

# Invitation to Negotiate (ITN)

---

---

## *Large Capitalization Growth Domestic Equity Investment Management Services for the Stanley G. Tate Florida Prepaid College Program and the Florida 529 Savings Plan*

### Florida Prepaid College Board

---

**Issue Date: August 23, 2017**

**Questions Deadline: August 29, 2017, 12 Noon ET**

**Responses to Questions: September 1, 2017**

**Deadline for Notice of Intent to Respond: September 5, 2017**

**ITN Response Deadline: September 22, 2017, 12 Noon ET**

---

**ITN# 17-04**

---

#### Commodity Codes

84121700

84121701

84121703

84121704

93151603

# Table of Contents

SECTION I – INTRODUCTION	2
A. Background	2
B. Purpose	5
C. Mandatory Qualifications for Respondents	5
D. Timeline	7
SECTION II – SCOPE OF SERVICES	8
SECTION III – RESPONSE REQUIREMENTS	<b>Error! Bookmark not defined.</b>
A. Requests for Clarification	9
B. Submission of Responses	9
C. Response Format and Content	10
SECTION IV – EVALUATION AND NEGOTIATION	14
A. Evaluation Phase	14
B. Contract Negotiation	16
SECTION V – GENERAL INFORMATION	18
A. Glossary of Terms	18
B. ITN Revisions	18
C. Responsibility for Services	19
D. Contract	19
E. Insurance	19
F. Public Access to Records	19
G. Restrictions on Communications with the Board and Board Staff	20
H. Legal Requirements	20
I. Cost of Developing and Submitting Responses	20
J. Property of Board	20
K. Response Tenure	21
L. News Releases	21
APPENDICES	22

## **SECTION I – INTRODUCTION**

### **A. Background**

Since 1988, the Florida Prepaid College Board (“Board”) has provided families with a means to prepay the costs of college tuition, required fees and dormitory housing for future use at any state university or state college in Florida through the Stanley G. Tate Florida Prepaid College Program (“Prepaid Plan”). In addition to the Prepaid Plan, the Board offers the Florida College Savings Program, which is marketed as the Florida 529 Savings Plan (“529 Savings Plan”) and is a 529 college savings plan. Both plans are sponsored by the State of Florida and managed by the Board.

The Board is an agency of the State of Florida created by Section 1009.97 of the Florida Statutes. The Board has seven members who establish policy and monitor performance for the Prepaid Plan and the 529 Savings Plan. Three members of the Board are appointed by the Governor and are subject to confirmation by the Florida Senate. Four members of the Board are designated in Section 1009.971(2), Florida Statutes. These members are the Attorney General, Chief Financial Officer, Chancellor of the State University System and Chancellor of the Florida College System, or their respective designees. The agency is assigned to and administratively housed within the State Board of Administration (“SBA”) but the Board exercises its powers independent of the SBA. Please visit [www.myfloridaprepaid.com/who-we-are/about-the-board/statement-of-ops-org/](http://www.myfloridaprepaid.com/who-we-are/about-the-board/statement-of-ops-org/) to review the Statement of Organization and Operations.

All assets of the Prepaid Plan and the 529 Savings Plan are held by the Florida Prepaid College Trust Fund. In accordance with Section 1009.973, F.S., the Board has developed a separate Comprehensive Investment Plan (CIP) describing the investment goals, strategies, asset allocation and performance benchmarks for both the Prepaid Plan and the 529 Savings Plan. Qualified investment managers are hired by the Board to carry out the day-to-day investment management responsibilities outlined in each CIP. Additionally, a consultant is hired by the Board to provide ongoing investment consultant services.

The Board employs an administrative staff of 20 full-time employees (FTE) including the following senior level positions: Executive Director, Deputy Executive Director, Director of Prepaid College Plan, Director of Accounting & Risk Management, Director of ABLE Savings, Director of Prepaid Foundation, Director of Planning & Development and Director of 529 Savings Plan & Investment Policy. The remaining FTE positions are in operations (7), finance and accounting (2), marketing (1) and administrative services (2).

The primary statutory provisions affecting the operation of the Florida Prepaid College Board are in Part IV, chapter 1009, Florida Statutes. The administrative rules of the Board are designated by Title 19B of the Florida Administrative Code.

For more information about the Florida Prepaid College Board, please visit [www.myfloridaprepaid.com](http://www.myfloridaprepaid.com).

## **1. Stanley G. Tate Florida Prepaid College Program**

The Prepaid Plan provides a mechanism whereby costs associated with postsecondary attendance may be paid in advance and fixed at a guaranteed level for the duration of the undergraduate enrollment period. Purchasers designate a qualified beneficiary in the advance payment contract to receive the benefits of the contract at the time of postsecondary enrollment. The Prepaid Plan has sold over 1.90 million plans since 1988, and it is the largest, longest continuously running and most successful prepaid program in the nation. The Prepaid Plan had a market value as of June 30, 2017 of approximately \$11.40 billion. The Prepaid Plan has four fixed income investment managers (three active and one passive) and six equity investment managers (S&P 500 index, large cap domestic value-oriented, large cap domestic growth-oriented, mid-cap domestic core, small-cap domestic core, and an international with EAFE mandate).

## **2. Florida 529 Savings Plan**

The 529 Savings Plan offers families a flexible way to save for their children's college education. Families can save at a pace that meets their family's budget, allowing them to decide how much money to put into their college savings plan. The 529 Savings Plan has over 60,000 active accounts with a market value as of June 30, 2017 of approximately \$528 million. The 529 Savings Plan has one fixed income manager, one money market manager, and six equity investment managers (S&P 500 Index, large cap domestic value-oriented, large cap domestic growth-oriented, mid-cap domestic core, small-cap domestic core and an international developed markets).

The 529 Savings Plan, unlike the Prepaid Plan, is not guaranteed to pay all or any part of the costs of a postsecondary education. The amount available to each 529 Savings Plan participant to pay postsecondary educational expenses depends upon the amount invested in the 529 Savings Plan, plus investment earnings on the investment of each 529 Savings Plan participant. The value of each 529 Savings Plan participant's account is based on market conditions and the amount invested. Contributions made by individuals, businesses, and others on behalf of a designated beneficiary in the 529 Savings Plan are invested in accordance with the fund selections made by the person establishing the account for a beneficiary.

Currently, benefactors are allowed to select from one of eleven 529 Savings Plan options as follows:

- **Option 1** - a large cap growth investment fund designed to provide exposure to large capitalization domestic growth stocks.
- **Option 2** - a large cap value investment fund designed to provide exposure to large capitalization domestic value stocks.

- **Option 3** - a large cap investment fund designed to provide exposure to large capitalization domestic stocks by tracking the returns of the S&P 500 as closely as possible.
- **Option 4** – a mid cap investment fund designed to provide exposure to middle capitalization domestic stocks.
- **Option 5** – a small cap investment fund designed to provide exposure to small capitalization domestic stocks.
- **Option 6** – an international investment fund designed to provide exposure to international stocks in developed international markets.
- **Option 7** - a fixed income investment fund designed to mirror the broad domestic bond market.
- **Option 8** – a money market fund designed to provide exposure to very liquid short-term fixed income instruments.
- **Option 9** - an equity investment fund with a twenty percent allocation to domestic large capitalization growth equity (Option 1), twenty percent to a domestic large capitalization value equity portfolio (Option 2), and twenty percent to a U.S. large capitalization index portfolio (Option 3), ten percent to a domestic mid cap portfolio (Option 4), ten percent to a domestic small capitalization portfolio (Option 5) and twenty percent to an international equity portfolio.
- **Option 10** - a balanced investment option which will consist of a 50/50 mix of fixed income (Option 7) and equity (Option 9).
- **Option 11** - a combination of fixed income (Option 7) and equity (Option 9) based on the age of the beneficiary or the number of years remaining before the beneficiary plans to enroll in college.

The eleven investment options are currently supported by seven investment managers (fixed income, S&P 500 Index equity, large cap value-oriented equity, large cap growth-oriented equity, mid cap core equity, small cap core equity, and the money market fund). Investment options or managers may be added or subtracted as approved by the Board.

### **3. Stanley G. Tate Florida Prepaid College Foundation**

Created in 1990 as the charitable arm of the Board, the Foundation (a legislatively authorized Direct Support Organization) provides college scholarships to low-income children and other children in need. Many of these children are the first in their family to have the opportunity to go to college. The Foundation also administers private scholarships for eligible 501(c)(3) charitable organizations. Since inception, the Foundation has awarded nearly 40,000 college scholarships statewide. For more information about the Foundation, please visit [www.floridaprepaidcollegefoundation.com](http://www.floridaprepaidcollegefoundation.com).

### **4. ABLE United**

Legislatively created in 2015 as a qualified ABLE Program, ABLE, (a Direct Support Organization) provides a savings and investment option for eligible individuals with disabilities. ABLE is intended to supplement, but not replace, the benefits provided through private insurances, Medicaid, Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), the Beneficiary's employment, and other sources. Earnings in an ABLE Account are tax-free under Section 529A of the Internal

Revenue Code if used to pay for qualified expenditures. For more information about ABLE please visit: [www.ableunited.com](http://www.ableunited.com).

## **B. Purpose**

This Invitation to Negotiate (“ITN”) is being issued by the Board to obtain responses from qualified firms (hereinafter referred to as Respondents) to provide investment management services for the Board’s Large Capitalization Growth Domestic Equity investment product for the Prepaid Plan and for the 529 Savings Plan. The assets of the Prepaid Plan and the assets of the 529 Savings Plan must be managed in separate accounts.

To be considered, each Respondent’s response **must meet** the standards and requirements set forth in Section III, Response Requirements.

The Board intends to enter into a contract with one or more Respondents. A contract, indicating the respective duties of the Respondent and the Board, is included with this ITN as Appendix G. Note that the Board reserves the right to modify existing language and to consider additional proposed language by the Respondent as it may arise from negotiations. The contract between the Board and selected Respondent(s) shall include the ITN and its specifications, written questions and answers by the Board, and the response to this ITN provided by the Respondent(s) selected. Accordingly, the Respondent(s) selected will be contractually bound by all aspects of the contract, including its response.

## **C. Mandatory Qualifications for Respondents**

**Respondents must be able to affirmatively respond to each of the following statements in order to be considered for this award.**

- As of June 30, 2017, the Respondent has all of the following:
  - Greater than \$1 billion in discretionary assets under management.
  - Greater than \$250 million in discretionary assets under management in the proposed product.
  - A minimum of five years experience managing assets in the proposed product.
  - Experience managing public fund assets.
- Pursuant to Section 1009.971(5), Florida Statutes (F.S.), the Respondent is one of the following:
  - A bank as defined by s. 658.12, F.S.
  - An authorized insurer as defined by s. 624.09, F.S.
  - An association as defined by s. 665.012, F.S.
  - An authorized securities and exchange commission investment adviser.
  - An investment company, as defined in the Investment Company Act of 1940.
- Pursuant to Section 1009.971(5)(d), F.S., the Respondent’s principal place of business and corporate charter are located and registered in the United States.

- The Respondent agrees (by written affirmation) to provide the services as detailed in Section II and agrees to all other requirements as stated in the ITN.
- The Respondent agrees to accept and enter into the written services contract supplied by the Board in Appendix G.
- The Respondent has submitted product and organizational information into Callan Associates Inc.'s database at [https://www.callan.com/questionnaire/sign\\_in/](https://www.callan.com/questionnaire/sign_in/), **not later than Noon, Eastern Time on September 15, 2017** (Callan Associates Inc., is the Board's investment consultant.)

**Any Respondent that does not satisfy the above criteria shall be rejected.**

**D. Timeline**

The following time schedule for this ITN will be strictly adhered to, however the Board reserves the right in it's sole discretion to alter the timeline below to:

<b><u>Action</u></b>	<b><u>Date</u></b>
Notice of issuance of ITN is published in Florida Administrative Register.	August 23, 2017
ITN Issued.	August 23, 2017
Written requests for clarification from prospective Respondents about the ITN are due to Board.	August 29, 2017 no later than 12:00 Noon, Eastern Time
Board responds to written requests for clarification about the ITN on the Vendor Bid System (VBS)	September 1, 2017
Deadline for Notice of Intent to Respond	September 5, 2017
Deadline for Submission of data into Callan Associates database	September 22, 2017 no later than 12:00 Noon, Eastern Time
Deadline for written responses to the ITN to be received at the Board headquarters.	September 22, 2017, no later than 12:00 Noon, Eastern Time
*All responses publicly opened at Board headquarters.	September 22, 2017 at 2:00 PM, Eastern Time
*Meeting for Validation of Evaluator Scoring at the Board headquarters	November 2017
Negotiation Period	November 2017-December 2017
*Negotiation Vote (Public Meeting)	December 2017
Notice of Intent to Award	December 2017
Anticipated Contract Effective Date	February 2018

\*Notice of Public Meetings to be posted in the Florida Administrative Register (F.A.R.)

## SECTION II – SCOPE OF SERVICES

The Board is seeking comprehensive investment management services, employing an active management style, for the Prepaid Plan and 529 Savings Plan Large Capitalization Growth Domestic Equity product.

Based on the June 30, 2017 balance and recent investment decisions made by the Board, funding for the Prepaid Plan Large Cap Growth portfolio would be approximately \$175 million.

Based on the June 30, 2017 balance, funding for the Florida 529 Savings Plan Large Cap Growth portfolio would be approximately \$61 million.

Services shall include but may not be limited to the following:

1. Serve as an agent of the Board to manage the Large Capitalization Growth Domestic Equity investment assets in compliance with the Comprehensive Investment Plans for the Prepaid Plan (Appendix E) and for the 529 Savings Plan (Appendix F), as may be amended from time to time. The Manager(s) selected will establish separate accounts for the assets of the Prepaid Plan and for the assets of the 529 Savings Plan. The Manager's performance will be reviewed and compared against the FTSE Russell 1000 Growth Index. Over any three or more year period of time, the Manager's performance, net of fees, is expected to exceed the FTSE Russell 1000 Growth Index, taking into consideration the degree of risk.
2. Present reports to the Board, at a minimum on a quarterly basis, to review performance of the fund, changes in manager strategies and investment personnel, and to prepare written monthly, quarterly and fiscal year-end reports in a format as required by the Board. Monthly reports will be provided not later than fifteen (15) days after the last day of the month which is the subject of the report; quarterly reports will be provided not later than thirty (30) days after the last day of the quarter which is the subject of the report. The Manager will make available to the Board's appointed consultant any information necessary for the conduct of its responsibilities to the Board including final asset and transaction statements within fifteen (15) days after the end of each month.
3. Assist with information and descriptive statements needed concerning the Large Capitalization Growth Domestic Equity investment product and the investment strategy used for the management of such product as may be periodically required by the Board for inclusion in any prospectus or disclosure booklet for the Prepaid Plan or the 529 Savings Plan.

## SECTION III – RESPONSE REQUIREMENTS

### A. Requests for Clarification

Any questions concerning conditions and specifications of this ITN **must** be addressed in the form of written questions submitted by Respondents pursuant to the schedule in Section I.D. Written questions must be legible, to the point and identify the Respondent submitting the question. Written questions must be submitted to:

Casey L. Fisher  
ITN Administrator  
Florida Prepaid College Board  
1801 Hermitage Boulevard, Suite 210  
Tallahassee, FL 32308  
Email: ITNinfo.Prepaid@MyFloridaPrepaid.com

Written requests for clarification, along with corresponding responses, will be posted to the VBS at [http://www.myflorida.com/apps/vbs/vbs\\_www.search.criteria\\_form](http://www.myflorida.com/apps/vbs/vbs_www.search.criteria_form) pursuant to the schedule in Section I.D. Please utilize the following search criteria below to view this information on the aforementioned website: **Agency:** State Board of Administration; **Title:** ITN 17-04.

Respondents unable to download responses should direct their requests for hard copies to Casey L. Fisher (see delivery address above). Such responses shall be considered an addendum to and, as such, an integral part of this ITN.

No interpretations other than those responded to as described in this section will be considered binding. The Board does not guarantee the validity or reliability of information obtained from other sources.

### B. Submission of Responses

A Respondent, including any Related Entities of the Respondent, **shall** submit **only one** response in response to this ITN. Submission of more than one response by a Respondent or by the Respondent and any Related Entities of the Respondent shall cause the rejection of all responses submitted by the Respondent and any Related Entities of the Respondent. See the definition of “Related Entity” in Section V.A. of this ITN.

All responses **must** be executed and submitted in a sealed package. The face of the package **must** contain the number of the ITN to which the Response applies and the date and time of the response opening.

Respondents **shall** deliver electronic copies on four (4) USB hard drives – one copy per drive, one (1) unbound original and four (4) bound copies of their responses to the Board no later than the date and time stated in Section I.D. of this ITN. Additional copies may be required if Respondent is selected for the shortlist.

A copy of this ITN in PDF format may be downloaded from the Board’s website at:  
<http://www.myfloridaprepaid.com/who-we-are/about-the-board/board-reports-and-plans/>.

The Respondent is responsible for the timely and proper delivery of its response to the Board’s Offices. Responses which, for any reason, are not delivered and received in the Board’s offices by the deadline established in Section I.D. of this ITN will not be considered and shall be rejected. Any late responses received will be retained in the Board Office unopened. Responses or offers by facsimile, telephone or e-mail are not acceptable. A response may not be altered after it is delivered to the Board.

**The Board reserves the right to accept or reject any and all responses and to award the contract in the best interests of the State of Florida.**

**At its discretion, the Board may request supplemental responses from the Respondents. All other supplemental responses are prohibited.**

### **C. Response Format and Content**

The Board has established certain mandatory requirements which must be included as a part of any submitted proposal. The use of “shall”, “must”, or “will” (except to indicate simple futurity) in this ITN and its appendices and accompanying documents indicates a mandatory requirement or condition. The words "should" or "may" in this ITN indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable may not by itself cause rejection of a proposal. The right is reserved to determine which Respondents have met the basic requirements of this ITN, and to determine whether any deviation from the requirements of the specifications, terms and conditions contained herein is merely minor or technical in nature; the right to accept bids which deviated in minor or technical fashion is also reserved. Only those Respondents who have met the mandatory requirements of this ITN will be considered; any Respondent who has not done so will be rejected. The right is reserved to reject any or all bids. Failure to meet any contractual obligations may result in cancellation of any award.

Each response should be prepared simply and economically providing a straightforward, concise delineation of Respondent’s capabilities to satisfy the requirements of this ITN. Fancy bindings, colored displays, promotional material, etc. are not desired.

Additional information submitted after the response document or separate from the response document will not be considered unless specifically requested by the Board and then only to the extent requested.

Each response **shall** provide the information below and should use the tab numbers and order indicated below.

A copy of this ITN in Microsoft Word format may be downloaded from the Board's website at: <http://www.myfloridaprepaid.com/who-we-are/about-the-board/board-reports-and-plans/>

### **1. TAB 1 – Invitation to Negotiate Acknowledgement**

The Invitation to Negotiate Acknowledgment included as Appendix A **must** be completed and signed by an officer or agent of the Respondent who is empowered to bind it in a contract.

### **2. TAB 2 - Qualifications Questionnaire**

The Respondent **shall** complete and submit the Qualifications Questionnaire attached hereto as Appendix B.

### **3. TAB 3 - Services Questionnaire**

The Respondent **shall** submit the Services Questionnaire attached hereto as Appendix C. When completing the questionnaire, the Respondent should give clear, concise, quantifiable replies to all questions, restating each question in bold face type and using no smaller than 11 point font, with its response directly below. The length of the response is at the discretion of the Respondent; however, responses are expected to be brief, to contain full and fair disclosure of essential elements, and should not be redundant or contain references to an appendix or attachment. Tables and graphs are exempt from the font requirement, but must be readable.

### **4. TAB 4 - Price Response**

The Respondent shall propose an annualized fee for assets under management. The price proposal shall be submitted on the Pricing Schedule, attached as Appendix D. **The proposed rate quoted by the Respondent on the Pricing Schedule represents the annual rate the Respondent, if awarded the contract, will receive as compensation under the contract resulting from this ITN**, based upon the formula contained in the Pricing Schedule. No changes to the Pricing Schedule are allowed.

The Board does not guarantee any minimum or maximum market value for the portfolio of the Prepaid Plan or the 529 Savings Plan, at any time or in any year during the term of the contract resulting from this ITN.

## 5. TAB 5 - Audits and Financial Information

The following audit and financial information **must** be included:

1. Complete copies of its audited financial reports for the past three (3) years, or such other evidence which clearly indicates its financial history, current financial strength, and capital adequacy to provide the services required in this ITN.
2. Most recent SSAE 16 audit report. Respondents should provide an explanation for any deficiencies noted in the audit report. If no SSAE 16 audit report has been completed in the preceding two years, Respondent **shall** provide an explanation for why no SSAE 16 audit report was prepared.

## 6. TAB 6 - Regulatory Restrictions, Litigation and Conflicts of Interest

Each Respondent **must** state the following:

- a. Whether or not there are any past or pending regulatory restrictions, consent orders, stipulations or litigation to which the Respondent, any subcontractor, any related entity of the Respondent or any subcontractor, or any of their principals, owners, directors or officers, has ever been a party that would affect its or their ability to provide the required services or which alleges any unfair, illegal or unethical business practice. If so, a detailed description of each must be provided.
- b. Whether or not any officers, principals, owners, directors and all proposed contract employees of the Respondent or any subcontractor that will provide services related to this product have been convicted of, or have plead guilty or nolo contendere to, any felony, regardless of whether adjudication of guilt was withheld. If so, a detailed description of each incident must be included.
- c. Whether or not any penalties, fines or liquidated damages have been imposed against the Respondent, any subcontractors or any related entity of the Respondent or any subcontractor, including without limitation thereto, those associated with any contract for services entered into by the Respondent, any subcontractor, or any related entity of the Respondent or any subcontractor, within the past five (5) years. If so, a detailed description of each such incident, including the amount of the penalty, fine, or liquidated damages imposed, must be included in the response.
- d. Whether or not the Respondent or any subcontractor has ever been involved in any litigation with any qualified tuition program. If so, a detailed description of each lawsuit must be provided.
- e. Whether or not the Respondent or any Related Entity has ever been contacted by any regulatory body (federal, state or industry) regarding any potentially illegal, non-compliant, unethical or improper activities involving the Respondent, any Related Entity, or any of the employees of the Respondent or any Related Entity. If so, a detailed description must be provided that indicates whether your firm or any Related Entity conducted an investigation of those matters.

- f. That the Respondent has not been placed on the convicted vendor list and that it will comply with the provisions of s. 287.133, F.S. Section 287.133(2)(a), F.S., which provides:  
*“A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.”*
- g. That the Respondent has not been placed on the discriminatory vendor list and that it will comply with the provisions of s. 287.134(2)(a), F.S. which provides that:  
*“An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”*
- h. Pursuant to the provisions of Chapter 112, F.S., Respondents must disclose with their responses the name of any officer, director, or agent who is also an employee of the State of Florida, the Board, or any State agency. Respondents must disclose the name of any state employee who owns, directly or indirectly, interest of five percent or more in the Respondent. Respondents must disclose all investment products, annuities, mutual funds or other similar type savings plans that are marketed or sold by the Respondent or its proposed subcontractors for other states as a part of a prepaid college fund or a college savings fund.

## **SECTION IV – EVALUATION AND NEGOTIATION**

The ITN process is divided into two (2) phases, the Evaluation Phase and the Negotiation Phase. The Evaluation Phase involves the Board’s initial evaluation of replies. During the Evaluation Phase, all responsive replies will be evaluated against the evaluation criteria set forth in this ITN. The Board will then select Respondents within a competitive range (“shortlist”) and commence negotiations. The Board intends to initially negotiate concurrently with the Respondents on the shortlist. However, the Board reserves the right, after posting notice thereof, to expand the shortlist to include additional responsive Respondents for negotiation or change the method of negotiation (e.g., concurrent versus by order of ranking), if it determines that to do either would be in the best interest of the Board. A Respondent will be deemed responsive unless determined to be nonresponsive as defined in this document.

In the Negotiation Phase the Board may request oral presentations, supplemental and/or revised replies, and/or best and final offers based on the negotiations. Following negotiations, the Board will post a notice of intended contract award, identifying the Respondent(s) that provides the best value to the Board.

### **A. Evaluation Phase**

Only responses that meet the mandatory requirements of this ITN will be considered by the Board. Responses will be independently evaluated by an evaluation team (“Evaluation Team”) on the basis of written responses to this ITN and additional written information as requested. Responses will be evaluated in three steps as follows:

- Step 1 – Evaluation of Mandatory Requirements of Responses
- Step 2 – Evaluation of Responses
- Step 3 – Ranking of Respondents for Negotiation

The Board reserves the right to determine which responses meet the mandatory requirements of this ITN, and whether any deviation from the requirements of the specifications, terms and conditions contained herein is merely minor or technical in nature; the right to accept responses which deviated in minor or technical fashion is also reserved.

#### **1. Step 1 - Evaluation of Mandatory Requirements of Responses**

The evaluation process will begin with a review of the mandatory requirements as set forth in the ITN. Any response that does not meet the mandatory requirements of the ITN will be rejected. No points will be awarded because a response meets the mandatory requirements.

## 2. Step 2A – Evaluation of Responses

The Board will seek to negotiate a contract with the Respondent(s) that submits the best responsive proposal. Responsive Respondents will be independently evaluated by each member of the Evaluation Team and points will be awarded in the following areas for a maximum total of **100 points** per evaluator:

- Price Response. **25 points.**
- Investment Performance. **32 points.**
- Investment Philosophy and Strategy. **23 points.**
- Organizational Experience and Financial Stability. **20 points.**

The Evaluation Team may consider information received from Callan Associates, Inc. (Callan) an investment consultant for the Board. Callan may provide factual information relating to the historical performance of the Respondent, including investment returns for the portfolio attributes and consistency of performance. Callan may also provide factual information related to the experience, background, and staffing of the Respondent. Any information provided by Callan will be based on the responsive replies to the ITN and information possessed by Callan through the normal course of business. Callan will not make any decisions on behalf of the Board.

### Step 2B – Calculation of Points for Price Responses

Price responses will be evaluated based on the Price Responses provided in each proposal, as shown on the Pricing Schedule (Appendix D). The maximum of 25 total points will be awarded for the lowest acceptable fee proposed. (Fee proposals will be evaluated assuming a \$175 million dollar portfolio.) Points for other Respondents will be awarded using the following formula:

$(X/N) \times 25 = Z$ ; where:

X = Lowest Flat Rate Fee bid;

N = Proposal Flat Rate Fee;

Z = Awarded points

### Step 2C – Calculation of Points for Performance Responses

Performance responses will be evaluated using a points system. Two points, up to a maximum of 12 points, will be awarded when evaluating the performance for the 4, 5 and 7 years ended on June 30, 2017 versus the FTSE Russell 1000 Growth benchmark and relative to style group peers.

In addition, performance responses will be evaluated using rolling 3 year periods over 5 periods (annual roll) versus the FTSE Russell 1000 Growth benchmark and relative to style group peers. Two points, up to a maximum of 20 points will be awarded for rolling time periods.

For consistency, factual information provided by Callan Associates will be used in assessing this scoring component.

### **3. Step 3 – Ranking of Respondents for Negotiation**

After the response evaluations are complete, the points awarded by each Evaluation Committee member will be validated pursuant to the schedule in Section I.D. and then aggregated, including the points awarded for the consideration responses, to determine the total score. The Respondents will be ranked based on total score. The Board will then select the highest-ranked Respondents (“shortlist”) within a competitive range for negotiation. The Board will provide individual notice to each Respondent selected to the shortlist. The Board reserves the right, after posting notice thereof, to expand the shortlist to include additional responsive Respondents.

The Board expressly reserves the right to accept or reject any and all responses and to award the contract in the best interests of the Board.

Be advised, Respondents will not be eliminated from the ITN process until the posting of the Notice of Intent to Award.

#### **B. Contract Negotiation**

The Board intends to initially negotiate concurrently with up to three (3) of the highest-ranked Respondents (“shortlist”) within a competitive range. However, the Board reserves the right, after posting notice thereof, to expand the shortlist to include additional responsive Respondents for negotiation or change the method of negotiation (e.g., concurrent versus by order of ranking), and evaluation criteria if it determines that to do such would be in the best interest of the Board. When negotiations have been completed, the Board will award the contract to the responsive and responsible Respondent that the Board determines will provide the best value to the Board. The Board will post its Notice of Intent to Award or its notice informing of its decision that all responses have been rejected on to the VBS at [http://www.myflorida.com/apps/vbs/vbs\\_www.search.criteria\\_form](http://www.myflorida.com/apps/vbs/vbs_www.search.criteria_form). Please utilize the following search criteria below to view this information on the aforementioned website: **Agency:** State Board of Administration; **Title:** ITN 17-04.

At any time during the negotiation process, the Board’s reserved rights include but are not limited to:

1. Schedule additional negotiating sessions with any or all Respondent(s);
2. Require oral presentations. If oral presentations are required, the persons making presentations on behalf of a Respondent should include, at a minimum, the Primary Manager, the Backup Manager, and the proposed Contract Manager.
3. Require any or all Respondent(s) to provide additional or revised replies and detailed written proposals addressing specified topics;
4. Require any or all Respondent(s) to provide a written best and final offer;

5. Require any or all Respondent(s) to address services, prices, or conditions offered by any other Respondent;
6. Pursue a contract with one or more Respondent(s) for the services encompassed by this solicitation, any addenda thereto, and any request for additional or revised detailed written proposals or request for best and final offers;
7. Arrive at an agreement with any Respondent, finalize principal contract terms with such Respondent and terminate negotiations with any or all other Respondents, regardless of the status of or scheduled negotiations with such other Respondent(s);
8. Decline to conduct further negotiations with any Respondent;
9. Reopen negotiations with any Respondent;
10. Take any additional administrative steps deemed necessary in determining the final award, including additional fact-finding, evaluation, or negotiation where necessary and consistent with the terms of this ITN;
11. Review and rely on relevant information contained in the replies received;
12. Review and rely on relevant portions of the evaluations conducted pursuant to Section IV.A.; and
13. Seek factual information from Callan as it pertains to Callan's investment consultant services provided to the Florida Prepaid College Board.

The Board has sole discretion in deciding whether and when to take any of the foregoing actions, the scope and manner of such actions, the Respondent(s) affected, and whether to provide concurrent public notice of such decision. The Board retains its right to reject all bids.

Negotiations between the Board and Respondent are exempted from being held as public meetings by Section 286.0113(2)(a) of the Florida Statutes. Furthermore, negotiation strategy meetings of the Board's negotiation team are exempted by Section 286.0113(2)(a) of the Florida Statutes.

## SECTION V – GENERAL INFORMATION

### A. Glossary of Terms

1. “Board” means the Florida Prepaid College Board.
2. “Contract” means the document developed as a result of this ITN, which will incorporate, among other provisions, the contents of this ITN, questions and answers regarding this ITN, the Respondent's response to this ITN, and any amendments to the response.
3. “Day” means a calendar day unless a different meaning is otherwise indicated.
4. “Fiscal Year” means the fiscal year of the Board. Each fiscal year begins July 1 and ends the next June 30.
5. “ITN” means this Invitation to Negotiate.
6. “Prepaid Plan” means the Stanley G. Tate Florida Prepaid College Program authorized in s. 1009.971, F.S., or any successor statute
7. “Response” means all responses and materials submitted by the Respondent in response to this ITN.
8. “Qualified tuition program” means the same as in s. 529 of the Internal Revenue Code.
9. “Respondent” means any firm, group or person who submits a response to the Board in response to this ITN.
10. “Related Entity” means any corporation, partnership, limited partnership, limited liability company, or other entity, including, but not limited to, any parent company, subsidiary company, predecessor company, successor company or any member of an affiliated group of corporations, as defined in s. 1504 of the Internal Revenue Code.
11. “529 Savings Plan” means the Florida College Savings Program as authorized in s. 1009.981, F.S., or any successor statute
12. “State” means the State of Florida and its departments, boards, commissions, officials, and employees.
13. “Trust Fund” means the Florida Prepaid College Trust Fund.

Throughout this ITN and where deemed appropriate by the Board, the singular may be read as the plural and the plural as the singular.

### B. ITN Revisions

If it becomes necessary to revise any part of this ITN, an amendment will be posted on the VBS website at [http://www.myflorida.com/apps/vbs/vbs\\_www.search.criteria\\_form](http://www.myflorida.com/apps/vbs/vbs_www.search.criteria_form). Please utilize the following search criteria below to view this information on the aforementioned website: **Agency:** State Board of Administration; **Title:** ITN 17-04.

The Respondent is responsible for checking the website for any addendums or updates. Respondents unable to download amendments should direct their requests for hard copies to Casey L. Fisher (see delivery address in Section III. A.)

### **C. Responsibility for Services**

The Respondent(s) whose response is selected by the Board shall establish and assume direct responsibility for managing the assets allocated to the Large Capitalization Growth Domestic Equity product of the Board's authorized assets. Accordingly, the Respondent(s) shall designate a Contract Manager whose primary responsibility is to work with the Board staff in making certain that all contract terms are strictly observed. At any time during the term of the contract, the Board reserves the right to reject the Respondent's choice of Contract Manager and may terminate the contract if a Contract Manager acceptable to the Board cannot be made available by the Respondent.

### **D. Contract**

The Investment Management Agreement indicating the respective duties of the successful Respondent and the Board, is included with this ITN as Appendix G.

If the language between the ITN's specifications and its Investment Management Agreement is contrary to the terms within PUR 1000 and 1001 which are incorporated herein by reference as Appendix H, the ITN specifications and its Investment Management Agreement shall control.

### **E. Insurance**

The Respondent shall represent and warrant that, at the time of contracting, it will have in effect, as stated in Part I, Section 9 of the Investment Management Agreement (Appendix G), insurance coverage which complies with the bonding requirements of Section 412 of ERISA, and the Respondent shall covenant that it shall keep such insurance coverage as required by said section (as the same may from time to time be supplemented or amended) in effect during the term of this contract, notwithstanding the fact that the terms and provisions of ERISA may not be applicable to this contract. The Respondent shall carry minimum blanket bond coverage of not less than \$10 million. Upon request of the Board, the Respondent shall provide to the Board evidence that the premium therefore has been paid. In addition, the Respondent shall have in effect, and will maintain during the term of the contract, fiduciary liability insurance in an amount not less than \$10 million which provides coverage with respect to any loss resulting from a breach of its fiduciary duties and including coverage in the event of recourse against it by, or on behalf of the Board. Upon request of the Board, the Respondent shall provide to the Board evidence that the premium therefore has been paid.

### **F. Public Access to Records**

All responses to this ITN shall result in a Respondent's waiver of any and all rights relating to confidentiality, or claims thereof, upon delivery to the Board. All electronic and written communications pertaining to this ITN, whether sent from or received by the Board, and all responses to this ITN including, without limitation, administrative information, proposed services/commodities

and cost information will be subject to disclosure after contract award as required under Chapter 119 of the Florida Statutes.

Sections 1009.98(6) and 1009.981(6), Florida Statutes, provide that all information that identifies the purchasers or beneficiaries of any advance payment contract or the benefactor or designated beneficiary of any savings account is not subject to the provisions of s. 119.07(1), Florida Statutes, the Public Records Law. All other documents, papers, letters, or other materials relating to this contract that are made or received by the Respondent in conjunction with the contract, and which are required by law to be maintained, must be available for public access pursuant to Chapter 119, Florida Statutes, and for audit purposes for a period of three (3) years after the expiration of the contract. Said records must also be maintained per Chapter 119 and other applicable Florida Statutes.

#### **G. Restrictions on Communications with the Board and Board Staff**

Respondents to this solicitation or persons acting on their behalf shall not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents.

#### **H. Legal Requirements**

Applicable provisions of all federal, state, county, and local laws, will govern development, submittal and evaluation of all responses received in response hereto and will govern any and all claims and disputes which may arise between persons submitting a response hereto and the Board. Lack of knowledge by any Respondent will not constitute a cognizable defense against the legal effect thereof.

#### **I. Cost of Developing and Submitting Responses**

Neither the Board nor the State is liable for any of the costs incurred by the Respondent in preparing and/or submitting a response.

#### **J. Property of Board**

All responses become the property of the Board upon receipt and will not be returned to the Respondents. The Board has the right to use any and all ideas or adaptations of ideas contained in any response received in response to this ITN. Selection or rejection of the response will not affect this right. All responses become public documents upon submission. All materials and data produced for the Board under the contract resulting from this ITN will be owned by the Board unless otherwise agreed to in writing by the Board.

**K. Response Tenure**

All responses are valid for one hundred eighty (180) days from the response due date. The period of time during which responses are valid will be tolled during the pendency of any proceeding related to any contract awarded pursuant to this ITN.

**L. News Releases**

The Board is the only entity authorized to issue news releases relating to this ITN, responses submitted in response to this ITN, and any contract resulting from this ITN.

## **APPENDICES**

Appendix A – Invitation to Negotiate Acknowledgement

Appendix B – Qualifications Questionnaire

Appendix C – Services Questionnaire

Appendix D – Pricing Schedule

Appendix E – Comprehensive Investment Plan for the Prepaid Plan

Appendix F – Comprehensive Investment Plan for the 529 Savings Plan

Appendix G – Investment Management Agreement

Appendix H – PUR 1000 and PUR 1001

**APPENDIX A**

**INVITATION TO NEGOTIATE ACKNOWLEDGEMENT**

State of Florida  
State Board of Administration  
Florida Prepaid College Board  
1801 Hermitage Blvd., Suite 210  
Tallahassee, Florida 32308

**INVITATION TO NEGOTIATE ACKNOWLEDGEMENT**

Reply Number: ITN 17-04 \_\_\_\_\_

Title: Large Capitalization Growth Domestic Equity Investment Management Services for the Stanley G. Tate Florida Prepaid College Program and the Florida 529 Savings Plan

**By completing this acknowledgment, I agree to abide by all conditions of this negotiation and certify that I am authorized to sign this response and that the offer is in compliance with all requirements of the Invitation to Negotiate, including but not limited to, certification requirements.**

---

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Authorized Signature (manual): \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Signature (typed): \_\_\_\_\_

---

THIS SHEET AND THE ACCOMPANYING NEGOTIATION DOCUMENTS CONSTITUTE AN OFFER FROM THE RESPONDENT. IF ANY OR ALL PARTS OF THE NEGOTIATION ARE ACCEPTED BY THE BOARD'S REPRESENTATIVE, THE BOARD'S REPRESENTATIVE SHALL EXECUTE HERETO, AND THIS SHALL THEN CONSTITUTE THE WRITTEN AGREEMENT BETWEEN THE PARTIES THAT INCOPORATES HEREIN THE ITN SPECIFICATIONS, APPENDICES, SERVICE AGREEMENT, RESPONDENT SUBMISSIONS, WRITTEN QUESTIONS AND BOARD ANSWERS, ALL TOGETHER FORMING THE AGREEMENT BETWEEN THE PARTIES.

BOARD REPRESENTATIVE: \_\_\_\_\_ DATE: \_\_\_\_\_

CONTRACT NUMBER: \_\_\_\_\_ EFFECTIVE DATE: \_\_\_\_\_

**APPENDIX B**

**QUALIFICATIONS QUESTIONNAIRE**

## QUALIFICATIONS QUESTIONNAIRE

**Any Respondent that does not satisfy the applicable criteria in A thru D will be rejected.**

### **A. Experience – Mandatory**

**Please indicate whether your company satisfies ALL of the following:**

1. The Respondent has greater than \$1 billion in discretionary assets under management as of June 30, 2017. **YES** \_\_\_\_
2. The Respondent has greater than \$250 million in discretionary assets under management in the proposed product as of June 30, 2017. **YES** \_\_\_\_
3. The Respondent has a minimum of five years experience managing assets in the proposed product. **YES** \_\_\_\_
4. The Respondent has experience managing public fund assets. **YES** \_\_\_\_
5. Respondent has submitted product and organizational information in Callan Associates Inc.'s database, **not later than Noon, Eastern Time on September 22, 2017.** **YES** \_\_\_\_

**Date Respondent's information was filed in Callan Associates Inc.'s database:**

\_\_\_\_\_

### **B. Statutory Requirements – Mandatory**

1. Section 1009.971(5), F.S., limits the type of entities that may be an investment manager for the Board. Please indicate whether the Respondent is one of the following:
  - a. A bank as defined by s. 658.12, F.S. **YES** \_\_\_\_
  - b. An authorized insurer as defined by s. 624.09, F.S. **YES** \_\_\_\_
  - c. An association as defined by s. 665.012, F.S. **YES** \_\_\_\_
  - d. An authorized Securities and Exchange Commission investment adviser  
**YES** \_\_\_\_
  - e. An investment company, as defined in the Investment Company Act of 1940  
**YES** \_\_\_\_
2. Section 1009.971(5)(d), F.S., requires that entities that are investment managers for the Board have their principal place of business and corporate charter located and registered in the United States. Please indicate whether:

- a. Respondent's principal office is located in the United States **YES** \_\_\_\_
- b. Respondent's corporate charter is located and registered in the United States **YES** \_\_\_\_

**C. Services to be Provided - Mandatory**

- 1. The Respondent agrees (by written affirmation) to provide the services as detailed in Section II and agrees to all other requirements as stated in the ITN. **YES** \_\_\_\_

**D. Contract – Mandatory**

- 1. The Respondent expressly and affirmatively agrees to execute the contract containing all of the terms in the Investment Management Contract included in Appendix G. **YES** \_\_\_\_

**E. Experience - Preferred**

- 1. The Respondent has experience as an investment manager for the State of Florida. **YES** \_\_\_\_ **NO** \_\_\_\_

**F. Performance Criteria - Preferred.**

- 1. Is the average annualized tracking error of the proposed product within 475 basis points of the FTSE Russell 1000 Growth Index, net of management fees (use the fee your firm is quoting in Business Proposal), over the last five years?

**YES** \_\_\_\_ **NO** \_\_\_\_

- 2. Is the proposed product's performance track record GIPS compliant.

**YES** \_\_\_\_ **NO** \_\_\_\_

**The proposed product's performance results or measurements must be real-time. Back-tested or simulated statistics will not be accepted.**

## **APPENDIX C**

### **SERVICES QUESTIONNAIRE**

## SERVICES QUESTIONNAIRE

### A. Corporate Information

1. Provide a summary (no longer than 2 pages) within which you summarize the key value proposition of your organization. Ensure that you identify how the organization, service model, team assigned, services offered, transparency of business/revenue model, and overall economics are designed to provide exceptional services with a market-leading standard of care and dedication befitting the Florida Prepaid College Board.
2. Please indicate month and year Respondent became operative.
3. Please indicate the month and year Respondent began providing services.
4. Please indicate SEC file number for the Respondent or any subcontractor(s) that will manage the account.
5. Please indicate exact date of SEC 1940 registration for the Respondent or any subcontractor(s) that will manage the proposed product. Provide a current copy of your Form ADV, parts I and II.
6. List the office location (primary and secondary) from which the work is to be delivered.
7. Are there any current organizational issues (i.e., mergers, acquisitions, personnel changes, business concerns, etc.) at your institution that we should know about? Have there been any organizational issues over the last three years?
8. List "related" firms and provide a brief description of the services offered by each firm.
9. List all investment management services offered by the firm (i.e. Domestic Equity, Foreign Equity, Domestic Fixed Income, etc). Does the firm provide any other product or service other than portfolio management? Please list.
10. Provide details of any SEC, state regulatory, self-regulatory organization, or professional organization action taken against your firm or any of its owners, principals, or personnel.
11. Has your firm received a Wells Notice in the past year? If so, please discuss.
12. Provide details of all SEC fidelity bonds, errors and omissions coverage, and any other fiduciary insurance, which your firm carries.
13. Describe all arrangements or understandings (written or oral) between your firm and any advisor, broker, law firm, or other individual or entity in connection with the solicitation or referral of clients between the firms.
14. Has your firm adopted policies consistent with CFA Institute trade management/soft dollar guidelines? If so, provide details.
15. Is there any current or pending litigation, formal investigation, or administrative proceedings related to money management activities? If so, provide details.

**B. Personnel**

1. Attach an organizational chart and biographies of key personnel which would be assigned to this account, including length of experience and expected retention. Key personnel include investment officers, portfolio managers, and analysts.
2. Do all firm professionals work exclusively for the firm?
3. Complete the following chart:

	Firm Total	Large Cap. Growth Domestic Equity
Total Full-time Employees	_____	_____
Portfolio Managers	_____	_____
Research Analysts/Quantitative Analysts	_____	_____
Market Strategists/Economists	_____	_____
Other Research	_____	_____
Customer Service	_____	_____
Marketing/Sales	_____	_____
Trading	_____	_____
Account Supervision/Performance Administration/Office Management	_____	_____
Other _____	_____	_____
TOTAL	_____	_____

4. Provide the number of key employees (e.g portfolio managers and analysts) added/lost over the last 5 years and explain any departures.

	#Added	#Lost	# Large Cap. Growth Domestic Equity Employees (added/lost)
2016	_____	_____	_____/_____
2015	_____	_____	_____/_____
2014	_____	_____	_____/_____
2013	_____	_____	_____/_____
2012	_____	_____	_____/_____

5. Is the team considered fully staffed?
6. Describe the compensation structure for your firm’s investment staff, including all incentive plans, specifying how and for what they are rewarded. Please be detailed and specific, provide information on all eligible positions, and note if any part of the compensation is deferred.
7. Describe your internal training procedures for portfolio managers, research analysts and client service officers.

8. How frequently are team members evaluated on individual performance and, if necessary, what steps are taken to improve their performance?
9. Describe your firm's back-up procedures in the event that the key investment professional assigned to the account should leave the firm or retire.

**C. Clients**

1. Provide the organization name, address, contact name and phone number of at least three clients for whom similar services as described in this ITN are provided.
2. Provide a representative list of Large Cap. Growth Domestic Equity clients.

**D. Return Opportunity**

1. What challenges does the FTSE Russell 1000 Growth Index present to an active manager given the concentration in the index and the limited universe?
2. Describe your view of the current environment for active management in U.S. large cap securities and note what makes the FTSE Russell 1000 Growth universe an attractive opportunity set.
3. Active managers in the U.S. Large Cap space have struggled to provide positive alpha in recent years. In your opinion what have been the most challenging headwinds that active managers in this space have experienced?
4. Describe the circumstances or market conditions that would favor your investment strategy. Provide examples of conditions in which your strategy has performed well relative to the FTSE Russell 1000 Growth Index.
5. Describe the circumstances or market conditions that would not favor your investment strategy. Provide examples of conditions in which your strategy has not performed well relative to the FTSE Russell 1000 Growth Index.

**E. Investment Philosophy, Style and Construction**

1. Describe your investment philosophy for the proposed Large Cap Growth product. At a minimum please discuss the following:
  - a. The market inconsistency or inefficiency you are trying to capture.
  - b. Is your philosophy top-down, bottom-up or a combination of both? Please discuss.
  - c. Why do you believe this philosophy will lead to excess returns over a full market cycle?
  - d. Describe the factors that drive returns in the proposed product. Do the factors vary in the short and long term? [Note: this question applies to both fundamental and quantitative strategies.]
2. Describe how you construct an active Large Cap. Growth Domestic Equity portfolio.
  - a. Initial idea generation
    - i. How are ideas sourced? Please detail ways you identify potential names to research for inclusion in the portfolio.
  - b. Stock Selection
    - i. Please differentiate and describe the quantitative and qualitative process that leads to a security's inclusion in the portfolio.

- ii. Discuss the role of research in the security selection process, including if research is primarily sourced by sell-side resources or is generated internally.
  - iii. How many stocks are actively researched in depth for potential inclusion in the portfolio?
  - iv. Describe the analyst team supporting the proposed strategy, including their coverage responsibilities if organized by sector, industry, or otherwise. How many securities is each analyst responsible for covering? Do they support any other strategies?
  - v. How do you gain insight over other investors into the opportunities and risk in the Large Cap market?
- 3. Sell discipline
  - i. Please thoroughly describe your sell discipline.
- 4. What unique aspects of your process help you identify the superior growth opportunities in the Large Cap universe?
- 5. If applicable, please describe any changes made to your investment philosophy or process over the past five years as well as the performance and risk impact of these changes.
- 6. Do you anticipate any changes to the investment thesis or process in the near future? What are the expected implications of these changes?
- 7. Describe the research that your organization conducts and how it is incorporated into the portfolio construction process.
- 8. How do you monitor the quality of research? How is research stored and distributed to the investment team? With what frequency is research updated?
- 9. Describe external information sources and how they are used in the research process.
- 10. Discuss in detail the use of third-party research in your investment process. How does your firm pay for this research?
- 11. Discuss the importance of company visits to your process.
  - a. Is a company visit mandatory before you would purchase a security for the portfolio?
  - b. How many company visits do you conduct every year?
- 12. Do you consider the concept of cognitive diversity in structuring your investment team and in implementing your process? If yes, please describe.
- 13. Provide the names, titles and responsibilities of the individuals and/or committees involved at each stage of the portfolio construction process.
- 14. Provide your internal guidelines for this strategy managed as a fully discretionary account.
  - a. Provide a description of the portfolio construction process, listing each stage explicitly.
  - b. Discuss how security and sector weightings are determined.
  - c. What determines the positioning of a single stock as well as sector and industry weights? What are the maximum and minimum parameters? How were these parameters established?
- 15. How and by whom is the decision made to buy/sell a stock from the portfolio? Discuss the decision making latitude of portfolio managers versus research analysts and investment

committees. Additionally, contrast the contribution of inputs of research analysts to the investment process versus portfolio managers.

16. Who is responsible for risk monitoring? Do you maintain an internal, dedicated risk team? If so, who does that team report to and what is the process for monitoring and effecting portfolio changes when necessary? Also, please describe the interaction between risk professionals within your firm and the investment team responsible for this strategy.
17. How is portfolio risk monitored and controlled?
  - a. How do you define risk?
  - b. Discuss any applicable risk controls with respect to sectors, industries, value or growth style exposures, individual stocks and capitalization.
  - c. Is there an explicit benchmark tracking error target for this strategy? Does your process purposely aim for a specific tracking error, or it is a byproduct of the portfolio construction process?
  - d. What is the expected tracking error of the product over a full market cycle? Has the expected tracking error changed over time? If yes, please explain.
18. What is the expected tracking error of the strategy over a full market cycle? Has the expected tracking error changed over time?
19. What is the range of market capitalizations (lowest and highest) for which you will consider investing in this Large Cap Growth strategy?
20. Will you hold any securities outside of the FTSE Russell 1000 Growth index?
21. Please list all the active domestic equity portfolios you offer. Please specify whether you offer a separate account or commingled fund for each product.
22. Please answer the following questions regarding cash holdings.
  - a. How is cash utilized in this strategy?
  - b. What is the maximum amount of cash that a portfolio manager may hold in this strategy?

#### **F. Portfolio Characteristics**

1. What is the number range of securities held in a typical portfolio?
2. Compare your Large Cap. Growth Domestic Equity Portfolio with the FTSE Russell 1000 Growth Index as of June 30, 2017.

	<b>Avg Account</b>	<b>Benchmark</b>
Weighted Avg Market Cap		
Weighted Med Market Cap		
Avg Forward Price/Earnings (Next 12 months)		
Avg P/B		
Forecasted 5 Yr Earn. Growth		
Dividend Yield		
# of holdings		

3. What has the average annual portfolio turnover been in 2013, 2014, 2015 and 2016? What originated the turnover (asset allocation, changes in security selections)?
4. Describe any specific guidelines/restrictions around sector or industry concentrations.
5. Describe any biases towards any sectors, industries or market capitalization.
6. What is the capacity of the portfolio and how is it monitored/evaluated?

**G. Assets and Account Management**

1. Provide the minimum, maximum, and average number of accounts managed by Large Cap. Growth Domestic Equity portfolio managers. What is your firm's policy regarding this number?
2. Account Size  
Largest Large Cap. Growth Domestic Equity Separate Account      \$ \_\_\_\_\_  
Smallest Large Cap. Growth Domestic Equity Separate Account      \$ \_\_\_\_\_  
Average Large Cap. Growth Domestic Equity Separate Account      \$ \_\_\_\_\_
3. What is the minimum account size for a separate account?      \$ \_\_\_\_\_
4. Total Firm Assets Under Management as of June 30, 2017.

	\$ Equity	\$ Other	\$ Fixed	\$ Total
Public				
Corporate				
Endow/Found				
Taft-Hartley				
Other				
TOTAL				

5. Large Cap. Growth Domestic Equity Assets Under Management as of June 30, 2017.

	Tax- Exempt	Taxable	Other
TOTAL			

6. Provide a breakdown of Large Cap. Growth Domestic Index Equity Separate Accounts by asset size as of June 30, 2017.

Size of Account	\$ Total Assets	# Accounts
Under \$10 million		
\$10 to \$50 million		
\$50 to \$100 million		
Over \$100 million		

7. Provide the following information regarding Client Gains (separate accounts).

	\$ Total Assets	# Accounts
2016		
2015		
2014		
2013		

8. Provide the following information regarding Client Departures (separate accounts).

	\$ Total Assets	# Accounts
2016		
2015		
2014		
2013		

**H. Performance**

1. With respect to performance presentation, does your firm claim compliance with CFA Institute or GIPS standards? If not, why?
  - a. Are performance returns independently audited or verified?
2. Provide performance data for your Large Cap. Growth Domestic equity product and the FTSE Russell 1000 Growth Index. For the 1, 3 5, 7 and 10 year periods, provide as of June 30, 2017. If the history of your product is less than 10 years provide whatever information is available.

Period	Gross Annual Return (%)	FTSE Russell 1000 Growth Index
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
2013		
2014		
2015		
2016		
1-Year		
3-Years		
5-Years		
7-Years		
10-Years		

3. Provide the portfolio’s tracking error relative to the FTSE Russell 1000 Growth Index for the 1, 3, 5, 7 and 10 year periods ending June 30, 2017.

Period	Tracking Error
1-Year	
3-Year	
5-Year	
7-Year	
10-Year	

4. Provide the portfolio’s information ratio relative to the FTSE Russell 1000 Growth Index for the 1, 3, 5, 7, and 10 year period ending June 30, 2017.
5. Discuss turnover in the portfolios you currently manage and your tolerance for volatility.

**I. Compliance**

1. Provide an organizational chart showing where compliance responsibility resides as well as the reporting flow, escalation, and resolution of compliance violations.
2. Describe and procedures relating to reconciliation of portfolio transactions, holdings, receivables and payables to the custodians records. Provide details as the frequency and systems used to complete such reconciliations. Are these processes managed internally or are they outsourced?

3. Describe your pre-trade compliance process. Is this an automated system? What system do you use?
4. Describe your post-trade compliance process. Is this an automated system? What system do you use?
5. Describe how quantitative and qualitative contract guidelines are implemented.
6. Is employee trading for personal accounts allowed? If yes, please explain when employees are allowed to trade for personal accounts.
7. Describe your firm's ethics policy and discuss how ethical behavior is encouraged throughout the firm. How are violations of the firm's ethics policies handled?

**J. Contracts with Qualified Tuition Programs**

1. List every contract between the Respondent or any related entity and any other qualified tuition program.
2. List every contract between the Respondent or any related entity and a contractor of any qualified tuition program which contract relates to such a program.
3. What is the total dollar amount of qualified tuition plan assets managed by your firm in total and in the proposed product?
4. How many qualified tuition programs does the firm have as clients that have assets in the proposed product?

**K. Diversity**

The Board supports and encourages diversity and participation of small and minority business enterprises in contracting. In order to identify minority or woman-owned businesses or other firms which actively pursue providing opportunities to women, minorities, and service-disabled veterans provide the following information. Indicate if your firm is a minority-owned business or a woman-owned business and identify the principal shareholders who qualify your firm. Indicate the percentage of professionals within your firm who are minorities or women and list the number and positions of such professionals. Provide a list of the names and positions of any minority professionals who will be working under this contract. Provide a brief description of your firm's minority hiring/affirmative action program.

**L. Additional Information and Comments**

In addition to the material which must be submitted with the response in order for the response to be responsive to this ITN, Respondents may submit any other information which they deem pertinent to the delivery of the services requested herein.

**APPENDIX D**

**PRICING SCHEDULE**

## **PRICING SCHEDULE**

### **Annual Fee**

Please provide a fee proposal. The Board prefers a flat rate pricing schedule but tiered pricing will be considered.

Fee proposals will be evaluated assuming a \$175 million portfolio value.

Effective rate = \_\_\_ basis points (\_\_\_/100 of 1%) on \$175 million portfolio.

---

### **Calculation of Compensation for Manager**

The fee due to the Manager will be determined quarterly in accordance with the rate set forth above and the formulas below, based on the Market Growth of the Assets held in the Portfolio for each Program, as determined by the Master Custodian, on the last business day of the preceding quarter. The management fee shall be calculated on a pro rata basis for each Program's portfolio to reflect the periods of time such assets were under direct supervision during the billing period.

### **Formula to be applied for the Prepaid Plan:**

#### **For Contributions:**

$$[\text{EOQ NAV} * \text{R} * (\text{number of days in quarter}/\text{number of days in year})] - [\text{Ta} * \text{R} * (\text{number of days from BOQ until Td}/\text{number of days in year})] = \text{Total Management Fee year}]$$

#### **For Liquidations:**

$$[\text{EOQ NAV} * \text{R} * (\text{number of days in quarter}/\text{number of days in year})] - [\text{Ta} * \text{R} * (\text{number of days from BOQ until Td}/\text{number of days in year})] = \text{Total Management Fee year}]$$

#### **Where:**

Ta = Transfer Amount

Td = Transfer Date

R = Applicable Fee Rate

NAV = Net Asset Value

EOQ = End of Quarter

BOQ = Beginning of Quarter

**Assumptions:**

- a. There is no change in net asset value related to transfers, other than the change related to the dollar amount of the transfer itself.
  
- b. Transfer amounts are calculated as deductions from/additions to end-of-quarter net asset value, with the latest transfer being backed out/added in first.
  
- c. In the event that the proration of contributions would result in the fee having a negative balance, the fee is to be reduced to zero.

**Formula to be applied for the 529 Savings Plan:**

**Quarterly Fee** = [Average Daily Net Asset Value for the Preceding Quarter  
\* Rate Fee \* (number of days in preceding quarter/number of days in year)]

**APPENDIX E**

**Comprehensive Investment Plan  
Stanley G. Tate Florida Prepaid College Program**

**Florida Prepaid College Board  
Comprehensive Investment Plan  
*for the*  
Stanley G. Tate Florida Prepaid College Program  
June 14, 2017**

**AUTHORITY**

All investments made under this plan are made under the authority granted the Florida Prepaid College Board under Section 1009.973, Florida Statutes. All funds managed by the Board are funds of the State of Florida.

**PURPOSE**

The Stanley G. Tate Florida Prepaid College Program (the Program) is a program created pursuant to Section 1009.98 of the Florida Statutes to provide a medium through which the cost of a state postsecondary education may be paid in advance of enrollment at a rate lower than the projected corresponding cost at the time of actual enrollment. The Program is administered by the Florida Prepaid College Board (the Board), which was created pursuant to Section 1009.97 of the Florida Statutes.

The policy goals of this Comprehensive Investment Plan (CIP) are established as follows in the priority listed. These goals are:

1. Safety
2. Liquidity
3. Yield

The sole purpose of the investment program is to meet the forecasted actuarial liability projections. In pursuing the objective of meeting the forecasted liabilities, the primary policy goal is the safety in the Program's ability to meet the forecasted liabilities. The goals of safety must be met by the limitation of risk through portfolio allocation based on liability requirements, diversification within asset classes, credit quality guidelines and investment operating procedures.

A second and equally important portfolio objective is giving adequate consideration to the liquidity requirements necessitated by the Program obligations. Consideration will be given to investment maturities, investment income and funds receipts in calculating funds required for liquidity purposes.

After meeting safety and liquidity requirements, the goals of maximizing investment return will be met. Strategies will be employed to achieve the highest possible net returns within policy guidelines.

The investment strategy is designed to enable the Board to meet actuarially determined Program liabilities, calculated by an independent actuarial consultant firm, and approved by the Board, at the time of funding. By definition, responsibility for financing any divergence of actual liabilities from actuarial assumptions that may result in Program funding deficits belongs to the Legislature. The sole purpose of the Board's CIP is to outline the strategies to be employed to meet forecast actuarial liability projections, and to establish the guidelines under which each investment manager will operate.

## **ORGANIZATION**

The Board retains ultimate responsibility for the development, execution and control of the CIP. The Board may delegate responsibility for the administration of the CIP to a Committee of the Board or a person duly chosen by the Board. This Committee or person shall ensure that Board policies are strictly followed and that investment procedures, which protect the financial assets of the Program, are in place and properly followed. The Committee will employ the services of a professional consultant to advise it in the pursuit of the investment objectives.

## **INVESTMENT MANAGEMENT**

The Board will hire duly qualified investment managers to carry out the day-to-day investment responsibilities outlined in the CIP. Investment managers (product providers) will have investment discretion as to security selection subject to the guidelines and limitations expressed in the CIP and any manager-specific guidelines agreed upon between the Board and manager.

## **REPORTING**

The Executive Director will cause detailed quarterly reports and monthly flash reports of the investment portfolio structure and performance to be prepared for review by the Board.

To ensure that the Executive Director and the Board have the necessary information to discharge their oversight responsibility, the quarterly reports will include the following:

1. Performance Measurement and Attribution

Performance measurement of the Prepaid College Trust Fund (the Fund) shall be reported each quarter for the most recent completed quarter, fiscal year-to-date, most recent twelve-month period and cumulatively from inception showing returns on the assets compared to returns on

the customized benchmark index, which approximates the Program's liability requirements. Returns will be reported on a time-weighted basis.

- The performance of the total Fund will be compared against a benchmark comprised of market portfolios representing the underlying investment strategies and weighted in accordance with the Program's asset allocation policy.
- Performance of each asset class will be shown along with an analysis of each manager's contribution to the performance of the asset class.
- Performance of each investment manager and an attribution analysis of that manager's performance will be shown in comparison to benchmarks appropriate to their investment strategy.
  - Fixed Income attribution will include such factors as the effects of changes in interest rates, and sector and quality decisions.
  - Equity attribution will include such factors as sector and industry weights, beta, company size, yield and growth in earnings.
- The performance of each equity manager will also be evaluated relative to a universe of its peers managing similar portfolios and following a similar investment style.
- Returns for each manager and the overall Fund will also be evaluated on a risk-adjusted basis.
  - For individual managers, the risk measurement will be expressed relative to appropriate benchmarks.
  - For each asset class and the overall Fund, the risk measurement will take into consideration any deviation from asset allocation policy and the impact on the funded status of the Program's liabilities.

## 2. Compliance and Monitoring

- Asset allocation of the Fund and diversification within each asset class will be reported to ensure allocation guidelines are met.
- Projection of sources and uses of funds will be reported to ensure liquidity requirements are met.
- Investment asset holdings will be reported and monitored monthly to ensure investment only in authorized vehicles.

- Each manager will certify *monthly* that their portfolio is in compliance with the terms of this CIP and their specific investment mandate. Any exceptions to policy will be noted and a statement provided indicating the steps to be taken to bring the portfolio back into compliance with the policy.
- Each manager will be monitored based upon the performance objectives outlined in this CIP.
- Each manager shall immediately disclose to the Board in writing any instance which a member of the investment manager's Board of Directors, an officer of the investment management firm, or a member of the portfolio management staff is also a member of the Board of Directors, an officer of, or a significant shareholder of 5% or more in stocks of a company in which they propose to invest Board funds. In addition, the Board's investment consultant and the trustee/custodian shall annually certify that no conflicts of interest exist with respect to the services they provide to the Program and shall annually provide the Board with a copy of the firm's policy governing conflicts of interest. The requirements of this paragraph do not apply with respect to the common stock of the manager responsible for investment of the large capitalization core domestic equity portfolio (or the common stock of the manager's holding company) when the manager's common stock (or that of its holding company) is included in the S&P 500; provided that, prior to the initial purchase of the manager's common stock (or that of its holding company), the manager notifies the Board in writing that the manager's common stock (or that of its holding company) is included or has been included, in the S&P 500.
- Commingled or Mutual Funds - The Board may approve the use of pooled vehicles such as mutual funds or commingled funds to achieve the objectives and asset allocation strategy with the understanding that the investment policy stated in the mutual fund's prospectus or the commingled fund's participation agreement supersedes the guidelines set forth in this CIP.

#### **AUTHORIZED INVESTMENT VEHICLES**

Funds managed by the Board may be placed in the following accounts or investments:

1. Deposit accounts and certificates of deposit in banks.
2. Obligations of the United States Treasury, including Treasury Inflation Protection (TIPs) bonds.
3. Obligations of agencies of the United States Government (not restricted to full-faith and credit obligations).

4. Commercial paper of prime quality of the highest letter and numerical rating established by a nationally recognized rating service.
5. Bankers' acceptances that are accepted by a member bank of the Federal Reserve System.
6. Corporate debt obligations, preferred stock, mortgage-backed securities, commercial mortgage-backed securities, and asset-backed securities, provided the obligations meet the minimum credit criteria set forth elsewhere in this CIP.
7. Municipal securities including Build America Bonds (BABs), limited to General Obligation or Essential Services bonds, provided the obligations meet the minimum credit criteria set forth elsewhere in this CIP.
8. Institutional investment products including fixed annuities, variable annuities and guaranteed insurance contracts that are obligations of United States insurance companies.
9. Common stocks traded on domestic exchanges, including over-the-counter markets and recognized third and fourth markets.
10. Common stocks of foreign-domiciled companies traded on non-U.S. exchanges including over-the-counter markets.
11. Collateralized repurchase agreements for which the underlying securities are obligations of the United States Treasury or agencies of the United States Government.
12. Commingled investment funds and mutual funds.
13. American Depositary Receipts, 144(a) securities (with and without registration rights), and non-corporate bonds (including supranationals, sovereign and foreign bonds issued in USD).
14. Exchange Traded Funds (ETF's) traded on domestic exchanges, so long as consistent with the investment mandate, and guidelines.
15. Mortgage TBAs ("To Be Announced") securities. These securities require an equivalent amount of cash equivalents set aside for future settlement of the forward agreement.
16. Derivatives: In general, the following uses of derivatives are approved for portfolio management purposes, although specific written permission must be granted to each manager on a case-by-case basis in formal written account guidelines.

- Substitute for physical
- Duration management
- Risk control
- Foreign currency hedging

Before a derivative security or derivative strategy is used by an investment manager, one or more of the following benefits must be demonstrated to the Board:

- Increased liquidity.
- Stabilized and enhance portfolio returns.
- Lower transaction costs, including market impact costs.
- Reduction in the time required to change the mix of the portfolio.

Before any such derivative strategy is used by an Investment Manager, written permission for such use must be obtained from the Executive Director of the Prepaid Board.

Investment managers must keep in mind at all times the Board's preference for safety and liquidity.

#### **PROHIBITED INVESTMENT VEHICLES AND GENERAL INVESTMENT RESTRICTIONS**

1. Short selling of securities is prohibited.
2. Maximum investment in the securities of any issuer, except U.S. Treasury, Agency, Agency Mortgage-Backed Securities, or repurchase agreements collateralized by U.S. Treasury or Agency securities, is the greater of 5% of the market value of the total Fund, or 2% greater than the appropriate benchmark weight.
3. Debt obligations and preferred stock may not be rated less than Baa3 by Moody's, or BBB- by Standard & Poor's or Fitch at the time of purchase. Split-rated bonds will be governed by the Barclays Capital Index Inclusion Rules across the three rating agencies. Debt obligations with Expected Ratings are permissible unless the Actual Rating causes the security to be out of compliance with the above guideline.
4. The following derivative strategies and derivative instruments are considered inappropriate and therefore not permitted for use in the managing of assets for the Florida Prepaid College Program.

- Derivatives use for speculative purposes.
- Derivatives that leverage the account.
- Commodity options, swaps or other derivatives based on commodities.

## ASSET ALLOCATION POLICY

The Fund shall maintain an asset allocation such to maximize the probability of meeting the Program's liabilities over the long term. An asset / liability study shall be conducted once every five years, and more often if warranted by a material change in the underlying liabilities or the investment environment. Taking into consideration the results of the asset liability study and the recommendations of the Program's consultants, the Board will adopt an asset allocation which properly reflects its attitude towards the balancing of risk and return. The Board at this time has adopted an asset allocation policy which limits the amount of equities to fifteen percent (15%) of the market value of the total Fund, or the most current actuarial reserve balance as determined by the Board's actuary, whichever is less. The Fund's principal objective in asset allocation is that of asset/liability matching. An immunized fixed income strategy emphasizing zero coupon U.S. Treasury issues is the dominant investment strategy employed to meet these goals. Other fixed income investments may be used in limited amounts to seek incremental yield. Actuarial reserve assets may be invested in other asset classes as directed by the Board.

The benchmarks for monitoring investment performance of the total Fund and asset class level shall be:

<u>Asset Category</u>	<u>Allocation</u>	<u>Range</u>	<u>Corresponding Index</u>
Total Fund			A policy-weighted blend of the Customized Equity and Immunized Fixed Income Benchmarks
Equities	Actuarial Reserve	0 – 15%	80% Russell 3000 and 20% MSCI EAFE
Immunized Fixed Income	Up to 100%	85 – 100%	Customized Benchmark
Cash	0%	0 – 5%	90-day US Gov't T-bills

The Customized Fixed Income Benchmark will be reconstituted annually using the June 30 liability profile as determined by the Program's actuary. The duration of the benchmark and the pattern of its cash flows will mirror that of the Program's liabilities. The benchmark is comprised of United States Treasury Strip securities, Bloomberg Barclays Capital U.S Corporate Index, and Bloomberg Barclays Capital U.S. Mortgage-Backed Securities Index, and other Authorized Investment Vehicles as defined in the CIP.

At no time shall the allocation to the fixed income segment of the Fund be less than at a fully funded status net of projected payments from participants. That is, the fixed income segment shall always be greater than or equal to the total Fund value or actuarial liability minus projected cash flows from the participants, whichever is less.

The total equity segment of the Fund, and each of its components shall be constructed using one or more investment manager or products such that in the aggregate the equity component is capitalization and style neutral to its corresponding Customized Equity index.

<u>Equity Segments</u>	<u>Targeted Weight</u>	<u>Allowable Range</u>
Growth Portfolio	20.00%	0.00% - 25.00%
Value Portfolio	20.00%	0.00% - 25.00%
Index Portfolio	20.00%	0.00% - 75.00%
Mid Cap Portfolio	10.00%	5.00% - 15.00%
Small Cap Portfolio	10.00%	5.00% - 15.00%
International Portfolio	20.00%	15.00% - 25.00%

Based on the market values of the total Fund as of June 30th as determined by the Board’s actuary and after approval by the Board, the allocation of fixed income and equity will be rebalanced no later than September 30<sup>th</sup> of each year, in order to have the equity component equal fifteen percent (15%) of the total Fund, or the actuarial reserve balance, whichever is less.

In the fixed income segment and subject to Board direction, the allocation to the managers will be rebalanced so that in aggregate the segment is consistent with the customized benchmark.

In the equity segment and in the absence of strong evidence supporting a deviation from these baseline allocations, and subject to Board direction, the allocations to each style and market capitalization of management will be rebalanced in a manner designed to minimize portfolio impact, including transaction costs.

In order to accommodate asset value fluctuations due to short-term economic or market conditions, the asset allocation of the equity segment can vary among asset categories within the ranges noted above. At a minimum, the Board will review the asset allocation and the equity segment targets on a quarterly basis and will make a determination as to whether to rebalance at that time.

In developing this asset allocation policy, the total Fund has been designed to be fully invested, and thus no portion of the Fund has been targeted for cash. However, managers may raise cash balances in accordance with their individual investment guidelines. In the course of operations the Board may deem it appropriate to maintain a cash balance outside of the managers' portfolios in order to meet the Program's liquidity and allocation needs.

## **MANAGER SELECTION AND EVALUATION**

The Board has elected to employ multiple investment managers with complementary investment skills and/or styles. As part of this multi-manager structure, managers are hired for their expected contribution to the overall portfolio performance over the various market cycles based on their style, stated strategy, and asset mix. Therefore, the Board shall evaluate manager performance over a sufficient time horizon, and in the context of the prevailing market environment, in order to properly assess each manager's contribution to the overall portfolio. In general, a three or more year period of time will be used to evaluate a manager's success or failure at attaining agreed-upon goals. On an interim basis, portfolio risk and investment performance will be monitored continually to ensure that the management of Program assets remains consistent with the style and objective for which the manager was retained.

At a minimum, investment manager reviews will include a quarterly quantitative performance review conducted by the consultant. Specific evaluation criteria are stated in the investment guidelines that have been individually prepared for each manager pursuant to their specific role in the Program's multi-manager strategy. As necessary, the evaluation may also include an annual site visit to review each portfolio manager's operations. This portion of the evaluation will be conducted by a member of the Board or the Investment Committee, as may be designated either by the Board or the Investment Committee.

## **IMPLEMENTATION**

All money invested for the Program by the investment managers after the adoption of this Comprehensive Investment Plan shall conform to this Statement.

The following guidelines have been established: (1) to ensure that the manager continually adheres to all regulations administered by any regulatory authority charged with oversight responsibility; (2) to limit the Fund's exposure to unintended risk; (3) to ensure that the manager maintains the style of management for which they were retained; and (4) to provide objective, reasonable criteria to the manager of the Board's expectations.

**PART I**  
**PASSIVE FIXED INCOME**  
**INVESTMENT GUIDELINES**

**OBJECTIVE**

The Board has chosen to employ a multi-manager fixed income investment strategy. In order to reduce the relative volatility of the actively managed portfolios and control overall investment management costs, an allocation to passive fixed income management is maintained. The objective of this component of the portfolio is to replicate the returns of the Customized Benchmark which consists of U.S. Treasury Strips, BC Corporate Index, and BC Fixed-Rate Mortgage-Backed Index.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times.

**PASSIVE FIXED INCOME GUIDELINES**

1. The portfolio will be managed in a manner that protects the Program's funded status relative to changes in its projected liabilities due to changes in interest rates. Therefore, the primary purpose of the portfolio shall be on limiting actuarial reserve volatility.
2. The guidelines permit, within the framework and limitations of the broader CIP, all securities eligible for inclusion in the indices which comprise the Customized Benchmark.
3. The total duration of the portfolio shall not differ from the total duration of the benchmark by more than +/- one-quarter of one year.
4. The individual number of holdings in the portfolio shall be sufficient enough to minimize the near-term tracking error relative to the Customized Benchmark.
5. Sector allocations shall be made consistent with the sector weights within the Customized Benchmark.
6. Any cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

**RESTRICTED INVESTMENTS**

1. The use of futures, options and swaps will be permitted subject to the restrictions imposed by "AUTHORIZED INVESTMENT VEHICLES" Paragraph 16.

## **PERFORMANCE OBJECTIVES**

Manager performance shall be reviewed relative to the Customized Benchmark over any three or more year period of time, taking into consideration the following:

- The manager's performance is expected to meet the Customized Benchmark.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the Customized Benchmark of less than 10 basis points.

**PART II**  
**ACTIVE FIXED INCOME**  
**INVESTMENT GUIDELINES**

**OBJECTIVE**

Fixed income managers will be retained as part of a multi-manager investment strategy. Their function within this strategy is to manage an enhanced immunized fixed-income portfolio.

The enhanced immunization style of management shall mean that the manager shall immunize the liabilities of the Program by structuring the assets in such a way that the value of the Program's assets increase (decreases) in conjunction with increases (decreases) with the value of the liabilities due to the changes in interest rates. The manager shall be permitted to attempt to add value to the portfolio relative to the liabilities through modest duration and yield management and through active sector and security selection, to the extent permitted by this policy.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times. However, cash holdings may represent an integral part of the manager's desired portfolio structure. Therefore, for purposes of this constraint cash will be defined as securities with a duration of less than three months and manager shall be allowed a maximum cash position of not more than five percent.

**ENHANCED IMMUNIZATION GUIDELINES**

1. The portfolio will be managed in a manner that protects the Program's funded status relative to changes in its projected liabilities due to changes in interest rates. Therefore, the primary purpose of the portfolio shall be on limiting actuarial reserve volatility.
2. The total duration of the portfolio shall not differ from the total duration of the benchmark by more than +/- three-quarters of one year.
3. Investments in fixed income instruments can be made in sectors and securities as authorized in the CIP.
4. Sector allocations shall be made so that the portfolio is well diversified such that it meets its liability requirements.
5. The maximum investment for any issue, except U.S. Treasury, Agency, and Agency Mortgage-Backed Securities, is the greater of 5% of the portfolio market value or 2% greater than the security's benchmark weight.

6. The maximum investment in Build America Bonds (BABs) is limited to 2% of the market value of the manager's portfolio.
7. The maximum investment in 144(a) bonds without Registration Rights is limited to 3% of the market value of the manager's portfolio.
8. Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.
9. The use of futures, options and swaps will be permitted subject to the restrictions imposed by "AUTHORIZED INVESTMENT VEHICLES" Paragraph 16.
10. A maximum allocation of 50% of the market value of the manager's portfolio to corporate debt, asset-backed securities and mortgage backed securities is permitted. On a periodic basis, the Board may set a maximum and minimum allocation each to corporate debt, asset-backed securities and mortgage-backed securities.

#### **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited except as may be required in the use of futures, options and swaps as permitted in subparagraph 9 of this section.
2. Other than futures, options and swaps, the use of derivative securities that have not been specifically approved by the Board in written form is prohibited.
3. Convertible securities shall not be considered for investment.

#### **PERFORMANCE OBJECTIVES**

Manager performance shall be reviewed relative to the customized benchmark over any three or more year period of time, taking into consideration the following:

- The active manager's performance, net of fees, is expected to exceed the customized benchmark.
- The effectiveness of the manager's duration, sector and security allocations will be reviewed to determine if the manager has demonstrated, on a total return basis, the ability to add value above the benchmark.

**PART III**  
**LARGE CAP GROWTH EQUITY**  
**INVESTMENT GUIDELINES**

**OBJECTIVE**

The Board hopes to achieve its goal of reducing total portfolio volatility while enhancing total return through diversification of the equity asset class using multiple styles of management. Large cap growth equity manager(s) may be retained as part of a multi-manager investment strategy. For purposes of this CIP, growth is a style that seeks to purchase stocks of companies, which offer the best combination of strong earnings growth and valuation. This allocation will be represented in the policy benchmark by the Russell 1000 Growth Index.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of only five percent. Asset allocation shall be determined based on the average position over any three month time period and shall operate within the following constraints set forth herein:

**EQUITY INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to five percent of the portfolio in initial public offerings that have been spun off by a company for which there is an adequate history and that has at least \$1 billion in market capitalization. Further, the parent must have been previously listed on the New York Stock Exchange (NYSE), American Stock Exchange (AMEX) or have been traded on the National Association of Securities Dealer's Automated Quotation system (NASDAQ) or other recognized domestic exchange. If, through spin-offs or other activities of the companies held, the portfolio exceeds five percent of holdings with less than three years operating history, the manager will bring the portfolio into compliance within a six-month period.
  
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the Russell 1000 Growth Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be calculated in a manner consistent with Global

Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.

3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States or in other, recognized domestic markets.
4. Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

#### **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

#### **PERFORMANCE OBJECTIVES**

##### Active Managers

Manager performance shall be reviewed relative to the Russell 1000 Growth Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the Russell 1000 Growth Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the Russell 1000 Growth Index is expected to rank below the highest quartile of managers in the Large Cap Growth peer group over rolling three year time periods.

##### Passive Managers

- The manager's performance is expected to meet the Russell 1000 Growth Index.

- The beta of the portfolio over any three-year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

## **PART IV**

### **LARGE CAP VALUE EQUITY INVESTMENT GUIDELINES**

#### **OBJECTIVE**

The Board hopes to achieve its goal of reducing total portfolio volatility while enhancing total return through diversification of the equity asset class. Large cap value manager(s) may be retained as part of a multi-manager investment strategy. For purposes of this CIP, value is a style that seeks to purchase stocks in companies generally exhibiting lower price/earnings, lower price/book and higher dividend yield than the average large cap equity. This allocation will be represented in the policy benchmark by the Russell 1000 Value Index.

#### **ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of only five percent. During periods of market over-valuation, the manager may have difficulty in identifying solid companies that could be purchased within their value style of management. Therefore, asset allocation shall be determined based on the average position over any three month time period and shall operate within the following constraints set forth herein:

#### **EQUITY INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to five percent of the portfolio in initial public offerings that have been spun off by a company for which there is an adequate history and that has at least \$1 billion in market capitalization. Further, the parent must have been previously listed on the New York Stock Exchange (NYSE), American Stock Exchange (AMEX) or have been traded on the National Association of Securities Dealer's Automated Quotation system (NASDAQ), or in other, recognized domestic markets. If, through spin-offs or other activities of the companies held, the portfolio exceeds five percent of holdings with less than three years operating history, the manager will bring the portfolio into compliance within a six-month period.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the Russell 1000 Value Index of not less than .80 over

any rolling, five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be calculated in a manner consistent with Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.

3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States.

### **CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

### **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

### **PERFORMANCE OBJECTIVES**

#### Active Managers

Manager performance shall be reviewed relative to the Russell 1000 Value Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the Russell 1000 Value Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the Russell 1000 Value Index is expected to rank below the highest quartile of managers in the Large Cap Value peer group over rolling three year time periods.

### Passive Managers

- The manager's performance is expected to meet the Russell 1000 Value Index.
- The beta of the portfolio over any three-year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

**PART V  
LARGE CAP CORE  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The Board hopes to achieve its goal of reducing total portfolio volatility while enhancing total return through diversification of the equity asset class. Large cap core manager(s) may be retained as part of a multi-manager investment strategy. For purposes of this CIP, core managers do not exhibit a style bias such as value or growth. This allocation will be represented in the policy benchmark by the S&P 500 Index.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times.

**EQUITY INVESTMENT GUIDELINES**

1. The Manager shall be permitted to invest in any securities which are a part of the S&P 500 without regard for the constraint within this policy prohibiting or restricting the ownership of companies with less than a 3 year publicly available operating history. If the Manager's common stock (or the common stock of the Manager's holding company) is included in the S&P 500, the Manager is permitted to purchase, retain and sell the Manager's common stock (or the common stock of the manager's holding company), consistent with the other requirements, guidelines, restrictions and performance objectives applicable to this portfolio under this Part V and the reporting requirements imposed on Managers.
2. The Manager shall be permitted to invest in any securities which are a part of the S&P 500 without regard for the preference within this policy for investments to be made in United States based corporations. There shall be no limit on the percent of the portfolio held in American Depository Receipts, provided those same companies are included in the S&P 500 as American Depository Receipts.
3. The use of futures as a substitute for physical investing, or to facilitate cash flows shall be permitted for this portfolio, provided the manager receives prior written approval from the Board. In order to obtain such approval, the manager must submit a written request to the Board, quantifying the net advantages that will accrue to the portfolio.

4. The Manager may temporarily invest in companies outside of the index in the case of additions or deletions, with the goal of minimizing tracking error and/or reducing trading costs.

#### **CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

#### **RESTRICTED INVESTMENTS**

1. The use of futures will be permitted subject to the restrictions imposed by Paragraph 16 (entitled "Derivatives") in the "Authorized Investment Vehicles" section.
2. Use of margin is prohibited except as may be required in the use of futures.
3. Convertible securities shall not be allowed for investment purposes.

#### **PERFORMANCE OBJECTIVES**

##### Active Managers

Manager performance shall be reviewed relative to the S&P 500 Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the S&P 500 Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the S&P 500 Index is expected to rank below the highest quartile of managers in the Large Cap Value peer group over rolling three year time periods.

##### Passive Managers

Manager performance shall be reviewed relative to the S & P 500, over any three to five year period, taking into consideration the following:

- The manager's performance is expected to meet the S&P 500 Index.

- The beta of the portfolio over any three-year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
  
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the S&P 500 of less than 25 basis points.

**PART VI  
MID CAP EQUITY  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The Board hopes to achieve its goal of reducing total portfolio volatility while enhancing total return through diversification of the equity asset class using multiple styles of management. Mid cap equity manager(s) will be retained as part of a multi-manager investment strategy. For purposes of this CIP, this style seeks access to the mid-cap segment of the US equity universe. This allocation will be represented in the policy benchmark by the S&P MidCap 400 Index which represents the performance of mid-sized companies.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of only five percent. Asset allocation shall be determined based on the average position over any three month time period and shall operate within the following constraints set forth herein:

**EQUITY INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to ten percent of the portfolio in initial public offerings of companies that have at least two years of audited financial statements and have been profitable (from continuing operations) for at least one of the last two years.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the S&P MidCap 400 Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be calculated in a manner consistent with Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.
3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States or in other, recognized domestic markets.

## **CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

## **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures, or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

## **PERFORMANCE OBJECTIVES**

### Active Managers

Manager performance shall be reviewed relative to the S&P MidCap 400 Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the S&P MidCap 400 Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the S&P MidCap 400 Index is expected to rank below the highest quartile of managers in the MidCap Broad peer group over rolling three year time periods.

### Passive Managers

- A passive manager's performance is expected to meet the S&P 400 Index, or other agreed-upon investible benchmark representing the mid cap U.S. equity market.
- The beta of the portfolio over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's

performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

**PART VII  
SMALL CAP EQUITY  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The Board hopes to achieve its goal of reducing total portfolio volatility while enhancing total return through diversification of the equity asset class using multiple styles of management. Small cap equity manager(s) will be retained as part of a multi-manager investment strategy. For purposes of this CIP, this style seeks access to the small-cap segment of the US equity universe. This allocation will be represented in the policy benchmark by the Russell 2000 Index which includes the smallest 2000 securities in the Russell 3000 index.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of only ten percent. Asset allocation shall be determined based on the average position over any three month time period and shall operate within the following constraints set forth herein:

**EQUITY INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to ten percent of the portfolio in initial public offerings of companies that have at least two years of audited financial statements and have been profitable (from continuing operations) for at least one of the last two years.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the Russell 2000 Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be calculated in a manner consistent with Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.
3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States or in other, recognized domestic markets.

## **CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

## **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

## **PERFORMANCE OBJECTIVES**

### Active Managers

Manager performance shall be reviewed relative to the Russell 2000 Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the Russell 2000 Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the Russell 2000 Index is expected to rank below the highest quartile of managers in the Small Cap peer group over rolling three year time periods.

### Passive Managers

- A passive manager's performance is expected to meet the Russell 2000 Index, or other agreed-upon investible benchmark representing the small cap U.S. equity market.
- The beta of the portfolio over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's

performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

**PART VIII  
INTERNATIONAL EQUITY  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The Board hopes to achieve its goal of reducing total portfolio volatility while enhancing total return through diversification of the equity asset class using multiple styles of management. International equity manager(s) will be retained as part of a multi-manager investment strategy. For purposes of this CIP, this strategy seeks access to companies that are domiciled outside of the US equity market. This allocation will be represented in the policy benchmark by the MSCI EAFE (i.e., Europe, Australasia, Far East) Index which is designed to measure the equity market performance of developed markets, excluding the US and Canada.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of only five percent. Asset allocation shall be determined based on the average position over any three month time period and shall operate within the following constraints set forth herein:

**EQUITY INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to five percent of the portfolio in initial public offerings that have been spun off by a company for which there is adequate history of audited financial statements. If, through spin-offs or other activities of the companies held, the portfolio exceeds five percent of holdings with less than three years operating history, the manager will bring the portfolio into compliance within a six-month period.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the MSCI EAFE Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be calculated in a manner consistent with Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.

## **CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

## **RESTRICTED INVESTMENTS**

1. The use of currency futures and currency forwards will be permitted subject to the restrictions imposed by Paragraph 16 (entitled “Derivatives”) in the “Authorized Investment Vehicles” section.
2. Use of options, futures, forwards or any other types of derivative securities that are not used for currency hedging purposes are prohibited.
3. Use of margin is prohibited except as may be required in the use of currency futures or forwards.
4. Securities not domiciled, incorporated, or traded in a benchmark country.

## **PERFORMANCE OBJECTIVES**

### **Active Managers**

Manager performance shall be reviewed relative to the MSCI EAFE Index, over any three or more year period of time, taking into consideration the following:

- The manager’s performance, net of fees, is expected to exceed the MSCI EAFE Index, taking into consideration the degree of risk.
- The manager’s performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager’s tracking error relative to the MSCI EAFE Index is expected to rank below the highest quartile of managers in the International Equity peer group over rolling three year time periods.

### Passive Managers

- A passive manager's performance is expected to meet the MSCI EAFE Index, or other agreed-upon investible benchmark representing the broad developed international equity markets.
- The beta of the portfolio relative to the index over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index, of less than 30 basis points.

**APPENDIX F**

**Comprehensive Investment Plan  
Florida 529 Savings Plan**

**Florida Prepaid College Board  
Comprehensive Investment Plan  
*for the*  
Florida College Savings Program  
June 14, 2017**

**AUTHORITY**

All investments made under this plan are made under the authority granted the Florida Prepaid College Board (“Board”) under 1009.973, Florida Statutes. All funds managed by the Board are funds of the State of Florida.

**PURPOSE**

The Florida College Savings Program (“Savings Program” or “Program”) is a program created to provide a medium through which families and individuals may save for qualified educational expenses. The Savings Program is intended to be an alternative to the Prepaid Program, though participants in the Savings Program do have the option to enroll a qualified beneficiary in the Savings Program, the Prepaid Program, or both. The Program is administered by the Florida Prepaid College Board which was created pursuant to Section 1009.981 of the Florida Statutes.

**BOARD RESPONSIBILITIES**

The Board has the authority and the responsibility to control and manage the investment offerings under the Savings Program, and to formulate and oversee investment policies for that purpose.

Other specific responsibilities of the Board under this Comprehensive Investment Plan (“CIP”) include:

- Delegating specific administrative and operational responsibilities dealing with the investment of Program assets to the Executive Director or his/her staff.
- Establishing and periodically reviewing the appropriateness of the range of options offered to participants in the Program.
- Approving changes to this CIP.
- Monitoring compliance with this CIP.

- Appointing and terminating investment managers and other service providers to the Program.
- Reviewing periodically the performance of the investment managers.

## **INVESTMENT OPTIONS**

The number and range of investment options offered to Program participants will be reviewed by the Board at least annually. The decision to offer additional options will take into account the growth of the Program, industry trends, administrative feasibility, diversification and costs associated with adding options. Permitted investment vehicles for any of the investment options include, but are not limited to separately managed account, a pooled or commingled account, or a mutual fund.

The Board has elected to provide Program participants the following investment options:

Option 1 – a large cap growth investment fund designed to provide exposure to large capitalization domestic growth stocks.

Option 2 – a large cap value investment fund designed to provide exposure to large capitalization domestic value stocks.

Option 3 – a large cap investment fund designed to provide exposure to large capitalization domestic stocks by tracking the returns of the S&P 500 as closely as possible.

Option 4 – a mid cap investment fund designed to provide exposure to middle capitalization domestic stocks.

Option 5 – a small cap investment fund designed to provide exposure to small capitalization domestic stocks.

Option 6 – an international investment fund designed to provide exposure to international stocks in developed international markets.

Option 7 – a fixed income investment fund designed to mirror the broad domestic bond market.

Option 8 – a money market investment fund designed to provide exposure to very liquid short-term fixed income instruments.

Option 9 – an equity investment fund with a twenty percent allocation to domestic large capitalization growth equity (Option 1), twenty percent to a domestic large capitalization value equity portfolio (Option 2), twenty percent to a U.S. large capitalization index portfolio (Option

3), ten percent to a domestic mid cap portfolio (Option 4), ten percent to a domestic small capitalization portfolio (Option 5) and twenty percent to an international equity portfolio (Option 6). Option 9 will be rebalanced to these target weights on a periodic basis, according to the parameters outlined in the rebalancing section of this CIP.

Option 10 – a balanced investment option which will consist of a 50/50 mix of fixed income (Option 7) and equity (Option 9). Option 10 will be rebalanced to the targeted asset mix on a periodic basis, according to the parameters outlined in the rebalancing section of this CIP.

Option 11 – a combination of fixed income (Option 7) and equity (Option 9) based on the age of the beneficiary or the number of years remaining before the beneficiary plans to enroll in college. The chart below describes the targeted asset allocations based on the participant’s age or years to enrollment.

Option 11: Allocation between fixed income (Option 7) and equity (Option 9)

<u>Aged-Based Option</u>	<u>Years to Enrollment</u>	<u>Asset Allocation</u>	
		<u>Option 7</u>	<u>Option 9</u>
Age 0 – 4	14 or more years	0%	100%
Age 5 – 8	10 – 13 years	25%	75%
Age 9 – 12	6 – 9 years	50%	50%
Age 13 – 15	3 – 5 years	75%	25%
Age 16 & above	0 – 2 years	100%	0%

## **REPORTING**

The Executive Director will cause monthly flash reports and detailed quarterly reports of the investment performance of each investment option to be prepared for review by the Board.

To ensure that the Executive Director and the Board have the necessary information to discharge their oversight responsibility, the quarterly reports will include the following:

Investment results for each investment option will be reported each quarter for the most recent completed quarter, calendar year-to-date, most recent twelve month period and cumulatively from inception showing returns relative to appropriate market benchmarks. Returns will be reported on a time weighted basis. At a minimum, the report will contain the following items:

#### 1. Performance Measurement and Attribution

- Performance of each investment option relative to its stated benchmark will be reported.
- The performance of each underlying sub-portfolio will be reported relative to its stated benchmark.
- An attribution analysis of each investment option and sub-portfolio will be provided.
  - Fixed income attribution will include effects of changes in interest rates, sector and quality decisions and reinvestment rate.
  - Equity attribution will include such factors as sector and industry weights, beta, company size, yield and growth in earnings.
  - The attribution analysis will also account for any deviations in asset class or style weights from the targeted portfolio weights.
- Returns for each manager will also be evaluated on a risk-adjusted basis.

#### 2. Compliance and Monitoring

- The allocation of each investment option will be reported to ensure allocation guidelines are met.
- Asset holdings will be reported to ensure investments are being made only in authorized securities and investment vehicles.
- Each manager will certify *monthly* that their portfolio is in compliance with the terms of this CIP and their specific investment mandate, as well as any applicable prospectus and Statement of Additional Information. Any exceptions to policy will be noted and a statement provided indicating the steps to be taken to bring the portfolio back into compliance with the policy.
- Each manager will be monitored based upon the performance objectives as outlined in this Comprehensive Investment Plan.
- Each manager shall immediately disclose to the Board in writing any instance which a member of the investment manager's Board of Directors, an officer of the investment management firm, or a member of the portfolio management staff is also a member of

the Board of Directors, an officer of, or a significant shareholder of 5% or more in stocks of a company in which they propose to invest Board funds. In addition, the Board's investment consultant and the trustee/custodian shall annually certify that no conflicts of interest exist with respect to the services they provide to the Program and shall annually provide the Board with a copy of the firm's policy governing conflicts of interest. The requirements of this paragraph do not apply with respect to the common stock of the manager responsible for investment of the large capitalization core domestic equity portfolio (or the common stock of the manager's holding company) when the manager's common stock (or that of its holding company) is included in the S&P 500; provided that, prior to the initial purchase of the manager's common stock (or that of its holding company), the manager notifies the Board in writing that the manager's common stock (or that of its holding company) is included or has been included, in the S&P 500.

- Commingled or Mutual Funds - The Board may approve the use of pooled vehicles such as mutual funds or commingled funds to achieve the objectives and asset allocation strategy with the understanding that the investment policy stated in the mutual fund's prospectus or the commingled fund's participation agreement supersedes the guidelines set forth in this CIP.

## **AUTHORIZED INVESTMENT VEHICLES**

Funds managed by the Florida Prepaid College Board may be placed in the following accounts or investments:

1. Deposit accounts and certificates of deposit in banks.
2. Obligations of United States Treasury, including Treasury Inflation Protection (TIPs) bonds.
3. Obligations of agencies of the United States Government (not restricted to full faith and credit obligations).
4. Commercial paper of prime quality of the highest letter and numerical rating established by a nationally recognized rating service.
5. Bankers' acceptances that are accepted by a member bank of the Federal Reserve System.
6. Corporate debt obligations preferred stock, mortgage-backed, commercial mortgage-backed, and asset-backed securities, provided the obligations meet the minimum credit criteria set forth elsewhere in this CIP.
7. Institutional investment products including fixed annuities, variable annuities and guaranteed insurance contracts that are obligations of United States insurance companies.
8. Common stocks traded on domestic exchanges, including over-the-counter markets and recognized third and fourth markets.
9. Common stocks of foreign-domiciled companies traded on non-U.S. exchanges including over-the-counter markets.
10. Collateralized repurchase agreements for which the underlying securities are obligations of the United States Treasury or agencies of the United States Government.
11. Commingled investment funds and mutual funds.
12. American Depositary Receipts, 144(a) securities (with registration rights), and Yankee bonds (including sovereign bonds issued in USD).
13. Municipal Bonds issued or guaranteed by U.S. local, city, and state governments and agencies including Build America Bonds (BABs).

14. Exchange Traded Funds (ETF's), traded on domestic exchanges, so long as consistent with the investment mandate, and guidelines.
15. Mortgage TBAs ("To Be Announced") securities. These securities require an equivalent amount of cash equivalents set aside for future settlement of the forward agreement.
16. Derivatives: In general, the following uses of derivatives are approved for portfolio management purposes, although specific written permission must be granted to each manager on a case-by-case basis in formal written account guidelines.
  - Substitute for physical
  - Duration management
  - Risk control
  - Foreign currency hedging

Before a derivative security or derivative strategy is used by an investment manager, one or more of the following benefits must be demonstrated to the Board:

- Increased liquidity.
- Stabilized and enhance portfolio returns.
- Lower transaction costs, including market impact costs.
- Reduction in the time required to change the mix of the portfolio.

Before any such derivative strategy is used by an Investment Manager, written permission for such use must be obtained from the Executive Director of the Prepaid Board.

## **PROHIBITED INVESTMENT VEHICLES AND GENERAL INVESTMENT RESTRICTIONS**

1. Short selling of securities is prohibited
2. Maximum investment in the securities of any issuer, except U.S. Treasury or Agency or repurchase agreements collateralized by U.S. Treasury or Agency securities, is the greater of 5% of the market value of the fund, or 2% greater than the appropriate benchmark weight.
3. Debt obligations and preferred stock must be investment grade, as rated by one established nationally recognized rating service.

4 The following derivative strategies and derivative instruments are considered inappropriate and therefore not permitted for use in the managing of assets for the Florida College Savings Program:

- Derivatives use for speculative purposes.
- Derivatives that leverage the account
- Commodity options, swaps or other derivatives based on commodities.

#### **INVESTMENT MANAGER SELECTION AND EVALUATION**

Appropriate selection criteria will be used in the process of selecting investment managers/funds. Though not exhaustive, below is a list of considerations:

- Impact on asset class diversification. The characteristics of the potential investment option(s) relative to the characteristics of the existing options will be evaluated to determine the impact on participants' ability to diversify within a risk/reward spectrum.
- Adherence to designated style.
- Reasonable and competitive expense levels.
- Investment performance characteristics. Funds will have a record of performing well compared to peer groups and relevant published market indices. A minimum of a three year performance history is desirable for the assessment of manager skill.

The performance of each investment option will be evaluated in the context of its role in the array of options offered to Program participants. The Board shall evaluate investment performance over a sufficient time horizon, and in the context of the prevailing market environment, in order to properly assess the investment manager's success or failure. In general, a three to five-year time horizon will be used to evaluate a manager's attainment of agreed-upon goals. On an interim basis, portfolio risk and investment performance will be monitored continually to ensure that the management of Program assets remains consistent with the style and objective for each investment option.

At a minimum, investment manager reviews will include a quarterly quantitative performance review conducted by the Program's consultant. Specific evaluation criteria are stated in the investment guidelines that have been individually prepared for each investment option pursuant to its specific role in the Program. As necessary, the evaluation may also include an annual site visit to review each portfolio manager's operations. This portion of the evaluation may be conducted by a member of the Board, the Investment Committee, or Board Staff, as may be designated either by the Board or the Investment Committee.

## REBALANCING

In order to maintain the level of risk the Board has established for each respective option, the asset class allocation within Option 9 and Option 10 will be monitored monthly and rebalanced to the specified target when the allowable ranges are exceeded. The portfolio should be brought back into compliance within five business days. The following ranges will apply:

<u>Option 9</u>	<u>Targeted Weight</u>	<u>Allowable Range</u>
Growth Portfolio	20.00%	17.00% - 23.00%
Value Portfolio	20.00%	17.00% - 23.00%
Index Portfolio	20.00%	17.00% - 23.00%
Mid Cap Portfolio	10.00%	8.00% - 12.00%
Small Cap Portfolio	10.00%	8.00% - 12.00%
International Equity Portfolio	20.00%	17.00% - 23.00%

<u>Option 10</u>	<u>Targeted Weight</u>	<u>Allowable Range</u>
Equity Portfolio (Option 9)	50%	48 – 52%
Fixed Income Portfolio (Option 7)	50%	48 – 52%

In addition, portfolio balances within Option 11 will require rebalancing both with respect to the equity / fixed income mix within each age bracket and with respect to the targeted mix as a beneficiary moves from one age bracket to the next.

The following ranges will apply to each of the age brackets within Option 11:

<u>Age Bracket</u>	<u>Years to Enrollment</u>	<u>Targeted Equity Allocation</u>	<u>Allowable Equity Range</u>	<u>Targeted Fixed Income Allocation</u>	<u>Allowable Fixed Income Range</u>
0 – 4 years	14 or more years	100%	98 - 100%	0%	0 – 2%
5 – 8 years	10 – 13 years	75%	73 – 77%	25%	23 – 27%
9 – 12 years	6 – 9 years	50%	48 – 52%	50%	48 – 52%
13 – 15 Years	3 – 5 years	25%	23 – 27%	75 %	73 – 77 %
Age 16 & above	0 – 2 years	0%	0 – 2%	100%	98 - 100%

Beneficiary account balances shall be moved to the next age bracket on the day following their birthdate during which they reach age 5, 9, 13 and 16. Accounts established based on the year's to enrollment option will move to the next age bracket on the day following the beneficiaries birthdate when their projected enrollment year is 13, 9, 5 and 2 years from enrollment in college.

## IMPLEMENTATION

All assets invested for the Program by the Investment Manager(s) after the adoption of this CIP shall conform to this Statement.

The following portfolio-specific guidelines have been established to:

1. Ensure that the managers continually adhere to all regulations administered by any regulatory authority charged with oversight responsibility
2. Limit the Program's exposure to unintended risks
3. Ensure that each investment option adheres to its specific objectives
4. Communicate objective, reasonable criteria of the Board's expectations to the managers.

The following sections contain the investment guidelines and policies for each option of the Florida College Savings Program:

**OPTION 1**  
**LARGE CAP GROWTH PORTFOLIO**  
**INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the Large Cap Growth Portfolio is to provide participants an opportunity for meaningful growth of capital over a long investment horizon through participation in equity investments.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of not more than five percent.

**INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to five percent of the portfolio in initial public offerings that have been spun off by a company for which there is an adequate history and that has at least \$1 billion in market capitalization. Further, the parent must have been previously listed on the New York Stock Exchange (NYSE), American Stock Exchange (AMEX) or have been traded on the National Association of Securities Dealer's Automated Quotation system (NASDAQ) or other recognized domestic exchange. If, through spin-offs or other activities of the companies held, the portfolio exceeds five percent of holdings with less than three years operating history, the manager will bring the portfolio into compliance within a six-month period.
  
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the Russell 1000 Growth Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be in compliance with the Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.

3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States or in other, recognized domestic markets.
4. Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the Comprehensive Investment Plan (CIP).

### **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

### **PERFORMANCE OBJECTIVES**

#### Passive Managers

- A passive manager's performance is expected to meet the Russell 1000 Growth Index, or other agreed-upon investible benchmark representing the large cap growth market.
- The beta of the portfolio over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

#### Active Managers

Manager performance shall be reviewed relative to the Russell 1000 Growth Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the Russell 1000 Growth Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.

- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the Russell 1000 Growth Index is expected to rank below the highest quartile of managers in the Large Cap Growth peer group over rolling three year time periods.

**OPTION 2**  
**LARGE CAP VALUE PORTFOLIO**  
**INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the Large Cap Value Portfolio is to provide participants an opportunity for meaningful growth of capital over a long investment horizon through participation in equity investments.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of not more than five percent.

**INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to five percent of the portfolio in initial public offerings that have been spun off by a company for which there is an adequate history and that has at least \$1 billion in market capitalization. Further, the parent must have been previously listed on the New York Stock Exchange (NYSE), American Stock Exchange (AMEX) or have been traded on the National Association of Securities Dealer's Automated Quotation system (NASDAQ), or in other, recognized domestic markets. If, through spin-offs or other- activities of the companies held, the portfolio exceeds five percent of holdings with less than three years operating history, the manager will bring the portfolio into compliance within a six-month period.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the Russell 1000 Value Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be in compliance with the Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.
3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States.

## **CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the Comprehensive Investment Plan (CIP).

## **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

## **PERFORMANCE OBJECTIVES**

### Passive Managers

- A passive manager's performance is expected to meet the Russell 1000 Value Index, or other agreed-upon investible benchmark representing the large cap value market.
- The beta of the portfolio over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

### Active Managers

Manager performance shall be reviewed relative to the Russell 1000 Value Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the Russell 1000 Value Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.

- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the Russell 1000 Value Index is expected to rank below the highest quartile of managers in the Large Cap Value peer group over rolling three year time periods.

**OPTION 3**  
**LARGE CAP CORE PORTFOLIO**  
**INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the Large Cap Core Portfolio is to provide participants an opportunity for meaningful growth of capital over a long investment horizon through participation in equity investments

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of not more than five percent.

**INVESTMENT GUIDELINES**

1. The Manager shall be permitted to invest in any securities which are a part of the S&P 500, without regard for the constraint within this policy prohibiting or restricting the ownership of companies with less than a 3 year publicly available operating history. If the Manager's common stock (or the common stock of the Manager's holding company) is included in the S&P 500, the Manager is permitted to purchase, retain and sell the Manager's common stock (or the common stock of the manager's holding company), consistent with the other requirements, guidelines, restrictions and performance objectives applicable to this portfolio and the reporting requirements imposed on Managers.
2. The Manager shall be permitted to invest in any securities which are a part of the S&P 500, without regard for the preference within this policy for investments to be made in United States based corporations. There shall be no limit on the percent of the portfolio held in American Depository Receipts, provided those same companies are included in the S&P 500 as American Depository Receipts.
3. The use of futures as a substitute for physical investing, or to facilitate cash flows shall be permitted for this portfolio, provided the manager receives prior written approval from the Board. In order to obtain such approval, the manager must submit a written request to the Board, quantifying the net advantages that will accrue to the portfolio.

4. The Manager may temporarily invest in companies outside of the index in the case of additions or deletions, with the goal of minimizing tracking error and/or reducing trading costs.

#### **CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the Comprehensive Investment Plan (CIP).

#### **RESTRICTED INVESTMENTS**

1. The use of futures will be permitted subject to the restrictions imposed by Paragraph 16 (entitled "Derivatives") in the "Authorized Investment Vehicles" section.
2. Use of margin is prohibited except as may be required in the use of futures.
3. Convertible securities shall not be allowed for investment purposes.

#### **PERFORMANCE OBJECTIVES**

##### Passive Managers

Manager performance shall be reviewed relative to the S&P 500, over any three to five year period, taking into consideration the following:

- The manager's performance is expected to meet the S&P 500 Index.
- The beta of the portfolio over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the S&P 500 of less than 25 basis points.

## Active Managers

Manager performance shall be reviewed relative to the S&P 500 Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the S&P 500 Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the S&P 500 Index is expected to rank below the highest quartile of managers in the Large Cap Value peer group over rolling three year time periods.

**OPTION 4  
MID CAP PORTFOLIO  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the Mid Cap Portfolio is to provide participants an opportunity for meaningful growth of capital over a long investment horizon through participation in equity investments.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of not more than five percent.

**INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to ten percent of the portfolio in initial public offerings of companies that have at least two years of audited financial statements and have been profitable (from continuing operations) for at least one of the last two years.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the S&P MidCap 400 Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be calculated in a manner consistent with Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.
3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States or in other, recognized domestic markets.

**CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

## **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures, or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

## **PERFORMANCE OBJECTIVES**

### Passive Managers

- A passive manager's performance is expected to meet the S&P 400 Index, or other agreed-upon investible benchmark representing the mid cap U.S. equity market.
- The beta of the portfolio over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

### Active Managers

Manager performance shall be reviewed relative to the S&P MidCap 400 Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the S&P MidCap 400 Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the S&P MidCap 400 Index is expected to rank below the highest quartile of managers in the MidCap Broad peer group over rolling three year time periods.

**OPTION 5  
SMALL CAP PORTFOLIO  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the Small Cap Portfolio is to provide participants an opportunity for meaningful growth of capital over a long investment horizon through participation in equity investments.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of not more than five percent. Asset allocation shall be determined based on the average position over any three month time period and shall operate within the following constraints set forth herein:

**INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to ten percent of the portfolio in initial public offerings of companies that have at least two years of audited financial statements and have been profitable (from continuing operations) for at least one of the last two years.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the Russell 2000 Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be in compliance with the Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.
3. Equity investments shall be made only in securities listed on a United States stock exchange or traded on NASDAQ in the United States or in other, recognized domestic markets.

**CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the Comprehensive Investment Plan (CIP).

## **RESTRICTED INVESTMENTS**

1. Use of margin is prohibited.
2. Use of options, futures or any other type of derivative securities is prohibited.
3. Convertible securities shall not be considered for investment.

## **PERFORMANCE OBJECTIVES**

### Passive Managers

- A passive manager's performance is expected to meet the Russell 2000 Index, or other agreed-upon investible benchmark representing the small cap U.S. equity market.
- The beta of the portfolio over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 25 basis points.

### Active Managers

Manager performance shall be reviewed relative to the Russell 2000 Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the Russell 2000 Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the Russell 2000 Index is expected to rank below the highest quartile of managers in the Small Cap peer group over rolling three year time periods.

**OPTION 6**  
**INTERNATIONAL EQUITY PORTFOLIO**  
**INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the International Equity Portfolio is to provide participants an opportunity for meaningful growth of capital over a long investment horizon through participation in equity investments.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times, relying on the manager's ability to generate return through the selection of securities and not through the timing of market movements. Therefore, during these time periods the manager shall be allowed to maintain a maximum cash position of not more than five percent.

**INVESTMENT GUIDELINES**

1. The Board prefers the manager to invest only in equity securities that have a publicly available operating history of at least three years. However, the manager can invest up to five percent of the portfolio in initial public offerings that have been spun off by a company for which there is adequate history of audited financial statements. If, through spin-offs or other activities of the companies held, the portfolio exceeds five percent of holdings with less than three years operating history, the manager will bring the portfolio into compliance within a six-month period.
2. The coefficient of determination ( $R^2$ ) measures the percentage of total market-related risk that an investment manager has undertaken. Therefore, the manager shall maintain a coefficient of determination to the MSCI EAFE Index of not less than .80 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be calculated in a manner consistent with Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.

**CASH AND SHORT TERM INVESTMENT GUIDELINES**

Cash and cash equivalent investments shall be made in liquid Authorized Investment Vehicles as defined in the CIP.

## **RESTRICTED INVESTMENTS**

1. The use of currency futures and currency forwards will be permitted subject to the restrictions imposed by Paragraph 16 (entitled "Derivatives") in the "Authorized Investment Vehicles" section.
2. Use of options, futures, forwards or any other types of derivative securities that are not used for currency hedging purposes are prohibited.
3. Use of margin is prohibited except as may be required in the use of currency futures or forwards.
4. Securities not domiciled, incorporated, or traded in a benchmark country.

## **PERFORMANCE OBJECTIVES**

### Passive Managers

- A passive manager's performance is expected to meet the MSCI EAFE Index, or other investible benchmark representing the broad developed international equity markets.
- The beta of the portfolio relative to the index over any two year rolling time period and calculated using monthly data shall not be less than .98 nor greater than 1.02.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index, of less than 30 basis points.

### Active Managers

Manager performance shall be reviewed relative to the MSCI EAFE Index, over any three or more year period of time, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the MSCI EAFE Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.

- The manager should generate a positive alpha calculated in accordance to the Jensen methodology.
- The manager's tracking error relative to the MSCI EAFE Index is expected to rank below the highest quartile of managers in the International Equity peer group over rolling three year time periods.

**OPTION 7  
FIXED-INCOME  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the fixed income option is to provide participants with a low risk, low volatility option for saving for college expenses. It is expected that this option will be used by those participants with a short horizon to matriculation or with little appetite for short term investment volatility.

**ASSET ALLOCATION**

The portfolio is expected to be fully invested at all times. However, cash holdings may represent an integral part of the manager's desired portfolio structure. Therefore, for purposes of this constraint, cash will be defined as securities with a duration of less than three months and the manager shall be allowed a maximum cash position of not more than five percent.

**INVESTMENT GUIDELINES**

- Fixed income investments will be made only in dollar-denominated securities traded in domestic markets.
- The portfolio shall maintain a coefficient of determination ( $R^2$ ) to the Barclays Capital Aggregate Index of not less than .90 over any rolling five-year time horizon calculated using monthly data. Until such time as the portfolio has sufficient historical data, the manager's reported monthly historical performance data, which shall be in compliance with the Global Investment Performance Standards (GIPS), shall be utilized in determining portfolio compliance.

**RESTRICTED INVESTMENTS**

1. Use of margin is prohibited except as may be required in the use of futures, options and swaps.
2. Other than futures, options and swaps, the use of derivative securities that have not been specifically approved by the Board is prohibited.
3. Convertible securities shall not be considered for investment.

## PERFORMANCE OBJECTIVES

### Passive Managers

- For passive managers, the manager's performance is expected to meet the Barclays Capital Aggregate Index.
- Tracking error measures the standard deviation of the differences between an investment manager's return and the index return. A low tracking error indicates that the manager's performance is closely tracking the performance of the index. In meeting the objectives set forth in these guidelines, the manager shall maintain an annualized tracking error to the index of less than 15 basis points.

### Active Managers

Manager performance shall be reviewed relative to the Bloomberg Barclays Capital Aggregate Index over any three to five year period, taking into consideration the following:

- The manager's performance, net of fees, is expected to exceed the Bloomberg Barclays Capital Aggregate Index, taking into consideration the degree of risk.
- The manager's performance is expected to rank at or above the median when compared to a universe of its peers managing similar portfolios and following a similar investment style.
- The effectiveness of the manager's duration, sector and security allocations will be reviewed to determine if the manager has demonstrated, on a total return basis, the ability to add value above the Index.

**OPTION 8  
MONEY MARKET OPTION  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The Money Market option seeks high current income consistent with liquidity, interest income and capital preservation.

**ASSET ALLOCATION**

The assets of each participant's account will be invested in Option 8 in accordance with the guidelines described under the "Investment Options" section of this CIP.

**INVESTMENT GUIDELINES**

The Money Market Option may invest in highly liquid money market instruments and fixed income securities with maturities not to exceed two years. The average portfolio maturity is not to exceed 6 months, notwithstanding the objective of preservation of capital. The minimum rating criteria for securities to be purchased in this paper are A1/P1 or an equivalent rating by two nationally recognized rating services.

**PERFORMANCE OBJECTIVES**

The performance of the money market fund shall be reviewed against a composite 91 day Treasury Bills index and a universe of other money market funds.

**OPTION 9  
EQUITY OPTION  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the equity option is to provide participants an opportunity for meaningful growth of capital over a long investment horizon through participation in diversified equity investments. Participants invest in a pre-packaged equity option diversified across investment styles and market capitalization.

**ASSET ALLOCATION**

Option 9 will be a diversified allocation of twenty percent allocated to a domestic large capitalization growth portfolio (Option 1), twenty percent to a domestic large capitalization value portfolio (Option 2), twenty percent to a U. S. large capitalization index portfolio (Option 3), ten percent to a mid-capitalization portfolio (Option 4), ten percent allocated to a small capitalization portfolio (Option 5) and twenty percent allocated to an international equity portfolio (Option 6).

Allocations to the underlying equity portfolios will be rebalanced periodically according to the rebalancing guidelines specified the rebalancing section of this CIP.

**INVESTMENT GUIDELINES**

The investment guidelines under Options 1 through 6, above, will apply to each respective portion of Option 9.

**PERFORMANCE OBJECTIVES**

The performance objectives specified in Options 1 through 6, above, will apply to each respective portion of Option 9.

**OPTION 10  
BALANCED OPTION  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The objective of the balanced investment option is to provide participants with an opportunity to generate long term growth of capital, but with less short-term volatility than the all-equity investment option.

**ASSET ALLOCATION**

Option 10 will be a blend of fixed income (Option 7) and equity (Option 9) and is expected to be fully invested at all times, relying on the manager's ability to generate return through interest rate anticipation and security selection, not through the timing of market movements. Allocations to the underlying fixed income and equity portfolios will be rebalanced periodically according to the rebalancing guidelines specified the rebalancing section of this CIP.

**INVESTMENT GUIDELINES**

The investment guidelines under Options 7 and 9, above, will apply to each respective portion of Option 10.

**PERFORMANCE OBJECTIVES**

The performance objectives specified in Options 7 and 9, above, will apply to each respective portion of Option 10.

**OPTION 11  
AGE-BASED  
INVESTMENT GUIDELINES**

**OBJECTIVE**

The age-based investment option is intended to provide Program participants with an asset allocation profile that links the amount of volatility in the portfolio directly to the investment horizon of the participant. As the participant approaches the date at which account balances will be used for college expenses, a lower tolerance for risk is assumed and the equity component of the portfolio is reduced accordingly.

**ASSET ALLOCATION**

The assets of each participant's account will be invested in fixed income (Option 7) and equity (Option 9) in accordance with the guidelines described under the "Investment Options" section of this CIP. The Board may periodically request a review to ensure that participant balances are managed in accordance with these guidelines.

**INVESTMENT GUIDELINES**

The investment guidelines specified in Options 7 and 9, above, will apply to each account balance maintained under Option 11.

**PERFORMANCE OBJECTIVES**

The performance objectives specified in Options 7 and 9, above, will apply to each account balance maintained under Option 11.

**APPENDIX G**

**INVESTMENT MANAGEMENT AGREEMENT**

## **Investment Management Agreement**

This Investment Management Agreement (the "Agreement"), is entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the FLORIDA PREPAID COLLEGE BOARD ("the Board"), an agency of the State of Florida, and \_\_\_\_\_ ("the Manager"), a corporation doing business under the laws of the State of \_\_\_\_\_ and doing business in the State of Florida.

In consideration of the services to be performed and the payments to be made, together with the mutual covenants and conditions hereinafter set forth, the parties agree as follows:

### **PART I INVESTMENT MANAGER**

#### **1. REPRESENTATIONS AND WARRANTIES.**

The Manager represents and warrants that:

A. It is a duly registered investment adviser under the Investment Advisers Act of 1940, as amended (hereinafter called the "Advisers Act"), and further represents, warrants, and agrees that it will continue at all times during the term of this Agreement to be an investment adviser and manager and fiduciary as described in subparagraph B. of this Section and that it will comply with all federal and state security laws and rules and regulations thereunder, as well as all other state and local laws referenced by this Agreement and all rules adopted thereunder. The Manager will promptly notify the Board in the event that it ceases to be a registered investment adviser under the Advisers Act or a qualified investment manager and fiduciary as described in subparagraph B., below; and

B. It is an "investment manager" as such term is defined in the Employees Retirement Income Security Act ("ERISA") with respect to the Account Assets and, by reason thereof, a fiduciary as such term is defined in ERISA with respect thereto, notwithstanding the fact that the terms and provisions of ERISA are not applicable to this Agreement; and

C. It is a corporation duly organized, validly existing, and in good standing under the laws of the United States and the State of \_\_\_\_\_ and has the power and authority to carry on its business as now being conducted and has the power and authority to execute, deliver, and perform this Agreement; and

D. It is duly qualified and in good standing in such other states of the United States, as well as in such foreign countries or political subdivisions thereof, as is necessary to perform this Agreement; and

E. It has taken all actions necessary to authorize the execution, delivery, and performance of this Agreement, and this Agreement is a valid and binding obligation of the

Manager enforceable against it in accordance with its terms except as may be limited by federal and state laws affecting the rights of creditors generally and except as may be limited by legal or equitable remedies; and

F. It has made, obtained, and performed all other registrations, filings, approvals, authorizations, consents, licenses, or examinations required by any government or governmental authority, domestic or foreign, or required by any other person, corporation or other entity in order to execute, deliver, and perform this Agreement; and

G. To the best of the Manager's knowledge, neither the execution, delivery, nor performance of this Agreement by the Manager will violate any law, statute, order, rule, or regulation of, or judgment, order or decree by, any federal, state, local, or foreign court or governmental authority, domestic or foreign, to which the Manager is subject nor will the same constitute a breach of, or default under, provisions of any agreement or contract to which it is a party or by which it is bound.

H. If the Manager has answered "Yes" to any questions posed in Item 11 of Form ADV (Uniform Application for Investment Advisor Registration), Part I, Manager covenants and agrees to provide the Board with a copy of such Form ADV, Part I, or amended Form ADV, Part I, within 5 working days after the Form ADV, Part I, or amended Form ADV, Part I, has been filed with the Securities and Exchange Commission.

I. It is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.

J. It is possessed in the legal authority and capacity to enter into and perform this Agreement.

K. It has been duly authorized to operate and do business in all places where it will be required to conduct business under this Agreement; that it has obtained, at no cost to the State of Florida, all necessary licenses and permits required in connection with this Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the performance of this Agreement.

L. It has no present interest nor will acquire any interest which would conflict in any manner with the Manager's duties and obligations under this Agreement.

## **2. INVESTMENT OF ACCOUNT ASSETS.**

The Board hereby appoints the Manager as an investment manager with the power to invest and manage the Account Assets of the Board which from time to time are allocated to the Account the Board has opened with the Master Custodian as indicated in Exhibit "A" attached hereto, and the Manager hereby accepts such appointment on the terms and conditions set forth herein. "Account Assets" will mean the assets of the Board which the Board has notified or will from time to time notify the Manager in writing to be transferred to the Account together with dividends, income, proceeds, and profits thereon. The Board authorizes the Manager to invest the Account Assets, subject to the fiduciary standards set forth in Paragraph 5 of this Agreement. The investment by the Manager will be made in

accordance with the investment guidelines as described in the attached Exhibit "B" or its subsequent revision.

### **3. SCOPE OF SERVICES.**

Pursuant to the authority of Section 1009.971(5)(d), Florida Statutes, the Manager will serve as the Large Capitalization Growth Domestic Equity product investment manager for the Prepaid Plan and the 529 Savings Plan. In this capacity, the Manager will provide the following services:

A. Serve as an agent of the Board to manage Large Capitalization Growth Domestic Equity investment account assets in compliance with the Comprehensive Investment Plans for the Prepaid Plan and for the 529 Savings Plan, as may be amended from time to time. The Manager will establish separate accounts for the assets of the Prepaid Plan and for the assets of the 529 Savings Plan. The Manager's performance will be reviewed and compared against the FTSE Russell 1000 Growth Index.

B. Present reports to the Board, at a minimum on a quarterly basis, to review performance of the fund, changes in manager strategies and investment personnel, and to prepare written monthly, quarterly and fiscal year-end reports in a format as required by the Board. Monthly reports, including but not limited to monthly performance summary will be provided not later than fifteen (15) days after the last day of the month which is the subject of the report; quarterly reports will be provided not later than thirty (30) days after the last day of the quarter which is the subject of the report. The Manager will make available to the Board's appointed consultant any information necessary for the conduct of its responsibilities to the Board including final asset and transaction statements within fifteen (15) days after the end of each month.

C. Assist with information and descriptive statements needed concerning the Large Capitalization Growth Domestic Equity product and the investment strategy used for the management of such product as may be periodically required by the Board for inclusion in any prospectus or disclosure booklet for the Prepaid Plan or the 529 Savings Plan.

D. All services provided under this Contract related to the 529 Savings Plan shall be provided in accordance with the ITN. All provisions of the ITN, the Questions and Answers regarding the ITN, and the Manager's Proposal submitted in response to the ITN are incorporated by reference and attached to this Contract as Restated Composite Exhibit "A". In the event of any conflict, in the opinion of the Board, between any provision of this Contract and the ITN, the Questions and Answers regarding the ITN or the Manager's proposal, this Contract shall govern the conduct of the Board and the Manager. In the event of any conflict, in the opinion of the Board, between the ITN and the Manager's Proposal, the ITN shall govern the conduct of the Board and the Manager. In the event of any conflict, in the opinion of the Board, between the ITN and the Questions and Answers regarding the ITN, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Manager. In the event of any conflict, in the opinion of the Board, between the Questions and Answers

regarding the ITN and the Manager's proposal, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Manager.

E. All services provided under this Contract for the Prepaid Plan shall be provided in accordance with the ITN. All provisions of the ITN, the Questions and Answers regarding the ITN, and the Manager's Proposal submitted in response to the ITN are incorporated by reference and attached to this Contract as Restated Composite Exhibit "A". In the event of any conflict in the opinion of the Board, between any provision of this Contract and the ITN, the Questions and Answers regarding the ITN or the Manager's Proposal, this Contract shall govern the conduct of the Board and the Manager. In the event of any conflict, in the opinion of the Board, between the ITN and the Manager's Proposal, the ITN shall govern the conduct of the Board and the Manager. In the event of any conflict in the opinion of the Board, between the ITN and the Questions and Answers regarding the ITN, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Manager. In the event of any conflict, in the opinion of the Board, between Questions and Answers regarding the ITN and the Manager's Proposal, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Manager.

#### **4. DUTIES OF MANAGER.**

A. The Manager is hereby authorized on behalf of the Board, as its agent and manager of the Account Assets, to exercise full discretionary investment authority within the investment guidelines (including any cash flow requirements) established in Exhibit "B" hereto, and also within guidelines established by the Board's Comprehensive Investment Plan (which is hereby incorporated by reference and attached to this Investment Management Agreement as Exhibit "C"), without obtaining the prior consent of or consulting with the Board or any other person,

(i) to issue to brokers (including the Manager's broker-dealer affiliates) instructions to sell, and otherwise trade in, or deal with, the Account Assets;

(ii) to purchase and sell to any person the Account Assets;

(iii) to instruct any trustee or custodian of any and all of the Account Assets to receive, accept and deliver securities or other assets sold, exchanged or otherwise disposed of from the Account; and

(iv) generally to perform any other act necessary or proper to enable the Manager to carry out its obligations under this Agreement. Manager will not, however, be responsible for the overall allocation restrictions contained in Exhibit "C." The Manager will obtain best execution of each purchase and sale transaction. So long as the provisions of Section 28(e) of the Securities Act of 1934 are met, the Manager may cause a broker or dealer to be paid commissions in excess of those another broker or dealer may charge.

B. It is understood that the Manager performs investment advisory services for various clients. The Board understands that the Manager may give advice and take action with respect to any of its other clients which may differ from advice given to the Board, or the timing

or nature of action taken with respect to the Account; provided, however, the Manager agrees that it will (i) not favor or disfavor consciously and consistently any client or class of clients in the allocation of investment opportunities, and (ii) to the extent practical see that such opportunities are allocated among clients over a period of time on a fair and equitable basis.

C. Nothing in this Agreement will impose upon the Manager any obligation to purchase or sell, or to recommend for purchase or sale, for the Account any security which the Manager, its principal affiliates or employees may purchase or sell for its or their own accounts or for the account of any other client.

## **5. FIDUCIARY DUTIES.**

The Manager agrees to discharge its duties, as investment manager and fiduciary, with respect to the Account Assets solely in the interest of the Board and the beneficiaries thereunder and (a) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in the like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and (b) in accordance with the investment instructions as the Board may furnish to the Manager in writing from time to time and with this Agreement. The Manager further agrees that it will continue at all times during the term of this Agreement to be an investment manager and a fiduciary as above described, and that it will comply with all laws, rules, and regulations set forth in Paragraph 1 (A), and that it will perform in accordance with the standards of care set forth in this paragraph and this Agreement.

## **6. COVENANTS.**

The Manager will immediately notify the Board (i) if it fails to comply with or will for any reason be unable to comply with any term, condition or provision of this Agreement; (ii) of any material change in the Manager's partners, directors, or employees who exercise investment discretion with respect to the Account or to any other material adverse change in the Manager's condition, financial or otherwise, or in its business, corporate organization, or any such change which is or might be materially adverse to the Manager or the Account; and (iii) following the occurrence of any happening or event which would cause any representation or warranty of the Manager in Paragraph 1 hereof, to be no longer true and correct in all respects (assuming solely for the purpose of this covenant of notification that all such representations and warranties are deemed to be reiterated and brought down during each successive day during this Agreement) provided that nothing in the preceding sentence will detract from or modify any representation or warranty made by the Manager in Paragraph 1 hereof.

## **7. OBJECTIVE.**

The objective of the Manager will be to achieve a competitive return through the active management of a Large Capitalization Growth Domestic Equity product portfolio by meeting or exceeding the performance of the FTSE Russell 1000 Growth Index on a consistent basis. The Manager will have investment discretion as to security selection subject to the guidelines and limitations expressed in the Comprehensive Investment Plans and any manager specific guidelines agreed upon between the Board and the Manager.

## **8. CUSTODY AND CONTROL OF ASSETS.**

Custody and control of all Account Assets will remain with the Master Custodian. Accordingly, the Manager will arrange to have all investments, option premium funds or other cash flow arising from any transaction effected in accordance with the terms and provisions of this Agreement to be promptly remitted to the Master Custodian and credited to the appropriate Account number. The Manager will also provide the Board with such information as the Board, from time to time, may request with regard to the Account Assets, including the identity of the employees, officers, and directors or other principals of the Manager, or other matters relating to this Agreement and the transactions contemplated hereby. The Board has the power at any time, in its sole discretion, to appoint one or more additional or substitute custodians to hold the Account Assets pursuant to the terms of any other custody agreements or pursuant to the terms of Exhibit "A" hereto, as may be revised.

The Board, during the term of this Agreement, will give the Manager notice of any termination of the Exhibit "A" Master Custodian Agreement or substitute custodian Agreement.

The Manager will cooperate with the Master Custodian or its successor in connection with all transactions contemplated by this Investment Management Agreement covered by the Master Custodian Agreement.

## **9. INSURANCE.**

The Manager has in effect and will maintain during the term of this Agreement:

A. Insurance coverage which complies with the bonding requirements of Section 412 of ERISA. The Manager will maintain such insurance coverage as required by said section (as the same may from time to time be supplemented or amended), notwithstanding the fact that the terms and provisions of ERISA may not be applicable to this Agreement.

B. Errors and omissions insurance in an amount not less than \$10,000,000.00 which provides coverage with respect to any loss resulting from a breach of its fiduciary duties and including coverage in the event of recourse against it by, or on behalf of, the Board.

C. Fiduciary liability insurance in an amount not less than \$10,000,000.00 which provides coverage with respect to any loss resulting from a breach of its fiduciary duties and including coverage in the event of recourse against it by, or on behalf of, the Board.

Upon request of the Board, the Manager will provide to the Board evidence that the premiums therefor have been paid.

**10. CONSIDERATION.**

A. The compensation of the Manager for its services hereunder will be calculated and paid in such manner as will be agreed upon, from time to time, by the Manager and the Board in accordance with Exhibit "E" hereto. All out-of-pocket expenses of the Manager, including without limitation, mailing and telephone expenses, travel expenses, salaries, and overhead costs, are to be paid for by the Manager.

B. If the Manager enters any agreement or contract with any other customer by which the Manager agrees to provide equivalent services for a lower fee or price, or additional services for a comparable fee or price, the Manager will provide written notice thereof to the Board within thirty (30) days of the date the Manager enters such agreement or contract with another customer and will agree to amend the Agreement, resulting from the ITN to provide the equivalent fee or price or additional service to the Board.

**11. BROKERAGE COMMISSIONS.**

The Board may instruct the Manager in writing to direct the Board's brokerage commissions, subject to the restriction of best execution, to a particular broker-dealer, in which case any research products and services generated by such commissions are the property of the Board and its beneficiaries, are accountable to the Board and will be reported by the Manager on a quarterly basis as provided in Paragraph 4 of this Agreement.

**12. NO ASSIGNMENTS.**

No assignment, as that term is defined in the Investment Advisers Act of 1940, nor any other form of assignment, transfer, or conveyance of this Agreement will be made by the Manager without the prior written consent of the Board.

**PART II**  
**SPECIAL TERMS**

**13. TERM OF CONTRACT.**

A. The duration of this Agreement shall be for five (5) years beginning \_\_\_\_\_, or such later date designated by the Board. It is the intent of the Board to review and define necessary services at the end of five (5) years. The Board reserves the option to renew the contract or any portion of the Agreement under the terms and conditions set forth in this ITN, or other such conditions as may be negotiated between the parties, for one additional five (5) year period. Renewal shall be contingent upon, among other things, availability of funds, continued need and satisfactory performance by the Manager. Moreover, the contract is subject to an annual performance evaluation of the successful firm.

B. No provision for the automatic renewal or extension of this Agreement is effective. Any renewal or extension will be in writing and executed by both parties to this Agreement. If the Board elects to renew this Agreement, the Board may prepare and submit to the Manager for execution a renewal agreement containing all of the then-existing terms of this Agreement (except for any additional renewal period), and the Manager shall execute said renewal agreement without any amendment (except for amendments required to update the Agreement to comply with changes of law or regulatory requirements) and return it to the Board.

C. This Agreement will be subject to termination pursuant to Paragraph 31.

**14. INDEPENDENT CONTRACTOR.**

A. The Board and Manager represent that they are acting in their individual capacities and not as employees, partners, or associates of one another.

B. The Manager will establish and assume direct responsibility for acting as the service provider for the Board in accordance with the provisions of the ITN. Accordingly, the Manager shall designate a Contract Manager whose primary responsibility is to work with the Board staff in making certain that all contract terms are strictly observed. At any time during the term of the contract, the Board reserves the right to reject the Manager's choice of Contract Manager and may terminate the contract if a Contract Manager acceptable to the Board cannot be made available by the Manager.

**15. INDEMNIFICATION.**

A. The Manager will act as an independent contractor and not as an employee of the Board in the performance of the tasks and duties which are the subject of this contract. The Manager shall be liable, and agrees to be liable for, and shall indemnify, defend, and hold the Board harmless from all claims, suits, judgments, or damages (including litigation costs and reasonable attorney's fees) arising from the Manager's fraud, negligence or misconduct, or any

subcontractor's fraud, negligence or misconduct, of the tasks and duties which are the subject of this Agreement, including, but not limited to:

1. Obtaining consent of any nature whatsoever;

2. Protecting the Board against claims for the unauthorized use of name or likeness of any person, libel, slander, defamation, disparagement, piracy, plagiarism, unfair competition, idea misappropriation, infringement of copyright title, patent, slogan or other property rights and any invasion of the right of privacy. "Misconduct" shall mean any violation of Florida law, Board rules, or directives, state or federal securities laws and regulations implementing same, or the Board's Comprehensive Investment Plan; and

3. Actions arising under Chapter 119, F.S.

B. The Manager will notify the Board in writing immediately of any claim or suit against the Manager arising from or related to the Manager's tasks and duties which are the subject of this Agreement. The Manager shall not settle, compromise, mediate, agree to dismiss, or voluntarily agree to the entry of any judgment, temporary injunction or permanent injunction, in any claim or suit against the Manager arising from or related to the Manager's tasks and duties which are the subject of this contract without the prior written authorization of the Board. Nothing in this Agreement authorizes the Manager to waive the Board's immunity from suit under the Eleventh Amendment to the United States Constitution.

C. The provisions of this Paragraph shall survive the termination of this Agreement.

D. Federal and state securities laws may impose liabilities under certain circumstances on investment advisers, managers or fiduciaries who act in good faith, and nothing herein shall constitute a waiver or limitation of any right that the Board may have under any such federal or state securities laws.

## **16. IMPRUDENT INVESTING.**

If moneys in the Florida Prepaid College Trust Fund fail to offset the Board's obligations to qualified beneficiaries of the Stanley G. Tate Florida Prepaid College Program or designated beneficiaries of the Florida 529 Savings Plan as a result of imprudent investing by the Manager, the Manager agrees to be liable for the Board's obligations. Investments made in accordance with the Comprehensive Investment Plans adopted by the Board will not be considered imprudent. The agreement and obligation of the Manager under this provision shall survive the termination of this Agreement.

## **17. PERSONNEL.**

The Board may interview the personnel assigned by the Manager to perform the services required under this Agreement. The Board may require the replacement of any personnel of the Manager believed to be unable to carry out the responsibilities of the contract at any time. The Manager shall warrant that personnel assigned to perform tasks under the Agreement will not be replaced or reassigned except as is reasonably necessary.

**18. MODIFICATION OF CONTRACT.**

This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement will only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement.

**19. SUBCONTRACTOR.**

The Manager may enter into written subcontracts for performance of its duties under this Agreement. All subcontractors will be subject to the prior written approval of the Board. The Board may disapprove any subcontractor if such disapproval would be in the best interests of the Board. The Board may inspect and acquire any of the subcontract documents executed between the Manager and any subcontractor. No subcontract which the Manager enters into with respect to performance under this Agreement will in any way relieve the Manager of any responsibility for performance of duties stipulated in this Agreement. The Board reserves the right to communicate directly with any subcontractor's Project Manager regarding performance of tasks required under this Agreement.

**20. OWNERSHIP OF MATERIALS.**

All materials and data produced for the Board under this Agreement will be owned by the Board unless otherwise agreed to in writing by the Board.

**21. APPROVAL OF WORK.**

A. All work produced for distribution by the Manager must be approved in advance in writing by the Board or the Board's representative.

B. Each phase of the services provided by the Manager will require the approval of the Board or the Board's representative.

C. The Board reserves the right, in its own best interests, to unilaterally modify, reject, cancel or stop any and all plans, schedules or work in progress.

D. Notwithstanding "prior approval" requirements which may be reserved to the Board under this Agreement and Part IV, Chapter 1009, Florida Statutes, such requirement does not relieve or mitigate Manager's ultimate responsibility for ensuring and guaranteeing the quality and timeliness of work and services to be provided under this Agreement. The Manager is solely responsible for performing the services specified herein to the satisfaction of the Board.

## **22. TAXES.**

The Board bears no responsibility for the payment of any federal, state, or local taxes which become payable by the Manager or its subcontractor as the result of this Agreement.

## **23. PUBLIC ACCESS TO RECORDS and CONFIDENTIALITY.**

Section 1009.981(6), Florida Statutes, provides that all information that identifies the benefactors or qualified beneficiaries of any participation agreement and s. 1009.98(6), Florida Statutes, provides that all information that identifies the purchasers or beneficiaries of any advance payment contract, is not subject to the provisions of s. 119.07(1), Florida Statutes, the Public Records Law. All other documents, papers, letters, or other materials relating to this Contract that are made or received by the Trustee in conjunction with the Contract, and which are required by law to be maintained, will be available for public access and for audit purposes for a period of three (3) years after the expiration of the Contract. Said records will also be maintained per Chapter 119 and other applicable Florida Statutes. The provisions of this Paragraph shall survive the termination of this Agreement.

Manager agrees not to use or disclose any information concerning a recipient of services under this Contract for any purpose not in conformity with state and federal law or regulations except upon written consent of the recipient, or his responsible parent or guardian when authorized by law, if applicable.

If the Manager has access to confidential information in order to fulfill Contractor's obligations under this Contract, Manager agrees to abide by all applicable Board Information Technology Security procedures and policies. Manager (including its employees, sub-contractors, agents, or any other individuals to whom Contractor exposes confidential information obtained under this Contract), shall not store, or allow to be stored, any confidential information on any portable storage media (*e.g.*, laptops, thumb drives, hard drives, *etc.*) or peripheral device with the capacity to hold information. Failure to strictly comply with this provision shall constitute a breach of contract.

Manager shall notify the Board in writing of any disclosure of unsecured confidential information of Board by Manager, its employees, agents or representatives which is not in compliance with the terms of the Contract (of which it becomes aware). Manager also shall report to Board any Security Incidents of which it becomes aware, including those incidents reported to Manager by its sub-contractors or agents. For purposes of this Contract, "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Board information in Manager's possession or electronic interference with Board operations; however, random attempts at access shall not be considered a security incident. Manager shall make a report to the Agency not more than seven (7) business days after Manager learns of such use or disclosure. Manager's report shall

identify, to the extent known: (i) the nature of the unauthorized use or disclosure, (ii) the confidential information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Manager has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Manager has taken or shall take to prevent future similar unauthorized use or disclosure.

**24. WAIVER.**

Failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement will not be construed as a waiver of the violation or breach, or of any future violation or breach.

**25. GENERAL CONDITIONS.**

A. The Board may cancel this Agreement if the Manager refuses to allow public access to any documents, papers, letters, or other materials subject to the provisions of Chapter 119, Florida Statute, and made or received by the Manager in conjunction with the Agreement.

B. The Board will operate the Florida Prepaid College Plan and Florida College 529 Savings Plan in compliance with the requirements of s. 529 of the Internal Revenue Code and the federal securities laws.

C. Notwithstanding "prior approval" requirements which may be reserved to the Board under this Agreement and Part IV, Chapter 1009, Florida Statutes, such requirement does not relieve or mitigate Manager's ultimate responsibility for ensuring and guaranteeing the quality and timeliness of work and services to be provided under this Agreement. The Manager is solely responsible for performing the services specified herein to the satisfaction of the Board.

D. The Board reserves the right, in its own best interests, to unilaterally modify, reject, cancel or stop any and all plans, schedules or work in progress.

E. The Manager shall not initiate any communication with any member of the Board, on any matter related to this Contract or related to the duties of the Board under Part IV, Chapter 1009, Florida Statutes, or any successor statute, or which in any way relate to the Manager's activities. Except at publicly noticed meetings of the Board or any of its committees, all communication by the Manager directed to the Board, or any member of the Board, shall only be sent to the Executive Director of the Board who will forward same to the Board or to the appropriate member. If the Manager receives any communication from any member of the Board, the Manager shall notify the Executive Director of the Board immediately, and shall take no further action on any matter related to this Contract or any other matter related to the duties of the Board under Part IV, Chapter 1009, Florida Statutes, or any successor statute, until advised by the Executive Director.

F. Throughout the term of the Agreement, the Manager shall comply with all applicable federal, state and local laws, regulations, rules or ordinances, as amended from time

to time, including, but not limited to, s. 529 of the Internal Revenue Code, any federal regulations relating to qualified state tuition programs, applicable Florida laws, including without limitation Part IV, Chapter 1009, Florida Statutes, all administrative rules adopted by the Board, and the securities laws of the United States and the State of Florida. If during the course of the Agreement these laws, regulations, rules or ordinances are amended, the Manager shall revise its services as necessary to preserve such compliance at no additional cost to the Board.

G. The Board reserves the right to inspect the Manager's facilities at any time with prior notice.

H. All references in the Contract to ss. 1009.97, 1009.971, 1009.972, 1009.98, or 1009.983, Florida Statutes, includes all successor statutes thereto.

## **26. AUDIT OF CONTRACT PROCEDURES.**

The Board shall have the right to audit or inspect the Manager's, and any subcontractors', procedures and financial and accounting records, including, but not limited to, records, reports, and documents and such other supporting evidence necessary to verify compliance with the terms of this Agreement, using Board employees, its designees or other state agencies as provided by law. The Manager shall include a provision substantially similar to the preceding sentence in all agreements between the Manager and its subcontractors that are related to or for the provision of goods or services under this Agreement. If the Board exercises its right to audit, the Manager and its subcontractors shall provide the Board or its auditors, adequate and appropriate work space as well as access to photocopy machines and the right to interview current employees and contact information for former employees. The provisions of this Paragraph shall survive the termination of this Agreement.

## **27. INVOICES**

Any invoices submitted by the Manager seeking payment for services rendered under the terms of this Contract will be submitted to the Board in sufficient detail to ensure proper pre-audit and post-audit thereof.

## **28. INTENT**

The parties agree that time is of the essence in undertaking the provisions of this Agreement and mutually express their good faith in the execution of its terms.

## **29. INTERPRETATION, VENUE AND DISPUTE RESOLUTION.**

A. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of Florida. This Agreement shall be subject to the rules of the Florida Prepaid College Board.

B. The sole and exclusive manner of resolution of all claims, disputes or controversies related to or arising under or from this Agreement shall be pursuant to Rules 19B-14.001, 19B-14.002, 19B-14.003, Florida Administrative Code, as amended from time to time.

C. Any and all litigation arising under this Agreement shall be instituted in accordance with subparagraph (b) in Leon County, Florida. All appeals shall be to the First District Court of Appeals of the State of Florida.

D. Any dispute concerning performance of the Contract shall be decided by the Board's designated contract manager, who shall reduce the decision to writing and serve a copy on the Manager. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Manager files with the Board a petition for administrative hearing. The Board's decision on the petition shall be final, subject to the Manager's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Manager's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

E. The provisions of this Paragraph shall survive the termination of this Agreement.

### **30. INSOLVENCY OF THE MANAGER.**

A. In the event the Manager files for protection or reorganization or a petition for involuntary bankruptcy is filed against the Manager, under the United States Bankruptcy Code, the Board may determine that it will require certain periodic financial reports and certain operational reports from the Manager. The Manager shall supply said reports as requested by the Board.

B. Notwithstanding Paragraph 13.A, if the Manager files for protection or reorganization or a petition for involuntary bankruptcy is filed against the Manager, under the United States Bankruptcy Code, during the term of the contract, the term of this Agreement shall automatically convert to a single one-year contract terminating on the next June 30, after the bankruptcy petition is filed. In such event, the Board shall have the option to renew the Agreement or any portion of this Agreement in accordance with this Agreement or such conditions as may be negotiated between the parties for a number of one-year Agreement extensions which shall be equal to the number five minus the number of years remaining under the term of the Agreement pursuant to Paragraph 13.A., prior to the filing of the bankruptcy petition. Each such one-year Agreement renewal shall be contingent upon, among other things, availability of funds, continued need, and satisfactory performance by the Manager. Such Agreement extensions shall be subject to an annual performance evaluation of the Manager.

[NOTE: If Manager is a bank or insurance company, this paragraph will be modified as appropriate to that type of entity.]

**31. TERMINATION.**

The continuation of this Agreement shall be contingent upon the satisfactory performance and evaluation of the Manager by the Board. The Board may terminate this Agreement or any part of this Agreement, without penalty or cost to the Board, at its convenience and such termination will be effective at such time as is determined by the Board. If both parties agree, this Agreement or any part of a Agreement resulting from the ITN may be terminated on an agreed date prior to the end of this Agreement without penalty to either party. In the event of termination, the Manager shall provide to the Board all materials produced in connection with this Agreement within 10 days of notice of termination.

**32. BOARD AUTHORITY**

This Agreement and all payments provided herein are subject to the provisions of Part IV, Chapter 1009, Florida Statutes, or any successor statute, and the rules of the Board. All references in this Agreement to Part IV, Chapter 1009, Florida Statutes, include all successor statutes.

**33. ANNUAL APPROPRIATIONS.**

Performance by the Board under this Agreement will be subject to and contingent upon the availability of monies lawfully appropriated to the Board and applicable for the purposes of this Agreement.

**34. SEVERABILITY**

If any provisions of this Agreement are held invalid or unenforceable, such invalidity or unenforceability will not affect any other provisions, and this Agreement will be construed and enforced as if such provisions had not been included.

**35. STATE HOLIDAYS.**

The staff of the Manager assigned to this Agreement shall observe only official State holidays or holidays which the New York Stock Exchange is closed.

**36. NOTICES.**

All notices, requests, instructions, other advice, or documents required hereunder will be in writing and delivered personally or mailed by first-class mail, postage prepaid, as follows:

If to the Board: Kevin Thompson, Executive Director  
Florida Prepaid College Board  
1801 Hermitage Blvd., Suite 210  
Tallahassee, Florida 32308  
Telephone: (850) 488-8514  
Facsimile: (850) 488-3555

With a copy to: GrayRobinson, P.A.  
Attention: Jason Unger, Esquire  
301 Bronough Street, Suite 600  
Tallahassee, Florida 32301  
Telephone: (850) 577-9090  
Facsimile: (850) 222-3494

If to the Manager:

e-mail:  
Telephone:  
Facsimile:

With a copy to:

e-mail:  
Telephone:  
Facsimile:

**37. TITLES.**

All titles, headings or captions respecting the sections or paragraphs of this Agreement are for convenience of reference only, and will not be construed as a part or limitation of those provisions to which they refer.

FLORIDA PREPAID COLLEGE BOARD

\_\_\_\_\_  
Attested to by

By: \_\_\_\_\_  
Kevin Thompson, Executive Director

\_\_\_\_\_  
Witness

\_\_\_\_\_

\_\_\_\_\_  
Attested to by:

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

(Corporate Seal

**APPENDIX H**

**PUR 1000 and PUR 1001**

**UR 1000\***  
**General Contract Conditions**

**Contents**

1. Definitions.
2. Purchase Orders.
3. Product Version.
4. Price Changes Applicable only to Term Contracts.
5. Additional Quantities.
6. Packaging.
7. Inspection at Contractor's Site.
8. Safety Standards.
9. Americans with Disabilities Act.
10. Literature.
11. Transportation and Delivery.
12. Installation.
13. Risk of Loss.
14. Transaction Fee.
15. Invoicing and Payment.
16. Taxes.
17. Governmental Restrictions.
18. Lobbying and Integrity.
19. Indemnification.
20. Limitation of Liability.
21. Suspension of Work.
22. Termination for Convenience.
23. Termination for Cause.
24. Force Majeure, Notice of Delay, and No Damages for Delay.
25. Changes.
26. Renewal.
27. Purchase Order Duration.
28. Advertising.
29. Assignment.
30. Antitrust Assignment
31. Dispute Resolution.
32. Employees, Subcontractors, and Agents.
33. Security and Confidentiality.
34. Contractor Employees, Subcontractors, and Other Agents.

- 35. Insurance Requirements.
- 36. Warranty of Authority.
- 37. Warranty of Ability to Perform.
- 38. Notices.
- 39. Leases and Installment Purchases.
- 40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).
- 41. Products Available from the Blind or Other Handicapped.
- 42. Modification of Terms.
- 43. Cooperative Purchasing.
- 44. Waiver.
- 45. Annual Appropriations.
- 46. Execution in Counterparts.
- 47. Severability.

**1. Definitions.** The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.

(b) "Customer" means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The "Customer" may also be the "Buyer" as defined in the PUR 1001 if it meets the definition of both terms.

(c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.

(d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

**2. Purchase Orders.** In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by

reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

**3. Product Version.** Purchase orders shall be deemed to reference a manufacturer's most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

**4. Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide

documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

**5. Additional Quantities.** For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

**6. Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

**7. Inspection at Contractor's Site.** The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

**8. Safety Standards.** All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all

items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

**9. Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

**10. Literature.** Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

**11. Transportation and Delivery.** Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

**12. Installation.** Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

**13. Risk of Loss.** Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report.

When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

**14. Transaction Fee.** The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE subject to being removed from the Department of management services' vendor list as provided in rule 60A-1.006, F.A.C.**

**15. Invoicing and Payment.** Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through

the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

**16. Taxes.** The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

**17. Governmental Restrictions.** If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

**18. Lobbying and Integrity.** Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the

General Records Schedules maintained by the Florida Department of State (available at: <http://dhis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

**19. Indemnification.** The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred

or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

**20. Limitation of Liability.** For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

**21. Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

**22. Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

**23. Termination for Cause.** The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

**24. Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause

whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

**25. Changes.** The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

**26. Renewal.** Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

**27. Purchase Order Duration.** Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

**28. Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

**29. Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract,

without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

**30. Antitrust Assignment.** The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

**31. Dispute Resolution.** Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

**32. Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation

to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

**33. Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

**34. Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

**35. Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

**36. Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

**37. Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is

currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

**38. Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

**39. Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

**40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

**41. Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

**42. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, “shrink wrap” terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor’s order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

**43. Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

**44. Waiver.** The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer’s right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

**45. Annual Appropriations.** The State’s performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

**46. Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**47. Severability.** If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

**PUR 1001**  
**General Instructions to Respondents**

**Contents**

- 1. Definitions.**
- 2. General Instructions.**
- 3. Electronic Submission of Responses.**
- 4. Terms and Conditions.**
- 5. Questions.**
- 6. Conflict of Interest.**
- 7. Convicted Vendors.**
- 8. Discriminatory Vendors.**
- 9. Respondent's Representation and Authorization.**
- 10. Manufacturer's Name and Approved Equivalents.**
- 11. Performance Qualifications.**
- 12. Public Opening.**
- 13. Electronic Posting of Notice of Intended Award.**
- 14. Firm Response.**
- 15. Clarifications/Revisions.**
- 16. Minor Irregularities/Right to Reject.**
- 17. Contract Formation.**
- 18. Contract Overlap.**
- 19. Public Records.**
- 20. Protests.**
- 21. Limitation on Vendor Contact with Agency During Solicitation Period**

**1. Definitions.** The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.

(b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.

(c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.

(d) "Response" means the material submitted by the respondent in answering the solicitation.

(e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

**2. General Instructions.** Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

**3. Electronic Submission of Responses.** Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- an electronic signature on the response, generally,
- an electronic signature on any form or section specifically calling for a signature, and
- an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

**4. Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications,
- Special Conditions and Instructions,
- Instructions to Respondents (PUR 1001),
- General Conditions (PUR 1000), and
- Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

**5. Questions.** Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.

**6. Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

**7. Convicted Vendors.** A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submitting a bid on a contract to provide any goods or services to a public entity;
- submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.

**8. Discriminatory Vendors.** An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

**9. Respondent's Representation and Authorization.** In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.

- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
  - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

**10. Manufacturer's Name and Approved Equivalents.** Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Buyer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications,

test data, etc. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

**11. Performance Qualifications.** The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by Respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. In determining Respondent's responsibility as a vendor, the agency shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

**12. Public Opening.** Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

**13. Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_main_menu). If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by

the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

**14. Firm Response.** The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

**15. Clarifications/Revisions.** Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

**16. Minor Irregularities/Right to Reject.** The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

**17. Contract Formation.** The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

**18. Contract Overlap.** Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

**19. Public Records.** Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

**20. Protests.** Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

**Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code require that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.**

Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

**21. Limitation on Vendor Contact with Agency During Solicitation Period.** Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.