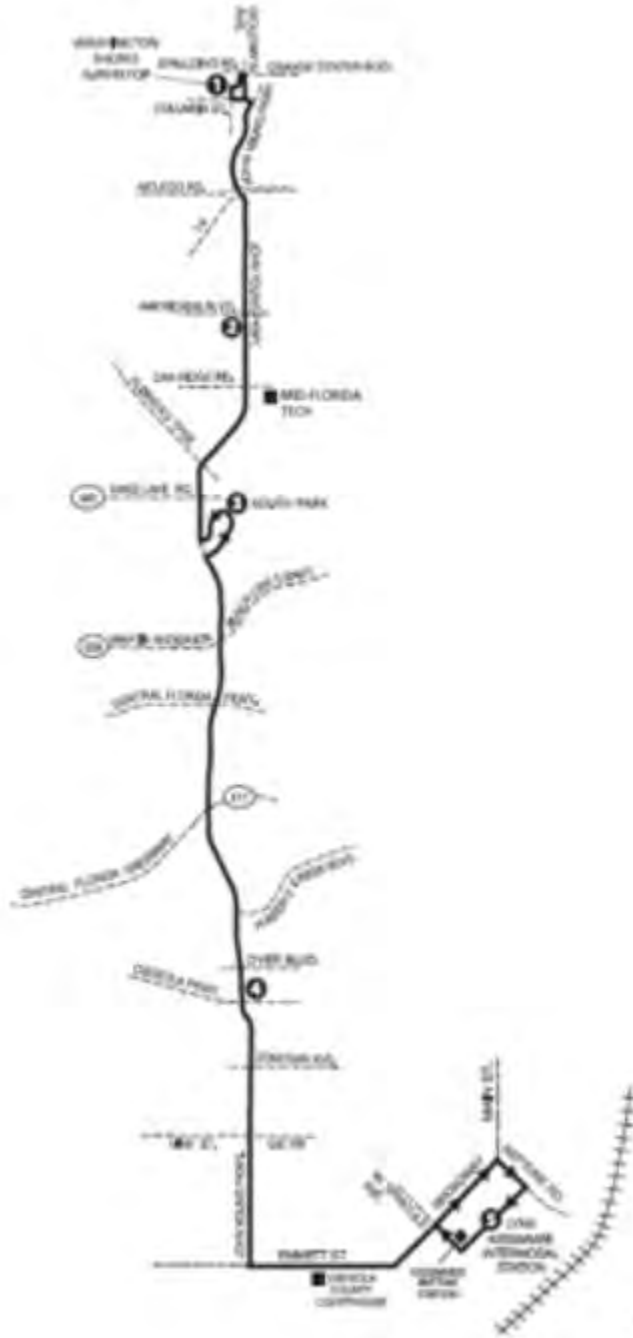
## Link 56 w. US 192/ Magic Kingdom

**Serving:** Plaza Del Sol, Old Town, Celebration, Walt Disney World Resort Transportation & Ticket Center, Magic Kingdom Cast Bus Station, Disney University, LYNX Kissimmee Intermodal Station/SunRail and Osceola Regional Medical Center



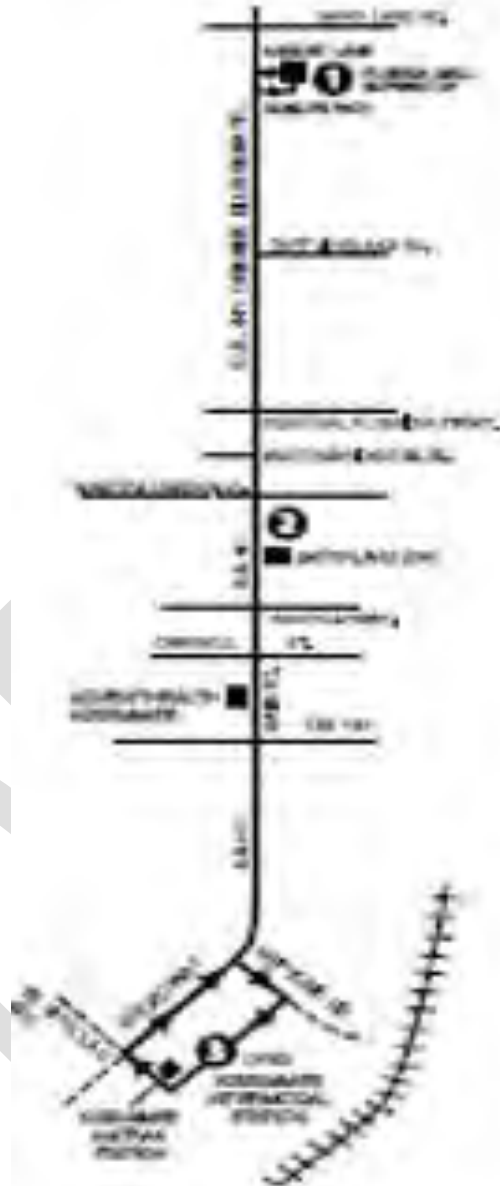
# Link 57 John Young Parkway

Serving: Washington Shores SuperStop, Mid Florida Tech, South Park Walmart, Hunter's Creek, LYNX Kissimmee Intermodal Station/SunRail, Osceola County Courthouse and The Loop



## Link 108 South US 441/Kissimmee

**Serving:** Florida Mall Superstop, Gatorland Zoo, AdventHealth- Kissimmee, LYNX Kissimmee Intermodal Station/SunRail. Late Night Service – Florida Mall to Hunters Creek only.



# Link 155

## The Loop/Bussa Ventures Lakes/Osceola Parkway

Monday-Friday  
No Saturday Evening/Nocturnal Service

### SERVING:

- Condon's Shopping Center
- Osceola County School for the Arts
- Walnut Square/Center OSU/OSU Plaza
- The Loop
- Top of the World

- Remembrance Lakes Blvd/Loop
- Top of the World Station
- Robert G. Bussa Community Center
- Neighborhood 807
- Hwy/Osceola RD



OSCEOLA COUNTY  
TRANSIT  
LINK 155

### Monday - Friday

#### OSCEOLA COUNTY TRANSIT LINK 155 MONDAY - FRIDAY

TO	FROM
6:00 AM	6:00 AM
6:15 AM	6:15 AM
6:30 AM	6:30 AM
6:45 AM	6:45 AM
7:00 AM	7:00 AM
7:15 AM	7:15 AM
7:30 AM	7:30 AM
7:45 AM	7:45 AM
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4:30 PM	4:30 PM
4:45 PM	4:45 PM
5:00 PM	5:00 PM
5:15 PM	5:15 PM
5:30 PM	5:30 PM
5:45 PM	5:45 PM
6:00 PM	6:00 PM

#### OSCEOLA COUNTY TRANSIT LINK 155 MONDAY - FRIDAY

TO	FROM
6:00 AM	6:00 AM
6:15 AM	6:15 AM
6:30 AM	6:30 AM
6:45 AM	6:45 AM
7:00 AM	7:00 AM
7:15 AM	7:15 AM
7:30 AM	7:30 AM
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10:00 AM	10:00 AM
10:15 AM	10:15 AM
10:30 AM	10:30 AM
10:45 AM	10:45 AM
11:00 AM	11:00 AM
11:15 AM	11:15 AM
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5:15 PM	5:15 PM
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5:45 PM	5:45 PM
6:00 PM	6:00 PM

NOTE: Times are shown in local time.

# Link 306

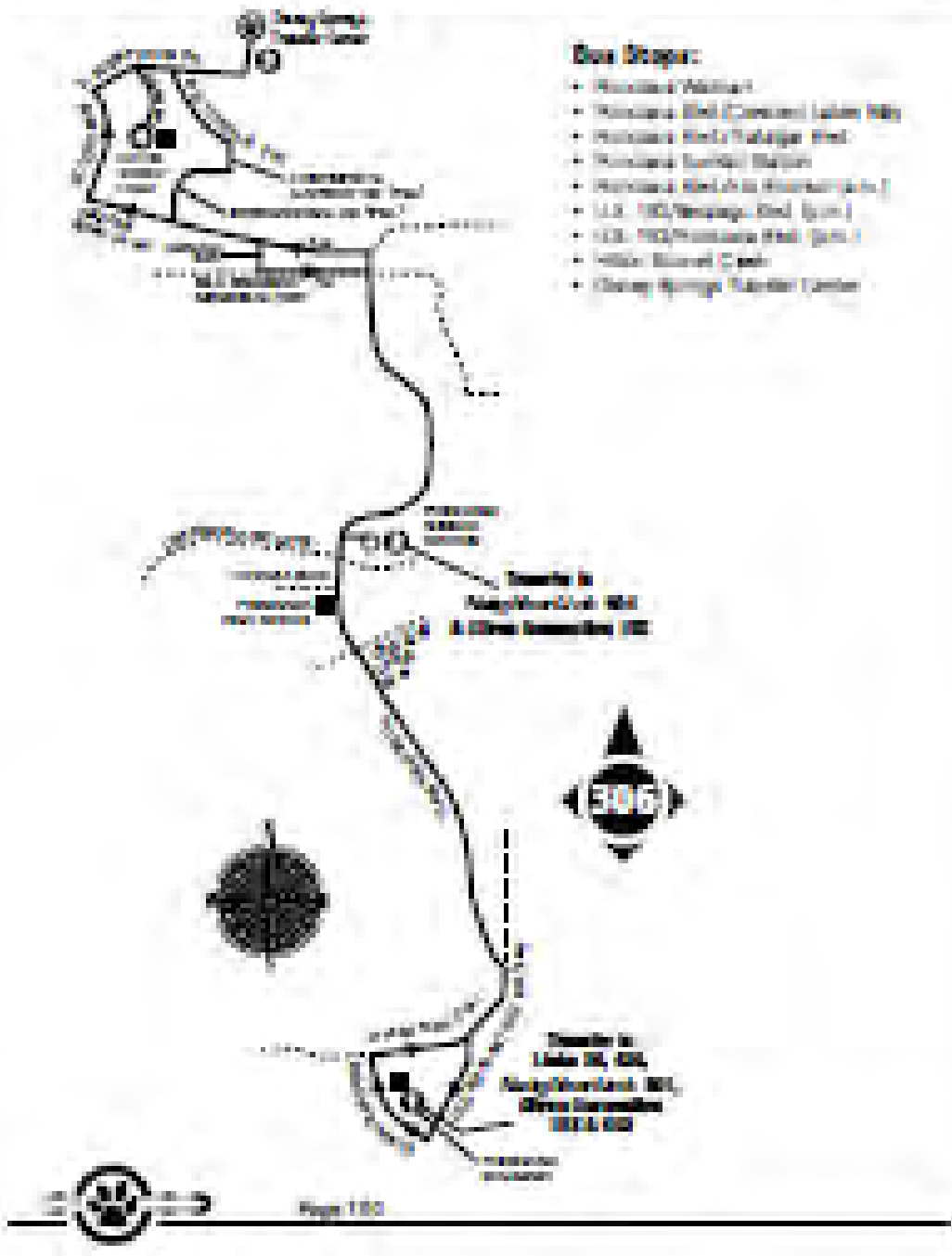
## Classy Direct

Monday-Thursday & Friday  
Service

### SERVING:

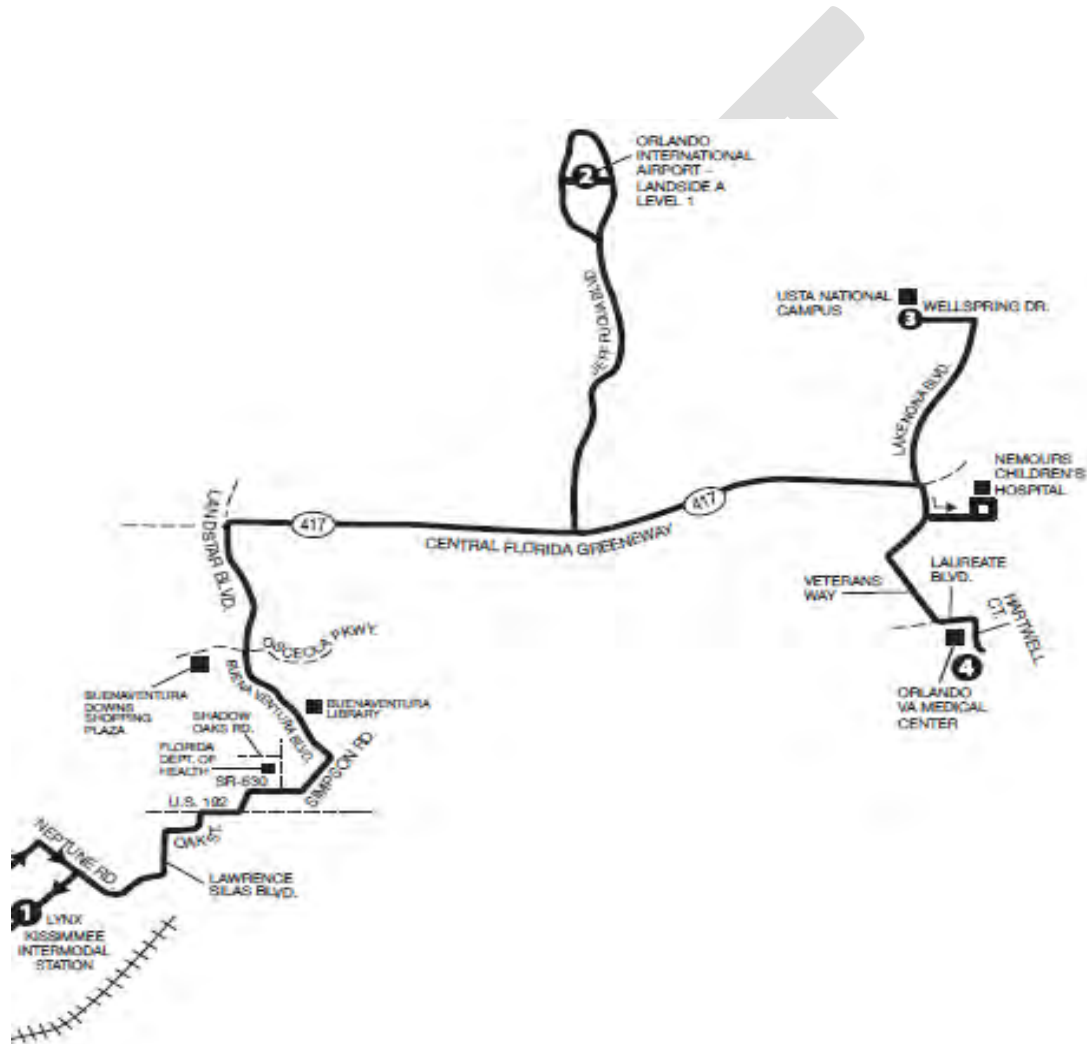
- Pinellas
- Pinellas High School
- Disney Springs Transfer Center
- Hillsborough County Transit
- Bay Area Link 101

- Citrus Connection 100, 102, 400
- Bay Area Link 400
- Pinellas Palmetto
- Pinellas South Star



# FastLink 407 Kissimmee/Medical City/Orlando International Airport

**Serving:** Orlando International Airport, LYNX Kissimmee Intermodal Station, Buenaventura Downs, Buenaventura Library, Florida Dept. of Health, USTA National Campus, Nemours Children's Hospital, and Orlando VA Medical Center





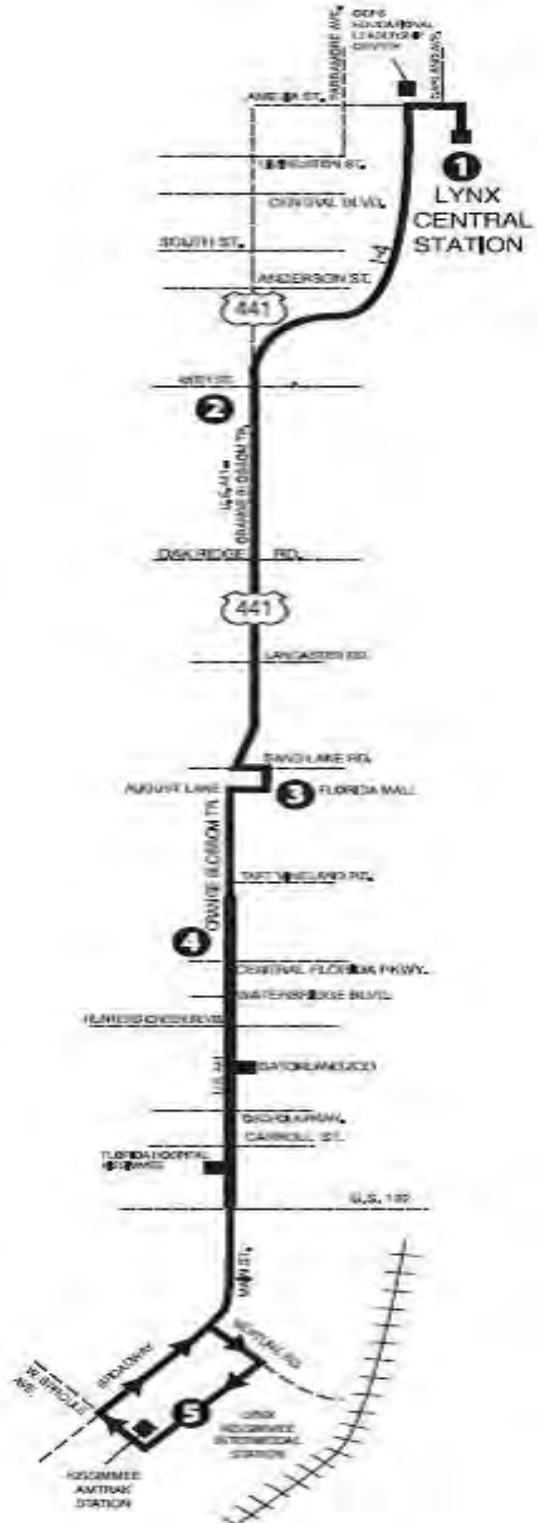
## 426 Poinciana Circulator

**Serving:** Poinciana Community Center, Poinciana Medical Center, NeighborLink 601, NeighborLink 603, Walmart, Link 26, Link 306, and Citrus Connection 16X



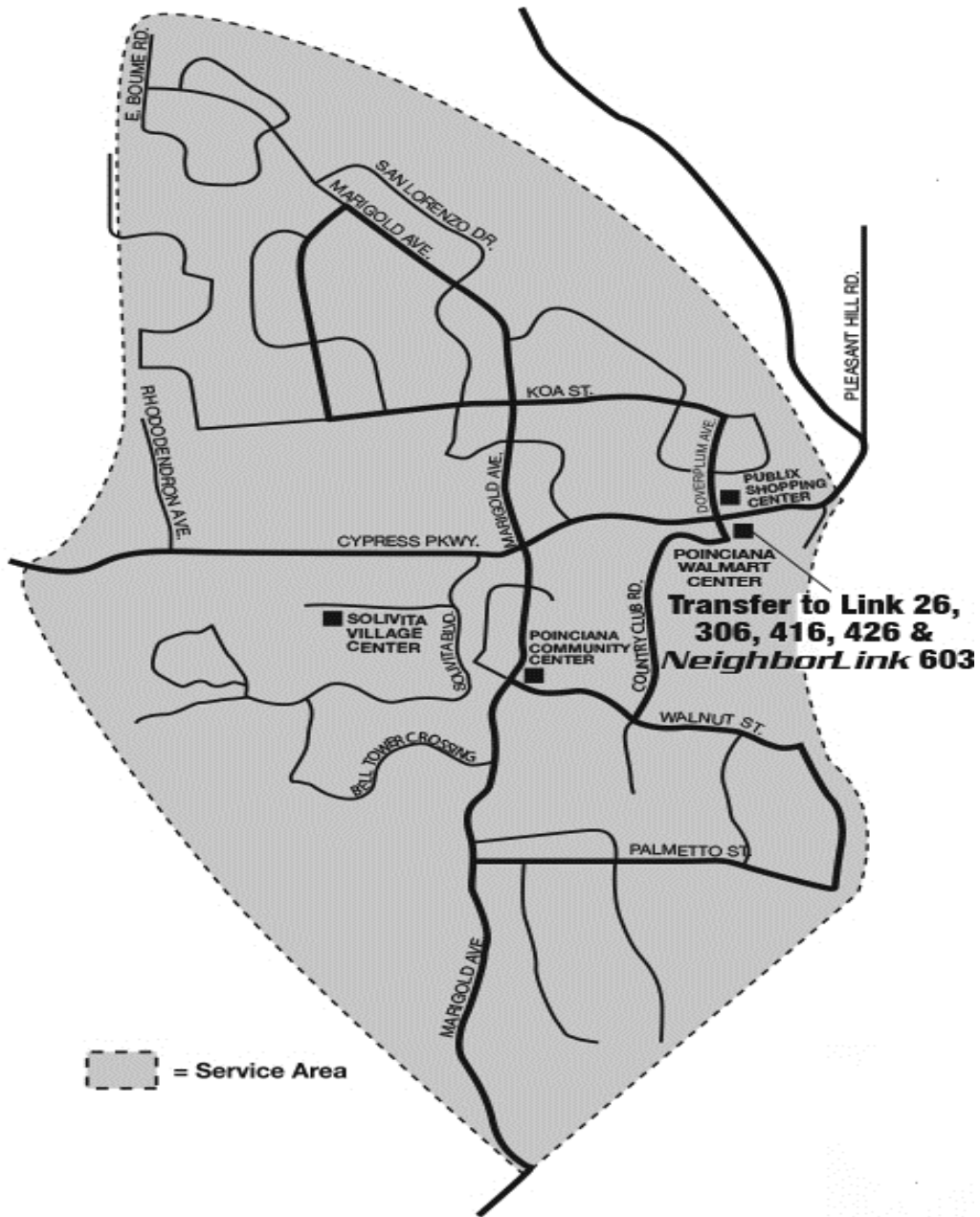
# FastLink 441 Kissimmee/Orlando

Serving: LYNX Central Station, OBT & Lancaster, Florida Mall, OBT & Central FL Pkwy., Main St. & Vine St., LYNX Kissimmee Intermodal Station/SunRail, OBT& Centerview Blvd. and Crosslands Shopping Center



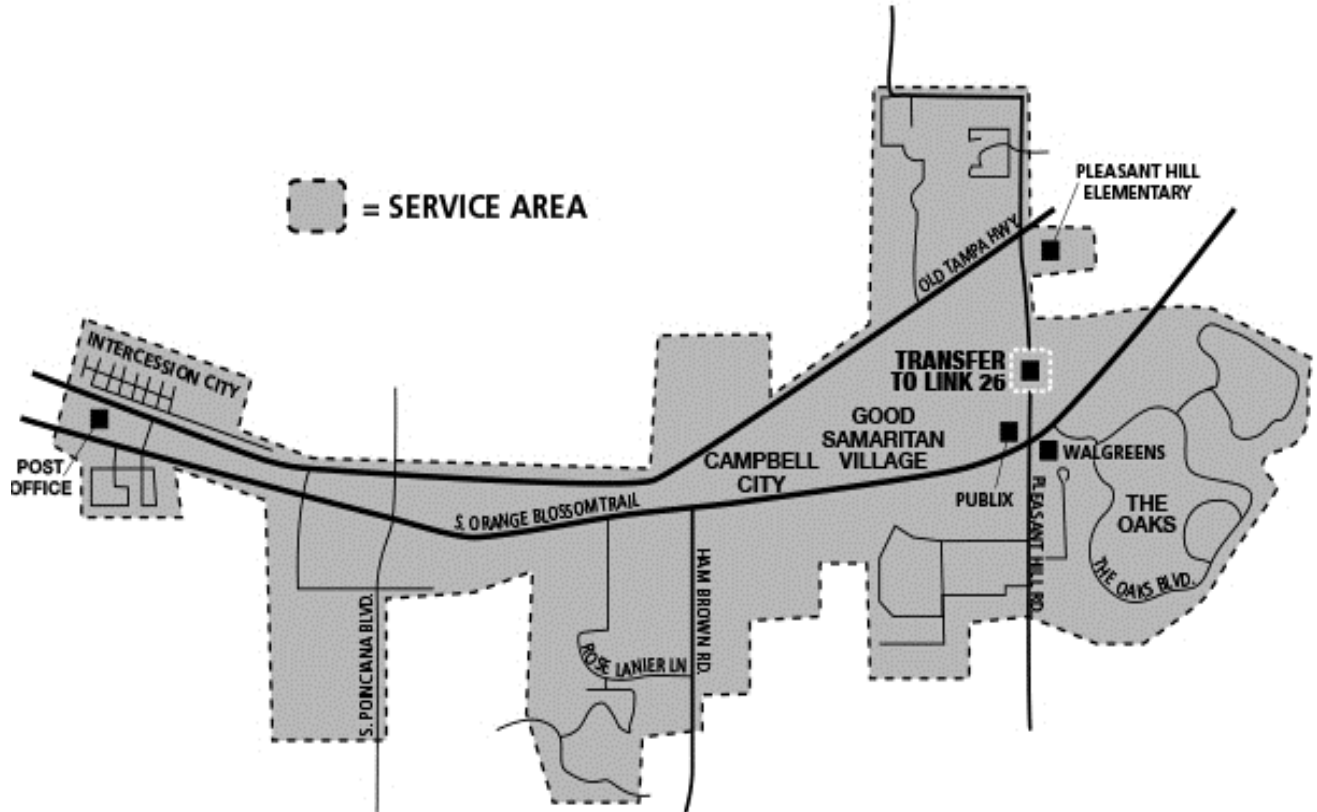
# NeighborLink 601 Poinciana

Serving: Link 26, Link 306, Link 426, Poinciana Community Center/YMCA, Solivita Village Center, Poinciana Town Center, Publix Shopping Center and Citrus Connection 16X and 603



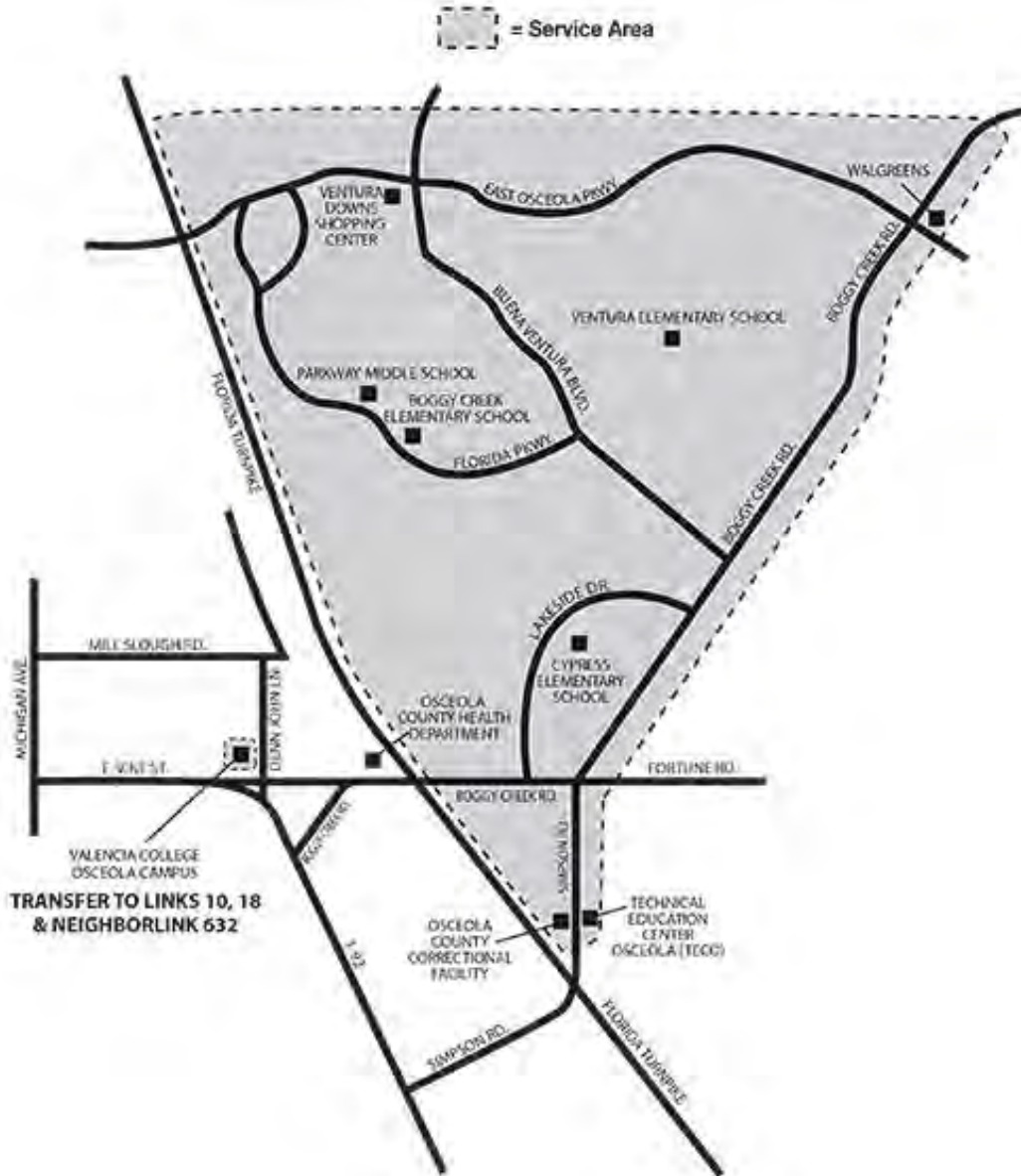
# NeighborLink 604 Intercession City/Campbell City

**Serving:** Intercession City, Campbell City, Southwest Kissimmee, Link 26, Poinciana SunRail Station, Pleasant Hill Commons, Publix Shopping Center, Good Samaritan Village, The Oaks and Crescent Lakes



# NeighborLink 631 Buena Ventura Lakes

**Serving:** Osceola County Correctional Facility, Technical Education Center Osceola, Valencia College Osceola Campus, Link 10, Link 18, NeighborLink 632 and Tupperware SunRail Station



# NeighborLink 632 North Kissimmee

**Serving:** AdventHealth Kissimmee, Osceola County Health Department, Park Place Behavioral Healthcare, V.A. Clinic, Valencia College Osceola Campus, Walmart, Tupperware/SunRail Station, NeighborLink 631, and The Loop



**Exhibit “B”**

**Description of Appropriated Amount  
October 1, 2021 through September 30, 2022**

***Fixed Route Operating Costs***

<b>Link Services</b>	<b>Amount</b>
Link 10	\$1,878,346
Link 18	\$687,641
Link 26	\$1,382,349
Link 55	\$1,952,574
Link 56	\$1,924,322
Link 57	\$245,928
Link 108	\$668,719
Link 155	\$415,661
Link 301	\$1,030
Link 303	\$788
Link 305	\$518
Link 306	\$91,257
Link 407	\$120,783
Link 426	\$481,356
Link 441	\$125,818
	<b>\$9,977,090</b>

<b>Cost Recoveries</b>	<b>Amount</b>
Estimated Farebox Recovery	(\$1,715,324)
SunRail Feeder Service	(\$455,337)
LYNX Non-Operating Cost Recoveries	(\$84,895)
LYNX Stabilization Fund	(\$2,133,164)
	<b>(\$4,388,720)</b>

**Net Fixed Route Cost** **\$5,588,370**

<b><i>NeighborLink Operating Costs</i></b>	<b>Amount</b>
NL 601	\$213,542
NL 604	\$137,998
NL 631	\$204,917
NL 632	\$197,122
	<b>\$753,579</b>

<i><b>ParaTransit Operating Costs</b></i>	<b>Amount</b>
Americans with Disabilities Act (ADA) Funding	\$2,149,436
Transportation Disadvantaged (TD) Funding	\$1,477,808
LYNX Stabilization Fund	<b>(\$486,573)</b>
	<b>\$3,140,671</b>
<b>Total Operating Costs</b>	<b>\$9,482,620</b>

<i><b>Capital Funding Cost</b></i>	<b>Amount</b>
\$2 per Hour Capital Funding	\$251,570
	<b>\$251,570</b>
<b>Total County Transit Service Cost</b>	<b><u>\$9,734,190</u></b>

***FY2022 Billing Schedule***

October-21	\$811,183
November-21	\$811,183
December-21	\$811,183
January-22	\$811,183
February-22	\$811,183
March-22	\$811,183
April-22	\$811,183
May-22	\$811,183
June-22	\$811,183
July-22	\$811,183
August-22	\$811,183
September-22	\$811,177
<b>Annual Funding Request from County</b>	<b>\$9,734,190</b>



Exhibit "C"

FUNDING MODEL INFORMATION

	<u>FY2022 Funding Model Amount</u>	<u>Additional Capital *</u>	<u>FY2022 Funding Agreement</u>
<u>Operating Funding</u>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
Subtotal	<u>\$ 71,422,119</u>	<u>\$ -</u>	<u>\$ 71,422,119</u>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
Subtotal	<u>\$ 9,037,152</u>	<u>\$ 1,168,824</u>	<u>\$ 10,205,976</u>
Subtotal Operating Funding	<u>\$ 80,459,271</u>	<u>\$ 1,168,824</u>	<u>\$ 81,628,095</u>
<u>Capital Contributions</u>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
Subtotal	<u>\$ 2,263,645</u>	<u>\$ -</u>	<u>\$ 2,263,645</u>
<b>Total Local Funds</b>	<u><u>\$ 82,722,916</u></u>	<u><u>\$ 1,168,824</u></u>	<u><u>\$ 83,891,740</u></u>

\*Local match towards vehicle replacement.

**Service Funding Agreement  
by and between  
Seminole County, Florida  
and  
Central Florida Regional Transportation Authority**

**THIS SERVICE FUNDING AGREEMENT (“Agreement”)** is made and entered into by and between **SEMINOLE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, whose principal address is 1101 East First Street, Sanford, Florida 32771 (hereinafter the “**Funding Partner**”), and the **CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**, a body politic and corporate created pursuant to Part III, Chapter 343, Florida Statutes, whose principal address is 455 North Garland Avenue, Orlando, Florida 32801 (hereinafter “**LYNX**”).

**WITNESSETH**

**WHEREAS**, Part II, Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), provides, *inter alia*, that specific public facilities and services must be available concurrently with the impacts of development; and

**WHEREAS**, the Funding Partner recognizes the need to provide Public Transportation (as hereinafter defined) in an efficient manner and acknowledges the benefits of increased ridership on the regional transportation system; and

**WHEREAS**, increasing traffic congestion and continued population growth require mass transit service improvements; and

**WHEREAS**, reliable and convenient mass transit service offers a viable alternative to private automobile travel; and

**WHEREAS**, the Funding Partner recognizes the need to maintain and improve transit services; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the authority to own, operate, maintain, and manage a Public Transportation system in the area of Orange, Seminole and Osceola Counties; and

**WHEREAS**, LYNX currently provides mass transit services within the geographical limits of the Funding Partner; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the right to contract with other governmental entities, including the Funding Partner, and has the right to accept funds from such other governmental entities; and

**WHEREAS**, the Funding Partner and LYNX entered into an Interlocal Agreement for Public Transit Services dated as of October 27, 2020 (the “**Prior Fiscal Year Funding Agreement**”) pursuant to which the Funding Partner agreed to appropriate funds to LYNX for

fiscal year from October 1, 2020 to September 30, 2021 to support LYNX Public Transportation services within the Service Area (as hereinafter defined); and

**WHEREAS**, the term of the Prior Fiscal Year Funding Agreement ended on September 30, 2021; and

**WHEREAS**, the Funding Partner has budgeted funds for the fiscal year beginning on October 1, 2021 and ending on September 30, 2022 (“**Fiscal Year**”) to support LYNX’s Public Transportation services for such fiscal year; and

**WHEREAS**, LYNX and the Funding Partner wish to acknowledge that appropriate methodology has been used to determine the recommended level of funding by each Funding Partner; and

**WHEREAS**, at present, LYNX and the Funding Partner acknowledge that the funds provided by the Funding Partner to LYNX are used as the Funding Partner’s support of the regional Public Transportation System only within the Service Area (as hereinafter defined).

**NOW, THEREFORE**, in and for consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the Funding Partner and LYNX agree as follows:

1. **Recitals**. The Funding Partner and LYNX hereby declare that the Recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **Definitions**. The following capitalized terms shall have the following meanings:

“**Access LYNX**” means LYNX’s van transit service for medically-qualified, physically challenged transit customers.

“**ADA**” means the Americans with Disabilities Act of 1990.

“**Agreement**” means this Service Funding Agreement and its Exhibits and Addenda.

“**Appropriated Amount**” means the amount to be paid to LYNX by the Funding Partner for the Current Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder, as set forth in Paragraph 3 hereof.

“**Current Fiscal Year**” shall mean the fiscal year beginning on October 1, 2020 and ending on September 30, 2021.

“**Deadhead Hours**” means the vehicle hours of operation incurred in non-Revenue Service in support of Revenue Service (i.e., hours from the garage to the beginning of a route).

“**Deadhead Miles**” means the vehicle miles incurred in non-Revenue Service in support of Revenue Service (i.e., miles from the garage to the beginning of a route).

“**Demand Response Service**” or “**NeighborLink**” means service provided in response to passenger requests made in advance to LYNX, which then dispatches a vehicle to pick up the

passengers and transport them to their destinations or to a fixed-route transfer point within a designated demand response service area.

“**Fiscal Year**” or “**Current Fiscal Year**” means the twelve (12) month period commencing October 1, 2021 and ending the following September 30, 2022.

“**Fixed-Route Service**” means service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations. Unlike demand response service, Fixed-Route Service services the same origins and destinations. Fixed-Route Service includes route deviation service, where revenue vehicles deviate from fixed-routes on a discretionary basis.

“**FDOT**” means the Florida Department of Transportation.

“**FTA**” means the Federal Transit Association.

“**New Appropriated Amount**” means the amount that is approved or appropriated by the Funding Partner for the Next Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder for the Next Fiscal Year, as set forth in Paragraph 3 below.

“**Next Fiscal Year**” means the twelve (12) month period immediately following the Current Fiscal Year, and is the period commencing October 1, 2022 and ending the following September 30, 2023.

“**Operating Expenses**” mean the expenses associated with the operations of LYNX, and which are classified by function or activity.

“**Passenger Fares**” means the revenue earned from carrying passengers in regularly scheduled service. Passenger Fares include the base fare, distance premiums, express service premiums, transfers and quantity purchased discount fares (i.e., daily, seven-day, thirty-day, student, senior, etc. tickets and passes).

“**Passenger Trips**” means the number of fare-paying individuals who ride LYNX’s buses in any given period with each individual being counted once per boarding.

“**Public Transportation**” means transportation by a conveyance (e.g., by bus or van) that provides regular and continuing general or special transportation to the public, but does not include light rail. “Special transportation” includes transportation services being provided to the public pursuant to the ADA.

“**Revenue Hours**” means the hours a vehicle travels while in Revenue Service, which excludes Deadhead Hours.

“**Revenue Miles**” means the miles a vehicle travels while in Revenue Service, which excludes Deadhead Miles.

“**Revenue Service**” means the portion of the trip and/or period of time when a vehicle is available to board and alight fare-paying transit passengers.

“**Service Area**” means generally the geographic area of the Fixed-Route Service, as the case may be, described and set forth in **Exhibit “A”** attached hereto.

3. **Funding Partner Obligations.**

(a) **Current Fiscal Year.**

(i) The Funding Partner agrees to appropriate the amount specified on **Exhibit “B”** attached hereto (the “**Appropriated Amount**”) to LYNX for the Fiscal Year for the provision of Public Transportation within the Service Area.

(ii) The Appropriated Amount shall be paid by the Funding Partner to LYNX in twelve (12) equal monthly installments, with each installment being due on the first day of each month. The first installment payment shall be due upon the later of (x) October 1, 2021 or (y) thirty (30) days after the execution date of this Agreement; and any other installment payments which would be due prior to the execution date of this Agreement shall also be paid within thirty (30) days after the execution date of this Agreement.

(iii) In the event that the Appropriated Amount is less than the amount suggested by the Funding Model to fully fund the agreed upon service level in the Funding Partner’s Service Area, or in the event that the Appropriated Amount is less than the actual cost to fully fund the agreed upon service level in the Funding Partner’s Service Area, LYNX may, at its discretion, (x) utilize reserves to fund the difference and continue to provide the requested service level, or (y) reduce the service level in the Funding Partner’s Service Area to a level equivalent to the Appropriated Amount. However, in the event clause (x) is applicable, then the Funding Partner will promptly pay said difference to LYNX within thirty (30) days after the execution date of this Agreement.

(iv) In regard to Paragraph 3(a)(ii), above, for each monthly installment, LYNX will invoice the Funding Partner on a monthly basis and said amount shall be paid within thirty (30) days after the receipt by the Funding Partner of said invoice. However, in regard to any monthly installments that remain unpaid prior to the execution of this Agreement, those unpaid monthly installments (for which LYNX will furnish the Funding Partner invoices) will be paid within thirty (30) days after the execution date of the Agreement.

(b) **Next Fiscal Year.** If, prior to the termination date of this Agreement (as set forth in Paragraph 20 below), the Funding Partner and LYNX have not reached a written agreement setting forth an appropriation to LYNX for the Next Fiscal Year, then, notwithstanding the expiration of this Agreement at the end of the Current Fiscal Year and in order to continue the Public Transportation after said expiration, the Funding Partner shall continue to pay LYNX for the Next Fiscal Year the amount set forth below:

(i) The amount to be paid shall be the Appropriated Amount for the Current Fiscal Year. This Appropriated Amount for the Current Fiscal Year (the “**Post-Termination Payment**”) shall be paid as provided herein.

(ii) LYNX will prepare and submit invoices for the Post Termination Payments and the Funding Partner will make such Post-Termination Payments within thirty (30) days after its receipt of such invoices from LYNX.

(iii) The Post Termination Payment shall be paid in equal monthly installments due on the first day of each month commencing October 1, 2022

(iv) until the earliest to occur of the following: (x) LYNX and the Funding Partner reach a written agreement setting forth a different appropriation for the Next Fiscal Year; (y) one hundred twenty (120) days following the date that the Funding Partner, through action taken by its governing board, notifies LYNX in writing that it wishes to terminate this Agreement and no longer receives from LYNX the Public Transportation services provided herein; or (z) the date that LYNX actually discontinues the Public Transportation services to the Funding Partner, at which time this Agreement and specifically the provisions of this Subparagraph 3(b) will no longer be applicable. LYNX may, within its discretion, reduce, eliminate or discontinue the provision of Public Transportation services to the Funding Partner immediately upon providing the Funding Partner with written notice of same. If this Subparagraph 3(b) is applicable, the parties will reconcile the difference between the amount that was paid by the Funding Partner and the amount that has been agreed upon for the Next Fiscal Year in the first month following the earliest of the occurrences set forth above.

(v) If a written agreement for the Next Fiscal Year is not entered into between LYNX and the Funding Partner by November 30 of the Next Fiscal Year, then, in that event, LYNX will undertake the necessary procedure for the discontinuation of the service which process takes approximately one hundred and twenty (120) days. If a new Funding Agreement for the Next Fiscal Year is not entered into by January 31 of the Next Fiscal Year, then LYNX may discontinue the service in accordance with its policies and the Funding Partner will in any event pay for any service provided for the Next Fiscal Year, including any service that may be provided of necessity by LYNX after January 31 in accordance with its procedures.

(c) Notwithstanding anything to the contrary set forth herein, the payment of all amounts due to LYNX hereunder shall be made in compliance with the Florida Prompt Payment Act, codified at Sections 218.70 to 218.80, Florida Statutes.

#### 4. **LYNX Obligations.**

(a) **Service.** LYNX agrees to provide Public Transportation within the Service Area during the Fiscal Year. LYNX shall request written approval from the Funding Partner prior to implementing any of the following changes which may result in a greater than two percent (2%) increase or decrease of Fixed-Route Service hours within the Service Area (as computed on an annual basis), which written approval shall not be unreasonably withheld or delayed:

(i) Addition of route(s).

(ii) Elimination of route(s).

- (iii) Combination of routes.
- (iv) Changes to service span.
- (v) Change to service frequency.
- (vi) Changes in days of operation.

To the extent that there is any increase or decrease of Fixed-Route Service hours greater than two percent (2%) (which would require approval of the Funding Partner), then, in that case, there will be a corresponding increase or decrease in the Appropriated Amount to be paid to LYNX by the Funding Partner from and after said increase or decrease is put into effect.

(b) **Quarterly Reporting.** For the purposes of operations and management analysis, LYNX agrees to provide the Funding Partner quarterly written performance reports reflecting the LYNX operations of the prior quarter. The quarterly reporting periods shall end on December 31, March 31, June 30 and September 30 and said reports shall be submitted to the Funding Partner's Office of Management and Budget and Office of Regional Mobility within forty-five (45) days after the end of each quarter. Each quarterly report will include the following items:

- (i) Maps and schedules for each route operating in the Service Area.
- (ii) Official LYNX monthly ridership reports showing a breakdown of actual aggregate ridership by mode (i.e., Fixed-Route Service, Demand Response Service, LYMMO, Access LYNX, Van Plan and special shuttles).
- (iii) An operational service characteristics report for current services provided, which would include (1) revenue hours, (2) revenue miles, and (3) unlinked passenger trips.
- (iv) A comparison of actual revenue and expenditures to budgeted revenues and expenditures with explanations for variances that are plus or minus 10% and exceed \$50,000.
- (v) A route performance report, which reports and ranks each route which is located in the County for the Funding Partner, monthly based on the following:
  - (A) Subsidy per Passenger Trip.
  - (B) Passengers per trip.
  - (C) Passengers per Revenue Hour.
  - (D) Passengers per Revenue Mile.
  - (E) Percent farebox return (i.e., percent of Operating Expenses recovered through farebox).

(vi) Current and contemporaneous versions of the LYNX regional model, which is the model used by LYNX to apportion total Operating Expenses, less adjustments, to the Funding Partners based on Fixed-Route Service hours, ADA client trips, and flex-service hours in their service area. The following criteria will be utilized to determine this amount:

- (A) A comparison of scheduled versus actual Revenue Miles.
- (B) A comparison of scheduled versus actual Revenue Hours.
- (C) A schedule of unanticipated extraordinary expenses for the prior quarter.
- (D) A list of changes to authorized staffing.
- (E) A schedule of total training and travel expenditures for each LYNX board member and employee for the immediately preceding quarter. This schedule should specify the training event name, attendee name(s), date(s) of travel and/or training, event location, and total expenses of each trip.

(vii) Funding Model Information. Attached hereto as **Exhibit “C”** is a schedule listing including the following:

- (A) All of LYNX’s funding partners;
- (B) The amount of funding required of each funding partner by the Funding Model for the Current Fiscal Year ; and
- (C) The amount each funding partner actually budgeted for the Current Fiscal Year to contribute for the services contemplated in the LYNX Funding Model.
- (D) LYNX shall provide quarterly updates to **Exhibit “C”** by listing the amount each funding partner has paid to LYNX to date.

(viii) The amount of fund balance allocated to reserves.

(ix) Any other information the Funding Partner reasonably requests.

(c) **Additional Reporting.** On an annual basis, within thirty (30) days of receipt, LYNX shall provide the Funding Partner with a copy of all external audits, a copy of the Comprehensive Annual Financial Report, which shall include the Report on Internal Controls, Report on Compliance with Laws and Regulations, and a copy of the management letter.

5. **Independent Contractor.** LYNX expressly acknowledges that it is acting as an independent contractor, and nothing in this Agreement is intended or shall be construed to establish



an agency, partnership or joint venture relationship between the parties, their employees, agents, subcontractors, or assigns, during or after performance of this Agreement. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

6. **Amendments.** This Agreement may be amended only through a written document approved by both the Funding Partner's Board of Commissioners and the LYNX Governing Board, and executed by all parties hereto.

7. **Termination of Agreement.**

(a) **For Cause.** If LYNX or the Funding Partner (the "**Breaching Party**") fails to fulfill any material covenant, term or condition of this Agreement, the other party (the "**Non-Breaching Party**") shall give the Breaching Party written notice of such failure or violation. If such failure or violation is not cured within thirty (30) days from the date on which the Breaching Party receives such notice, the Non-Breaching Party may terminate this Agreement, which shall be effective upon thirty (30) days following the Breaching Party's receipt of a written notice from the Non-Breaching Party to that effect or such later date as specified in the notice. In the event the Funding Partner is the Breaching Party, the Funding Partner will nonetheless continue to pay to LYNX for any fixed route service furnished by LYNX up to the actual date that LYNX terminates said fixed route service, taking into account the policies and procedures to be followed by LYNX to terminate bus service generally (but not to exceed one hundred twenty (120) days).

(b) **For Convenience.** Either LYNX or the Funding Partner may terminate this Agreement at any time upon giving notice to that effect. Such termination shall be effective upon one hundred twenty (120) days receipt of written notice of termination from the party desiring to terminate this Agreement or such later date as specified in the notice.

The provisions of this Paragraph 7 are further subject to the provisions of Subparagraph 3(c) above as to the rights of the parties to terminate this Agreement after the end of any fiscal year as provided in said Paragraph 3(c).

8. **Audit.** The Funding Partner (or its lawfully designated designee), shall have the right to audit LYNX's books and records on an annual basis to determine compliance with the terms, conditions and obligations imposed by this Agreement. The Funding Partner shall have full access to all records, documents and information, whether on paper or electronic or other media as is necessary or convenient to perform the audit.

9. **Public Records.** If LYNX has questions regarding the application of Chapter 119, Florida Statutes, to LYNX's duty to provide public records relating to this agreement, contact the funding partner's custodian of public records at:

10.

Clerk of Court  
1101 E. 1<sup>st</sup> Street  
Sanford, FL 32771  
clerk@seminoleclerk.org

LYNX understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If LYNX will act on behalf of the Funding Partner, as provided under section 119.011(2), Florida Statutes, LYNX, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

(a) Keep and maintain public records required by the Funding Partner to perform the service.

(b) Upon request from the Funding Partner's custodian of public records, provide the Funding Partner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LYNX does not transfer the records to the Funding Partner.

(d) Subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, upon completion of the contract, transfer, at no cost, to the Funding Partner all public records in possession of the LYNX or keep and maintain public records required by the Funding Partner to perform the service. If LYNX transfers all public records to the Funding Partner upon completion of the contract, LYNX shall, subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LYNX keeps and maintains public records upon completion of the contract, LYNX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Funding Partner, upon request from the Funding Partner's custodian of public records, in a format that is compatible with the information technology systems of the Funding Partner.

(e) If LYNX does not comply with a public records request, the Funding Partner shall enforce the contract provisions in accordance with the Agreement.

11. **Record Keeping Procedure.** LYNX shall keep and maintain accurate records of all services rendered in the performance of this Agreement and shall keep such records open to inspection by the Funding Partner at reasonable hours during the entire term of this Agreement, plus three (3) years after expiration or termination of this Agreement. If any litigation, claim or audit is commenced prior to the expiration of the three (3) year period and extends beyond such

period, the records shall be maintained until all litigation, including appeals, claims or audits have been concluded or resolved. Any person authorized by the Funding Partner shall have access to and the right to examine any of the records.

12. **Compliance with FTA/FDOT Requirements.** The provisions of this Agreement, and the Public Transportation to be provided by LYNX hereunder, is subject at all times to the applicable statutes and rules and regulations of all applicable governmental authorities, including those of the FTA and FDOT. In the event any such statutes or rules or regulations would require a substantial and material change to this Agreement, then the parties will immediately meet to review and make acceptable adjustments to this Agreement so as to comply with such statutes and rules and regulations.

13. **Litigation and Venue.** In the event any party deems it necessary to take legal action to enforce any provision of this Agreement, the venue shall be in the Circuit Court of the Ninth Judicial Circuit, in Orange County, Florida or the United States District Court for the Middle District of Florida, Orlando Division.

14. **Remedies.** No remedy herein conferred upon any part is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

15. **Severability.** In the event that any section, paragraph, sentence, clause or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement which remaining portions shall remain in full force and effect.

16. **Waiver.** Performance of this Agreement by any party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

17. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of Florida. The parties to this Agreement agree to comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

18. **Construction.** Captions and section headings in this Agreement are for convenience and reference only, and shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

19. **Notices.** All notices, consents, approvals, waivers, and deletions which any party shall be required or shall desire to make or give under and in accordance with this Agreement shall be in writing and must be sent by certified United States mail with return receipt required, or by personal delivery with receipt required to the following addresses:

As to Funding Partner: Seminole County  
1101 East First Street  
Sanford, Florida 32771  
Attn: Nicole Guillet, County Manager

With copy to: Seminole County Services Building  
1101 East First Street  
Sanford, Florida 32771  
Attn: Development Services Director

With copy to: Seminole County Services Building  
1101 East First Street  
Sanford, Florida 32771  
Attn: Resource Management Director

As to LYNX: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: James E. Harrison, Esq., P.E., Chief Executive Officer

With copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Leonard Antmann, Chief Financial Officer

With a copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Carrie L. Sarver, Esq., B.C.S., Senior Staff Attorney

20. **Binding Agreement.** This Agreement is binding upon the parties and shall inure to their successors or assigns.

21. **Effective Date.** The effective date of this Agreement shall be October 1, 2021. Unless terminated earlier in accordance with Paragraph 7 of this Agreement, this Agreement will terminate on September 30, 2022, except for the provisions of this Agreement which by their terms survive the termination of this Agreement.

22. **Negotiations.** The parties to this Agreement acknowledge that all terms of this Agreement were negotiated at arms-length and that this Agreement and all documents executed in connection herewith were prepared and executed without undue influence exerted by any party or on any party. Further, all parties drafted this Agreement jointly, and no parties are entitled to the benefit of any rules of construction with respect to the interpretation of any terms, conditions, or provisions of this Agreement in favor of or against any person or party who drafted this Agreement.

23. **No Third-Party Beneficiaries.** This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties in this Agreement.

24. **Entirety of the Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the specific matters contained herein and shall supersede all previous discussions, understandings, and agreements.

25. **Addendum.** There is attached hereto a certain Addendum consisting of one (NA) page. To the extent there is a conflict between the terms of this Agreement and the terms of the Addendum, the terms of the Addendum will govern.

**IN WITNESS WHEREOF**, the Funding Partner and LYNX have duly and lawfully approved this Agreement and have authorized its execution and delivery by their respective officers, who have set their hands and their respective seals affixed below, all as of the date first written hereinabove.

**[Signatures appear on following page]**

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**SIGNATURE PAGE FOR FUNDING PARTNER**

**ATTEST:**

**FUNDING PARTNER:**

**BOARD OF COUNTY COMMISSIONERS  
OF SEMINOLE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Clerk to the Board of County  
Commissioners

By: \_\_\_\_\_  
Lee Constantine, Chairman

For the use and reliance of Seminole  
County only.

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

As authorized for execution by the Board of  
County Commissioners at its \_\_\_\_\_,  
2021, regular meeting.

Approved as to form and legal sufficiency.

\_\_\_\_\_  
County Attorney

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**SIGNATURE PAGE FOR LYNX**

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Name: James E. Harrison, Esq., P.E.

Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_

Name: Carrie L. Sarver, Esq., B.C.S.

Title: Senior Staff Attorney

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

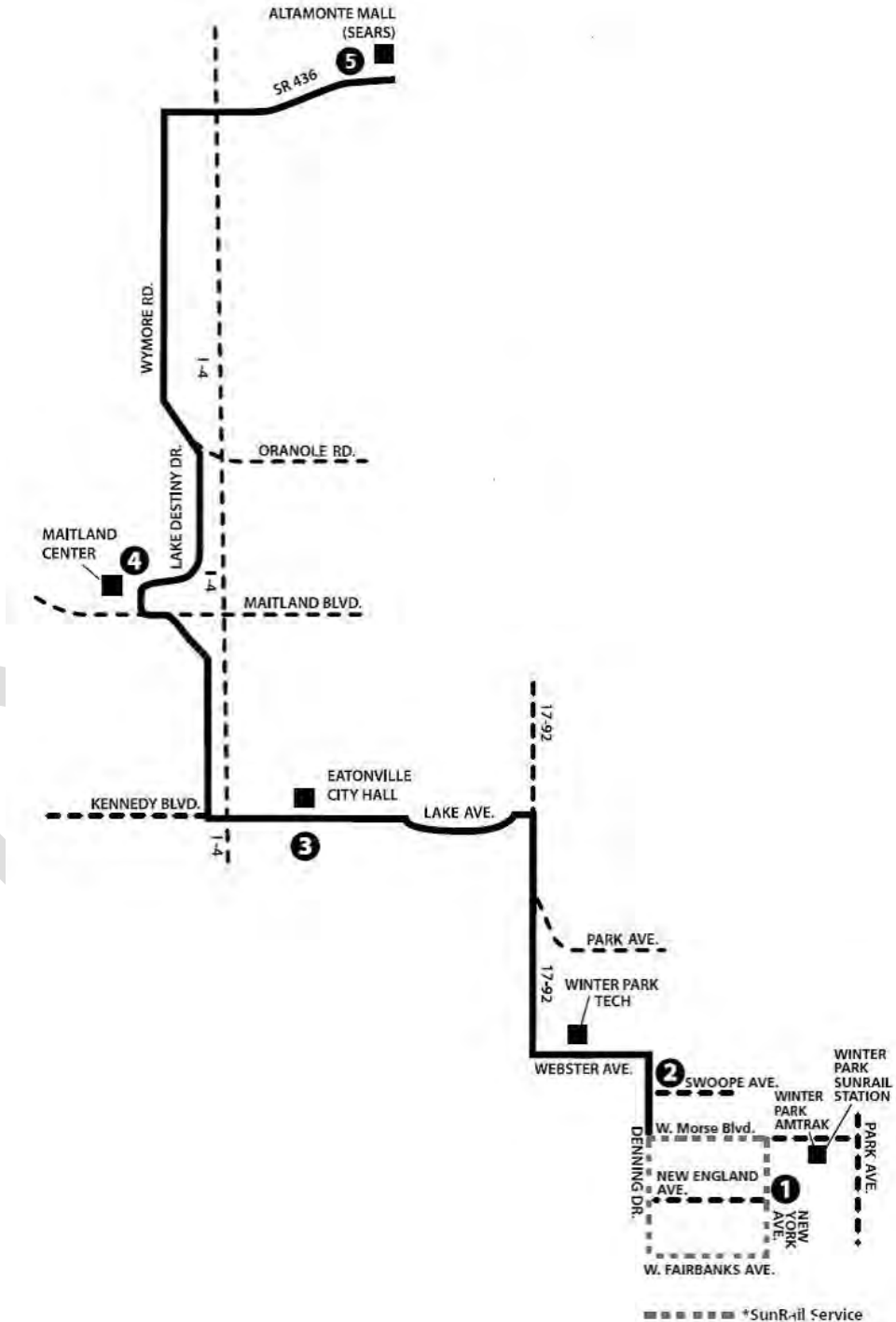
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Exhibit "A"

DESCRIPTION OF SERVICE AREA

**LINK 1 Winter Park/Maitland/Altamonte Springs**

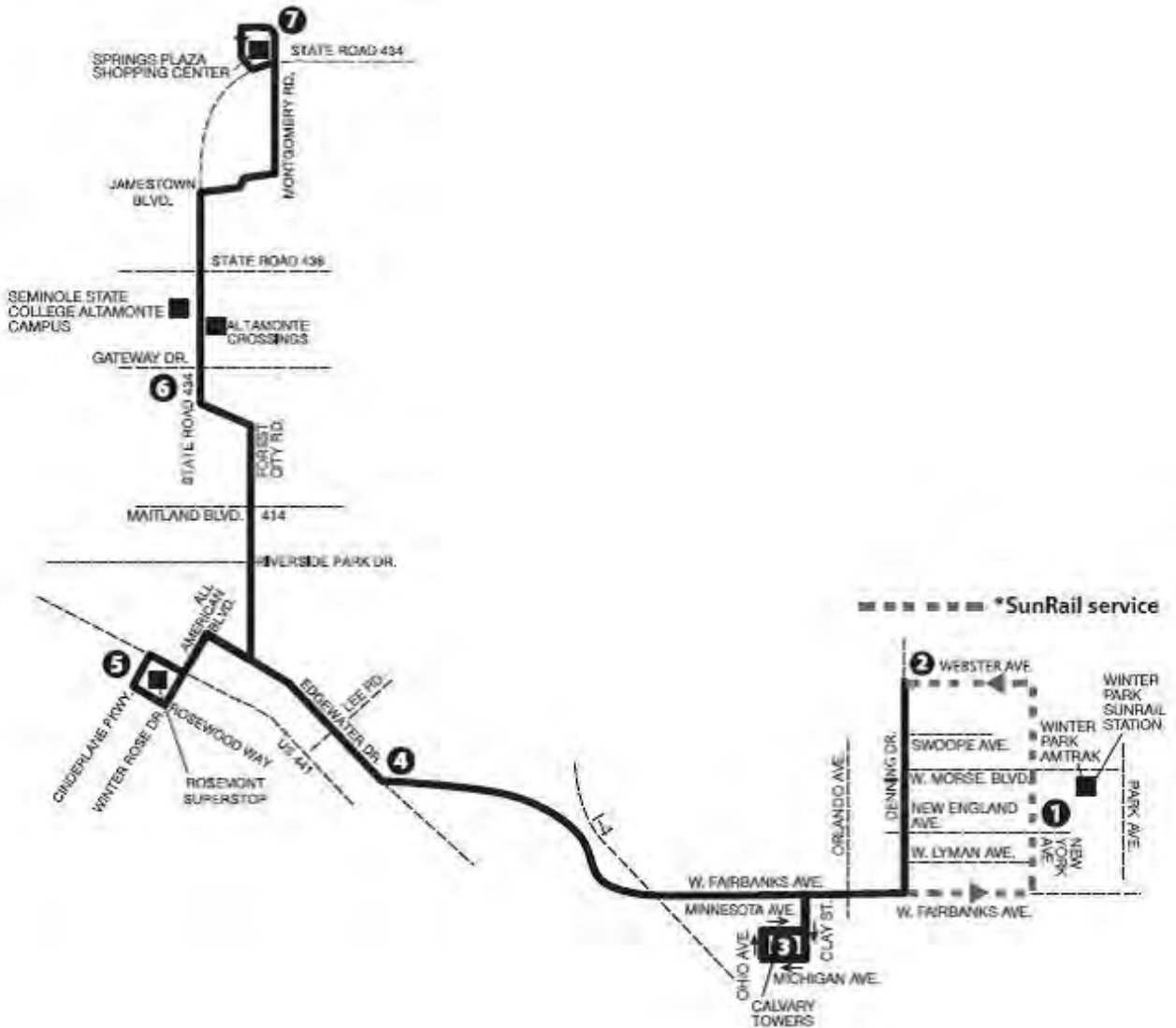
**Serving:** Winter Park Tech, Eatonville, Maitland Center, Altamonte Mall, Winter Park SunRail Station and Winter Park Amtrak





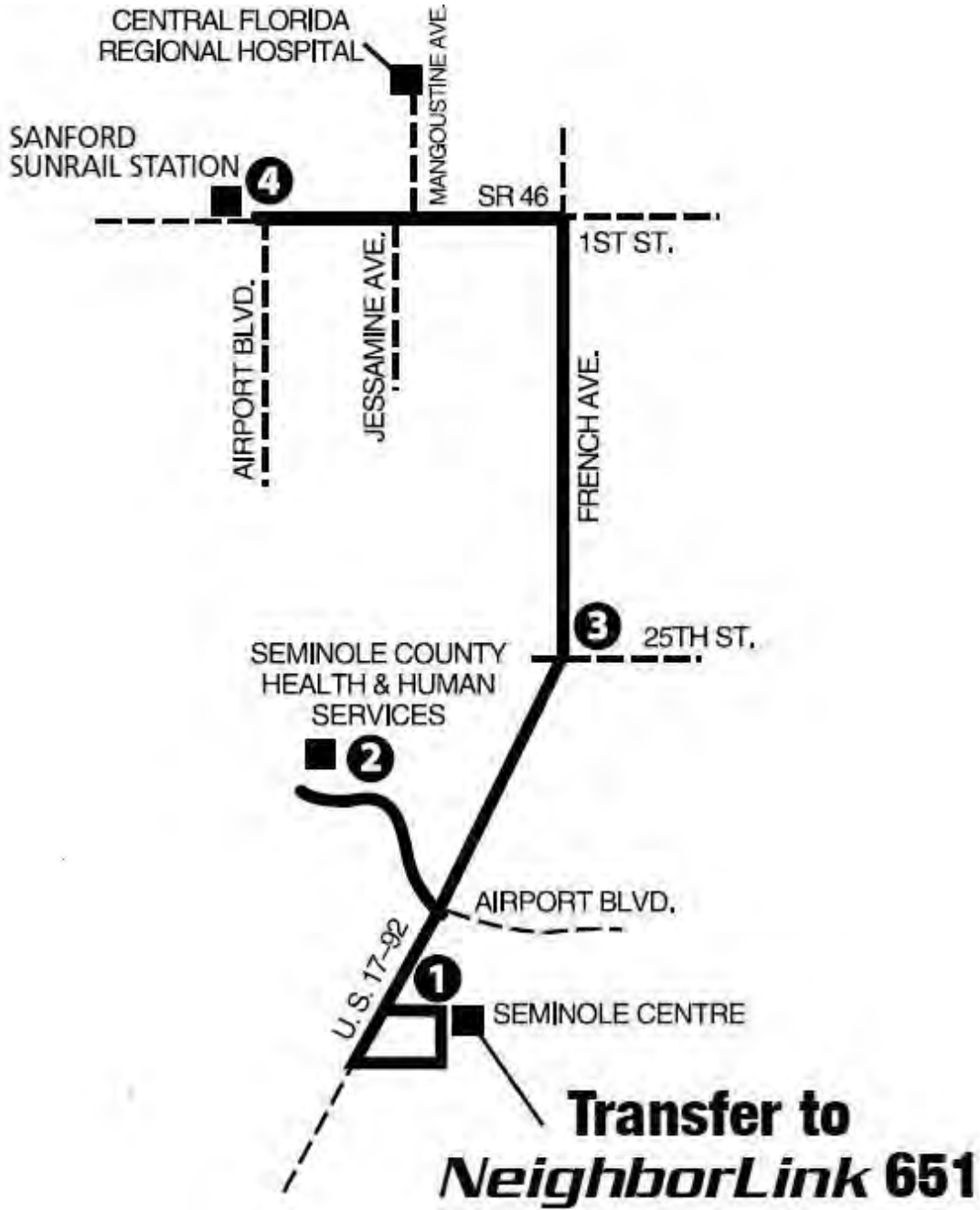
# LINK 23 Winter Park/Rosemont/Springs Plaza

Serving: Winter Park Tech, Rosemont Superstop, West Town Center Walmart, Springs Plaza Shopping Center, Winter Park SunRail Station, and Calvary Towers



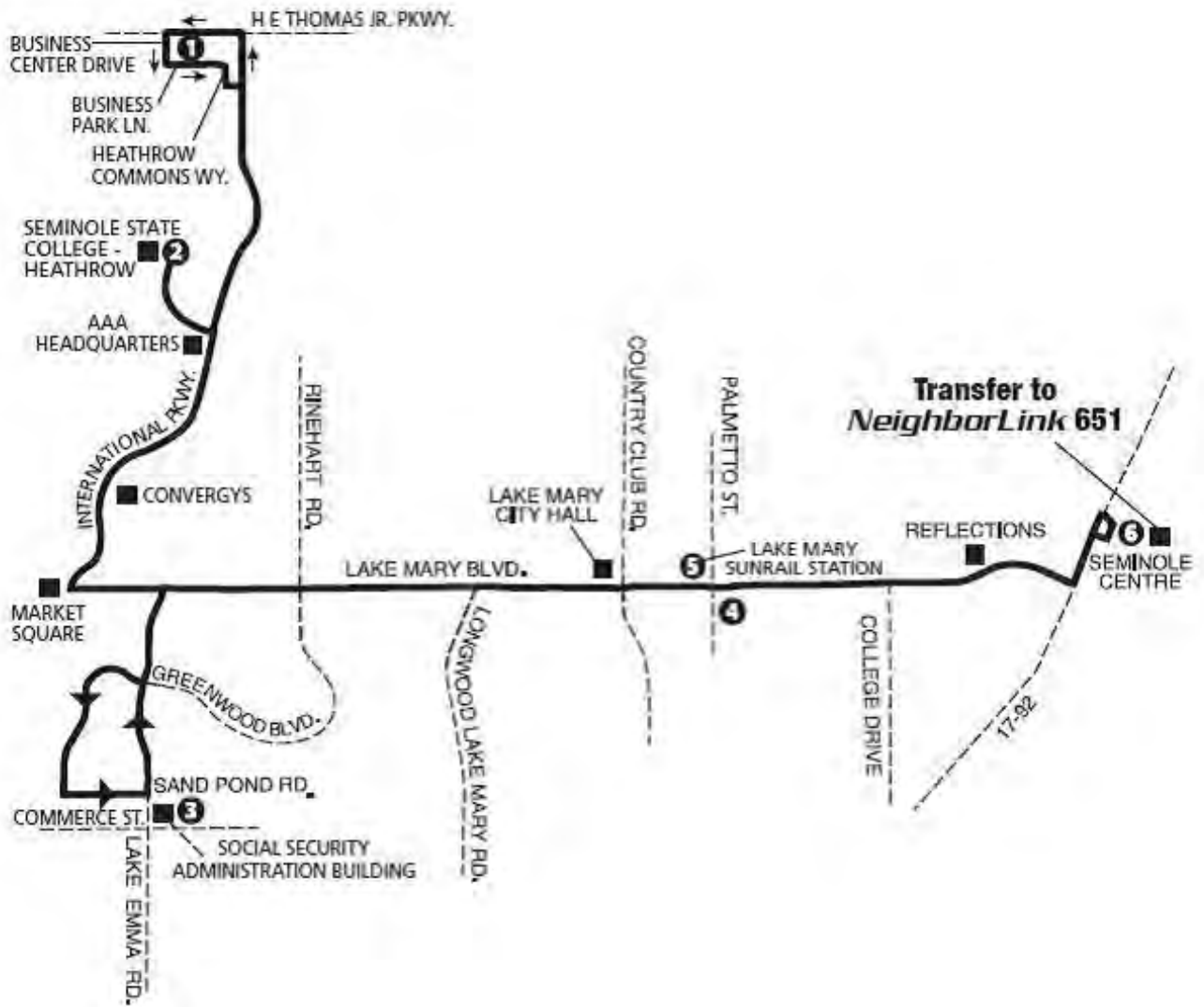
# LINK 34 Sanford/N, Y.S. 17-92

Serving: Seminole Centre, Seminole County Health & Human Services, Central Florida Regional Hospital and Sanford SunRail Station



# LINK 45 Lake Mary

**Serving:** Colonial Center, Lake Emma Rd, Lake Mary Blvd, Lake Mary City Hall, Reflections, Seminole Centre, Seminole State College - Heathrow, AAA Headquarters, Convergys, Lake Mary SunRail Station, and NeighborLink 651



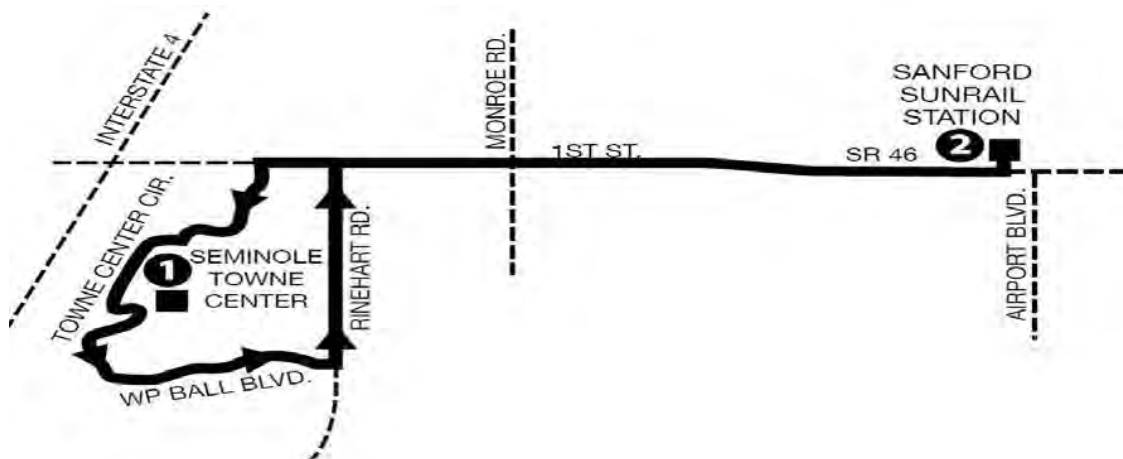
## LINK 46 East E. First St./Downtown Sanford

Serving: Downtown Sanford, Central Florida Regional Hospital, Seminole County Services Building, True Health, Sanford SunRail Station, and NeighborLink 651



## LINK 46 West w. SR 46/Seminole Towne Center

Serving: Seminole Towne Center, Walmart Rinehart Road, Super Target Rinehart Road, Sanford SunRail Station and NeighborLink 651



# LINK 102 Orange Avenue/ South 17-92

Serving: LYNX Central Station, AdventHealth Orlando, Valencia College – Winter Park, Winter Park Tech, Maitland, Fern Park, Jai-Alai and NeighborLink 652



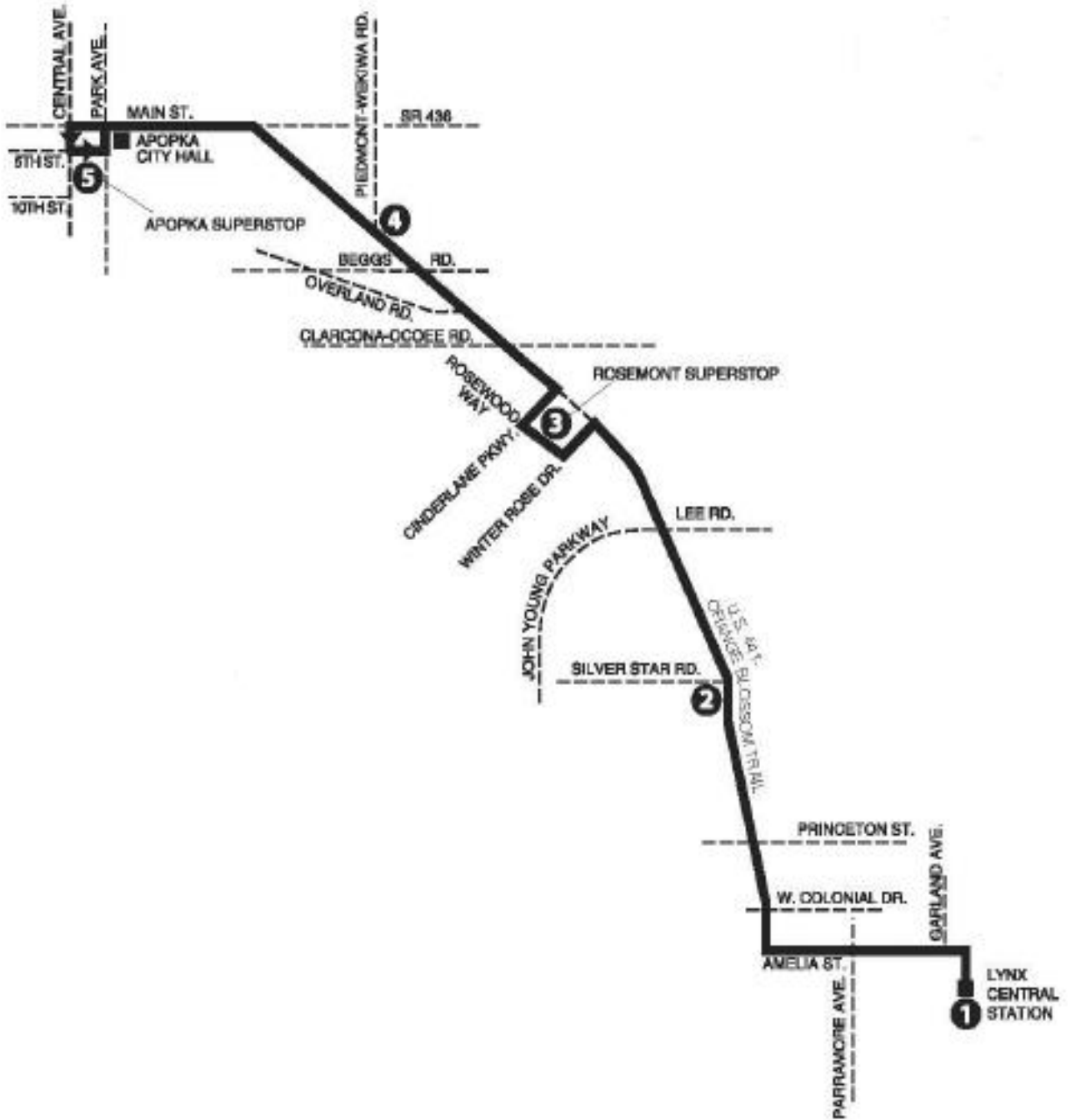
# LINK 103 North 17-93/ Seminole Centre

Serving: Jai-Alai, Seminole County Courthouse, Seminole Centre, Seminole State College, and NeighborLink 651



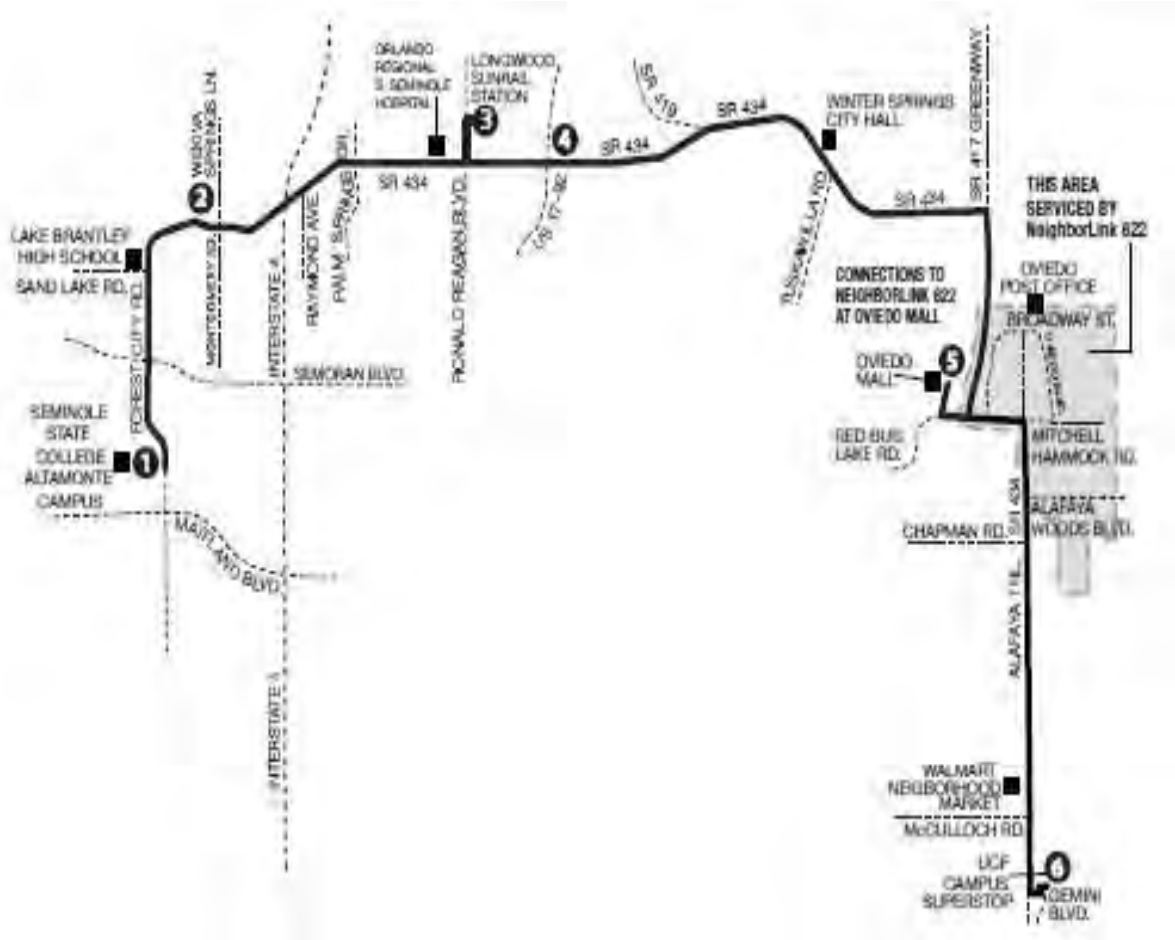
# LINK 106 N. US 441/Apopka

Serving: LYNX Central Station, OCPS Educational Leadership Center, Rosemont SuperStop, Lockhart, and Apopka SuperStop



# Link 434 SR 434

**Serving:** Seminole State College - Altamonte Campus, Lake Brantley High School, Winter Springs City Hall, South Seminole Hospital, Oviedo Mall, University of Central Florida SuperStop, NeighborLink 622, and Longwood SunRail Station

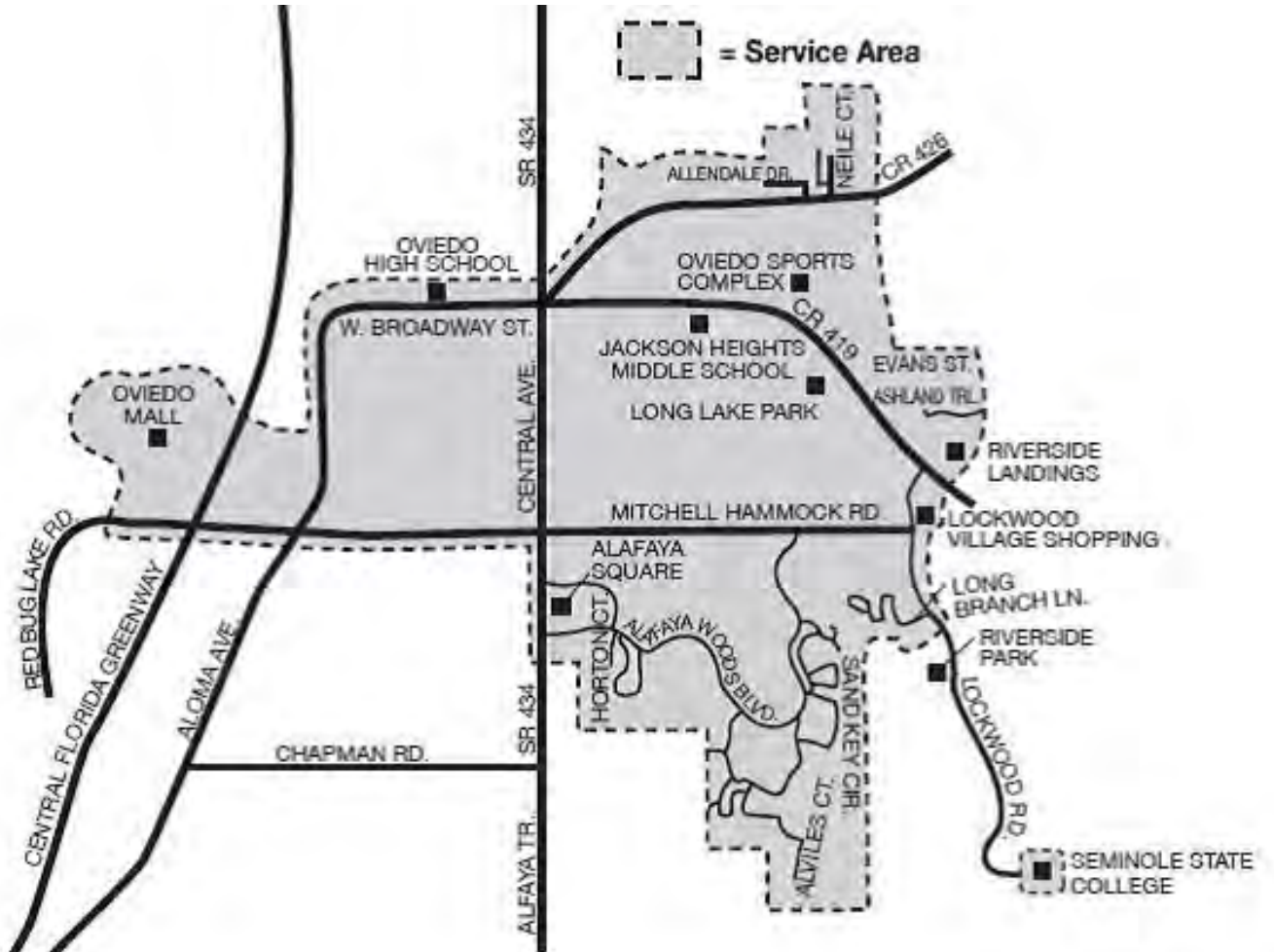






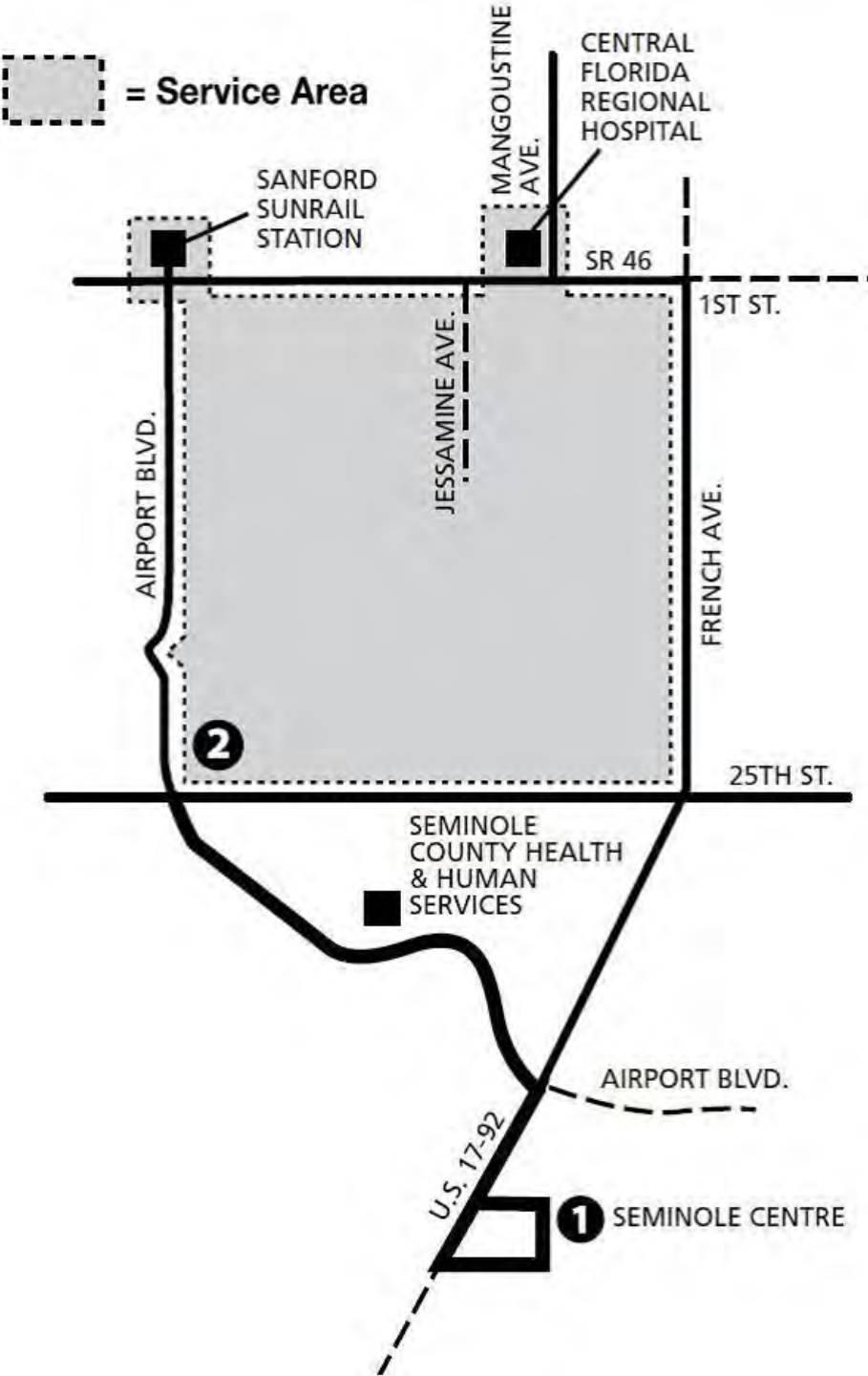
# NeighborLink 622 Oviedo

**Serving:** Seminole State College, Oviedo Mall, Link 434, Oviedo High School, Oviedo Sports Complex, Jackson Heights Middle School and Oviedo Medical Center



# NeighborLink 651 Goldsboro

Serving: Sanford SunRail Station, Seminole Centre, Historic Goldsboro Blvd., Westside Community Center, Central Florida Regional Hospital, Seminole County Health & Human Services, Link 34, Link 45, Link 46E, Link 46W, and Link 103



**Exhibit "B"**

**Seminole County Transit Service Costs**

**Description of Appropriated Amount  
October 1, 2021 through September 30, 2022**

***Fixed Route Operating Costs***

<b>Link Services</b>	<b>Amount</b>
Link 1	\$196,751
Link 23	\$273,263
Link 34	\$837,102
Link 45	\$1,106,429
Link 46 E	\$631,160
Link 46 W	\$1,568,005
Link 102	\$57,138
Link 103	\$715,861
Link 106	\$1,669,477
Link 434	\$1,131,517
Link 436 S	\$568,030
Link 436 N	\$421,551
	<b>\$9,176,284</b>

<b>Operating Cost Recoveries</b>	<b>Amount</b>
Estimated Farebox Recovery	(\$1,551,020)
SunRail Feeder Service	(\$524,996)
City of Sanford	(\$93,000)
City of Altamonte Springs	(\$120,900)
Lynx Non-Operating Cost Recoveries	(\$76,764)
LYNX Stabilization Fund	(\$2,094,936)
	<b>(\$4,461,616)</b>

**Net Fixed Route Cost** **\$4,714,668**

<b><i>NeighborLink Operating Costs</i></b>	<b>Amount</b>
NL 622	\$213,542
NL 651	\$226,637
	<b>\$440,179</b>

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<b><i>ParaTransit Operating Costs</i></b>	<b>Amount</b>
Americans with Disabilities Act (ADA) Funding	\$3,131,195
Transportation Disadvantaged (TD) Funding	\$1,556,690
LYNX Stabilization Fund	(\$708,870)
	<b>\$3,979,015</b>
<b>Total Operating Costs</b>	<b>\$9,133,862</b>

<b><i>Capital Funding Cost</i></b>	<b>Amount</b>
\$2 per Hour Capital Funding	\$227,473
	<b>\$227,473</b>
<b>Total County Transit Service Cost</b>	<b><u>\$9,361,335</u></b>

***FY2022 Billing Schedule***

October-21	\$780,111
November-21	\$780,111
December-21	\$780,111
January-22	\$780,111
February-22	\$780,111
March-22	\$780,111
April-22	\$780,111
May-22	\$780,111
June-22	\$780,111
July-22	\$780,111
August-22	\$780,111
September-22	\$780,114
<b>Annual Funding Request from County</b>	<b>\$9,361,335</b>

# DRAFT

Exhibit "C"  
FUNDING MODEL INFORMATION

	FY2022 Funding Model Amount	Additional Capital *	FY2022 Funding Agreement
<u>Operating Funding</u>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
<b>Subtotal</b>	<b>\$ 71,422,119</b>	<b>\$ -</b>	<b>\$ 71,422,119</b>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
<b>Subtotal</b>	<b>\$ 9,037,152</b>	<b>\$ 1,168,824</b>	<b>\$ 10,205,976</b>
<b>Subtotal Operating Funding</b>	<b>\$ 80,459,271</b>	<b>\$ 1,168,824</b>	<b>\$ 81,628,095</b>
<u>Capital Contributions</u>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
<b>Subtotal</b>	<b>\$ 2,263,645</b>	<b>\$ -</b>	<b>\$ 2,263,645</b>
<b>Total Local Funds</b>	<b>\$ 82,722,916</b>	<b>\$ 1,168,824</b>	<b>\$ 83,891,740</b>

\*Local match towards vehicle replacement.

# LYNX Board Agenda

## Action Agenda Item #7.C

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Michelle Daley  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Enter into the FY2022 Service Funding Agreements with the Municipal Funding Partners

**Date:** 9/23/2021

---

### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to enter into funding agreements with the Municipal Funding Partners listed below for the provision of public transportation services corresponding with its respective funding contribution for the Fiscal Year 2022 Budget.

To the extent there are any changes to the funding agreements, LYNX staff will negotiate those changes through an amendment to the addendum. This will allow the Chief Executive Officer or designee to enter into those funding agreements without further Board approval.

### **BACKGROUND:**

The Cities of Orlando, Altamonte Springs, and Sanford (hereinafter, the Municipal Funding Partners) all recognize the need to provide public transportation services in an efficient manner and acknowledge the benefits of increased ridership on the regional public transportation system. LYNX and the Municipal Funding Partners desire to formally enter into service funding agreements to establish the most prudent utilization of resources and to target service improvements based upon traffic, levels of service, transit operations, and customer demand considerations.

The services and enhancements, which will be made and approved in this agreement, are in conformance with the LYNX Transportation Development Program (TDP).

# LYNX ard Agenda

The funding partner agreement for FY2022 contains the following:

- a) A uniform funding agreement for all funding partners.
- b) A provision that allows for continued monthly or quarterly payments by the funding partners subsequent to the end of each fiscal year.
- c) An “addendum” to the contract that will provide for particular or unique requirements by the various funding partners.

A copy of the proposed service funding agreement that will be entered into between LYNX and each of the Municipal Funding Partners for Fiscal Year 2022 is attached. Authorization is requested from the Board for LYNX staff to complete the funding agreement with each funding partner. This will permit the funding agreements to be executed more quickly after the beginning of LYNX’s fiscal year.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

Please reference the following **Exhibit “C”**, which is included in each of the Municipal Funding Partners’ Agreements.



# LYNX Board Agenda

Exhibit C

	FY2022 Funding Model Amount	Additional Capital *	FY2022 Funding Agreement
<u>Operating Funding</u>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
Subtotal	<u>\$ 71,422,119</u>	<u>\$ -</u>	<u>\$ 71,422,119</u>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
Subtotal	<u>\$ 9,037,152</u>	<u>\$ 1,168,824</u>	<u>\$ 10,205,976</u>
Subtotal Operating Funding	<u>\$ 80,459,271</u>	<u>\$ 1,168,824</u>	<u>\$ 81,628,095</u>
<u>Capital Contributions</u>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
Subtotal	<u>\$ 2,263,645</u>	<u>\$ -</u>	<u>\$ 2,263,645</u>
Total Local Funds	<u>\$ 82,722,916</u>	<u>\$ 1,168,824</u>	<u>\$ 83,891,740</u>

\*Local match towards vehicle replacement.

**Service Funding Agreement  
by and between  
City of Orlando, Florida  
and  
Central Florida Regional Transportation Authority**

THIS SERVICE FUNDING AGREEMENT (“Agreement”) is made and entered into by and between CITY OF ORLANDO, FLORIDA, a municipal corporation duly created, organized, and existing under, and by virtue of the laws of the State of Florida, whose principal address is 400 South Orange Avenue, Orlando, Florida 32802 (hereinafter the “Funding Partner”), and the CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY, a body politic and corporate created pursuant to Part III, Chapter 343, Florida Statutes, whose principal address is 455 North Garland Avenue, Orlando, Florida 32801 (hereinafter “LYNX”).

**WITNESSETH**

**WHEREAS**, Part II, Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), provides, *inter alia*, that specific public facilities and services must be available concurrently with the impacts of development; and

**WHEREAS**, the Funding Partner recognizes the need to provide Public Transportation (as hereinafter defined) in an efficient manner and acknowledges the benefits of increased ridership on the regional transportation system; and

**WHEREAS**, increasing traffic congestion and continued population growth require mass transit service improvements; and

**WHEREAS**, reliable and convenient mass transit service offers a viable alternative to private automobile travel; and

**WHEREAS**, the Funding Partner recognizes the need to maintain and improve transit services; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the authority to own, operate, maintain, and manage a Public Transportation system in the area of Orange, Seminole and Osceola Counties; and

**WHEREAS**, LYNX currently provides mass transit services within the geographical limits of the Funding Partner; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the right to contract with other governmental entities, including the Funding Partner, and has the right to accept funds from such other governmental entities; and

**WHEREAS**, the Funding Partner and LYNX entered into an Interlocal Agreement for Public Transit Services dated as of March 23, 2021 (the “**Prior Fiscal Year Funding Agreement**”) pursuant to which the Funding Partner agreed to appropriate funds to LYNX for

fiscal year from October 1, 2020 to September 30, 2021 to support LYNX Public Transportation services within the Service Area (as hereinafter defined); and

**WHEREAS**, the term of the Prior Fiscal Year Funding Agreement ended on September 30, 2021; and

**WHEREAS**, the Funding Partner has budgeted funds for the fiscal year beginning on October 1, 2021 and ending on September 30, 2022 ("**Fiscal Year**") to support LYNX's Public Transportation services for such fiscal year; and

**WHEREAS**, LYNX and the Funding Partner wish to acknowledge that appropriate methodology has been used to determine the recommended level of funding by each Funding Partner; and

**WHEREAS**, at present, LYNX and the Funding Partner acknowledge that the funds provided by the Funding Partner to LYNX are used as the Funding Partner's support of the regional Public Transportation System only within the Service Area (as hereinafter defined).

**NOW, THEREFORE**, in and for consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the Funding Partner and LYNX agree as follows:

1. **Recitals.** The Funding Partner and LYNX hereby declare that the Recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **Definitions.** The following capitalized terms shall have the following meanings:

**"Access LYNX"** means LYNX's van transit service for medically-qualified, physically challenged transit customers.

**"ADA"** means the Americans with Disabilities Act of 1990.

**"Agreement"** means this Service Funding Agreement and its Exhibits and Addenda.

**"Appropriated Amount"** means the amount to be paid to LYNX by the Funding Partner for the Current Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder, as set forth in Paragraph 3 hereof.

**"Current Fiscal Year"** shall mean the fiscal year beginning on October 1, 2021 and ending on September 30, 2022.

**"Deadhead Hours"** means the vehicle hours of operation incurred in non-Revenue Service in support of Revenue Service (i.e., hours from the garage to the beginning of a route).

**"Deadhead Miles"** means the vehicle miles incurred in non-Revenue Service in support of Revenue Service (i.e., miles from the garage to the beginning of a route).

**"Demand Response Service" or "NeighborLink"** means service provided in response to passenger requests made in advance to LYNX, which then dispatches a vehicle to pick up the

passengers and transport them to their destinations or to a fixed-route transfer point within a designated demand response service area.

**“Fiscal Year”** or **“Current Fiscal Year”** means the twelve (12) month period commencing October 1, 2021 and ending the following September 30, 2022.

**“Fixed-Route Service”** means service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations. Unlike demand response service, Fixed-Route Service services the same origins and destinations. Fixed-Route Service includes route deviation service, where revenue vehicles deviate from fixed-routes on a discretionary basis.

**“FDOT”** means the Florida Department of Transportation.

**“FTA”** means the Federal Transit Association.

**“New Appropriated Amount”** means the amount that is approved or appropriated by the Funding Partner for the Next Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder for the Next Fiscal Year, as set forth in Paragraph 3 below.

**“Next Fiscal Year”** means the twelve (12) month period immediately following the Current Fiscal Year, and is the period commencing October 1, 2022 and ending the following September 30, 2023.

**“Operating Expenses”** mean the expenses associated with the operations of LYNX, and which are classified by function or activity.

**“Passenger Fares”** means the revenue earned from carrying passengers in regularly scheduled service. Passenger Fares include the base fare, distance premiums, express service premiums, transfers and quantity purchased discount fares (i.e., daily, seven-day, thirty-day, student, senior, etc. tickets and passes).

**“Passenger Trips”** means the number of fare-paying individuals who ride LYNX’s buses in any given period with each individual being counted once per boarding.

**“Public Transportation”** means transportation by a conveyance (e.g., by bus or van) that provides regular and continuing general or special transportation to the public, but does not include light rail. “Special transportation” includes transportation services being provided to the public pursuant to the ADA.

**“Revenue Hours”** means the hours a vehicle travels while in Revenue Service, which excludes Deadhead Hours.

**“Revenue Miles”** means the miles a vehicle travels while in Revenue Service, which excludes Deadhead Miles.

**“Revenue Service”** means the portion of the trip and/or period of time when a vehicle is available to board and alight fare-paying transit passengers.

“**Service Area**” means generally the geographic area or the Fixed-Route Service, as the case may be, described and set forth in **Exhibit “A”** attached hereto.

3. **Funding Partner Obligations.**

(a) **Current Fiscal Year.**

(i) The Funding Partner agrees to appropriate the amount specified on **Exhibit “B”** attached hereto (the “**Appropriated Amount**”) to LYNX for the Fiscal Year for the provision of Public Transportation within the Service Area.

(ii) The Appropriated Amount shall be paid by the Funding Partner to LYNX in twelve (12) equal monthly installments, with each installment being due on the first day of each month. The first installment payment shall be due upon the later of (x) October 1, 2021 or (y) thirty (30) days after the execution date of this Agreement; and any other installment payments which would be due prior to the execution date of this Agreement shall also be paid within thirty (30) days after the execution date of this Agreement.

(iii) In the event that the Appropriated Amount is less than the amount suggested by the Funding Model to fully fund the agreed upon service level in the Funding Partner’s Service Area, or in the event that the Appropriated Amount is less than the actual cost to fully fund the agreed upon service level in the Funding Partner’s Service Area, LYNX may, at its discretion, (x) utilize reserves to fund the difference and continue to provide the requested service level, or (y) reduce the service level in the Funding Partner’s Service Area to a level equivalent to the Appropriated Amount. However, in the event clause (x) is applicable, then the Funding Partner will promptly pay said difference to LYNX within thirty (30) days after the execution date of this Agreement.

(iv) In regard to Paragraph 3(a)(ii), above, for each monthly installment, LYNX will invoice the Funding Partner on a monthly basis and said amount shall be paid within thirty (30) days after the receipt by the Funding Partner of said invoice. However, in regard to any monthly installments that remain unpaid prior to the execution of this Agreement, those unpaid monthly installments (for which LYNX will furnish the Funding Partner invoices) will be paid within thirty (30) days after the execution date of the Agreement.

(b) **Next Fiscal Year.** If, prior to the termination date of this Agreement (as set forth in Paragraph 20 below), the Funding Partner and LYNX have not reached a written agreement setting forth an appropriation to LYNX for the Next Fiscal Year, then, notwithstanding the expiration of this Agreement at the end of the Current Fiscal Year and in order to continue the Public Transportation after said expiration, the Funding Partner shall continue to pay LYNX for the Next Fiscal Year the amount set forth below:

(i) The amount to be paid shall be the Appropriated Amount for the Current Fiscal Year. This Appropriated Amount for the Current Fiscal Year (the “**Post-Termination Payment**”) shall be paid as provided herein.

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(ii) LYNX will prepare and submit invoices for the Post Termination Payments and the Funding Partner will make such Post-Termination Payments within thirty (30) days after its receipt of such invoices from LYNX.

(iii) The Post Termination Payment shall be paid in equal monthly installments due on the first day of each month commencing October 1, 2021 until the earliest to occur of the following: (x) LYNX and the Funding Partner reach a written agreement setting forth a different appropriation for the Next Fiscal Year; (y) one hundred twenty (120) days following the date that the Funding Partner, through action taken by its governing board, notifies LYNX in writing that it wishes to terminate this Agreement and no longer receives from LYNX the Public Transportation services provided herein; or (z) the date that LYNX actually discontinues the Public Transportation services to the Funding Partner, at which time this Agreement and specifically the provisions of this Subparagraph 3(b) will no longer be applicable. LYNX may, within its discretion, reduce, eliminate or discontinue the provision of Public Transportation services to the Funding Partner immediately upon providing the Funding Partner with written notice of same. If this Subparagraph 3(b) is applicable, the parties will reconcile the difference between the amount that was paid by the Funding Partner and the amount that has been agreed upon for the Next Fiscal Year in the first month following the earliest of the occurrences set forth above.

(iv) If a written agreement for the Next Fiscal Year is not entered into between LYNX and the Funding Partner by November 30 of the Next Fiscal Year, then, in that event, LYNX will undertake the necessary procedure for the discontinuation of the service which process takes approximately one hundred and twenty (120) days. If a new Funding Agreement for the Next Fiscal Year is not entered into by January 31 of the Next Fiscal Year, then LYNX may discontinue the service in accordance with its policies and the Funding Partner will in any event pay for any service provided for the Next Fiscal Year, including any service that may be provided of necessity by LYNX after January 31 in accordance with its procedures.

(c) Notwithstanding anything to the contrary set forth herein, the payment of all amounts due to LYNX hereunder shall be made in compliance with the Florida Prompt Payment Act, codified at Sections 218.70 to 218.80, Florida Statutes.

4. **LYNX Obligations.**

(a) **Service.** LYNX agrees to provide Public Transportation within the Service Area during the Fiscal Year. LYNX shall request written approval from the Funding Partner prior to implementing any of the following changes which may result in a greater than two percent (2%) increase or decrease of Fixed-Route Service hours within the Service Area (as computed on an annual basis), which written approval shall not be unreasonably withheld or delayed:

- (i) Addition of route(s).
- (ii) Elimination of route(s).

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- (iii) Combination of routes.
- (iv) Changes to service span.
- (v) Change to service frequency.
- (vi) Changes in days of operation.

To the extent that there is an increase or decrease of Fixed-Route Service hours greater than two percent (2%) (which would require approval of the Funding Partner), then, in that case, there will be a corresponding increase or decrease in the Appropriated Amount to be paid to LYNX by the Funding Partner from and after said increase or decrease is put into effect.

(b) **Quarterly Reporting.** For the purposes of operations and management analysis, LYNX agrees to provide the Funding Partner quarterly written performance reports reflecting the LYNX operations of the prior quarter. The quarterly reporting periods shall end on December 31, March 31, June 30 and September 30 and said reports shall be submitted to the Funding Partner's Office of Management and Budget and Office of Regional Mobility within forty-five (45) days after the end of each quarter. Each quarterly report will include the following items:

- (i) Maps and schedules for each route operating in the Service Area.
- (ii) Official LYNX monthly ridership reports showing a breakdown of actual aggregate ridership by mode (i.e., Fixed-Route Service, Demand Response Service, LYMMO, Access LYNX, Van Plan and special shuttles).
- (iii) An operational service characteristics report for current services provided, which would include (1) revenue hours, (2) revenue miles, and (3) unlinked passenger trips.
- (iv) A comparison of actual revenue and expenditures to budgeted revenues and expenditures with explanations for variances that are plus or minus 10% and exceed \$50,000.
- (v) A route performance report, which reports and ranks each route which is located in the County for the Funding Partner, monthly based on the following:
  - (A) Subsidy per Passenger Trip.
  - (B) Passengers per trip.
  - (C) Passengers per Revenue Hour.
  - (D) Passengers per Revenue Mile.
  - (E) Percent farebox return (i.e., percent of Operating Expenses

recovered through farebox).

(vi) Current and contemporaneous versions of the LYNX regional model, which is the model used by LYNX to apportion total Operating Expenses, less adjustments, to the Funding Partners based on Fixed-Route Service hours, ADA client trips, and flex-service hours in their service area.

(A) A comparison of scheduled versus actual Revenue Miles.

(B) A comparison of scheduled versus actual Revenue Hours.

(C) A schedule of unanticipated extraordinary expenses for the prior quarter.

(D) A list of changes to authorized staffing.

(E) A schedule of total training and travel expenditures for each LYNX board member and employee for the immediately preceding quarter. This schedule should specify the training event name, attendee name(s), date(s) of travel and/or training, event location, and total expenses of each trip.

(vii) Funding Model Information. Attached hereto as **Exhibit “C”** and is a schedule listing including the following:

(A) All of LYNX’s funding partners;

(B) The amount of funding required of each funding partner by the Funding Model for the Current Fiscal Year;

(C) The amount each funding partner actually budgeted for the Current Fiscal Year to contribute for the services contemplated in the LYNX Funding Model;

(D) LYNX shall provide quarterly updates to **Exhibit “C”** by listing the amount each funding partner has paid to LYNX to date.

(viii) The amount of fund balance allocated to reserves.

(ix) Any other information the Funding Partner reasonably requests.

(c) **Additional Reporting.** On an annual basis, within thirty (30) days of receipt, LYNX shall provide the Funding Partner with a copy of all external audits, a copy of the Comprehensive Annual Financial Report, which shall include the Report on Internal Controls, Report on Compliance with Laws and Regulations, and a copy of the management letter.



5. **Independent Contractor.** LYNX expressly acknowledges that it is acting as an independent contractor, and nothing in this Agreement is intended or shall be construed to establish an agency, partnership or joint venture relationship between the parties, their employees, agents, subcontractors, or assigns, during or after performance of this Agreement. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

6. **Amendments.** This Agreement may be amended only through a written document approved by both the Funding Partner's Board of Commissioners and the LYNX Governing Board, and executed by all parties hereto.

7. **Termination of Agreement.**

(a) **For Cause.** If LYNX or the Funding Partner (the "**Breaching Party**") fails to fulfill any material covenant, term or condition of this Agreement, the other party (the "**Non-Breaching Party**") shall give the Breaching Party written notice of such failure or violation. If such failure or violation is not cured within thirty (30) days from the date on which the Breaching Party receives such notice, the Non-Breaching Party may terminate this Agreement, which shall be effective upon thirty (30) days following the Breaching Party's receipt of a written notice from the Non-Breaching Party to that effect or such later date as specified in the notice. In the event the Funding Partner is the Breaching Party, the Funding Partner will nonetheless continue to pay to LYNX for any fixed route service furnished by LYNX up to the actual date that LYNX terminates said fixed route service, taking into account the policies and procedures to be followed by LYNX to terminate bus service generally (but not to exceed one hundred twenty (120) days).

(b) **For Convenience.** Either LYNX or the Funding Partner may terminate this Agreement at any time upon giving notice to that effect. Such termination shall be effective upon one hundred twenty (120) days receipt of written notice of termination from the party desiring to terminate this Agreement or such later date as specified in the notice.

The provisions of this Paragraph 7 are further subject to the rights of the parties to terminate this Agreement after the end of any fiscal year.

8. **Audit.** The Funding Partner (or its lawfully designated designee), shall have the right to audit LYNX's books and records on an annual basis to determine compliance with the terms, conditions and obligations imposed by this Agreement. The Funding Partner shall have full access to all records, documents and information, whether on paper or electronic or other media as is necessary or convenient to perform the audit.

9. **Public Records.** If LYNX has questions regarding the application of Chapter 119, Florida Statutes, to LYNX's duty to provide public records relating to this agreement, contact the funding partner's custodian of public records at:

LYNX understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If LYNX will act on behalf of the Funding Partner, as provided under section 119.011(2), Florida Statutes, LYNX, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

(a) Keep and maintain public records required by the Funding Partner to perform the service.

(b) Upon request from the Funding Partner's custodian of public records, provide the Funding Partner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LYNX does not transfer the records to the Funding Partner.

(d) Subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, upon completion of the contract, transfer, at no cost, to the Funding Partner all public records in possession of the LYNX or keep and maintain public records required by the Funding Partner to perform the service. If LYNX transfers all public records to the Funding Partner upon completion of the contract, LYNX shall, subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LYNX keeps and maintains public records upon completion of the contract, LYNX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Funding Partner, upon request from the Funding Partner's custodian of public records, in a format that is compatible with the information technology systems of the Funding Partner.

(e) If LYNX does not comply with a public records request, the Funding Partner shall enforce the contract provisions in accordance with the Agreement.

10. **Record Keeping Procedure.** LYNX shall keep and maintain accurate records of all services rendered in the performance of this Agreement and shall keep such records open to inspection by the Funding Partner at reasonable hours during the entire term of this Agreement,

plus three (3) years after expiration or termination of this Agreement. If any litigation, claim or audit is commenced prior to the expiration of the three (3) year period and extends beyond such period, the records shall be maintained until all litigation, including appeals, claims or audits have been concluded or resolved. Any person authorized by the Funding Partner shall have access to and the right to examine any of the records.

11. **Compliance with FTA/FDOT Requirements.** The provisions of this Agreement, and the Public Transportation to be provided by LYNX hereunder, is subject at all times to the applicable statutes and rules and regulations of all applicable governmental authorities, including those of the FTA and FDOT. In the event any such statutes or rules or regulations would require a substantial and material change to this Agreement, then the parties will immediately meet to review and make acceptable adjustments to this Agreement so as to comply with such statutes and rules and regulations.

12. **Litigation and Venue.** In the event any party deems it necessary to take legal action to enforce any provision of this Agreement, the venue shall be in the Circuit Court of the Ninth Judicial Circuit, in Orange County, Florida or the United States District Court for the Middle District of Florida, Orlando Division.

13. **Remedies.** No remedy herein conferred upon any part is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

14. **Severability.** In the event that any section, paragraph, sentence, clause or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement which remaining portions shall remain in full force and effect.

15. **Waiver.** Performance of this Agreement by any party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of Florida. The parties to this Agreement agree to comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

17. **Construction.** Captions and section headings in this Agreement are for convenience and reference only, and shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

18. **Notices.** All notices, consents, approvals, waivers, and deletions which any party shall be required or shall desire to make or give under and in accordance with this Agreement shall be in writing and must be sent by certified United States mail with return receipt required, or by personal delivery with receipt required to the following addresses:

As to Funding Partner:

City of Orlando  
Transportation Planning Bureau  
400 South Orange Avenue, P.O. Box 44990  
Orlando, Florida 32802-4990  
Attn: Director of Transportation

With copy to:

City of Orlando  
400 South Orange Avenue, P.O. Box 44990  
Orlando, Florida 32802-4990  
Attn: City Attorney's Office

As to LYNX:

Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: James E. Harrison, Esq., P.E., Chief Executive Officer

With copy to:

Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Leonard Antmann, Chief Financial Officer

With a copy to:

Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Carrie L. Sarver, Esq., B.C.S., Senior Staff Attorney

19. **Binding Agreement.** This Agreement is binding upon the parties and shall inure to their successors or assigns.

20. **Effective Date.** The effective date of this Agreement shall be October 1, 2021. Unless terminated earlier in accordance with Paragraph 7 of this Agreement, this Agreement will terminate on September 30, 2022, except for the provisions of this Agreement which by their terms survive the termination of this Agreement.

21. **Negotiations.** The parties to this Agreement acknowledge that all terms of this Agreement were negotiated at arms-length and that this Agreement and all documents executed in connection herewith were prepared and executed without undue influence exerted by any party or on any party. Further, all parties drafted this Agreement jointly, and no parties are entitled to the benefit of any rules of construction with respect to the interpretation of any terms, conditions, or provisions of this Agreement in favor of or against any person or party who drafted this Agreement.

22. **No Third-Party Beneficiaries.** This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties in this Agreement.

23. **Entirety of the Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the specific matters contained herein and shall supersede all previous discussions, understandings, and agreements.

24. **Addendum.** There is attached hereto a certain Addendum consisting of one (1) page. To the extent there is a conflict between the terms of this Agreement and the terms of the Addendum, the terms of the Addendum will govern.

**IN WITNESS WHEREOF,** the Funding Partner and LYNX have duly and lawfully approved this Agreement and have authorized its execution and delivery by their respective officers, who have set their hands and their respective seals affixed below, all as of the date first written hereinabove.

**[Signatures appear on following page]**

**SIGNATURE PAGE FOR FUNDING PARTNER**

DRAFT

**ATTEST:**

**FUNDING PARTNER:**

**CITY OF ORLANDO, FLORIDA**

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Buddy Dyer, Mayor

For the use and reliance of the City of Orlando only. Approved as to form and legal sufficiency.

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

\_\_\_\_\_  
City Attorney

**SIGNATURE PAGE FOR LYNX**

**DRAFT**

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Name: James E. Harrison, Esq., P.E.

Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_

Name: Carrie L, Sarver, Esq., B.C.S.

Title: Senior Staff Attorney

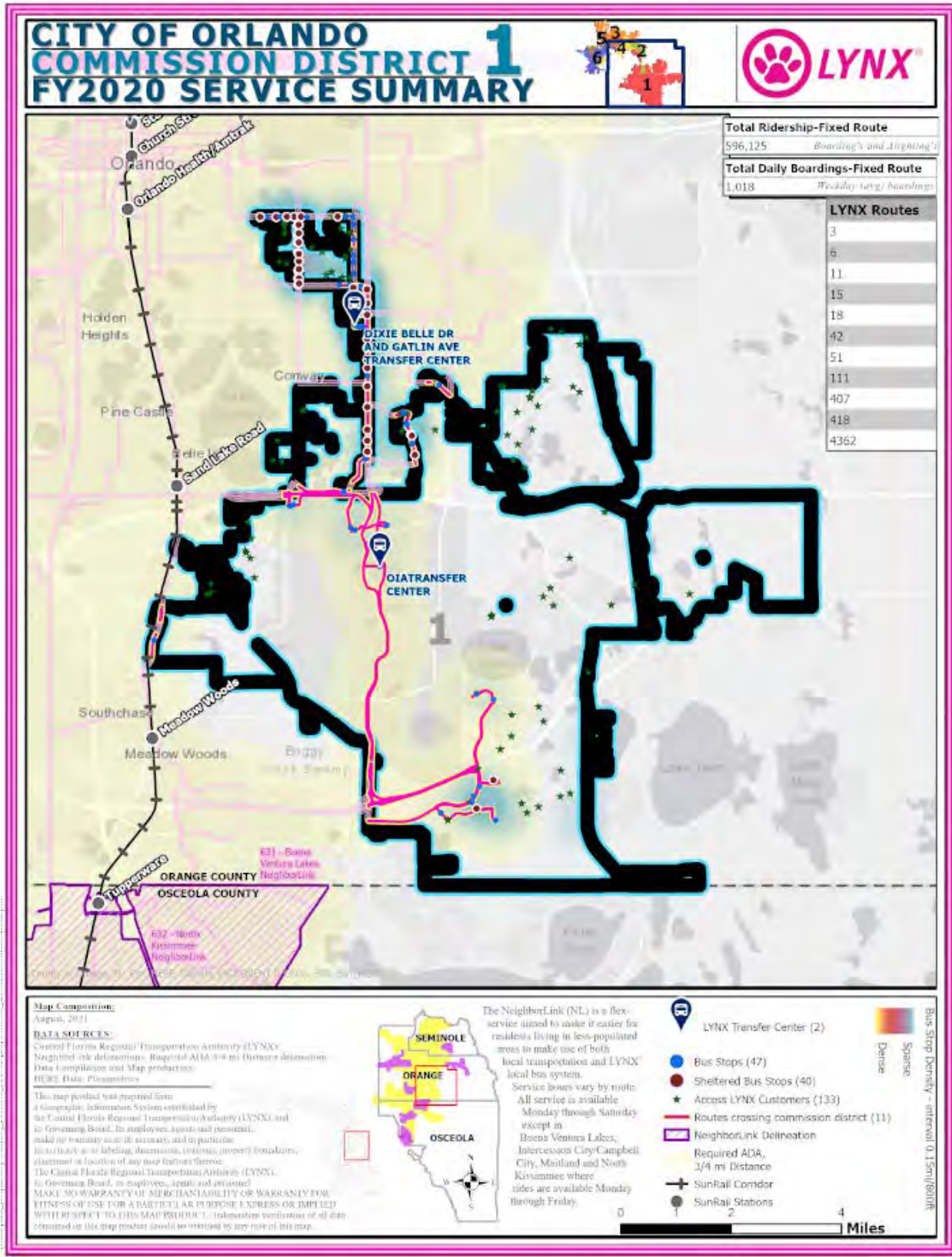
Date: \_\_\_\_\_

Exhibit "A"  
DRAFT

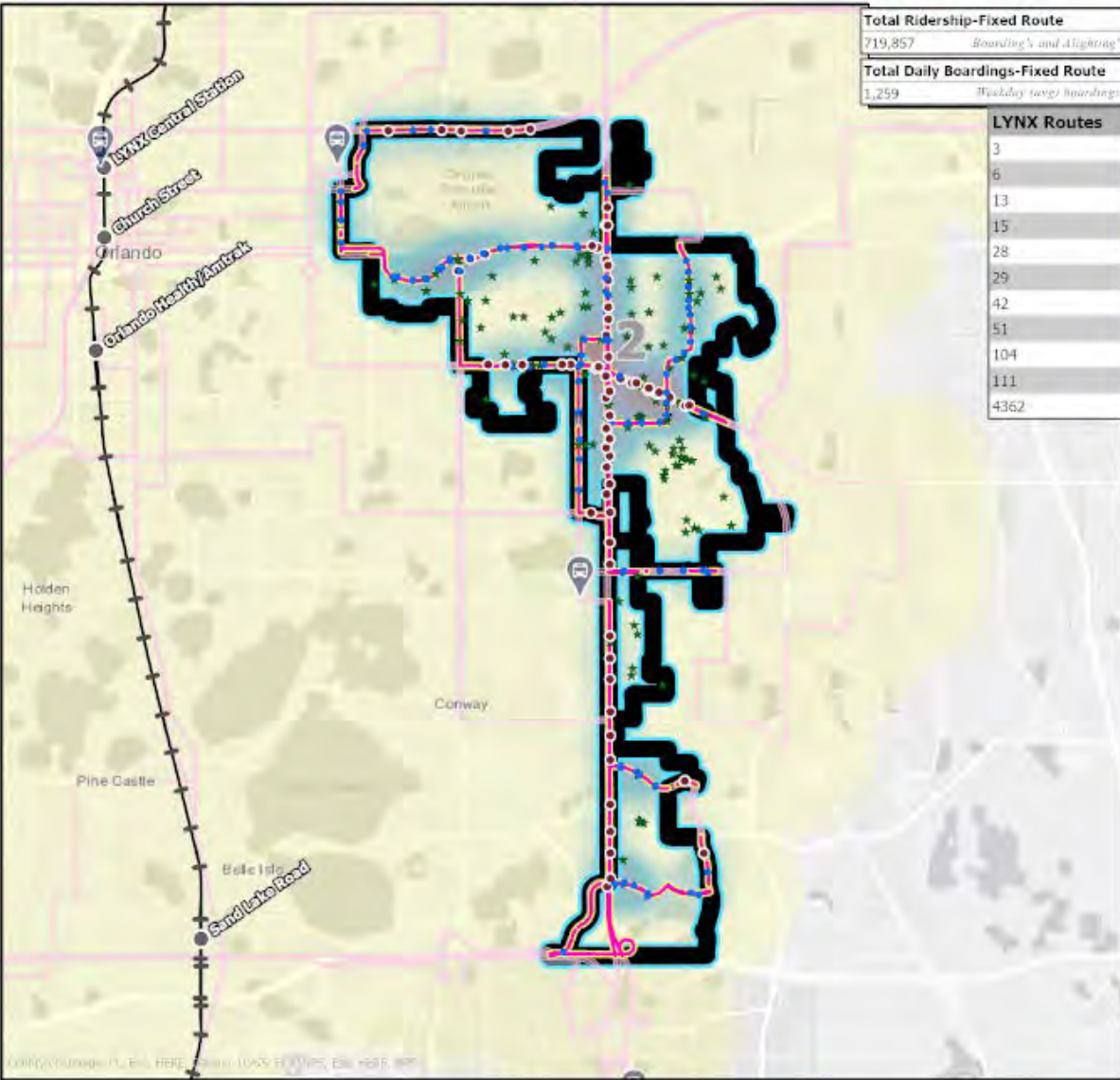
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# DESCRIPTION OF SERVICE AREA



# CITY OF ORLANDO COMMISSION DISTRICT 2 FY2020 SERVICE SUMMARY



<b>Total Ridership-Fixed Route</b>	719,857	<i>Boardings and Alightings</i>
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<b>Total Daily Boardings-Fixed Route</b>	1,259	<i>Weekday (avg) boardings</i>
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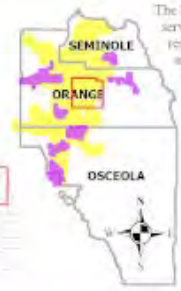
LYNX Routes	
3	
6	
13	
15	
28	
29	
42	
51	
104	
111	
4362	

**Map Composition:**  
August, 2019

**DATA SOURCES:**

Central Florida Regional Transportation Authority (LYNX)  
NeighborLink delineations, Required ADA 3/4 mi Distance delineations  
Data Compilation and Map production  
HERE Data, Phantomix

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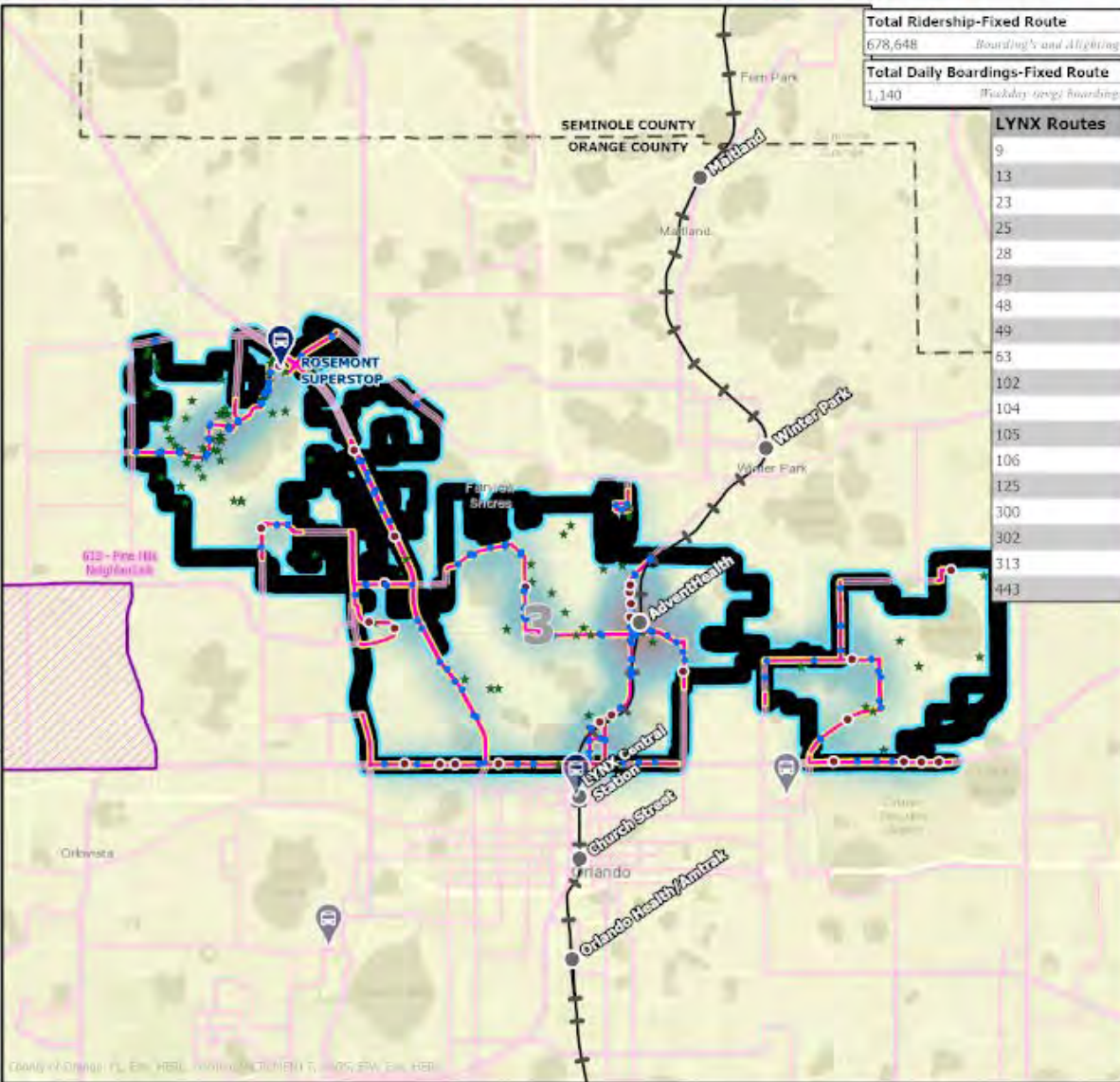
The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX's local bus system. Service hours vary by route. All service is available Monday through Saturday except in Inessa Ventura Lakes, Intercession City/Campbell City, Meiland and North Kissimmee where rides are available Monday through Friday.

- LYNX Transfer Center (0)
- Bus Stops (94)
- Sheltered Bus Stops (66)
- Access LYNX Customers (162)
- Routes crossing commission district (11)
- NeighborLink Delineation
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

**Bus Stop Density - interval 0.1km/0.06mi**

0 0.5 1 2 Miles

# CITY OF ORLANDO COMMISSION DISTRICT 3 FY2020 SERVICE SUMMARY



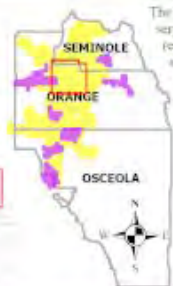
<b>Total Ridership-Fixed Route</b>	678,648	<i>Boardings and Alightings</i>
<b>Total Daily Boardings-Fixed Route</b>	1,140	<i>Weekday average boardings</i>

LYNX Routes	
9	
13	
23	
25	
28	
29	
48	
49	
63	
102	
104	
105	
106	
125	
300	
302	
313	
443	

**Map Composition:**  
August, 2021

**DATA SOURCES:**  
Central Florida Regional Transportation Authority (LYNX)  
NeighborLink delineations, Required ADA 3/4 mi Distance delineation  
Data Compiling and Map production  
HERE, Data, Planetimeter

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The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX local bus system. Service hours vary by route. All service is available Monday through Saturday except in Buena Ventura Lakes, Intercession City/Campbell City, Maitland and North Kissimmee where rides are available Monday through Friday.

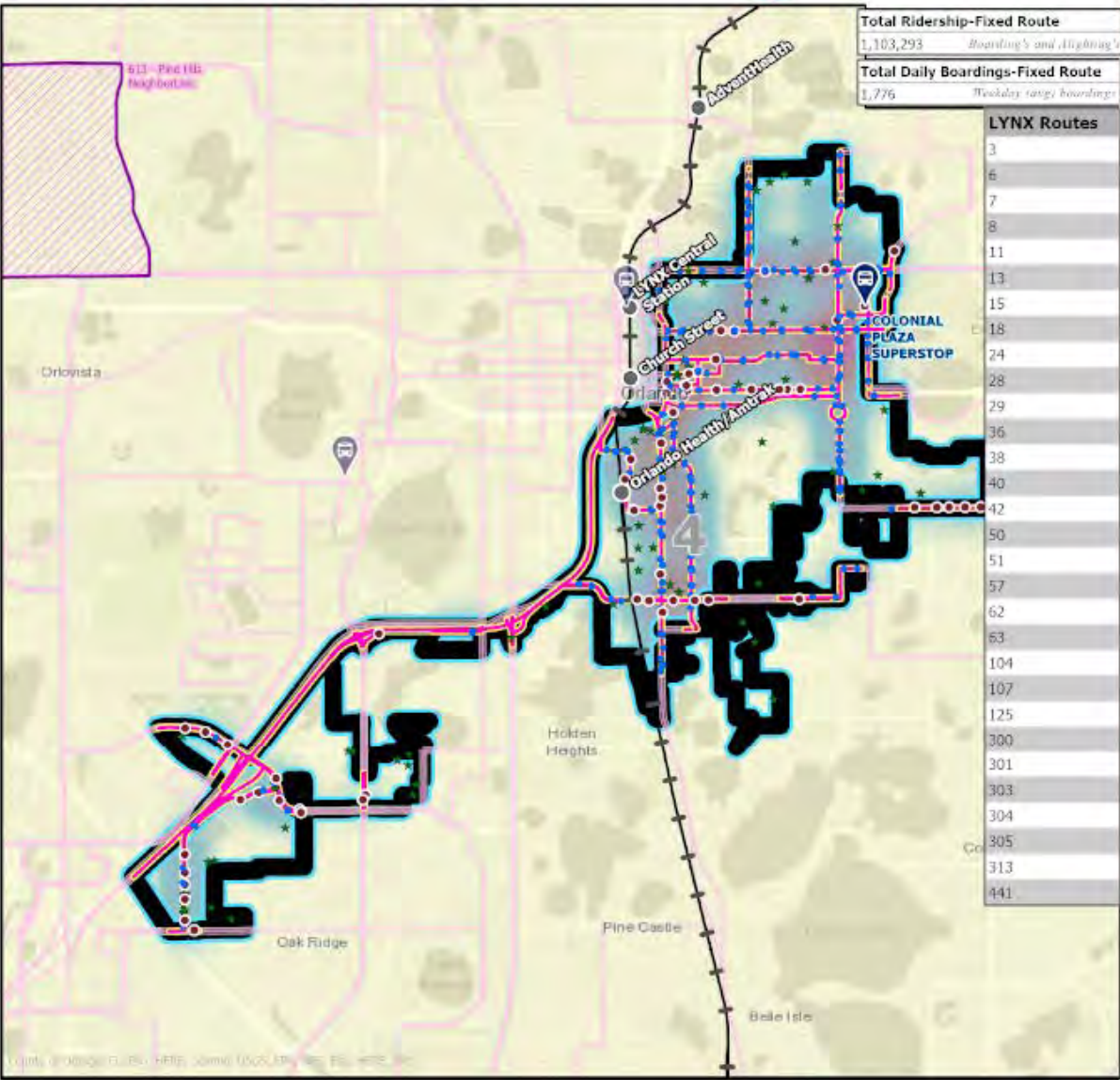
- LYNX Transfer Center (1)
- Bus Stops (135)
- Sheltered Bus Stops (27)
- Access LYNX Customers (117)
- Routes crossing commission district (18)
- NeighborLink Delineation
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

Bus Stop Density - Interval 0.15mi/600ft

Dense Sparse

0 0.75 1.5 3 Miles

# CITY OF ORLANDO COMMISSION DISTRICT 4 FY2020 SERVICE SUMMARY



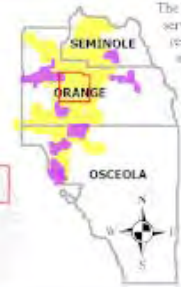
<b>Total Ridership-Fixed Route</b>	1,103,293	<i>Boardings and Alightings</i>
<b>Total Daily Boardings-Fixed Route</b>	1,776	<i>Weekday (avg) boardings</i>

LYNX Routes	
3	
6	
7	
8	
11	
13	
15	
18	
24	
28	
29	
36	
38	
40	
42	
50	
51	
57	
62	
63	
104	
107	
125	
300	
301	
303	
304	
305	
313	
441	

**Map Composition:**  
August, 2021

**DATA SOURCES:**  
Central Florida Regional Transportation Authority (LYNX)  
NeighborLink delineations/Required ADA 3/4 mi Distance delineations  
Data Compilation and Map production:  
HEBE, Data, Planimetries

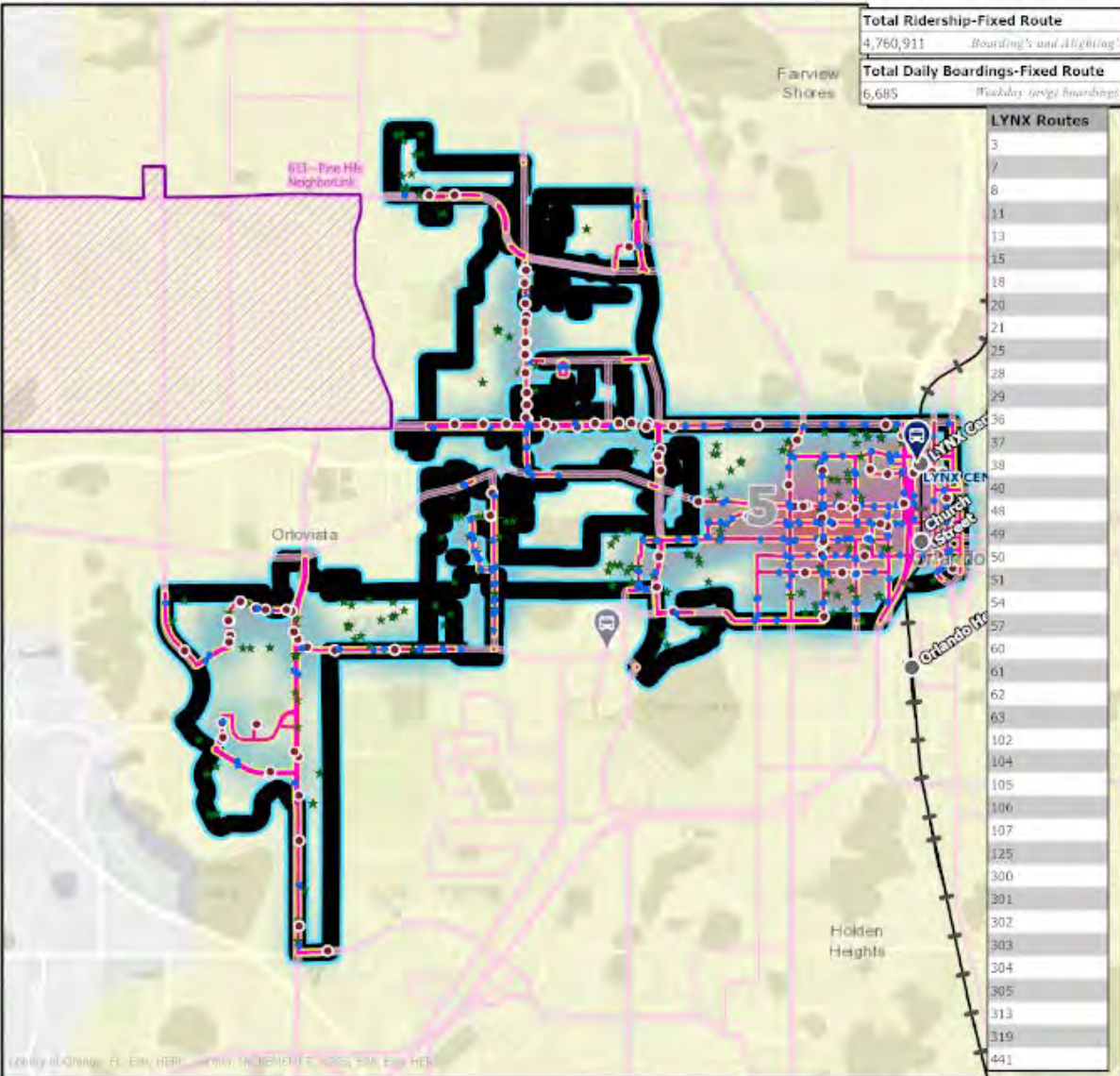
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The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX local bus system.  
Service hours vary by route. All service is available Monday through Sunday except in Bayside Venetian Lakes, Intercession City/Campbell City, Maitland and North Kissimmee where rides are available Monday through Friday.

- LYNX Transfer Center (1)
  - Bus Stops (211)
  - Sheltered Bus Stops (60)
  - Access LYNX Customers (175)
  - Routes crossing commission district (30)
  - NeighborLink Delineation
  - Required ADA, 3/4 mi Distance
  - SunRail Corridor
  - SunRail Stations
- Bus Stop Density - interval 0.15mi/800ft**  
Dense  
Sparse
- 0 0.5 1 2 Miles

# CITY OF ORLANDO COMMISSION DISTRICT 5 FY2020 SERVICE SUMMARY



<b>Total Ridership-Fixed Route</b>	4,760,911	<i>Boardings and Alightings</i>
<b>Total Daily Boardings-Fixed Route</b>	6,685	<i>Monday average boardings</i>

**Map Composition:**  
August, 2021

**DATA SOURCES:**  
Central Florida Regional Transportation Authority (LYNX)  
NeighborLink delineations, Required ADA 1/4 mi Distance delineation  
Data Compilation and Map production  
HERE, Data, Planetmatics

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The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX' local bus system. Service hours vary by route. All service is available Monday through Saturday except in Buena Ventura Lakes, Intercession City/Campbell City, Maitland and North Kissimmee where rides are available Monday through Friday.

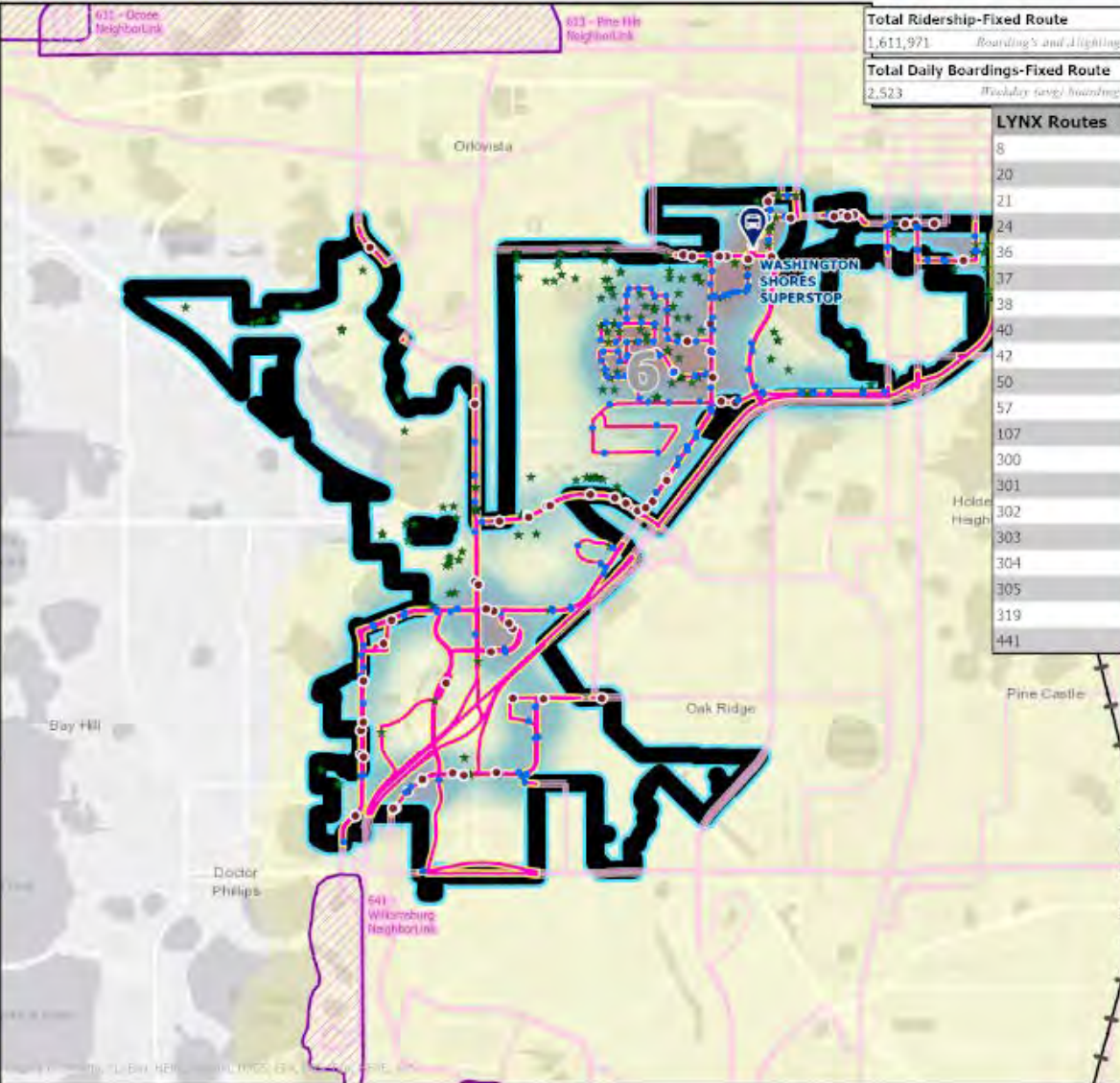
- LYNX Transfer Center (1)
- Bus Stops (249)
- Sheltered Bus Stops (109)
- Access LYNX Customers (373)
- Routes crossing commission district (41)
- NeighborLink Delineation
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

**Bus Stop Density - Interval 0.13mi/600ft**

Dense Sparse

**Miles** 0 0.5 1 2

# CITY OF ORLANDO COMMISSION DISTRICT 6 FY2020 SERVICE SUMMARY



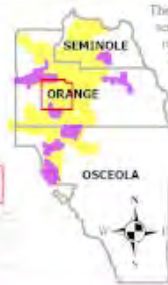
<b>Total Ridership-Fixed Route</b>	1,611,971	<i>Boardings and Alightings</i>
<b>Total Daily Boardings-Fixed Route</b>	2,523	<i>(Weekly avg) boardings</i>

LYNX Routes	
8	
20	
21	
24	
36	
37	
38	
40	
42	
50	
57	
107	
300	
301	
302	
303	
304	
305	
319	
441	

**Map Composition:**  
August 2021

**DATA SOURCES:**  
Central Florida Regional Transportation Authority (LYNX); NeighborLink delineations; Required ADA 3/4 mi Distance delineations; Data Compilation and Map production; HERE Data; Planimetrics

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The NeighborLink (NL) is a flex-service aimed to make it easier for residents living in less-populated areas to make use of both local transportation and LYNX' local bus system. Service hours vary by route. All service is available Monday through Saturday except in Beers Ventura Lakes, Intercession City/Campbell City, Mastland and North Kissimmee where rides are available Monday through Friday.

- LYNX Transfer Center (1)
- Bus Stops (171)
- Sheltered Bus Stops (71)
- Access LYNX Customers (232)
- Routes crossing commission district (20)
- NeighborLink Delineation
- Required ADA, 3/4 mi Distance
- SunRail Corridor
- SunRail Stations

Bus Stop Density - interval 0.15mi/500ft  
Dense Sparse

0 0.5 1 2 Miles

**Exhibit "B"**  
**APPROPRIATED AMOUNT**

**October 2021 through September 2022      \$4,003,006**

<b>Exhibit B City of Orlando</b>	
<b>Transit Service Costs For FY2022</b>	
<b>Total City Transit Service Cost</b>	<b>\$ 4,003,006</b>

<b>FY2022 Billing Schedule:</b>	
October 2021	\$ 1,000,751
January 2022	\$ 1,000,751
April 2022	\$ 1,000,751
July 2022	\$ 1,000,753
<b>Annual Funding Request from City</b>	<b>\$ 4,003,006</b>

**Exhibit "C"**  
**FUNDING MODEL INFORMATION**

	<u>FY2022 Funding Model Amount</u>	<u>Additional Capital *</u>	<u>FY2022 Funding Agreement</u>
<b><u>Operating Funding</u></b>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
<b>Subtotal</b>	<b>\$ 71,422,119</b>	<b>\$ -</b>	<b>\$ 71,422,119</b>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
<b>Subtotal</b>	<b>\$ 9,037,152</b>	<b>\$ 1,168,824</b>	<b>\$ 10,205,976</b>
<b>Subtotal Operating Funding</b>	<b>\$ 80,459,271</b>	<b>\$ 1,168,824</b>	<b>\$ 81,628,095</b>
 <b><u>Capital Contributions</u></b>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
<b>Subtotal</b>	<b>\$ 2,263,645</b>	<b>\$ -</b>	<b>\$ 2,263,645</b>
<b>Total Local Funds</b>	<b>\$ 82,722,916</b>	<b>\$ 1,168,824</b>	<b>\$ 83,891,740</b>

\*Local match towards vehicle replacement.



**ADDENDUM TO AGREEMENT**

25. The Funding Partner agrees to appropriate one million one hundred sixty-eight thousand eight hundred twenty four dollars and zero cents (\$1,168,824) to LYNX for the fiscal year 2022 for the provision of local match. The local match will assist in the purchase of battery electric buses as described in the support letter dated August 31, 2021 (attached).

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August 31, 2021

Mr. Jim Harrison  
Chief Executive Officer  
LYNX  
455 N. Garland Avenue  
Orlando, FL 32801

RE: *FY2020 Section 5339 Bus and Bus Facilities Program for Six (6) Electric Buses and Charging Infrastructure – Amended City Contribution*

Dear Mr. Harrison,

The City of Orlando wrote in support of additional funding for LYNX to purchase six (6) additional electric buses with charging infrastructure on February 26, 2020 (see attached). Within that letter of support, the City of Orlando agreed to a local match of \$960,000. Due to a cost difference for the bus purchases and battery warranties, we are amending our local match for LYNX's grant application for LYMMO Replacement Vehicles from \$960,000 to \$1,168,824. The additional funding of \$208,824 is not to exceed the amended amount, but we realize the benefit to the community the additional electric buses bring.

The City of Orlando remains committed as a funding partner with LYNX for operations of the LYMMO BRT system and continues to share the costs for major LYMMO capital improvements to support their state of good repair. We request the city's amended local share be included in the annual LYNX Operating and Maintenance Funding Agreement for FY2022.

Sincerely,

A handwritten signature in blue ink that reads "Buddy Dyer".

Buddy Dyer  
Mayor

c: Kevin J. Edmonds, Chief Administrative Officer  
F.J. Flynn, AICP, Deputy Chief Administrator  
Tanya J. Wilder, Transportation Department Director  
Michelle McCrimmon, CPA, Deputy Chief Financial Officer  
Chris Castro, CPB, LEED GA, Director of Sustainability  
Crissy L. Martin, Transportation Policy Advisor  
Claudia Korobkoff, Transportation Planning Division Manager

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**OFFICE OF THE MAYOR**

Orlando City Hall · 400 South Orange Avenue · Third Floor  
PO Box 4990 · Orlando, FL 32802-4990  
P 407.246.2221 · F 407.246.2842 · orlando.gov/mayor

**Service Funding Agreement  
by and between  
City of Altamonte Springs, Florida  
and  
Central Florida Regional Transportation Authority**

**THIS SERVICE FUNDING AGREEMENT (“Agreement”)** is made and entered into by and between **CITY OF ALTAMONTE SPRINGS, FLORIDA**, a Florida municipal corporation, whose principal address is 225 Newburyport Avenue, Altamonte Springs, Florida 32701 (hereinafter the “**Funding Partner**”), and the **CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**, a body politic and corporate created pursuant to Part III, Chapter 343, Florida Statutes, whose principal address is 455 North Garland Avenue, Orlando, Florida 32801 (hereinafter “**LYNX**”).

**WITNESSETH**

**WHEREAS**, Part II, Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), provides, *inter alia*, that specific public facilities and services must be available concurrently with the impacts of development; and

**WHEREAS**, the Funding Partner recognizes the need to provide Public Transportation (as hereinafter defined) in an efficient manner and acknowledges the benefits of increased ridership on the regional transportation system; and

**WHEREAS**, increasing traffic congestion and continued population growth require mass transit service improvements; and

**WHEREAS**, reliable and convenient mass transit service offers a viable alternative to private automobile travel; and

**WHEREAS**, the Funding Partner recognizes the need to maintain and improve transit services; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the authority to own, operate, maintain, and manage a Public Transportation system in the area of Orange, Seminole and Osceola Counties; and

**WHEREAS**, LYNX currently provides mass transit services within the geographical limits of the Funding Partner; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the right to contract with other governmental entities, including the Funding Partner, and has the right to accept funds from such other governmental entities; and

**WHEREAS**, the Funding Partner and LYNX entered into an Interlocal Agreement for Public Transit Services dated as of November 20, 2020 (the “**Prior Fiscal Year Funding Agreement**”) pursuant to which the Funding Partner agreed to appropriate funds to LYNX for fiscal year from October 1, 2020 to September 30, 2021 and

**WHEREAS**, the term of the Prior Fiscal Year Funding Agreement ended on September 30, 2021; and

**WHEREAS**, the Funding Partner has budgeted funds for the fiscal year beginning on October 1, 2021 and ending on September 30, 2022 (“**Fiscal Year**”) to support LYNX’s Public Transportation services for such fiscal year; and

**WHEREAS**, LYNX and the Funding Partner wish to acknowledge that appropriate methodology has been used to determine the recommended level of funding by each Funding Partner; and

**WHEREAS**, at present, LYNX and the Funding Partner acknowledge that the funds provided by the Funding Partner to LYNX are used as the Funding Partner’s support of the regional Public Transportation System only within the Service Area (as hereinafter defined).

**NOW, THEREFORE**, in and for consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the Funding Partner and LYNX agree as follows:

1. **Recitals.** The Funding Partner and LYNX hereby declare that the Recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **Definitions.** The following capitalized terms shall have the following meanings:

“**Access LYNX**” means LYNX’s van transit service for medically-qualified, physically challenged transit customers.

“**ADA**” means the Americans with Disabilities Act of 1990.

“**Agreement**” means this Service Funding Agreement and its Exhibits and Addenda.

“**Appropriated Amount**” means the amount to be paid to LYNX by the Funding Partner for the Current Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder, as set forth in Paragraph 3 hereof.

“**Current Fiscal Year**” means the fiscal year beginning on October 1, 2021 and ending on September 30, 2022.

“**Deadhead Hours**” means the vehicle hours of operation incurred in non-Revenue Service in support of Revenue Service (i.e., hours from the garage to the beginning of a route).

“**Deadhead Miles**” means the vehicle miles incurred in non-Revenue Service in support of Revenue Service (i.e., miles from the garage to the beginning of a route).

“**Demand Response Service**” or “**NeighborLink**” means service provided in response to passenger requests made in advance to LYNX, which then dispatches a vehicle to pick up the passengers and transport them to their destinations or to a fixed-route transfer point within a designated demand response service area.

“**Fiscal Year**” or “**Current Fiscal Year**” means the twelve (12) month period commencing October 1, 2021 and ending the following September 30, 2022.

“**Fixed-Route Service**” means service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations. Unlike demand response service, Fixed-Route Service services the same origins and destinations. Fixed-Route Service includes route deviation service, where revenue vehicles deviate from fixed-routes on a discretionary basis.

“**FDOT**” means the Florida Department of Transportation.

“**FTA**” means the Federal Transit Association.

“**New Appropriated Amount**” means the amount that is approved or appropriated by the Funding Partner for the Next Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder for the Next Fiscal Year, as set forth in Paragraph 3 below.

“**Next Fiscal Year**” means the twelve (12) month period immediately following the Current Fiscal Year, and is the period commencing October 1, 2022 and ending the following September 30, 2023.

“**Operating Expenses**” mean the expenses associated with the operations of LYNX, and which are classified by function or activity.

“**Passenger Fares**” means the revenue earned from carrying passengers in regularly scheduled service. Passenger Fares include the base fare, distance premiums, express service premiums, transfers and quantity purchased discount fares (i.e., daily, seven-day, thirty-day, student, senior, etc. tickets and passes).

“**Passenger Trips**” means the number of fare-paying individuals who ride LYNX’s buses in any given period with each individual being counted once per boarding.

“**Public Transportation**” means transportation by a conveyance (e.g., by bus or van) that provides regular and continuing general or special transportation to the public, but does not include light rail. “Special transportation” includes transportation services being provided to the public pursuant to the ADA.

“**Revenue Hours**” means the hours a vehicle travels while in Revenue Service, which excludes Deadhead Hours.

“**Revenue Miles**” means the miles a vehicle travels while in Revenue Service, which excludes Deadhead Miles.

“**Revenue Service**” means the portion of the trip and/or period of time when a vehicle is available to board and alight fare-paying transit passengers.

“**Service Area**” means generally the geographic area or the Fixed-Route Service, as the case may be, described and set forth in **Exhibit “A”** attached hereto.

3. **Funding Partner Obligations.**

(a) **Current Fiscal Year.**

(i) The Funding Partner agrees to appropriate the amount specified on **Exhibit "B"** attached hereto (the "**Appropriated Amount**") to LYNX for the Fiscal Year for the provision of Public Transportation within the Service Area.

(ii) The Appropriated Amount shall be paid by the Funding Partner to LYNX in twelve (12) equal monthly installments, with each installment being due on the first day of each month. The first installment payment shall be due upon the later of (x) October 1, 2021 or (y) thirty (30) days after the execution date of this Agreement; and any other installment payments which would be due prior to the execution date of this Agreement shall also be paid within thirty (30) days after the execution date of this Agreement.

(iii) In the event that the Appropriated Amount is less than the amount suggested by the Funding Model to fully fund the agreed upon service level in the Funding Partner's Service Area, or in the event that the Appropriated Amount is less than the actual cost to fully fund the agreed upon service level in the Funding Partner's Service Area, LYNX may, at its discretion, (x) utilize reserves to fund the difference and continue to provide the requested service level, or (y) reduce the service level in the Funding Partner's Service Area to a level equivalent to the Appropriated Amount. However, in the event clause (x) is applicable, then the Funding Partner will promptly pay said difference to LYNX within thirty (30) days after the execution date of this Agreement.

(iv) In regard to Paragraph 3(a)(ii), above, for each monthly installment, LYNX will invoice the Funding Partner on a monthly basis and said amount shall be paid within thirty (30) days after the receipt by the Funding Partner of said invoice. However, in regard to any monthly installments that remain unpaid prior to the execution of this Agreement, those unpaid monthly installments (for which LYNX will furnish the Funding Partner invoices) will be paid within thirty (30) days after the execution date of the Agreement.

(b) **Next Fiscal Year.** If, prior to the termination date of this Agreement (as set forth in Paragraph 20 below), the Funding Partner and LYNX have not reached a written agreement setting forth an appropriation to LYNX for the Next Fiscal Year, then, notwithstanding the expiration of this Agreement at the end of the Current Fiscal Year and in order to continue the Public Transportation after said expiration, the Funding Partner shall continue to pay LYNX for the Next Fiscal Year the amount set forth below:

(i) The amount to be paid shall be the Appropriated Amount for the Current Fiscal Year. This Appropriated Amount for the Current Fiscal Year (the "**Post-Termination Payment**") shall be paid as provided herein.

(ii) LYNX will prepare and submit invoices for the Post Termination Payments and the Funding Partner will make such Post-Termination Payments within thirty (30) days after its receipt of such invoices from LYNX.

(iii) The Post Termination Payment shall be paid in equal monthly installments due on the first day of each month commencing October 1, 2021 until the earliest to occur of the following: (x) LYNX and the Funding Partner reach a written agreement setting forth a different appropriation for the Next Fiscal Year; (y) one hundred twenty (120) days following the date that the Funding Partner, through action taken by its governing board, notifies LYNX in writing that it wishes to terminate this Agreement and no longer receives from LYNX the Public Transportation services provided herein; or (z) the date that LYNX actually discontinues the Public Transportation services to the Funding Partner, at which time this Agreement and specifically the provisions of this Subparagraph 3(b) will no longer be applicable. LYNX may, within its discretion, reduce, eliminate or discontinue the provision of Public Transportation services to the Funding Partner immediately upon providing the Funding Partner with written notice of same. If this Subparagraph 3(b) is applicable, the parties will reconcile the difference between the amount that was paid by the Funding Partner and the amount that has been agreed upon for the Next Fiscal Year in the first month following the earliest of the occurrences set forth above.

(iv) If a written agreement for the Next Fiscal Year is not entered into between LYNX and the Funding Partner by November 30 of the Next Fiscal Year, then, in that event, LYNX will undertake the necessary procedure for the discontinuation of the service which process takes approximately one hundred and twenty (120) days. If a new Funding Agreement for the Next Fiscal Year is not entered into by January 31 of the Next Fiscal Year, then LYNX may discontinue the service in accordance with its policies and the Funding Partner will in any event pay for any service provided for the Next Fiscal Year, including any service that may be provided of necessity by LYNX after January 31 in accordance with its procedures.

(c) Notwithstanding anything to the contrary set forth herein, the payment of all amounts due to LYNX hereunder shall be made in compliance with the Florida Prompt Payment Act, codified at Sections 218.70 to 218.80, Florida Statutes.

4. **LYNX Obligations.**

(a) **Service.** LYNX agrees to provide Public Transportation within the Service Area during the Fiscal Year. LYNX shall request written approval from the Funding Partner prior to implementing any of the following changes which may result in a greater than two percent (2%) increase or decrease of Fixed-Route Service hours within the Service Area (as computed on an annual basis), which written approval shall not be unreasonably withheld or delayed:

(i) Addition of route(s).

(ii) Elimination of route(s).

- (iii) Combination of routes.
- (iv) Changes to service span.
- (v) Change to service frequency.
- (vi) Changes in days of operation.

To the extent that there is any increase or decrease of Fixed-Route Service hours greater than two percent (2%) (which would require approval of the Funding Partner), then, in that case, there will be a corresponding increase or decrease in the Appropriated Amount to be paid to LYNX by the Funding Partner from and after said increase or decrease is put into effect.

(b) **Quarterly Reporting.** For the purposes of operations and management analysis, LYNX agrees to provide the Funding Partner quarterly written performance reports reflecting the LYNX operations of the prior quarter. The quarterly reporting periods shall end on December 31, March 31, June 30 and September 30 and said reports shall be submitted to the Funding Partner's Office of Management and Budget and Office of Regional Mobility within forty-five (45) days after the end of each quarter. Each quarterly report will include the following items:

- (i) Maps and schedules for each route operating in the Service Area.
- (ii) Official LYNX monthly ridership reports showing a breakdown of actual aggregate ridership by mode (i.e., Fixed-Route Service, Demand Response Service, LYMMO, Access LYNX, Van Plan and special shuttles).
- (iii) An operational service characteristics report for current services provided, which would include (1) revenue hours, (2) revenue miles, and (3) unlinked passenger trips.
- (iv) A comparison of actual revenue and expenditures to budgeted revenues and expenditures with explanations for variances that are plus or minus 10% and exceed \$50,000.
- (v) A route performance report, which reports and ranks each route which is located in the County for the Funding Partner, monthly based on the following:
  - (A) Subsidy per Passenger Trip.
  - (B) Passengers per trip.
  - (C) Passengers per Revenue Hour.
  - (D) Passengers per Revenue Mile.
  - (E) Percent farebox return (i.e., percent of Operating Expenses



recovered through farebox).

(vi) Current and contemporaneous versions of the LYNX regional model, which is the model used by LYNX to apportion total Operating Expenses, less adjustments, to the Funding Partners based on Fixed-Route Service hours, ADA client trips, and flex-service hours in their service area.

(A) A comparison of scheduled versus actual Revenue Miles.

(B) A comparison of scheduled versus actual Revenue Hours.

(C) A schedule of unanticipated extraordinary expenses for the prior quarter.

(D) A list of changes to authorized staffing.

(E) A schedule of total training and travel expenditures for each LYNX board member and employee for the immediately preceding quarter. This schedule should specify the training event name, attendee name(s), date(s) of travel and/or training, event location, and total expenses of each trip.

(vii) Funding Model Information. Attached hereto as **Exhibit “C”** and is a schedule listing including the following:

(A) All of LYNX’s funding partners;

(B) The amount of funding required of each funding partner by the Funding Model for the Current Fiscal Year; and

(C) The amount each funding partner actually budgeted for the Current Fiscal Year to contribute for the services contemplated in the LYNX Funding Model.

(D) LYNX shall provide quarterly updates to **Exhibit “C”** by listing the amount each funding partner has paid to LYNX to date.

(viii) The amount of fund balance allocated to reserves.

(ix) Any other information the Funding Partner reasonably requests.

(c) **Additional Reporting.** On an annual basis, within thirty (30) days of receipt, LYNX shall provide the Funding Partner with a copy of all external audits, a copy of the Comprehensive Annual Financial Report, which shall include the Report on Internal Controls, Report on Compliance with Laws and Regulations, and a copy of the management letter.

5. **Independent Contractor.** LYNX expressly acknowledges that it is acting as an independent contractor, and nothing in this Agreement is intended or shall be construed to establish

an agency, partnership or joint venture relationship between the parties, their employees, agents, subcontractors, or assigns, during or after performance of this Agreement. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

6. **Amendments.** This Agreement may be amended only through a written document approved by both the Funding Partner's Board of Commissioners and the LYNX Governing Board, and executed by all parties hereto.

7. **Termination of Agreement.**

(a) **For Cause.** If LYNX or the Funding Partner (the "**Breaching Party**") fails to fulfill any material covenant, term or condition of this Agreement, the other party (the "**Non-Breaching Party**") shall give the Breaching Party written notice of such failure or violation. If such failure or violation is not cured within thirty (30) days from the date on which the Breaching Party receives such notice, the Non-Breaching Party may terminate this Agreement, which shall be effective upon thirty (30) days following the Breaching Party's receipt of a written notice from the Non-Breaching Party to that effect or such later date as specified in the notice. In the event the Funding Partner is the Breaching Party, the Funding Partner will nonetheless continue to pay to LYNX for any fixed route service furnished by LYNX up to the actual date that LYNX terminates said fixed route service, taking into account the policies and procedures to be followed by LYNX to terminate bus service generally (but not to exceed one hundred twenty (120) days).

(b) **For Convenience.** Either LYNX or the Funding Partner may terminate this Agreement at any time upon giving notice to that effect. Such termination shall be effective upon one hundred twenty (120) days receipt of written notice of termination from the party desiring to terminate this Agreement or such later date as specified in the notice.

The provisions of this Paragraph 7 are further subject to the rights of the parties to terminate this Agreement after the end of any fiscal year.

8. **Audit.** The Funding Partner (or its lawfully designated designee), shall have the right to audit LYNX's books and records on an annual basis to determine compliance with the terms, conditions and obligations imposed by this Agreement. The Funding Partner shall have full access to all records, documents and information, whether on paper or electronic or other media as is necessary or convenient to perform the audit.

9. **Public Records.** If LYNX has questions regarding the application of Chapter 119, Florida Statutes, to LYNX's duty to provide public records relating to this agreement, contact the funding partner's custodian of public records at:

City of Altamonte Springs

City Clerk's Office  
225 Newburyport Avenue  
Altamonte Springs, Florida 32701  
407-571-8000  
[cityclerk@altamonte.org](mailto:cityclerk@altamonte.org)

LYNX understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If LYNX will act on behalf of the Funding Partner, as provided under section 119.011(2), Florida Statutes, LYNX, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

(a) Keep and maintain public records required by the Funding Partner to perform the service.

(b) Upon request from the Funding Partner's custodian of public records, provide the Funding Partner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LYNX does not transfer the records to the Funding Partner.

(d) Subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, upon completion of the contract, transfer, at no cost, to the Funding Partner all public records in possession of the LYNX or keep and maintain public records required by the Funding Partner to perform the service. If LYNX transfers all public records to the Funding Partner upon completion of the contract, LYNX shall, subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LYNX keeps and maintains public records upon completion of the contract, LYNX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Funding Partner, upon request from the Funding Partner's custodian of public records, in a format that is compatible with the information technology systems of the Funding Partner.

(e) If LYNX does not comply with a public records request, the Funding Partner shall enforce the contract provisions in accordance with the Agreement.

10. **Record Keeping Procedure.** LYNX shall keep and maintain accurate records of all services rendered in the performance of this Agreement and shall keep such records open to inspection by the Funding Partner at reasonable hours during the entire term of this Agreement,

plus three (3) years after expiration or termination of this Agreement. If any litigation, claim or audit is commenced prior to the expiration of the three (3) year period and extends beyond such period, the records shall be maintained until all litigation, including appeals, claims or audits have been concluded or resolved. Any person authorized by the Funding Partner shall have access to and the right to examine any of the records.

11. **Compliance with FTA/FDOT Requirements.** The provisions of this Agreement, and the Public Transportation to be provided by LYNX hereunder, is subject at all times to the applicable statutes and rules and regulations of all applicable governmental authorities, including those of the FTA and FDOT. In the event any such statutes or rules or regulations would require a substantial and material change to this Agreement, then the parties will immediately meet to review and make acceptable adjustments to this Agreement so as to comply with such statutes and rules and regulations.

12. **Litigation and Venue.** In the event any party deems it necessary to take legal action to enforce any provision of this Agreement, the venue shall be in the Circuit Court of the Eighteenth Circuit in and for Seminole County, Florida or the United States District Court for the Middle District of Florida, Orlando Division.

13. **Remedies.** No remedy herein conferred upon any part is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

14. **Severability.** In the event that any section, paragraph, sentence, clause or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement which remaining portions shall remain in full force and effect.

15. **Waiver.** Performance of this Agreement by any party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of Florida. The parties to this Agreement agree to comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

17. **Construction.** Captions and section headings in this Agreement are for convenience and reference only, and shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

18. **Notices.** All notices, consents, approvals, waivers, and deletions which any party shall be required or shall desire to make or give under and in accordance with this Agreement shall be in writing and must be sent by certified United States mail with return receipt required, or by personal delivery with receipt required to the following addresses:

As to Funding Partner: City of Altamonte Springs  
225 Newburyport Avenue  
Altamonte Springs, Florida 32701  
Attn: Franklin W. Martz, II, City Manager

With copy to: City of Altamonte Springs  
225 Newburyport Avenue  
Altamonte Springs, Florida 32701  
Attn: Community Development Agency

As to LYNX: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: James E. Harrison, Esq., P.E., Chief Executive Officer

With copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Leonard Antmann, Chief Financial Officer

With a copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Carrie L. Sarver, Esq., B.C.S., Senior Staff Attorney

19. **Binding Agreement.** This Agreement is binding upon the parties and shall inure to their successors or assigns.

20. **Effective Date.** The effective date of this Agreement shall be October 1, 2021. Unless terminated earlier in accordance with Paragraph 7 of this Agreement, this Agreement will terminate on September 30, 2022, except for the provisions of this Agreement which by their terms survive the termination of this Agreement.

21. **Negotiations.** The parties to this Agreement acknowledge that all terms of this Agreement were negotiated at arms-length and that this Agreement and all documents executed in connection herewith were prepared and executed without undue influence exerted by any party or on any party. Further, all parties drafted this Agreement jointly, and no parties are entitled to the benefit of any rules of construction with respect to the interpretation of any terms, conditions, or provisions of this Agreement in favor of or against any person or party who drafted this Agreement.

22. **No Third-Party Beneficiaries.** This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties in this Agreement.

23. **Entirety of the Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the specific matters contained herein and shall supersede all previous discussions, understandings, and agreements.

24. **Addendum.** There is attached hereto a certain Addendum consisting of one (NA) page. To the extent there is a conflict between the terms of this Agreement and the terms of the Addendum, the terms of the Addendum will govern.

25. **E-Verify.** Compliance with Section 448.095 includes, but is not limited to, utilization of the E-Verify system to verify the work authorization status of all newly hired employees, and requiring all sub-contractors to provide an affidavit attesting that the sub-contractor does not employ, contract with, or sub-contract with, an unauthorized alien.

**IN WITNESS WHEREOF**, the Funding Partner and LYNX have duly and lawfully approved this Agreement and have authorized its execution and delivery by their respective officers, who have set their hands and their respective seals affixed below, all as of the date first written hereinabove.

**[Signatures appear on following page]**

**SIGNATURE PAGE FOR FUNDING PARTNER**

**ATTEST:**

**FUNDING PARTNER:**

**CITY OF ALTAMONTE SPRINGS,  
FLORIDA**

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Pat Bates, Mayor

For the use and reliance of City of  
Altamonte Springs only. Approved as to  
form and legal sufficiency.

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

\_\_\_\_\_  
City Attorney

**SIGNATURE PAGE FOR LYNX**

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Name: James E. Harrison, Esq., P.E.

Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_

Name: Carrie L. Sarver, Esq., B.C.S.

Title: Senior Staff Attorney

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

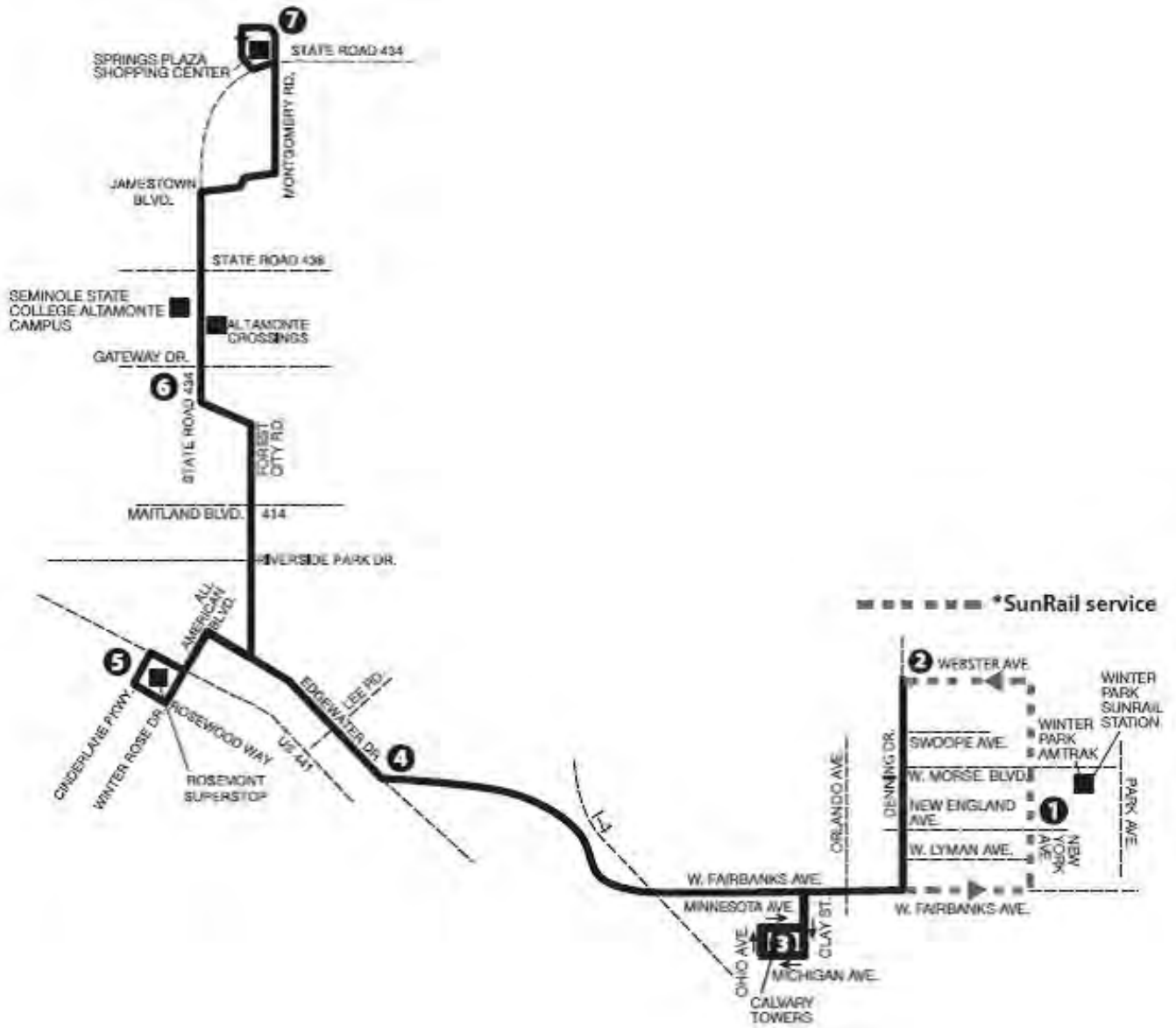


Exhibit "A"

DESCRIPTION OF SERVICE AREA

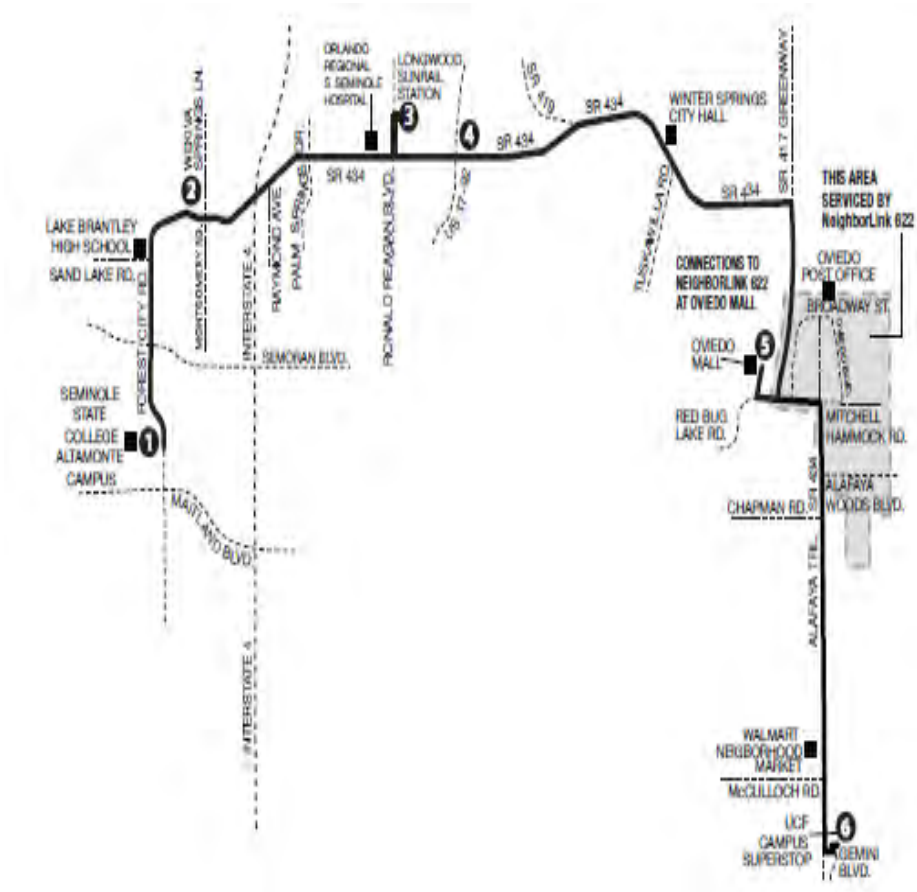
**LINK 23** Winter Park/Springs Plaza

**Serving:** Winter Park Tech, Rosemont SuperStop, West Town Center Walmart, Springs Plaza Shopping Center, Winter Park SunRail Station and Calvary Towers



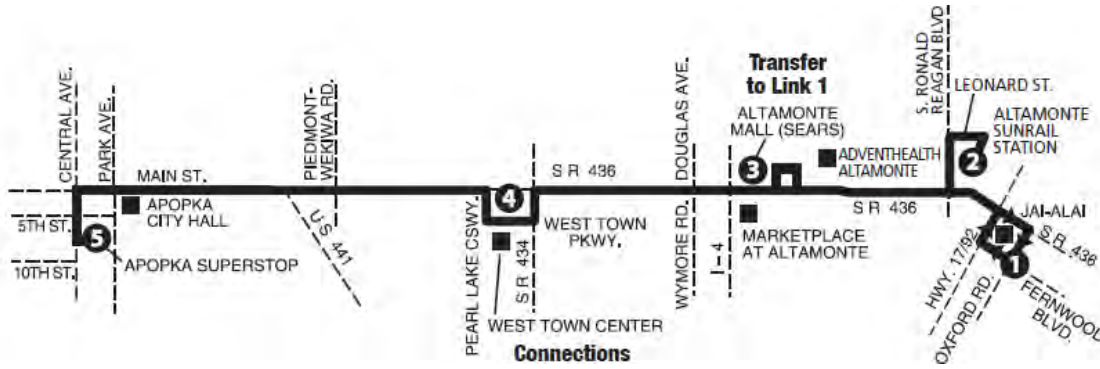
# Link 434 SR 434

**Serving:** Seminole State College- Altamonte Campus, Lake Brantley High School, Winter Springs City Hall, South Seminole Hospital, Oviedo Mall, University of Central Florida SuperStop, NeighborLink 622, and Longwood SunRail Station



## Link 436N SR 436/Fernwood/Apopka

Serving: Apopka, Apopka SuperStop, West Town Center, Altamonte Mall, AdventHealth Altamonte, Fern Park, and Altamonte SunRail Station



## Link 436S SR 436/Fernwood/Orlando International Airport

Serving: Fern Park, Casselberry, Azalea Park, and Orlando International Airport

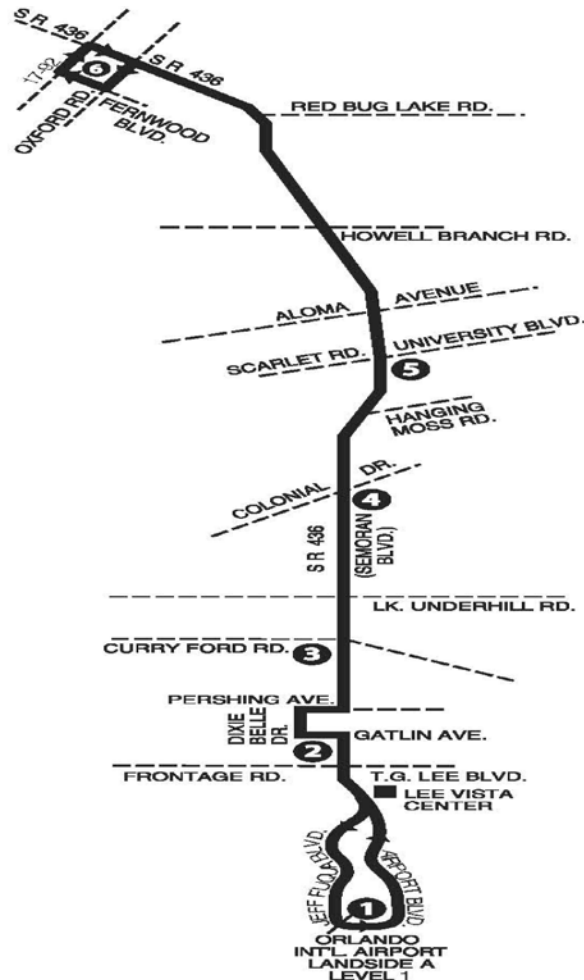


Exhibit "B"

APPROPRIATED AMOUNT

October 2021 through September 2022      \$ 120,900

<b>FY2022 Billing Schedule:</b>	
October 2021	\$ 30,225
January 2022	\$ 30,225
April 2022	\$ 30,225
July 2022	\$ 30,225
<b>Annual Funding Request from City</b>	<b>\$ 120,900</b>

Exhibit "C"

FUNDING MODEL INFORMATION

	<u>FY2022 Funding Model Amount</u>	<u>Additional Capital *</u>	<u>FY2022 Funding Agreement</u>
<u>Operating Funding</u>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
Subtotal	<u>\$ 71,422,119</u>	<u>\$ -</u>	<u>\$ 71,422,119</u>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
Subtotal	<u>\$ 9,037,152</u>	<u>\$ 1,168,824</u>	<u>\$ 10,205,976</u>
Subtotal Operating Funding	<u>\$ 80,459,271</u>	<u>\$ 1,168,824</u>	<u>\$ 81,628,095</u>
<u>Capital Contributions</u>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
Subtotal	<u>\$ 2,263,645</u>	<u>\$ -</u>	<u>\$ 2,263,645</u>
Total Local Funds	<u>\$ 82,722,916</u>	<u>\$ 1,168,824</u>	<u>\$ 83,891,740</u>

\*Local match towards vehicle replacement.

**Service Funding Agreement**  
**by and between**  
**City of Sanford, Florida**  
**and**  
**Central Florida Regional Transportation Authority**

DRAFT

**THIS SERVICE FUNDING AGREEMENT (“Agreement”)** is made and entered into by and between **CITY OF SANFORD, FLORIDA**, a charter county and political subdivision of the State of Florida, whose principal address is 300 N. Park Avenue, Sanford, Florida 32771 (hereinafter the “**Funding Partner**”), and the **CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**, a body politic and corporate created pursuant to Part III, Chapter 343, Florida Statutes, whose principal address is 455 North Garland Avenue, Orlando, Florida 32801 (hereinafter “**LYNX**”).

**WITNESSETH**

**WHEREAS**, Part II, Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), provides, *inter alia*, that specific public facilities and services must be available concurrently with the impacts of development; and

**WHEREAS**, the Funding Partner recognizes the need to provide Public Transportation (as hereinafter defined) in an efficient manner and acknowledges the benefits of increased ridership on the regional transportation system; and

**WHEREAS**, increasing traffic congestion and continued population growth require mass transit service improvements; and

**WHEREAS**, reliable and convenient mass transit service offers a viable alternative to private automobile travel; and

**WHEREAS**, the Funding Partner recognizes the need to maintain and improve transit services; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the authority to own, operate, maintain, and manage a Public Transportation system in the area of Orange, Seminole and Osceola Counties; and

**WHEREAS**, LYNX currently provides mass transit services within the geographical limits of the Funding Partner; and

**WHEREAS**, pursuant to Section 343.64, Florida Statutes, LYNX has the right to contract with other governmental entities, including the Funding Partner, and has the right to accept funds from such other governmental entities; and

**WHEREAS**, the Funding Partner and LYNX entered into an Interlocal Agreement for Public Transit Services dated as of October 26, 2020 (the “**Prior Fiscal Year Funding Agreement**”) pursuant to which the Funding Partner agreed to appropriate funds to LYNX for

fiscal year from October 1, 2020 to September 30, 2021 to support LYNX Public Transportation services within the Service Area (as hereinafter defined); and

**WHEREAS**, the term of the Prior Fiscal Year Funding Agreement ended on September 30, 2021; and

**WHEREAS**, the Funding Partner has budgeted funds for the fiscal year beginning on October 1, 2021 and ending on September 30, 2022 (“**Fiscal Year**”) to support LYNX’s Public Transportation services for such fiscal year; and

**WHEREAS**, LYNX and the Funding Partner wish to acknowledge that appropriate methodology has been used to determine the recommended level of funding by each Funding Partner; and

**WHEREAS**, at present, LYNX and the Funding Partner acknowledge that the funds provided by the Funding Partner to LYNX are used as the Funding Partner’s support of the regional Public Transportation System only within the Service Area (as hereinafter defined).

**NOW, THEREFORE**, in and for consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the Funding Partner and LYNX agree as follows:

1. **Recitals**. The Funding Partner and LYNX hereby declare that the Recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **Definitions**. The following capitalized terms shall have the following meanings:

“**Access LYNX**” means LYNX’s van transit service for medically-qualified, physically challenged transit customers.

“**ADA**” means the Americans with Disabilities Act of 1990.

“**Agreement**” means this Service Funding Agreement and its Exhibits and Addenda.

“**Appropriated Amount**” means the amount to be paid to LYNX by the Funding Partner for the Current Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder, as set forth in Paragraph 3 hereof.

“**Current Fiscal Year**” means the fiscal year beginning on October 1, 2021 and ending on September 30, 2022

“**Deadhead Hours**” means the vehicle hours of operation incurred in non-Revenue Service in support of Revenue Service (i.e., hours from the garage to the beginning of a route).

“**Deadhead Miles**” means the vehicle miles incurred in non-Revenue Service in support of Revenue Service (i.e., miles from the garage to the beginning of a route).

“**Demand Response Service**” or “**NeighborLink**” means service provided in response to passenger requests made in advance to LYNX, which then dispatches a vehicle to pick up the

passengers and transport them to their destinations or to a fixed-route transfer point within a designated demand response service area.

“**Fiscal Year**” or “**Current Fiscal Year**” means the twelve (12) month period commencing October 1, 2021 and ending the following September 30, 2022.

“**Fixed-Route Service**” means service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations. Unlike demand response service, Fixed-Route Service services the same origins and destinations. Fixed-Route Service includes route deviation service, where revenue vehicles deviate from fixed-routes on a discretionary basis.

“**FDOT**” means the Florida Department of Transportation.

“**FTA**” means the Federal Transit Association.

“**New Appropriated Amount**” means the amount that is approved or appropriated by the Funding Partner for the Next Fiscal Year in consideration of the Public Transportation to be provided by LYNX hereunder for the Next Fiscal Year, as set forth in Paragraph 3 below.

“**Next Fiscal Year**” means the twelve (12) month period immediately following the Current Fiscal Year, and is the period commencing October 1, 2022 and ending the following September 30, 2023.

“**Operating Expenses**” mean the expenses associated with the operations of LYNX, and which are classified by function or activity.

“**Passenger Fares**” means the revenue earned from carrying passengers in regularly scheduled service. Passenger Fares include the base fare, distance premiums, express service premiums, transfers and quantity purchased discount fares (i.e., daily, seven-day, thirty-day, student, senior, etc. tickets and passes).

“**Passenger Trips**” means the number of fare-paying individuals who ride LYNX’s buses in any given period with each individual being counted once per boarding.

“**Public Transportation**” means transportation by a conveyance (e.g., by bus or van) that provides regular and continuing general or special transportation to the public, but does not include light rail. “Special transportation” includes transportation services being provided to the public pursuant to the ADA.

“**Revenue Hours**” means the hours a vehicle travels while in Revenue Service, which excludes Deadhead Hours.

“**Revenue Miles**” means the miles a vehicle travels while in Revenue Service, which excludes Deadhead Miles.

“**Revenue Service**” means the portion of the trip and/or period of time when a vehicle is available to board and alight fare-paying transit passengers.



“**Service Area**” means generally the geographic area or the Fixed-Route Service, as the case may be, described and set forth in **Exhibit “A”** attached hereto.

3. **Funding Partner Obligations.**

(a) **Current Fiscal Year.**

(i) The Funding Partner agrees to appropriate the amount specified on **Exhibit ”B”** attached hereto (the “**Appropriated Amount**”) to LYNX for the Fiscal Year for the provision of Public Transportation within the Service Area.

(ii) The Appropriated Amount shall be paid by the Funding Partner to LYNX in twelve (12) equal monthly installments, with each installment being due on the first day of each month. The first installment payment shall be due upon the later of (x) October 1, 2021 or (y) thirty (30) days after the execution date of this Agreement; and any other installment payments which would be due prior to the execution date of this Agreement shall also be paid within thirty (30) days after the execution date of this Agreement.

(iii) In the event that the Appropriated Amount is less than the amount suggested by the Funding Model to fully fund the agreed upon service level in the Funding Partner’s Service Area, or in the event that the Appropriated Amount is less than the actual cost to fully fund the agreed upon service level in the Funding Partner’s Service Area, LYNX may, at its discretion, (x) utilize reserves to fund the difference and continue to provide the requested service level, or (y) reduce the service level in the Funding Partner’s Service Area to a level equivalent to the Appropriated Amount. However, in the event clause (x) is applicable, then the Funding Partner will promptly pay said difference to LYNX within thirty (30) days after the execution date of this Agreement.

(iv) In regard to Paragraph 3(a)(ii), above, for each monthly installment, LYNX will invoice the Funding Partner on a monthly basis and said amount shall be paid within thirty (30) days after the receipt by the Funding Partner of said invoice. However, in regard to any monthly installments that remain unpaid prior to the execution of this Agreement, those unpaid monthly installments (for which LYNX will furnish the Funding Partner invoices) will be paid within thirty (30) days after the execution date of the Agreement.

(b) **Next Fiscal Year.** If, prior to the termination date of this Agreement (as set forth in Paragraph 20 below), the Funding Partner and LYNX have not reached a written agreement setting forth an appropriation to LYNX for the Next Fiscal Year, then, notwithstanding the expiration of this Agreement at the end of the Current Fiscal Year and in order to continue the Public Transportation after said expiration, the Funding Partner shall continue to pay LYNX for the Next Fiscal Year the amount set forth below:

(i) The amount to be paid shall be the Appropriated Amount for the Current Fiscal Year. This Appropriated Amount for the Current Fiscal Year (the “**Post-Termination Payment**”) shall be paid as provided herein.

(ii) LYNX will prepare and submit invoices for the Post Termination Payments and the Funding Partner will make such Post-Termination Payments within thirty (30) days after its receipt of such invoices from LYNX.

(iii) The Post Termination Payment shall be paid in equal monthly installments due on the first day of each month commencing October 1, 2022 until the earliest to occur of the following: (x) LYNX and the Funding Partner reach a written agreement setting forth a different appropriation for the Next Fiscal Year; (y) one hundred twenty (120) days following the date that the Funding Partner, through action taken by its governing board, notifies LYNX in writing that it wishes to terminate this Agreement and no longer receives from LYNX the Public Transportation services provided herein; or (z) the date that LYNX actually discontinues the Public Transportation services to the Funding Partner, at which time this Agreement and specifically the provisions of this Subparagraph 3(b) will no longer be applicable. LYNX may, within its discretion, reduce, eliminate or discontinue the provision of Public Transportation services to the Funding Partner immediately upon providing the Funding Partner with written notice of same. If this Subparagraph 3(b) is applicable, the parties will reconcile the difference between the amount that was paid by the Funding Partner and the amount that has been agreed upon for the Next Fiscal Year in the first month following the earliest of the occurrences set forth above.

(iv) If a written agreement for the Next Fiscal Year is not entered into between LYNX and the Funding Partner by November 30 of the Next Fiscal Year, then, in that event, LYNX will undertake the necessary procedure for the discontinuation of the service which process takes approximately one hundred and twenty (120) days. If a new Funding Agreement for the Next Fiscal Year is not entered into by January 31 of the Next Fiscal Year, then LYNX may discontinue the service in accordance with its policies and the Funding Partner will in any event pay for any service provided for the Next Fiscal Year, including any service that may be provided of necessity by LYNX after January 31 in accordance with its procedures.

(c) Notwithstanding anything to the contrary set forth herein, the payment of all amounts due to LYNX hereunder shall be made in compliance with the Florida Prompt Payment Act, codified at Sections 218.70 to 218.80, Florida Statutes.

#### 4. **LYNX Obligations.**

(a) **Service.** LYNX agrees to provide Public Transportation within the Service Area during the Fiscal Year. LYNX shall request written approval from the Funding Partner prior to implementing any of the following changes which may result in a greater than two percent (2%) increase or decrease of Fixed-Route Service hours within the Service Area (as computed on an annual basis), which written approval shall not be unreasonably withheld or delayed:

- (i) Addition of route(s).
- (ii) Elimination of route(s).

- (iii) Combination of routes.
- (iv) Changes to service span.
- (v) Change to service frequency.
- (vi) Changes in days of operation.

To the extent that there is any increase or decrease of Fixed-Route Service hours greater than two percent (2%) (which would require approval of the Funding Partner), then, in that case, there will be a corresponding increase or decrease in the Appropriated Amount to be paid to LYNX by the Funding Partner from and after said increase or decrease is put into effect.

(b) **Quarterly Reporting.** For the purposes of operations and management analysis, LYNX agrees to provide the Funding Partner quarterly written performance reports reflecting the LYNX operations of the prior quarter. The quarterly reporting periods shall end on December 31, March 31, June 30 and September 30 and said reports shall be submitted to the Funding Partner's Office of Management and Budget and Office of Regional Mobility within forty-five (45) days after the end of each quarter. Each quarterly report will include the following items:

- (i) Maps and schedules for each route operating in the Service Area.
- (ii) Official LYNX monthly ridership reports showing a breakdown of actual aggregate ridership by mode (i.e., Fixed-Route Service, Demand Response Service, LYMMO, Access LYNX, Van Plan and special shuttles).
- (iii) An operational service characteristics report for current services provided, which would include (1) revenue hours, (2) revenue miles, and (3) unlinked passenger trips.
- (iv) A comparison of actual revenue and expenditures to budgeted revenues and expenditures with explanations for variances that are plus or minus 10% and exceed \$50,000.
- (v) A route performance report, which reports and ranks each route which is located in the County for the Funding Partner, monthly based on the following:
  - (A) Subsidy per Passenger Trip.
  - (B) Passengers per trip.
  - (C) Passengers per Revenue Hour.
  - (D) Passengers per Revenue Mile.
  - (E) Percent farebox return (i.e., percent of Operating Expenses

recovered through farebox).

(vi) Current and contemporaneous versions of the LYNX regional model, which is the model used by LYNX to apportion total Operating Expenses, less adjustments, to the Funding Partners based on Fixed-Route Service hours, ADA client trips, and flex-service hours in their service area.

(A) A comparison of scheduled versus actual Revenue Miles.

(B) A comparison of scheduled versus actual Revenue Hours.

(C) A schedule of unanticipated extraordinary expenses for the prior quarter.

(D) A list of changes to authorized staffing.

(E) A schedule of total training and travel expenditures for each LYNX board member and employee for the immediately preceding quarter. This schedule should specify the training event name, attendee name(s), date(s) of travel and/or training, event location, and total expenses of each trip.

(vii) Funding Model Information. Attached hereto as **Exhibit “C”** and is a schedule listing involving the following:

(A) All of LYNX’s funding partners;

(B) The amount of funding required of each funding partner by the Funding Model for the Current Fiscal Year; and

(C) The amount each funding partner actually budgeted for the Current Fiscal Year to contribute for the services contemplated in the LYNX Funding Model.

(D) LYNX shall provide quarterly updates to **Exhibit “C”** by listing the amount each funding partner has paid to LYNX to date.

(viii) The amount of fund balance allocated to reserves.

(ix) Any other information the Funding Partner reasonably requests.

(c) **Additional Reporting.** On an annual basis, within thirty (30) days of receipt, LYNX shall provide the Funding Partner with a copy of all external audits, a copy of the Comprehensive Annual Financial Report, which shall include the Report on Internal Controls, Report on Compliance with Laws and Regulations, and a copy of the management letter.

5. **Independent Contractor.** LYNX expressly acknowledges that it is acting as an independent contractor, and nothing in this Agreement is intended or shall be construed to establish an agency, partnership or joint venture relationship between the parties, their employees, agents, subcontractors, or assigns, during or after performance of this Agreement. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

6. **Amendments.** This Agreement may be amended only through a written document approved by both the Funding Partner's Board of Commissioners and the LYNX Governing Board, and executed by all parties hereto.

7. **Termination of Agreement.**

(a) **For Cause.** If LYNX or the Funding Partner (the "**Breaching Party**") fails to fulfill any material covenant, term or condition of this Agreement, the other party (the "**Non-Breaching Party**") shall give the Breaching Party written notice of such failure or violation. If such failure or violation is not cured within thirty (30) days from the date on which the Breaching Party receives such notice, the Non-Breaching Party may terminate this Agreement, which shall be effective upon thirty (30) days following the Breaching Party's receipt of a written notice from the Non-Breaching Party to that effect or such later date as specified in the notice. In the event the Funding Partner is the Breaching Party, the Funding Partner will nonetheless continue to pay to LYNX for any fixed route service furnished by LYNX up to the actual date that LYNX terminates said fixed route service, taking into account the policies and procedures to be followed by LYNX to terminate bus service generally (but not to exceed one hundred twenty (120) days).

(b) **For Convenience.** Either LYNX or the Funding Partner may terminate this Agreement at any time upon giving notice to that effect. Such termination shall be effective upon one hundred twenty (120) days receipt of written notice of termination from the party desiring to terminate this Agreement or such later date as specified in the notice.

The provisions of this Paragraph 7 are further subject to the provisions of Subparagraph 3(c) above as to the rights of the parties to terminate this Agreement after the end of any fiscal year as provided in said Paragraph 3(c).

8. **Audit.** The Funding Partner (or its lawfully designated designee), shall have the right to audit LYNX's books and records on an annual basis to determine compliance with the terms, conditions and obligations imposed by this Agreement. The Funding Partner shall have full access to all records, documents and information, whether on paper or electronic or other media as is necessary or convenient to perform the audit.

9. **Public Records.** If LYNX has questions regarding the application of Chapter 119, Florida Statutes, to LYNX's duty to provide public records relating to this agreement, contact the funding partner's custodian of public records at:

City of Sanford  
City Clerk's Office  
300 N. Park Avenue  
Sanford, Florida 32771  
407-688-5014

LYNX understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If LYNX will act on behalf of the Funding Partner, as provided under section 119.011(2), Florida Statutes, LYNX, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

- (a) Keep and maintain public records required by the Funding Partner to perform the service.
- (b) Upon request from the Funding Partner's custodian of public records, provide the Funding Partner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LYNX does not transfer the records to the Funding Partner.
- (d) Subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, upon completion of the contract, transfer, at no cost, to the Funding Partner all public records in possession of the LYNX or keep and maintain public records required by the Funding Partner to perform the service. If LYNX transfers all public records to the Funding Partner upon completion of the contract, LYNX shall, subject to LYNX's obligations under the Public Records Act and the records retention schedules promulgated thereunder, destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LYNX keeps and maintains public records upon completion of the contract, LYNX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Funding Partner, upon request from the Funding Partner's custodian of public records, in a format that is compatible with the information technology systems of the Funding Partner.
- (e) If LYNX does not comply with a public records request, the Funding Partner shall enforce the contract provisions in accordance with the Agreement.

10. **Record Keeping Procedure.** LYNX shall keep and maintain accurate records of all services rendered in the performance of this Agreement and shall keep such records open to inspection by the Funding Partner at reasonable hours during the entire term of this Agreement, plus three (3) years after expiration or termination of this Agreement. If any litigation, claim or audit is commenced prior to the expiration of the three (3) year period and extends beyond such period, the records shall be maintained until all litigation, including appeals, claims or audits have been concluded or resolved. Any person authorized by the Funding Partner shall have access to and the right to examine any of the records.

11. **Compliance with FTA/FDOT Requirements.** The provisions of this Agreement, and the Public Transportation to be provided by LYNX hereunder, is subject at all times to the applicable statutes and rules and regulations of all applicable governmental authorities, including those of the FTA and FDOT. In the event any such statutes or rules or regulations would require a substantial and material change to this Agreement, then the parties will immediately meet to review and make acceptable adjustments to this Agreement so as to comply with such statutes and rules and regulations.

12. **Litigation and Venue.** In the event any party deems it necessary to take legal action to enforce any provision of this Agreement, the venue shall be in the Circuit Court of the Ninth Judicial Circuit, in Orange County, Florida or the United States District Court for the Middle District of Florida, Orlando Division.

13. **Remedies.** No remedy herein conferred upon any part is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

14. **Severability.** In the event that any section, paragraph, sentence, clause or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement which remaining portions shall remain in full force and effect.

15. **Waiver.** Performance of this Agreement by any party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of Florida. The parties to this Agreement agree to comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

17. **Construction.** Captions and section headings in this Agreement are for convenience and reference only, and shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

18. **Notices.** All notices, consents, approvals, waivers, and deletions which any party shall be required or shall desire to make or give under and in accordance with this Agreement shall

be in writing and must be sent by certified United States mail with return receipt required, or by personal delivery with receipt required to the following addresses:

As to Funding Partner: City of Sanford  
300 N. Park Avenue  
Sanford, Florida 32771  
Attn: Norton N. Bonaparte, Jr., City Manager

As to LYNX: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: James E. Harrison, Esq., P.E., Chief Executive Officer

With copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Leonard Antmann, Chief Financial Officer

With a copy to: Central Florida Regional Transportation Authority  
455 North Garland Avenue  
Orlando, Florida 32801-1518  
Attn: Carrie L. Sarver, Esq., B.C.S., Senior Staff Attorney

19. **Binding Agreement.** This Agreement is binding upon the parties and shall inure to their successors or assigns.

20. **Effective Date.** The effective date of this Agreement shall be October 1, 2021. Unless terminated earlier in accordance with Paragraph 7 of this Agreement, this Agreement will terminate on September 30, 2022, except for the provisions of this Agreement which by their terms survive the termination of this Agreement.

21. **Negotiations.** The parties to this Agreement acknowledge that all terms of this Agreement were negotiated at arms-length and that this Agreement and all documents executed in connection herewith were prepared and executed without undue influence exerted by any party or on any party. Further, all parties drafted this Agreement jointly, and no parties are entitled to the benefit of any rules of construction with respect to the interpretation of any terms, conditions, or provisions of this Agreement in favor of or against any person or party who drafted this Agreement.

22. **No Third-Party Beneficiaries.** This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties in this Agreement.

23. **Entirety of the Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the specific matters contained herein and shall supersede all previous discussions, understandings, and agreements.



24. **Addendum.** There is attached hereto a certain Addendum consisting of one (NA) page. To the extent there is a conflict between the terms of this Agreement and the terms of the Addendum, the terms of the Addendum will govern.

**IN WITNESS WHEREOF**, the Funding Partner and LYNX have duly and lawfully approved this Agreement and have authorized its execution and delivery by their respective officers, who have set their hands and their respective seals affixed below, all as of the date first written hereinabove.

**[Signatures appear on following page]**

DRAFT

**SIGNATURE PAGE FOR FUNDING PARTNER**

**ATTEST:**

**FUNDING PARTNER:**

**CITY OF SANFORD, FLORIDA**

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Art Woodruff, Mayor

For the use and reliance of City of Sanford only. Approved as to form and legal sufficiency.

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

\_\_\_\_\_  
City Clerk

DRAFT

**SIGNATURE PAGE FOR LYNX**

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Name: James E. Harrison, Esq., P.E.

Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_

Name: Carrie L. Sarver, Esq., B.C.S.

Title: Senior Staff Attorney

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

DRAFT

Exhibit "A"

DESCRIPTION OF SERVICE AREA

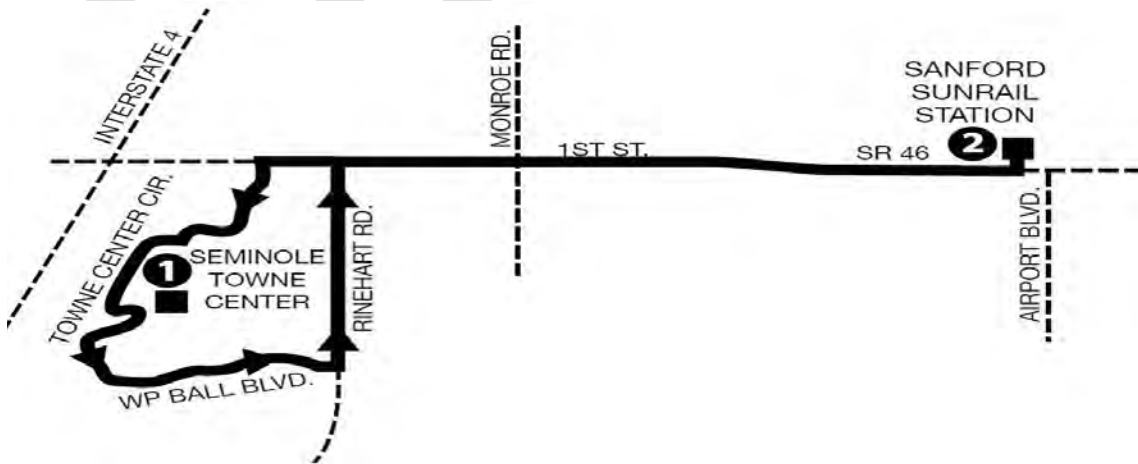
**LINK 46 East E. First St./Downtown Sanford**

**Serving:** Downtown Sanford, Central Florida Regional Hospital, Seminole County Services Building, True Health, Sanford SunRail Station, and NeighborLink 651



**LINK 46 West w. SR 46/Seminole Towne Center**

**Serving:** Seminole Towne Center, Walmart Rinehart Road, Super Target Rinehart Road, Sanford SunRail Station and NeighborLink 651



**Exhibit "B"**

**APPROPRIATED AMOUNT**

**October 2021 through September 2022      \$ 93,000**

<b>FY2022 Billing Schedule:</b>	
October 2021	\$ 7,750
November 2021	\$ 7,750
December 2021	\$ 7,750
January 2022	\$ 7,750
February 2022	\$ 7,750
March 2022	\$ 7,750
April 2022	\$ 7,750
May 2022	\$ 7,750
June 2022	\$ 7,750
July 2022	\$ 7,750
August 2022	\$ 7,750
September 2022	\$ 7,750
<b>Annual Funding Request from City</b>	<b>\$ 93,000</b>

Exhibit "C"

FUNDING MODEL INFORMATION

	<u>FY2022 Funding Model Amount</u>	<u>Additional Capital *</u>	<u>FY2022 Funding Agreement</u>
<u>Operating Funding</u>			
Orange County	\$ 52,805,637		\$ 52,805,637
Osceola County	9,482,620	-	9,482,620
Seminole County	9,133,862		9,133,862
Subtotal	<u>\$ 71,422,119</u>	<u>\$ -</u>	<u>\$ 71,422,119</u>
City of Orlando*	\$ 4,003,006	\$ 1,168,824	\$ 5,171,830
City of Orlando - LYMMO	2,808,917	-	2,808,917
FDOT (SunRail Feeder Route)	1,665,975	-	1,665,975
Reedy Creek	345,354	-	345,354
Altamonte Springs	120,900	-	120,900
City of Sanford	93,000	-	93,000
Subtotal	<u>\$ 9,037,152</u>	<u>\$ 1,168,824</u>	<u>\$ 10,205,976</u>
Subtotal Operating Funding	<u>\$ 80,459,271</u>	<u>\$ 1,168,824</u>	<u>\$ 81,628,095</u>
<u>Capital Contributions</u>			
Orange County	\$ 1,784,602	\$ -	1,784,602
Osceola County	251,570	-	251,570
Seminole County	227,473	-	227,473
Subtotal	<u>\$ 2,263,645</u>	<u>\$ -</u>	<u>\$ 2,263,645</u>
<b>Total Local Funds</b>	<u><u>\$ 82,722,916</u></u>	<u><u>\$ 1,168,824</u></u>	<u><u>\$ 83,891,740</u></u>

\*Local match towards vehicle replacement.

# LYNX Board Agenda

## Action Agenda Item #7.D

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Michelle Daley  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Authorization to Enter into the FY2022 Bus Service Agreements

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to execute the following Bus Service Agreements:

- Reedy Creek Improvement District (RCID) in the amount of \$345,354 for a period of one (1) year;
- Lake County in the amount of \$314,571 for a period of one (1) year;
- City of Kissimmee in the amount of \$479,183 for a period of one (1) year; and
- Universal Boulevard Property Owners Association, Inc in the amount of \$17,082 for a period of (3) months.

### **BACKGROUND:**

Reedy Creek Improvement District: LYNX operates service on Links 50: Downtown Orlando/Magic Kingdom, Link 56: Kissimmee/Magic Kingdom, and Link 306: Disney Direct per an agreement with the Reedy Creek Improvement District (RCID). The Agreement provides for the daily operation of four (4) evening trips on the Link 50 and Link 56 and all service (two trips) on the Link 306.

Lake County: LYNX operates service on Link 55: West U.S. 192 Crosstown, which operates along West U.S. 192 between downtown Kissimmee and Four Corners, serving destinations along the U.S. 192 corridor. The agreement with Lake County calls for the operation of daily

# LYNX Board Agenda

morning and afternoon/early evening service to the Four Corners area within Lake County, with service operating along U.S. 192, U.S. 27, and terminating at the Four Corners Walmart.

Universal Boulevard Property Owners Association, Inc.: LYNX has operated service on Link 58 in the International Drive/Destination Parkway area, operating from Destination Parkway Superstop via I-Drive, Pointe Plaza Ave., Universal Blvd. to Rosen Shingle Creek Resort. Designed as a circulator route to primarily shuttle workers from Rosen Creek to I-Drive and Destination Parkway, the route runs daily at various times. Under this Bus Service Agreement, the Association reimburses LYNX an agreed-upon amount.

City of Kissimmee: LYNX has operated service on Link 709 Kissimmee. The route provides locally-orientated service to improve connectivity and mobility within downtown Kissimmee. It serves key shopping, employment, and entertainment destinations. Span of service focus is on maintaining connections to SunRail at Kissimmee Intermodal Station.

A copy of the proposed bus service agreement that will be entered into between LYNX and each of the entities for Fiscal Year 2022 is attached. Authorization is requested from the Board for LYNX staff to complete the Bus Service Agreement with each entity including completion of the exhibits and addenda incorporating all edits agreed upon. This will permit the Bus Service Agreements to be executed more quickly after the beginning of LYNX's fiscal year. Non-substantive changes will be permitted to the Bus Service Agreements by way of changes through an Addendum provided that said changes are not materially adverse to LYNX.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity

## **FISCAL IMPACT:**

The FY2022 Proposed Operating Budget includes \$1,166,517 for the agreements with Reedy Creek, Lake County and Universal Boulevard Property Owners. Universal Boulevard Property Owners are in discussions now to possibly end their services, if this occurs we will be adjusting the revenue in the mid-year budget adjustment.



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**BUS SERVICE AGREEMENT  
19-C62**

by and between

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX  
(LYNX)**

and

**CITY OF KISSIMMEE**

relating to the providing of bus service in Osceola County, Florida

October 1, 2021

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## **BUS SERVICE AGREEMENT**

**THIS BUS SERVICE AGREEMENT** (the “**Agreement**”) made and entered as of this 1<sup>st</sup> day of October 2022, by and between:

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX** (hereinafter referred to as “**LYNX**”), a body politic and corporate, created by Part II, Chapter 343, Florida Statutes, whose address is 455 North Garland Avenue, Orlando, Florida 32801

and

**CITY OF KISSIMMEE, a municipal corporation of the State of Florida**, 101 Church Street, Kissimmee, FL 34741. **CITY OF KISSIMMEE** and Link 709 Kissimmee Connector shall sometimes each be referred to collectively as the “**parties.**”

### **WITNESSETH:**

**WHEREAS**, LYNX provides public transportation in the Central Florida area including, but not limited to, dedicated bus service for the benefit of and use by the public; and

**WHEREAS**, The CITY OF KISSIMMEE has expressed a need for additional or new public transportation service in and to certain portions of the City of Kissimmee identified and set forth in **Exhibit “A”** (the “**Service Area**”), attached hereto; and

**WHEREAS**, the Parties have agreed to LYNX establishing and/or expanding public transportation service in and to the Service Area to provide said additional bus transportation, and LYNX is prepared to do so pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual premises herein contained, the parties hereto do hereby agree as follows:

1. **DEFINITIONS.** For purposes of this Agreement, the following definitions shall apply, unless the context requires otherwise or another definition is expressly provided in this Agreement:

**Agreement**                      Shall mean this Bus Service Agreement, as the same may be amended from time to time.

**Bus Service**                      Shall mean the revenue bus service to be provided by LYNX in and to the Service Area as set forth in this Agreement.

**Cost of Bus Service**                      Shall mean the actual cost of incurred by LYNX to provide the Bus Service, which for the LYNX fiscal year ending September 30, 2022, will be based on an estimated hourly rate of \$72.90 per hour including fuel and administrative costs. The foregoing hourly rate is subject to readjustment for each succeeding fiscal year as provided in paragraph three (3) below.

**City**                                      Shall have the meaning set forth in the preamble to this Agreement.

**Farebox Revenue** Shall mean the revenue derived from LYNX from passengers utilizing the Bus Service. In the event any such Farebox Revenue is allocated to services provided by LYNX outside of the Service Area, then LYNX may make a reasonable allocation of said revenue so that the term “Farebox Revenue” relates solely to the Farebox Revenue for the Bus Service in the Service Area.

**FDOT** Shall mean the Florida Department of Transportation.

**FTA** Shall mean the Federal Transit Administration.

**Monthly Cost of Bus Service** Shall mean the actual cost incurred by LYNX (based on the Cost of Bus Service and the actual hours of Bus Service) to provide the Bus Service for each and every month during the term of this Agreement.

**Monthly Farebox Revenue** Shall mean the actual Farebox Revenue received from LYNX for the Bus Service during each and every month during the term of this Agreement.

**Monthly Payment** Shall mean the payment made to LYNX by the CITY OF KISSIMMEE at the end of each and every month during the term of this Agreement, as provided in paragraph 6 below.

**Net Monthly Cost of Bus Service** Shall mean the net cost to provide the Bus Service on a monthly basis, which for any particular month is equal to the Monthly Cost of Bus Service for that month less the Monthly Farebox Revenue for that same month.

**Service Area** Shall mean the area indicated in **Exhibit “B”** attached hereto.

**Service Schedule** Shall mean the frequency, times and stops for the Bus Service to be provided by LYNX, as set forth and described in paragraph 5 below.

2. **PROVIDING OF BUS SERVICE.** Pursuant to the terms and conditions of this Agreement and in consideration of the Payments, LYNX agrees to provide the Bus Service in the Service Area. In regard to providing said Bus Service, the obligation of LYNX is subject to the following:
- a. Federal, state and local regulations applicable to LYNX including, but not limited to, the rules and regulations promulgated from time to time by FDOT and/or FTA as applicable to LYNX;
  - b. All conditions beyond the reasonable control of LYNX including but not limited to, Acts of God, hurricanes, matters of public safety, etc.; and
  - c. The changing transportation needs of the CITY OF KISSIMMEE to the extent LYNX can accommodate such needs.
  - d. The times set forth in this Agreement and other matters regarding the providing of Bus Service are not guarantees; they are projected times for stops and starts and are subject to best efforts by LYNX, including matters associated with traffic, accidents, etc.

3. **TERM.** This Agreement shall be effective as of the date hereof October 1, 2021 (the "**Commencement Date**") and shall, except as otherwise set forth herein or unless terminated in writing by either party, be completed on or before September 30, 2022 (the "**Expiration Date**"), which is the funding period for providing the Bus Service as set forth in **Exhibits "A and B"** attached hereto.

No later than six (6) months before the end of each fiscal year of this Agreement (based on a September 30 fiscal year), the CITY OF KISSIMMEE and LYNX shall meet in good faith to discuss each party's intentions to negotiate an agreement for the continuance of service, as well as to consider any adjustment in the hourly cost of providing the Bus Service as set forth under Cost of Bus Service, to reflect any changes in LYNX's cost of doing so.

4. **TERMINATION.**

a. **Termination at Will.** This Agreement may be terminated by either party upon no less than thirty (30) calendar days' notice, without cause. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. Notice shall be effective upon receipt.

b. **Termination Due to Lack of Funds.** In the event funds from governmental sources relied upon to finance this Agreement become unavailable, the CITY OF KISSIMMEE or LYNX may terminate this Agreement with no less than twenty-four (24) hours written notice to the other party and to the CITY OF KISSIMMEE City Commission. Notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. Notice shall be effective upon receipt.

c. **Termination for Breach.** Unless breach is waived by the CITY OF KISSIMMEE or LYNX in writing, either party shall, in order to terminate this Agreement for breach, give the other party and the CITY OF KISSIMMEE City Commission written notice of the breach. If the breach is not cured within thirty (30) calendar days, the non-breaching party may terminate this Agreement. Notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. Waiver by either party of breach of any provisions of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement, and shall not act as a waiver or estoppel to enforcement of any provision of this Agreement. The provisions herein do not limit the CITY OF KISSIMMEE or LYNX right to remedies at law or to damages.

5. **SCHEDULE OF BUS SERVICE.** Attached hereto as **Exhibit "B"** is a Schedule showing the proposed times, stops and service for the Bus Service. This Schedule is subject to all of the provisions of this Agreement. This schedule is not a guarantee but rather reflects the anticipated times, stops, and service. During the term of this Agreement, LYNX, after discussion with the CITY OF KISSIMMEE, may adjust the Schedule to better accommodate the overall Bus Service to be provided under this Agreement. Thus, for example, if a particular Bus Stop provides a safety hazard, then LYNX, in cooperation with the CITY OF KISSIMMEE, could move that Bus Stop to a safer location.

6. **PAYMENT FOR BUS SERVICE.** The Bus Service to be provided by LYNX pursuant to this Agreement is in consideration of the CITY OF KISSIMMEE paying to LYNX the Net Monthly Cost of Bus Service. In that regard, the parties do hereby agree as follows:

a. Within thirty (30) days after the end of each and every month, LYNX shall provide to the CITY OF KISSIMMEE an accounting in reasonable detail sufficient to show for said month the actual Monthly Cost of Bus Service and actual Monthly Farebox Revenue, which would show for that month the required actual payment to be made to LYNX which would be the Net Monthly Cost for Bus Service to be paid. The CITY OF KISSIMMEE shall make said monthly payment to LYNX within thirty (30) days after the receipt of the invoice from LYNX.

b. To the extent the Monthly Farebox Revenue exceeds the Monthly Cost of Bus Service, the billing to the CITY OF KISSIMMEE for that month will be zero, and neither party will be obligated to the other. LYNX will be entitled to keep the Monthly Farebox Revenue.

c. For the purpose of invoicing, invoices and related matters will be sent to THE CITY OF KISSIMMEE at the following address:

CITY OF KISSIMMEE  
c/o John Hambley, Planning Manager  
101 Church Street  
Kissimmee, FL34741

d. In any event, the obligation of LYNX to provide the Bus Service is expressly contingent upon it receiving and only to the extent it receives the required Payments set forth above.

e. Nothing contained in this Agreement shall obligate LYNX to provide for the Bus Service any other funding. Specifically, LYNX will not be obligated to provide any general funding it receives from any other government agency to the Bus Service. With respect to any bus fares that may arise from the Bus Service (including any interest, if any, that LYNX may obtain by virtue of any deposits if makes by virtue of any of the Payments), those fares, interests, etc. may be retained by LYNX and used for its other bus operations and is not required to be used for the Bus Service to be provided under this Agreement.

7. **SECURITY DEPOSIT**. No security deposit is required of the CITY OF KISSIMMEE under this Agreement.

8. **ADVERTISING**. The parties are aware and understand that LYNX undertakes an advertising program on its buses and that LYNX also does not specifically identify a specific bus on a specific route. From time to time, buses will be taken out of service for maintenance and repair and replacement, and future buses will also be used from time to time to provide the Bus Service. In addition, various rules (including FTA guidelines) provide for random assignment of buses. With this background:

a. LYNX will be entitled to place on the buses which it uses to provide the Bus Service, advertising from time to time.

b. LYNX shall have the right in its reasonable discretion as to what buses and the type of the buses that will be used to provide the Bus Service.

The foregoing assignments and other matters regarding the buses in the Bus Service will be subject in all respects to all applicable laws including FTA and FDOT requirements. Any advertising revenue obtained

from LYNX in connection with the Bus Service will be the property of LYNX and will not be deemed to be any "Farebox Revenue."

9. **BOND**. The CITY OF KISSIMMEE shall not be required to furnish LYNX with any bond or other collateral conditioned for the faithful performance of the duties and due accounting for all monies received by the CITY OF KISSIMMEE under this Agreement.

10. **NON-ASSIGNABILITY**. This Agreement is not assignable by either Party without the prior written consent of the other Party.

11. **RELATIONSHIP OF OTHER PARTIES**. The Parties are aware and agree that the relationship between LYNX and the CITY OF KISSIMMEE under this Agreement shall be that of an independent contractor and not an agent.

12. **NO THIRD PARTY BENEFICIARY**. This Agreement is solely between the parties hereto and no person or persons not a party hereto shall have any rights or privileges whatsoever either as a third party beneficiary or otherwise.

13. **NOTICE**. Any notice permitted to be given to either party under this Agreement shall be in writing and shall be deemed to be given (i) in the case of delivery, when delivered to the other party at the address set forth in the preamble to this Agreement, (ii) in the case of mailing, three (3) days after said notice has been deposited, postage pre-paid, in the United States mail and sent by certified or return receipt requested to the other party at the address set forth in the preamble to this Agreement and (iii) in all other cases when such notice is actually received by the party to whom it has been sent. Notices shall be sent to the following:

LYNX: Leonard Antmann, Chief Financial Officer  
455 North Garland Avenue  
Orlando, Florida 32801

Copy to: James Harrison, Esq P.E., Chief Executive Officer  
455 North Garland Avenue  
Orlando, Florida 32801

Copy to: Carrie L. Sarver, Esq., B.C.S., Senior Staff Attorney  
455 North Garland Avenue  
Orlando, Florida 32801-1518

CITY OF KISSIMMEE: John Hambley, Planning Manager  
101 Church Street  
Kissimmee, FL 34741

Either party may change the address to which any notices are to be given by so notifying the other parties to this Agreement as provided in this paragraph.

14. **GOVERNING LAW**. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. The parties further agree that the exclusive venue and jurisdiction over

any action arising under this Agreement shall be in the courts of Orange County, Florida. Each party expressly waives any right to a jury trial.

15. **MISCELLANEOUS CLAUSES.**

a. **Sovereign Immunity.** Each party hereto is a government agency entitled to sovereign immunity under the laws of the State of Florida. Nothing contained in this Agreement, the relationship between the parties hereto, the providing of the Bus Service, or otherwise shall in any way whatsoever constitute any waiver by LYNX or the CITY OF KISSIMMEE of its rights to invoke sovereign immunity as a governmental entity.

b. **Force Majeure.** The rights and obligations and duties of the parties hereunder shall be subject to any causes beyond their reasonable control including, but not limited to, Acts of God, hurricanes, storms, and, in the case of LYNX, government regulations and directives applicable to it.

c. **Time of Essence.** The parties recognize that time is of the essence in the performance of the provisions of this Agreement provided, however, in regard to the providing of Bus Service, that is subject to the qualifications set forth in this Agreement.

d. **Legal Obligations.** This Agreement shall not relieve any party of any obligation or responsibility imposed upon it by law.

e. **No Waiver.** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party or parties claimed to have waived or consented. Waiver of any default of this Agreement shall not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach. Waiver of such default and waiver of such breach shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written approval of all parties.

f. **Benefits of Service.** The Payments to be paid by the CITY OF KISSIMMEE to LYNX are net, and shall not be reduced based upon any other funding or benefits that LYNX may receive including, but not limited to, any funding that LYNX receives from the FTA as a part of its overall ridership total.

g. **No Oral Modification.** The parties agree that this Agreement is a complete expression of the terms herein and any oral or written representations or understandings not incorporated herein are excluded.

h. **Severability.** If any of the provisions of this Agreement are held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. To that end, the provisions of this Agreement are declared to be severable.

i. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original, and it will not be necessary in making

proof of this Agreement or the terms of this Agreement, to produce or account for more than one (1) of such counterparts.

j. **Adjustment of Bus Routes.** The parties are aware and understand that with respect to any adjustment or modification of Bus Service, LYNX will be required to follow State and Federal guidelines relating to adjustments and modification of Bus Service. This will generally require a minimum of one hundred twenty (120) days in order to provide various required public notices.

k. **Capital Requirements (i.e., Buses).** LYNX has generally planned for adequate buses to provide the Bus Service. If, at any time, LYNX experiences a material shortfall or lack of buses to provide the Bus Service, LYNX will immediately discuss with the CITY OF KISSIMMEE such situation and how it is to be resolved. The matter will also be brought to the attention of the Board of Directors of LYNX and the Parties will seek to arrive at a solution to provide such additional bus capacity. In doing so, the parties are aware that any solution would not necessarily involve LYNX moving buses from its other public routes. LYNX, through its Board of Directors, will have in its reasonable discretion the ability to deal with such situation.

l. **Default/Notice/Procedure to Resolve Disputes.** The parties understand and are aware that this Agreement is between two entities who mutually desire for the beneficial providing of the Bus Service under this Agreement and wish to avoid any default or misunderstandings. Thus, in the event one Party hereto believes that the other Party is in default under this Agreement, the other Party through a senior representative shall contact a senior representative of the other Party in an effort to discuss and resolve any alleged default or nonperformance. Failing such resolution, said Party will then be required to give actual written notice to the other party of said alleged default before said Party may exercise any of the rights available to it under this Agreement. With this background, the CITY OF KISSIMMEE is aware and specifically understands that the scope and quantity of the Bus Service being made available to it, is based upon the amount Lynx receives from the CITY OF KISSIMMEE. Thus, for example, if the CITY OF KISSIMMEE should fail to pay the requisite payments, LYNX could seek to enforce that payment but, at its option, could also reduce the bus service specifically within the Service Area.

m. **Service Within and Outside the Service Area.** The Bus Service to be provided by LYNX under this Agreement covers Bus Routes that are located within the Service Area, as more particularly set forth in **Exhibit “B.”** LYNX is not obligated to provide the Bus Service outside the Service Area, unless otherwise agreed between the parties through an amendment to this Agreement.

n. **Independent Contract As To Employees of LYNX.** LYNX is an independent contractor and retains the right to exercise full control and supervision over its employees and their compensation and discharge. LYNX will be solely responsible for all matters relating to payment of its employees, including but not limited to the withholding and payment of employee taxes, insurance contributions, placement of insurance and pension coverages and the like.

16. **BOARD APPROVAL.** This Agreement is subject to the approval by the LYNX Board of Directors.



17. **COMPLETE AGREEMENT.** This Agreement constitutes the complete agreement between the parties hereto with respect to the management and distribution of the services contemplated herein and it may not be amended, changed or modified except in writing signed by the party to be charged by said amendment, change or modification subject to the following:

a. Modifications that are anticipated to result in no increase to LYNX operational cost per revenue hour (see Cost of Bus Service) require only the concurrence of the LYNX’s Executive Director and the approval of the CITY OF KISSIMMEE City Manager.

b. Modifications that are anticipated to result in an increase to LYNX operational cost per revenue hour (see Cost of Bus Service) require the approval of the LYNX Board of Directors and the CITY OF KISSIMMEE City Commission.

**IN WITNESS WHEREOF,** the Parties have hereunto executed this Bus Service Agreement the day and year first above written.

Attest:

**CITY OF KISSIMMEE**

**CITY OF KISSIMMEE CITY  
COMMISSION**

By: \_\_\_\_\_  
Mayor

Olga Gonzalez, Mayor \_\_\_\_\_  
(Print Name and Title of Person Signing)

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

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
Name: James E. Harrison, Esq., P.E.  
Title: Chief Executive Officer  
  
Date: \_\_\_\_\_

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_  
Name: Carrie L. Sarver, Esq., B.C.S.  
Title: Senior Staff Attorney  
  
Date: \_\_\_\_\_

## **EXHIBIT “A”**

### **Description and Schedule of Bus Route(s)**

The new name for the route is Link 709 Kissimmee Connector instead of 700 Kissimmee Circulator. The proposed route is for a 25-30-minute headways during the service hours of 6:30 a.m. through 8:09 p.m. Monday through Friday. No weekend service. Link 709 Kissimmee Connector will provide locally-orientated service to improve connectivity and mobility within downtown Kissimmee. It will serve key shopping, employment, and entertainment destinations. Span of service remains the same with focus on maintaining connections to SunRail at Kissimmee Intermodal Station.

# EXHIBIT "B"

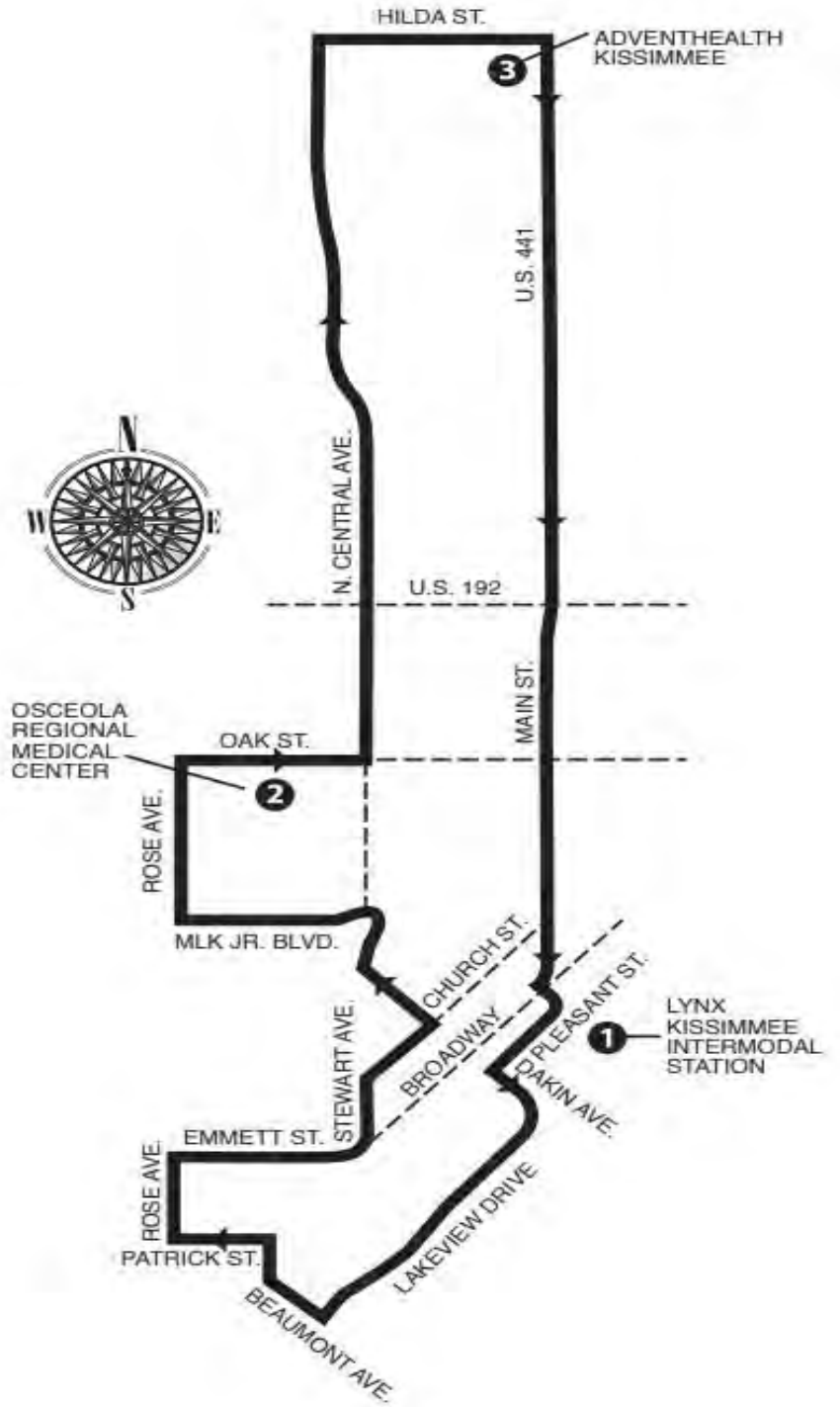
## KISSIMMEE CONNECTOR

Monday - Friday

### KISSIMMEE CONNECTOR

LYNX KISSIMMEE INTERMODAL STATION <b>1</b>	OSCEOLA REGIONAL MEDICAL CENTER <b>2</b>	ADVENTHEALTH KISSIMMEE <b>3</b>	LYNX KISSIMMEE INTERMODAL STATION <b>1</b>
6:30	6:45	6:54	7:05
7:00	7:15	7:24	7:35
7:30	7:45	7:54	8:05
8:00	8:15	8:24	8:35
8:30	8:45	8:54	9:05
9:00	9:15	9:24	9:35
9:30	9:45	9:54	10:05
10:00	10:15	10:24	10:35
10:30	10:45	10:54	11:05
11:00	11:15	11:24	11:35
11:30	11:45	11:54	<b>12:05</b>
<b>12:00</b>	<b>12:17</b>	<b>12:27</b>	<b>12:39</b>
<b>12:30</b>	<b>12:47</b>	<b>12:57</b>	<b>1:09</b>
<b>1:00</b>	<b>1:17</b>	<b>1:27</b>	<b>1:39</b>
<b>1:35</b>	<b>1:52</b>	<b>2:02</b>	<b>2:14</b>
<b>2:05</b>	<b>2:22</b>	<b>2:32</b>	<b>2:44</b>
<b>2:35</b>	<b>2:52</b>	<b>3:02</b>	<b>3:14</b>
<b>3:05</b>	<b>3:22</b>	<b>3:32</b>	<b>3:44</b>
<b>3:35</b>	<b>3:52</b>	<b>4:02</b>	<b>4:14</b>
<b>4:05</b>	<b>4:22</b>	<b>4:32</b>	<b>4:44</b>
<b>4:45</b>	<b>5:02</b>	<b>5:12</b>	<b>5:24</b>
<b>5:15</b>	<b>5:32</b>	<b>5:42</b>	<b>5:54</b>
<b>5:45</b>	<b>6:02</b>	<b>6:12</b>	<b>6:24</b>
<b>6:15</b>	<b>6:32</b>	<b>6:42</b>	<b>6:54</b>
<b>6:40</b>	<b>6:57</b>	<b>7:07</b>	<b>7:19</b>
<b>7:05</b>	<b>7:22</b>	<b>7:32</b>	<b>7:44</b>
<b>7:30</b>	<b>7:47</b>	<b>7:57</b>	<b>8:09</b>

P.M. Times are shown in bold



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**BUS SERVICE AGREEMENT  
No. 18-C144**

by and between

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX  
(LYNX)**

and

**LAKE COUNTY**

October 1, 2021

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**BUS SERVICE AGREEMENT**

**THIS BUS SERVICE AGREEMENT** (the “**Agreement**”) made and entered as of this 1st day of October, 2021, by and between:

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX**, a body politic and corporate, created by Part III, Chapter 343, Florida Statutes, (hereinafter referred to as “**LYNX**”) whose address is 455 North Garland Avenue, Orlando, Florida 32801

and

**LAKE COUNTY, FLORIDA**, a political subdivision of the State of Florida, (hereinafter referred to as “**LAKE COUNTY**”) whose principal address is 315 West Main Street, Suite 520, Tavares, Florida 32778. **LAKE COUNTY** and **LYNX** shall sometimes each be referred to as a “party” and collectively as the “**parties.**”

**WITNESSETH:**

**WHEREAS**, **LYNX** provides public transportation in the Central Florida area including, but not limited to, dedicated bus service for the benefit of and use by the public; and

WHEREAS, LAKE COUNTY has expressed a need for additional or new public transportation service in and to certain portions of Polk County identified and set forth in Exhibit “A” (the “Service Area”), attached hereto; and

WHEREAS, the Parties have agreed to LYNX establishing and/or expanding public transportation service in and to the Service Area to provide said additional bus transportation, and LYNX is prepared to do so pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual premises herein contained, the parties hereto do hereby agree as follows:

1. **DEFINITIONS.** For purposes of this Agreement, the following definitions shall apply, unless the context requires otherwise or another definition is expressly provided in this Agreement:

<b><u>Agreement</u></b>	Shall mean this Bus Service Agreement, as the same may be amended from time to time.
<b><u>Bus Service</u></b>	Shall mean the revenue bus service to be provided by LYNX in and to the Service Area as set forth in this Agreement.
<b><u>Cost of Bus Service</u></b>	Shall mean the actual cost of incurred by LYNX to provide the Bus Service, which for the LYNX fiscal year ending September 30, 2022, will be based on an estimated hourly rate of \$80.68 including fuel and administrative costs. The foregoing hourly rate is subject to readjustment for each succeeding fiscal year as provided in paragraph 3 below.
<b><u>Farebox Revenue</u></b>	Shall mean the revenue derived from LYNX from passengers utilizing the Bus Service. In the event any such Farebox Revenue is allocated to services provided by LYNX outside of the Service Area, then LYNX may make a reasonable allocation of said revenue so that the term “Farebox Revenue” relates solely to the Farebox Revenue for the Bus Service in the Service Area.
<b><u>FDOT</u></b>	Shall mean the Florida Department of Transportation.
<b><u>FTA</u></b>	Shall mean the Federal Transit Administration.
<b><u>LAKE COUNTY</u></b>	Shall have the meaning set forth in the preamble to this Agreement.
<b><u>Monthly Cost of Bus Service</u></b>	Shall mean the actual cost incurred by LYNX (based on the Cost of Bus Service and the actual hours of Bus Service) to provide the Bus Service for each and every month during the term of this Agreement.
<b><u>Monthly Farebox Revenue</u></b>	Shall mean the actual Farebox Revenue received from LYNX for the Bus Service during each and every month during the term of this Agreement.
<b><u>Monthly Payment</u></b>	Shall mean the payment made to LYNX by LAKE COUNTY at the end of each and every month during the term of this Agreement, as provided in paragraph 6 below.
<b><u>Net Monthly Cost of Bus Service</u></b>	Shall mean the net cost to provide the Bus Service on a monthly basis, which for any particular month is equal to the Monthly Cost of Bus Service for that month less the Monthly Farebox Revenue for that same month.

**Service Area** Shall have the meaning set forth in the preamble to this Agreement.  
**Service Schedule** Shall mean the frequency, times and stops for the Bus Service to be provided by LYNX, as set forth and described in paragraph 5 below.

2. **PROVIDING OF BUS SERVICE.** Pursuant to the terms and conditions of this Agreement and in consideration of the Payments, LYNX agrees to provide the Bus Service in the Service Area. In regard to providing said Bus Service, the obligation of LYNX is subject to the following:

(a) Federal, state and local regulations applicable to LYNX including, but not limited to, the rules and regulations promulgated from time to time by FDOT and/or FTA as applicable to LYNX;

(b) All conditions beyond the reasonable control of LYNX including but not limited to, Acts of God, hurricanes, matters of public safety, etc.; and

(c) The changing transportation needs of LAKE COUNTY to the extent LYNX can accommodate such needs; and which are either consistent with the terms of the Agreement or, if inconsistent with the terms of the Agreement are part of a contract modification approved in accordance with paragraph 16.

The times set forth in this Agreement and other matters regarding the providing of Bus Service are not guarantees; they are projected times for stops and starts and are subject to best efforts by LYNX, including matters associated with traffic, accidents, etc.

3. **TERM.** This Agreement shall be effective on October 1, 2021 (the "**Commencement Date**") and shall, except as otherwise set forth herein or unless terminated in writing by either party, continue through September 30, 2022 (the "**Expiration Date**"), which is the funding period for providing the Bus Service as set forth in **Exhibit "A"** attached hereto.

No later than six (6) months before the end of the fiscal year of this Agreement (based on a September 30 fiscal year), LAKE COUNTY and LYNX shall meet in good faith to discuss each party's intentions to negotiate an agreement for the continuance of service, as well as to consider any adjustment in the hourly cost of providing the Bus Service as set forth under Cost of Bus Service, to reflect any changes in LYNX's cost of doing so.

4. **TERMINATION.**

a. **Termination at Will.** This Agreement may be terminated by either party upon no less than thirty (30) calendar days' notice, without cause. Said notice shall be delivered in accordance with paragraph 12.

b. **Termination Due to Lack of Funds.** In the event funds from governmental sources relied upon to finance this Agreement become unavailable, LAKE COUNTY or LYNX may terminate this Agreement with no less than five (5) business days' written notice to the other party. Notice shall be delivered in accordance with paragraph 12.

c. **Termination for Breach.** Unless breach is waived by LAKE COUNTY or LYNX in writing, either party shall, in order to terminate this Agreement for breach, give the other party and LAKE COUNTY written notice of the breach. If the breach is not cured within thirty (30) calendar days, the non-breaching party may terminate this Agreement. Notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. Waiver by either party of breach of any provisions of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement, and shall not act as a waiver or estoppel to enforcement of any provision of this Agreement. The provisions herein do not limit the rights of LAKE COUNTY or LYNX to remedies at law or to damages.

5. **SCHEDULE OF BUS SERVICE.** Attached hereto as **Exhibit "A"** is a Schedule showing the proposed times, stops and service for the Bus Service. This Schedule is subject to all of the provisions of this Agreement. This schedule is not a guarantee but rather reflects the anticipated times, stops, and service. During the term of this Agreement, LYNX, after discussion with LAKE COUNTY, may adjust the Schedule to better accommodate the overall Bus Service to be provided under this Agreement. Thus, for example, if a particular Bus Stop provides a safety hazard, then LYNX, in cooperation with LAKE COUNTY, could move that Bus Stop to a safer location.

6. **PAYMENT FOR BUS SERVICE.** The Bus Service to be provided by LYNX pursuant to this Agreement is in consideration of LAKE COUNTY paying to LYNX the Monthly Cost of Bus Service. In that regard, the parties do hereby agree as follows:

a. Within thirty (30) days after the end of each and every month, LYNX shall provide to LAKE COUNTY an invoice and accounting in reasonable detail sufficient to show for said month the actual Monthly Cost of Bus Service, which would show for that month the required actual payment to be made to LYNX which would be the Monthly Cost for Bus Service to be paid. LAKE COUNTY will make payments on all undisputed invoices in accordance with the Prompt Payment Act of Part VII, Chapter 218, Florida Statutes.

b. For the purpose of invoicing, invoices and related matters will be sent to LAKE COUNTY at the following address:

Lake County Office of Transit Services  
PO Box 7800  
Tavares, Florida 32778

c. In any event, the obligation of LYNX to provide the Bus Service is expressly contingent upon it receiving and only to the extent it receives the required Payments set forth above.

d. Nothing contained in this Agreement shall obligate LYNX to provide for the Bus Service any other funding. Specifically, LYNX will not be obligated to provide any general funding it receives from any other government agency to the Bus Service. With respect to any bus fares that may arise from the Bus Service (including any interest, if any, that LYNX may obtain by virtue of any deposits if makes by virtue of any of the Payments), those fares, interests, etc. may be retained by LYNX and used for its other bus operations and is not required to be used for the Bus Service to be provided under this Agreement.

e. The anticipated Monthly Cost of Bus Service is set forth on **Exhibit "B"** attached hereto.

7. **ADVERTISING.** The parties are aware and understand that LYNX undertakes an advertising program on its buses and that LYNX also does not specifically identify a specific bus on a specific route. From time to time, buses will be taken out of service for maintenance and repair and replacement, and future buses will also be used from time to time to provide the Bus Service. In addition, various rules (including FTA guidelines) provide for random assignment of buses. With this background:

a. LYNX will be entitled to place advertising from time to time on the buses which it uses to provide the Bus Service .

b. LYNX shall have the right in its reasonable discretion as to what buses and the type of the buses that will be used to provide the Bus Service.



The foregoing assignments and other matters regarding the buses in the Bus Service will be subject in all respects to all applicable laws including FTA and FDOT requirements. Any advertising revenue obtained from LYNX in connection with the Bus Service will be the property of LYNX and will not be deemed to be any "Farebox Revenue."

8. **BOND.** LAKE COUNTY will not be required to furnish LYNX with any bond or other collateral conditioned for the faithful performance of the duties and due accounting for all monies received by LAKE COUNTY under this Agreement.

9. **NON-ASSIGNABILITY.** This Agreement is not assignable by either Party without the prior written consent of the other Party.

10. **RELATIONSHIP OF OTHER PARTIES.** The Parties are aware and agree that the relationship between LYNX and LAKE COUNTY under this Agreement shall be that of an independent contractor and not an agent.

11. **NO THIRD-PARTY BENEFICIARY.** This Agreement is solely between the parties hereto and no person or persons not a party hereto shall have any rights or privileges whatsoever either as a third-party beneficiary or otherwise.

12. **NOTICE.** Any notice permitted to be given to either party under this Agreement shall be in writing and shall be deemed to be given (i) in the case of delivery, when delivered to the other party at the address set forth below, (ii) in the case of mailing, three (3) days after said notice has been deposited, postage pre-paid, in the United States mail and sent by certified or return receipt requested to the other party at the address set forth in the preamble to this Agreement and (iii) in all other cases when such notice is actually received by the party to whom it has been sent. Notices shall be sent to the following:

LYNX: Leonard Antmann, Chief Financial Officer  
455 North Garland Avenue  
Orlando, Florida 32801

Copy: James E. Harrison, Esq., P.E., Chief Executive Officer  
455 North Garland Avenue  
Orlando, Florida 32801

Copy: Carrie L. Sarver, B.C.S., Senior Staff Attorney  
455 North Garland Avenue  
Orlando, Florida 32801

LAKE COUNTY: Lake County Manager  
PO Box 7800  
Tavares, Florida 32778

Copy: Lake County Attorney  
PO Box 7800  
Tavares, Florida 32778

Either party may change the address to which any notices are to be given by so notifying the other parties to this Agreement as provided in this paragraph.

13. **GOVERNING LAW.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. The parties further agree that the exclusive venue and jurisdiction over any

action arising under this Agreement shall be in the courts of Lake County, Florida. Each party expressly waives any right to a jury trial. Arbitration will not be used as a means for dispute resolution.

14. **MISCELLANEOUS CLAUSES.**

a. **Sovereign Immunity.** Each party hereto is a government agency entitled to sovereign immunity under the laws of the State of Florida. Nothing contained in this Agreement, the relationship between the parties hereto, the providing of the Bus Service, or otherwise shall in any way whatsoever constitute any waiver by LYNX or LAKE COUNTY of its rights to invoke sovereign immunity as a governmental entity.

b. **Force Majeure.** The rights and obligations and duties of the parties hereunder shall be subject to any causes beyond their reasonable control including, but not limited to, Acts of God, hurricanes, storms, and, in the case of LYNX, unforeseen changes to government regulations and directives applicable to it.

c. **Time of Essence.** The parties recognize that time is of the essence in the performance of the provisions of this Agreement provided, however, in regard to the providing of Bus Service, that is subject to the qualifications set forth in this Agreement.

d. **Legal Obligations.** This Agreement shall not relieve any party of any obligation or responsibility imposed upon it by law.

e. **No Waiver.** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party or parties claimed to have waived or consented. Waiver of any default of this Agreement shall not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach. Waiver of such default and waiver of such breach shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written approval of all parties.

f. **Benefits of Service.** The Payments to be paid by LAKE COUNTY to LYNX are net, and shall not be reduced based upon any other funding or benefits that LYNX may receive including, but not limited to, any funding that LYNX receives from the FTA as a part of its overall ridership total.

g. **No Oral Modification.** The parties agree that this Agreement is a complete expression of the terms herein and any oral or written representations or understandings not incorporated herein are excluded.

h. **Severability.** If any of the provisions of this Agreement are held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. To that end, the provisions of this Agreement are declared to be severable.

i. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original, and it will not be necessary in making proof of this Agreement or the terms of this Agreement, to produce or account for more than one (1) of such counterparts.

j. **Adjustment of Bus Routes.** The parties are aware and understand that with respect to any adjustment or modification of Bus Service, LYNX will be required to follow State and Federal guidelines relating to adjustments and modification of Bus Service. This will generally require a minimum of one hundred twenty (120) days in order to provide various required public notices.

k. **Capital Requirements (i.e., Buses).** LYNX has generally planned for adequate buses to provide the Bus Service. If, at any time, LYNX experiences a material shortfall or lack of buses to provide the Bus Service, LYNX will immediately discuss with LAKE COUNTY such situation and how it is to be

resolved. The matter will also be brought to the attention of the Board of Directors of LYNX and the Parties will seek to arrive at a solution to provide such additional bus capacity. In doing so, the parties are aware that any solution would not necessarily involve LYNX moving buses from its other public routes. LYNX, through its Board of Directors, will have in its reasonable discretion the ability to deal with such situation.

l. **Default/Notice/Procedure to Resolve Disputes.** This Agreement is between two entities who want the mutual benefit of the provision of the Bus Service under this Agreement and wish to avoid any default or misunderstandings. In the event one party hereto believes that the other party is in default under this Agreement, the non-defaulting party through a senior representative shall contact a senior representative of the defaulting party in an effort to discuss and resolve any alleged default or nonperformance. Failing such resolution, written notice of default will be sent via certified mail to the defaulting party. The defaulting party will have ten (10) days to cure the default or may be considered in breach of this Agreement. The non-defaulting party will then be required to give actual written notice to the defaulting party of default before said it may exercise any of the rights available to it under this Agreement.

m. **Service Within and Outside the Service Area.** The Bus Service to be provided by LYNX under this Agreement covers Bus Routes that are located within the Service Area, as more particularly set forth in **Exhibit "A."** LYNX is not obligated to provide the Bus Service outside the Service Area, unless otherwise agreed between the parties through an amendment to this Agreement.

n. **Independent Contract As To Employees Of LYNX.** LYNX is an independent contractor and retains the right to exercise full control and supervision over its employees and their compensation and discharge. LYNX will be solely responsible for all matters relating to payment of its employees, including but not limited to the withholding and payment of employee taxes, insurance contributions, placement of insurance and pension coverages and the like.

15. **BOARD APPROVAL.** This Agreement is subject to the approval by the LYNX Board of Directors.

16. **COMPLETE AGREEMENT.** This Agreement constitutes the complete agreement between the parties hereto with respect to the management and distribution of the services contemplated herein and it may not be amended, changed or modified except by a writing signed by the party to be charged by said amendment, change or modification subject to the following:

a. Modifications that are anticipated to result in no increase to LYNX operational cost per revenue hour (see Cost of Bus Service) require only the concurrence of the LYNX's Executive Director and the approval of the LAKE COUNTY Manager.

b. Modifications that are anticipated to result in an increase to LYNX operational cost per revenue hour (see Cost of Bus Service) require the approval of the LYNX's Board of Directors and the LAKE COUNTY Board of County Commissioners.

17. **Reporting.**

a. LYNX will provide Lake County operational service data on a monthly basis for the purpose of operations and management analysis. These reports will include (1) revenue hours, (2) revenue miles, and (3) unlinked passengers' trips for LAKE COUNTY portion of LYNX Route 55.

b. Accident Reports. Accident reports must be delivered or transmitted to LAKE COUNTY within 24 hours of the occurrence. In the event of critical accidents/incidents that involve fatalities, serious injuries, felonies, or are likely to garner media attention, LAKE COUNTY staff will be notified immediately with specific details. If necessary, LYNX must conduct a DOT Post-Accident Test.

c. Complaint/Commendation Report. LYNX will maintain a ledger of all complaints received directly by LYNX (through drivers, dispatch, or other staff) from riders and any members of the public in monthly reports to be submitted to LAKE COUNTY upon request at regular intervals. The report must include at a minimum the date, time, route, direction, weather and operating conditions, location of complaint, whether it is a service or facility (i.e. bus stop, shelter, etc.).

18. **PUBLIC RECORDS.**

a. LYNX understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If LYNX will act on behalf of LAKE COUNTY, as provided under section 119.011(2), Florida Statutes, LYNX, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

- i. Keep and maintain public records required by LAKE COUNTY to perform the service.
- ii. Upon request from LAKE COUNTY'S custodian of public records, provide LAKE COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if LYNX does not transfer the records to LAKE COUNTY.
- iv. Upon completion of the contract, transfer, at no cost, to LAKE COUNTY all public records in possession of LYNX or keep and maintain public records required by LAKE COUNTY to perform the service. If LYNX transfers all public records to LAKE COUNTY upon completion of the contract, LYNX shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LYNX keeps and maintains public records upon completion of the contract, LYNX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to LAKE COUNTY, upon request from LAKE COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of LAKE COUNTY.
- v. If LYNX does not comply with a public records request, LAKE COUNTY shall enforce the contract provisions in accordance with the Agreement.

**b. IF LYNX HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO LYNX'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT**

LAKE COUNTY OFFICE OF TRANSIT SERVICES  
Jill Brown  
2440 Highway 441/27

Fruitland Park, Florida 34731  
352-901-0606  
jmbrown@lakecountyfl.gov

19. **INSURANCE.**

LYNX shall, together with its execution of this Agreement, provide either: (i) certificates of insurance evidencing the following coverage maintained by LYNX (a) General Liability insurance, (b) Workers' Compensation insurance, and (c) Employer's Liability insurance; or (ii) an affidavit or certificate of insurance evidencing self-insurance as to such coverage.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the Parties have hereunto executed this Bus Service Agreement the day and year first above written.

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
Name: James E. Harrison, Esq., P.E.  
Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_  
Name: Carrie L. Sarver, Esq., B.C.S.  
Title: Senior Staff Attorney

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

**BOARD OF COUNTY COMMISSIONERS  
OF LAKE COUNTY, FLORIDA**

\_\_\_\_\_  
Sean M. Parks, Chairman

This \_\_\_\_\_ day of \_\_\_\_\_ 2021.

ATTEST:

\_\_\_\_\_  
Gary J. Cooney, Clerk  
Board of County Commissioners of  
Lake County, Florida

Approved as to Form and Legality:

\_\_\_\_\_  
Melanie Marsh, County Attorney

# EXHIBIT "A"

## Description of Bus Route(s)

### Link 55

**W. U.S. 192/Four Corners**  
Monday–Sunday & Holiday  
service

- **SERVING:**
- LYNX Kissimmee Intermodal
- Station/SunRail
- Old Town
- Celebration
- Orange Lake

Four Corners Walmart  
Plaza Del Sol  
Citrus Connection 18X



**“Exhibit B”**

**Lake County Transit Service Costs**

**Description of Appropriated Amount**

**October 1, 2021 through September 30, 2022**

<b>Fixed Route Operating Costs</b>	<b>Amount</b>
Link 55	\$314,571
	<b>\$314,571</b>

**Net Funding Request from County** **\$314,571**

<b>FY2022 Billing Schedule</b>	<b>Amount</b>
October-21	\$26,214
November-21	\$26,214
December-21	\$26,214
January-22	\$26,241
February-22	\$26,214
March-22	\$26,214
April-22	\$26,214
May-22	\$26,214
June-22	\$26,214
July-22	\$26,214
August-22	\$26,214
September-22	\$26,217
<b>Annual Funding Request from County</b>	<b>\$314,571</b>



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**BUS SERVICE AGREEMENT**  
**No. 18-C145**

by and between

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX**  
**(LYNX)**

and

**REEDY CREEK IMPROVEMENT DISTRICT**  
**(RCID)**

relating to the  
providing of bus service in the Reedy Creek Improvement District Service Area

October 1, 2021

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**Schedule of Exhibits and Appendices**

- Exhibit "A" – Sketch of Reedy Creek Improvement District Service Area
- Exhibit "B" – Reedy Creek Improvement District Transit Service Costs
- Exhibit "C" – Description of Service and Bus Routes
- Appendix 1 – Graphical Depictions of LYNX Bus Service Routes

## **BUS SERVICE AGREEMENT**

THIS BUS SERVICE AGREEMENT (the "**Agreement**") made and entered as of this 1st day of October 2021, by and between:

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**, a body politic of the State of Florida, d/b/a **LYNX**, 455 North Garland Avenue, Orlando, Florida 32801 (hereinafter referred to as "**LYNX**")

and

**REEDY CREEK IMPROVEMENT DISTRICT**, a body corporate and politic organized under the laws of the State of Florida, 1900 Hotel Plaza Boulevard, Post Office Box 10170, Lake Buena Vista, Florida 32830 (hereinafter referred to as "**RCID**"). **RCID** and **LYNX** shall sometimes be referred to collectively as the "**Parties**."

### **WITNESSETH:**

**WHEREAS**, **LYNX** provides public transportation in the Central Florida area including, but not limited to, dedicated bus service for the benefit of and use by the public; and

**WHEREAS**, **RCID** is the governmental authority having jurisdiction over the lands of the Reedy Creek Improvement District, as generally described and set forth in **Exhibit "A"** attached hereto (the "**Service Area**"); and

**WHEREAS**, **RCID** has expressed a need for public transportation service in and to certain portions of the Service Area in order to provide for, among other matters, public transportation in order to facilitate employees, guests and other persons seeking transportation to and from facilities located in the Service Area; and

**WHEREAS**, the Parties have agreed for **LYNX** to operate one or more "bus links" and to expand one or more existing "bus links" in the Service Area to provide additional public bus transportation, as shown on **Exhibit "C"** and as graphically depicted on **Appendix 1** thereof, and **LYNX** is prepared to do so pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual premises herein contained, the parties hereto do hereby agree as follows:

1. **DEFINITIONS**. For the purposes of this Agreement, the following definitions shall apply under this Agreement, unless the context requires otherwise or another definition is expressly provided in this Agreement:

**Agreement**

shall mean this Bus Service Agreement, as the same may be amended from time to time.

<b><u>Bus Service</u></b>	shall mean the bus service to be provided by LYNX in the Service Area as set forth in this Agreement and on <b>Exhibit "C."</b>
<b><u>Contributions</u></b>	shall mean, the RCID Contributions.
<b><u>Commuter Rail Funds</u></b>	shall mean any funds, if any, that LYNX may obtain from time to time as a result of the Commuter Rail Project and would be used for providing any of the Bus Service. Commuter Rail Funds are not within the defined term "Contributions".
<b><u>Commuter Rail Project</u></b>	shall mean the Commuter Rail Project presently being contemplated by the Central Florida community, to be undertaken in phases, with the initial phase to be from a point in Volusia County to a point in Taft in Orange County, Florida.
<b><u>RCID</u></b>	shall have the meaning set forth in the preamble to this Agreement.
<b><u>RCID Contributions</u></b>	shall mean the contributions to be made by RCID to LYNX for the Bus Service in the aggregate amount of \$345,354 to be paid in the amounts and on the dates set forth in <b>Exhibit "B"</b> attached hereto.
<b><u>FDOT</u></b>	shall mean the Florida Department of Transportation.
<b><u>FTA</u></b>	shall mean the Federal Transit Administration.
<b><u>LYNX</u></b>	shall have the meaning set forth in the preamble to this Agreement.
<b><u>Service Area</u></b>	shall mean the area, as described and set forth in <b>Exhibit "A"</b> attached hereto.
<b><u>Service Route, Bus Route or Bus Link</u></b>	shall mean the bus routes for service to be provided by LYNX as identified and set forth in <b>Exhibit "C"</b> attached hereto.
<b><u>Service Schedule</u></b>	shall mean the frequency, times and stops for the Bus Service to be provided by LYNX, as set forth and described in Paragraph 4 below.
<b><u>Term</u></b>	shall mean the term of this Agreement, as set forth in Paragraph 3 below.

2. **PROVIDING OF BUS SERVICE.** Pursuant to the terms and conditions of this Agreement and in consideration of the Contributions, LYNX agrees to provide the Bus Service in and to the Service Area. In regard to providing said Bus Service, the obligation of LYNX is subject to the following:

(a) Federal, state and local regulations applicable to LYNX including, but not limited to, the rules and regulations promulgated from time to time by FDOT and/or FTA as applicable to LYNX.

(b) All conditions beyond the reasonable control of LYNX including, but not limited to, acts of God, hurricanes, matters of public safety, etc.

(c) The changing transportation needs of RCID to the extent LYNX can reasonably accommodate such needs.

3. **TERM.** This Agreement shall be effective as of October 1, 2021 (the "**Commencement Date**") and shall, except as otherwise set forth herein, continue through September 30, 2022 (the "**Expiration Date**"). The Parties are aware and understand that the number of Bus Routes and the extent of the Bus Service is already in place and that LYNX is claiming no additional compensation for periods prior to the Commencement Date of this Agreement.

4. **SCHEDULE OF BUS SERVICE.** Attached hereto as **Exhibit "C"** is a Schedule showing the bus stops and service times for the Bus Service provided by LYNX pursuant to this Agreement. This Schedule is subject to all of the provisions of this Agreement. This Schedule is not a guarantee but rather reflects the anticipated times, stops and service.

5. **PAYMENT FOR BUS SERVICE.** The Bus Service to be provided by LYNX pursuant to this Agreement is in consideration of RCID paying to LYNX the sum of Three Hundred Forty-Five Thousand Three Hundred Fifty-Four Dollars (\$345,354) payable in two payments of One Hundred Seventy-Two Thousand Six Hundred Seventy-Seven Dollars (\$172,677) upon the effective date of Agreement and One Hundred Seventy-Two Thousand Six Hundred Seventy-Seven Dollars (\$172,677) on or before September 1, 2022, as set forth in **Exhibit "B"**. No additional fees shall be due from RCID for services provided prior to the Commencement Date of this Agreement.

With respect to any bus fares that may arise from the Bus Service (including any interest, if any, that LYNX may obtain by virtue of any deposits it makes by virtue of any of the fares, interests, etc.) the same may be retained by LYNX and used for its other bus operations and is not required to be used for the Bus Service to be provided under this Agreement.

6. **SECURITY DEPOSIT.** No security deposit is required of RCID under this Agreement.

7. **ACCESS OVER PUBLIC AND PRIVATE PROPERTY.** The Parties understand that with respect to the Bus Routes, most of the Routes to be covered in the Service Area are over roads which are owned and operated by RCID for use by the public. Other roads within the Service Area may be deemed to be "private" such as, for example, roads behind gates, etc. If and to the extent the Bus Route at any time extends over any private property not owned and operated for public use by RCID in the Service Area, RCID shall use commercially reasonable efforts to obtain the consent of such private property owner(s) to provide the Bus Service provided by LYNX from time to time. LYNX acknowledges and agrees that any consent for use of such private roads within its Bus Route may be revoked by RCID or the owner of said private property

in their sole and absolute discretion upon twenty-four (24) hours' notice to LYNX and, in such event, LYNX will modify the Bus Service accordingly to exclude the private property.

8. **ADVERTISING.** The parties are aware and understand that LYNX undertakes an advertising program on its buses and that LYNX also does not specifically identify a specific bus on a specific route. From time to time, buses will be taken out of service for maintenance and repair and replacement, and future buses will also be used from time to time to provide the Bus Service. In addition, various rules (including FTA guidelines) provide for random assignment of buses. With this background:

(a) LYNX will be entitled to place on the buses which it uses to provide the Bus Service, advertising from time to time. LYNX will use its best efforts not to place on buses in the Service Area advertising relating to any theme parks in the Orlando area that directly compete with theme parks located within the Reedy Creek Improvement District; however, depending on bus repairs, maintenance, etc. it is possible from time to time that buses in the Bus Service Area may contain said advertising but LYNX will use its best efforts not to utilize said advertising on buses in the Bus Service. Any revenue relating to said bus advertising shall be the sole property of LYNX.

(b) LYNX will have the right in its reasonable discretion as to what buses and the type of the buses that will be used to provide the Bus Service.

The foregoing assignments and other matters regarding the buses in the Bus Service will be subject in all respects to all applicable laws including FTA and FDOT requirements.

9. **INSURANCE.** LYNX shall, together with its execution of this Agreement, provide to RCID either: (i) certificates of insurance evidencing the following coverage maintained by LYNX (a) General Liability insurance, (b) Workers' Compensation insurance, and (c) Employer's Liability insurance; or (ii) an affidavit or certificate of insurance evidencing self-insurance as to such coverage.

10. **INDEMNIFICATION.** . Each party agrees to defend, indemnify, and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the indemnifying party's own negligent acts or omissions, or those negligent acts or omissions of the indemnifying party's officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Each party's indemnification is expressly limited to the amounts set forth in Section 768.28(5), Florida Statutes as amended by the Florida State Legislature. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, and/or negligence of the other party, its officers, officials, employees, agents, or contractors.

11. **BOND.** RCID shall not be required to furnish LYNX with any bond or other collateral conditioned for the faithful performance of the duties and due accounting for all monies received by RCID under this Agreement.

12. **NON-ASSIGNABILITY.** This Agreement is not assignable by either Party without the prior written consent of the other Party.

13. **RELATIONSHIP OF PARTIES.** The Parties are aware and agree that the relationship between LYNX and RCID under this Agreement shall be that of an independent contractor and not an agent.

14. **NO THIRD PARTY BENEFICIARY; PUBLIC RIGHTS.** This Agreement is solely between the parties hereto and no entity, person or persons not a party hereto shall have any rights or privileges whatsoever either as a third party beneficiary or otherwise. Further, nothing in this Agreement shall create or be construed to create any rights in and/or for the benefit of the general public related to the subject matter herein.

15. **NOTICE.** Any notice permitted to be given to either party under this Agreement shall be in writing and shall be deemed to be given (i) in the case of delivery, when delivered to the other party at the address set forth in the preamble to this Agreement, (ii) in the case of mailing, 3 days after said notice has been deposited, postage pre-paid, in the United States mail and sent by certified or return receipt requested to the other party at the address set forth in the preamble to this Agreement and (iii) in all other cases when such notice is actually received by the party to whom it has been sent. Notices shall be sent to the following:

As to LYNX: James E. Harrison, Esq, P.E.  
Chief Executive Officer  
Central Florida Regional Transportation  
Authority d/b/a LYNX  
455 North Garland Avenue  
Orlando, Florida 32801  
Telephone: (407) 254-6063  
Telecopy: (407) 254-6137

with a copy to: Attn: Leonard Antmann  
Chief Financial Officer  
Central Florida Regional Transportation  
Authority d/b/a LYNX  
455 North Garland Avenue  
Orlando, Florida 32801  
Telephone: (407) 254-6125  
Telecopy: (407) 254-6138

As to RCID: John Classe, District Administrator  
Reedy Creek Improvement District  
1900 Hotel Plaza Boulevard  
Lake Buena Vista, Florida 32830  
Telephone: (407) 828-3548  
Telecopy: (407) 934-6200

Either party may change the persons and/or address to which any notices are to be given by so notifying the other parties to this Agreement as provided in this paragraph.

16. **GOVERNING LAW.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. ANY LEGAL PROCEEDING OF ANY NATURE BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY TO ENFORCE ANY RIGHT OR OBLIGATION UNDER THIS AGREEMENT, OR ARISING OUT OF ANY MATTER PERTAINING TO THIS AGREEMENT, SHALL BE EXCLUSIVELY SUBMITTED FOR TRIAL WITHOUT JURY BEFORE THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA; OR IF THE CIRCUIT COURT DOES NOT HAVE JURISDICTION, THEN EXCLUSIVELY BEFORE THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA (ORLANDO DIVISION); OR IF NEITHER OF SUCH COURTS SHALL HAVE JURISDICTION, THEN EXCLUSIVELY BEFORE ANY OTHER COURT SITTING IN ORANGE COUNTY, FLORIDA, HAVING SUBJECT MATTER JURISDICTION. THE PARTIES CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF ANY SUCH COURT AND AGREE TO ACCEPT SERVICE OF PROCESS OUTSIDE THE STATE OF FLORIDA IN ANY MATTER TO BE SUBMITTED TO ANY SUCH COURT PURSUANT HERETO AND EXPRESSLY WAIVE ALL RIGHTS TO TRIAL BY JURY REGARDING ANY SUCH ACTION, PROCEEDING, OR COUNTERCLAIM INVOLVING ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

In the event either party employs an attorney or brings an action against the other party arising out of the terms of this Agreement, the prevailing party (whether such prevailing party has been awarded a money judgment or not) shall receive from the non-prevailing party (and the non-prevailing party shall be obligated to pay) the prevailing party's reasonable legal fees and expenses (including, without limitation, the fees and expenses of experts and para-professionals), whether such fees and expenses are incurred before, during or after any trial, re-trial, re-hearing, mediation or arbitration, administrative proceedings, appeals or bankruptcy or insolvency proceedings, and irrespective of whether the prevailing party would have been entitled to such fees and expenses under applicable law in the absence of this provision. Without limiting the generality of the foregoing, the term "expenses" shall include expert witness fees, bonds, filing fees, administrative fees, transcription fees, depositions or proceedings, costs of discovery and travel costs. The term "prevailing party" as used in this provision shall mean that party whose positions substantially prevail in such action or proceeding, and any action or proceeding brought by any other party against the other as contemplated in this provision may include a plea or request for judicial determination of the "prevailing party" within the meaning of this provision. In the event no party substantially prevails in its positions, the court may rule that no party has so substantially prevailed, in which event each party shall be responsible for their own fees and expenses in connection therewith.

17. **MISCELLANEOUS CLAUSES.**

(a) **Sovereign Immunity.** Nothing contained in this Agreement, the relationship between the Parties hereto, the providing of the Bus Service, or otherwise shall in any way whatsoever constitute any waiver by either LYNX and/or RCID of their rights to invoke sovereign immunity as a governmental entity.

(b) **Force Majeure.** The rights and obligations and duties of the Parties hereunder (other than the payment of money) shall be subject to any causes beyond



their reasonable control including, but not limited to, Acts of God, hurricanes, storms, and government regulations and directives as applicable.

(c) **Time of Essence.** The Parties recognize that time is of the essence in the performance of the provisions of this Agreement.

(d) **Legal Obligations.** This Agreement shall not relieve any party of any obligation or responsibility imposed upon it by law.

(e) **Public Records; E-Verification.** The Parties hereto warrant compliance with the provisions of (i) Chapter 119, F.S. (with regard to its/their respective duty(ies) to provide public records relating to this Agreement), and (ii) all federal immigration laws and regulations that relate to their employees. The Parties acknowledge and agree that LYNX and RCID are public employers that are subject to the E-Verify requirements as set forth in Section 448.095, Florida Statutes, and that the provisions of F.S. Sec. 448.095 apply to this Agreement. Notwithstanding anything to the contrary contained herein, if either RCID or LYNX has a good faith belief that the other has knowingly hired, recruited or referred an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States for employment under this Agreement, the party with such good faith belief shall terminate this Agreement. The party violating this paragraph shall be liable for any additional costs incurred by the other party as a result of the termination of this Agreement based on said party's failure to comply with the E-Verify requirements referenced herein.

(f) **No Waiver.** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party or parties claimed to have waived or consented. Waiver of any default of this Agreement shall not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach. Waiver of such default and waiver of such breach shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written approval of all parties.

(g) **Benefits of Service.** The RCID monies to be paid by RCID to LYNX pursuant to Paragraph 5 hereof, are net, and shall not be reduced based upon any other funding or benefits that LYNX may receive including, but not limited to, any funding that LYNX receives from the FTA as a part of its overall ridership total.

(h) **No Oral Modification.** The Parties agree that this Agreement is a complete expression of the terms herein and any oral or written representations or understandings not incorporated herein are excluded.

(i) **Severability.** If any of the provisions of this Agreement are held to be invalid, illegal or unenforceable under applicable present or future laws by a court of competent jurisdiction, the remaining provisions shall remain in full force

and effect. To that end, the provisions of this Agreement are declared to be severable. In lieu of each clause or provision of this Agreement which is invalid, illegal or unenforceable, there shall be added as a part of this Agreement a clause or provision as nearly identical as may be possible and as may be valid, legal and enforceable.

(j) **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original, and it will not be necessary in making proof of this Agreement or the terms of this Agreement, to produce or account for more than one (1) of such counterparts. All counterparts taken together shall be deemed to be one and the same instrument. The delivery of an executed counterpart of a signature page to this Agreement by facsimile, e-mail or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

(k) **Adjustment of Bus Routes.** The Parties are aware and understand that with respect to any adjustment or modification of Bus Service, LYNX will be required to follow State and Federal guidelines relating to adjustments and modification of Bus Service. This will generally require a minimum of one hundred twenty (120) days in order to provide various required public notices.

(l) **Default/Notice/Procedure to Resolve Disputes.** The Parties understand and are aware that this Agreement is between two entities who mutually desire for the beneficial providing of the Bus Service under this Agreement and wish to avoid any default or misunderstanding. Thus, in the event one Party hereto believes that the other Party is in default under this Agreement, the other Party through a senior representative shall contact a senior representative of the other Party in an effort to discuss and resolve any alleged default or nonperformance. Failing such resolution, said Party will then be required to give actual written notice to the other Party of said alleged default before said Party may exercise any of the rights available to it under this Agreement. With this background, RCID is aware and specifically understands that the scope and quantity of the Bus Service being made available by it is based upon the amount and it receiving the Contributions from time to time. Thus, for example, if RCID should fail to pay the requisite RCID Contributions, LYNX could seek to enforce that payment but, at its option, could also reduce in its discretion the bus service specifically within the Service Area.

(m) **Service Within and Outside the Service Area.** The Bus Service to be provided by LYNX under this Agreement covers various Bus Routes that are located both within and outside the Service Area, as more particularly set forth in **Exhibit "C."** Thus, the Contributions may be used for all of said Bus Service.

18. **BOARD APPROVAL.** This Agreement is subject to the approval by the RCID Board of Supervisors and the LYNX Board of Directors.

19. **COMPLETE AGREEMENT.** This Agreement constitutes the complete agreement between the Parties hereto with respect to the management and distribution of the

services contemplated herein and it may not be amended, changed or modified, except by a writing signed by the party to be charged by said amendment, change or modification.

**[Signatures on Following Pages]**

**IN WITNESS WHEREOF**, the parties have hereunto executed this Bus Service Agreement the day and year first above written.

**LYNX:**  
**CENTRAL FLORIDA REGIONAL**  
**TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
Name: James E. Harrison, Esq., P.E.  
Title: Chief Executive Officer

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

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_  
Name: Carrie L. Sarver, Esq., B.C.S.  
Title: Senior Staff Attorney

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

**[Signatures Continue on Following Page]**

**IN WITNESS WHEREOF**, the parties have hereunto executed this Bus Service Agreement the day and year first above written.

**RCID:  
REEDY CREEK IMPROVEMENT DISTRICT**

By: \_\_\_\_\_

Name: John H. Classe, Jr.

Title: District Administrator

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

ATTEST:

By: \_\_\_\_\_

Clerk, Board of Supervisors

**EXHIBIT "A"**

Sketch of Reedy Creek Improvement District Service Area

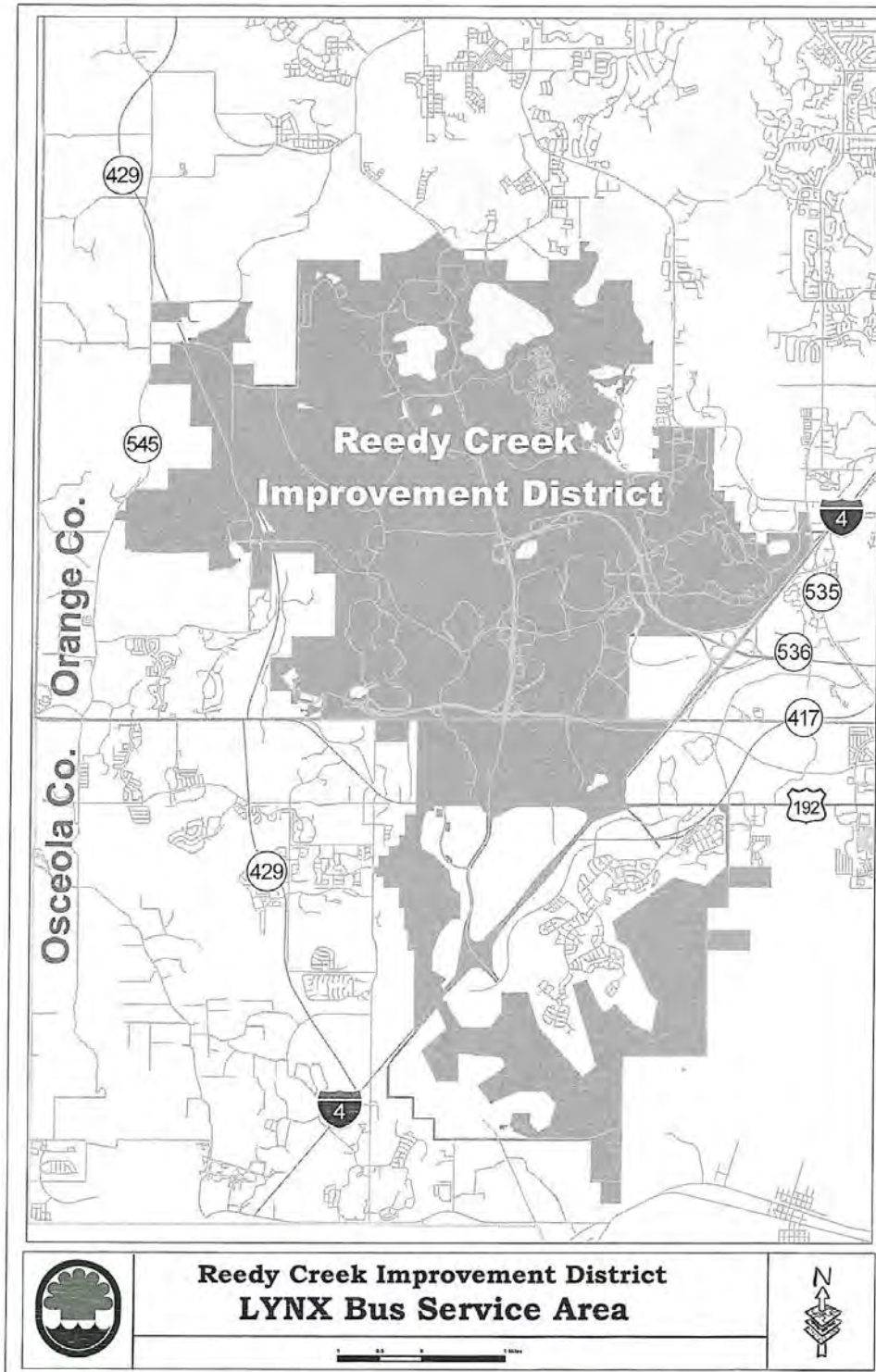


Exhibit "B"

**Reedy Creek Improvement District Transit Service Costs**

**Description of Appropriated Amount  
October 1, 2021 through September 30, 2022**

<b>Fixed Route Operating Costs</b>	<b>Amount</b>
Link 50	\$146,838
Link 56	\$101,495
Link 306	\$97,350
	<b>\$345,354</b>
<b>Net Funding Request</b>	<b>\$345,354</b>

<b>FY2022 Billing Schedule</b>	
On or before 10/1/2021	\$172,677
On or before 9/1/2022	\$172,677
<b>Annual Funding Request</b>	<b>\$345,354</b>

**EXHIBIT "C"**

**Description of Lynx Bus Service, Times and Lynx Bus Routes**

Effective April 25, 2021

(Refer to Appendix 1 hereof for graphical representation of each Route)

<b>Route</b>	<b>Days of Service</b>	<b>Times of Service</b>	<b>Stops</b>
Link 50: Downtown Orlando/Disney's Magic Kingdom	Monday-Sunday & Holidays.	Departs every night at 9:59 PM, 10:29PM, 10:59 PM and 11:25 PM from WDW Transportation and Ticket Center	WDW Transportation and Ticket Center, Disney Springs Transfer Center, 6800 Sea Harbor Drive and Academic LYNX Central Station
Link 56: Kissimmee/Disney's Magic Kingdom	Monday-Sunday & Holidays.	Departs every night at 10:21 PM, 10:50 PM, 11:19 and 11:48 PM from WDW Transportation and Ticket Center	WDW Transportation and Ticket Center, US 192 & Old Town, US 192 & SR 535, Disney University, Kissimmee Intermodal Facility
Link 306: Disney Direct	Monday-Sunday & Holidays.	Two (2) trips per day: Morning from 6:12 AM to 7:13 AM; Evening from 5:07 PM to 6:24 PM	Poinciana Walmart @ Doverplum Ave, Downtown Disney Springs Transfer Center and Hilton Bonnet Creek Resort



**APPENDIX 1**  
**Of Exhibit "B"**

**Graphical Depictions of Lynx Bus Service Routes**

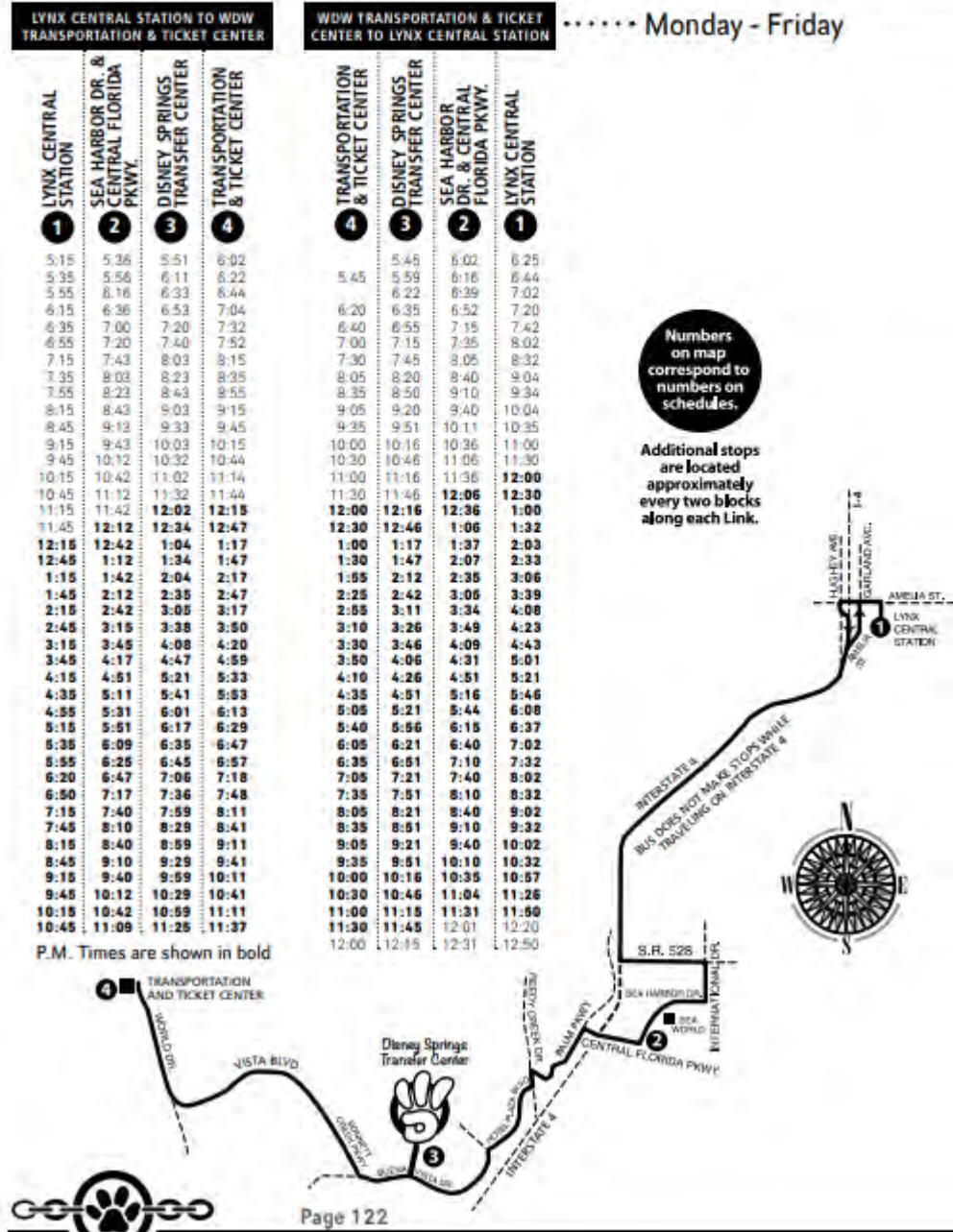
**Link 50**

**Downtown Orlando/Magic Kingdom Express**

Monday-Sunday & Holiday service

- **SERVING:**
- LYNX Central Station
- SeaWorld
- Disney Springs
- 
- 
- 

Walt Disney World Resort  
Transportation and  
Ticket Center



Service Monday-Sunday & Holidays  
5:30 AM to 11:00 PM

Frequency 30 minutes

**Link 56**

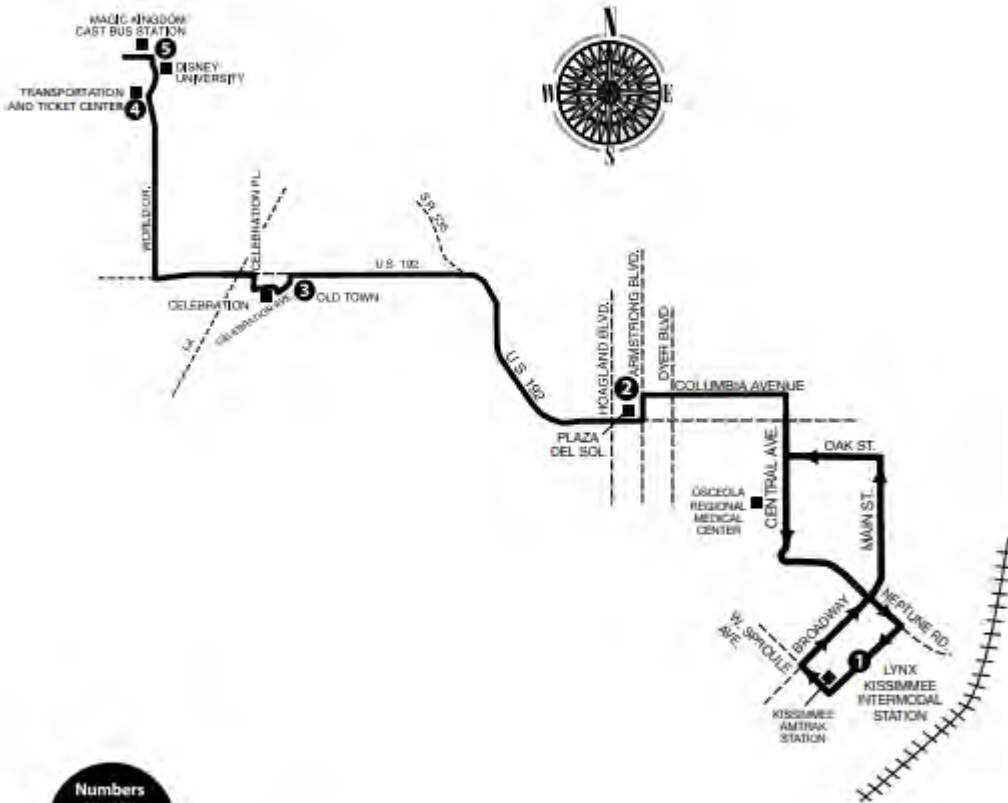
**W. U.S. 192/Magic Kingdom**

Monday-Sunday & Holiday service

**SERVING:**

- Plaza Del Sol
- Old Town
- Celebration
- Walt Disney World Resort Transportation and Ticket Center

- Magic Kingdom Cast Bus Station
- Disney University
- LYNX Kissimmee Intermodal Station/SunRail
- Osceola Regional Medical Center



Numbers on map correspond to numbers on schedules.

Additional stops are located approximately every two blocks along each Link.



# Link 306

## Disney Direct

Monday-Sunday & Holiday service

### SERVING:

- Poinciana
- Poinciana High School
- Disney Springs Transfer Center
- Hilton Bonnet Creek Resort
- NeighborLink 601

- Citrus Connection 16X, 19X, 603
- NeighborLink 604
- Poinciana Walmart
- Poinciana SunRail Station



### Bus Stops:

- Poinciana Walmart
- Poinciana Blvd./Crescent Lakes Way
- Poinciana Blvd./Trafalgar Blvd.
- Poinciana SunRail Station
- Poinciana Blvd./Irlo Bronson (a.m.)
- U.S. 192/Seralago Blvd. (p.m.)
- U.S. 192/Poinciana Blvd. (p.m.)
- Hilton Bonnet Creek
- Disney Springs Transfer Center



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**FIRST AMENDMENT TO BUS SERVICE AGREEMENT**

by and between

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX**

and

**UNIVERSAL BOULEVARD PROPERTY OWNERS ASSOCIATION, INC.**

relating to the provision of bus service in the  
International Drive, Orange County, Florida area

**October 1, 2021**

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**FIRST AMENDMENT TO BUS SERVICE AGREEMENT**

**THIS FIRST AMENDMENT TO BUS SERVICE AGREEMENT** amends the LYNX Bus Service Agreement (“Agreement”) bearing the effective date of October 1, 2020, made by and between:

**CENTRAL FLORIDA REGIONAL TRANSPORTATION  
AUTHORITY d/b/a LYNX** (hereinafter referred to as “LYNX”),  
a body politic and corporate, created by Part III, Chapter 343,  
Florida Statutes, whose address is 455 North Garland Avenue,  
Orlando, Florida 32801

and

**UNIVERSAL BOULEVARD PROPERTY OWNERS  
ASSOCIATION, INC.**, a Florida non-profit corporation, whose mailing address  
is P.O. Box 1709, Orlando, FL 32802 (hereinafter referred to as “Association”).

**WHEREAS**, the Association and LYNX (hereinafter referred to as the “Parties”) entered into an Agreement to provide additional public bus transportation service in the International Drive area located in Orange County Florida; and

**WHEREAS**, the Parties now desire to amend certain terms and conditions of the Agreement to amend the term period associated with the Agreement; and

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, the Parties agree as follows:

1. Each “WHEREAS” clause set forth above is true and correct and herein incorporated by this reference.
2. The Agreement shall remain in full force and effect except as specifically amended hereinbelow.
3. As provided for under the terms of this First Amendment to Bus Service Agreement (“Amendment”), the Parties agree that Section 3 of the Agreement is hereby replaced and amended to read as follows:

**Section 3. TERM.** This Agreement shall be effective on October 1, 2020, (“Commencement Date”) and shall, except as otherwise set forth herein or unless terminated in writing by either Party, continue through December 31, 2021 (the “Expiration Date”), which is the funding period for providing the Bus Service. The hourly rate set forth in the Cost of Bus Service shall remain until such time as the LYNX Board of Directors has approved the budget for the next fiscal year and determined the hourly rate for providing bus service, at which time the hourly rate set forth in the Cost of Bus Service shall be adjusted accordingly.

4. Except as specifically amended and/or modified by this Amendment, each and every one of the terms and provisions of the Agreement remains in full force and effect as originally written. If any inconsistency or conflict between the terms and provisions of this Amendment and those of the Agreement exist, the terms and provisions of this Amendment shall control.

5. The undersigned represents and warrants that they are authorized to bind their entities to the terms of this Amendment.

6. The Parties agree that no other amendment to the terms of the Agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

[Signatures continue on the next page.]

**SIGNATURE PAGE**

**IN WITNESS WHEREOF**, the Parties have hereunto executed this First Amendment to Bus Service Agreement the day and year first written below.

**UNIVERSAL BOULEVARD PROPERTY OWNERS ASSOCIATION, INC.**

By: \_\_\_\_\_

Name: Marc Watson

Title: President

Dated: \_\_\_\_\_

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Name: James E. Harrison, Esq., P.E.

Title: Chief Executive Officer

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

This Amendment has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: \_\_\_\_\_

Name: Carrie L. Sarver, Esq., B.C.S.

Title: Senior Staff Attorney

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

# LYNX Board Agenda

## Action Agenda Item #7.E

**To:** LYNX Board of Directors

**From:** Terri Settingington  
Director Of Human Resources  
Terri Settingington  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6106

**Item Name:** Approval of the Amended and Restated Labor Agreement with Amalgamated Transit Union (ATU) AFL-CIO Local Chapter 1596

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to approve the amended and restated Collective Bargaining Agreement (Labor Agreement) between the Central Florida Regional Transportation Authority d/b/a LYNX and the Amalgamated Transit Union (ATU) Local Chapter 1596 for the period of October 1, 2020-September 30, 2023.

### **BACKGROUND:**

The ATU AFL-CIO, through its Local Chapter 1596, represents certain employees at LYNX. On October 22, 2020, the LYNX Board of Directors authorized the CEO to execute a mutually agreed upon Labor Agreement with the ATU Local Chapter 1596 for a three-year period dated October 1, 2020 through September 30, 2023. The Labor Agreement included the right for both parties to request a Re-Opener of Article 28 (Group Health Insurance), Article 30 (Pension Plan) and/or Article 31(Wages) in years two and three of the Agreement.

On June 25, 2021, LYNX staff received written notification of ATU Local 1596 request to a Re-Opener on all three Articles in the Labor Agreement. Labor negotiations took place on August 2, 2021 and concluded on August 20, 2021. A Tentative Labor Agreement was executed by both parties on August 24, 2021 related to the following Articles:

#### **Article 28 – Group Health Insurance**

- No Change



# LYNX Board Agenda

## Article 30 – Pension

- Modify the eligibility milestone under the Pension Plan for a full DROP benefit from age 58 to 55, with at least 20 years of service.
- Modify the eligibility milestone for a full retirement benefit from age 58 to age 55, with at least 20 years of service.
- Elimination of the eligibility milestone for a reduced retirement benefit at age 55, with at least 20 years of service.
- Elimination of the eligibility milestone for a reduced DROP benefit at age 55, with at least 25 years of service.

## Article 31 – Wages

- A \$1.00 per hour increase to the top rate, a 3.0% change to the new top rate and a one step move for everyone in pay progression effective the first full pay period in October 2021.
- Elimination of 70% of top wage category in each job classification for Operators and Technicians for 0-12 months of service.
- Building and Groundskeeper B employees shall make a minimum of \$15.00 per hour.

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

The FY2022 operating budget will be reviewed against the approved contract and any unplanned cost adjustments will be offset by reductions in other expenses or increases in revenue. If a budget increase is necessary a budget amendment will be presented for approval in January.

# LYNX Board Agenda

## Action Agenda Item #7.F

**To:** LYNX Board of Directors

**From:** Terri Settingington  
Director Of Human Resources  
Terri Settingington  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6106

**Item Name:** Approval of the Amended and Restated Labor Agreement with Amalgamated Transit Union (ATU) AFL-CIO Local Chapter 1749

**Date:** 9/23/2021

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### **ACTION REQUESTED:**

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to approve the amended and restated Collective Bargaining Agreement (Labor Agreement) between the Central Florida Regional Transportation Authority d/b/a LYNX and the Amalgamated Transit Union (ATU) Local Chapter 1749 for the period of October 1, 2020-September 30, 2023.

### **BACKGROUND:**

The ATU AFL-CIO, through its Local Chapter 1749, represents certain employees at LYNX. On October 22, 2020, the LYNX Board of Directors authorized the CEO to execute a mutually agreed upon Labor Agreement with the ATU Local Chapter 1749 for a three-year period dated October 1, 2020 through September 30, 2023. The Labor Agreement included the right for both parties to request a Re-Opener of and/or Article 13(Wages) in years two and three of the Agreement.

On June 25, 2021, LYNX staff received written notification of ATU Local 1749 request to a Re-Opener Article 13 in the Labor Agreement. Labor negotiations took place on August 9, 2021 and concluded on August 23, 2021. A Tentative Labor Agreement was executed by both parties on August 23, 2021 related to the following Article:

#### **Article 13 – Wages**

- A \$1.00 per hour increase to the top rate followed by a 3.0% change to the new top rate effective the first full pay period in October 2021.

# LYNX ard Agenda

## **DISADVANTAGE BUSINESS ENTERPRISE (DBE) PARTICIPATION:**

A DBE participation goal is not applicable for this activity.

## **FISCAL IMPACT:**

The FY2022 operating budget will be reviewed against the approved contract and any unplanned cost adjustments will be offset by reductions in other expenses or increases in revenue. If a budget increase is necessary a budget amendment will be presented for approval in January.

# LYNX Board Agenda

## Information Item A

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Tamara Enders  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Notification of Settlement Agreements Pursuant to Administrative Rule 6

**Date:** 9/23/2021

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LYNX Liability Claim Settlements August 1 – August 31, 2021

Claimant Name	Accident Date	Accident Type	Settlement Amount	Date of Check
Dean M. Gettis fbo Douglas Elow	2/20/2019	PD	\$3,000.00	8/5/2021
Dianilda Angulo	7/6/2021	PD	\$3,693.43	8/5/2021
Caliber Collision (Dianilda Angulo)	7/6/2021	PD	\$1,192.39	8/26/2021
Georgia Clark	6/2/2021	PD	\$1,131.47	8/5/2021
Space Coast CU (Kervin Lugo)	5/20/2021	PD	\$15,673.61	8/26/2021
Jason Boatwright	7/14/2021	PD	\$2,163.21	8/5/2021
Camri Dawson	7/19/2021	PD	\$1,910.74	8/5/2021
County Wreckers Inc (Camri Dawson)	7/19/2021	PD	\$1,930.28	8/13/2021
Factory Finish Auto Collision (Camri Dawson)	7/19/2021	PD	\$810.05	8/13/2021
Joshua Crocker	6/12/2018	BI	\$10,000.00	8/13/2021
Schwed Law, P.A. fbo Danny Jackson	2/20/2019	BI	\$1,500.00	8/13/2021
Schwed Law, P.A. fbo Sha-libra Kendrick	2/20/2019	BI	\$2,500.00	8/13/2021
Dan Newlin fbo Jean LaFortune	4/27/2018	BI	\$37,500.00	8/26/2021
Paulette Jackson	3/6/2021	BI	\$500.00	8/26/2021
Deanna Patrick	5/14/2021	PD	\$4,881.44	8/26/2021

# LYNX Board Agenda

## Information Item B

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Maurice Jones  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Notification of Sole Source Procurements Pursuant to Administrative Rule 4

**Date:** 9/23/2021

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Pursuant to LYNX Administrative Rule 4, information is attached for the following Sole Source Procurements:

1. Trapeze Software Group, Inc./EAM



## Sole Source Justification

DATE: June 30, 2021  
TO: Maurice Jones, Director of Procurement  
REQUESTED BY: Elvis Dovalos, Director of Maintenance  
SUBJECT: Addition of 5 Trapeze EAM Vehicle Licenses and Support

**BACKGROUND:** LYNX uses the Trapeze EAM (Enterprise Asset Management) application as its Computerized Maintenance Management System (CMMS). The Trapeze EAM CMMS is used to track and record all fleet related maintenance operations, fueling operations and manage the parts/materials inventory. Each active vehicle must be registered in the Trapeze EAM application through an individual software license in order for the data retention and all operational functions to take place in the application. LYNX wants to add an additional 5 licenses and the associated support increasing the current number from 429 licenses to 434 in order to support the potential expansion of the support and fixed route fleets.

**SOLE SOURCE JUSTIFICATION:** The Trapeze EAM software application is a proprietary product of the Trapeze Group. The licenses requested consist of an application update by way of software update and the required activation license key that can only be sourced from the Trapeze Group.

**COST/PRICE ANALYSIS:** The costs of the licenses and the annual support are based on prior costs and the current maintenance and support contracts between Trapeze Group and LYNX.

Elvis Dovalos  
Director of Maintenance

7-1-21  
Date:

Dana Baker  
Chief Operating Officer

7-13-21  
Date:

W. John Slot Jr.

William John Slot, Jr.  
Chief Innovation Officer

8/13/21

Date:

M. A. Jones

Maurice A. Jones  
Manager of Procurement

8/26/2021

Date:

Lenny Antmann

Lenny Antmann  
Interim Chief Financial Officer

8/27/21

Date:

Carrie L. Sarver

Carrie L. Sarver, ESQ., B.C.S.  
Senior Staff Attorney

8/31/21

Date:

J. E. Harrison

James E. Harrison, Esq., P.E.  
Chief Executive Officer

8/31/21

Date:

# LYNX Board Agenda

## Monthly Report A

**To:** LYNX Board of Directors

**From:** **Matthew Friedman**  
Director Of Marketing Communications  
**Janet Vidal**  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6206

**Item Name:** Communications Report - August 2021

**Date:** 9/23/2021

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### LYNX Press Releases | Media Notes: August 2021

Aug. 11	LYNX to Host Bus Operator Virtual Job Fair on Aug. 25
Aug. 20	LYNX Aug. 26 Board of Directors and Oversight Committee Meeting Information
Aug. 24	Labor Day Holiday Schedule

### August 2021 – LYNX News Articles

To view the articles below please copy and paste the link into a browser.	
Aug. 5	<a href="#">Community Impact: Orlando public transportation by the numbers</a> Orlando Business Journal
Aug. 10	<a href="#">At least 3 injured in Orange County crash involving Lynx bus, officials say</a> WKMG News 6 & ClickOrlando
Aug. 13	<a href="#">Seminole County partners with Lynx to host mobile vaccine clinic</a> WKMG News 6 & ClickOrlando
Aug. 14	<a href="#">Orlando Lynx buses get \$1.1 million COVID-killing retrofit</a> Orlando Sentinel



# LYNX Board Agenda

## August 2021 – LYNX Social Media

Aug 1	The August Service change is just three weeks away. Please take a look at the changes we will be making including the Link 38 express service to Universal Orlando and I-Drive resort area.
Aug 2	Hello, riders! Just a friendly reminder that face masks are still mandatory while riding LYNX and at our facilities, even if you're fully vaccinated. Response to complaint on their experience with ACCESS LYNX delays. Response to complaint that there is a bus driver not wearing a mask although its mandatory. Response to complaint about passengers not wearing face masks. Response to question about AdvantAge ID renewal.
Aug 3	Name that stop! Can you guess where this LYNX bus stop is located? Service detour around Exploria Stadium due to the Orlando City Soccer match tomorrow (8/4). Correct answer is Fun Spot Way and I-Drive. Links 8, 42 and 304.
Aug 4	Service detour around Exploria Stadium due to the Orlando City Soccer match tomorrow (8/4). Response to question about the LYNX bus tracker.
Aug 5	LYNX Central Station always lit night and day. Response to question on How old is the building design in the image? Response to question about NeighborLink service.
Aug 6	Soaring into the weekend like... <a href="#">#FridayFeeling</a>
Aug 7	It's <a href="#">#NationalLighthouseDay</a> . We're celebrating with this stunning photo of the lighthouse on Lake Toho at Kissimmee Lakefront Park.
Aug 8	Happy International Cat Day!
Aug 9	Good morning, Central Florida! Welcome to a new week. A mobile COVID-19 vaccine clinic will be at the LYNX Fern Park SuperStop this Wednesday, Aug. 11, 6 a.m. – 6 p.m. Come get your first dose if you are 12+. No appointments required. Response to question about the PawPass application. Response to question about purchasing bus fares. Response to complaint about a bus operator.
Aug 10	Welcome back to school, Central Florida students. A reminder that the mobile COVID-19 vaccine clinic will be at the LYNX Fern Park SuperStop tomorrow, Aug. 11, 6 a.m. – 6 p.m. Response to complaint about a bus that skipped a stop. New Bus Bay Assignments at Destination Parkway SuperStop. Response to complaint about masks not being enforced on the bus.
Aug 11	COVID-19 vaccine clinic today at the LYNX Fern Park SuperStop from 6 a.m. to 6 p.m. The August Service change will take place in less than two weeks.
Aug 12	Please be sure to have your bus pass, PawPass or exact change ready before boarding the bus. Response to comment about an operator not wearing a face mask.

# LYNX Board Agenda

Aug 13	<p>Service detour around Exploria Stadium due to the Orlando Pride match.</p> <p>LYNX is hosting a Bus Operator Virtual Job Fair on Aug. 25 from 9a to 2p.</p> <p>Response to question that they have a drives license but no CDL, would they still be able to apply for a job as a bus operator?</p> <p>Response to question on how much is the pay as a bus operator?</p>
Aug 14	<p>Service detour around Exploria Stadium due to the Orlando Pride match.</p> <p>LYNX will make system-wide changes on Aug. 22.</p> <p>Response to comment that they do not want any bus routes changed unless we can get ACCESS up and running without any issues of having a driver for a route.</p> <p>Response to comment “now all you have to do is get your drivers to wear masks like you say your customers need to.”</p> <p>Response to question “what about 3 you didn’t say anything about it and things are changing on it”?</p> <p>Response to question on why we changed the route for bus 8.</p>
Aug 15	<p>Join us on Aug. 25 from 9a to 2p for a Bus Operator Virtual Job Fair.</p>
Aug 16	<p>LYNX will be making service changes on Sunday, Aug. 22.</p> <p>Response to comment about the link in the caption does not work.</p> <p>Response to comment that they do not see any changes on 42 except a big difference in the AP vs last DP bus.</p> <p>Come join a team that keeps you moving!</p> <p>Response to complaint that they’ve applied 5 times for a bus operator job but have not gotten any feedback.</p> <p>Response to question about traveling with a suitcase on the bus.</p> <p>Response to complaint about a bus operator on Link 45.</p>
Aug 17	<p>If you’re interested in a career in public transportation, join us for a Bus Operator Virtual Job Fair on Aug. 25 from 9:00 a.m. to 2:00 p.m.</p>
Aug 18	<p>Please remember that Link 38 express service to Universal Orlando and I-Drive resort area will begin on Aug. 22.</p> <p>Response to comment that 8 &amp; 50 does not go down Westwood.</p>
Aug 19	<p>Lost and Found window will be open this Saturday between 9a - 1p.</p> <p>Interested in a career in public transportation? Join us for a Bus Operator Virtual Job Fair on Aug. 25 from 9a to 2pm.</p> <p>Response to comment that they will starting with LYNX on the 20<sup>th</sup>.</p>
Aug 20	<p>It’s been quite the week but we’re saying hello to the weekend!</p> <p>The Aug. 26 LYNX Oversight Committee and Board of Directors meetings will be open to the public with members attending in person.</p> <p>August service changes will take effect this Sunday, Aug. 22.</p> <p>The TSA extends the face mask requirement on public transportation through January 18, 2022.</p> <p>Response to riders comments that our drivers do not wear masks and some do not enforce the mask rule.</p>
Aug 21	<p>The Lost and Found window will be open today from 9a to 1p for those needing to obtain a LYNX Youth or AdvantAge ID card.</p> <p>Link 38 express service to Universal Orlando and I-Drive resort area will begin tomorrow, Aug. 22.</p>

# LYNX Board Agenda

	Response to comment “I thought the 42 was going to run longer. Did the new times do not get published it still indicates the last bus from DP on Sunday is 10pm and Saturday is 11:10 p.m.?”
Aug 22	August service changes are in effect today. Link 38 express service to Universal Orlando and I-Drive resort area begins today (Aug. 22). LYNX is hosting a virtual job fair on Aug. 25, 9a to 2p.
Aug 23	Hey, riders! Rise and shine! LYNX will be operating a holiday schedule on Labor Day, Sept. 6. Response to complaint about enforcing the mask mandate on buses.
Aug 24	Interested in a career in public transportation? Join us for a Bus Operator Virtual Job Fair on Aug. 25 from 9a to 2p. Tomorrow is our Bus Operator Virtual Job Fair for anyone with a CDL license or permit who is interested in exploring a rewarding career in public transportation.
Aug 25	Tomorrow's LYNX Oversight Committee and Board of Directors meetings will be open to the public with members attending in person. Just a reminder to wear your mask properly to protect yourself and others from infection. Response to complaint about a rude bus operator. Response to question about our fare boxes. Response to complaint about a Link 7 operator not wearing a face mask.
Aug 26	We have our two monthly meetings today, starting with the Oversight Committee meeting at 11a. The wheelz on this bus can take you to get lunch! Response to complaint about Link 46 not showing up due to service cuts.
Aug 27	Service detour around Exploria Stadium due to the Orlando City match. Shhhh...don't tell anyone, but today is Friday!
Aug 28	Good day from Big Tree Park. Have a lovely weekend!
Aug 29	Take it easy like Sunday morning.
Aug 30	LYNX will be operating a holiday schedule on Labor Day, Sept. 6. This bus stop is tee-riffic! Can you tell us where this LYNX bus stop is located and the route it serves?
Aug 31	Still need a COVID-19 vaccine? We're hosting free pop-up vaccine clinics at four LYNX bus stop locations.

# LYNX ard Agenda

Social Media Usage	August 2021
Facebook Daily Total Reach: The number of people who have seen any content associated with our Page. (Unique Users)	74,644
Facebook Daily Total Impressions: The number of times any content from your Page or about your Page entered a person's screen. This includes posts, stories, check-ins, ads, social information from people who interact with your Page and more. (Total Count)	54,558
Total Facebook Posts	54
Facebook Engagement: The sum of reactions, comments and shares received by content associated with your Pages (for the selected timeframe). Includes comments from the author of the post.	1.4k Engagement: 995 Reactions, 181 Comments, 269 Shares
Total Tweets	66
Twitter Engagement: The sum of interactions received for the tweets published in the selected timeframe: retweets, replies and likes.	152 Engagement: 107 Likes, 32 Retweets, 13 Replies
Website Usage	
Total Page Views	311,738
Total User Visits	432,905

# LYNX Board Agenda

## Commuter Vanpool Program

<b>Vanpool</b>	<b>August 2021</b>
Vanpool Participants	525*
Total Revenue Miles	130,000*
New Vanpool	3
Returned Vanpools	1
Current Vans at Service	137
Pending Interests	Meals on Wheels, Aspire health
Events	Photo Shoot w/ FDOT on new express lanes

\*These are estimates, as data is not available until after the 21<sup>st</sup> day of following month.

## Advertising Sales

<b>Advertising Sales Revenue</b>	<b>August 2021</b>	<b>LYNX %</b>	<b>FY to Date Sales</b>	<b>FY to Date LYNX %</b>
Sales Revenue	\$349,691.62	\$209,841.97	\$3,343,175.00	\$2,005,905.00

# LYNX Board Agenda

## Monthly Report B

**To:** LYNX Board of Directors

**From:** Leonard Antmann  
Chief Financial Officer  
Michelle Daley  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6125

**Item Name:** Monthly Financial Report - July 2021

**Date:** 9/23/2021

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Please find attached the preliminary monthly financial report for the tenth month ending July 31, 2021.

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX  
 STATEMENTS OF REVENUES AND EXPENSES  
 For the Ten Months Ending Saturday, July 31, 2021  
 (UNAUDITED)

	As of 7/31/2021		% Actual compared to Budget
	Budget	Actual	
<b>REVENUES</b>			
Customer fares	\$ 11,147,368	\$ 12,192,918	109%
Contract services	4,997,569	4,956,550	99%
Advertising	2,391,718	1,997,423	84%
Interest & Other income	583,405	551,293	94%
Federal Revenue	6,100,764	4,665,652	76%
CARES Federal Revenue	43,707,403	42,463,101	97%
State Revenue	10,430,402	10,420,155	100%
Local Revenue	7,052,197	7,448,757	106%
Local Revenue Funding Partner	59,518,429	59,518,438	100%
<b>TOTAL REVENUE</b>	<b>\$ <u>145,929,254</u></b>	<b>\$ <u>144,214,286</u></b>	<b><u>99%</u></b>
 <b>EXPENSE</b>			
Salaries, Wages & Fringe Benefits	\$ 72,210,628	\$ 70,574,733	98%
Other services	10,263,109	6,467,963	63%
Fuel	8,717,631	6,687,148	77%
Materials and supplies	8,187,388	5,477,762	67%
Utilities	1,318,297	1,144,997	87%
Casualty & Liability	2,991,450	3,363,555	112%
Taxes and licenses	498,390	473,154	95%
Purchased transportation services	23,303,835	19,947,093	86%
Leases & Miscellaneous	1,389,111	902,172	65%
Interest Expense	0	0	0%
<b>TOTAL EXPENSE</b>	<b>\$ <u>128,879,840</u></b>	<b>\$ <u>115,038,575</u></b>	<b><u>89%</u></b>
 <b>OPERATING GAIN/(LOSS)</b>	 <b>\$ <u><u>17,049,414</u></u></b>	 <b>\$ <u><u>29,175,711</u></u></b>	 <b><u><u>171%</u></u></b>

# LYNX Board Agenda

## Monthly Report C

**To:** LYNX Board of Directors

**From:** Bruce Detweiler  
Interim Director Of Planning And Development  
Bruce Detweiler  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6136

**Item Name:** Planning and Development Report

**Date:** 9/23/2021

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### **STRATEGIC PLANNING, SERVICE PLANNING AND GIS:**

#### **Strategic Planning:**

- Staff is seeking three interns for the Fall 2021 semester to support the GIS, Service and Strategic Planning teams.
- Staff will begin preparations for Spring 2022 semester interns in the next couple of months.
- Staff continues to refine the scopes of work for the System-Wide Survey, Transit Development Plan (TDP) Major Update, and General Planning Contract (GPC) solicitations.

#### **Service Planning:**

- Staff is working on the December service change scheduled to take effect on December 12, 2021.
- Staff is continuing the Bus Stop Assessment Program and making necessary adjustments to stops throughout the region.
- Additionally, staff will be working on updating the Bus Stop Consolidation Program.

#### **Geographical Information Systems (GIS):**

- The GIS team welcomed its newest team member, Luz Castro, on September 13<sup>th</sup>. Ms. Castro will serve the agency as a GIS Analyst.
- Staff is actively working multiple spatial analyses in advance of December's service change such as Title VI disparate impacts.
- Staff continues data maintenance concurrent with management of work order activities.



# LYNX Board Agenda

## Monthly Report D

**To:** LYNX Board of Directors

**From:** Bruce Detweiler  
Interim Director Of Planning And Development  
Bruce Detweiler  
(Technical Contact)

**Phone:** 407.841.2279 ext: 6136

**Item Name:** Ridership Report - June 2021

**Date:** 9/23/2021

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The attached monthly Performance Report includes June Year-To-Date figures for ridership and other performance indicators. Total ridership for June 2021 was 1,194,012. This is a 3.6% increase from June 2020. On-Time Performance for Fiscal Year-To-Date 2021 is 79%.

- LYNX overall ridership increased by 41K, or 3.6%, compared to June 2020. Year-to-date ridership for FY-21 (10,350,551) decreased 27.2% compared to FY-20 (14,216,270)
- LYMMO ridership increased by 6K, or 18%, compared to June 2020. Year-to-date ridership for FY-21 (336,038) decreased 25.1% compared to FY-20 (448,588).
- Fixed Route ridership increased by 22K, or 2.1%, compared to June 2020. Year-to-date ridership for FY-21 (9,379,675) decreased by 27.5% compared to FY-20 (12,933,034).
- NeighborLink ridership decreased by 400 or 5.7% compared to June 2020. Year-to-date ridership for FY-21 (55,256) decreased 27.6% compared to FY-20 (76,289).
- ACCESS LYNX ridership increased by 5K, or 13.9% compared to June 2020. Year-to-date ridership for FY-21 (384,593) decreased 18.1% compared to FY-20 (469,423).
- Vanpool ridership increased by 7K, or 44.7%, compared to June 2020. Year-to-date ridership for FY-21 (195,043) decreased by 25.5% compared to FY-20 (261,721).
- There were no special events in June 2021.



## July 2021 Service Performance Report

### RIDERSHIP

Total Ridership by Mode						
	Jul-20	Jul-21	% Δ	YTD-20	YTD-21	% Δ
LYMMO	39,379	42,303	7.4%	487,967	378,341	-22.5%
Fixed Route	1,136,808	1,106,300	-2.7%	14,069,842	10,485,975	-25.5%
NeighborLink	6,940	6,391	-7.9%	83,229	61,647	-25.9%
ACCESS LYNX	42,991	44,063	2.5%	512,414	428,602	-16.4%
Vanpool	16,902	22,830	35.1%	278,623	217,873	-21.8%
Special Events	0	0	N/A	27,215	0	N/A
<b>SYSTEM TOTAL</b>	<b>1,243,020</b>	<b>1,221,887</b>	<b>-1.7%</b>	<b>15,459,290</b>	<b>11,572,438</b>	<b>-25.1%</b>

<b>July 2020:</b>	23 Weekdays	3 Saturdays	5 Sundays
<b>July 2021:</b>	21 Weekdays	5 Saturdays	5 Sundays

Average Daily Ridership by Mode									
Mode	Weekday			Saturday			Sunday		
	Jul-20	Jul-21	% Δ	Jul-20	Jul-21	% Δ	Jul-20	Jul-21	% Δ
LYMMO	1,418	1,653	16.6%	858	757	-11.8%	837	762	-9.0%
Fixed Route	40,875	40,380	-1.2%	30,210	30,399	0.6%	21,212	21,266	0.3%
NeighborLink	286	257	-10.1%	161	147	-8.7%	-	-	-
ACCESS LYNX	1,692	1,725	2.0%	969	955	-1.4%	377	460	22.0%
Vanpool	684	298	-56.4%	179	111	-38.0%	111	7	-93.7%
<b>SYSTEM TOTAL</b>	<b>44,955</b>	<b>44,313</b>	<b>-1.4%</b>						

**LYNX** ridership decreased by about 21K, or 1.7%, compared to July 2020. System-wide average weekday riders decreased by 1.4% year-to-date.

**LYMMO** ridership increased by 3K, or 7.4%, compared to July 2020. Average weekday ridership for LYMMO was up 16.6% in July 2021.

**Fixed Route** ridership decreased by 30K, or 2.7%, compared to July 2020. Average daily ridership decreased by 1.2% compared to the same time period last year. As the region is reopening from the COVID-19 pandemic, ridership is beginning to increase on fixed route.

**NeighborLink** ridership decreased by about 500, or 7.9%, compared to July 2020.

**ACCESS LYNX** ridership increased by about 1K, or 2.5%, compared to July 2020. Ridership continues to increase as the region continues reopening.

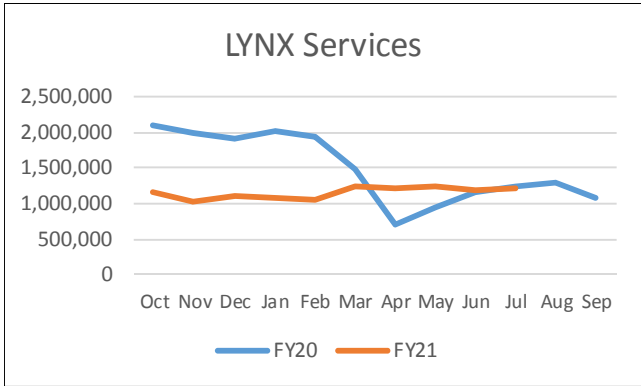
**Vanpool** ridership increased by about 6K, or 35.1%, compared to July 2020. Vanpool utilization continues to increase as the region begins to reopen.

\*According to the U.S. Energy Information Administration, the average price of gasoline in the U.S. was \$2.26/gallon in July 2020 and \$3.21/gallon in July 2021. Historically, low gas prices can result in lower public transit ridership.

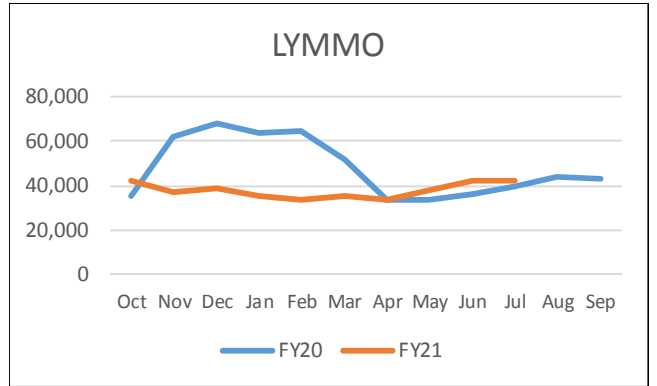


## July 2021 Service Performance Report

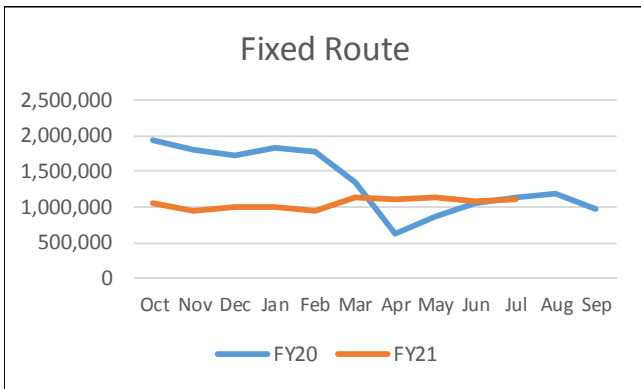
### MONTHLY RIDERSHIP TRENDS BY MODE



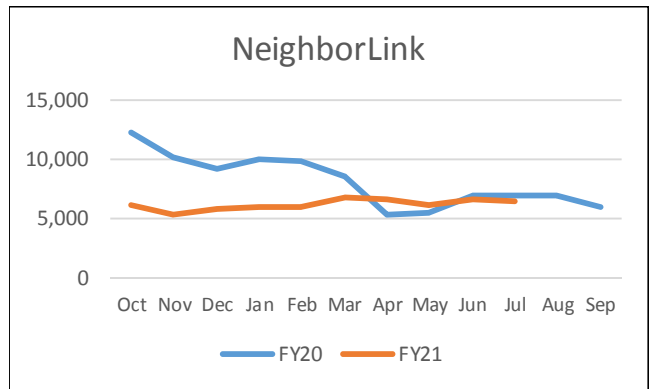
LYNX ridership decreased by 1.7% compared to the same time last year. Average weekday riders decreased by 1.4%.



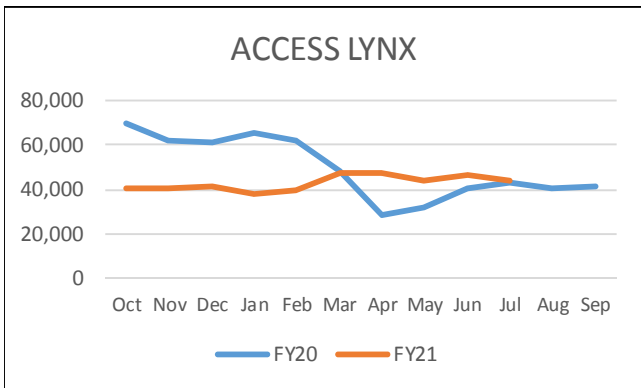
LYMMO ridership increased by 7.4% compared to the same time last year. Average weekday riders increased by 16.6%.



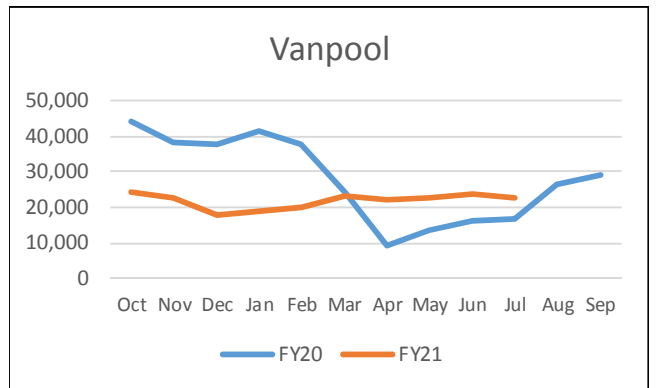
Fixed route ridership decreased 2.7% compared to July 2020. Average weekday riders decreased by 1.2%.



NeighborLink ridership decreased 7.9% compared to July 2020. Average daily riders decreased by 10.1%.



ACCESS LYNX ridership increased by 2.5% compared to July 2020. Average daily riders were up by 2.0%.



Vanpool ridership increased by 35.1%. Average daily riders decreased by 56.4% compared to July 2020.



July 2021 Service Performance Report

FY21 Monthly Modal Performance Data Sheet - July 2021

Month End Reporting	Ridership	Passengers per Trip	On-Time Performance	Farebox Recovery	National Transit Database Reportable Accidents	Complaints per 100,000 Miles	Total Trips Scheduled	Percentage of Scheduled Trips	Fleet Availability	Preventative Maintenance Inspection Completed on Time
<b>LYMMO</b>										
Oct	42,383	5	89%	Not Applicable	1	0.17	9,320	100%	16	100%
Nov	36,616	4	89%		0	0.14	8,780	100%	16	100%
Dec	38,943	4	88%		1	0.10	9,310	100%	15	99.6%
Jan	35,376	4	88%		0	0.28	8,962	100%	17	100%
Feb	33,198	4	87%		1	0.18	8,436	100%	23	98%
Mar	35,671	4	86%		0	0.11	9,489	100%	23	100%
Apr	33,303	4	87%		0	0.12	9,138	100%	23	99%
May	38,211	4	88%		0	0.13	9,141	100%	23	88%
Jun	42,337	5	86%		0	0.09	8,052	100%	23	89%
Jul	42,303	5	81%		0	0.11	9,141	100%	23	70%
Aug										
Sep										
YTD	378,341	4	86.9%		3	0.14	89,769	100%	20	94%
<b>Fixed Route</b>										
Oct	1,041,411	12	79%	11%	8	0.17	90,806	99%	278	100%
Nov	954,102	11	79%	11%	4	0.14	84,956	99%	282	100%
Dec	1,008,216	11	79%	12%	6	0.10	90,500	99%	290	99.6%
Jan	984,743	11	81%	11%	5	0.28	89,308	99%	299	100%
Feb	955,250	12	80%	13%	10	0.18	83,300	99%	296	98%
Mar	1,120,119	12	79%	11%	13	0.11	93,197	99%	296	100%
Apr	1,101,723	12	78%	13%	9	0.12	89,898	98%	292	99%
May	1,138,703	13	79%	15%	6	0.13	90,929	98%	279	88%
Jun	1,075,408	12	78%	12%	3	0.09	89,308	98%	283	89%
Jul	1,106,300	12	77%		11	0.11	94,474	96%	286	70%
Aug										
Sep										
YTD	10,485,975	12	78.7%	12%	75	0.14	896,676	98%	288	94%



July 2021 Service Performance Report

FY21 Monthly Modal Performance Data Sheet - July 2021

Month End Reporting	Ridership	On-Time Performance	Collected Fares	NTD Reportable Incident	Complaints per 100,000 M	Fleet Availability	Preventable Maintenance Inspection Completed On-Time
<b>NeighborLink</b>							
Oct	6,128	100%	100%	0	5.4	91%	100%
Nov	5,325	100%	100%	0	2.1	87%	98%
Dec	5,836	100%	100%	0	5.1	83%	97%
Jan	6,012	100%	100%	0	7.3	90%	98%
Feb	5,908	100%	100%	0	5.4	84%	100%
Mar	6,738	100%	100%	0	4.8	85%	100%
Apr	6,625	100%	100%	0	4.9	96%	99%
May	6,086	100%	100%	0	5.5	97%	100%
Jun	6,598	100%	100%	0	5.1	99%	100%
Jul	6,391	100%	100%	0	6.7	97%	100%
Aug							
Sep							
YTD	61,647	100%	100%	0	5.2	91%	99%
<b>ACCESS LYNX</b>							
Oct	42,724	93.06%	99.75%	0	1.7	85%	100%
Nov	13,731	89.94%	99.89%	1	2.7	86%	98%
Dec	41,273	91.87%	99.77%	1	3.1	90%	97%
Jan	37,888	91.92%	99.83%	0	2.2	90%	98%
Feb	39,370	88.74%	99.83%	1	3.9	90%	100%
Mar	47,277	81.76%	99.81%	0	8.2	90%	100%
Apr	47,452	77.73%	99.83%	2	6.5	87%	99%
May	43,790	71.46%	99.87%	0	9.5	87%	100%
Jun	46,119	66.47%	99.98%	0	12.3	89%	100%
Jul	44,063	66.06%	99.77%	2	12.8	90%	100%
Aug							
Sep							
YTD	403,687	81.90%	99.83%	7	6.3	88%	99%



## July 2021 Service Performance Report

### Definitions of Metrics Used on the Monthly Performance Data Sheets

**Ridership** – The number of trips taken by people using a public transportation system in a given time period.

**Passengers per Trip** – The average number of passengers who ride on a revenue trip.

**On-Time Performance** – Refers to the level of success of the service operating according to the published schedule (LYNX defines a bus as on-time if it falls within 0 minutes early to five (5) minutes late of the published schedule).

**Farebox Recovery** – The percent of a trip’s operating costs recovered through passenger fares.

**National Transit Database (NTD) Reportable Accidents** – A safety or security event occurring on transit right-of-way or infrastructure, at a transit revenue facility, at a transit maintenance facility or rail yard, during a transit related maintenance activity or involving a transit revenue vehicle that results in one or more of the following conditions:

- A fatality confirmed within 30 days of the event
- An injury requiring immediate medical attention away from the scene for one or more person
- Property damage equal to or exceeding \$25,000
- Collisions involving transit revenue vehicles that require towing away from the scene for a transit roadway vehicle or other non-transit roadway vehicle
- An evacuation for life safety reasons

**Complaints per 100,000 Miles** – Total number of complaints received based off of every 100,000 vehicle miles.

**Total Trips Scheduled** – Number of vehicle revenue trips scheduled to operate for the month.

**Percentage of Scheduled Trips Operated** – Percentage of the total of the revenue trips that were actually operated for the month compared to the number that were scheduled to operate.

**Fleet Availability** – Shows the extent to which the bus vehicle fleet is available for revenue-earning work.

**Preventative Maintenance Completed On Time** – Percentage of the total number of scheduled preventative maintenance inspections that were completed on time.

**Collected Fares** – Percentage of fares collected from passengers to use the service.