

**TOWNSHIP OF LOWER MACUNGIE**  
**Lehigh County, Pennsylvania**

**Resolution No. 2022-85**  
(Duly Adopted December 1, 2022)

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF LOWER MACUNGIE  
TOWNSHIP, LEHIGH COUNTY FOR THE ADOPTION OF THE MISSIONSQUARE  
RETIREMENT HEALTH SAVINGS PROGRAM**

**WHEREAS**, Lower Macungie Township has employees rendering valuable services; and

**WHEREAS**, the establishment of a retiree health savings program for such employees serves the interest of the Township by enabling it to provide reasonable security regarding such employees' health needs during retirement, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

**WHEREAS**, the Township has determined that the establishment of the retiree health savings program (the "Program") serves the above objectives.

**NOW THEREFORE, BE IT RESOLVED**, that the Township hereby adopts the MissionSquare Program through the Township's integral part trust ("Trust") and the Township's welfare benefits plan ("Plan"); and

**RESOLVED**, that the assets of the Plan shall be held in trust with Township Manager serving as trustee; and

**FURTHER RESOLVED**, that the assets of the Plan be held in trust for the exclusive benefit of Plan participants and their survivors, and the assets of the Plan shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the Plan; and

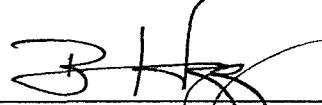
**RESOLVED**, that the Township Manager is authorized to enter into that certain Trust, a copy of which is attached hereto as Exhibit A; and

**RESOLVED**, that the Township Manager is authorized to enter into that certain Administrative Services Agreement with MissionSquare, a copy of which is attached hereto as Exhibit B; and

**FURTHER RESOLVED**, that the Township Manager shall be the coordinator and contact for the Program and shall receive the necessary reports, notices, etc.; and

**RESOLVED**, at a duly convened meeting of the Board of Commissioners of Lower Macungie Township conducted on this 1<sup>st</sup> day of December, 2022.

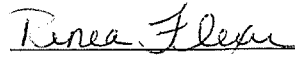
**LOWER MACUNGIE TOWNSHIP  
BOARD OF COMMISSIONERS**



---

Brian P. Higgins, President

**ATTEST:**



---

Renea Flexer, Secretary



# **EXHIBIT “A”**

**Suggested Affirmative Statement for Adoption of the MissionSquare Retirement Health Savings (RHS) Program**

Plan Number: 8 \_\_\_\_\_

Name of Employer: Lower Macungie Township State: Pennsylvania

Affirmative Statement of the above-named Employer (the "Employer"):

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the establishment of a retiree health savings program serves the interests of the Employer by enabling it to provide reasonable security regarding such employees' health needs during retirement, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Employer has determined that the establishment of the retiree health savings program (the "Program") serves the above objectives;

NOW THEREFORE, as a duly authorized agent of the Employer, I hereby:

ESTABLISH the Employer's MissionSquare Retirement Health Savings Program through the Employer's integral part trust ("Trust") and the Employer's welfare benefits plan ("Plan"); and

SPECIFY that the assets of the Plan shall be held in trust, with the following entity or individual serving as trustee (Select one):

- the Employer
- the following position within the Employer: Township Manager  
(insert title of individual acting as trustee)
- the following group or committee within the Employer: \_\_\_\_\_  
(insert group or committee acting as trustee)
- the following third-party trustee: \_\_\_\_\_  
(insert name of third-party trustee)

for the exclusive benefit of Plan participants and their survivors, and the assets of the Plan shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the Plan. The Employer has executed the Declaration of Trust of the \_\_\_\_\_ Integral Part Trust in the form of: (Select one)

- The sample trust made available by MissionSquare Retirement
- The trust provided by the Employer (executed copy attached hereto)

SPECIFY that the \_\_\_\_\_ shall be the coordinator and contact for the Plan and shall receive necessary reports, notices, etc.

Date: 12/2/2022

Township Manager  
Title of Designated Agent

\_\_\_\_\_  
Signature

**MissionSquare Retirement Health Savings (RHS) Adoption Agreement**

Plan Number: 8 \_\_\_\_\_

Select as applicable:

Standalone RHS      Integrated RHS      Amendment to Existing Plan       New Plan

I. **Employer Name:** Lower Macungie Township State: PA

II. **The Employer hereby attests that it is a unit of a state or local government or an agency or instrumentality of one or more units of a state or local government.**

III. **Plan Dates:**

A. **Plan Effective Date** 12/2/2022

B. **Plan Year:** Enter the annual accounting period for the RHS program. \_\_\_\_\_

IV. **The Employer intends to utilize the Trust to fund only welfare benefits pursuant to the following welfare benefit plan(s) established by the Employer:** \_\_\_\_\_

V. **Eligible Groups, Participation and Participant Eligibility Requirements**

A. **Eligible Groups**

The following group or groups of Employees are eligible to participate in the Employer’s welfare benefits plan identified in Section IV. (check all applicable boxes):

- All Employees
- All Full-Time Employees
- Non-Union Employees
- Public Safety Employees - Police
- Public Safety Employees - Firefighters
- General Employees
- Collectively-Bargained Employees (Specify unit(s)) Office employees covered by the Collective Bargaining Agreement for Office Employees
- Other (specify group(s)) \_\_\_\_\_

The Employee group(s) specified must correspond to a group(s) of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other documents or provisions in effect in the state or locality of the Employer.

B. **Participation**

**Mandatory Participation:** All Employees in the covered group(s) are required to participate in the Plan and shall receive contributions pursuant to Section VI.

If the Employer’s underlying welfare benefit plan is in whole or part a non-collectively bargained plan that allows reimbursement for medical expenses other than insurance premiums, the nondiscrimination requirements of Internal Revenue Code (IRC) Section 105(h) will apply. These rules may impose taxation on the benefits received by highly compensated individuals if the Plan discriminates in favor of highly compensated individuals in terms of eligibility or benefits. The Employer should discuss these rules with appropriate counsel.

**C. Participant Eligibility Requirements**

1. Minimum service: The minimum period of service required for participation is N/A  
(write N/A if no minimum service is required).
2. Minimum age: The minimum age required for eligibility to participate is N/A  
(write N/A if no minimum age is required).

**VI. Contribution Sources and Amounts****A. Definition of Earnings**

The definition of Earnings will apply to all RHS Contribution Features that reference "Earnings," including Direct Employer Contributions (Section VI.B.1.) and Mandatory Employee Compensation Contributions (Section VI.B.2.).

Definition of earnings: \_\_\_\_\_

**B. Direct Employer Contributions and Mandatory Contributions**

Contributions for participants include:

1. Direct Employer Contributions

The Employer shall contribute on behalf of each Participant  
\_\_\_\_\_ % of Earnings\*  
\$\_\_\_\_\_ each Plan Year

A discretionary amount to be determined each Plan Year

- × Other (describe): One time employer contribution as per the Collective Bargaining Agreement for Office Employees

2. Mandatory Employee Compensation Contributions

The Employer will make mandatory contributions of Employee compensation as follows:

Reduction in Salary – \_\_\_\_\_ % of Earnings or \$\_\_\_\_\_ will be contributed for the Plan Year.

Decreased Merit or Pay Plan Adjustment – All or a portion of the Employees' annual merit or pay plan adjustment will be contributed as follows:

An Employee shall not have the right to discontinue or vary the rate of mandatory contributions of employee compensation.

3. Mandatory Employee Leave Contributions

The Employer will make mandatory contributions of accrued leave as follows (provide formula for determining mandatory employee leave contributions):

Accrued Sick Leave \_\_\_\_\_

Accrued Vacation Leave \_\_\_\_\_

Other (specify type of leave) Accrued Leave \_\_\_\_\_

An Employee shall not have the right to discontinue or vary the rate of mandatory leave contributions.

\* Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.



**B. The account will become 100% vested upon the death, disability, retirement\*, or attainment of benefit eligibility (as outlined in Section IX) by a Participant.**

\* Definition of retirement includes a separation from service component and is further defined by (check one):

The primary retirement plan of the Employer

Separation from service

Normal Retirement Age (NRA) defined at age \_\_\_\_\_

Retirement plus years of service - NRA defined by employer at age \_\_\_\_ and \_\_\_\_\_ years of service

Other \_\_\_\_\_

For vesting purpose, you must define "retirement" and enter the age and optionally a service period associated with the NRA so that assets are vested 100% for a participant. If NRA is left blank, it will default to age 62.

**C. Any period of service by a Participant prior to a rehire of the Participant by the Employer shall not count toward the vesting schedule outlined in A above.**

**VIII. Forfeiture Provisions**

If a Participant separates from service prior to full vesting, non-vested funds in the Participant's account shall be forfeited in accordance with the box checked under this section.

Upon the death of a Participant, surviving spouse, and all surviving eligible dependents (as outlined in Section XI), funds remaining in the Participant's account shall revert to the Trust in accordance with the box checked under this section.

If a Participant permanently opts out and waives future reimbursements, as allowed under IRS Notice 2013-54, all funds in the Participant's account at the time of waiver shall be forfeited in accordance with the box checked under this section.\*

Remain in the Trust to be reallocated among all Plan Participants with a balance as Direct Employer Contributions for the next and succeeding contribution cycle(s).\*\*

Remain in the Trust to be reallocated on an equal dollar basis among all Plan Participants with a balance.\*\*

Remain in the Trust to be reallocated among all Plan Participants based upon Participant account balances.\*\*

\* If the Employer's RHS Program does not limit eligibility to Participants who have separated from service, the Employer will be required to provide further direction to MissionSquare regarding the treatment of possible contributions that are required to be made following the Participant's waiver.

\*\* If the forfeited balance is small whereby the reallocation amount to each Plan Participant with a balance is minimal, the assets will revert to Employer's forfeiture account for further direction from the Employer. If there are Participants without a balance who should receive forfeiture assets, please provide alternative instructions to MissionSquare on the forfeiture reallocation notice.



**IX. Eligibility Requirements to Receive Medical Benefit Payments from the MissionSquare Retirement Health Savings Program**

**A. A Participant is eligible to receive benefits:**

At retirement only (also complete Section B.)

Definition of retirement:

Same as Section VII.B.

Other \_\_\_\_\_

× At separation from service with the following restrictions

× No restrictions

Other \_\_\_\_\_

**B. Termination prior to general benefit eligibility:** In a case where the general benefit eligibility as outlined in Section IX.A includes a retirement component, a Participant who separates from service of the Employer prior to retirement will be eligible to receive benefits:

× Immediately upon separation from service

Other \_\_\_\_\_

**C. A Participant who becomes totally and permanently disabled**

× As defined by the Social Security Administration

As defined by the Employer's primary retirement plan

Other \_\_\_\_\_

**will become immediately eligible to receive medical benefit payments from his/her account under the Employer's welfare benefits plan.**

**D. Upon the death of the Participant, benefits shall become payable as outlined in Section XI.**

**X. Permissible Medical Benefit Payments**

Select **one** option.

Benefits eligible for reimbursement under the plan are as allowed under IRC Section 213 other than (i) direct long-term care expenses, and (ii) expenses for medicines or drugs which are not prescribed drugs (other than insulin).

× Option 1: **All Medical Benefits\***

Option 2: **Insurance Premiums Only**

Option 3: **Select Expenses\*** you wish to cover under the Employer's welfare benefits plan:

Medical Insurance Premiums

Medical Out-of-Pocket Expenses

Medicare Part B Insurance Premiums

Medicare Part D Insurance Premiums

Medicare Supplemental Insurance Premiums

Prescription Drug Insurance Premiums

COBRA Insurance Premiums

Dental Insurance Premiums

Dental Out-of-Pocket Expenses

Vision Insurance Premiums

Vision Out-of-Pocket Expenses

Qualified Long-Term Care Insurance Premiums

Non-Prescription medications allowed under IRS guidance

Other qualifying medical expenses (describe) \_\_\_\_\_

\* Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.

**XI. Benefits After the Death of the Participant**

In the event of a Participant's death, the following shall apply:

**A. Surviving Spouse and/or Surviving Dependents**

Upon the death of a Participant, the surviving spouse and/or surviving eligible dependents (as defined in Section XII.D.) of the deceased Participant are immediately eligible to maintain the Participant's RHS account and utilize the remaining balance to fund eligible medical benefits specified in Section X above. The account balance may be reallocated\* by the surviving spouse or dependents.

\* Before investing, please read the applicable fund disclosure materials carefully for a complete summary of all fees, expenses, investment objectives and strategies, and risks. This information is available when you log in at [www.icmarc.org/login](http://www.icmarc.org/login), or upon request by calling (800) 326-7272.

If a Participant's account balance has not been fully utilized upon the death of the eligible spouse, the account balance may continue to be utilized to pay benefits of eligible dependents. Upon the death of all eligible dependents, the account will revert in accordance with the Employer's election under Section VIII of the *MissionSquare RHS Adoption Agreement*.

**B. No Surviving Spouse or Surviving Dependents**

If there are no living spouse or dependents at the time of death of the Participant, the account will revert in accordance with the Employer's election under Section VIII of the *MissionSquare RHS Adoption Agreement*.

**XII. The Plan Will Operate According to the Following Provisions:****A. Employer Responsibilities**

1. The Employer will submit all MissionSquare Retirement Health Savings Plan enrollment and contribution data via electronic submission.
2. The Employer will submit all MissionSquare Retirement Health Savings Plan Participant status updates or personal information updates via electronic submission. This includes but is not limited to termination notification, benefit eligibility, and vesting notification.

**B.** Participant account administration and asset-based fees will be paid through the redemption of Participant account shares, unless agreed upon otherwise in the Administrative Services Agreement.

**C.** Assignment of benefits is not permitted. Benefits will be paid only to the Participant, his/her survivors, the Employer, or an insurance provider (as allowed by the claims administrator). Payments to a third-party payee (e.g., medical service provider) are not permitted with the exception of reimbursement to the Employer or insurance provider (as allowed by the claims administrator).

**D.** An eligible dependent is (a) the Participant's lawful spouse, (b) the Participant's child under the age of 27, as defined by IRC Section 152(f)(1) and Internal Revenue Service Notice 2010-38, or (c) any other individual who is a person described in IRC Section 152(a), as clarified by Internal Revenue Service Notice 2004-79.

**E.** The Employer will be responsible for withholding, reporting and remitting any applicable taxes for payments which are deemed to be discriminatory under IRC Section 105(h), as outlined in the *MissionSquare Retirement Health Savings Employer Manual*.

**XIII. Employer Acknowledgements**

- A. The Employer hereby acknowledges it understands that failure to properly fill out this *MissionSquare Retirement Health Savings Adoption Agreement* may result in the loss of tax exemption of the Trust and/or loss of tax-deferred status for Employer contributions.
- B.  Check this box if you are including supporting documents that include plan provisions.

**Employer Signature**

By: \_\_\_\_\_ Date: 12/2/2022

Title: Township Manager

Attest: \_\_\_\_\_ Date: 12/2/2022

Title: Township Secretary

## VantageTrust II Multiple Collective Investment Funds Trust Participation Agreement

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

### RECITALS

1. The Trust Company maintains the Trust (including each separate investment fund established as a "Fund") under the Declaration of Trust dated January 1, 2015, and all other attachments thereto, as amended and in effect from time to time (the "Declaration of Trust"), as a medium for the collective investment and reinvestment of assets of certain tax-exempt, governmental pension and profit-sharing plans, and retiree welfare plans within the meaning of section 401(a)(24) of the Internal Revenue Code of 1986, as amended, and related trusts, and other eligible investors that become Participating Trusts under the Declaration of Trust (defined as "Eligible Trust" in the Declaration of Trust).
2. The Retirement Trust desires to become a Participating Trust as defined in the Declaration of Trust.

### DEFINITIONS

1. Unless otherwise specified herein, any capitalized word or phrase 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 MissionSquare Retirement, or its wholly owned subsidiary, MissionSquare Investments, investment advisors registered under the Investment Advisers Act of 1940, as an investment advisor, 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 acknowledges that the Trust Company has appointed MissionSquare Retirement to perform various administrative functions of the Funds. The Employer further acknowledges and accepts that the Trust Company is a wholly owned subsidiary of MissionSquare Retirement.
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 as defined in the Declaration of 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 (17) 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.
6. **Termination Restriction.** Employer acknowledges and agrees that, consistent with the terms applicable to the MissionSquare PLUS Fund as outlined in the Disclosure Memorandum, MissionSquare Investments retains full discretion to defer Employer-initiated withdrawals from the MissionSquare 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" under the Declaration of Trust. This means the Retirement Trust is any of the following:
    - i. a retirement, pension, profit-sharing, stock bonus, or other employee benefit trust that is exempt from Federal income taxation under Section 501(a) of the Code by reason of qualifying under Section 401(a) of the Code; or
    - ii. an eligible governmental plan trust or custodial account under Section 457(b) of the Code that is exempt under Section 457(g) of the Code; or
    - iii. Section 401(a)(24) governmental plans; or
    - iv. any common, collective, or commingled trust fund the assets of which consist solely of assets of eligible investors in a group trust under Revenue Ruling 81-100; or
    - v. an insurance company separate account (i) the assets of which consist solely of assets of eligible investors in a group trust under Revenue Ruling 81-100, (ii) with respect to which the insurance company maintaining the separate account has entered into a written arrangement with the Trust Company consistent with the requirements of Revenue Ruling 2011-1, and (iii) the assets of which are insulated from the claims of the insurance company's general creditors; or
    - vi. any other plan, trust, or other entity that is an eligible investor in a group trust under Revenue Ruling 81-100.
  - 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 MissionSquare PLUS Fund that are not based on instructions communicated in proper form by Retirement Plan participants; and
  - F. Employer will not use the MissionSquare 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 MissionSquare 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 the Trust 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 Trust 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 the Trust.
  - D. The Units of the Fund(s) have not been registered under the Securities Act of 1933, or the applicable securities laws of any states or other jurisdictions.
  - E. Neither the Trust nor any Fund is registered under the Investment Company Act of 1940 and investors are not entitled to the protections of that Act.
  - F. The Units of the Fund(s) 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 the Trust.

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 the Trust 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 the Trust 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 the Trust, 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 District of Columbia, and, except to the extent superseded by federal laws, all laws or rules of construction of the District of Columbia 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 Administrative Services Agreement ("ASA") 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 ("ERISA"), 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 MissionSquare Retirement  
Attn: Legal Department  
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 II Multiple Collective Investment Funds Trust**

By: VantageTrust Company, LLC, as Trustee,



By: Erica McFarquhar  
Assistant Secretary

**Plan/Retirement Trust:**

Plan/Retirement Trust Name	Plan Number

Plan/Retirement Trust Name	Plan Number

By: Lower Macungie Township	
Name of Employer or Fiduciary	Customer Number

By:	12/2/2022
Authorized Officer Signature	Date

Bruce Beitel, Township Manager

Printed Name and Title

3400 Brookside Road

Address Line 1

Macungie, PA 18062

Address Line 2

610-966-4343

Telephone Number

**Declaration of Trust of the**Lower Macungie Township

(Name of Employer)

**Integral Part Trust**Declaration of Trust made as of the 2 day of December, 2022, by and betweenthe (Name of Employer) Lower Macungie Township, (State) PAa (Type of Entity) Local Government(hereinafter referred to as the "Employer") and (Name or Title of Trustee) Township Manager

or its designee (hereinafter referred to as the "Trustee").

**Recitals**WHEREAS, the Employer is a political subdivision of the State of (state) Pennsylvania exempt from federal income tax under the Internal Revenue Code of 1986; and

WHEREAS, the Employer provides for the security and welfare of its eligible employees (hereinafter referred to as "Participants"), their Spouses and Dependents by the maintenance of one or more post-retirement welfare benefit plans, programs or arrangements which provide for life, sickness, medical, disability, severance and other similar benefits through insurance and self-funded reimbursement plans (collectively the "Plan"); and

WHEREAS, it is an essential function and integral part of the exempt activities of the Employer to assist Participants, their Spouses and Dependents by making contributions to and accumulating assets in the trust, a segregated fund, for post- retirement welfare benefits under the Plan; and

WHEREAS, the authority to conduct the general operation and administration of the Plan is vested in the Employer or its designee, who has the authority and shall be subject to the duties with respect to the trust specified in this sample Declaration of Trust; and

WHEREAS, the Employer wishes to establish this trust to hold assets and income of the Plan for the exclusive benefit of Plan Participants, their Spouses and Dependents;

NOW, THEREFORE, the parties hereto do hereby establish this trust, by executing the sample

Declaration of Trust of the (Name of Employer) Lower Macungie Township

Integral Part Trust (hereinafter referred to as the "Trust"), and agree that the following constitute the sample Declaration of Trust (hereinafter referred to as the "Declaration"):

## Article I

### Definitions

- 1.1 Definitions. For the purposes of this Declaration, the following terms shall have the respective meanings set forth below unless otherwise expressly provided.
- (a) **"Account"** means the individual recordkeeping account maintained under the Plan to record the interest of a Participant in the Plan in accordance with Section 7.3.
  - (b) **"Administrator"** means the Employer or the entity designated by the Employer to carry out administrative services as are necessary to implement the Plan.
  - (c) **"Beneficiary"** means the Spouse and Dependents, who will receive any benefits payable hereunder in the event of the Participant's death. In the case where there is no Spouse or Dependents, any amount of contributions, plus accrued earnings thereon, remaining in the Account must revert in accordance with the Employer's election under Section VIII of the MissionSquare RHS Adoption Agreement.
  - (d) **"Code"** means the Internal Revenue Code of 1986, as amended from time to time.
  - (e) **"Dependent"** means (a) the Participant's lawful spouse, (b) the Participant's child under the age of 27, as defined by IRC Section 152(f)(1) and Internal Revenue Service Notice 2010-38, or (c) any other individual who is a person described in IRC Section 152(a), as clarified by Internal Revenue Service Notice 2004-79.
  - (f) **"Investment Fund"** means any separate investment option or vehicle selected by the Employer in which all or a portion of the Trust assets may be separately invested as herein provided. The Trustee shall not be required to select any Investment Fund.
  - (g) **"Nonforfeitable Interest"** means the interest of the Participant or the Participant's Spouse and Dependent (whichever is applicable) in the percentage of Participant's Employer's contribution which has vested pursuant to the vesting schedule specified in the Employer's Plan. A Participant shall, at all times, have a one hundred percent (100%) Nonforfeitable Interest in the Participant's own contributions.
  - (h) **"Spouse"** means the Participant's lawful spouse as determined under the laws of the jurisdiction in which the Participant was married.
  - (i) **"Trust"** means the trust established by this Declaration.
  - (j) **"Trustee"** means the Employer or the person or persons appointed by the Employer to serve in that capacity.

## Article II

### Establishment of Trust

- 2.1 The Trust is hereby established as of the date set forth above for the exclusive benefit of Participants, their Spouses and Dependents.

### Article III

#### Construction

- 3.1 This Trust and its validity, construction and effect shall be governed by the laws of the State of Pennsylvania.
- 3.2 Pronouns and other similar words used herein in the masculine gender shall be read as the feminine gender where appropriate, and the singular form of words shall be read as the plural where appropriate.
- 3.3 If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions, and such provisions shall be construed to effectuate the purpose of this Trust.

### Article IV

#### Benefits

- 4.1 **Benefits.** This Trust may provide benefits to the Participant, the Participant's Spouse and Dependents pursuant to the terms of the Plan.
- 4.2 **Form of Benefits.** This Trust may reimburse the Participant, his Spouse and Dependents for insurance premiums or other payments expended for permissible benefits described under the Plan. This Trust may reimburse the Employer, or the Administrator for insurance premiums.

### Article V

#### General Duties

- 5.1 It shall be the duty of the Trustee to hold title to assets held in respect of the Plan in the Trustee's name as directed by the Employer or its designees in writing. The Trustee shall not be under any duty to compute the amount of contributions to be paid by the Employer or to take any steps to collect such amounts as may be due to be held in trust under the Plan. The Trustee shall not be responsible for the custody, investment, safekeeping or disposition of any assets comprising the Trust, to the extent such functions are performed by the Employer or the Administrator, or both.
- 5.2 It shall be the duty of the Employer, subject to the provisions of the Plan, to pay over to the Administrator or other person designated hereunder from time to time the Employer's contributions and Participants' contributions under the Plan and to inform the Trustee in writing as to the identity and value of the assets titled in the Trustee's name hereunder and to keep accurate books and records with respect to the Participants of the Plan.

### Article VI

#### Investments

- 6.1 The Employer may appoint one or more investment managers to manage and control all or part of the assets of the Trust and the Employer shall notify the Trustee in writing of any such appointment.
- 6.2 The Trustee shall not have any discretion or authority with regard to the investment of the Trust and shall act solely as a directed Trustee of the assets of which it holds title. To the extent directed by the Employer (or Participants or their Spouses and Dependents to the extent provided herein)

- the Trustee is authorized and empowered with the following powers, rights and duties, each of which the Trustee shall exercise in a nondiscretionary manner:
- (a) To cause stocks, bonds, securities, or other investments to be registered in its name as Trustee or in the name of a nominee, or to take and keep the same unregistered;
  - (b) To employ such agents and legal counsel as it deems advisable or proper in connection with its duties and to pay such agents and legal counsel a reasonable fee. The Trustee shall not be liable for the acts of such agents and counsel or for the acts done in good faith and in reliance upon the advice of such agents and legal counsel, provided it has used reasonable care in selecting such agents and legal counsel;
  - (c) To exercise where applicable and appropriate any rights of ownership in any contracts of insurance in which any part of the Trust may be invested and to pay the premiums thereon; and
  - (d) At the direction of the Employer (or Participants, their Spouses, their Dependents, or the investment manager, as the case may be) to sell, write options on, convey or transfer, invest and reinvest any part thereof in each and every kind of property, whether real, personal or mixed, tangible or intangible, whether income or non-income producing and wherever situated, including but not limited to, time deposits (including time deposits in the Trustee or its affiliates, or any successor thereto, if the deposits bear a reasonable rate of interest), shares of common and preferred stock, mortgages, bonds, leases, notes, debentures, equipment or collateral trust certificates, rights, warrants, convertible or exchangeable securities and other corporate, individual or government securities or obligations, annuity, retirement or other insurance contracts, mutual funds (including funds for which the Trustee or its affiliates serve as investment advisor, custodian or in a similar or related capacity), or in units of any other common, collective or commingled trust fund.
- 6.3 Notwithstanding anything to the contrary herein, the assets of the Plan shall be held by the Trustee as title holder only. Persons holding custody or possession of assets titled to the Trust shall include the Employer, the Administrator, the investment manager, and any agents and subagents, but not the Trustee. The Trustee shall not be responsible or liable for any loss or expense which may arise from or result from compliance with any direction from the Employer, the Administrator, the investment manager, or such agents to take title to any assets nor shall the Trustee be responsible or liable for any loss or expense which may result from the Trustee's refusal or failure to comply with any direction to hold title, except if the same shall involve or result from the Trustee's negligence or intentional misconduct. The Trustee may refuse to comply with any direction from the Employer, the Administrator, the investment manager, or such agents in the event that the Trustee, in its sole and absolute discretion, deems such direction illegal.
- 6.4 The Employer hereby indemnifies and holds the Trustee harmless from any and all actions, claims, demands, liabilities, losses, damages or reasonable expenses of whatsoever kind and nature in connection with or arising out of (i) any action taken or omitted in good faith by the Trustee in accordance with the directions of the Employer or its agents and subagents hereunder, or (ii) any disbursements of any part of the Trust made by the Trustee in accordance with the directions of the Employer, or (iii) any action taken by or omitted in good faith by the Trustee with respect to an investment managed by an investment manager in accordance with any direction of the investment manager or any inaction with respect to any such investment in the absence of directions from the investment manager. Notwithstanding anything to the contrary herein, the Employer shall have no responsibility to the Trustee under the foregoing indemnification if the Trustee fails negligently, intentionally or recklessly to perform any of the duties undertaken by it under the provisions of this Trust.
- 6.5 Notwithstanding anything to the contrary herein, the Employer or, if so designated by the Employer, the Administrator and the investment manager or another agent of the Employer, will

be responsible for valuing all assets so acquired for all purposes of the Trust and of holding, investing, trading and disposing of the same. The Employer will indemnify and hold the Trustee harmless against any and all claims, actions, demands, liabilities, losses, damages, or expenses of whatsoever kind and nature, which arise from or are related to any use of such valuation by the Trustee or holding, trading, or disposition of such assets.

- 6.6 The Trustee shall and hereby does indemnify and hold harmless the Employer from any and all actions, claims, demands, liabilities, losses, damages and reasonable expenses of whatsoever kind and nature in connection with or arising out of (a) the Trustee's failure to follow the directions of the Employer, the Administrator, the investment manager, or agents thereof, except as permitted by the last sentence of Section 6.3 above; (b) any disbursements made without the direction of the Employer, the Administrator, the investment manager or agents thereof; and (c) the Trustee's negligence, willful misconduct, or recklessness with respect to the Trustee's duties under this Declaration.

## Article VII

### Contributions

- 7.1 **Employer Contributions.** The Employer shall contribute to the Trust such amounts as specified in the Plan or by resolution.
- 7.2 **Accrued Leave.** Contributions up to an amount equal to the value of accrued sick leave, vacation leave, or other type of accrued leave, as permitted under the Plan. The Employer's Plan must provide a formula for determining the value of the Participant's contribution of accrued leave. The Employer's Plan must contain a forfeiture provision that will prevent Participants from receiving the accrued leave in cash in lieu of a contribution to the Trust.
- 7.3 **Accounts.** Employer contributions, including mandatory Participant contributions, and contributions of accrued leave, all investment income and realized and unrealized gains and losses, and forfeitures allocable thereto will be deposited into an Account in the name of the Participant for the exclusive benefit of the Participant, his Spouse and Dependents. The assets in each Participant's Account may be invested in Investment Funds as directed by the Participant (or, after the Participant's death, by the Spouse or Dependents) or the Employer, as required under the Plan, from among the Investment Funds selected by the Employer.
- 7.4 **Receipt of Contributions.** The Employer or, if so designated by the Employer, the Administrator or investment manager or another agent of the Employer, shall receive all contributions paid or delivered to it hereunder and shall hold, invest, reinvest and administer such contributions pursuant to this Declaration, without distinction between principal and income. The Trustee shall not be responsible for the calculation or collection of any contribution under the Plan, but shall hold title to property received in respect of the Plan in the Trustee's name as directed by the Employer or its designee pursuant to this Declaration.
- 7.5 No amount in any Account maintained under this Trust shall be subject to transfer, assignment, or alienation, whether voluntary or involuntary, in favor of any creditor, transferee, or assignee of the Employer, the Trustee, any Participant, his Spouse, or Dependent.
- 7.6 Upon the satisfaction of all liabilities under the Plan to provide such benefits, any amount of Employer contributions, plus accrued earnings thereon, remaining in such separate Accounts must, under the terms of the Plan, be returned to the Employer.

## Article VIII

### Other Plans

If the Employer hereafter adopts one or more other plans providing life, sickness, accident, medical, disability, severance, or other benefits and designates the Trust hereby created as part of such other plan, the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer shall, subject to the terms of this Declaration, accept and hold hereunder contributions to such other plans. In that event (a) the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer, may commingle for investment purposes the contributions received under such other plan or plans with the contributions previously received by the Trust, but the books and records of the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer, shall at all times show the portion of the Trust Fund allocable to each plan; (b) the term "Plan" as used herein shall be deemed to refer separately to each other plan; and (c) the term "Employer" as used herein shall be deemed to refer to the person or group of persons which have been designated by the terms of such other plans as having the authority to control and manage the operation and administration of such other plan.

## Article IX

### Disbursements and Expenses

- 9.1 The Employer or its designee shall make such payments from the Trust at such time to such persons and in such amounts as shall be authorized by the provisions of the Plan provided, however, that no payment shall be made, either during the existence of or upon the discontinuance of the Plan (subject to Section 7.6), which would cause any part of the Trust to be used for or diverted to purposes other than the exclusive benefit of the Participants, their Spouses and Dependents pursuant to the provisions of the Plan.
- 9.2 All payments of benefits under the Plan shall be made exclusively from the assets of the Accounts of the Participants to whom or to whose Spouse or Dependents such payments are to be made, and no person shall be entitled to look to any other source for such payments.
- 9.3 The Employer, Trustee and Administrator may be reimbursed for expenses reasonably incurred by them in the administration of the Trust. All such expenses, including, without limitation, reasonable fees of accountants and legal counsel to the extent not otherwise reimbursed, shall constitute a charge against and shall be paid from the Trust upon the direction of the Employer.

## Article X

### Accounting

- 10.1 The Trustee shall not be required to keep accounts of the investments, receipts, disbursements, and other transactions of the Trust, except as necessary to perform its title-holding function hereunder. All accounts, books, and records relating thereto shall be maintained by the Employer or its designee.
- 10.2 As promptly as possible following the close of each year, the Trustee shall file with the Employer a written account setting forth assets titled to the Trust as reported to the Trustee by the Employer or its designee.



## Article XI

### Miscellaneous Provisions

- 11.1 Neither the Trustee nor any affiliate thereof shall be required to give any bond or to qualify before, be appointed by, or account to any court of law in the exercise of its powers hereunder.
- 11.2 No person transferring title or receiving a transfer of title from the Trustee shall be obligated to look to the propriety of the acts of the Trustee in connection therewith.
- 11.3 The Employer may engage the Trustee as its agent in the performance of any duties required of the Employer under the Plan, but such agency shall not be deemed to increase the responsibility or liability of the Trustee under this Declaration.
- 11.4 The Employer shall have the right at all reasonable times during the term of this Declaration and for three (3) years after the termination of this Declaration to examine, audit, inspect, review, extract information from, and copy all books, records, accounts, and other documents of the Trustee relating to this Declaration and the Trustees' performance hereunder.

## Article XII

### Amendment and Termination

- 12.1 The Employer reserves the right to alter, amend, or (subject to Section 9.1) terminate this Declaration at any time for any reason without the consent of the Trustee or any other person, provided that no amendment affecting the rights, duties, or responsibilities of the Trustee shall be adopted without the execution of the Trustee to the amendment. Any such amendment shall become effective as of the date provided in the amendment, if requiring the Trustee's execution, or on delivery of the amendment to the Trustee, if the Trustee's execution is not required.
- 12.2 Upon termination of this Declaration and upon the satisfaction of all liabilities under the Plan to provide such benefits, any amount of Employer contributions, plus accrued earnings thereon, remaining in such separate Accounts must, under the terms of the Plan, be returned to the Employer.

## Article XIII

### Successor Trustees

- 13.1 The Employer reserves the right to discharge the Trustee for any or no reason, at any time by giving ninety (90) days' advance written notice.
- 13.2 The Trustee reserves the right to resign at any time by giving ninety (90) days' advance written notice to the Employer.
- 13.3 In the event of discharge or resignation of the Trustee, the Employer may appoint a successor Trustee who shall succeed to all rights, duties, and responsibilities of the former Trustee under this Declaration, and the terminated Trustee shall be deemed discharged of all duties under this Declaration and responsibilities for the Trust.

**Article XIV**

Limited Effect of Plan and Trust

Neither the establishment of the Plan and the Trust or any modification thereof, the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the Administrator, the Employer or any officer or employee thereof, except as may otherwise be expressly provided in the Plan or in this Declaration.

**Article XV**

Protective Clause

Neither the Administrator, the Employer, nor the Trustee shall be responsible for the validity of any contract of insurance or other arrangement maintained in connection with the Plan, or for the failure on the part of the insurer or provider to make payments provided by such contract, or for the action of any person which may delay payment or render a contract void or unenforceable in whole or in part.

IN WITNESS WHEREOF, the Employer and the Trustee have executed this Declaration by their respective duly authorized officers, as of the date first hereinabove mentioned.

**EMPLOYER:**

By: Bruce Beitel

Title: Township Manager

**TRUSTEE(S):**

By: Bruce Beitel

Title: Township Manager

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

---

Lower Macungie Township

---

Name of Employer

**Retiree Welfare Benefits Plan**

---

## Retiree Welfare Benefits Plan

### Table of Contents

#### Article I Preamble

- 1.01 Establishment of Plan
- 1.02 Purpose of Plan

#### Article II Definitions

- 2.01 "Benefits"
- 2.02 "Code"
- 2.03 "Dependent"
- 2.04 "Eligible Medical or Dental Expenses"
- 2.05 "Employer"
- 2.06 "Entry Date"
- 2.07 "Participant"
- 2.08 "Plan Administrator"
- 2.09 "Plan Year"
- 2.10 "Retiree"
- 2.11 "Spouse"

#### Article III Eligibility

- 3.01 General Requirements

#### Article IV Amount of Benefits

- 4.01 Annual Benefits Provided by the Plan
- 4.02 Cost of Coverage

#### Article V Payment of Benefits

- 5.01 Eligibility for Benefits
- 5.02 Claims for Benefits

#### Article VI Plan Administration

- 6.01 Allocation of Authority
- 6.02 Provision for Third-Party Plan Service Providers
- 6.03 Several Fiduciary Liability
- 6.04 Compensation of Plan Administrator
- 6.05 Bonding
- 6.06 Payment of Administrative Expenses
- 6.07 Timeliness of Payments
- 6.08 Annual Statements

#### Article VII Claims Procedure

- 7.01 Procedure if Benefits are Denied Under the Plan
- 7.02 Requirement for Written Notice of Claim Denial
- 7.03 Right to Request Hearing on Benefit Denial
- 7.04 Disposition of Disputed Claims
- 7.05 Preservation of Other Remedies

#### Article VIII Amendment or Termination of Plan

- 8.01 Permanency
- 8.02 Employer's Right to Amend
- 8.03 Employer's Right to Terminate

#### Article IX General Provisions

- 9.01 No Employment Rights Conferred
- 9.02 Payments to Survivor
- 9.03 Nonalienation of Benefits
- 9.04 Mental or Physical Incompetency
- 9.05 Inability to Locate Payee
- 9.06 Requirement of Proper Forms
- 9.07 Source of Payments
- 9.08 Tax Effects
- 9.09 Multiple Functions
- 9.10 Gender and Number
- 9.11 Headings
- 9.12 Applicable Laws
- 9.13 Severability

Lower Macungie Township

---

(Name of Employer)

**Retiree Welfare Benefits Plan**

**Article I**

Preamble

THIS INSTRUMENT made and published by Lower Macungie Township  
(hereinafter called "Employer") on the 2 day of December, 2022  
creates the Lower Macungie Township Office Employee Retiree Welfare Benefits Plan ("Plan"), as follows:

**1.01 Establishment of Plan**

The Employer named above hereby establishes a Retiree Welfare Benefits Plan as of the  
2 day of December, 2022.

**1.02 Purpose of Plan**

This Plan has been established to reimburse the eligible Retirees of the Employer for medical and dental expenses incurred by them, their Spouses and Dependents through the Employer's MissionSquare Retirement Health Savings (RHS) Program.

**ARTICLE II**

Definitions

The following words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context:

- 2.01 "Benefits"** means any amounts paid to a Participant, Spouse or Dependents in the Plan as reimbursement for Eligible Medical and Dental Expenses incurred by the Participant during a Plan Year by him, his Spouse or his Dependents.
- 2.02 "Code"** means the Internal Revenue Code of 1986, as amended.
- 2.03 "Dependent"** means any individual who is a dependent of the Participant within the meaning of Code Sec. 152, as amplified by Internal Revenue Service Notice 2004-79, 2004-49 I.R.B.898 and Internal Revenue Service Notice 2010-38.
- 2.04 "Eligible Medical Expenses or Dental Expenses"** means those expenses designated by the Employer as eligible for reimbursement in the MissionSquare Retirement Health Savings Adoption Agreement.
- 2.05 "Employer"** means the unit of state or local government creating this Plan, or any affiliate or successor thereof that likewise adopts this Plan.
- 2.06 "Entry Date"** means the first day the Participant meets the eligibility requirements of Article III as of such Date.

- 2.07 "Participant"** means any Retiree who has met the eligibility requirements set forth in Article III.
- 2.08 "Plan Administrator"** means the Employer or other person appointed by the Employer who has the authority and responsibility to manage and direct the operation and administration of the Plan.
- 2.09 "Plan Year"** means the annual accounting period of the Plan, which begins on the 1st day of January, 2022, and ends on the 31st day of December 202022, with respect to the first Plan Year, and thereafter as long as this Plan remains in effect, the period that begins on January 1st, and ends on month/day December 31st.
- 2.10 "Retiree"** means any individual who, while in the service of the Employer, was considered to be in a legal employer-employee relationship with the Employer for federal withholding tax purposes, and who was part of the classification of employees designated as covered by the Employer's MissionSquare Retirement Health Savings Program.
- 2.11 "Spouse"** means the Participant's lawful spouse as determined under the laws of the jurisdiction in which the Participant was married. All other defined terms in this Plan shall have the meanings specified in the various Articles of the Plan in which they appear.

## Article III

### Eligibility

Each Retiree who meets the eligibility requirements outlined in the Employer's MissionSquare Retirement Health Savings Adoption Agreement shall be eligible to participate in this Plan.

## Article IV

### Amount of Benefits

#### 4.01 Annual Benefits Provided by the Plan

Each Participant shall be entitled to reimbursement for his documented, Eligible Medical Expenses incurred during the Plan Year in an annual amount not to exceed the participant's account balance under the Plan.

#### 4.02 Cost of Coverage

The expense of providing the benefits set out in Section 4.01 shall be contributed as outlined in the Employer's MissionSquare Retirement Health Savings Adoption Agreement.

## Article V

### Payment of Benefits

#### 5.01 Eligibility for Benefits

- a) Each Participant in the Plan shall be entitled to a benefit hereunder for all Eligible Medical Expenses incurred by the Participant on or after the Entry Date of his or her participation (and after the effective date of the Plan), subject to the limitations contained in this Article V, regardless whether the mental or physical condition for which the Participant makes application for benefits under this Plan was detected, diagnosed, or treated before the Participant became covered by the Plan.

- b) In order to be eligible for benefits, the Participant must separate from service or separate from service and meet the benefit eligibility criteria outlined in the Employer's MissionSquare Retirement Health Savings Plan Adoption Agreement.
- c) A Participant who becomes totally and permanently disabled (as defined by the Social Security Administration, by the Employer's primary retirement plan, or otherwise by the Employer) will become immediately eligible to receive medical benefit payments from the Plan. Pursuant to Section 9.02 of this Plan and Section XI of the Employer's MissionSquare Retirement Health Savings Adoption Agreement, the surviving Spouse and Dependents shall become immediately eligible to receive or to continue receiving medical benefit payments from the Plan upon the death of the Participant.

## **5.02 Claims for Benefits**

No benefit shall be paid hereunder unless a Participant, his Spouse or Dependent has first submitted a written claim for benefits to the Plan Administrator on a form specified by the Plan Administrator, and pursuant to the procedures set out in Article VI, below. Upon receipt of a properly documented claim, the Plan Administrator shall pay the Participant, his Spouse or Dependent the benefits provided under this Plan as soon as is administratively feasible.

## **Article VI**

### **Plan Administration**

#### **6.01 Allocation of Authority**

The Employer shall control and manage the operation and Administration of the Plan. The Employer shall have the exclusive right to interpret the Plan and to decide all matters arising thereunder, including the right to remedy possible ambiguities, inconsistencies, or omissions. All determinations of the Employer with respect to any matter hereunder shall be conclusive and binding on all persons.

Without limiting the generality of the foregoing, the Employer shall have the following powers and duties:

- a) To decide on questions concerning the Plan and the eligibility of any Employee to participate in the Plan, in accordance with the provisions of the Plan;
- b) To determine the amount of benefits that shall be payable to any person in accordance with the provisions of the Plan; to inform the Plan Administrator, as appropriate, of the amount of such Benefits; and to provide a full and fair review to any Participant whose claim for benefits has been denied in whole or in part; and
- c) To designate other persons to carry out any duty or power which would otherwise be a fiduciary responsibility of the Plan Administrator, under the terms of the Plan.
- d) To require any person to furnish such reasonable information as it may request for the purpose of the proper administration of the Plan as a condition to receiving any benefits under the Plan;
- e) To make and enforce such rules and regulations and prescribe the use of such forms as he shall deem necessary for the efficient administration of the Plan.

#### **6.02 Provision for Third-Party Plan Service Providers**

The Plan Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection with operation of the Plan. The Plan

Administrator, the Employer (and any person to whom it may delegate any duty or power in connection with the administration of the Plan), and all persons connected therewith may rely upon all tables, valuations, certificates, reports and opinions furnished by any duly appointed actuary, accountant, (including Employees who are actuaries or accountants), consultant, third party administration service provider, legal counsel, or other specialist, and they shall be fully protected in respect to any action taken or permitted in good faith in reliance thereon. All actions so taken or permitted shall be conclusive and binding as to all persons.

### **6.03 Several Fiduciary Liability**

To the extent permitted by law, neither the Plan Administrator nor any other person shall incur any liability for any acts or for failure to act except for his own willful misconduct or willful breach of this Plan.

### **6.04 Compensation of Plan Administrator**

Unless otherwise agreed to by the Employer, the Plan Administrator shall serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of his duties shall be paid by the Employer.

### **6.05 Bonding**

Unless otherwise determined by the Employer, or unless required by any Federal or State law, the Plan Administrator shall not be required to give any bond or other security in any jurisdiction in connection with the administration of this Plan.

### **6.06 Payment of Administrative Expenses**

All reasonable expenses incurred in administering the Plan, including but not limited to administrative fees and expenses owing to any third party administrative service provider, actuary, consultant, accountant, attorney, specialist, or other person or organization that may be employed by the Plan Administrator in connection with the administration thereof, shall be paid by the Employer, provided, however that each Participant shall bear the monthly cost (if any) charged by a third party administrator for maintenance of his Benefit Account unless otherwise paid by the Employer.

### **6.07 Timeliness of Payment for Benefits**

Payment for Benefits shall be made as soon as administratively feasible after the required forms and documentation have been received by the Plan Administrator.

### **6.08 Annual Statements**

The Plan Administrator shall furnish each Participant with an annual statement of his medical expense reimbursement account within ninety (90) days after the close of each Plan Year.

## **Article VII**

### **Claims Procedure**

#### **7.01 Procedure if Benefits are Denied Under the Plan**

Any Participant, Spouse, Dependent, or his duly authorized representative may file a claim for a plan benefit to which the claimant believes that he is entitled. Such a claim must be in writing on a form provided by the Plan Administrator and delivered to the Plan Administrator, in person or by mail, postage paid. Within thirty (30) days after receipt of such claim, the Plan Administrator



shall send to the claimant, by mail, postage prepaid, notice of the granting or denying, in whole or in part, of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed forty-five (45) days from the end of the initial period. If such extension is necessary, the claimant will be given a written notice to this effect prior to the expiration of the initial 30-day period. If such extension is necessary due to a failure of the Participant, Spouse or Dependent to submit the information necessary to decide the claim, the notice of extension shall describe the required information and the claimant shall be afforded at least forty-five (45) days from receipt of the notice within which to provide such information. The Plan Administrator shall have full discretion to deny or grant a claim in whole or in part. If notice of the denial of a claim is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to review pursuant to Sections 7.03 and 7.04.

#### **7.02 Requirement for Written Notice of Claim Denial**

The Plan Administrator shall provide, to every claimant who is denied a claim for benefits, written notice setting forth in a manner calculated to be understood by the claimant:

- a) The specific reason or reasons for the denial;
- b) Specific reference to pertinent Plan provisions, including references to the MissionSquare Retirement Health Savings Adoption Agreement, on which the denial is based;
- c) A description of any additional material of information necessary for the claimant to perfect the claim and an explanation of why such material is necessary; and
- d) An explanation of the Plan's claim review procedure.

#### **7.03 Right to Request Hearing on Benefit Denial**

Within one-hundred eighty (180) days after the receipt by the claimant of written notification of the denial (in whole or in part) of his claim, the claimant or his duly authorized representative, upon written application to the Plan Administrator, in person or by certified mail, postage prepaid, may request a review of such denial, may review pertinent documents, and may submit issues and comments in writing.

#### **7.04 Disposition of Disputed Claims**

Upon its receipt of notice of a request for review, the Plan Administrator shall make a prompt decision on the review. The decision on review 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 decision on review shall be made not later than sixty (60) days after the Plan Administrator's receipt of a request for a review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered not later than one hundred-twenty (120) days after receipt of a request for review. If an extension is necessary, the claimant shall be given written notice of the extension prior to the expiration of the initial sixty (60) day period. If notice of the decision on the review is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to legal remedy pursuant to Section 7.05.

#### **7.05 Preservation of Other Remedies**

After exhaustion of the claims procedures provided under this Plan, nothing shall prevent any person from pursuing any other legal or equitable remedy otherwise available.

## **Article VIII**

### Amendment or Termination of Plan

#### **8.01 Permanency**

While the Employer fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the Employer's right to amend or terminate the Plan, as provided in Sections 8.02 and 8.03, below.

#### **8.02 Employer's Right to Amend**

The Employer reserves the right to amend the Plan at any time and from time to time, and retroactively if deemed necessary or appropriate to meet the requirements of the Code, or any similar provisions of subsequent revenue or other laws, or the rules and regulations in effect under any of such laws or to conform with governmental regulations or other policies, to modify or amend in whole or in part any or all of the provisions of the Plan.

#### **8.03 Employer's Right to Terminate**

The Employer reserves the right to discontinue or terminate the Plan at any time without prejudice.

## **Article IX**

### General Provisions

#### **9.01 No Employment Rights Conferred**

Neither this Plan nor any action taken with respect to it shall confer upon any person the right to be continued in the employment of the Employer.

#### **9.02 Payments After Death of Participant**

Any benefits otherwise payable to a Participant following the date of death of such Participant shall be paid as outlined in Section XI of the Employer's MissionSquare Retirement Health Savings Plan Adoption Agreement.

#### **9.03 Nonalienation of Benefits**

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so shall be void. No benefit under the Plan shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person. If any person entitled to benefits under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit under the Plan, or if any attempt is made to subject any such benefit to the debts, contracts, liabilities, engagements or torts of the person entitled to any such benefit, except as specifically provided in the Plan, then such benefit shall cease and terminate in the discretion of the Plan Administrator, and he may hold or apply the same or any part thereof to the benefit of any dependent of such person, in such manner and proportion as he may deem proper.

**9.04 Mental or Physical Incompetency**

If the Plan Administrator determines that any person entitled to payments under the Plan is incompetent by reason of physical or mental disability, the Plan Administrator may cause all payments thereafter becoming due to such person to be made to any other person for the benefit of the Participant, without responsibility to follow the application of amounts so paid. Payments made pursuant to this Section shall completely discharge the Plan Administrator and the Employer.

**9.05 Inability to Locate Payee**

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because he cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person (including a notice of the payment so due mailed to the last known address of such Participant or other person as shown on the records of the Employer), such payment and all subsequent payments otherwise due to such Participant or other person shall be escheated under the laws of the State of the last known address of the Participant or other persons eligible for benefits.

**9.06 Requirement of Proper Forms**

All communications in connection with the Plan made by a Participant shall become effective only when duly executed on forms provided by and filed with the Plan Administrator.

**9.07 Source of Payments**

The Employer shall be the sole source of benefits under the Plan. No Employee, Spouse or Dependents shall have any right to, or interest in, any assets of the Employer upon termination of employment or otherwise, except as provided from time to time under the Plan, and then only to the extent of the benefits payable under the Plan to such Employee, Spouse or Dependents.

**9.08 Tax Effects**

Neither the Employer nor the Plan Administrator makes any warranty or other representation as to whether any payments received by a Participant, his Spouse or Dependents hereunder will be treated as includible in gross income for federal or state income tax purposes.

**9.09 Multiple Functions**

Any person or group of persons may serve in more than one fiduciary capacity with respect to the Plan.

**9.10 Gender and Number**

Masculine or feminine pronouns include all genders, and the singular shall include the plural, unless indicated otherwise by the context.

**9.11 Headings**

The Article and Section headings contained herein are for convenience of reference only, and shall not be construed as defining or limiting the matter contained thereunder.

**9.12 Applicable Laws**

The provisions of the Plan shall be construed, administered and enforced according to the laws of the State of Pennsylvania.

**9.13 Severability**

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder thereof shall be given effect to the maximum extent possible.

IN WITNESS WHEREOF, we have executed this Plan Agreement the date and year first written above.

EMPLOYER

By: \_\_\_\_\_ Title: Township Manager  
Signature of Authorized Official

ATTEST (if applicable)

By: \_\_\_\_\_ Title: Township Secretary  
Signature of Attestor

**EXHIBIT B**

The Township shall make a one-time, lump sum contribution to a retirement health savings (“RHS”) account for each current Office Employee as follows:

**Age and years of service ineligible**

Angela Boyko -	\$6,100
Donna Fowler -	\$6,100
Kelley Huber -	\$6,100
Maureen Lang -	\$6,100
Lorraine McKenna-Lelko -	\$6,100

**Age and years of service eligible \***

Kimberly Boyer -	\$18,100
Rebecca Bretzik -	\$18,100
Kerstin Goff -	\$18,100
Amanda Graves -	\$18,100
Kim Molnar -	\$18,100
Debra Ward -	\$18,100

\* These individuals either have qualified or could potentially qualify for the prior benefit based on age and years of service

# **EXHIBIT “B”**

# **ADMINISTRATIVE SERVICES AGREEMENT**

for

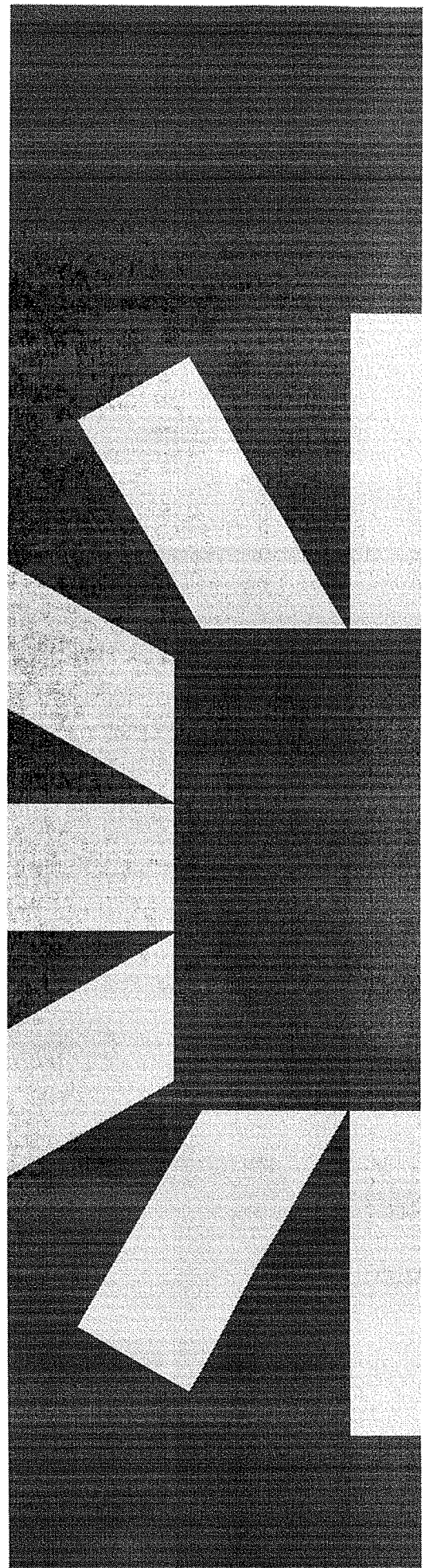
**Lower Macungie Township**

---

Type: **RHS**

Account Number: **800369**

**MissionSquare**  
RETIREMENT



## **ADMINISTRATIVE SERVICES AGREEMENT**

This Agreement, made as of this day, (please enter date) \_\_\_\_\_ (herein referred to as the "Inception Date"), between The International City Management Association Retirement Corporation doing business as MissionSquare Retirement ("MissionSquare"), a nonprofit corporation organized and existing under the laws of the State of Delaware; and the **Lower Macungie Township** ("Employer") a local governmental instrumentality organized and existing under the laws of the Commonwealth of **Pennsylvania** with an office at **3400 Brookside Road, Macungie, Pennsylvania 18062**.

### **RECITALS**

Employer acts as a public plan sponsor for a retiree health plan with responsibility to obtain investment alternatives and services for employees participating in that plan;

Employer desires to make the Retirement Health Savings ("RHS") Program provided by MissionSquare available to its employees through the Employer's integral part trust ("Trust") and the Employer's welfare benefits plan ("Plan");

MissionSquare, or its wholly owned subsidiary, acts as investment adviser to VantageTrust Company, LLC ("VTC"), the Trustee of VantageTrust II Multiple Collective Investment Funds Trust ("VantageTrust II);

VantageTrust II is a group trust established and maintained in accordance with New Hampshire Revised Statutes Annotated section 391:1 and Internal Revenue Service Revenue Rulings 81-100 and 2011-1, which provides for the collective investment and reinvestment of assets of certain tax-exempt, governmental pension and profit sharing plans, and retiree welfare plans, and other eligible investors;

VTC makes a series of separate funds (the "MSQ Funds Class S") available through VantageTrust II for the investment of plan assets as referenced in the Declaration of Trust and Disclosure Memorandum ("Disclosure Materials");

The MSQ Funds Class S are available only through adoption of VantageTrust II; and

MissionSquare provides a complete offering of services to public employers for the operation of employee retirement and retiree health savings plans including, but not limited to, communications concerning investment alternatives, account maintenance, account record-keeping, investment and tax reporting, form processing, and benefit disbursement.



## AGREEMENTS

### 1. Acceptance of RHS Program

Employer agrees to make the RHS Program provided by MissionSquare available to its employees. The details of the RHS Program shall be as mutually agreed between the Employer and MissionSquare, and in general shall be as set forth in the RHS Program materials developed by MissionSquare and provided to Employer. The RHS Program materials are hereby incorporated by reference and made a part of this Agreement, except that Employer and MissionSquare may from time to time mutually agree in writing to terms that vary from the RHS Program materials. RHS Program materials shall include the *VantageCare RHS Employer Manual*, available electronically through the plan sponsor website upon adoption of the RHS Program.

### 2 Appointment of MissionSquare

Employer hereby appoints MissionSquare as the exclusive Recordkeeper for the RHS Plan to perform all non-discretionary functions necessary for the administration of the RHS Plan with respect to assets in the RHS Plan transferred to its administration.

The functions to be performed by MissionSquare and its agents include:

- (a) allocation in accordance with participant direction of individual accounts to investment funds ("Funds") made available to Plan participants;
- (b) maintenance of individual accounts for participants reflecting amounts contributed, income, gain, or loss credited, and amounts disbursed as benefits;
- (c) provision of periodic reports to the Employer and participants of the status of Plan investments and individual accounts;
- (d) communication to participants of information regarding their rights and elections under the Plan;
- (e) disbursement of benefits as agent for the Employer in accordance with terms of the Plan; and
- (f) performance of tax withholding and reporting in conjunction with the Employer for each RHS account.

### 3. Employer Duty to Furnish Information

Employer agrees to furnish to MissionSquare on a timely basis such information as is necessary for MissionSquare to carry out its responsibilities with respect to the Plan, including information needed to allocate individual participant accounts to Funds, and information as to the benefit eligibility and employment status of participants, and participants' ages, addresses, dependents, spouses and other identifying information (including tax identification numbers). Employer also agrees that it will notify MissionSquare in a timely manner regarding changes in staff as it relates to various roles. This is to be completed through the plan sponsor website. MissionSquare shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the Employer or any information relating to an individual participant, spouse or dependent that is furnished by such participant, spouse or dependent, and MissionSquare shall not be responsible for any error arising from its reliance on such information. MissionSquare will provide reports, statements and account information to the Employer through the plan sponsor website.

### 4. MissionSquare Representations and Warranties

MissionSquare represents and warrants to Employer that:

- (a) MissionSquare is a non-profit corporation with full power and authority to enter into this Agreement and to perform its obligations under this Agreement.
- (b) MissionSquare is an investment adviser registered as such with the Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended.
- (c) MissionSquare will handle participant information in the manner described in the Business Associate Agreement to be executed between the Plan and MissionSquare, a form of which is provided as Exhibit A to this Agreement.

### 5. Employer Representations and Warranties

Employer represents and warrants to MissionSquare that:

- (a) Employer is organized in the form and manner recited in the opening paragraph of this Agreement with full power and authority to enter into and perform its obligations under this Agreement and to act for the Plan and participants in the manner contemplated in this Agreement. Execution, delivery, and performance of this Agreement will not conflict with any law, rule, regulation or contract by which the Employer is bound

or to which it is a party.

- (b) Information required to be retained by the Employer shall be set forth in the RHS Program materials developed by MissionSquare and provided to the Employer.
- (c) Employer is required to send in contributions through the plan sponsor website, the online plan administration tool provided by MissionSquare.
- (d) Employer is responsible for determining that there are no state or local laws that would prohibit it from establishing the RHS Program. Employer is also responsible for determining that the investments selected for the Plan fall within state or local requirements. MissionSquare shall not be responsible for monitoring state or local law applicable to retirement plans or for administering the Plan in compliance with local or state requirements unless Employer notifies MissionSquare of any such local or state requirements.
- (e) Employer acknowledges that the RHS Plan is a "health plan" for Health Insurance Portability and Accountability Act ("HIPAA") purposes and therefore is subject to HIPAA privacy rules. Employer also acknowledges that the RHS Plan is a Health Reimbursement Arrangement, subject to applicable provisions of the Affordable Care Act ("ACA"). An employer sponsoring the Plan is responsible for complying with the HIPAA privacy and security rules with respect to all protected health information created, maintained, received, or transmitted in relation to the Plan and is responsible for complying with the ACA.
- (f) Employer acknowledges that certain such services to be performed by MissionSquare under this Agreement may be performed by an affiliate or agent of MissionSquare pursuant to one or more other contractual arrangements or relationships, and that MissionSquare reserves the right to change vendors with which it has contracted to provide services in connection with this Agreement without prior notice to Employer.
- (g) Employer acknowledges and agrees that MissionSquare does not assume any responsibility with respect to the selection or retention of the Plan's investment options. Employer shall have exclusive responsibility for the selection and retention of the Plan's investment options, including the selection of the applicable mutual fund share class.
- (h) Employer confirms that it has executed a Participation Agreement for VantageTrust II and acknowledges that it has received the Disclosure Materials.

6. Participation in Certain Proceedings

The Employer hereby authorizes MissionSquare to act as agent, to appear on its behalf, and to join the Employer as a necessary party in all legal proceedings regarding the Plan involving the garnishment of benefits or the transfer of benefits pursuant to a medical child support order. Unless Employer notifies MissionSquare otherwise, Employer authorizes MissionSquare to determine whether disbursement of benefits to a spouse or child pursuant to a medical child support order is appropriate.

7. Compensation and Payment

Absent an explicit agreement to the contrary between MissionSquare and Employer, participant fees and expenses shall be payable from RHS assets, in accordance with the requirements of the RHS Program as set forth below.

- (a) Asset-based fees will be included in the daily unit value of each MSQ Fund Class S, and no separate asset-based fees will be assessed.
- (b) A \$ 25 annual account administration fee will be charged quarterly to each Accountholder's account.
- (c) The account administration fee is subject to change with appropriate prior notification.
- (d) **Compensation for Advisory and other Services to MissionSquare Funds Class M.** Employer acknowledges that MissionSquare, including certain of its wholly owned subsidiaries, receives compensation for advisory and other services furnished to the MSQ Funds Class M, which are collective funds serving as the underlying funds to certain MSQ Funds Class S.

8. Contribution Remittance

Employer understands that amounts contributed to the Plan are to be remitted directly to Vantagepoint Transfer Agents in accordance with instructions provided to Employer in the RHS Program materials and are not to be remitted to MissionSquare. In the event that any check or wire transfer is incorrectly labeled or transferred, MissionSquare will return it to Employer with proper instructions.

9. Responsibility

- (a) MissionSquare shall not be responsible for any acts or omissions of any

person with respect to the Plan, or its related Trust, other than MissionSquare in connection with the administration or operation of the Plan or its related Trust.

- (b) The Employer understands that, as a general matter, the Internal Revenue Service ("IRS") may decline to rule on certain design features or provisions that the Employer may request to have added to the RHS Program materials. The Employer agrees to hold MissionSquare harmless in connection with the addition and administration of any Plan feature or provision requested by the Employer for which the IRS will not provide express interpretive guidance.

10. Indemnification

Employer shall indemnify MissionSquare against, and hold MissionSquare harmless from, any and all loss, damage, penalty, liability, cost, and expense, including without limitation, reasonable attorney's fees, that may be incurred by, imposed upon, or asserted against MissionSquare by reason of any claim, regulatory proceeding, or litigation arising from any act done or omitted to be done by any individual or person with respect to the Plan or its related Trust, excepting only any and all loss, damage, penalty, liability, cost or expense resulting from MissionSquare's negligence, bad faith, or willful misconduct.

11. Term

This Agreement shall be in effect for an initial term beginning on the Inception Date and ending **5 years** after the Inception Date. This Agreement will be renewed automatically for each succeeding year unless written notice of termination is provided by either party to the other no less than 60 days before the end of such Agreement year. The Employer understands and acknowledges that, in the event the Employer terminates this Agreement (or replaces the MissionSquare PLUS Fund of VantageTrust II as an investment option in its investment line-up), MissionSquare retains full discretion to release Plan assets invested in the MissionSquare PLUS Fund in an orderly manner over a period of up to 12 months from the date MissionSquare receives written notification from the Employer that it has made a final and binding selection of a replacement for MissionSquare as administrator of the Plan (or a replacement investment option for the MissionSquare PLUS Fund).

12. Amendments and Adjustments

- (a) This Agreement may be amended by written instrument signed by the parties.

- (b) The parties agree that only an adjustment to compensation or administrative and operational services under this Agreement may be implemented by MissionSquare through a proposal to the Employer via correspondence or the Employer Bulletin. The Employer will be given at least 60 days to review the proposal before the effective date of the adjustment. Such adjustment shall become effective unless, within the 60-day period, the Employer notifies MissionSquare in writing that it does not accept such adjustment, in which event the parties will negotiate with respect to the adjustment.
- (c) No failure to exercise and no delay in exercising any right, remedy, power or privilege hereunder shall operate as a waiver of such right, remedy, power or privilege.

13. Notices

All notices required to be delivered under this Agreement shall be delivered electronically, personally or by registered or certified mail, postage prepaid, return receipt requested, to (i) Legal Department, ICMA Retirement Corporation, 777 North Capitol Street, N.E., Suite 600, Washington, D.C, 20002-4240; (ii) Employer at the office set forth in the first paragraph hereof, or to any other address designated by the party to receive the same by written notice similarly given.

14. Complete Agreement

This Agreement, with an executed Business Associate Agreement, shall constitute the sole agreement between MissionSquare and Employer relating to the object of this Agreement and correctly sets forth the complete rights, duties and obligations of each party to the other as of its date. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

15. Governing Law

This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of **Pennsylvania**, applicable to contracts made in that jurisdiction without reference to its conflicts of laws provisions.

In Witness Whereof, the parties hereto have executed this Agreement as of the Inception Date first above written.

**LOWER MACUNGIE TOWNSHIP**

By \_\_\_\_\_  
Signature / Date

By \_\_\_\_\_  
Name and Title (Please Print)

**THE INTERNATIONAL CITY MANAGEMENT  
ASSOCIATION RETIREMENT  
CORPORATION doing business as  
MISSIONSQUARE RETIREMENT**

By \_\_\_\_\_  
Erica McFarquhar  
Authorized Representative

Please return an executed copy of the Agreement to a Delivery Address, either:

- (a) Via **DocuSign**
- (b) Electronically to ClientContracts\_ICMA-RC@missionsq.org

**Exhibit A****RHS HIPAA BUSINESS ASSOCIATE AGREEMENT FOR PLAN NUMBER 800369**

This Business Associate Agreement ("BA Agreement") supplements and is made part of the Administrative Services Agreement entered into between **Lower Macungie Township** on behalf of Plan Number **800369** ("Covered Entity" or "**Lower Macungie Township RHS**") and The International City Management Association Retirement Corporation doing business as MissionSquare Retirement ("Business Associate") on (please enter date) \_\_\_\_\_, and is effective as of the effective date of the Administrative Services Agreement (the "Effective Date").

**RECITALS**

Covered Entity is a group health plan that reimburses medical expenses for eligible participants, their spouses, and their dependents. Under the Health Information Portability and Accountability Act of 1996 ("HIPAA"), Covered Entity is required to enter into this BA Agreement to obtain satisfactory assurances that Business Associate will appropriately safeguard all Protected Health Information ("PHI"), as defined herein, that is created, maintained, received, or transmitted by Business Associate on behalf of Covered Entity.

Business Associate is a record keeper providing administrative services to Covered Entity. In general, Business Associate will not have access to information that would traditionally be considered PHI because participant medical information used to substantiate reimbursements is sent directly to and reviewed by a third-party claims processor. The third-party claims processor has agreed to protect PHI that it creates, maintains, receives, or transmits in a manner that is consistent with and as stringent as the terms agreed to by Business Associate under this BA Agreement with respect to information that could be considered PHI. Business Associate has access to information that might be interpreted as PHI, including an individual's participation in the plan, reimbursement amounts, and the timing of reimbursements.

In consideration of the mutual promises below and the exchange of information pursuant to this BA Agreement and in order to comply with all legal requirements for the protection of this information, Covered Entity and Business Associate agree as follows:

**1. DEFINITIONS**

- a. The following terms used in this BA Agreement shall have the same meaning as those terms are defined in the HIPAA Rules: Breach, Data Aggregations, Designated Record Set, Disclosure, Health Care Operations, Minimum Necessary, Notice of Privacy Practices, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.



- b. "Administrative Services Agreement" refers to a separate agreement outlining the services MissionSquare will provide to Covered Entity and the terms and conditions governing the provision of such services. The Administrative Services Agreement is made between MissionSquare and **Lower Macungie Township RHS** or its sponsor, acting on behalf of **Lower Macungie Township RHS**.
- c. "Business Associate" shall have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to this BA Agreement shall mean MissionSquare.
- d. "Covered Entity" shall have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference this BA Agreement, shall mean **Lower Macungie Township RHS**.
- e. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- f. "Privacy Rule" shall mean the Privacy Standards and Implementation Specifications at 45 CFR 170 and 164, Subparts A and E.
- g. "Protected Health Information" ("PHI") shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity pursuant to this Agreement.
- h. "Security Rule" shall mean the Security Standards and Implementation Specifications at 45 CFR Parts 160 and 164, Subparts A and C.

## **2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

Business Associate agrees to:

- a. Not Use or Disclose PHI other than as permitted or required by this BA Agreement or as required by law.
- b. Use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BA Agreement, and comply with subpart C of 45 CFR Part 164 with respect to electronic PHI in Business Associate's custody or control, to prevent Use or Disclosure of PHI other than as provided for by this BA Agreement.
- c. Report to Covered Entity any Use or Disclosure of PHI not provided for by the BA Agreement of which it becomes aware not more than 60 calendar days after Business Associate discovers such non-permitted Use or Disclosure, including Breaches of Unsecured PHI as required at 45 CFR 164.410, and any Security Incident for which it becomes aware.

- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
- e. Make available, within 30 calendar days of the request of Covered Entity, PHI in a Designated Record Set in Business Associate's custody or control, to Covered Entity, or as Directed by Covered Entity, to an individual, so that Covered Entity may meet its access obligations under 45 CFR § 164.524.
- f. Make any amendment(s) to PHI in a Designated Record Set in Business Associate's custody or control as directed in writing by the Covered Entity pursuant to 45 CFR 164.526 no later than 60 days after receipt of such request, so that Covered Entity may meet its amendment obligations under 45 CFR 164.526.
- g. Maintain and make available the information required to provide an accounting of Disclosures to the Covered Entity as requested by Covered Entity in writing and as necessary to satisfy the Covered Entity's obligations under 45 CFR 164.528.
- h. Make its internal practices, books, and records, available to the Secretary for purposes of determining compliance with the HIPAA Rules.
- i. Not directly or indirectly receive remuneration in exchange of PHI.
- j. Comply with the administrative simplification rules applicable to standard transactions, if Business Associate conducts such transactions under the electronic data interchange rules on behalf of Covered Entity.
- k. To the extent the parties agree that Business Associate will carry out directly one or more of Covered Entity's obligations under the Privacy Rule, the Business Associate will comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.

### **3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

- a. Business Associate may only Use or Disclose PHI as necessary to perform the services set forth in the Administrative Services Agreement and as permitted by this BA Agreement.
- b. Business Associate may Use or Disclose PHI as required by law or to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(i).
- c. Except as otherwise limited by this BA Agreement, Business Associate agrees to make Uses and Disclosures and requests for PHI consistent with the

Covered Entity's Minimum Necessary policies and procedures when such are provided by the Covered Entity to Business Associate.

- d. Business Associate is authorized to de-identify information in accordance with 45 CFR 164.514(a)-(c).
- e. Business Associate may not Use or Disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth below.
- f. Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- g. Business Associate may provide Data Aggregation services relating to the Health Care Operations of the Covered Entity.

#### **4. OBLIGATIONS AND ACTIVITIES OF COVERED ENTITY**

- a. Covered Entity shall notify Business Associate of any limitations in the Notice of Privacy Practices that Covered Entity provides to individuals pursuant to 45 CFR 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.
- b. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to Use or Disclose his or her PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.
- c. Covered Entity shall notify Business Associate of any restrictions on the Use or Disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.
- d. Covered Entity shall not request Business Associate to Use or Disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity, except to the extent that Business Associate will Use or Disclose PHI for Data Aggregation or management and administration and legal responsibilities of the Business Associate.
- e. Covered Entity shall notify Business Associate of any confidential communication requests with which the Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent such requests would affect Business Associate's Use or Disclosure of PHI.

#### **5. TERM AND TERMINATION**

- a. This BA Agreement shall be effective as of the Effective Date, and shall terminate upon the termination of the Administrative Services Agreement, subject to the provisions below regarding the return or destruction of PHI.
- b. Business Associate authorizes termination of this BA Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the BA Agreement, and Business Associate has not cured the Breach or ended the violation, following written notice to the Business Associate, within a reasonable period of time not to exceed any reasonable cure period defined in the Administrative Services Agreement.
- c. Upon termination of this BA Agreement for any reason, Business Associate, with respect to PHI Received from Covered Entity, or created, maintained, or received from Business Associate on behalf of Covered Entity, shall:
  - i. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - ii. Return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining PHI that the Business Associate still maintains in any form;
  - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent Use or Disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains PHI;
  - iv. Not Use or Disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at Paragraph 3(f);
  - v. Return to Covered Entity or, if agreed to Covered Entity, destroy the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities;
  - vi. Notwithstanding any other provision of this BA Agreement, upon termination, Business Associate may also transmit PHI to another Business Associate of the Covered Entity upon the written request of the Covered Entity.
- d. The obligations of Business Associate under Section 5, Term and Termination, shall survive the termination of this BA Agreement.

## **6. GENERAL PROVISIONS**

- a. A reference in this BA Agreement to a section in the HIPAA Rules means the section as in effect or amended.

- b. The parties agree to take such action as is necessary to amend this BA Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable laws.
- c. Any ambiguity in this BA Agreement shall be interpreted to permit compliance with the HIPAA rules.
- d. Nothing in this BA Agreement shall be construed as creating any rights or benefits to any third parties.
- e. The invalidity and unenforceability of any provision of this BA Agreement shall not affect the enforceability of any other provision of this BA Agreement or the Administrative Services Agreement, which shall remain in full force and effect.
- f. All notices and communications required by this BA Agreement shall be in writing. Such notices and communications shall be given in one of the following forms: (i) by delivery in person, (ii) by a nationally recognized, next-day courier service, (iii) by first-class, registered or certified mail, postage prepaid, or (iv) by electronic mail to the address that each party specifies in writing.
- g. This BA Agreement and the Administrative Services Agreement constitute the entire agreement between the parties with respect to its subject matter and constitute and supersede all prior agreements, representations, and understandings of the parties, written or oral, with regard to the same subject matter.

**LOWER MACUNGIE TOWNSHIP**

By \_\_\_\_\_  
Signature / Date

\_\_\_\_\_  
Name and Title (Please Print)

**THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION  
RETIREMENT CORPORATION doing business as MISSIONSQUARE RETIREMENT**

By \_\_\_\_\_  
Erica McFarquhar  
Authorized Representative