

**CONTRACT FOR THIRD PARTY ADMINISTRATIVE SERVICES  
BETWEEN  
NATIONWIDE RETIREMENT SOLUTIONS, INC.  
AND  
THE INDIANA AUDITOR OF STATE  
AS ADMINISTRATOR OF  
THE STATE OF INDIANA PUBLIC EMPLOYMENT COMPENSATION  
457/401(A) PLANS**

This Contract (“this Contract”), entered into by and between the Auditor of State as Administrator of the Indiana Public Employees’ Deferred Compensation and Matching Plans (the “State” as Plan Sponsor) and Nationwide Retirement Solutions, Inc. (the “Contractor”), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

**1. Duties of Contractor.** The Contractor shall provide the following services relative to this Contract, including those attached hereto and fully incorporated by reference herein as Exhibits A and B. Exhibit A contains the Statement of Work; Exhibit B contains the ProAccount – Plan Sponsor Agreement and the ProAccount Addendum for Change in Provider.

**2. Consideration.** The Contractor will be paid at the rate set forth in Exhibit A to the Contract.

**3. Term.** This Contract shall commence on April 11, 2022 and shall remain in effect for a period of four (4) years from the Contract start date. At any time prior to the expiration of the initial contract term, and at the direction of the State, the Contract may be extended for one (1) additional four (4) year term.

**4. Access to Records.** The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for seven (7) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

**5. Assignment; Successors.**

A. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

B. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State’s prior written consent. Additionally, the Contractor shall provide prompt written notice to the State of any change in the Contractor’s legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

**6. Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

**7. Audits.** The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the Contractor to be a “Contractor” under 2 C.F.R. 200.330 for purposes of this Contract. However, if it is determined that the Contractor is a “subrecipient” and if required by applicable

provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

**8. Authority to Bind Contractor.** The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

**9. Changes in Work.** The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract unless modification is required to maintain tax treatment under the Internal Revenue Code of 1986, as amended (“Code”), when either party may unilaterally amend the Contract with proper notice to the other party, but only to the extent required to maintain favorable tax treatment under the Code.

**10. Compliance with Laws.**

A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General’s website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the Contractor’s liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that

the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State. However, the State agrees to provide Contractor, and any of its subcontractors, 60 days to cure any non-compliance before any such termination or denial of further work as long as the Contractor, and, if applicable, any of its subcontractors, are able to lawfully comply with Section 10(A) of this Contract.

G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC § 5-22-3-7:

- (1) The Contractor and any principals of the Contractor certify that:
  - (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
    - (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
    - (ii) IC §24-5-12 [Telephone Solicitations]; or
    - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
  - (B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
- (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,
  - (A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
  - (B) will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

**11. Condition of Payment.** All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

**12. Confidentiality of State Information.** The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State. The State shall not unreasonably withhold consent under this Section

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC § 4-1-10 and IC § 4-1-11. If any Social Security number(s) is/are disclosed by Contractor,

Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

**13. Continuity of Services.**

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees to:

1. Furnish phase-in training; and
2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

B. The Contractor shall, upon the State's written notice:

1. Furnish phase-in, phase-out services for up to one-hundred twenty (120) days after this Contract expires; and
2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

**14. Debarment and Suspension.**

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

**15. Default by State.** If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

**16. Disputes.**

A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay,

any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.

C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include: (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute; the Notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written Amendment to this Contract if appropriate.

D. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C. relating to submission of the dispute to the Commissioner.

F. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the state should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

**17. Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**18. Employment Eligibility Verification.** As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.
- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

**19. Employment Option.** If the State determines that it would be in the State's best interest to hire an employee of the Contractor and with sufficient notice and approval of the Contractor, the Contractor will release the selected employee from any non-competition agreements that may be in effect. This release will be at no cost to the State or the employee.

**20. Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds sixty (60) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

**21. Funding Cancellation.** As required by Financial Management Circular 2007-1 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be

canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**22. Governing Law.** This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules, and to the extent not preempted by federal securities laws. Suit, if any, must be brought in the State of Indiana.

**23. HIPAA Compliance.** If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

**24. Indemnification.** The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

**25. Independent Contractor; Workers' Compensation Insurance.** The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

**26. Information Technology Enterprise Architecture Requirements.** If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with generally accepted retirement plan recordkeeper industry standards or any of the technology standards found at <https://www.in.gov/iot/2394.htm> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

**27. Insurance.**

A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
3. Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.

4. Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.
5. Surety or Fidelity Bond(s) if required by statute or by the agency.
6. Cyber Liability if requested by the State addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
5. The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.

C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

## **28. Key Person(s).**

A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason, the State shall have the right to terminate this Contract upon thirty (30) days' prior written notice.

B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the State.

Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.



Key person(s) to this Contract is/are \_\_\_\_\_

**29. Licensing Standards.** The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

**30. Merger & Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

**31. Nondiscrimination.** Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended.

**32. Notice to Parties.** Whenever any notice, statement or other communication is required under this Contract, it will be sent by E-mail or first-class U.S. mail service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Office of the Indiana Auditor of State  
Attn: Staci Schneider, Chief of Staff  
200 West Washington Street  
Indianapolis, IN 46204  
E-mail: SSchneider@auditor.in.gov

B. Notices to the Contractor shall be sent to:

Nationwide Retirement Solutions, Inc.  
Attn: Catherine Moore, AVP, Operations  
10 W. Nationwide Blvd.  
Columbus, OH 43215  
E-mail: moorek3@nationwide.com

As required by IC § 4-13-2-14.8, payments, unless otherwise specified herein, to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

**33. Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract, (2) attachments prepared by the State, (3) RFP #2020-02, (4) Contractor's response to RFP #2020-02, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

**34. Ownership of Documents and Materials.**

A. Unless otherwise stated herein, all documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

B. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

**35. Payments.**

A. Unless otherwise stated herein, all payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC § 4-13-2-20.

B. If the Contractor is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the Contractor agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

**36. Penalties/Interest/Attorney's Fees.** The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2.

Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

**37. Progress Reports.** The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

**38. Public Record.** The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

**39. Renewal Option.** This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of the renewed contract may not be longer than the term of the original Contract.

**40. Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

**41. Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

**42. Taxes.** The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

**43. Termination for Convenience.** This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to IDOA and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least sixty (60) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination and reasonable transition period for transferring the services described herein to a successor provider as directed by the State. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

**44. Termination for Default.**

A. With the provision of sixty (60) days' notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond sixty (60) days if the State determines progress is being made and the extension is agreed to by the parties;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or
4. Perform any of the other provisions of this Contract.

B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any reasonable sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

**45. Travel.** No expenses for travel will be reimbursed unless specifically authorized by this Contract. Permitted expenses will be reimbursed at the rate paid by the State and in accordance with the Budget

Agency's *Financial Management Circular – Travel Policies and Procedures* in effect at the time the expenditure is made. Out-of-state travel requests must be reviewed by the State for availability of funds and for conformance with *Circular* guidelines.

**46. Waiver of Rights.** No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

**47. Work Standards.** The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

**48. Investigations and Complaints.** To the extent permitted by applicable law, Contractor shall promptly advise the Plan in writing of any extraordinary investigation, examination, complaint or disciplinary action or other proceeding relating to or affecting Contractor's ability to perform its duties under this Contract which is commenced by any of the following: (1) any Attorney General or any regulatory agency of any state of the United States; (2) any U.S. Government department or agency; or (3) any governmental agency regulating business in any country in which Contractor is doing business. Except as otherwise required by law, the Plan shall maintain the confidentiality of all such information until investigating entity makes the information public.

**49. Confidentiality of Data, Property Rights in Products, and Copyright Prohibition.** The Contractor agrees that all information, data, findings, recommendations, Proposals, etc., by whatever name described and by whatever form therein, secured, developed, written, or produced by the Contractor in furtherance of this Contract shall be the property of the Plan, and the Contractor shall take such action as is necessary under law to preserve such property rights in and of the Plan while such property is within the control and/or custody of the Contractor. By this contract, the Contractor, specifically waives and/or releases to the Plan any cognizable property right of the Contractor to copyright, license, patent, or otherwise sue such information, data, findings, recommendations, proposals, etc.

**50. Non-Collusion and Acceptance.** The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

**THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**In Witness Whereof**, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

NATIONWIDE RETIREMENT SOLUTIONS, INC.

INDIANA AUDITOR OF STATE, as  
Administrator of the State of Indiana Public  
Employees Deferred Compensation Plan and  
Matching Plan

DocuSigned by:  
By: Catherine M (Katie) Moore,  
4DBE30C54E04471...

Catherine (Katie) Moore, AVP, Operations  
Name and Title, Printed

Date: 11/4/2021 | 11:11:35 AM EDT

DocuSigned by:  
By: Staci L. Schneider  
A9772A375F194C9...

Staci L. Schneider, Chief of Staff  
Name and Title, Printed

Date: 11/4/2021 | 12:51:45 PM EDT

**Exhibit A: Statement of Work**

**1. Designation.**

A. State acknowledges Contractor as a non-fiduciary, non-discretionary provider of recordkeeping and administrative services (“Administrative Services”) for the State of Indiana Public Employee Deferred Compensation Plan (the “457 Plan”) and The State of Indiana Deferred Compensation Matching Plan (“Matching Plan”) (each of the 457 Plan and the Matching Plan are referred to as a “Plan” and collectively they may be referred to as the “Plans”) in accordance with the terms of this Contract.

B. State represents that the selection and designation of Contractor complies with any procurement statutes applicable to the State.

C. Any duties or services not specifically described herein or delegated in the Plans’ documents as being provided by Nationwide are the responsibility of the State.

D. Services in addition to those in this Contract or delegated in the Plans’ documents may be added by mutual agreement of Contractor and the State.

**2. Eligible Employer.** The State has determined that it is an “eligible employer” as that term is defined in the Internal Revenue Code of 1986, as amended (“Code”) Section 457(e)(1)(A) and 414(d).

**3. General.**

A. State adopts Contractor’s established policies and procedures with respect to the administration of 457(b) and 401(a) plans on its administrative system to the extent those policies and procedures are not inconsistent with the terms of the plans. Contractor and State shall mutually agree to any procedures and testing which require customization, e.g., loan procedures.

B. State and Contractor acknowledge that any oral or written communication provided by Contractor with respect to State’s Request for Proposals 2020-02, State of Indiana Public Employees’ 457(b) and 401(a) Plans, is incorporated into this Contract by reference.

C. State acknowledges and agrees that Contractor is not responsible for monitoring deferrals to other Section 457, 403(b), 401(a), and/or 414(h) plans, or any defined benefit plans referenced by the Code.

D. State acknowledges and agrees that Contractor is not responsible for monitoring inter-plan coordination between the Plan administered by Contractor and any other Section 457 plan which the State or any political subdivision may have.

E. This Contract does not require, nor will this Contract be construed as requiring, Contractor to exercise any discretionary control or authority over the Plans or the assets of the Plans.

F. Contractor’s fee as described in Section 14 of Exhibit A shall be reduced by \$50,000 (to be applied to per participant fees as mutually agreed upon by State and Contractor) for the first year of the Contract to the extent transition to Contractor’s provision of Administrative Services is not effective by April 11, 2022. The effective date of Administrative Services of the Plans transitioning to Contractor shall include no longer than a one (1) day blackout period and be contingent upon the relinquishing provider of Administrative Services fully meeting all agreed upon dates and deliverables by the parties. These dates and deliverables can include but are not limited to transfer of files, assets and agreed upon reporting. In addition, Contractor acknowledges and agrees to place up to \$50,000 at risk for performance guarantees within the first calendar year of the contract and up to \$50,000 annually thereafter for the commitments listed in the table below:

	Benchmark	Amount at Risk
Participant Services		

	<b>Benchmark</b>	<b>Amount at Risk</b>
<b>Average Call Center wait time per call:</b>	70% within 30 seconds of total participant calls received during a calendar year.	\$1,500 annually
<b>Number of worksite visits annually:</b>	1,300 visits across all of the State's worksites	\$1,500 annually
<b>Number of virtual webinars annually:</b>	50 webinars through the HOOSIER S.T.A.R.T. website	\$1,000 annually
<b>Statements</b>		
<b>Participant statement mail time:</b>	Within 10 business days after quarter end.	\$1,000 per quarter
<b>Sponsor plan statement mail time:</b>	Within 30 days of the end of the reporting period	\$1,000 per quarter
<b>Participant online statement posting:</b>	Within 10 business days of the end of the reporting period	\$1,000 per quarter
<b>Sponsor online statement posting:</b>	Within 30 days of the end of the reporting period	\$1,000 per quarter
<b>Administration</b>		
<b>Contribution election amount changes:</b>	Processed within 5 business days	\$1,500 per quarter if less than 99%
<b>Contribution posting:</b>	Same business day if received in good order by 4 p.m. Eastern time	\$1,500 per quarter if less than 99%
<b>Withdrawals processed:</b>	Within 3 to 5 business days of receipt in good order	\$1,500 per quarter if less than 99%
<b>Emergency Withdrawals processed:</b>	Within 3 to 5 business days of receipt in good order	\$1,500 per quarter if less than 99%
<b>Rollovers/transfers out processed:</b>	Within 3 to 5 business days of receipt in good order	\$1,500 per quarter if less than 99%
<b>Loans processed:</b>	Within 3 to 5 business days of receipt in good order	\$1,500 per quarter if less than 99%
<b>Plan Sponsor Reporting:</b>	Within 30 business days of the end of the reporting period	\$100 per day

Any such reduction shall be paid by Contractor to the Plan Expense Account (as defined later in Section 14.C of this Exhibit A).

#### **4. Responsibilities of the State.**

A. State is responsible for timely providing all information that State and Contractor mutually agree is necessary for Contractor to perform the Administrative Services under this Agreement.

B. State is responsible for timely providing updated information regarding State Plan participants and shall use commercially reasonable efforts to ensure that local participating employers provide updated information regarding their Plan participants.

C. State is responsible for ensuring that the provided information is accurate and complete. Contractor is entitled to rely (as long as such reliance is reasonable) exclusively on the information provided by the State or the State's advisors, whether oral or in writing, and will have no responsibility to independently verify the accuracy of that information.

D. State acknowledges that inaccurate or late information could result in tax penalties, participant/beneficiary legal claims, or both. Contractor assumes no responsibility for, and will not have any liability for, any consequences that result from Contractor's inability to complete its work in the ordinary course of its business to the extent such responsibility or liability is due to the failure of the State to provide accurate and timely information to Contractor.

#### **5. Services Related to Participant Enrollment.**

- A. State is responsible for determining employees eligible to participate in the Plans.
- B. Contractor agrees to process the enrollment of employees eligible to participate in the Plans.
- C. Contractor agrees to conduct enrollment meetings with the State employees utilizing the following methods:

- 1. Transition Enrollment Initiatives
- 2. Ongoing Enrollment Initiatives
- 3. Targeted Communications
- 4. Custom Market Campaigns
- 5. Methods to Easily Enroll
- 6. Local Government Outreach and Adoption

D. The State agrees to allow and facilitate the periodic distribution of approved materials to participants at the time and manner determined by the State; provided, however, that all reasonable expenses associated with such distribution will be paid by Contractor.

**6. Services Related to Participant Plan Account and Account Access.**

A. Contractor agrees to establish an account for each enrolled participant, beneficiary, and alternate payee of the Plan (for purposes of this Contract only, hereinafter referred to as "Participants").

B. For each Participant account, at a minimum, Contractor will maintain the following information, if provided:

- 1. Name;
- 2. Social Security number;
- 3. Mailing address;
- 4. Date of birth;
- 5. Current investment allocation direction;
- 6. Contributions allocated and invested;
- 7. Investment transfers;
- 8. Benefit payments;
- 9. Current account balance;
- 10. Transaction history since funding under the Contract;
- 11. Contributions since funding under the Contract;
- 12. E-mail address;
- 13. Beneficiary designation, if applicable;
- 14. Benefit tax withholding information; and
- 15. Such other information as agreed upon by the State and Contractor.

C. Participants will have the unlimited ability to increase (within the limitations of Code Section 457(b)), decrease or cease contributions to the Plan. Contractor will process all requests to increase, decrease or cease contribution amounts within five Business Days (defined later) of receipt of the request, but the request cannot be effective until the earliest date permissible under the Code or, if later, the date the contribution change can be processed by the Plan Sponsor given State's payroll processing schedule.

D. Participants will have the ability to exchange existing account balances, in full or in part, and to redirect future contributions from one available investment option to another on any Business Day subject to Contractor policies and any applicable restrictions or penalties applied by the investment options.

E. Contractor will provide reports to the State within thirty days following the end of each calendar quarter reporting period summarizing the following:

- 1. All Participant activity that transpired during the reporting period;
- 2. Total contributions allocated to each investment or insurance option under the Plans; and
- 3. Total withdrawals by Participant. This report shall include the amount, type and date of withdrawal.



F. Contractor will maintain, for a reasonable amount of time, the records necessary to produce any required reports.

**7. Services Related to Plan Contributions.**

A. State agrees to send all Plan contribution information and related funds to Contractor on a timely basis that complies with all applicable legal requirements.

B. State will provide all contribution allocation information with respect to Participant accounts to Contractor in a mutually agreed upon format. Contribution allocation instructions include direction via electronic sources.

C. Contractor will allocate contribution amounts transmitted by State to Participant accounts in accordance with the latest instructions from Participants or the State (as applicable) on file with Contractor, when such instructions are in good order. Contractor will process and accept rollover contributions made by Participants in accordance with Contractor's established policies and procedures.

D. Contractor agrees to post funds received in good order (as defined below) from State in accordance with the separate funding arrangements between State and Nationwide or any of its affiliates.

E. Contractor will monitor and communicate to State contribution limits with respect to 402(g), 457(b) and 415(c) limitations.

F. State may send funds by wire transfer, through an automated clearinghouse, or by check in accordance with written instructions provided by Contractor. Failure to follow the written instructions provided by Contractor may result in delay of posting to Participant accounts.

G. The term "in good order" means the receipt of required information by Contractor, in a form deemed reasonably acceptable to Contractor, with respect to the processing of a request or the completion of a task by Contractor that reasonably requires information from a third party. More specifically, Plan contributions and contribution allocation information must meet all of the following requirements in order to be deemed to be in good order:

1. All records must include the correct and complete Participant name, Social Security number (or other unique identifier), and the amount to be credited to the Participant's account(s);
2. The source of funds must be identified (e.g., 457(b) salary reduction, employer contribution);
3. The Plan name and Plan number must be clearly identified;
4. Both the Participant allocation detail and the total contribution amount must be received, and these two totals must match each other; and
5. All Participants making or receiving a contribution must have an account established on the recordkeeping system.

H. If Contractor determines that the contribution or allocation detail is not in good order ("NIGO"), Contractor will notify the State. After such notification, the parties will continue to try to resolve the NIGO status. If the parties do not achieve resolution, Contractor will return the funds to the State within thirty (30) Business Days. Contractor will not be liable for any delay in posting if the State fails to send the funds representing contribution amounts or contribution allocation information in accordance with Contractor's instructions to the central processing site designated by Contractor, or for any delay in posting that results from the receipt of funds and/or contribution allocation that Contractor determines to be NIGO.

I. The term "Business Day" means each Monday through Friday during the hours the New York Stock Exchange is open for business. No transactions can be completed on any Business Day after such time as the New York Stock Exchange closes.

**8. Services with Respect to Distributions.**

A. Contractor shall make all distributions in accordance with the Plan's documents.

B. Except as provided in subsection D below, Contractor shall make all distributions or in-service withdrawals as directed by a Participant, beneficiary, alternate payee or the State no later than five (5) business days after receipt of such direction. Participants, beneficiaries and alternate payees are responsible for selecting a form of payment from those available under the terms of the Plans and making all other elections regarding available distribution options.

C. All distributions will be made pro-rata from each of the Participant's investment options and money sources unless directed otherwise by the Participant.

D. Contractor will provide notice and a distribution form to each participant attaining age 72 (or such other age as determined by current law) or older in the current calendar year. The notice will inform the participant that required minimum distributions ("RMD") must begin no later than the April 1 of the calendar year following the later of attainment of age 72 (or such other age as determined by current law) or retirement (subject to the terms of the Plan). Contractor will automatically distribute the RMD as prescribed by the Plans to the Participant if no direction is received by the Participant.

E. State directs Contractor to process Qualified Domestic Relations Orders (hereinafter "QDROs") in accordance with Contractor's standard QDRO procedures, and the State hereby approves the use of such standard QDRO procedures of Contractor.

F. State instructs Contractor to process all unforeseeable emergency withdrawal requests received in good order, and in a manner satisfactory to Contractor. Withdrawals will only be permitted due to an unforeseeable emergency resulting in a severe financial hardship to the Participant or Beneficiary that cannot be alleviated by any other means available to the Participant, in accordance with Contractor's standard unforeseeable emergency procedures. State hereby approves the use of such standard unforeseeable emergency procedures. Notwithstanding the foregoing, the Plan Administrator shall have the sole authority and responsibility to review and adjudicate any appeal of Contractor's denial of an emergency withdrawal request.

## **9. Reports Provided to State.**

A. Contractor will provide the following reports to the State at the frequency listed below:

1. Custom Board Report (30 Business Days following end of reporting period)
2. Plan Health Dashboard (Available in real time)
3. Retirement Readiness Report (Available quarterly)
3. State Quarterly Statement (30 calendar days following end of reporting period)
4. Online Ad-Hoc Reporting (Available in real time)
5. Legislative and Regulatory Updates (Available quarterly)

## **10. Tax Reporting.**

A. For each Participant that has received a benefit payment, Contractor shall furnish tax reporting forms. The forms will be provided in the manner and the time prescribed by federal and state law.

B. To the extent required by federal and state law, Contractor will calculate and withhold from each benefit payment federal and state income tax. Contractor will report such withholding to the federal and state governments as required by applicable law.

C. State will be responsible for all tax reporting requirements for periods before the commencement of this Contract, unless otherwise agreed to in writing by the parties to this Contract.

**11. Unclaimed Property.** Contractor shall administer Participant unclaimed property funds, including but not limited to uncashed distribution checks and death claims, in accordance with Contractor's standard unclaimed property procedures to the extent those procedures comply with applicable law.

## **12. Services Related to Participant Communication and Education.**

A. Communication and Education

1. Participant Notice of Auto-Enrollment and Auto-Escalation

- a. Participant will receive electronically or by hard copy notice of the Plan's auto-enrollment and auto-escalation features as prescribed by IC5-10-1.1-3.5.
2. Participant Statements and Notices
  - a. Participants will receive consolidated quarterly statements detailing their account activity and account balances for the Plan(s).
  - b. Contractor agrees to deliver account statements (by U.S. mail or electronically) to participants within ten (10) business days after the end of each calendar quarter. This timeframe is contingent upon Contractor receiving fund returns from the mutual fund providers within four (4) Business Days after the end of each quarter.
  - c. Contractor shall prepare and distribute to participants, beneficiaries and alternate payees (by U.S. Mail or electronically) any legally required notices or such other notices and Contractor and State may mutually agree.
  - d. Any electronic disclosures shall comply with any applicable state law and shall generally be consistent with requirements applicable to electronic disclosures under the Employee Retirement Income Security Act and its related regulations.
3. Participant Surveys
  - a. Participant Education Survey – Contractor will provide education surveys to measure Participant satisfaction of the education programs and administrative features offered. The surveys will evaluate Contractor's performance, Participant's overall satisfaction and the success of services provided to Participants. Contractor will share the results of this survey on a mutually agreeable frequency with the State.
  - b. Real-Time Surveys – Contractor will provide surveys to each Participant that contacts Contractor's Solutions Center. Participants will have the option to opt out of the survey following each telephone call. Contractor will share the results of this survey on a mutually agreeable frequency with the State.

B. Website

1. Plan Administrator will provide and maintain the [www.hoosierSTART.com](http://www.hoosierSTART.com) url and redirect to Contractor's participant login site.
2. Participants may access the website via a secured internet site at [www.hoosierSTART.com](http://www.hoosierSTART.com) to review and make changes to their accounts. The website complies with applicable data protection and privacy laws. The website is the exclusive property of Contractor. The Contractor shall make the website available on or before April 11, 2022.
3. Using this site, Participants may: (i) obtain information regarding their accounts, and (ii) conduct certain routine transactions with respect to their accounts. The State authorizes Contractor to honor instructions regarding such transactions that a Participant submits using the secure Internet site. Contractor shall implement reasonable physical and technical safeguards to protect personal information made available on its Internet site. Such safeguards shall be no less rigorous than generally accepted industry practices.
4. The website is available twenty-four (24) hours a day, except for routine maintenance of the system.
5. The Participant website experience will include access to an education library offering investment education. Content is delivered via multiple formats which can include short videos, print materials and workshop modules.
6. My Interactive Retirement Planner® - Contractor will provide Participant access to the My Interactive Retirement Planner tool allowing Participants to model and assess future retirement readiness scenarios.
7. Social Security 360 Analyzer® - Contractor will provide Participant access to the Social Security 360 Analyzer tool allowing Participants to identify and plan Social Security filing strategies.

8. Health Care Estimator - Contractor will provide Participant access to the Health Care Estimator tool allowing Participants to estimate health care costs in retirement.

C. Interactive Voice Response System

1. Contractor will provide an interactive voice response (IVR) toll-free telephone number, which shall be operative twenty-four (24) hours per day, seven (7) days per week, except for routine maintenance of the system.
2. Participants will be able to conduct routine Plan transactions and obtain account balance information through the IVR.
3. The State authorizes Contractor to honor Participant instructions, which may be submitted using the toll-free number, either through the IVR or a live representative.

D. Customer Service. Contractor's customer service representatives will be available toll-free to answer Participant questions and process applicable transactions between the hours of 8:00 a.m. and 11:00 p.m. Eastern Time each Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. Eastern Time each Saturday, except for certain holidays as dictated by the New York Stock Exchange holiday trading schedule.

E. Participant Engagement Program

1. Contractor will provide a personalized communication program (Participant Engagement Program or "PEP") designed to engage participants in retirement planning and motivate them to take action to improve their financial future. The program may include delivery methods such as email, digital targeting, social targeting, and Direct Mail.
2. Use of Third-Party Marketing Firm: State understands that Contractor may use a third-party marketing firm to provide the PEP, that the use of a third-party marketing firm may be essential to provide the PEP due to its personalized features, and that such a program cannot be offered without such use. Contractor shares Participant data with the marketing firm to allow it to target the appropriate retirement plan messages to each Participant based on the Participant's individual characteristics, demographics, and behaviors while considering the Participant's preferences for accessing information, electronically or otherwise, for more impactful delivery.
3. Sharing of Participant Data: To facilitate the personalized communication program, State approves the sharing of data with a third-party marketing firm. Participant data will only be shared with the third-party marketing firm for Plan-related purposes. Only third-party marketing firms that comply with all applicable state and federal privacy laws, including the relevant provisions of the Gramm-Leach-Bliley Act, will be utilized. All participant data will be secured and protected at all times to avoid unauthorized access, and the third-party marketing firm must agree to abide by all current applicable legal and industry-standard data security and privacy requirements.

F. Contractor Service Staffing

1. Contractor will provide at minimum the following staff to service the State's Plans:
  - a. One (1) Relationship Manager (20% dedicated)
  - b. One (1) Dedicated Program Director (100% dedicated)
  - c. One (1) Associate Vice President
  - d. One (1) Account Manager
  - e. Six (6) Retirement Specialists
  - f. One (1) Local Office Administrative Support Staff
  - g. One (1) Financial Planning Consultant
  - h. Contractor's Retirement Resource Group
  - i. Contractor's Solutions Center Representatives

All travel expenses for Consultant's staff will be paid by Consultant.

G. Contractor's Indiana Office. Contractor will staff an office in Indiana to coordinate oversight on all Plan matters, provide walk-in individual consultations and function as a working space for the Plans' dedicated staff. The office will be open weekdays from 9:00 a.m. to 5:00 p.m. Eastern Standard Time and will work with the State to established designated hours for walk-in consultations. Emails and voicemails received by Contractor after hours will be returned the following business day. Telephone calls received after normal business hours will be routed to Contractor's Solutions Center.

H. Contractor Education Commitments

1. Annual Statewide Webinars – Contractor will provide fifty (50) webinars annually through the HOOSIER S.T.A.R.T. custom website to be shared with all employees and communicated through a periodic newsletter by Contractor's Retirement Specialist.
2. Annual Workplace Visits – Contractor will provide at minimum one thousand three hundred (1,300) visits across State's locations with flexibility to add multiple visits to locations as needed. Workplace Visits will include individual consultations in person or virtually upon mutual agreement by the parties and as allowed by the applicable employer.
3. Quarterly HOOSIER S.T.A.R.T. Onsite Service Days – HOOSIER S.T.A.R.T. service days will be coordinated by local Retirement Specialists at various locations to include educational workshops, individual consultations and educational booths. HOOSIER S.T.A.R.T. service days will rotate across the State in various geographic regions.
4. Quarterly Pre-Retirement Workshops – Contractor will provide workshops incorporating the State's Pension and Social Security systems to deliver education presentations detailing the benefits in retirement.
5. Semi-Annual Benefit Fairs – Contractor will provide a virtual or in-person benefit booth for State's semi-annual benefit or agency-specific fairs equipped with workshop presentations, plan highlights and links to online Retirement Specialist appointments. Benefit booths may be updated by Contractor as mutually agreed upon by the parties.
6. Annual State Conferences – Contractor will provide virtual or in-person booth and presentation at annual State conferences in coordination with the Plan Administrator. These include, but are not limited to: Indiana Judicial Conference and the Association of Indiana Counties.
7. HOOSIER S.T.A.R.T. Growth Initiatives – Contractor will deliver education commitments to each eligible employer every year not currently enrolled in the State's Plans.

**13. Services Related to Investment Options.**

A. State acknowledges that it has exercised legally appropriate diligence in selecting the Plans' funding vehicle(s) and the applicable investment lineup under such funding vehicle(s).

B. State agrees to accept the terms and conditions of the annuity contracts, mutual funds, and any other investment products, and investment advice agreements, that has been approved by the Administrator, after being provided with a copy of the same.

C. Contractor will provide recordkeeping of State's custom portfolio investment options as available upon the mutually agreed upon effective date of the custom investment portfolio. Contractor may provide recordkeeping of additional custom portfolio investment options upon mutual agreement by the parties.

D. Contractor agrees to accept contributions to the Plans for investment in the investment options selected by the State, a product's independent advisor, or other responsible Plan fiduciary in its sole discretion and agreed to by Contractor.

**14. Compensation.**

A. Contractor shall be entitled to collect \$48.00 per participant annually assessed on a quarterly basis. If an eligible Participant is simultaneously enrolled in more than one State Plan (e.g. 457(b) and 401(a)), Contractor shall only assess a fee on the Participant's 457(b) Plan account. Each eligible Participant will be assessed a charge of the lesser amount of \$12.00 or the Participant's account balance on the last day of each quarter. Participants will not be assessed Contractor's fee of \$12.00 per quarter for the first six (6) months after enrollment on the Contractor's record keeping system.

B. At the direction of the State, Contractor shall collect an additional \$3.00 per participant annually (or such other amount as directed in writing by State) assessed on a quarterly basis to be remitted to and used by the State for reasonable and necessary Plan related expenses. Contractor shall only assess this additional amount on a Participant's 457(b) account. Each eligible Participant will be assessed a charge of the lesser amount of \$0.75 or the Participant's account balance on the last day of each quarter. Participants will not be assessed the additional amount of \$0.75 per quarter for the first six (6) months after enrollment on the Contractor's record keeping system.

C. The State directs Contractor to establish and maintain a separate account (the "Plan Expense Account") to which the additional annual charge of \$3.00 referred to in Section 14.B above will be credited. The Plan Expense Account will be funded on a quarterly basis. The State will select a single investment vehicle to be used for the Plan Expense Account, which cannot be an investment vehicle included in the Participant investment option lineup. The State will direct Contractor in writing, to pay reasonable and necessary Plan expenses directly to the State or to a Plan service provider (if applicable).

1. When each invoice is submitted to Contractor for payment, the State shall certify in writing that the expenses represented by the invoice are reasonable and necessary Plan expenses. As the fiduciary of the Plans, the State is solely responsible for making determinations with respect to the appropriateness of all expenses of the Plans and how the Plan Expense Account is managed.
2. The account balance, account transactions and investment experience of the Plan Expense Account will be reported to the State no later than five (5) business days after the end of each calendar month.
3. The State will maintain the cumulative balance held in the Plan Expense Account at a reasonable level given the size of the Plans and the Plans' total annual expenses. Should the cumulative balance of the Plan Expense Account exceed a reasonable level, the State will direct Contractor to allocate any excess accumulation to Participant accounts on a pro-rata basis based on their total account balance.
4. Notwithstanding Section 14.C.3 above, at the direction of the State, any balance in the Plan Expense Account that has not been applied to pay for reasonable and necessary Plan expenses can be allocated to Participant accounts on a pro-rata basis based on their total account balance on an annual basis to be mutually determined and agreed upon by the State and Contractor.

D. If the State directs Contractor to recordkeep a custom investment portfolio as an investment option in the State's investment lineup, Contractor shall be entitled to collect a fee of up to one basis point (0.01%) for each custom portfolio offered in the State's investment lineup.

E. Contractor will not assess a fee to newly enrolled Participants for the first six (6) calendar months from the date of enrollment on Contractor's recordkeeping system.

F. State acknowledges that it has received all information about compensation paid to Contractor as the State has reasonably requested and has determined that the total amount of compensation paid to Contractor as described in this Section 13 is reasonable and appropriate for the services provided.

G. To the extent offered under the Plans, in addition to the above described fees, Contractor shall also receive fees on behalf of Nationwide Investment Advisors ("NIA") with respect to a Participant's use of NIA's managed account service ("ProAccount"). Managed account services are offered by NIA, an affiliate of Contractor, and the State must execute a separate contract with NIA if the State offers ProAccount to the

Plans. Only Participants who choose to utilize ProAccount are assessed these fees. Such fees are authorized in a separate ProAccount contract between the Participant and NIA, and are assessed pursuant to the terms and conditions of such contract. Fees related to ProAccount are in addition to the compensation requirement for Administrative Services as provided in this Contract.

H. State may request Contractor and/or its affiliates to provide additional services not described in this Contract by making such a request in writing, which Contractor may decide to perform for compensation to be negotiated by the parties prior to the commencement of the additional services.

**15. Fraud.**

A. Contractor will investigate suspected fraud in accordance with its standard procedures.

B. Contractor will report any fraud that is confirmed after performing its investigation to State.

C. Contractor will work with State to determine the appropriate action to mitigate or rectify any discovered fraud.

D. If Contractor suspects fraud with respect to an ACH transfer, State agrees that Contractor may issue a physical check to the participant instead.

**16. Confidentiality.**

A. Contractor agrees to maintain all information obtained from or related to all Plan Participants as confidential.

B. State authorizes Contractor to disclose Plan and employee information to its agents, affiliates, vendors, brokers, registered representatives, and professional advisors (such as attorneys, accountants and actuaries) to enable or assist them in the performance of their duties hereunder and other Plan-related activities.

C. State agrees to allow the periodic distribution to its employees of materials prepared by Contractor, and approved by the State, regarding products and services offered by Contractor, or its affiliate, which Contractor reasonably believes would be beneficial to such Plan Participants.

D. Except as provided for in Sections 11.E and 16.B, State agrees that Plan and Participant information may also be used or disclosed by Contractor to other third parties pursuant to a written authorization signed by the State.

E. Notwithstanding anything to the contrary contained herein, it is expressly understood that Contractor retains the right to use any and all information in its possession in connection with its defense and/or prosecution of any litigation that may arise in connection with the Contract, the investment arrangement funding the Plans, or the Plans; provided, however, in no event will Contractor release any information to any person or entity except as permitted by applicable law.

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**Exhibit B: ProAccount – Plan Sponsor Agreement and ProAccount Addendum for Change in Provider**



**Nationwide Investment Advisors, LLC**  
**ProAccount - Plan Sponsor Agreement**

Page 1 of 6

The State of Indiana Public Employees' Deferred Compensation and Matching Plans  
Plan: (the "Plan") \_\_\_\_\_

The Indiana Auditor of State as Administrator  
Plan Sponsor: (the "Plan Sponsor") \_\_\_\_\_

The foregoing Plan currently utilizes services and products offered by Nationwide Retirement Solutions, Inc. ("NRS") and its affiliated companies (the "Nationwide Retirement Program"). On behalf of the Plan, the Plan Sponsor desires to appoint Nationwide Investment Advisors, LLC ("NIA"), an Ohio limited liability company, registered as an investment adviser with the Securities and Exchange Commission under the Investment Adviser's Act of 1940 ("Advisers Act") and an affiliate of NRS, as an authorized provider of investment advisory services to participants in the Plan ("Plan Participants") who desire professional guidance in managing their self-directed accounts within the Plan ("Accounts"). NIA's ProAccount program (the "Advice Program") offers individualized investment advice using an investment process developed and maintained by an independent financial expert ("IFE") selected and retained by NIA.

WHEREAS, on behalf of the Plan, the Plan Sponsor hereby approves NIA as an authorized provider of investment advisory services through the Advice Program to those Plan Participants who choose to have their Accounts managed by NIA (collectively, the "Plan's Account");

WHEREAS, the Plan Sponsor hereby authorizes each such Plan Participant's self-direction of their own Account, subject to guidelines imposed by the Plan, and authorizes each Plan Participant to enter into an investment advisory agreement directly with NIA for the management of their account;

WHEREAS, the Plan Sponsor acknowledges that such advisory services are permitted under the documents establishing the Plan ("Plan Documents") and that the investments and investment strategies proposed by NIA through the Advice Program are consistent with the Investment Policy of the Plan; and

WHEREAS, Plan Sponsor acknowledges that NIA and NRS are affiliates and that NRS will provide to NIA certain administrative services in support of the Advice Program;

NOW, THEREFORE, in consideration of the foregoing and the promises, covenants and mutual agreements set forth herein, the adequacy of which is hereby mutually acknowledged, NIA and the Plan Sponsor, each intending to be legally bound, hereby do agree as follows:

**I. APPOINTMENT OF INVESTMENT ADVISOR**

The Plan Sponsor hereby appoints NIA to exercise discretionary authority to allocate and reallocate Plan Participant Accounts in the manner described in Section II below and NIA hereby accepts this appointment, subject to the terms and conditions of this Agreement. NIA's authority under this Agreement will remain in effect until changed or terminated pursuant to the termination provisions described in this Agreement. NIA's authority under this Agreement shall apply to all defined contribution and certain other employee benefit plans sponsored by the Plan Sponsor that are record kept at Nationwide or any of its affiliates on a single Nationwide record keeping system. To the extent that the Plan Sponsor desires to exclude a defined contribution plan from coverage under this Agreement subsequent to coverage of such plan, the Plan Sponsor must notify NIA of such individual plan's termination of services under this Agreement in accordance with Section VIII of this Agreement.

**II. ADVICE PROGRAM DESCRIPTION**

The Advice Program is a discretionary managed account service offered by NIA for retirement plan and certain other employee benefit plan participants who desire professional guidance in managing their self-directed plan account. The Advice Program offers individualized investment advice using an investment process developed and maintained by an IFE.



45 bps (5 Tier) Agreement (NRN-2036AO.1 03/2019)  
**Nationwide Investment Advisors, LLC**  
ProAccount - Plan Sponsor Agreement

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Under the Advice Program, the IFE develops and maintains managed account portfolios ("Portfolios") based on all eligible investment options available under the Plan's menu of investments ("Advice Program Investments"). In addition, the Plan may offer investment options other than Advice Program Investments, including, but not limited to, individual stocks, employer stock, and guaranteed certificate funds (collectively, "Non-Advice Program Investments"), which will not be considered by the IFE in the development of Portfolios. As of the effective date of this Agreement, the parties acknowledge and agree there are no Non-Advice Program Investments.

Plan Sponsor hereby acknowledges that any employer-directed assets, restricted assets (including assets invested in the Nationwide Fixed Contract), or assets held in self-directed brokerage accounts are not eligible for the Advice Program and will remain invested in their current manner until further action is taken by the Plan Participant or the Plan.

The IFE is not a party to this Agreement, and there is no contractual relationship between the Plan and the IFE. All fees and expenses charged by the IFE for its services will be paid by NIA. The advice provided to Plan Participants under the Advice Program is limited to the independent advice provided based on the Portfolios created by the IFE, which NIA cannot modify. By signing this Agreement, you agree that NIA has discretion to terminate its relationship with the IFE at any time, without notice to you, and engage the services of a suitable replacement.

By allowing the Advice Program to be offered to the Plan, you are naming NIA as an authorized provider of investment advisory services to those Plan Participants who choose to have their accounts managed by NIA.

**III. OBLIGATIONS AND REPRESENTATIONS OF THE PLAN SPONSOR**

The Plan Sponsor agrees to notify NIA of any change to the Plan Documents that materially affects NIA's rights or duties to the Plan or Plan Participants, and acknowledges that such change will bind NIA, as the case may be, only when NIA agrees to it in writing.

The Plan Sponsor represents that (1) NIA's investment advisory services are permitted under the Plan Documents; (2) the Plan Sponsor has the authority to enter into this Agreement on behalf of the Plan; and (3) the Plan is operated, and NIA's appointment is, in compliance with all applicable federal and state laws, rules and regulations.

**IV. OBLIGATIONS AND REPRESENTATIONS OF NIA**

NIA agrees that in performing any of its duties and obligations hereunder, NIA will act in conformity with all terms and provisions of the agreements entered into between NIA and the Plan Participants and any instructions given pursuant thereto or otherwise, and will conform to and comply with the requirements of the Advisers Act and all other applicable federal and state laws, rules and regulations, as each may be amended from time to time.

NIA represents that it is registered as an investment adviser under the Advisers Act or under applicable state law in each state in which it is providing investment advisory services or is otherwise required to be registered and/or notice filed, and each of its representatives are properly registered, licensed and/or qualified to act as such under all applicable federal and state securities statutes and regulations.

## Nationwide Investment Advisors, LLC ProAccount - Plan Sponsor Agreement

Page 3 of 6

NIA does not have any duty, responsibility or liability for Plan assets that are not part of the Plan's Account that NIA manages through the Advice Program. NIA will not be providing investment advice regarding, or have fiduciary responsibility for, the selection and monitoring of investment options available in the Plan. NIA shall have no obligation or authority to take any action or render any advice with respect to the voting of proxies solicited by or with respect to issuers of securities held in the Advice Program.

### V. ADVICE PROGRAM FEES

In consideration of services rendered to Plan Participants, the Plan Sponsor hereby approves, subject to specific approval by each Plan Participant electing to have their Accounts managed by NIA, a participant level Advice Program fee ("Advice Program Fee") as outlined in the following schedule:

Account Balance	Annual Program Fee
The first \$99,999.99	0.45%
The next \$150,000	0.40%
The next \$150,000	0.35%
The next \$100,000	0.30%
Assets of \$500,000 and above	0.25%

To the extent the ProAccount Fee applies to multiple retirement and certain other employee benefit plans of the Plan Sponsor, the ProAccount Fee shall reflect the aggregate account balances of all accounts. When a participant has multiple accounts subject to the ProAccount Fee, and subject to the following restrictions, the aggregate account balances shall be used to achieve a lower percentage fee based on the participant's total assets in ProAccount. The restrictions include (i) the fee structure across the multiple plans must be exactly the same in terms of the percentage fee and breakpoint tiers; and, (ii) the participant's retirement plan accounts must be under the same participant identification code in the NRS Retirement Program record-keeping system; and, (iii) the participant's retirement plan accounts must be combined in a single account statement generated from the NRS Retirement Program record-keeping system. The ProAccount Fee will be withdrawn on a pro rata basis among the Participant's accounts in the separate plans. The Advice Program Fee is separate from the fees and expenses charged by investment options offered through the Plan and in addition to any trustee, custodial, asset, service, administrative or transactional fees that the Plan Participants or the Plan may incur through the Nationwide Retirement Program. The Advice Program Fee shall be calculated daily based on the Participant's daily balance and the calculated Advice Program Fee withdrawn quarterly in accordance with each Plan Participant's investment advisory agreement with NIA. The Plan Sponsor hereby consents to the withdrawal of the Advice Program Fee from the applicable Plan Participant Accounts and agrees that it will use its best efforts to facilitate payment of such Advice Program Fee. If this Agreement ends before the end of the applicable calendar quarter, then a pro-rata share of the Advice Program Fee will be withdrawn from the Plan's Account.

To the extent permitted by applicable law or regulation, affiliates of NIA may receive payments from, or in connection with, investment options selected by the IFE which are included in the Portfolios. In addition, the IFE may select certain investment options for which an investment advisory affiliate of NIA acts as investment adviser. The IFE's fees for services provided under the Advice Program are not related to the investment options the IFE selects for the Portfolios or otherwise influenced by the payments affiliates of NIA may receive from such investment options.

Certain Advice Program Investments may charge a redemption fee or impose a trade restriction on certain transactions. Redemption fees vary in amount and application from investment option to investment option.

## **Nationwide Investment Advisors, LLC** **ProAccount - Plan Sponsor Agreement**

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It is possible that transactions initiated by NIA under the Advice Program may result in the imposition of redemption fees or trade restrictions on one or more investment options held in Plan Participant Accounts. Any redemption fees will be deducted from the Plan Participant's Advice Program Account balance. For further information on redemption fees or trade restrictions, including whether they will be applicable to any of the investment options within your Plan, please consult the individual fund prospectus or other investment option disclosure material.

### **VI. INDEMNIFICATION, LIMITATION OF LIABILITY, AND RISK ACKNOWLEDGMENT**

The Plan agrees to indemnify, defend, and hold harmless the Plan Sponsor, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Plan and/or its subcontractors, if any, in the performance of this Agreement. The Plan Sponsor will not provide indemnification to the Plan.

#### **Risk Acknowledgment**

NIA uses reasonable care, consistent with industry practice, in providing advisory services through the Advice Program. Investments within the Plan, as all investments in securities, involve risk and will not always be profitable. Investment return and principal will fluctuate with market conditions, and Plan Participant Accounts may lose money. Past performance of investments is no guarantee of future results. The analysis and advice provided by the IFE and delivered by NIA depends upon a number of factors, including the information you or the Plan Participants may provide, various assumptions and estimates, and other considerations. As a result, the advice developed and the recommendations provided are not guarantees that Plan Participants will achieve their retirement goals or anticipated performance. The investment advice provided under this Agreement relates only to the Plan Participant Accounts and will not apply to any other assets a Plan Participant may own.

### **VII. CONFIDENTIALITY**

Each party agrees that it will not, without the prior written consent of the other party, at any time during the term of this Agreement or any time thereafter, except as may be required by competent legal authority or as necessary to facilitate the implementation of services hereunder, use or disclose to any person, firm or other legal entity, including any affiliate or other representative of the party, any confidential records, secrets or information related to the other party (collectively, "Confidential Information"). Confidential Information shall include, without limitation, information about the other party's products and services, customer lists, customer or client information, Plan and Plan Participant information, and all other proprietary information used by the party in its business. The parties acknowledge and agree that all Confidential Information that it has acquired, or may acquire, was received, or will be received in confidence. Each party will exercise utmost diligence to protect and guard such Confidential Information. The Plan Sponsor (1) acknowledges that it is authorized to provide Confidential Information, including but not limited to Plan Participant information, to NIA for the operation of the Advice Program, and the provision of such information does not violate any Plan or company provisions or policies; and (2) authorizes the sharing of Plan Participant information among NIA and its affiliates as necessary for the operation of the Advice Program.

### **VIII. TERM OF AGREEMENT**

This Agreement shall become effective upon acceptance by NIA, or its designated agent, upon review and receipt in its principal place of business, and such acceptance may be evidenced by internal records maintained by NIA or its designated agent. This Agreement shall continue until terminated by either party upon at least 30 days' advance written notice to the other. This Agreement will terminate immediately if the Plan terminates its participation in the Nationwide Retirement Program. In the event NIA terminates its relationship with the current IFE and has not designated a successor IFE, this Agreement shall automatically terminate upon written notice from NIA. The Plan Sponsor understands that upon termination of this Agreement, the Plan's Account will remain invested in the Advice Program Investments last allocated by NIA until such time as Plan Participants make changes to their individual Accounts.

## **Nationwide Investment Advisors, LLC** ProAccount - Plan Sponsor Agreement

### **IX. MISCELLANEOUS**

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#### **Notices**

All notices required to be delivered under this Agreement will be delivered in person or by U.S. standard first class mail, overnight courier, electronic, or facsimile, or other method agreed upon by the parties, (with a paper copy provided via the U.S. mail), in each case prepaid as applicable, to NIA at the address provided below and to the Plan Sponsor at the address provided on the signature page of this Agreement (or to such other addresses as the parties may specify to one another in writing):

Nationwide Investment Advisors, LLC  
Attention: Nationwide ProAccount  
P.O. Box 182797  
Columbus, Ohio 43218-2797  
Phone: 877/677-3678  
Fax: 877/677-4329

Notices will be deemed given upon dispatch.

#### **Disclosure Documents**

As an SEC registered investment adviser, NIA provides its Privacy Policy and Form ADV Parts 2a and 2B ("Form ADV") before or at the time you enter into this Agreement. The Form ADV is a disclosure document that summarizes the investment advisory services provided by an investment adviser registered with the SEC and/or the states. The Form ADV contains information regarding the fees, risks and expenses associated with ProAccount.

You acknowledge having received and reviewed these document upon entering into this Agreement and understand that a current version of Form ADV is available free of charge online at [nationwide.com/proaccountadv.jsp](http://nationwide.com/proaccountadv.jsp) or by calling Nationwide at 877-677-3678.

#### **Entire Agreement; Amendment**

This Agreement constitutes the entire agreement between the parties hereto with respect to the obligations arising hereunder and supersedes and cancels any prior agreements, representations, warranties or communications, whether oral or written, among the parties hereto relating to the subject matter hereof. This Agreement may be amended by NIA upon 30 days' prior written notice to the Plan Sponsor and may be amended immediately upon notice to the extent required to satisfy federal or state regulatory requirements.

#### **Headings**

All Section headings in this Agreement are for convenience of reference only and do not form part of this Agreement. Section headings will not, in any way, affect the meaning or interpretation of this Agreement.

#### **Waiver**

No delay by either party in requiring performance by the other shall affect the right of such party to require performance; no waiver by either party of any breach shall be construed as a waiver of any subsequent breach or as a waiver of the provision itself or any other provision.

#### **Survival**

All terms and provisions of this Agreement, including without limitation: "Indemnification, Limitation of Liability, and Risk Acknowledgment," "Confidentiality," and Miscellaneous" which should by their nature survive the termination of this Agreement, shall so survive the termination of this Agreement.

## Nationwide Investment Advisors, LLC ProAccount - Plan Sponsor Agreement

### Assignment

Neither party may assign this Agreement (within the meaning of the Advisers Act) or assign any of the rights or delegate any of the duties or obligations of this Agreement without the other party's prior consent. Any assignment in violation of this provision shall be void and of no force or effect.

### Force Majeure

Neither party shall be liable for failure to perform if the failure results from a cause beyond its control, including, without limitation, fire, electrical, mechanical, or equipment breakdowns, delays by third party providers and/or communications carriers, civil disturbances or disorders, terrorist acts, strikes, acts of government authority or new governmental restrictions, or acts of God.

### Severability

Should any provision of this Agreement be held invalid or unenforceable by any court, arbitrator, statute, rule or otherwise, the remaining provisions of this Agreement will not be affected thereby and will continue in full force and effect to the fullest extent practicable.

### Governing Law

This Agreement and its enforcement will be governed by and construed in accordance with the laws of the State of Indiana, without regard to the conflicts of law provisions or principles. Nothing herein will be construed in any manner inconsistent with the Advisers Act or any rule or order of the Securities and Exchange Commission, as applicable.

IN WITNESS WHEREOF, the Plan Sponsor, on behalf of the Plan, has executed this Agreement to be effective as of the date set forth below.

**Plan:**

DocuSigned by:  
(Signature) Staci L. Schneider  
A9772A375F194C9...

Title: Deputy Auditor

Print Name: Staci L. Schneider

Plan Address: 200 West Washington Street, Room 240 Indianapolis, IN 46204

Plan Contact/Telephone: 317-233-6010

Date: 11/4/2021 | 12:51:45 PM EDT



**Nationwide®**

# Nationwide Investment Advisors, LLC ProAccount Addendum for Change in Provider

The State of Indiana Public Employees' Deferred Compensation and Matching **Page 1 of 1**  
**Plan: (the "Plan")** \_\_\_\_\_

**Plan Sponsor: (the "Plan Sponsor")**

The foregoing Plan currently utilizes services and products offered by Nationwide Retirement Solutions, Inc. ("NRS") and its affiliated companies (the "Nationwide Retirement Program").

WHEREAS, on behalf of the Plan, the Plan Sponsor previously approved NIA as an authorized provider of investment advisory services through the Advice Program to those Plan Participants who choose to have their Accounts managed by NIA (collectively, the "Plan's Account");

WHEREAS, the Plan Sponsor hereby authorizes each such Plan Participant's self-direction of their own Account, subject to guidelines imposed by the Plan, and authorizes each Plan Participant to enter into an investment advisory agreement directly with NIA for the management of their account;

WHEREAS, the Plan Sponsor acknowledges that such advisory services are permitted under the documents establishing the Plan ("Plan Documents") and that the investments and investment strategies proposed by NIA through the Advice Program are consistent with the Investment Policy of the Plan; and

WHEREAS, Plan Sponsor acknowledges that NIA and NRS are affiliates and that NRS will provide to NIA certain administrative services in support of the Advice Program;

WHEREAS, Plan Sponsor desires to include language to address the event in which a change of participant investment advisory services provider occurs.

NOW, THEREFORE, in consideration of the foregoing and the promises, covenants and mutual agreements set forth herein, the adequacy of which is hereby mutually acknowledged, NIA and the Plan Sponsor, each intending to be legally bound, hereby do agree to include the following language to the Agreement:

**X. CHANGE OF PARTICIPANT INVESTMENT ADVISORY SERVICES PROVIDER**

Plan Sponsor directs Plan Participants enrolled in investment advisory services available, through the immediately preceding Plan provider, at the time of plan conversion to Nationwide, will be deemed to have elected to be enrolled in ProAccount by implied consent pursuant to the direction of the Plan Sponsor as described in this Addendum. Plan Participants will receive one or more written notice(s) of the change in participant investment advisory services process. Participants that elect to terminate their existing managed account service prior to the change must do so in accordance with the termination process associated with the current provider. Those Plan Participants who do not terminate their existing participant investment advisory service prior to the plan's transition to Nationwide will be deemed to have consented to the change in provider and enrollment into ProAccount. Plan Participants will be given an opportunity to complete the Acknowledgment and Questionnaire prior to the change in provider. Plan Participants that do not complete the Acknowledgment and Questionnaire will be placed into a moderate risk- tolerance portfolio suitable for that Plan Participant's age. The Plan Sponsor or its designated Representative, as named in the Authorized Representative Form on file with Nationwide ("Authorized Representative") shall be responsible for notifying NIA of those Plan Participants who are deemed to have elected enrollment into ProAccount. The Plan Sponsor acknowledges that it retains sole discretion regarding the design and use of this process.

IN WITNESS WHEREOF, the Plan Sponsor, on behalf of the Plan, has executed this Addendum to the Plan Sponsor Agreement as of the date set forth below.

The State of Indiana Public Employees' Deferred Compensation and Matching Plans

**Plan:** \_\_\_\_\_

**Name:** Staci L. Schneider **Title:** Deputy Auditor

**By: (Signature)** *Staci L. Schneider* **Date:** 11/4/2021 | 12:51:45 PM EDT

DocuSigned by:  
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Nationwide Investment Advisors, LLC  
Nationwide ProAccount Plan Sponsor Agreement  
Amendment  
Effective December 1, 2022

This Amendment updates certain terms in your Nationwide ProAccount Plan Sponsor Agreement (the "Agreement") to reflect enhancements to the Nationwide ProAccount managed account service. All other terms and provisions of the Agreement not specifically addressed in this Amendment shall remain in full force and effect.

- A. The section of the Agreement entitled, "PROACCOUNT PROGRAM DESCRIPTION" is removed in its entirety and replaced with the following:

PROACCOUNT PROGRAM DESCRIPTION

The ProAccount program is a discretionary managed account service offered by NIA ("ProAccount") for defined contribution plans participants and certain other employee benefit plan participants who desire professional guidance in managing their self-directed retirement plan account. ProAccount offers individualized investment advice using an investment process developed and maintained by an independent financial expert ("IFE") hired and overseen by NIA.

Under ProAccount, the IFE develops and maintains managed account portfolios ("Portfolios") based on all eligible investment options available under the Plan's menu of investments, and for certain product platforms, the IFE has access to all investment options available on the product platforms ("ProAccount Investments"). In its evaluation of ProAccount Investments for inclusion in the Portfolios, the IFE takes into account the maximum range of asset fees associated with the Nationwide Retirement Program but does not consider the specific asset fees charged by the Nationwide Retirement Program to the Plan. Certain Portfolios could include allocations to investments offering a guaranteed lifetime income benefit. The guaranteed income benefit provided by these investments could be forfeited based on action taken by You or based on the IFE's changes to its Portfolios.

In addition, the Plan may offer investment options other than ProAccount Investments, including, but not limited to, individual stocks, employer stock, guaranteed certificate funds, certain collective investment funds and participant allocations to certain group fixed annuity contracts (collectively, "Non-ProAccount Investments"), which will not be considered by the IFE in the development of the Portfolios. ***Plan Sponsor hereby acknowledges that any employer-directed assets, Non-ProAccount Investments, or assets held in self-directed brokerage accounts are not eligible for ProAccount and will remain invested in their current manner until further action is taken by the Plan Participant or the Plan outside of ProAccount to move such assets into other investments that are eligible for ProAccount management.*** You further acknowledge that when a Participant enrolls in ProAccount, all of their existing investments that qualify as ProAccount Investments are liquidated when they enroll in ProAccount with the proceeds being allocated to their Participant Account. Such liquidation could result in a forfeiture of any current or future benefits offered by the investment options, including, but not limited to, guaranteed income benefit that a Participant may have been entitled to prior to the liquidation.

NIA will exercise authority by managing the Participant Accounts in accordance with the investment process as communicated by the IFE. In accordance with instructions from the IFE, NIA will rebalance Participant Accounts at least quarterly and more frequently if determined by the IFE that such rebalance is appropriate. In accordance with current policies and procedures, Plan Participants electing ProAccount will complete documentation, including the ProAccount Questionnaire (the "Questionnaire"), as part of the enrollment process. The Questionnaire is a tool developed by the IFE to help identify Plan Participant's risk tolerance, investment horizon, and retirement objectives. In addition to the Questionnaire, additional information provided by Plan Participants through recordkeeping systems, interactive online planning tools, such as the My Interactive Retirement Planner tool, and other financial risk tolerance questionnaire(s) may be used by NIA and provided to the IFE to further refine their investor profile. Such information will only be used if it is determined to be sufficiently reasonable and complete.

If You have elected ProAccount as the Qualified Default Investment Alternative (“QDIA”) or default investment alternative for Your plan, participant contributions and any existing balances eligible for ProAccount will be placed in a moderate risk portfolio based on the participant’s age. When used as a QDIA or default investment alternative, ProAccount may have limited participant information. However, participants can choose to affirmatively select ProAccount and provide additional information to allow for a more individualized risk-tolerance analysis. For Plans subject to ERISA, consistent with the Department of Labor’s guidance on the requirements of Qualified Default Investment Alternatives under the pension Protection Act of 2006, investments that charge a redemption fee to participants will also be treated as Non-ProAccount Investments.

The IFE may use investment options for which NIA or an affiliate acts as an investment adviser (“Affiliated Investments”). With respect to the IFE’s investment of Plan Participant Accounts in Affiliated Investments, Nationwide Affiliates neither endorse nor encourage the IFE’s use of Affiliated Investments. ***The Plan Sponsor acknowledges that Plan Participant Accounts may be invested in Affiliated Investments.***

The IFE is not a party to this Agreement, and there is no contractual relationship between the Plan and the IFE. Services provided by the IFE are provided to NIA and all fees and expenses charged by the IFE for its services are paid by NIA. The advice provided to Plan Participants under ProAccount is limited to the independent advice provided based on the Portfolios created by the IFE, which NIA cannot modify. You agree that NIA has discretion to terminate its relationship with the IFE at any time, without notice to You, and engage the services of a suitable replacement.

Nationwide Investment Advisors, LLC



Benjamin Hoecherl

Associate Vice President, Nationwide



Nationwide Investment Advisors, LLC  
Nationwide ProAccount Plan Sponsor Agreement  
Amendment  
Effective December 1, 2022

This Amendment updates certain terms in your Nationwide ProAccount Plan Sponsor Agreement (the "Agreement") to reflect enhancements to the Nationwide ProAccount managed account service. All other terms and provisions of the Agreement not specifically addressed in this Amendment shall remain in full force and effect.

- A. The section of the Agreement entitled, "PROACCOUNT PROGRAM DESCRIPTION" is removed in its entirety and replaced with the following:

**PROACCOUNT PROGRAM DESCRIPTION**

The ProAccount program is a discretionary managed account service offered by NIA ("ProAccount") for defined contribution plans participants and certain other employee benefit plan participants who desire professional guidance in managing their self-directed retirement plan account. ProAccount offers individualized investment advice using an investment process developed and maintained by an independent financial expert ("IFE") hired and overseen by NIA.

Under ProAccount, the IFE develops and maintains managed account portfolios ("Portfolios") based on all eligible investment options available under the Plan's menu of investments, and for certain product platforms, the IFE has access to all investment options available on the product platforms ("ProAccount Investments"). In its evaluation of ProAccount Investments for inclusion in the Portfolios, the IFE takes into account the maximum range of asset fees associated with the Nationwide Retirement Program but does not consider the specific asset fees charged by the Nationwide Retirement Program to the Plan. Certain Portfolios could include allocations to investments offering a guaranteed lifetime income benefit. The guaranteed income benefit provided by these investments could be forfeited based on action taken by You or based on the IFE's changes to its Portfolios.

In addition, the Plan may offer investment options other than ProAccount Investments, including, but not limited to, individual stocks, employer stock, guaranteed certificate funds, certain collective investment funds and participant allocations to certain group fixed annuity contracts (collectively, "Non-ProAccount Investments"), which will not be considered by the IFE in the development of the Portfolios. ***Plan Sponsor hereby acknowledges that any employer-directed assets, Non-ProAccount Investments, or assets held in self-directed brokerage accounts are not eligible for ProAccount and will remain invested in their current manner until further action is taken by the Plan Participant or the Plan outside of ProAccount to move such assets into other investments that are eligible for ProAccount management.*** You further acknowledge that when a Participant enrolls in ProAccount, all of their existing investments that qualify as ProAccount Investments are liquidated when they enroll in ProAccount with the proceeds being allocated to their Participant Account. Such liquidation could result in a forfeiture of any current or future benefits offered by the investment options, including, but not limited to, guaranteed income benefit that a Participant may have been entitled to prior to the liquidation.

NIA will exercise authority by managing the Participant Accounts in accordance with the investment process as communicated by the IFE. In accordance with instructions from the IFE, NIA will rebalance Participant Accounts at least quarterly and more frequently if determined by the IFE that such rebalance is appropriate. In accordance with current policies and procedures, Plan Participants electing ProAccount will complete documentation, including the ProAccount Questionnaire (the "Questionnaire"), as part of the enrollment process. The Questionnaire is a tool developed by the IFE to help identify Plan Participant's risk tolerance, investment horizon, and retirement objectives. In addition to the Questionnaire, additional information provided by Plan Participants through recordkeeping systems, interactive online planning tools, such as the My Interactive Retirement Planner tool, and other financial risk tolerance questionnaire(s) may be used by NIA and provided to the IFE to further refine their investor profile. Such information will only be used if it is determined to be sufficiently reasonable and complete.

If You have elected ProAccount as the Qualified Default Investment Alternative (“QDIA”) or default investment alternative for Your plan, participant contributions and any existing balances eligible for ProAccount will be placed in a moderate risk portfolio based on the participant’s age. When used as a QDIA or default investment alternative, ProAccount may have limited participant information. However, participants can choose to affirmatively select ProAccount and provide additional information to allow for a more individualized risk-tolerance analysis. For Plans subject to ERISA, consistent with the Department of Labor’s guidance on the requirements of Qualified Default Investment Alternatives under the pension Protection Act of 2006, investments that charge a redemption fee to participants will also be treated as Non-ProAccount Investments.

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Benjamin Hoecherl

Associate Vice President, Nationwide