



SELF FUND HEALTH Administrative Services Agreement

Customer: City of Whitewater

Date prepared: 09/26/2024

Customer Address: 312 W. Whitewater St., Whitewater, WI 53190

Prepared by: Jacinta Maciel

This Administrative Services Agreement (this “Agreement”) is made between Carebot Health, Inc. (d/b/a Self Fund Health), with an address of 2747 Prairie Circle, Verona, WI 53593 [AKA] (“Self Fund”), and the sponsoring customer listed above (“Plan Sponsor”), with the address listed above. Together, Self Fund and Plan Sponsor will be referred to in this Agreement as the “Parties”. Plan Sponsor and Self Fund agree as follows:

1. Introduction – Plan Sponsor is interested in engaging Self Fund to help develop, implement and administer its self-funded health benefit plan (the “Plan”) for its employees (“Plan Members”) as described in one or more Schedules attached to this Agreement, and Self Fund agrees to provide its Services according to the terms of this Agreement.
2. Description of the Services. During the Term of this Agreement, Self Fund shall provide and perform the services, functions, and responsibilities identified in this Agreement and as set forth in the Schedules attached to this Agreement. The responsibilities of the parties set forth in the Schedules are in addition to any responsibilities set forth in this Agreement. Schedules are incorporated into and made a part of this Agreement. If there are any inconsistencies between this Agreement and a Schedule, this Agreement will take precedent unless the Schedule specifically requires a different result. The Parties may agree at any time in writing to add new or change existing Schedules. Additional services will be provided only upon the mutual agreement of the Parties, as evidenced by the parties entering into an amendment to this Agreement or to any applicable Schedules.
3. Miscellaneous. This Agreement, together with all exhibits and fully-executed Schedules, is the entire agreement between the Parties regarding its subject matter and supersedes prior or contemporaneous representations or agreements about such matters. This Agreement may not be modified except by a written agreement signed by the parties. Each signatory below represents he or she is authorized to bind the party indicated to this Agreement. This Agreement may be signed in counterparts, and original signatures sent and received electronically (e.g., by email with PDF attached or by DocuSign) are binding.

THE “EFFECTIVE DATE” OF THIS AGREEMENT IS THE EXECUTION DATE INDICATED BY OUR SIGNATURE BELOW.

CITY OF WHITEWATER

SELF FUND HEALTH, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

The terms offered under this Agreement will expire if you have not returned an executed copy to us within 60 days of the “Date prepared” shown above.

ADMINISTRATIVE SERVICES AGREEMENT – SELF FUND HEALTH

1. General Conditions.

- a. *Services Provided by Self Fund.* Self Fund agrees to provide the Services pursuant to the terms and conditions of this Agreement together with any Schedules attached to this Agreement. Self Fund shall have non-discretionary authority to act in a ministerial capacity for the proper management and administration of any Plan. Any function not expressly delegated by Plan Sponsor and agreed to be assumed by Self Fund in writing pursuant to this Agreement shall remain the sole responsibility of the Plan Sponsor.
- b. *Access to Self Fund Tools.* During the Term (as defined below), Plan Sponsor and/or Plan Members may be granted access to use Self Fund's web-based tools and technology (the "Self Fund Tools") to perform certain functions (such as finding and selecting direct primary care providers, obtaining referrals to specialist providers, or setting up SMS reminders). Self Fund retains all rights, title and interest in and to the Self Fund Tools, including without limitation any software included in and used to provide the Self Fund Tools and all logos and trademarks reproduced through the Self Fund Tools. This Agreement does not grant Plan Sponsor any right to reproduce, modify or create derivative works, distribute, or publicly display or perform the software included in the Self Fund Tools, or any other right to the Self Fund Tools not specifically set forth herein.
- c. *Care and Diligence.* Self Fund shall perform the Services exercising reasonable care and diligence in a manner that other similarly situated prudent service providers in the same industry performing the same services would exercise. Self Fund shall not be considered in breach of this Agreement if Self Fund refuses to perform services generally required under this Agreement if the manner in which Plan Sponsor desires such Services to be performed requires material changes to Self Fund's existing standard operating procedures or that are not in accordance with applicable law. If a claim adjudication error should be discovered, Self Fund shall use diligent efforts toward the recovery of any loss therefrom provided the error exceeds fifty dollars (\$50.00). However, Self Fund shall not be required to initiate legal proceedings for any such recovery and shall have no liability for such errors provided such errors are reasonable, in good faith, and within acceptable industry standards.
- d. *Recordkeeping.* Self Fund will establish and maintain a recordkeeping system pertaining to the Services. All such records shall be available for inspection by the Plan Sponsor at any time during normal business hours, upon reasonable prior notice to Self Fund. Self Fund will maintain records and information for a minimum period of seven (7) years from termination of this Agreement, or such other, longer period of time as may be required by applicable law.
- e. *Plan Documents.* Plan Sponsor will collaborate in good faith with Self Fund and its designees (including but not limited to the Plan Broker of Record ("BOR") on the creation of necessary Plan documents and forms related to administration of the

- Plan(s) for which Self Fund provides related Services under this Agreement. For the avoidance of doubt, the Plan Sponsor understands that it is the Plan Sponsor's responsibility to ensure that all Plan documents and forms, including any documents or forms describing the Plan provided to Plan Sponsor by Self Fund in accordance with this Agreement, comply with the applicable laws and regulations. Self Fund shall not have the power or authority to alter, modify, or waive any terms of the Plan(s). The Plan Sponsor shall be solely responsible for furnishing copies of plan-related documents to Plan Members and others, as may be required by law or otherwise. This includes, but is not limited to, copies of Plan Documents, Summary Plan Description, Summary of Benefits and Coverage, Summary of Material Modifications, required annual reports, notices and collective bargaining agreements.
- f. *Accuracy of Communications.* Self Fund will be entitled to rely upon any written or oral communication from the Plan Sponsor, its designated employees, broker, agents, or authorized representatives. Self Fund shall designate an account manager to work directly with the Plan Sponsor on issues related to the Services and this Agreement. The Plan Sponsor shall designate a contact person or persons that Self Fund can work with on issues related to the Services and this Agreement.
 - g. *Plan Sponsor Bankruptcy.* Notwithstanding any other provision of this Agreement, in the event of the filing by or against the Plan Sponsor of a petition for relief under the Federal Bankruptcy Code or any analogous state bankruptcy or receivership law, Self Fund shall have the right to suspend the payment of Claims or Eligible Expenses unless and until an order is obtained from the bankruptcy court in form and substance acceptable to Self Fund, authorizing such payment, and the Plan Sponsor has deposited the funds necessary to pay such Claims or Eligible Expenses in full. "Claim" shall mean payment of any written or electronic request received by Self Fund for payment of an Eligible Expense. "Eligible Expenses" shall mean the payment of amounts payable for health services or a product used in for the treatment of a medical condition for an eligible individual.
 - h. *Neither a Fiduciary nor an Administrator.* It is understood and agreed that Plan Sponsor is the named Plan Administrator within the meaning of the Internal Revenue Code of 1986 as amended from time to time (the "Code") and the Employee Retirement Income Security Act of 1974 as amended from time to time ("ERISA"), and Self Fund is not and shall not be deemed to be a fiduciary with respect to the Plan. Self Fund shall not be named or considered to be a "Fiduciary" or the "Plan Administrator" for purposes of ERISA. Self Fund is retained under this Agreement to perform solely ministerial functions as described in the Department of Labor regulations under ERISA at 29 CFR 2509.75-8, D-2, and not discretionary functions.
 - i. *Liability for Payment of Plan Benefits.* Except for stop-loss coverage as described elsewhere in this Agreement, Self Fund is not an insurance company and does not provide insurance

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coverage to the Plan, the Plan Sponsor, nor any eligible beneficiaries. Plan Sponsor, and not Self Fund is financially responsible for Eligible Expenses or any costs incident to the Plan(s) (together “Plan Benefits”). It is understood and agreed that the Plan Sponsor is responsible for funding Plan Benefits under the Plan(s) and that Self Fund shall not have any duty to use any of its funds for the payment of such Plan Benefits nor for any fees or charges payable for the operation of the Plan(s). Self Fund will have no obligation to arrange for payment of Plan Benefits under the Plan if the Plan Sponsor has not made the requisite funds available to Self Fund in accordance with this Agreement. Self Fund has no duty or obligation to defend any legal action or proceeding brought to recover benefits under the Plan(s) or to initiate any legal action or proceeding to recover reimbursements; however, Self Fund will provide to Plan Sponsor and/or Plan Sponsor’s legal counsel, upon request and subject to any limitations described in this Agreement, any documentation in Self Fund’s possession that may relate to such claim for benefits and/or expenses.

- j. *Stop-loss Coverage.* As a component of the Services offered by Self Fund, Self Fund makes available, at Plan Sponsor’s discretion, Stop-Loss Coverage procured on behalf of Plan Sponsor from a Stop Loss Insurer. Plan Sponsor shall be responsible for the payment of any amounts owed for Stop-Loss Coverage through the Services Fees collected by Self Fund pursuant to any Schedule. If Plan Sponsor declines Stop-Loss Coverage offered through Self Fund, and fails to properly underwrite and/or fails to procure adequate alternative stop loss coverage, Self Fund will in no way be responsible and/or held liable for the consequences thereof.
- k. *Resolving Uncertain Returned Provider Payments.* Self Fund will have authorization to deposit and hold any Plan funds returned by a provider to Self Fund for the purpose of attempting to resolve payment uncertainty with provider. All funds will be accounted for separately and, if the resolution resolves with a payment due to the Plan Sponsor, returned promptly to the Plan Sponsor.
- l. *TPA Services.* Self Fund will either perform, or arrange for the performance of all functions as specifically delineated as Self Fund functions within this agreement and any related Schedules.
- m. *HIPAA Compliance.* To ensure compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the parties agree to execute the attached Business Associate Agreement.

2. Plan Sponsor Obligations.

- a. *Establishment of a Plan.* Each Plan administered by Self Fund on behalf of Plan Sponsor pursuant to this Agreement will be detailed in a Schedule attached to this Agreement. Plan Sponsor retains ultimate discretionary authority of and for the Plan and is solely responsible for and shall establish, maintain, and appropriately fund the Plan, except to the extent that

certain “ministerial functions” are delegated to in this Agreement and any Schedule. Plan Sponsor shall be solely responsible for notifying Self Fund in the event that updates or amendments to the Plan are necessary to ensure compliance with applicable law. Plan Sponsor understands that it is its responsibility to pay any fee or penalty arising from the Plan that is assessed by the Internal Revenue Service, the Department of Labor, and/or other federal or state governmental agencies. In the event that an amendment or modification to the Plan is required to comply with applicable law, the effective date of such changes shall be on a date selected by the Plan Sponsor after notification to Self Fund, or a date that reasonably permits Self Fund to make needed systems or procedural changes to accommodate the Plan change, whichever is longer.

- b. *Reporting, Notice, or Disclosure Requirements.* Plan Sponsor shall be responsible for all required reporting, notices, and disclosures to participants or regulatory agencies. The Plan Sponsor is responsible for complying with all delivery requirements for any reporting, notice or disclosure requirements.
- c. *Banking.* Plan Sponsor shall maintain a bank account for the purpose of paying Service Fees, in a financial institution mutually agreed upon by the Plan Sponsor and Self Fund. Said account will be used by Self Fund and/or its designees (including, but not limited to the chosen Plan Third-Party Administrator (“TPA”) for the payment of Service Fees, and other claims and expenses of the Plan. Plan Sponsor shall have absolute authority with respect to any Plan assets, and Self Fund shall neither have nor be deemed to exercise any discretion, control or authority with respect to any Plan assets.
- d. *Enrollment.* The Plan Sponsor agrees to furnish Self Fund with such information as may be necessary or reasonably required to perform the Services, including but not limited to all necessary Plan Member enrollment information. Plan Sponsor is responsible for verifying the accuracy of eligibility. Such information must be provided by Plan Sponsor in a format mutually agreed upon by the parties and in a timely manner that will allow Self Fund to provide the Services in accordance with this Agreement.
- e. *Change of Status or Termination of Plan Members.* Plan Sponsor shall provide regular updates of any change of status or termination of Plan coverage of Plan Members as soon as reasonably possible, however in no event more than three (3) billing cycles after such change of status or termination. It is the responsibility of the Plan Sponsor to also inform any COBRA Administrator with which it contracts of any change of status or termination of Plan coverage of Plan Members. Self Fund does not perform COBRA administrative services. For purposes of this Agreement, “COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1986 as amended from time to time.
- f. *Interpretation of the Plan.* The Plan Sponsor shall be the final decision maker as to the interpretation of the Plan and as to the payment of Eligible Expenses thereunder. In the event the Plan Sponsor wants Self Fund to make an exception to the Plan, the Plan Sponsor must notify Self Fund in writing of such

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exception and in doing so the Plan Sponsor agrees to indemnify and hold harmless Self Fund from any expense, loss, settlement, cost, lawsuit, settlement, penalty, damage, liability, or claim arising out of or resulting from Self Fund's compliance with said directive. The Plan Sponsor is responsible for meeting the Department of Labor's claims regulations and other applicable regulations when exceptions are made to the Plan. The Plan Sponsor understands that making exceptions to the Plan may be a violation of law, result in payment of claims which are not eligible for reimbursement by the stop loss carrier, disqualify the Plan, result in taxability of benefits to the participant, be deemed discriminatory, and/or constitute a breach of agreement with provider networks.

- g. *Claims Settlements for Non-Contracted Providers.* The decision to make a settlement on claims where there is no contract is solely up to the Plan Sponsor. The Plan Sponsor agrees to indemnify and hold harmless Self Fund from any expense, loss, settlement, cost, lawsuit, settlement, penalty, damage, liability, or claim arising out of or resulting from Self Fund's compliance with said directive.
- h. *Cooperation.* Plan Sponsor shall cooperate with Self Fund to the extent reasonably necessary to enable Self Fund to provide the Services in accordance with this Agreement, including without limitation providing Self Fund with any information necessary for Self Fund to provide the Services. Plan Sponsor shall make its books, records, facilities, systems, and personnel relating to its obligations and performance under this Agreement available for review and audit when required by applicable laws or by State or Federal or other regulatory authorities with jurisdiction over Self Fund.
- i. *Insurance and Bond.* Except for Stop-Loss Coverage procured by Self Fund on Plan Sponsor's behalf, Plan Sponsor shall ensure that it has secured appropriate insurance and any bond as may be required by law.
- j. *Non-Discrimination Testing.* Plan Sponsor shall be responsible for any non-discrimination testing required by law for the Plan.

3. Term and Termination.

- a. *Term.* The term of this Agreement will commence on the Effective Date for an initial term of one (1) year from the Effective Date (the "Initial Term"). Following the Initial Term, the parties may mutually agree in writing to renew this Agreement for additional one (1) year periods (each a "Renewal Term"). The Initial Term, collectively along with any subsequent Renewal Term, will constitute the "Term" of this Agreement.
- b. *Renewal Procedure.* Prior to the end of the then current Term, Self Fund will provide Plan Sponsor with either: (i) a written Renewal Amendment which includes an updated Administrative Services Agreement Schedule for the following Renewal Term; or (ii) written acknowledgement that the Administrative Services Agreement Schedule in effect for the then current Term will apply to the following Renewal Term. Either of the foregoing (i) or (ii) will be considered a "Renewal Notice". The Plan will not renew, and the Agreement will

expire upon the end of the then current Term if Plan Sponsor does not execute the Renewal Notice prior to the end of the then current Term of the Agreement.

- c. *Termination for Breach.* A Party may terminate this Agreement at any time by written notice if (i) the other party fails to remedy a material breach within 30 days' written notice, (ii) effective immediately upon written notice if a party's material breach is incapable of cure, or (iii) if either party ceases actively doing business, begins winding up its business, or bankruptcy or insolvency proceedings are begun by or against such party and not promptly dismissed.
- d. *Effect of Termination.* Promptly after the Agreement ends for any reason, each Party agrees that it will return the other Party's Confidential Information. Sections 2(d)-(e), 3, 4(c)-(d), 5, 6, 8, and 9 will survive the expiration or termination of this Agreement.

4. Payments.

- a. *Service Fees.* The service fees paid by the Plan Sponsor or its designee to Self Fund pursuant to this Agreement, as set forth in any applicable Schedule ("Service Fees"): Self Fund Service Fees are intended to: (i) compensate various third-party service providers selected by Plan Sponsor and incorporated into the Plan for services provided to Plan Members; and (ii) compensate Self Fund for its Services. Self Fund reserves the right to change the Service Fees effective upon any renewal with sixty (60) days' notice to Plan Sponsor. Plan Sponsor agrees that upon receipt of a new Schedule A, such new Fee Schedule will amend and supersede all prior applicable Fee Schedules. Notwithstanding the foregoing, Self Fund may adjust the Service Fees any and each time the number of participants enrolled in the Plan decreases by more than ten percent (10%).
- b. *Billing.* Self Fund will provide statements to Plan Sponsor and Plan Sponsor will allow Self Fund and or its designees, including, but not limited to the Plan TPA, to originate payments from Plans Sponsor's account in the amounts set forth in any applicable Plan Schedule. It remains Plan Sponsor's sole obligation to ensure adequate funding is available such that payments originated by Self Fund can be cleared by the Plan Sponsor's bank. Self Fund may, at its own discretion, suspend performance of the Services until adequate funding has been made available. Plan Sponsor will have materially breached this Agreement if any amount owed remains unpaid after being given written notice by Self Fund, or if Plan Sponsor fails to maintain sufficient funds in its bank to allow Self Fund to perform its obligations. Self Fund's remedies under this subsection are cumulative of our its available remedies.
- c. *Taxes.* Except for our income taxes, taxes (e.g., sales, use, excise, and similar taxes) arising out of this Agreement are your responsibility. If we pay or are required to pay such taxes or penalties or interest, you will promptly pay us all such amounts. For tax exempt organizations, taxes may not be due from you under this section in certain scenarios.

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5. Warranties.

- a. *General.* Plan Sponsor represents and warrants that: (a) it has all requisite legal and corporate power to execute and deliver this Agreement and other necessary documentation, (b) it has taken all corporate action necessary for the authorization, execution and delivery of this Agreement and other necessary documentation, including Plan Documentation, (c) it has no agreement or understanding with any third-party that interferes with or will interfere with its performance under this Agreement, (d) it has obtained and will maintain all licenses, rights, approvals and consents necessary to perform its obligations under this Agreement and other necessary documentation, (e) its performance of its obligations under this Agreement will not violate any law, rule, regulation, judgment, decree or order applicable to Plan Sponsor, (f) it has taken all action required to make this Agreement a legal, valid, and binding obligation of Plan Sponsor, enforceable in accordance with its terms, (g) it has appropriately underwritten the Plan, and (h) it has procured adequate stop loss coverage as it deems appropriate.
 - b. *Multiple Employer Plan.* The Plan Sponsor represents and warrants that the Plan(s) to which this Agreement applies is not intended to provide benefits to employees of two or more employers (including self-employed individuals) or their beneficiaries, that are not part of a controlled group as defined in 26 CFR § 1.1563-1. and that the Plan(s) does not constitute a multiple employer welfare arrangement or association plan under federal or state law.
 - c. *Compliance with Law.* Plan Sponsor represents and warrants to Self Fund that Plan Sponsor complies with applicable state and federal laws and regulations, including ERISA. Plan Sponsor shall not name Self Fund, or represent that Self Fund is, the Plan Sponsor, Plan Administrator, or a named Fiduciary of the Plan as those terms are used by ERISA.
 - d. *Disclaimer.* EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION, ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.
6. Audit Rights. Self Fund recognizes that from time to time the Plan Sponsor may wish to perform (or have performed) an audit for performance purposes. Self Fund will cooperate during the performance of an annual audit as long as the audit is based on a statistically valid random stratified sampling methodology. Such audit may encompass any relevant information that the Plan Sponsor reasonably requires, consistent with professional auditing practices and procedures applicable to this type of auditing as mutually agreed upon by Self Fund and the Plan Sponsor. The records requested by such auditor will be selected and compiled by Self Fund in the manner requested by such auditor. The Plan Sponsor agrees that all audit costs are the sole responsibility of the Plan Sponsor. Plan Sponsor further agrees that any audit firm hired by the Plan Sponsor will not be compensated based on a percentage of errors found, percentage

of recovery or other similar contingency basis. Self Fund must be informed in writing of the audit intent at least sixty (60) days prior to such audit and the timing must be mutually agreed upon. Self Fund will have the opportunity to review a draft report of the audit and provide responses prior to final issuance.

7. Limitations of Liability.

- a. *General.* UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) WILL SELF FUND, OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE TO YOU FOR ANY LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA, BUSINESS INTERRUPTION, LOSS OF GOODWILL, OR FOR ANY TYPE OF INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES, OR ANY OTHER LOSS OR DAMAGES INCURRED BY YOU IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF WHETHER SELF FUND WAS ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, SELF FUND'S AGGREGATE LIABILITY TO PLAN SPONSOR, WILL IN NO EVENT EXCEED THE TOTAL FEES PAID BY YOU TO US IN THE LAST TWELVE MONTHS FOR THE PROGRAM FROM WHICH THE LIABILITY ARISES (WHETHER THE LIABILITY ARISES FROM THE SENSORS, APPLICATION, PROFESSIONAL SERVICES, OR OTHERWISE).
- b. *Force Majeure.* A party is not liable under this Agreement for delay in performance or non-performance caused by events or conditions beyond the party's reasonable control, including acts of God, fire, war, terrorism, third party criminal acts, any law or governmental regulations, or labor dispute, and the period of performance will be deemed extended to reflect such delay as agreed by the parties.

8. Confidential Information.

- a. *Confidential Information.* "Confidential Information," as used in this Agreement, means any written, machine-reproducible and/or visual materials that are clearly labeled as proprietary, confidential, or with words of similar meaning, and all information that is orally or visually disclosed, if not so marked, if it is identified as proprietary or confidential at the time of its disclosure or in a writing provided within thirty (30) days after disclosure, and any information of any nature described in this Agreement as confidential. Without limiting the foregoing, Confidential Information includes information concerning the business, services, products, technology, customers, or finances of either party, and any other confidential or proprietary information the disclosure of which might harm or destroy a competitive advantage of the disclosing party. Confidential Information includes the terms of this Agreement and any attached Schedules.
- b. *Exclusions.* The obligations of the Parties under this Section do not extend to any information which the receiving Party can show through documented evidence: (i) becomes publicly available other than through the action of the receiving Party; (ii) is subsequently rightfully furnished to the receiving Party

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by a third party without restriction on disclosure or use; (iii) is furnished by the disclosing Party to a third party without restriction on disclosure; or (iv) is rightfully known by the receiving Party prior to the Effective Date, which was not obtained from the disclosing Party as evidenced by its business records.

- c. *Use and Non-disclosure.* During the Term and for a period of five (5) years after expiration or termination of this Agreement, the receiving Party shall not, directly or indirectly, disclose to any party other than its employees, affiliates and authorized agents or contractors with a legitimate need to know, any Confidential Information whether or not in writing and whether or not designated as confidential, without the prior written permission of the disclosing Party, unless such disclosure is specifically required in the course of the performance by the receiving party of its obligations under this Agreement. Each receiving Party shall ensure that its personnel having access to Confidential Information shall preserve the confidential nature of such information and shall be primarily liable for any breaches of the obligations arising under this Section by its personnel.
- d. In the event that the receiving Party is required to disclose all or any part of any Confidential Information under applicable law or an order issued by a court of competent jurisdiction or by another governmental agency, such party shall: (a) promptly, and prior to any disclosure, notify the disclosing Party of the existence, terms and circumstances surrounding such disclosure; (b) consult with the disclosing Party on the advisability of taking steps to resist or narrow such request; (c) cooperate with the disclosing Party, at the disclosing Party's expense, in its efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to such portion of the Confidential Information that is required to be disclosed, and (d) if a protective order or other protective arrangement cannot be obtained, furnish to the least extent required to comply with such request such portion of the Confidential Information as the receiving Party is advised by counsel is legally required to be disclosed.

9. Indemnification.

- a. *By Self Fund.* Self Fund will indemnify Plan Sponsor and hold Plan Sponsor, its officers, directors, employees, agents, successors and assigns harmless from and against any and all losses, liabilities, penalties, fines, costs, damages (including taxes), and all related costs and expenses, that Plan Sponsor may incur, including reasonable attorney's fees and costs (collectively, "Losses"), which arise out of or relate to third-party claims alleging the negligence or intentional misconduct of Self Fund. Notwithstanding the foregoing, Plan Sponsor will remain responsible for payment of Plan Benefits and Self Fund's indemnification will not extend to indemnification of Plan Sponsor or the Plan against any claims, liabilities, damages, judgments or expenses that constitute payment of Plan Benefits or for compliance with and state and federal laws

and regulations that do not specifically apply to third-party administrators.

- b. *By Plan Sponsor.* Plan Sponsor will indemnify Self Fund and hold Self Fund, its officers, directors, employees, agents, successors and assigns harmless from and against any and all Losses, which arise out of or relate to third-party claims alleging: (i) the negligence of Plan Sponsor or Plan Sponsor's vendors, subcontractors or representatives in the performance of their obligations under this Agreement or any other agreements entered into with such third parties on Plan Sponsor's behalf; (ii) Plan Sponsor's material breach of this Agreement; (iii) Self Fund's actions or failure to act taken at the direction (whether written, oral or otherwise) of Plan Sponsor or a designee of Plan Sponsor; and/or (iv) Plan Sponsor's intentional misconduct. The indemnification obligations set forth in this Section 9(b) will in no way limit any express indemnification obligation set forth elsewhere in this Agreement.
- c. *Process.* For this Section to apply, the indemnified Party must promptly notify the indemnifying Party of Claims and reasonably cooperate with the indemnifying Party in defending and settling Claims. The indemnifying Party will have exclusive control of defense and settlement of Claims, except that the indemnifying Party will not enter into any settlement of a Claim that imposes any obligation or liability on the indemnified Party, or requires an admission of fault by the indemnified Party without the express prior written consent of such indemnified Party.

10. Miscellaneous.

- a. *Legal Advice.* It is understood and agreed that the Services do not include, and Self Fund will not provide, investment, tax, or legal advice. If the Plan Sponsor requires legal or other expert advice, the Plan Sponsor should consult its own legal counsel.
- b. *Subcontractors.* Self Fund has and may subcontract any services to be performed under this Agreement to other vendors. If any such subcontractor or other party engaged by Self Fund in connection with providing the Services requires access to Confidential Information, then Self Fund may provide such access if the subcontractor or other vendor agrees in writing to comply with the same or similar restrictions that apply to it with respect to such information.
- c. *Equitable Relief.* The Parties understand a breach or threatened breach of this Agreement may cause irreparable harm and that monetary damages will be inadequate to compensate for such harm. In addition to any other remedies available in law, equity, or otherwise, a Party is entitled to seek equitable relief to enjoin the conduct that is in breach of or threatens to breach this Agreement, without notice, bond, or a requirement to prove damages.
- d. *Feedback.* Plan Sponsor grants to Self Fund a royalty-free, fully paid-up, worldwide, transferable, sub-licensable, irrevocable and perpetual license to implement, use, modify, commercially exploit and/or incorporate suggestions,

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enhancement requests, recommendations or other feedback Self Fund receives from Plan Sponsor.

- e. *Assignment.* This Agreement may be assigned by a Party with the other party's Prior written consent or as part of a merger or sale substantially all of such Party's assets. Any other assignment is void.
- f. *Relationship.* Self Fund's relationship to Plan Sponsor is strictly as an independent contractor. Neither Party has the agency or authority to bind the other Party or direct or control the other Party's performance. No third-party beneficiaries are intended or created by this Agreement.
- g. *Announcements.* With Plan Sponsor's prior approval, Self Fund may publicly announce the execution of this Agreement and/or may offer Plan Sponsor as a reference and/or use case to its prospective customers and other partners. This Agreement serves as consent for Self Fund to use Plan Sponsor's logos and other branding in Self Fund's customer lists, websites, and other materials publicizing Plan Sponsor's use of Self Fund's Services.
- h. *Severability.* If any provision of this Agreement is held to be unenforceable and severable from this Agreement, no such severability will be effective if it materially changes the economic benefit of this Agreement to either party.
- i. *Governing Law, Venue.* This Agreement will be governed by and enforced under the laws of Wisconsin without reference to its conflict of laws provisions. Any action arising under this Agreement will be brought exclusively in the state or federal courts in Dane County, Wisconsin, and the parties irrevocably consent to the jurisdiction of such courts.
- j. *Notices.* Notices required or permitted by this Agreement must be written and given to the party at the address specified above (or any other address specified in a written notice provided by the party) by hand delivery, certified mail, return receipt requested, or overnight delivery