

## INVESTMENT ADVISER AGREEMENT

This Agreement is made as of this \_\_\_ day of \_\_\_\_\_, 2021 between [investment advisor], with its principal place of business at [address] (“Investment Adviser”), and the State of New Jersey Department of the Treasury, Division of Investment located at 50 West State Street, 9<sup>th</sup> Floor, Trenton, New Jersey 08608 (the “Division”).

**WHEREAS**, on or about October \_\_, 2021, the Division issued a Request for Proposals for Investment Advisers for High Yield Fixed Income (a copy of the Request for Proposals and any amendments/addenda thereto are attached hereto as **Exhibit A** and are collectively referred to herein as the “RFP”);

**WHEREAS**, Investment Adviser submitted a proposal acceptable to the Division to provide the investment advisory services requested by the RFP and through this proposal agreed to the requirements referenced in the RFP (a copy of the Investment Adviser’s proposal and any best and final offer are attached hereto as **Exhibit B** and are collectively referred to herein as the “Proposal”); and

**WHEREAS**, the parties desire to enter into this Agreement to memorialize the non-discretionary investment advisory services that Investment Adviser will be providing to the Division and the terms and conditions under which such services will be provided; and

**NOW THEREFORE**, for good and valuable consideration the parties to this Agreement hereby agree as follows:

1. Appointment of Investment Adviser. The Division hereby appoints Investment Adviser to provide non-discretionary investment advice with respect to certain assets managed by the Division in an account established by the Division (the “Account”), in accordance with the RFP, the Proposal, and this Agreement. By execution of this Agreement, Investment Adviser hereby accepts this appointment as Investment Adviser and agrees to abide by the requirements set forth in the RFP. For the avoidance of doubt, Investment Adviser shall provide investment, but not legal or tax advice, to the Division.

2. Investment Parameters and DOI Directives. Investment Adviser shall strictly adhere to all applicable Investment Parameters and DOI Directives, as such terms are defined in Section \_\_ of the RFP, and other investment objectives and performance standards provided in writing to Investment Adviser by the Division. Investment Adviser shall report to the Division monthly on compliance with the Investment Parameters and DOI Directives and report violations immediately.

3. Provision of Non-Discretionary Investment Advice.

(a) Investment Adviser will provide non-discretionary investment advice for the Account within all applicable Investment Parameters and in accordance with any DOI Directives and paragraphs (b) and (c) below and will act in good faith and with due diligence.

(b) Investment Adviser shall obtain approval of trades from the Designated Division Liaison(s) (as hereinafter defined) before such trades are made. Each trading day, Investment Adviser shall provide electronically a list of proposed trades to the Designated Division Liaison(s) in accordance with Schedule 1 attached hereto. Upon receipt, the Designated Division Liaison(s) shall review the proposed trades and shall notify Investment Adviser whether or not such proposed trades have been approved for execution. In the event that Investment Adviser's recommendation changes after a proposed trade has been approved by the Designated Division Liaison(s), Investment Adviser shall use the pre-approval process to (i) recommend that trade no longer be executed in full or (ii) recommend that the buy/sell program be closed prior to completion. As used herein, "Designated Division Liaison(s)" shall be the individuals listed on Exhibit C hereto, as amended and/or supplemented in writing from time to time by the Division.

(c) At the end of each trading day, Investment Adviser shall provide electronically a summary of executed trades to the Designated Division Liaison(s) in accordance with Schedule 1 attached hereto. Upon receipt, the Designated Division Liaison(s) shall review the summary of executed trades to confirm that such trades were pre-approved. In the event that the Investment Adviser places a trade in a specific security without obtaining prior approval in accordance with paragraph (b) above, Investment Adviser, subject to the liability provisions described in Section 14, shall bear responsibility for any loss or execution costs resulting from reversing the trade. In the event a previously approved trade is not executed in whole, the partially unexecuted trades will remain approved for a period of fourteen (14) calendar days, after which Investment Adviser again must request approval of the trade through the pre-approval process.

4. Custodian. The Division shall notify Investment Adviser of the duly appointed custodian (the "Custodian") for the assets in the Account. Investment Adviser is authorized to give instructions to the Custodian with respect to the settlement of transactions that are approved by the Division pursuant to Section 3(b) or as otherwise directed by a Designated Division Liaison. Investment Adviser shall provide such assistance with respect to the Account as the Custodian may reasonably require, but shall not be responsible for any act, decision or other conduct of the Custodian, other than those acts of the Custodian resulting from instructions given by Investment Adviser to the Custodian. Investment Adviser shall have no responsibility with respect to the safekeeping of cash, securities or other assets in the Account.

5. Brokers and Foreign Exchange Counterparties. Investment Adviser shall conduct its trading practices, including the selection of brokers and foreign exchange counterparties, in accordance with its policies and procedures and in a manner consistent with the RFP and its fiduciary duties. Investment Adviser shall only select brokers to execute transactions for the Account pursuant to its policies and procedures regarding broker-dealer selection approved by the Division. All changes to such policies and procedures will be required to be submitted by Investment Adviser to the Division for approval prior to implementation with respect to the Account. The Division reserves the right to direct Investment Adviser not to use a specified broker to execute transactions for the Account. Investment Adviser shall disclose to the Division any existing “soft dollar” arrangements with brokers used by Investment Adviser with respect to the Account prior to execution of this Agreement, and shall disclose to the Division any new “soft dollar” arrangements with such brokers promptly after entering into such new arrangements. Investment Adviser shall only select foreign exchange counterparties that are included on a list maintained by the Division and provided to Investment Adviser.

6. Cross-Trades. Subject to the terms of Section 3(b) of this Agreement and consistent with applicable law, in executing investment decisions of the Division, Investment Adviser shall be permitted to effect cross-trades between or among client investment accounts in accordance with its policy as submitted to and approved by the Division. The Division may revoke this consent at any time effective immediately upon delivery of written notice to Investment Adviser.

7. Fees. The Division will pay Investment Adviser fees on a quarterly basis in the amounts set forth in **Exhibit D** hereto and in accordance with the New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq.

8. Reports. Investment Adviser shall provide the Division such reports and information as set forth in the RFP, as well as any additional reports and information that the Division may reasonably request.

9. Publicity. All publicity and/or public announcements pertaining to this engagement and the work to be performed during this engagement shall be approved by the Division prior to release; provided however, Investment Adviser may, without obtaining the approval of the Division: (i) identify the Division on a list of Investment Adviser’s representative clients; and (ii) include the Account’s performance in a composite performance presentation of similar accounts, provided that the performance of the Account is not individually disclosed.

10. Proxies; Corporate Actions; Legal Actions. Investment Adviser shall not vote securities in the Account in response to proxies solicited by the issuers of such securities. Investment Adviser will take no action with respect to legal actions (such as class action suits and bankruptcies) or corporate actions (such as rights, options, warrants, conversions, redemptions and tender offers) pertaining to assets in the Account. However, Investment Adviser will provide advice (other than legal advice) with respect to such proxies, corporate actions and legal actions as the Division may reasonably

request. Investment Adviser will provide such requested advice to the Division no later than three (3) Business Days prior to the response deadline or, if Investment Adviser has not received a request from the Division more than three (3) Business Days prior to the response deadline, as promptly as possible after Investment Adviser has received such request from the Division. In the event that Investment Adviser has provided advice with respect to a corporate action, the Designated Division Liaison(s) will inform Investment Adviser of any decision made by the Division on such corporate action no later than the next Business Day. Under no circumstances shall Investment Adviser execute any legal agreements (including, but not limited to, conversion notices, assignment agreements, subscription forms, brokerage agreements, option agreements, futures agreements, margin agreements, ISDAs or agreements in connection with the Dodd-Frank Act) on the Division's behalf. In the event that the Division is unable to execute such legal agreements, Investment Adviser may need to sell the applicable securities rather than participate in a proposed legal or corporate action.

11. Delegation. Investment Adviser may delegate any of its responsibilities under this Agreement to any of its affiliates or to a third party service provider, provided that Investment Adviser will provide prior written notice to the Division identifying the affiliate or third party service provider and the extent of such delegation, and provided further that Investment Adviser will be fully accountable for any acts or omissions of any affiliate or third party service provider pursuant to such delegation, as if such acts or omissions were its own. The Division shall not be responsible for any fees which any affiliate or third party service provider may charge to Investment Adviser in connection with such services.

12. Disclosure to Third Parties. Investment Adviser may disclose information received hereunder (i) to a market counterparty where disclosure is required for the purpose of trading with such market counterparty, (ii) to a judicial, administrative or regulatory body where disclosure is required by law, regulation, regulatory authority, court order or at the request of a federal or state regulator; (iii) to an affiliate or third party service provider, provided that the Investment Adviser shall cause such affiliate or third party service provider to comply at all times with the security and data confidentiality standards of the RFP; (iv) to the Adviser's external auditors upon request of such auditor; and to (v) to any other party with the Division's prior consent.

13. Non-Exclusivity. The Division understands that Investment Adviser and its affiliates may furnish investment advice or investment management services to other accounts, and that Investment Adviser and its affiliates may give advice or take action for such other accounts or its own account that may be similar to or differ from advice given or action taken for the Account. With respect to the Account, Investment Adviser may cause securities transactions to be executed concurrently with or, as a result of the required approval process in Section 3(b) or Section 10, after transactions for other accounts for which Investment Adviser is providing advice or investment management services. In such instances, allocations of the securities or investments to be purchased or sold, as well as the expenses incurred in the transactions, will be made by Investment Adviser in a manner Investment Adviser considers equitable and consistent with its

obligations to the Division and its other clients and as approved by the Division in accordance with Section 3(b) or Section 10 of this Agreement.

14. Ownership of Material. The Division agrees that all inventions, works of authorship and other proprietary data (as well as the copyrights, patents, trade secrets and similar rights attendant thereto) conceived, reduced to practice, authored, developed or delivered by Investment Adviser or any subcontractor or their respective employees, agents and representatives, either solely or jointly with others, during and in connection with the services provided under this Agreement, that are not specific to the Division, shall be owned by Investment Adviser. The Division further agrees that Investment Adviser owns and holds full title to Investment Adviser's pre-existing proprietary internal software tools, protocols and databases, and other intellectual property, including pre-existing copyrighted, patented and/or proprietary work, which is incorporated into the services provided by Investment Adviser or any subcontractor pursuant to this Agreement, and Investment Adviser hereby grants to the Division a fully paid up, perpetual and non-exclusive limited license to use such material. Any enhancements, improvements or other revisions to such material will be and remain the exclusive property of Investment Adviser, and Investment Adviser will maintain in Investment Adviser's own name any copyrights, trademark registrations and/or other intellectual property protection available on any such revisions. Investment Adviser agrees that all data and other information provided by the Division to Investment Adviser shall remain the property of the Division; provided, however, that Investment Adviser may retain a copy of such information to the extent required by applicable law.

15. Standard of Care; Liability of Investment Adviser. Investment Adviser will deal in good faith and with due diligence and will use reasonable skill and care in the performance of its duties under this Agreement. Investment Adviser shall not be liable, responsible, or required to indemnify the Division for any loss suffered by the Account in connection with Investment Adviser's discharge of its responsibilities under this Agreement, except for any loss resulting from a breach of Investment Adviser's obligations with respect to the Account pursuant to the standard of care set forth in the previous sentence. Nothing contained in this Agreement shall constitute a waiver or limitation of rights that the Division may have under federal or state securities laws.

16. Term. The initial term of this Agreement shall be for three years. The term may be extended for up to three additional years, provided that each party executes a written extension prior to each additional year. This Agreement may be terminated by either party as set forth in Section \_\_\_ of the RFP. On the effective date of termination or as close to such date as is reasonably possible, Investment Adviser shall provide the Division with a final report on the Account containing the same information included in the monthly report required by the RFP. The Division shall bear (i) any transaction costs incurred by the Investment Adviser in liquidating the Account if requested to do so by the Division; and (ii) any losses to the Account realized in settling or concluding outstanding obligations of the Account.

17. Notices. Notices shall be delivered personally or mailed by overnight mail to the following addresses:

To Investment Adviser:

Attention: Legal and Compliance

To the Division:

Director, Division of Investment  
State of New Jersey, Department of the Treasury  
50 West State Street, 9<sup>th</sup> Floor  
Trenton, NJ 08608

or such other name or address as may be given in writing to the other party.

18. Investment Advisers Act of 1940. Investment Adviser covenants that it is duly registered as an investment adviser with the Securities and Exchange Commission pursuant to the Investment Advisers Act of 1940, as amended (the “Advisers Act”). The Division hereby acknowledges that, not less than 48 hours before the date it has executed this Agreement, it received from Investment Adviser a copy of Part 2A and Part 2B of Investment Adviser’s Form ADV. This Agreement shall not be assigned (as that term is used in the Advisers Act) by either party without the prior written consent of the other party.

19. Authority. Each of the parties to this Agreement hereby represents that it is duly authorized and empowered to execute, deliver and perform this Agreement and that such action does not conflict with or violate any provision of law, rule or regulation, contract, deed of trust or other instrument to which it is a party or to which it is subject and that this Agreement constitutes a valid and binding obligation enforceable in accordance with its terms.

20. Entire Agreement; Conflicts; Amendments. This Agreement and the documents incorporated by reference herein constitute the entire agreement between the parties and supersede all previous communications or representations, either verbal or written, between the parties hereto with respect to the subject matter herein, excluding any Investment Parameters and DOI Directives provided to Investment Adviser prior to entry into this Agreement. In the event of a conflict between this Agreement, the RFP and the Proposal, the order of precedence from most controlling to least shall be the following: this Agreement; the RFP; and the Proposal. This Agreement may not be amended except by written agreement executed by authorized representatives of each party.

21. Venue; Governing Law. Any and all litigation arising from this Agreement or related thereto shall be brought in State court in the State of New Jersey, and this Agreement and such litigation shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey, without reference to conflict of laws principles.

22. Counterparts. The parties hereto agree that this Agreement may be executed in counterpart, each original signed page to become part of the original document.

**IN WITNESS WHEREOF**, authorized representatives of Investment Adviser and the Division have executed this Agreement to be effective the day and year first written above.

**State of New Jersey  
Department of Treasury,  
Division of Investment**

**[Investment Adviser]**

By: \_\_\_\_\_  
Name:  
Title:  
Date:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

## **Schedule 1**

### **Pre-Trade Approval**

The following are the procedures to be followed in the pre-trade approval process. The process as defined here can be added to or modified by the parties as necessary with Division approval.

Investment Adviser shall obtain approval of trades from the Designated Division Individual(s) (as hereinafter defined) before such trades are made.

[process to be determined]

### **Daily Trade Blotter**

The following are the procedures to be followed in the daily trade blotter submission process. The process as defined here can be added to or modified from time to time by the parties as necessary with the approval of the Division.

The daily trade blotter will be a summary of all purchases and sales that have been executed on that trade day for the benefit of the Division's account.

[process to be determined]