

BENEFIT ACCOUNT (NON-HSA) ADMINISTRATIVE SERVICES AGREEMENT

This Benefit Account (Non-HSA) Administrative Services Agreement (the “**Agreement**”) is made and entered into as of January 1, 2023 (the “Effective Date”) by and between **New Braunfels Utilities**, its affiliates and subsidiaries (collectively, “**Employer**”) and **UMB Bank, n.a.** (“**UMB**”). Employer and UMB are each referred to as a “party” and are collectively referred to as the “parties.” Capitalized terms used in this Agreement have the meanings set forth in Exhibit A of this Agreement.

WHEREAS, Employer has chosen to offer its employees certain Benefit Accounts pursuant to one or more Plans;

WHEREAS, Employer wishes to retain UMB to provided administrative services; and

WHEREAS, this Agreement, including the attached Exhibits which are incorporated herein by reference, sets forth the terms and conditions under which UMB will provide the administrative services;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the parties agree as follows:

ARTICLE I. ADMINISTRATIVE SERVICES

1.1 Covered Benefits Administration. On behalf of Employer, and in accordance with the terms of the Plans, UMB will provide the services necessary and appropriate to administer the specific type of Benefit Accounts chosen by the Employer.

1.2 Claims Review. UMB will process initial requests for reimbursements in accordance with its standard claims review procedures and applicable law; provided, however, that UMB will only review requests for reimbursement following receipt of all necessary information; and provided, further, that Employer must review and determine any appeal. If a request for reimbursement is approved, UMB will disburse Covered Benefits as soon as reasonably possible after such determination is made but not less than monthly, provided that sufficient funds have been made available by the Employer to pay such benefit payments in according with the applicable Claims Funding Method. If a request for reimbursement is denied, UMB will notify the claimant that they may appeal to Employer for subsequent review in accordance with the terms of the Plans. The disbursement of Covered Benefits may be completed electronically, via Automated Clearing House (“ACH”) transfer, or via paper check, as selected by the Covered Individual. Covered Individuals may direct disbursements be made to the Covered Individual as a reimbursement or directly to the service provider as a payment.

1.3 Enrollment and Eligibility Assistance Services. Employer will review and evaluate information collected from its internal systems and provide an eligibility feed, in an acceptable format to UMB, based on that data to UMB in order to enroll Covered Individuals in a Benefit Account. Any changes in eligibility, will be transmitted directly by the Employer. With regard to any eligibility determination UMB will be acting only in a ministerial fashion on behalf of Employer, implementing its directions and policies.

1.4 Benefit Plan Documents and Forms. To the extent elected and paid for in this Agreement, UMB may provide Employer with certain documents and forms related to administration of the Benefit Accounts or Plans pursuant to the terms for such service contained in Exhibit D; provided, however, that it is the Employer’s responsibility to ensure that all Plan documents and forms, including any template or sample documents and forms provided to Employer by UMB in accordance with this Agreement, comply with all applicable laws and regulations.

1.5 Debit Cards. Based upon information provided by Employer to UMB, and subject to standard UMB standard practices as a card issuer, UMB will issue two Cards to each Covered Individual. Possession of a Card does not confer any right to services or benefits under the Plans unless the Card holder is, in fact, a Covered Individual with a Benefit Account. UMB is not responsible for any damages or costs arising from use of such Card by an ineligible individual prior to being notified. The Card must be used in accordance with the terms of the Plans and Benefit Account, any

cardholder agreement, and the substantiation rules of the Code. UMB has no responsibility to monitor the use of such Card but may deactivate the Card if used other than in accordance with this Section. UMB will make reasonable attempts to collect repayment of Claims paid through the Card for ineligible expenses or offset the ineligible payment against any Claims for future eligible expenses; if repayment or offset is not made, Employer will be informed and will be responsible for taking any necessary action required by law (e.g., including such amounts in income). UMB reserves the right to deactivate the Card at any time that it deems appropriate, including, but not limited to: (a) failure by the Employer to fund the Benefit Accounts; (b) failure by the Covered Individual to provide required substantiation; (c) notice from the Employer that the participant is no longer eligible for the Benefit Account; or (d) the Agreement is terminated. If the Card has been deactivated (other than for failure to properly fund) UMB will not reactivate the Card until the reason for deactivation has been resolved.

1.6 Customer Service. UMB will provide standard customer service offerings for the applicable Benefit Account and Plan, including access to customer service professionals by telephone, online, in person, and by mail, in accordance with then-current policies and procedures. These will include, at minimum, a welcome message to each employee who enrolls in one or more of the Benefit Accounts on or after the Effective Date, a Website for Covered Individuals to utilize in order to obtain forms, account balance, Claim status, and summary activity for their Benefit Accounts, and a toll free customer call center for Covered Individuals. Hours in the call center may vary with notice but standard hours are currently Monday through Friday, 7:00am – 7:00pm CT. UMB reserves the right to change the hours of operation without prior notice. Additional customer service offerings, including dedicated customer service line, designated customer service team, and customized interactive voice response systems, will be provided only as the parties mutually agree, and UMB reserves the right to charge additional fees for such services in accordance with its then-current policies.

1.7 Online Services. UMB will maintain the Website. Online services will be available through the Website 24 hours a day, 7 days a week except during periods of maintenance and as otherwise set forth herein. Online services available to Covered Individuals may include, but are not limited to, viewing Benefit Account amount(s) available to Covered Individual, requesting disbursement of Covered Benefits and the ability to update certain demographic information. UMB has sole discretion to add, remove or modify the online services and to make, or authorize another vendor to make, reasonable adjustments and improvements to the Website at any time with reasonable prior notice. Employer and Covered Individuals are solely responsible for maintaining the hardware and/or software necessary to access the Website, and to preserve and maintain the confidentiality of their identification number(s) and password(s), including by adopting and enforcing any necessary controls. UMB may regard as accurate and authorize each data transaction made through the use of such identification number(s) and/or password(s). UMB reserves the right to modify, withdraw, or terminate access to the Website with reasonable prior notice. Employer may obtain reports summarizing Benefit Account activities from the previous month via Website. Employer is responsible for reviewing the reports and notifying UMB of any discrepancies of which it is aware in accordance with the timing and methods provided in the Agreement.

1.8 Recordkeeping. UMB will maintain the usual and customary books, records, and documents relating to the Plans and the Benefit Accounts, for at least the lesser of the term of this Agreement or 3 years following the date the record was created or received.

1.9 Non-Discretionary Duties; Additional Services. The services performed by UMB under this Agreement are ministerial in nature and generally performed in accordance with the terms of the Plans and UMB's standard operating procedures. UMB and Employer may agree to additional services only by amending this Agreement.

1.10 Transfer of Administrative Services. UMB shall have no duty or obligation with respect to Claims incurred prior to the Effective Date ("Prior Reimbursement Requests"), if any, and/or Program administration and related services arising prior to the Effective Date ("Prior Administration"), if any, regardless of whether such services were/are to be performed prior to or after the Effective Date. Employer agrees that:

(a) UMB has no responsibility or obligation with respect to Prior Reimbursement Requests and/or Prior Administration;

(b) Employer will be responsible for processing Prior Reimbursement Requests (including any run-off Claims submitted after the Effective Date) and maintaining legally required records of all Prior substantiation) requirements; and

(c) Employer shall indemnify and hold UMB harmless for any liability relating to Prior Reimbursement Requests and/or Prior Administration.

ARTICLE II. FINANCIAL TERMS

2.1 Funding of Covered Benefits. Employer will make sufficient funds available to UMB from its general assets to fund the Plans and pay all Covered Benefits in accordance with the terms of the Plans and in accordance with the applicable Claims Funding Method.

2.2 Payment of Fees.

(a) The Employer agrees to pay all Fees to UMB. Fees will be assessed for any month during which services are performed.

(b) Fees will be collected on the last business day of each month in which services are rendered. Employer will receive notice of the amount due to UMB for services rendered in the previous month, via email, on the business day prior to the day fees are collected. UMB, or a third party vendor of UMB, will collect monthly fees via ACH from Employer on the last business day of each month.

(c) Interest and penalties may be imposed on overdue Fees as described in Exhibit C attached hereto. In addition, UMB will have the right, but not the obligation, in its sole discretion to immediately take one or more of the following actions without any further notice to Employer in the event of untimely payments: (i) offset the outstanding amount due against any other Employer funds (other than Plans assets, as such term is defined by ERISA, to the extent ERISA is applicable) held by UMB; (ii) stop processing Covered Benefits incurred on or after that date; or (iii) terminate the Agreement in accordance with the provisions of Article V. The Employer agrees to bear full responsibility for any reasonable charges incurred in the collection of unpaid Fees owed to UMB.

2.3 Modification of Financial Terms. The financial terms of this Agreement may be changed by UMB on each renewal date including as necessary to accommodate elections by the Employer in the Benefit Renewal Guide, with prior written notice. In addition, UMB may change the financial terms of this Agreement at any time during the term of the Agreement if the number of Covered Individuals varies by +/-10% or if there is a change in applicable law enacted after the Effective Date that would change the way that UMB must provide services and force it to incur unforeseen expenses. The changes will be communicated to the Employer in writing and will be effective as of the date set forth in the communication to the Employer or, if no date is explicitly provided, the effective date of the change.

ARTICLE III. EMPLOYER RESPONSIBILITIES

3.1 Retain Sole Responsibility for the Plans and Legal Compliance. Employer has sole responsibility for establishment and operation of the Plans. Employer will have sole discretionary authority and responsibility for construing and interpreting the provisions of the Plans and deciding all questions of fact arising under the Plans, including but not limited to establishing standards governing the eligibility of individuals to participate in the Plans, determining whether an individual is eligible to participate in the Plans, and resolving all disputes relating to eligibility. Employer will not represent to Covered Individuals or to any third party that UMB or any vendor of UMB is the "Plan Administrator" as that term is defined in ERISA Section 3(16) (whether or not ERISA applies). It is Employer's sole responsibility and duty to ensure compliance with all applicable laws and regulations, including but not limited to ERISA, COBRA, HIPAA, the Code, and PPACA. Employer acknowledges that UMB is a national bank and authorized only to provide such services as permitted for a national bank, that Employer is solely responsible for offering the Plans and the Benefit Accounts to the Covered Individuals, and that UMB is not a fiduciary to the Employer, the Plans or any Covered Individuals. Employer acknowledges that UMB is not an accounting or law firm and no services provided in accordance with this Agreement will be construed as tax or legal advice as a result of providing such services, particularly whether any amounts paid to or for the benefit of any Covered Individuals

pursuant to the Plans is excludable from the Covered Individual's gross income for federal, state or local tax purposes. UMB's provision of services under this Agreement does not relieve the Employer of its obligation to ensure compliance with applicable laws. It is Employer's responsibility to pay any fee or penalty arising from the Plans that is assessed by the Internal Revenue Service, the Department of Labor, and/or other federal or state governmental agencies.

3.2 Fund Covered Benefits and Pay Fees. Employer will fund Covered Benefits, and pay Fees, in accordance with Article II of this Agreement.

(a) Notwithstanding any provision herein to the contrary, Employer and UMB intend and agree that any funds submitted by Employer to UMB, to the extent funds received exceed Claims Reimbursement Liability: (i) are and will remain the general assets of Employer; (ii) are not "Plan assets" within the meaning of ERISA (without regard to whether ERISA applies); (iii) were never held in an account, fund, or trust bearing the name of a Plan or any Covered Individuals or beneficiaries thereof; and (iv) will remain subject to the claims of Employer's creditors at all times.

(b) Employer acknowledges that a Benefit Account is not established as a trust as defined under Missouri state law. Employer further represents and agrees that neither it nor any of its employees, directors, representatives, fiduciaries, Plans (or any entity performing services for Employer or such Plans), any of its predecessors, successors or assigns have represented or will represent to any Covered Individual that a separate account, fund, or trust is being held on behalf of the Plans that may be used to provide or secure benefits under the Plans. Employer will advise the Covered Individuals, beneficiaries, and any interested parties that Covered Benefits will at all times be paid out of the general assets of Employer.

(c) Employer will maintain an accurate and current ACH Authorization Agreement with UMB to enable UMB to process necessary transactions via ACH.

3.3 Provide Information to UMB. Employer will furnish all information determined by UMB to be necessary for UMB to provide the services under this Agreement, including (a) providing a completed Benefits Design Guide at least thirty (30) calendar days prior to the start of any services hereunder, and (b) providing a completed Benefits Renewal Guide at least thirty (30) calendar days prior to the plan year end date indicated in the Benefits Design Guide or Benefits Renewal Guide completed most recently by the Employer. Except as provided above, such information will be provided to UMB in the time and in the manner agreed to by Employer and UMB. Employer represents to UMB that all information provided will be complete and accurate and UMB will assume that all such information provided to UMB by Employer, Authorized Persons, or any designee of Employer (e.g. a broker or another service provider) is complete and accurate. UMB is under no duty to question or verify the completeness or accuracy of such information. Employer understands that UMB cannot accurately perform their duties under this Agreement without accurate and timely information, and therefore UMB will have no liability to Employer or any Covered Individual as a consequence of inaccurate and/or untimely information provided to UMB by Employer, a Covered Individual, or any third party on Employer's behalf. Employer understands that an additional fee may be required if UMB is required to take corrective action as a result of such inaccurate or untimely information.

3.4 Designate Authorized Persons to Act. Employer will provide UMB with the names of any Authorized Persons. On behalf of the Employer and the Plans, Authorized Persons may give instructions and directions, receive notices, provide documents, materials, and other information, and make determinations.

(a) In performing the services, UMB will be entitled to rely upon instructions, directions, documents, materials, and information provided by Authorized Persons, whether the instructions, directions, documents, materials, and information are conveyed in writing, by telephone, by facsimile, by electronic communication, or by any other means. Unless UMB is notified in writing to the contrary, any person reasonably believed by UMB to have the authority to act on behalf of Employer and the Plans, including but not limited to the individuals executing this Agreement, will be deemed to be an Authorized Person.

(b) Employer will be responsible for Authorized Person activity regarding the services, including (i) keeping all passwords used to access the services confidential and secure; (ii) prohibiting Authorized Persons from attempting to gain unauthorized access to the services or their related systems or networks; (iii) requiring Authorized Persons to

complete regular mandatory training, including, without limitation, training regarding data and cyber security and privacy, anti-money laundering, and anti-fraud; (iv) implementing prudent management controls on Authorized Person access to and use of the services, which include segregation of duties among multiple Authorized Persons and dual approvals for key activities; and (v) completely and accurately entering data for the services. Employer will not, and will cause all Authorized Persons not to, impersonate another user or provide false user information or passwords. UMB will not be responsible in any way for any actions or omissions of any Authorized Person in connection with, related to, or relative to any service, nor will UMB be responsible for the validity or accuracy of any Authorized Person data utilized in conjunction with the services. Employer will be responsible for examining all results produced by the services, including, without limitation, reports and letters. Employer will notify UMB of any discrepancies between said results and Authorized Person records as soon as reasonably possible, and in no event later than five (5) business days after an Authorized Person becomes aware of the discrepancy. UMB will have no responsibility or liability in connection with any discrepancies not reported by Employer.

3.5 Reviewing and Correcting Information. Employer will review and reconcile reports, notices and records of activity made available from UMB and will notify UMB of any discrepancies promptly but in no event more than 30 calendar days after the report, notice and/or record of activity is made available to the Employer. UMB will have no responsibility or liability for any discrepancy not disclosed within the 30 calendar days.

3.6 Reporting. Employer assumes all responsibility for tax reporting relating to the payment to or reimbursement of any benefit for a Covered Individual, including the Benefit Accounts, and for operation of the Plans, including but not limited to income withholding, employer-based reporting, and filing of forms under ERISA or the Code, to the extent required.

3.7 Delegation. Employer delegates to UMB the authority to perform the services described under this Agreement in connection with the administration and operation of the Plan and the Benefit Accounts and agrees to perform any necessary services not delegated to UMB pursuant to this Agreement.

3.8 Employer Data. Employer acknowledges that in order to provide the services Employer will need to provide UMB with corporate and operational information, including information of the Covered Individuals and the Plans. Such data will be covered by the confidentiality provisions contained herein, provided that UMB will be permitted to share such data with its third party vendors in support of the services.

3.9 Auto Adjudication. Employer, as the Plan Administrator, will accept the auto adjudication procedures to be used in connection with certain payments to be made using stored value card technology and that UMB has no discretionary authority or control in making decisions about the administration of any Plan.

3.10 Active Renewal. Employer agrees to in order for UMB to offer the services provided herein for subsequent Plan years, the Employer must renew Benefit Plans on an annual basis by the completion and delivery of the Benefit Renewal Guide as required by Section 3.3.

ARTICLE IV. RELATIONSHIP OF THE PARTIES

4.1 Independent Contractors. UMB is an independent contractor to Employer and will not be deemed partner, agent, engaged in a joint venture, or governed by any other legal relationship. To avoid creating confusion regarding the respective duties and obligations of UMB and the Employer with respect to the Plans, Employer agrees not to use UMB's name, logo, or information in any release or printed form without UMB's prior written approval.

4.2 Business Associates. UMB is a Business Associate of the Plans as such term is used in HIPAA. Accordingly, Employer (individually and on behalf of the Plans) and UMB agree that the HIPAA Agreement, incorporated as Exhibit B of this Agreement, will govern UMB's obligations regarding the use and disclosure of personally-identifiable health information (within the meaning of HIPAA) when performing any functions under the Agreement.

4.3 Plans are Self-Funded. The Plans are self-funded; benefits are funded entirely by Employer and will be paid as provided in Article II of this Agreement. UMB provides only administrative services under the Agreement and does not assume any financial risk or obligations with respect to Covered Benefits provided under, and/or expenses incurred

related to, the Plans and Benefit Accounts. Employer will disclose the self-funded nature of the Plans, and the parties' relative financial responsibilities, in all communications distributed to Covered Individuals and third parties.

4.4 Third Party Vendors. Either may utilize third party vendors to perform all or some portion of their obligations pursuant to this Agreement provided that each party remains fully responsible for the performance of such obligations and the performance of their third-party vendors.

ARTICLE V. TERM AND TERMINATION

5.1 Effective Date. The effective date of this Agreement is listed on the signature page of this Agreement. An Exhibit may have a later effective date than this Agreement, which will be indicated in the applicable Exhibit.

5.2 Term. This Agreement will be effective from and after the Effective Date for an initial term of one (1) year. Subject to Section 3.10 of this Agreement, the Agreement will be automatically renewed for consecutive 1-year terms thereafter, unless (a) either Party notifies the other of its intent not to renew not later than 30 days prior to the expiration of the then-current term or (b) the Agreement is terminated as provided in Section 5.3. Any such renewal will be on all of the same terms and conditions, unless otherwise amended or modified in writing and signed by the Parties hereto; provided, however, that for each extension, the financial terms hereunder will automatically change at the beginning of each subsequent period, as described in Article II of this Agreement.

5.3 Termination. Either Party may terminate the Agreement for Breach upon 60 days' prior written notice to the other Party; provided, however, that the notice will identify the specific Breach; and provided, further, that the other party will have the right to cure any alleged Breach within 30 days following receipt of such notice. In addition, this Agreement may be terminated immediately upon the occurrence of any of the following: (a) either Party terminates, liquidates, or dissolves its business or disposes of a substantial portion of its assets; (b) any finding or admission that either Party is insolvent, or making of a filing under state or federal bankruptcy or similar laws; (c) termination of all the Plans; (d) the effective date of any law, regulation, or guidance enacted after the Effective Date that would prohibit, or is interpreted by UMB to prohibit, the continuance of the Agreement on the terms and conditions provided herein; or (e) at the election of UMB, if Employer fails to provide (i) a complete and accurate Benefits Design Guide or a complete and accurate Benefits Renewal Guide pursuant to Section 3.3, or (ii) a complete and accurate ACH Authorization Agreement pursuant to Section 3.2(c).

5.4 Partial Termination. At the option of the Employer, a Participating Employer may be individually terminated from the Agreement upon 90 days' prior written notice to UMB. If the termination of the Participating Employer causes a material change, UMB may, in its sole discretion, amend the financial terms as of the date of termination of the Participating Employer.

5.5 Effect of Termination. Upon termination of the Agreement for whatever reason, all of the services provided under the Agreement will be terminated. In the event this Agreement is terminated, all requests for reimbursement submitted to UMB after the effective date of termination will be returned to the Employer, or at the Employer's request, submitted to another administrator, and UMB will have no further responsibility with respect to such claims submitted after the effective date of termination; provided, however, that, at the request of Employer, UMB will oversee a run-out period of not more than 6 months during which UMB will continue to process Covered Benefits in accordance with the terms of this Agreement for an additional fee. The fee payable during the run-out period will be the then-current Fee, multiplied by the number of Covered Individuals for whom Covered Benefits are processed during the run-out month. Except as expressly provided under this Agreement, termination of the Agreement will constitute a full and final discharge of all obligations of UMB under the Agreement.

5.6 Limited Continuation After Termination. If any Plan is amended or terminated which results in the elimination of any Benefit Accounts, Employer and UMB may mutually agree in writing that this Agreement shall continue for the purpose of payment of any Claims incurred prior to the termination of such Benefit Accounts. If this Agreement is terminated while any Benefit Accounts continue in effect, Employer and UMB may mutually agree in writing that this Agreement shall continue for the purposes of payment of any Claims received by UMB before the date of such termination. If this Agreement is continued in accordance with this subsection, Employer shall pay the Fees incurred during the period that this Agreement is so continued

ARTICLE VI. GENERAL PROVISIONS

6.1 Entire Agreement; Severability; Headings. Each Exhibit attached hereto is incorporated by reference and made a part of this Agreement. This Agreement embodies the entire agreement and understanding between the parties with respect to and supersedes all prior oral or written agreements and understandings relating to, the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Agreement will affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement. If a court declares any term of this Agreement invalid, the same will not affect the validity of any other provision, provided that the basic purposes of this Agreement are achieved through the remaining valid provisions. The headings of sections and subsections contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement.

6.2 Waiver. Failure by Employer or UMB to insist upon strict performance of any provision of this Agreement will not modify such provision, render it unenforceable, or waive any subsequent breach. No waiver or modification of any of the terms or provisions of this Agreement will be valid unless accomplished pursuant to Section 6.3.

6.3 Assignment; Amendment. Employer cannot assign its rights under this Agreement without UMB's written consent. Except as expressly indicated in this Agreement, this Agreement may be amended only in a writing signed by duly authorized individuals of each party.

6.4 Confidentiality and Non-Disclosure. As a result of entering into this Agreement, Employer and UMB have and will continue to reveal and disclose information that is proprietary and/or confidential. Each party will: (a) keep such proprietary and/or confidential information of the other party in strict confidence; (b) not disclose confidential information of the other party to any third parties or to any of its employees not having a legitimate need to know such information; and (c) not use confidential information of the other party for any purpose not directly related to and necessary for the performance of its obligations under this Agreement (unless required to do so by a court of competent jurisdiction or a regulatory body having authority to require such disclosure); provided, however, that UMB may: (i) disclose any information as required by applicable law; (ii) identify Employer as a client in any marketing material; or (iii) communicate such information to an Authorized Person, acknowledging the possibility that such communications may be inadvertently misrouted or intercepted.

6.5 Disclosure of Individually Identifiable Health Information. Both parties agree to the additional limitations and conditions set forth in the HIPAA Agreement set forth in Article VIII with respect to Covered Individuals' protected health information, as such term is defined in HIPAA, created or received by UMB while performing services under this Agreement. If there is a conflict between this Agreement and the HIPAA Agreement, the HIPAA Agreement will control, but only with respect to the subject matter of the HIPAA Agreement.

6.6 Notices and Communications. All notices between Employer and UMB provided for herein will be sent by any of the following to the address set forth on page 1 of this Agreement: confirmed facsimile; first class United States mail, postage prepaid; email addressed to the other party at their respective addresses; or guaranteed overnight mail, with tracing capability. All notices will be deemed provided when sent except as otherwise set forth in this Agreement.

6.7 Interpretations. The parties hereto acknowledge and agree that the terms and provisions of this Agreement will be construed fairly as to all parties and not in favor of or against a party, regardless of which party was responsible for the preparation of this Agreement.

6.8 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Missouri to the extent not otherwise preempted by Federal law.

6.9 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor will anything herein confer, upon any person other than Employer, UMB and their respective successors or assigns, any rights, remedies or obligations whatsoever.

6.10 Limitation of Liability; Indemnification.

(a) Neither party is liable to the other, even if advised of the possibility, for any of the following: (i) indirect, consequential or punitive loss, damage, cost, or expense of any nature; (ii) loss of business, profits, or revenue; (iii) loss of goodwill or anticipated savings; (iv) loss of or corruption to data; or (v) loss of operation time or loss of contracts.

(b) UMB is not liable for any amount in excess of the aggregate Fees payable under this Agreement.

(c) Notwithstanding anything to the contrary contained herein, UMB will not be responsible or liable if the performance of its obligations hereunder is hindered or adversely affected or becomes impossible or impracticable, as a result of an event or effect that UMB could not have anticipated or controlled or for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, lockouts, strikes, work stoppages or other labor disruption, accidents, epidemics, pandemics, quarantines, war (whether declared or undeclared), acts of war or terrorism (whether foreign or domestic in origin), insurrection, sabotage, riot, a decree of health emergency, national emergencies or other man-made emergency, civil or military disturbances including any law, regulation, order or other action by any governmental authority, nuclear or natural disasters or acts of god, interruptions, loss or malfunctions of utility, transportation, communications or computer (software and hardware) services, including the disruption or outage of the internet, or disruption of financial markets or banking functions.

(d) UMB is not liable for, and Employer will hold UMB harmless for: (i) any Covered Benefits; (ii) any actions, liabilities, damages, costs, and expenses, including reasonable attorneys' fees arising out of, based on, or in connection with, the act, omission, negligence or fault of Employer or its employees or subcontractors, including but not limited to failure to comply with the terms of the Agreement or applicable law; (iii) any claim, demand, expense or liability arising from error, omission, unauthorized transaction, or inaccuracy of any nature in the data provided to UMB; (iv) any discrepancies with respect to which it is not was notified within one (1) month as provided in Article III.

(e) UMB will not be liable to the Employer for mistakes arising from actions taken in good faith. In addition, UMB will not be liable for any failure to act, nor will any failure to act be considered a Breach, if UMB had a reasonable belief that such action would constitute a violation of applicable law. It will not be considered a breach of this Agreement if UMB refuses to perform services generally required under this Agreement if the manner in which Employer desires such services to be performed requires material changes to UMB's existing standard operating procedures.

6.11 Recording and Monitoring Telephone Calls. UMB may record or monitor telephone calls between UMB and Employer and/or between UMB and Covered Individuals. UMB will remind Employer or Covered Individual of the recording or monitoring before each call.

6.12 Survival of Terms. The obligations of the Parties which by their nature would continue beyond the termination, cancellation, or expiration of the Agreement will survive termination, cancellation, or expiration of the Agreement, including, but not limited to, the provisions regarding confidential information, compliance with laws, and post-termination obligations.

6.13 Disputes. The Parties agree that, before initiating any litigation concerning the Agreement, they will attempt in good faith to resolve their dispute. In any litigation concerning the Agreement or their respective obligations under the Agreement, the Parties agree that the forum will be a state or federal court of competent jurisdiction in Missouri, and the Parties waive any right to a jury trial and any right to maintain claims arising out of the Agreement as a class action.

6.14 Execution. This Agreement and any communications delivered by a Party to another Party may be executed by means of: (a) an electronic signature that complies with the Federal Electronic Signatures in Global and National Commerce Act or State enactments of the Uniform Electronic Signatures Act; (b) an original manual signature; or (c) a scanned or photocopied image of a manual signature. Each electronic signature or scanned or photocopied image of a manual signature will have the same validity, legal effect and admissibility as evidence as an original manual signature for all purposes. Notwithstanding this provision, UMB reserves the right, in its sole discretion, to accept, deny or condition its acceptance of any electronic signature or any communication delivered to UMB. This Agreement

and any communication delivered under this Agreement may be executed in counterparts, each of which will be deemed to be an original, but all such counterparts together will constitute one and the same instrument. Delivery of an executed counterparty of a signature page of this Agreement or of any communication under this Agreement will be effective as delivery of a manually executed counterparty thereof.

IN WITNESS WHEREOF, the Parties hereto by their respective duly authorized officers have executed the Agreement to be effective as of the Effective Date:

EMPLOYER:

NEW BRAUNFELS UTILITIES

A Texas municipally owned utility

BY: _____
(Signature)

IAN TAYLOR _____
(Printed Name)

CEO _____
(Title)

(Date)

UMB:

UMB BANK, N.A.

BY: _____
(Signature)

[NAME OF SIGNER] _____
(Printed Name)

[SIGNER'S TITLE] _____
(Title)

(Date)

EXHIBIT A

DEFINITIONS

“ACH Authorization Agreement” means the UMB Benefits Spending Accounts ACH Authorization Agreement provided by UMB to the Employer which allows UMB to settle payments directly with Employee’s bank accounts, including for the payment of employee claims, debit card transactions and administration of the Benefit Accounts.

“Agreement” means this Benefit Account (Non-HSA) Administrative Service Agreement between the Employer and UMB as of the Effective Date, including the Exhibits as amended from time to time.

“Authorized Person” means a person or persons who are designated by the Employer as authorized to deal with UMB on behalf of Employer.

“Benefit Account” means any one or several of an HRA, FSA, QTFB or DCA, selected by the Employer to be provided to their employees.

“Benefits Design Guide” means the UMB Benefits Design Guide provided by UMB to the Employer prior to the establishment of services to enable the Employer to provide the necessary information and make the necessary elections for UMB to provide administrative services for the Plans.

“Benefits Renewal Guide” means the UMB Renewal Guide provided by UMB to the Employer at the end of each Plan year to enable the Employer to provide the necessary information and make the necessary elections for UMB to provide administrative services for the succeeding Plan year.

“Breach” means a failure or refusal to comply with any material term or condition of this Agreement, including any Exhibit, and specifically including failure by the Employer to pay any Covered Benefit or Fee.

“Business Associate Agreement” means the agreement attached in Exhibit B attached hereto.

“Card” means a debit card associated with one or more Benefit Accounts.

“Claim” means a claim by a Covered Individual for payment or reimbursement pursuant to a Covered Benefit provided through a Benefit Account.

“Claims Funding Method” means, unless otherwise agreed to in writing by UMB and the Employer, the claims funding method for HRAs is a daily ACH debit under which UMB will automatically withdraw funds equal to the total amount of HRA transactions settled on the previous Business Day from the Employer's bank account and the claims funding method for FSAs will be payroll deductions and individual funding from the Covered Individual, using a method agreed upon by the Employer and UMB.

“Claims Reimbursement Liability” means the difference between all Claim reimbursements of Covered Benefits for Covered Individuals paid by UMB and the funds received from Employer to reimburse UMB for the previous funding of those Covered Individuals’ Covered Benefits in accordance with this Agreement.

“Covered Benefit” means a benefit provided by the Plans through the Benefit Accounts, including but not limited to payment or reimbursement of eligible expenses that are the responsibility of a Covered Individual.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

“Covered Individuals” means an employee of an Employer or a Participating Employer, or other individual, enrolled in the Plan, determined by Employer to be eligible for a Benefit Account under one or more Plans, and enrolled in one or more Plans.

“DCA” means dependent care assistance account created under Section 129 of the Code.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

“FSA” means a flexible spending account created under Section 125 of the Code.

“Fees” means the fees set forth above as compensation for the services described in Exhibit C attached hereto.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

“HRA” means a health reimbursement account created under Section 105(h) of the Code.

“Participating Employer” means any employer affiliated with the Employer that is permitted by the Employer to adopt one or more of the Plans.

“Plan” or “Plans” means any one or several of the consumer spending plans maintained and sponsored by the Employer in connection with a Benefit Account.

“Plan Administrator” means the plan administrator for the Plan, which will be the Employer.

“PPACA” means the Patient Protection and Affordable Care Act of 2010, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

“QTFB” means a qualified transportation fringe benefit under Section 132(f) of the Code.

“Website” means a password-protected website for use as a financial administration portal to access information related to a Benefit Account which will include the content, features, and functionality determined by UMB, in its sole discretion.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “BAA”) is incorporated into and made part of the Bank’s Benefit Account (Non-HSA) Administrative Services Agreement (the “Agreement”) by and between the Bank (the “Business Associate”) and the Employer, individually and on behalf of the Plans (the “Covered Entity”) (each a “Party” and collectively the “Parties”).

WHEREAS, Business Associate has entered into the Agreement with the Covered Entity that requires Business Associate to provide satisfactory assurances that Business Associate will appropriately safeguard all health information protected under the Privacy Rule and Security Rule (as defined below) that is disclosed by, or created or received by, Business Associate on behalf of such Covered Entity; and

THEREFORE, in consideration for the mutual benefit provided to each Party under the Agreement, the Parties agree as follows:

1. DEFINITIONS

- 1.1** Unless otherwise specified in this BAA, all capitalized terms used in this BAA not otherwise defined in this BAA or otherwise in the Agreement have the meanings established for purposes of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (collectively, “HIPAA”), as amended from time-to-time. Capitalized terms used in this BAA that are not otherwise defined in this BAA and that are defined in the Agreement will have the respective meanings assigned to them in the Agreement. To the extent a term is defined in both the Agreement and in this BAA or HIPAA, the definition in HIPAA will first govern, then the definition in this BAA.
- 1.2** “HIPAA” will include Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, 42 U.S.C. §§17921-17954, and any and all references in this BAA to sections of HIPAA will be deemed to include all associated existing and future implementing regulations, when and as each is effective.
- 1.3** “**Electronic Protected Health Information**” or (“ePHI”) will mean PHI as defined in Section 1.4 that is transmitted or maintained in electronic media.
- 1.4** “**PHI**” will mean Protected Health Information, as defined in 45 C.F.R. § 160.103, and is limited to the Protected Health Information received from, or received or created on behalf of, Covered Entity by Business Associate pursuant to performance of the services provided under the Agreement (the “Services”).
- 1.5** “**Privacy Rule**” will mean the federal privacy regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended from time to time, codified at 45 C.F.R. Parts 160 and 164 (Subparts A & E).
- 1.6** “**Security Rule**” will mean the federal security regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended from time to time, codified at 45 C.F.R. Parts 160 and 164 (Subparts A & C).

2. RESPONSIBILITIES OF BUSINESS ASSOCIATE

With regard to its use and/or disclosure of PHI, Business Associate agrees to:

- 2.1** use and/or disclose PHI only as necessary to provide the Services as permitted or required by this BAA, or as otherwise required by law.

- 2.2 implement and use appropriate administrative, physical and technical safeguards to (i) prevent use or disclosure of PHI other than as permitted or required by this BAA,; (ii) reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- 2.3 without unreasonable delay, report to Covered Entity (i) any use or disclosure of PHI not provided for by this BAA of which it becomes aware, including breaches of unsecured PHI; and/or (ii) any security incident of which it becomes aware, except that, for purposes of this reporting requirement the term "Security Incident" does not include inconsequential incidents that occur on a frequent basis such as scans or "pings" that are not allowed past Business Associate's firewall.
- 2.4 require all of its Subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate to agree, in writing, to the same restrictions and conditions on the use and/or disclosure of PHI that apply to it with respect to such information.
- 2.5 make available its internal practices, books, and records relating to the use and disclosure of PHI to the Secretary for purposes of determining Covered Entity's compliance with the Privacy Rule at a reasonable time, duration and place.
- 2.6 document, and within thirty (30) days after receiving a written request from Covered Entity, make available to Covered Entity, information necessary for Covered Entity to make an accounting of disclosures of PHI about an Individual, in accordance with 45 C.F.R. § 164.528.
- 2.7 provide access within thirty (30) days after receiving a written request from Covered Entity to PHI in a Designated Record Set about an Individual, to Covered Entity, sufficient to allow Covered Entity to comply with the requirements of 45 C.F.R. § 164.524.
- 2.8 to the extent that the PHI in its possession constitutes a Designated Record Set, make available, within thirty (30) days after a written request by Covered Entity, PHI for amendment and incorporate any amendments to the PHI as directed by Covered Entity.
- 2.9 make reasonable efforts to use, to disclose, and to request only the minimum amount of PHI reasonably necessary to accomplish the intended purpose of the use, disclosure, or request, except that Business Associate will not be obligated to comply with this minimum-necessary limitation if neither Business Associate nor Covered Entity is required to limit its use, disclosure, or request to the minimum necessary under HIPAA.
- 2.10 not directly or indirectly receive any remuneration in exchange for PHI or use or disclose PHI for marketing or fundraising purposes.

3. RESPONSIBILITIES OF COVERED ENTITY

In addition to any other obligations set forth in the Agreement, including in this BAA, Covered Entity:

- 3.1 will identify which of the records it furnishes to Business Associate it considers to be PHI for purposes of this BAA.
- 3.2 will provide Business Associate only the minimum PHI necessary for Business Associate to provide the Services to Covered Entity.
- 3.3 in the event that the Covered Entity honors a request to restrict the use or disclosure of PHI pursuant to 45 C.F.R. § 164.522(a) or makes revisions to its notice of privacy practices of Business Associate in accordance with 45 C.F.R. § 164.520 that affect the limitations on uses or disclosures of PHI or agrees to a request by an Individual for confidential communications under 45 C.F.R. § 164.522(b), Covered Entity agrees not to provide Business Associate any PHI that is subject to any of those restrictions or

limitations to the extent any may limit Business Associate's ability to use and/or disclose PHI as permitted or required under this BAA unless Covered Entity notifies Business Associate of the restriction or limitation and Business Associate agrees to honor the restriction or limitation. In addition, should such limitations or revisions materially increase Business Associates cost of providing services under the Agreement, including this BAA, Covered Entity will reimburse Business Associate for such increase in cost.

- 3.4 will notify Business Associate of any changes in or revocation of permission by an Individual to use or disclose PHI, if such change or revocation may affect Business Associate's permitted or required uses and disclosures of PHI under this BAA.
- 3.5 will be responsible for using administrative, physical and technical safeguards at all times to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to the Agreement, including this BAA, in accordance with the standards and requirements of HIPAA.
- 3.6 will obtain any consent or authorization that may be required by applicable federal or state laws and regulations prior to furnishing Business Associate PHI.
- 3.7 will not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

4. PERMITTED USES AND DISCLOSURES OF PHI

Unless otherwise limited in this BAA or applicable law, in addition to any other uses and/or disclosures permitted or required by this BAA, Business Associate may:

- 4.1 subject to the terms of this BAA and HIPAA, make any and all uses and disclosures of PHI necessary to provide the Services to Covered Entity.
- 4.2 use and disclose the PHI in its possession for its proper management and administration or to carry out the legal responsibilities of Business Associate, provided that any third party to which Business Associate discloses PHI for those purposes provides written assurances in advance that: (i) the information will be held confidentially and used or further disclosed only for the purpose for which it was disclosed to the third party or as required by law; and (ii) the third party promptly will notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- 4.3 use and disclose PHI to report violations of law consistent with 45 C.F.R. § 164.502(j).
- 4.4 de-identify any and all PHI received or created by Business Associate under this BAA, which de-identified information will not be subject to this BAA and may be used and disclosed on Business Associate's own behalf, all in accordance with the de-identification requirements of the Privacy Rule.
- 4.5 provide Data Aggregation services relating to the Health Care Operations of the Covered Entity in accordance with the Privacy Rule.
- 4.6 use the PHI to create a Limited Data Set ("LDS") in compliance with 45 C.F.R. § 164.514(e).

5. TERM AND TERMINATION

- 5.1 **Term.** The Term of this BAA shall be effective as of the effective date of the Agreement and shall terminate upon termination of the Agreement or the date either Party terminates for cause as authorized under Section 5.2, whichever is earlier, subject to the terms and conditions of Section 5.3 regarding return or destruction of PHI.

5.2 Termination for Cause. If either Party knows of a pattern of activity or practice of the other Party that constitutes a material breach or violation of this BAA, then the non-breaching Party will provide written notice of the breach or violation to the other Party that specifies the nature of the breach or violation. The breaching Party must cure the breach or end the violation on or before thirty (30) days after receipt of the written notice. In the absence of a cure reasonably satisfactory to the non-breaching Party within the specified timeframe or in the event the breach is reasonably incapable of cure, the non-breaching Party may do the following:

- (i) if feasible, terminate the Agreement, including this BAA; or
- (ii) if termination of the Agreement is infeasible, report the issue to HHS.

5.3 Effect of Termination or Expiration. Within sixty (60) days after the expiration or termination for any reason of the Agreement and/or this BAA, Business Associate will return or destroy all PHI, if feasible to do so, including all PHI in possession of Business Associate's Subcontractors. In the event that Business Associate determines that return or destruction of the PHI is not feasible, Business Associate will notify Covered Entity in writing and may retain the PHI subject to this Section 5.3. Under any circumstances, Business Associate will extend any and all protections, limitations and restrictions contained in this BAA to Business Associate's use and/or disclosure of any PHI retained after the expiration or termination of the Agreement and/or this BAA, and will limit any further uses and/or disclosures solely to the purposes that make return or destruction of the PHI infeasible.

5.4 Cooperation. Each Party will cooperate in good faith in all respects with the other Party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry pertaining to the subject matter of this BAA.

6. MISCELLANEOUS

6.1 Contradictory Terms. Any other provision of the Agreement that is directly contradictory to one or more terms of this BAA ("Contradictory Term") will be superseded by the terms of this BAA to the extent and only to the extent of the contradiction, only for the purpose of Business Associate's and Covered Entity's compliance with HIPAA, and only to the extent reasonably impossible to comply with both the Contradictory Term and the terms of this BAA.

6.2 Interpretation. Any ambiguity in this BAA will be construed to allow for compliance by Business Associate and Covered Entity with HIPAA.

6.3 Survival. Sections 5.3 and 5.4 will survive the expiration or termination for any reason of the Agreement and/or of this BAA.

6.4 Independent Contractor. Covered Entity and Business Associate are and will remain independent contractors throughout the Term. Nothing in this BAA or otherwise in the Agreement will be construed to constitute Covered Entity and Business Associate as partners, joint venturers, agents or anything other than independent contractors.

6.5 Amendment to BAA. This BAA may be amended only by a written instrument signed by the Parties. In case of a change in applicable law, the parties agree to negotiate in good faith to adopt such amendments as are necessary to comply with the change in law.

6.6 No Third-Party Beneficiaries. Nothing in this BAA shall be construed as creating any rights or benefits to any third parties.

6.7 Governing Law. This BAA shall be governed by the law of the state of Missouri, except to the extent preempted by federal law.

- 6.8** **Severability.** The invalidity or unenforceability of any provisions of this BAA shall not affect the validity or enforceability of any other provision of this BAA, which shall remain in full force and effect.
- 6.9** **Construction and Interpretation.** The section headings contained in this BAA are for reference purposes only and shall not in any way affect the meaning or interpretation of this BAA. This BAA has been negotiated by the Parties at arm's-length and each of them has had an opportunity to modify the language of the BAA. Accordingly, this BAA shall be treated as having been drafted equally by the Parties, and the language shall be construed as a whole and according to its fair meaning. Any presumption or principle that the language is to be construed against any Party shall not apply
- 6.10** **Notices.** All notices and communications required by this Agreement shall be in writing. Such notices and communications shall be given in one of the following forms: (i) by delivery in person, (ii) by a nationally-recognized, next-day courier service, (iii) by first-class, registered or certified mail, postage prepaid; or (iv) by electronic mail to the address that each party specifies in writing.
- 6.11** **Successors and Assigns.** This BAA will be binding on the successors and assigns of the Covered Entity and the Business Associate. However, this BAA may not be assigned, in whole or in part, without the written consent of the other Party. Any attempted assignment in violation of this Section 6.11 shall be null and void.
- 6.11** **Entire Agreement.** This BAA constitutes the entire agreement between the parties with respect to its subject matter and constitutes and supersedes all prior agreements, representations and understandings of the parties, written or oral, with regard to this same subject matter.
- 6.12** **Counterparts.** This BAA may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Signatures exchanged by facsimile shall be deemed to constitute original, manually executed signatures and shall be fully binding.

IN WITNESS WHEREOF, the parties have entered into this BAA as of the date first above written.

COVERED ENTITY:

EMPLOYER, INDIVIDUALLY AND ON BEHALF OF THE PLANS

By: _____
 IAN TAYLOR
 CEO

BUSINESS ASSOCIATE:

UMB BANK, N.A

By: _____
 [NAME]
 [TITLE]

EXHIBIT C**BENEFIT ACCOUNT ADMINISTRATION FEE SCHEDULE****SAMPLE – ACTUAL FEE SCHEUDLE TO BE ATTACHED**

Monthly Single Benefit Accounts Administration Fee (price per account)	
Medical Flexible Spending Account	\$[]
Flexible Spending Account	\$[]
Limited Purpose Flexible Spending Account	\$[]
Dependent Care Benefit Account	\$[]
Commuter Benefit Account	\$[]
Monthly Combined Benefit Accounts Administration Fee (price per account)	
Medical Flexible Spending Account + Limited Purpose Flexible Spending Account	\$[]
Medical Flexible Spending Account + Limited Purpose Flexible Spending Account + Dependent Care Benefit Account	\$[]
Medical Flexible Spending Account + Limited Purpose Flexible Spending Account + Dependent Care Benefit Account + Commuter Benefit Account	\$[]
Medical Flexible Spending Account + Limited Purpose Flexible Spending Account + Commuter Benefit Account	\$[]
Medical Flexible Spending Account + Dependent Care Benefit Account	\$[]
Medical Flexible Spending Account + Dependent Care Benefit Account + Commuter Benefit Account	\$[]
Medical Flexible Spending Account + Commuter Benefit Account	\$[]
Monthly Administration Fee Minimum Amount	
Benefit Plan(s) including Commuter Benefit Accounts	\$[]
Benefit Plan(s) excluding Commuter Benefit Accounts	\$[]
Benefit Plan Documentation Preparation Services	\$[] (per plan)
Non-Discrimination Testing Services	\$[] (per plan)
Implementation Fee	\$[]
Termination Fee?	\$[]

THESE FEES ARE SUBJECT TO CHANGE IN ACCORDANCE WITH THE TERMS DESCRIBED IN THE BENEFIT ACCOUNT (NON-HSA) ADMINISTRATIVE SERVICES AGREEMENT.

BENEFIT PLAN DOCUMENTS

STANDARD TERMS

UMB has engaged a third party vendor (the “System Vendor”) to provide a website interface based proprietary system (the “System”) to generate custom Plan Documents, Summary Plan Descriptions, and reports on non-discrimination tests, each as described within the Employee Retirement Income Security Act of 1974 (“ERISA”), collectively (“Documents”). Documents for employers are made available in a PDF format and stamped to reflect the effective date of the related Plan year.

If the Employer elects, this additional System in addition to the Services provided by UMB, the Employer should execute and deliver to UMB the Plan Document and Summary Plan Description Request Form or the Non-Discrimination Test Request Template (each a “Request Form”) at least 10 (ten) calendar days prior to the date Employer expects to need the related Documents. By submitting a Request Form to UMB Employer agrees to these Benefit Plan Document Standard Terms and agrees to pay the System Fees.

UMB may discontinue use of the System at any time and for any reason; provided that Employer shall only be reasonable for System Fees for as long as UMB provides the System.

The System

UMB will use the information provided by Employer on a Request Form to generate the Documents requested by the Employer and will promptly provide the Documents to Employer. Employer acknowledges that the Documents are produced by the System without input by UMB using the information provided in the Request Forms. UMB will have no ability to amend the information on the Request Forms or edit the resulting Documents. Employer represents and warrants it has reviewed the information provided on the Request Forms and is satisfied all such information is accurate and complete. Employer further represents and warrants it will review all Documents prior to their use and confirm the accuracy of all information contained in the Documents. Employer shall be fully liable for any access or use of the Documents.

Unless approved in writing by UMB in advance, Employer shall not:

- Distribute, sublicense, rent, lease, loan or otherwise grant access to the System products to any person, other than in accordance with these terms and conditions.
- Modify, alter, translate or create derivative works from the System software.
- Exploit or use the System products for other than internal business purposes.
- Reverse engineer, decompile, decode, decrypt, disassemble, or derive or attempt to derive the source code of the software of any System product.
- Use the software of any System product for any purpose other than the creation of ERISA documents (including non-discrimination tests) in accordance with the terms and conditions of these terms and conditions.

Support

Neither UMB nor the System Vendor will provide legal advice to the Employer, provided the System Vendor may obtain the advice of outside legal counsel on issues where the System Vendor believes it is advisable to do so and will convey that advice to the Employer as appropriate. Such advice of outside counsel will be at the System Vendor’s expense unless UMB has advised Employer to the contrary, in writing, in advance.

System Fees

Systems Fees for the Service are described in the attached Exhibit C.

Invoicing and Payment

UMB will submit an invoice detailing System Fees immediately following UMB's receipt of a completed Request Form via email to the billing contact provided by Employer to UMB. The Employer agrees to promptly review all invoices and raise any questions to UMB. UMB will automatically deduct the invoiced amounts from the Employer's bank account. on the business day following the day on which the invoice was submitted to Employer.

The Employer agrees to complete, submit and maintain a current ACH Authorization Form on file with UMB authorizing UMB to debit the Employer's bank account for all invoiced amounts. Failure to have a completed, current ACH Authorization Form on file with UMB may result is a suspension or revocation of the Services.

General Terms

1. **Services.** UMB will perform the services as described herein.
2. **Compensation, Taxes, Payment.** Employer agrees to pay UMB for the Service Fees according to the applicable fees in accordance with the rates and schedules set forth in the attached Exhibit C. Employer shall pay all federal, state, or local taxes that are imposed on the delivery of the System, excluding taxes based on UMB's income. Invoiced amounts shall be due and payable no later than thirty (30) calendar days after the receipt of the properly submitted invoice. UMB may suspend access to the System if Employer fails to pay any invoice within sixty (60) calendar days of the receipt of the properly submitted invoice.
3. **Performance, Subcontractors.** The System Vendor and not UMB shall be solely responsible for the selection and management of its personnel in the performance of the Services. In addition, the System Vendor reserves the right to subcontract any and all of its performance obligations with respect to the System.
4. **The System Vendor's Limited Warranty.** The System Vendor has represented to UMB that it shall perform its duties in a professional and workmanlike manner and in accordance with the professional standards of practice in the industry; provided, neither UMB nor the System Vendors warrant that the System will be completely free from all defects, errors and bugs. The System Vendor has warranted to UMB that the Services as provided by the System Vendor will be in compliance with the requirements of applicable law and will not infringe the intellectual property rights of any person; provided, this warranty shall be null and void for any Document that is created, modified or maintained outside of the System and provided further that UMB provides no additional warranty regarding the System.

EXCEPT AS EXPRESSLY STATED IN THIS SECTION 4, NEITHER UMB OR THE SYSTEM VENDOR MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SYSTEM OR THE DOCUMENTS, THEIR QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. **Ownership of Intellectual Property.** Employer acknowledges that Employer will acquire no copyright or other intellectual property rights to any of the System or other products provided pursuant to these terms and conditions, all of which rights shall remain the property of the System Vendor and/or its employees and independent contractors. Employer further acknowledges and agrees that the System Vendor shall acquire and retain all intellectual property rights to any and all comments, suggestions, requests and other feedback by Employer in relation to the System and/or any changes thereto.
6. **Indemnification.** Employer shall fully indemnify, defend, and hold UMB, its affiliates, subsidiaries, and its officers, directors, employees, agents and contractors harmless from and against all claims, demands and actions, and all related damages, losses, penalties, fines and expenses (including reasonable attorney fees) based upon or arising out of (a) personal injury or property damage caused by the Employer or anyone acting on its behalf (collectively, the "First Parties"); (b) gross negligence or wilful misconduct on the part of any of the First Parties; and (c) the First Party's failure to comply with applicable federal, state or local laws, rules and regulations, including laws, rules and regulations applicable to the provision or receipt of products

and services hereunder. The aforesaid indemnity and hold harmless obligation shall not be applicable to the extent of negligence on the part of said other party or any of its employees.

7. **Limitation of Damages.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR LOST BUSINESS OPPORTUNITY) THAT THE OTHER PARTY MAY INCUR OR EXPERIENCE DUE TO ITS HAVING USED THE SYSTEM, EVEN IF THE PARTY TO BE CHARGED WAS ADVISED OR KNEW OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, IN NO EVENT WILL UMB'S LIABILITY AS A RESULT OF EMPLOYER'S USE OF THE SYSTEM OR ITS PRODUCTS EXCEED THE AMOUNT OF SYSTEM FEES RECEIVED BY UMB.

8. **Term and Termination.** The term of this Agreement shall commence upon the delivery of a Request Form to UMB and shall continue for one (1) year thereafter.

Either party may terminate this Agreement upon written notice to the other party in the event of a material breach by said other party, which breach is not cured within fourteen (14) calendar days after receipt of notice thereof.