



## MASTER AGREEMENT FOR PROFESSIONAL SERVICES

This MASTER AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) entered into as of January 1, 2024 (“**Effective Date**”) is between Gallagher Benefit Services, Inc., a subsidiary of Arthur J. Gallagher & Co., a Delaware corporation (“**Gallagher**”) and City of Dickinson, North Dakota (“**Client**”).

Gallagher and Client desire to arrange for the provision of services by Gallagher to the Client as set forth herein. In consideration of the promises and mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. ENGAGEMENT OF SERVICES.** From time to time, Gallagher and Client may enter into project assignment(s) for the provision of services provided by Gallagher (each a, “**Project Assignment**”). The exact nature and scope of the services shall be agreed, and the scope of services shall be detailed in a Project Assignment, and shall be governed by the terms and conditions of this Agreement.
- 2. SCOPE OF PROJECT ASSIGNMENTS.** Gallagher will provide services, functions, or responsibilities related to the services set forth in a Project Assignment that are: (a) reasonably required for the proper performance and delivery of such services, functions, or responsibilities in accordance with this Agreement, or (b) an inherent part of, or a necessary subpart included within such services, functions or responsibilities.
- 3. STANDARD FOR PERFORMANCE.** Subject to the terms of this Agreement, Gallagher will use its best efforts to render and complete the services by the applicable completion dates as may be specified in the Project Assignment.
- 4. COMPENSATION.** Client will pay Gallagher the fees as set forth in any Project Assignment(s) as agreed upon between the parties. Client shall be responsible for all expenses incurred by Gallagher in the performance of its services under this Agreement. Upon termination of this Agreement for any reason, Gallagher will be paid fees specified on the Project Assignment for work which is then in progress on a proportional basis, and expenses incurred through the effective date of such termination. Unless other terms are set forth in the Project Assignment(s) for projects which are in progress, Client will pay Gallagher for services and will reimburse Gallagher for previously approved expenses within thirty (30) days of the date of Gallagher’s invoice.
- 5. INDEPENDENT CONTRACTOR RELATIONSHIP.** Gallagher’s relationship with Client will be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, agent-principal, or employer-employee relationship. In the performance of its duties, Gallagher may rely upon, and will have no obligation to independently verify the accuracy, completeness, or authenticity of, any written instructions or information provided to Gallagher by the Client or its designated representatives, and reasonably believed by Gallagher to be genuine and authorized by the Client. Furthermore, Gallagher’s engagement under this Agreement will not prevent it from taking similar engagements with other clients who may be competitors of the Client. Gallagher will, nevertheless, exercise care and diligence to prevent any actions or conditions which could result in a conflict with Client’s best interest.
- 6. CONFIDENTIAL & NON-IDENTIFYING INFORMATION.**

**6.1 Confidential Information.** As used in this Agreement, “**Confidential Information**” means any non-public, proprietary or personal data and information furnished by either party or its agents or representatives to the other party or its agents and representatives, whenever furnished and regardless of the manner or media in which such information is furnished, which the receiving party knows or reasonably



should know to be confidential. Each party shall treat Confidential Information as confidential and only use it in the performance of its obligations under this Agreement.

The parties acknowledge that Confidential Information includes personal data provided to Gallagher by Client for the benefit of Client and/or its employees to facilitate the performance of services set forth in this Agreement or applicable Project Assignment. Both parties also agree and understand that Confidential Information may include information that alone, or in combination with other information, uniquely identifies an individual. Client agrees that Gallagher is permitted to disclose and transfer Client's Confidential Information to Gallagher's affiliates, agents, or vendors that have a need to know the Confidential Information in connection with the services provided under this Agreement (including insurance carriers, as necessary, for quoting and/or placing insurance coverages). Gallagher has established, and will maintain security controls to protect Client Confidential Information from unauthorized use or disclosure. For additional information, please review **Gallagher's Privacy Policy** located at <https://www.ajg.com/privacy-policy/>.

Both Gallagher and Client agree to comply with all state and federal laws, rules, and orders that relate to privacy and data protection which are, or which in the future may be, applicable to Confidential Information, the services, or the performance of obligations under this Agreement. Upon request, Gallagher will cooperate with Client pursuant to applicable law(s) to comply with requests from individuals regarding their personal information.

**6.2 Non-Identifying Information.** Notwithstanding Section 6.1 above, Gallagher may collect, use, transfer, and disclose information only in a form that does not specifically identify Client ("**Non-Identifying Information**"). All Non-Identifying Information will remain anonymous and cannot be altered to re-identify Client or any individual. Furthermore, Gallagher certifies that all Non-Identifying Information combined and aggregated with information collected from other sources for analytical and research purposes, shall be subject to, and in compliance with all applicable privacy and data security laws.

## **7. REPRESENTATIONS AND WARRANTIES.**

**7.1. Gallagher Representations and Warranties.** Gallagher represents and warrants that its services shall be performed by personnel possessing competency consistent with applicable industry standards.

**7.2. Client Representations and Warranties.** Client hereby represents and warrants that: (a) materials provided to Gallagher for use in connection with the services provided hereunder will not infringe the intellectual property rights of any third party; and (b) Client has the full right and power to enter into and perform this Agreement without the consent of any third party.

### **7.3. No Other Representations and Warranties.**

EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, NO OTHER REPRESENTATION, EXPRESS OR IMPLIED, AND NO WARRANTY OR GUARANTEES ARE INCLUDED OR INTENDED BY GALLAGHER IN THIS AGREEMENT, OR IN ANY REPORT, OPINION, DELIVERABLE, WORK PRODUCT, DOCUMENT OR OTHERWISE. THIS SECTION SETS FORTH THE ONLY WARRANTIES PROVIDED BY GALLAGHER CONCERNING THE MATTERS COVERED BY THIS AGREEMENT. THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.



**8. LIMITED LIABILITY.** Gallagher's liability to the Client and any other party for any losses, injury or damages to persons or properties or work performed arising out of in connection with this Agreement and for any other claim, whether the claim arises in contract, tort, statute, or otherwise, shall not exceed \$1 million in the aggregate.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, GALLAGHER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, LOST PROFITS, OR PUNITIVE DAMAGES SUSTAINED OR INCURRED IN CONNECTION WITH THIS AGREEMENT, AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE.

No claim or cause of action, regardless of form (tort, contract, statutory, or otherwise), arising out of, relating to or in any way connected with this Agreement or any services provided hereunder may be brought by either party any later than two (2) years after the accrual of such claim or cause of action.

**9. INDEMNIFICATION.** Gallagher agrees defend, indemnify, and hold the other party and its affiliates and their respective directors, officers, employees, and agents harmless from any and all losses, liabilities, exposures, damages, and all related costs and expenses, including reasonable legal fees, to the extent arising from or relating to any third-party claims, demands, suits, allegations, causes, or threats of action based on the indemnifying party's: (a) breach of any representation, warranty, or covenant made by such party hereunder; or (b) grossly negligent acts, omissions, or intentional misconduct; provided, however, that the indemnifying party's indemnification obligations hereunder shall be reduced to the extent that such losses and damages arise from the acts or omissions of the other party or its employees or agents.

Only to the text allowed under North Dakota law, Client agrees defend, indemnify, and hold the other party and its affiliates and their respective directors, officers, employees, and agents harmless from any and all losses, liabilities, exposures, damages, and all related costs and expenses, including reasonable legal fees, to the extent arising from or relating to any third-party claims, demands, suits, allegations, causes, or threats of action based on the indemnifying party's: (a) breach of any representation, warranty, or covenant made by such party hereunder; or (b) grossly negligent acts, omissions, or intentional misconduct; provided, however, that the indemnifying party's indemnification obligations hereunder shall be reduced to the extent that such losses and damages arise from the acts or omissions of the other party or its employees or agents.

**10. TERM AND TERMINATION.** The term of this Agreement will commence on the Effective Date and shall remain in effect until terminated in accordance with this Agreement. Either party may terminate this Agreement by giving the other party at least sixty (60) days written notice of its intent to terminate, provided however any active, and outstanding Project Assignments existing under this Agreement will continue until expiration, termination, or completion of services as stated in each such Project Assignment. Client shall be responsible to Gallagher for any services performed prior to the date of termination and Gallagher shall be responsible to Client to continue to provide services until the date of termination of this Agreement. Upon termination of the Agreement, contingent upon Client's full payment for services and incurred expenses, Gallagher will deliver to Client any and all of its information, forms and documentation.

## **11. GENERAL PROVISIONS.**

**11.1. Assignment and Subcontractors.** Client may not assign this Agreement without Gallagher's prior written consent. Gallagher may cause another person or entity, as a subcontractor to Gallagher, to provide some of the services required to be performed by Gallagher hereunder; provided that Gallagher shall remain responsible for all acts and omissions of any such subcontractors (each of which shall be bound by Gallagher's obligations under this Agreement). Gallagher shall seek prior written approval from Client for any subcontractors providing substantive consulting, professional, or managerial services.



Prior written approval shall not be required for clerical, office, secretarial, IT back-up, administrative or similar support services.

**11.2. Travel Expenses.** Expenses are to be kept to a minimum and are billed at actual cost for (but not limited to) the following: consultant travel, lodging, meals, local transportation, and airport, meeting, and parking expenses. Hotel expenses will typically be based on preferred rates obtained by Client or Gallagher; however Gallagher may select a non-preferred major chain (e.g., Marriott; Hyatt; etc.) if personal safety factors, geography, or meeting requirements dictate. Charges for airfare will be based on the most economical means of travel wherever possible, however, due to scheduling difficulties, aircraft capacity, and/or fare availability, charges may on occasion include higher cost, refundable fares fees, full coach, or non-refundable business/first class charges.

**11.3. Force Majeure.** Except for Client's payment obligations under this Agreement, neither party shall be liable for any delay or failure in performance due to causes beyond its reasonable control.

**11.4. No Legal Advice Intended.** The advice given by Gallagher is not intended to be, nor should it be construed as legal advice. Client is recommended, at its own cost, to have its own independent legal counsel review all documentation provided by Gallagher. Gallagher will not be obligated to perform, and the Client will not request performance of, any services which may constitute unauthorized practice of law. The Client will be solely responsible for obtaining any legal advice, review or opinion as may be necessary to ensure that its own conduct and operations, including the engagement of Gallagher under the scope and terms as provided herein, conform in all respects with applicable State and Federal laws and regulations (including ERISA, the Internal Revenue Code, State and securities laws and implementing regulations) and, to the extent that the Client has foreign operations, any applicable foreign laws and regulations.

**11.5. Severability.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**11.6. Notices.** All notices, requests and other communications under this Agreement must be in writing, and must be mailed by registered or certified mail, postage prepaid and return receipt requested, delivered by overnight delivery or delivered by hand to the party to whom such notice is required or permitted to be given. If mailed, any such notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by overnight delivery or hand, any such notice will be considered to have been given when received by the party to whom notice is given, as evidenced by written and dated receipt of the receiving party. The mailing address for notice to either party will be the address shown on the signature page of this Agreement. Either party may change its mailing address by notice as provided by this section.

**11.7. Governing Law.** The parties agree that this Agreement shall be governed by, interpreted and construed in accordance with the laws of the State of North Dakota without giving effect to the choice of law principles thereof or any canon, custom or rule of law requiring construction against the drafter.

**11.8. Enforcement.** In the event that either party shall successfully bring an action against the other with respect to the enforcement, interpretation, or breach of any provision of this Agreement, the other party shall pay the reasonable amounts incurred by the party bringing the action, specifically including court costs, expenses and reasonable attorneys' fees.

**11.9. Waiver.** No waiver by either party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach. No waiver by either party of any right under this Agreement shall be



# Gallagher

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construed as a waiver of any other right. Neither party shall be required to give notice to enforce strict adherence to all terms of this Agreement.

**11.10. Entire Agreement.** This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing and signed by the party to be charged. This Agreement shall inure to the benefit of, and shall be binding upon, both Gallagher and Client and their respective heirs, legal representatives and permitted assigns. The terms of this Agreement will govern all Project Assignments and services undertaken by Gallagher for Client. In the event of any conflict between this Agreement and a Project Assignment, the Project Assignment shall control, but only with respect to the matters set forth therein.

**11.11. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. One or more counterparts of this Agreement may be delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically, with such delivery having the same effect as delivery of an original counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the date first written above.

**Client: City of Dickinson, North Dakota**

**Gallagher Benefit Services, Inc.**

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_

**By:** \_\_\_\_\_  
**Name:** Colin J. Henty  
**Title:** National Practice Leader, Actuarial and Retirement Services  
**Date:** \_\_\_\_\_  
**Address:** 3600 American Blvd. West, Suite 500  
Bloomington, MN 55431  
\_\_\_\_\_