



RHS PLAN AMENDMENT PACKAGE

DEFENSE OF MARRIAGE ACT (“DOMA”)

This packet provides information for amending your VantageCare Retirement Health Savings (RHS) plan to incorporate changes to the Defense of Marriage Act (“DOMA”). While ICMA-RC has been operating in accordance with the changes to DOMA since 2013, **plan sponsors should formally amend their RHS plan(s) to reflect the federal recognition of marriages between same-sex spouses** (if it isn’t already reflected within your RHS plan documents).

Summary of DOMA Changes

- Same-sex couples are married under federal law if they were married in a state or country that recognizes same-sex marriages (i.e., the “state of celebration” will determine whether a marriage is recognized by federal law).
- Effective September 16, 2013, your plan began providing equal benefits to all participants and their spouses whose marriages are recognized by federal law, regardless of whether or not your state recognizes same-sex marriage. Employers in states that do not recognize same-sex marriages should consult with their internal or local legal counsel to determine how to navigate divergent state and federal treatment of same-sex marriages.
- Civil unions, registered domestic partnerships, and other non-marital formal relationships are not recognized as marriages or treated as marriages for federal tax purposes.

Your RHS Plan

RHS plans must recognize same-sex marriages and provide the same benefits to all married participants, including with respect to the following:

- **Eligible Expenses** — Participants may use RHS plan assets for tax-free reimbursement of qualifying medical expenses attributable to their spouses.
- **Survivor Benefits** — In the event of a participant’s death, his or her spouse is entitled to use any remaining funds in the RHS plan account for qualifying medical expenses.

Action Required

Please follow the below steps to ensure your RHS plan documents are properly amended to reflect the changes to DOMA.

STEP 1: Review and complete this packet to harmonize your Declaration of Trust of the Integral Part Trust and Retiree Welfare Benefits Plan documents with the federal recognition of marriages between same-sex spouses.

Previous Definition: “Spouse” means the Participant’s lawful spouse as determined under the laws of the state in which the Participant has his primary place of residence.

New Definition: “Spouse” means the Participant’s lawful spouse as determined under the jurisdiction in which the Participant was married.

(continued)

STEP 2: Determine if formal action is required to amend your plan.

STEP 3: Complete the applicable documents.

If formal action **is** required by your legislative body and/or plan administrative committee to amend your plan, complete:

- Attachment 1 — *Suggested Resolution for the VantageCare Retirement Health Savings Plan Amendment for Definition of Spouse* and
- Attachment 3 — *VantageCare Retirement Health Savings Plan Amendment Definition of Spouse* document. This shows the updated “Spouse” definition.

If formal action **is not** required by your legislative body and/or plan administrative committee to amend your plan, complete:

- Attachment 2 — *Suggested Affirmative Statement for the VantageCare Retirement Health Savings Plan Amendment for Definition of Spouse* and
- Attachment 3 — *VantageCare Retirement Health Savings Plan Amendment Definition of Spouse* document. This shows the updated “Spouse” definition.

STEP 4: Return executed copies to ICMA-RC per instructions included in each Attachment and retain original copies for your records.

Questions

If you have any questions about the change, please contact ICMA-RC’s Priority Line at 800-730-7250 or email PriorityLine@icmarc.org.

**SUGGESTED RESOLUTION
FOR THE VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN
AMENDMENT FOR DEFINITION OF SPOUSE**

Plan Number: 80 _ _ _ _

Name of Employer: _____ State: _ _

WHEREAS, the Employer has established and maintains a retiree health savings plan in the form of the ICMA Retirement Corporation’s VantageCare Retirement Health Savings program, as amended (the “Plan”);

WHEREAS, the assets of the Plan are held in trust for the exclusive benefit of Plan participants and their spouses and dependents, and shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the Plan;

WHEREAS, the plan has operated in accordance with federal recognition of same-sex spouses; and

WHEREAS, an amendment to the Employer’s Plan in accordance with the federal recognition of same-sex spouses is adopted to comply with Internal Revenue Service guidance issued in response to the Supreme Court’s decision in United States v. Windsor;

NOW, THEREFORE BE IT RESOLVED that the Employer hereby amends the Plan to define the term “Spouse” as the Participant’s lawful spouse as determined under the laws of the jurisdiction in which the Participant was married, and hereby:

AMEND the Declaration of Trust of the Integral Part Trust and Retiree Welfare Benefits documents, as applicable, to include the federal recognition of same-sex spouses. The plan allows same-sex spouses to receive tax-free reimbursements for all same-sex marriages that are valid as of September 16, 2013, unless the employer specifies an earlier valid date hereof as _____.

(Leave blank unless using earlier date)

I, _____, Clerk of the _____ of _____, do hereby certify that the foregoing resolution, proposed by _____, was duly passed and adopted in the _____ of the _____ of _____, at a regular meeting thereof assembled this _____ day of _____, 20____, by the following vote:

AYES:

NAYS:

ABSENT:

(Seal) Clerk’s Signature: _____
Clerk’s Title: _____
Date: _____

<p>Fax to: ICMA-RC ATTN: Workflow Management Team 202-682-6439</p>	OR	<p>Mail to: ICMA-RC ATTN: Workflow Management Team P.O. Box 96220 Washington, D.C. 20090-6220</p>
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**SUGGESTED AFFIRMATIVE STATEMENT
FOR THE VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN
AMENDMENT FOR DEFINITION OF SPOUSE**

Plan Number: 80 ___ ___ ___

Name of Employer: _____ State: ___ ___

WHEREAS, the Employer has established and maintains a retiree health savings plan in the form of the ICMA Retirement Corporation’s VantageCare Retirement Health Savings program, as amended (the “Plan”);

WHEREAS, the assets of the Plan are held in trust for the exclusive benefit of Plan participants and their spouses and dependents, and shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the Plan;

WHEREAS, the plan has operated in accordance with federal recognition of same-sex spouses; and

WHEREAS, an amendment to the Employer’s Plan in accordance with the federal recognition of same-sex spouses is adopted to comply with Internal Revenue Service guidance issued in response to the Supreme Court’s decision in United States v. Windsor;

NOW, THEREFORE BE IT RESOLVED that the Employer hereby amends the Plan to define the term “Spouse” as the Participant’s lawful spouse as determined under the laws of the jurisdiction in which the Participant was married.

As a duly authorized agent of the above named Employer, I hereby

AMEND the Declaration of Trust of the Integral Part Trust and Retiree Welfare Benefits documents, as applicable, to include the federal recognition of same-sex spouses. The Plan allows same-sex spouse to receive tax-free reimbursements for all same-sex marriages that are valid as of September 16, 2013, unless the employer specifies an earlier valid date hereof as _____ .
(Leave blank unless using earlier date)

Name of Authorized Official (please print): _____

Signature: _____

Title: _____

Date: ___ ___ / ___ ___ / ___ ___ ___
Month / Day / Year

<p>Fax to: ICMA-RC ATTN: Workflow Management Team 202-682-6439</p>	OR	<p>Mail to: ICMA-RC ATTN: Workflow Management Team P.O. Box 96220 Washington, D.C. 20090-6220</p>
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**VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN
AMENDMENT
DEFINITION OF SPOUSE**

FOR _____
(NAME OF EMPLOYER)

_____, as Plan Sponsor, hereby amends its VantageCare Retirement Health Savings Plan by adopting the following revisions to the Plan documents.
(NAME OF EMPLOYER)

DECLARATION OF TRUST OF _____ INTEGRAL PART TRUST
(NAME OF EMPLOYER)

**ARTICLE 1.1(h)
DEFINITION OF "SPOUSE"**

1.1(h) "Spouse" means the Participant's lawful spouse as determined under the laws of the jurisdiction in which the Participant was married.

(NAME OF EMPLOYER) **RETIREE WELFARE BENEFITS PLAN**

**ARTICLE 2.11
DEFINITION OF "SPOUSE"**

2.11 "Spouse" means the Participant's lawful spouse as determined under the laws of the jurisdiction in which the Participant was married. All other defined terms in this Plan shall have the meanings specified in the various Articles of the Plan in which they appear.

Fax to:

ICMA-RC

ATTN: Workflow Management Team
202-682-6439

OR

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ICMA-RC

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P.O. Box 96220
Washington, D.C. 20090-6220