MidAmerica Service Agreement
Plan Type

This MidAmerica Service Agreement (the "**Agreement**"), effective as of October 1, 2020 (the "**Effective Date**"), is by and between MidAmerica Administrative & Retirement Solutions, LLC ("**MidAmerica**") and [EMPLOYER] ("**Employer**").

Recitals

MidAmerica provides health and dependent care expense reimbursement administrative services to its customers, including processing participant claims for eligible health and dependent care expense reimbursements, as more fully described on the attached **Exhibit A** (as more specifically defined on **Exhibit A**, the "Services"). Employer desires to access the Services, and MidAmerica desires to provide Employer access to the Services, subject to the terms and conditions set forth in this Agreement.

Terms

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Certain Definitions.

"**Account**" means an account of a Participant in the Plan **including without limitation Debit Card accounts**.

"Adoption Agreement" means the accompanying agreement to the Plan Document which outlines plan specific details.

"**Card Provider**" means a Debit Card issuer.

"**Card Transaction**" means a transaction by a Participant making use of the Debit Card issued by a Card Provider.

"**Debit Card**" means a Payment Card to be issued by Card Provider through the Journey Platform and used by Participants in the Plan.

"**Debit Card Claims**" means the claims received through payment with a Debit Card issued by a Card Provider.

"**Employer Data**" means information, data, and other content, in any form or medium, that is received, directly or indirectly from Employer by or through the Services.

"**Fee Schedule**" means the schedule of fees set forth on the attached Schedule 1.

"**Fees**" means fees for services as set forth on the Fee Schedule.

"**Ineligible Expense**" means any expense other than a valid Participant health and dependent care expense under the Plan.

"**Ineligible Person**" means any Person other than a Participant in the Plan.

"**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

"**Journey Platform**" means the administrative platform MidAmerica utilizes to facilitate Health Reimbursement Arrangement plan and Flexible Spending Arrangement plan operations inclusive of the debit card, mobile application, and online tools.

"**Losses**" means any and all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

"**MidAmerica Materials**" means the Services, MidAmerica Systems, related documentation, and any and all other information, data, documents, materials, and other content, hardware, software, and other technologies and inventions that are provided or used by MidAmerica in connection with the Services.

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"**MidAmerica Systems**" means the information technology infrastructure used by or on behalf of MidAmerica in performing the Services, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks.

"**Participant**" means any active or retired employee of an Employer that is a Plan participant.

"**Payment Card**" means a debit card or a stored-value card.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

"**Plan**" means the Employer's health care benefit plan.

"**Plan Document**" means an Internal Revenue Service ("IRS") compliant document satisfying any document requirements and outlines the requirements of the plan as dictated by the IRS.

"**Plan Sponsor**" means Employer.

2. Services. MidAmerica agrees to provide to Employer the Services described on Exhibit A, subject to the terms and conditions of this Agreement, including the following:

2.1 Access and Use; Fees. Subject to and conditioned on Employer's compliance with the terms and conditions of this Agreement, MidAmerica agrees to provide the Services to Employer, on a non-exclusive, non-transferable basis during the Term, for use by Employer internally in accordance with the terms and conditions herein. MidAmerica may from time to time in its reasonable discretion engage third party subcontractors to perform Services (each, a "**Subcontractor**").

2.2 Changes. MidAmerica reserves the right, in its reasonable discretion, to make changes to the Services and MidAmerica Materials that it reasonably deems necessary to: (a) maintain or enhance: (i) the quality or delivery of MidAmerica's services to its customers; (ii) the competitive strength of or market for MidAmerica's services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable law.

2.3 Suspension or Termination of Services. MidAmerica may suspend, terminate, or otherwise deny Employer's, any Participant's, or any other Person's access to or use of the Services or MidAmerica Materials, without incurring any resulting obligation or liability, if: (a) MidAmerica receives a judicial or other governmental demand, order or request that requires MidAmerica to do so; or (b) MidAmerica determines, in its reasonable discretion, that: (i) Employer has failed to comply with any material term of this Agreement; (ii) Employer or any Participant is involved in any fraudulent, misleading, or unlawful activities; or (iii) this Agreement expires or is terminated. This Section 2.3 does not limit any of MidAmerica's other rights or remedies.

2.4 Erroneous Payments. If MidAmerica makes any payment under this Agreement to an Ineligible Person, or if more than the correct amount is paid by MidAmerica to an Ineligible Person, MidAmerica will use commercially reasonable efforts to recover any such payment made to or on behalf of an Ineligible Person or any overpayment.

3. Employer Obligations.

3.1 Information to MidAmerica.

(a) The Employer shall furnish the information requested by MidAmerica as determined necessary by MidAmerica for it to perform its functions hereunder, including information concerning the Plan, the Employer, the Participants, and the eligibility of individuals to participate in and receive Plan benefits ("**Contribution Billing Reports**"). Such information shall be provided to MidAmerica at the time and in the manner agreed to by the Employer and MidAmerica. MidAmerica shall have no responsibility with regard to benefits paid in error due to the Employer's failure to timely provide or update such information. MidAmerica shall be entitled to rely on the completeness and accuracy of all information provided by the Employer, its delegates or employees.

(b) The Employer shall be responsible for providing Contribution Billing Reports to MidAmerica. The Contribution Billing Reports by the Employer shall specify the effective date for each Participant who is added to or terminated from participation in the Plan. The Employer shall be responsible for ensuring the accuracy of its Contribution Billing Reports and shall bear the burden of proof in any dispute relating to the accuracy of its Contribution Billing Reports. MidAmerica shall have no liability, to the Employer and to any Participant, as a consequence of an inaccurate Contribution Billing Report. MidAmerica shall not have any obligation to credit the Employer for any claims expenses or fees incurred or paid to MidAmerica as a consequence of the Employer failing to review Contribution Billing Reports for accuracy. MidAmerica shall be

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entitled to assume that all information provided by the Employer is complete and accurate and is under no duty to question the completeness or accuracy of such information.

3.2 Liability for Payment of Card Claims; Ineligible Expenses.

(a) The Employer is responsible for all Ineligible Expenses, and all ineligible and unauthorized transactions paid with Debit Cards issued by any Card Provider. In no event will any Card Provider or MidAmerica be liable for any such transactions. In the event a Debit Card issued by Card Provider is used for an Ineligible Expense, the Employer will credit the applicable Account related to such Debit Card, and the Employer will use its best efforts to recover the funds from the applicable Participant that incurred such Ineligible Expense. The Employer will bear all Losses arising in connection with any uncollectible amounts from Participants.

(b) In the event that the Employer requests certain restricted merchant category codes be made available for use by Participants, the Employer will assume liability for, and will indemnify and hold harmless MidAmerica, and its affiliates, against any and all related Losses incurred by MidAmerica that arise in connection therewith, including without limitation Losses that arise fraudulently or inadvertently as a result of actions by the Participant, in addition to all fees associated with such Losses.

(c) MidAmerica will be entitled to recoup or otherwise recover Ineligible Expenses by offset against future claims arising under the Plan, including without limitation future Debit Card Claims.

3.3 Claims Appeals. The Employer shall make final determination regarding any claim for benefits on coverage that is appealed, including (a) any question of eligibility or entitlement of the claimant for coverage under the Plan; (b) any question with respect to the amount due; or (c) any other appeal.

3.4 Employer's Obligation to Maintain Sufficient Funds for Benefit Payments. The Employer is obligated and agrees to pay to MidAmerica, no later than the 5 days in advance of the distribution date an amount sufficient to fund all current distribution obligations under the Plan, unless the Plan has already been fully funded. If the plan offers debit card, an amount equal to or greater than 10% of annual plan obligations must be provided prior to the start of the plan year, payments must be provided within 3 days after the debit card funding report is released, unless the Plan has already been fully funded. MidAmerica has no obligation to fund any payments under the Plan that is not appropriately funded (including Debit Card Claims or other claims) until such monies are received by MidAmerica. Employer is responsible for any and all third-party costs incurred by Card Provider or MidAmerica as a result of insufficient funding of the Plan. MidAmerica is entitled to terminate any Account that is not funded, and also entitled to inactivate any Debit Card. Even if an Account is funded, MidAmerica may cap or limit the related Debit Card usage.

3.5 Effect of Employer Failure or Delay. MidAmerica is not responsible or liable for any delay or failure of performance caused in whole or in part by Employer's delay in performing, or failure to perform, any of its obligations under this Agreement.

3.6 Corrective Action and Notice. If Employer becomes aware of any actual or threatened improper or unauthorized use of any Account, any Debit Card, any Services, any MidAmerica Materials, or otherwise related to the Plan, by any Participant or any other Person, Employer shall immediately: (a) take all reasonable and lawful measures within its control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Plan, the Services and MidAmerica Materials); and (b) notify MidAmerica of any such actual or threatened activity.

3.7 Compliance with Law. The Employer is responsible for the Plan's compliance with all applicable federal and state laws and regulations. The Employer acknowledges and agrees that MidAmerica is not providing tax or legal advice, and that the Employer shall be solely responsible for determining the legal and tax status of the Plan, and for ensuring compliance therewith.

4. Fees and Payment. Employer shall pay to MidAmerica Fees for the Services as set forth on the Fee Schedule, in accordance with the terms set forth in Section 4 below.

4.1 Fees.

(a) The Fee Schedule shall remain in effect in the amounts described in Fee Schedule during the Initial Term (defined below) of three (3) years. Thereafter, during any Renewal Term (defined below), MidAmerica is entitled to change the Fee Schedule, and any changes to the Fee Schedule will be identified in a notice supplied by MidAmerica to the Employer at least sixty (60) days prior to the effective date of such increased Fees. Upon the effectiveness of such increase as provided herein, the Fee Schedule will be deemed amended accordingly, as set forth in such notice.

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(b) MidAmerica will charge Fees for Services in accordance with the Fee Schedule and will bill Fees to the Employer or to the Participants as provided in the Fee Schedule, or as specifically requested by the Employer in writing, subject to approval by MidAmerica in its discretion. Fees may be paid by Participants or by the Employer, subject to the terms of the Plan. If the Plan provides for payment by Participants, MidAmerica will charge Fees to the Participant's Account. If the Plan provides for payment by the Employer, MidAmerica will charge Fees to the Employer for payment. If Fees are billed to the Employer, but either (i) the Employer does not pay such Fees within sixty (60) days from the date of the fee invoice, or (ii) the Employer requests MidAmerica to pay the Fees from Plan contributions and MidAmerica approves such request, the Fees will be paid out of previous Plan contributions and, if necessary, allocated to Participant Accounts. If Fees are Employer paid, such Fees shall be invoiced to the Employer on a quarterly basis by MidAmerica following the end of the quarter.

4.2 Payment Procedures. All payments hereunder shall be made in US dollars. Employer and Participants (as applicable) shall make payments to the address or account specified in the Welcome Kit., or such other address or account as MidAmerica may specify in writing from time to time.

4.3 No Deductions or Setoffs. All amounts payable to MidAmerica under this Agreement shall be paid by Employer or Participants (as applicable) to MidAmerica in full without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason.

5. Confidentiality.

5.1 Confidential Information. In connection with this Agreement each party (as the "**Disclosing Party**") may disclose or make available Confidential Information to the other party (as the "**Receiving Party**"). Subject to Section 5.2, "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party identifies in writing as "CONFIDENTIAL", and all information consisting of the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing. Without limiting the foregoing: all MidAmerica Materials are the Confidential Information of MidAmerica. Confidential Information does not include information that: (a) was rightfully known to the Receiving Party without restriction of use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

5.2 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall: (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; (b) except as may be permitted by and subject to its compliance with Section 5.3, not disclose or permit access to Confidential Information other than to its representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 5.2; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 5; (c) safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care; (d) promptly notify the Disclosing Party of any known unauthorized use or disclosure of Confidential Information and cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and (e) ensure its representatives' compliance with, and be responsible and liable for any of its representatives' non-compliance with, the terms of this Section 5.

5.3 Compelled Disclosures. If the Receiving Party or any of its representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 5.2; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure.

5.4 Sensitive Information.

(a) Notwithstanding anything to the contrary herein, MidAmerica may communicate confidential, protected, privileged or otherwise sensitive information to the Employer through a named contact ("**Named Contact**") or as otherwise designated by the Employer, and Employer specifically agrees to indemnify MidAmerica and hold it harmless: (i) for any such communication attempted via fax, mail, telephone, e-mail or any other media, with Employer acknowledging the possibility that such communication may be inadvertently misrouted or intercepted; and (ii) from any claim for the improper use

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or disclosure of any protected health information or sensitive personal information by MidAmerica where such information is used or disclosed in a manner consistent with its duties and responsibilities hereunder.

(b) MidAmerica will comply with the terms of the HIPAA Business Associate Addendum ("BAA") set forth on the attached Exhibit C.

6. Intellectual Property Rights. Nothing in this Agreement grants any right, title, or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Services, MidAmerica Materials, or third-party materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Services, the MidAmerica Materials, and any third-party materials are and will remain with MidAmerica and the respective rights holders in any third-party materials. All right, title, and interest in and to MidAmerica Intellectual Property Rights and all the MidAmerica Materials are and will remain with MidAmerica. Employer has no right, license, or authorization with respect to any MidAmerica Materials or Intellectual Property Rights, except as expressly set forth in this Agreement subject to and in accordance with the terms of this Agreement. All such rights in and to the MidAmerica Materials and Intellectual Property Rights are expressly reserved by MidAmerica. Employer hereby irrevocably grants all such rights and permissions in or relating to Employer Data as are necessary or useful to MidAmerica, its Subcontractors, and the MidAmerica personnel to perform and enforce this Agreement.

7. Representations and Warranties.

7.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that: (a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and (d) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

7.2 Disclaimer. Except as expressly set forth in Section 7.1, all Services and all MidAmerica materials provided by MidAmerica are provided "as is." MidAmerica specifically disclaims all implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement, and all warranties arising from course of dealing, usage, or trade practice. Without limiting the foregoing, MidAmerica makes no warranty of any kind that the Services or MidAmerica materials, or any products or results of the use thereof, will meet Employer's or any other person's requirements, operate without interruption, achieve any intended result, be compatible or work with any software, system, or other services, or be secure, accurate, complete, free of harmful code, or error free. All third-party materials are provided "as is" and any representation or warranty of or concerning any third-party materials are excluded and MidAmerica shall have no liability or obligation with respect thereto and are strictly between Employer and the third-party owner or distributor of the third-party materials.

8. Indemnification.

8.1 MidAmerica Indemnification. Subject to the limitations set forth in Section 9 below, MidAmerica shall indemnify, defend, and hold harmless Employer and its affiliates, and each of its and their respective officers, directors, employees, agents, and successors (each, an "**Employer Indemnitee**") from and against any and all Losses incurred by such Employer Indemnitee resulting from any action by a third party (other than an affiliate of an Employer Indemnitee) that arise out of or result from MidAmerica's breach of any of its representations, warranties, covenants, or obligations under this Agreement. This Section 8 sets forth Employer's sole remedies and MidAmerica's sole liability and obligation for any actual, threatened, or alleged claims against MidAmerica for any breach of this Agreement.

8.2 Employer Indemnification. Without limiting any other obligations of Employer under this Agreement, Employer shall indemnify, defend, and hold harmless MidAmerica and its Subcontractors and affiliates, and each of its and their respective officers, directors, employees, agents, successors, and assigns (each, a "**MidAmerica Indemnitee**") from and against any and all Losses incurred by such MidAmerica Indemnitee resulting from any action by a third party (other than an affiliate of a MidAmerica Indemnitee) that arise out of or result from: (a) Employer Data, including any processing of Employer Data by or on behalf of MidAmerica in accordance with this Agreement; (b) Employer's breach of any of its representations, warranties, covenants, or obligations under this Agreement; or (c) negligence or more culpable act or omission (including recklessness or willful misconduct) by Employer or any third party on behalf of Employer in connection with this Agreement.

8.3 Indemnification Procedure. Each party shall promptly notify the other party in writing of any action for which such party believes it is entitled to be indemnified pursuant to Section 8.1 or 8.2. The party seeking indemnification (the "**Indemnitee**") shall cooperate with the other party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor shall promptly assume control of the defense and shall employ counsel reasonably acceptable to the Indemnitee to

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handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitor shall not settle any action on any terms or in any manner that adversely affects the rights of any Indemnitee without the Indemnitee's prior written consent, which shall not be unreasonably withheld or delayed. If the Indemnitor fails or refuses to assume control of the defense of such action, the Indemnitee shall have the right, but no obligation, to defend against such action, including settling such action after giving notice to the Indemnitor, in each case in such manner and on such terms as the Indemnitee may deem appropriate. The Indemnitee's failure to perform any obligations under this Section 8.3 will not relieve the Indemnitor of its obligations under this Section 8, except to the extent that the Indemnitor can demonstrate that it has been prejudiced as a result of such failure.

9. Limitations of Liability. MidAmerica will not be liable for any: (a) loss of profit or diminution in value; (b) impairment, inability to use or loss, interruption or delay of the Services; (c) loss, damage, corruption or recovery of data, or breach of data or system security; (d) consequential, indirect, or punitive damages, regardless of whether foreseeable, or (e) any erroneous information provided by an employer, indemnitee, or their willful misconduct or negligence.

9.1 Exclusion of Prior Plans and Services. If Employer previously received from any other Person any services similar to the Services, MidAmerica shall not be responsible for any failure of the prior plan document or administrative services to comply with the requirements for an employer-provided medical reimbursement plan under IRC Sections 105 and 106 and regulations issued thereunder, and as a health reimbursement arrangement as described in IRS Notice 2002-45 and Revenue Ruling 2002-41, under IRC Section 125 Cafeteria Plan and regulations issued thereunder for flexible spending arrangements, other applicable law, or the prior plan. MidAmerica also is not responsible for the accuracy and completeness of participant and payroll data provided by the Employer or any third-party provider. Employer agrees that any responsible third parties will be obligated to indemnify and hold harmless all MidAmerica Indemnitees against all actions asserted against any of them in connection with any of the foregoing matters, and Employer will reasonably cooperate with MidAmerica to facilitate such indemnification. Nothing herein will prevent the assertion of any claim directly against any third party by MidAmerica.

10. Term and Termination.

10.1 Initial Term. The initial term of this Agreement commences as of the Effective Date and, unless terminated earlier pursuant any of the Agreement's express provisions, will continue in effect until three (3) years from such date (the "**Initial Term**").

10.2 Renewal Term. This Agreement will automatically renew for successive two (2) year term**[s]** unless earlier terminated pursuant to this Agreement's express provisions, or either party gives the other party written notice of non-renewal at least 120 days prior to the expiration of the then-current term (each a "**Renewal Term**" and, collectively, together with the Initial Term, the "**Term**").

10.3 Termination. In addition to any other express termination right set forth elsewhere in this Agreement:

(a) MidAmerica may terminate this Agreement, effective on written notice to Employer, if Employer: (i) fails to pay any amount when due hereunder, and such failure continues more than sixty (60) days after MidAmerica's delivery of written notice thereof, or (ii) breaches any of its obligations under this Agreement;

(b) either party may terminate this Agreement, effective on written notice to the other party, if the other party breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured sixty (60) days after the non-breaching party provides the breaching party with written notice of such breach;

(c) either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business; and

(d) Notwithstanding the foregoing, no termination by Employer will be effective unless within thirty (30) days of its notice of termination a successor administration for the Plan is in effect or the entire plan is being terminated.

10.4 Effect of Termination. Upon any termination of this Agreement, except as expressly otherwise provided in this Agreement and except as set forth in Section 10.5: (a) all rights, licenses, consents, and authorizations granted by either party to the other hereunder will immediately terminate; (b) Employer shall immediately cease all use of any Services and MidAmerica Materials; (c) notwithstanding anything to the contrary in this Agreement, with respect to information and materials

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then in its possession or control, MidAmerica may also retain Employer Data in its backups, archives, and disaster recovery systems until such Employer Data is deleted in the ordinary course; (d) MidAmerica may disable all Employer and Participant access to the Services and the MidAmerica Materials; and (e) if MidAmerica terminates this Agreement pursuant to Section 10.3(a) or (b), all Fees that would have become payable had the Agreement remained in effect until expiration of the Term will become immediately due and payable, and Employer shall pay such Fees, together with all previously-accrued but not yet paid Fees on receipt of MidAmerica's invoice therefor.

10.5 Transition Upon Termination. Upon the termination, or cancellation of this Agreement for any reason except plan termination, the parties will use commercially reasonable efforts to agree upon terms for transition of services for a period of up to 120 days after such event ("Transition Period") in order to enable Customer to transition to an alternative solution with a successor administrator for the Plan. During any Transition Period, the parties shall continue to comply with all terms and conditions of this Agreement, including Employer's payment of all Fees for Services and MidAmerica Materials. Employer will bear all costs and expenses of any such transition.

10.6 Surviving Terms. The provisions set forth in the following sections, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Sections 5, 7.2, 8, 9, 10.4, 10.5, 10.6, and 11.

11. Miscellaneous.

11.1 Further Assurances. On a party's reasonable request, the other party shall, at the requesting party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, as may be necessary to give full effect to this Agreement.

11.2 Notices. Any notice, request, consent, claim, demand, waiver, or other communications under this Agreement have legal effect only if in writing and addressed to a party as set forth on **Exhibit B** attached (or to such other address or such other person that such party may designate from time to time in accordance with this Section 11.2). Notices sent in accordance with this Section 11.2 will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by facsimile or email, (in each case, with confirmation of transmission), if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours; and (d) on the **tenth (10th)** day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

11.3 Entire Agreement. This Agreement, together with any BAA and Exhibits, constitutes the sole and entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

11.4 Assignment. Employer shall not assign or otherwise transfer any of its rights or obligations without MidAmerica's prior written consent. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganization involving Employer will be deemed to be a transfer of rights, obligations, or performance under this Agreement for which MidAmerica's prior written consent is required. Any purported assignment, delegation, or transfer in violation of this Section 11.4 is void. MidAmerica may assign this Agreement, or some or all of its rights and obligations hereunder may be assigned to (a) an affiliate of MidAmerica, or to any of its successors through merger, reorganization, or sale of assets, and/or (b) any Subcontractor of MidAmerica. MidAmerica may, by letter or other writing, agree to extend this Agreement to any other Plan of the Employer, or Plans sponsored by affiliates of the Employer. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

11.5 Force Majeure. In no event will either party be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, (except for any obligations to make payments), when and to the extent such failure or delay is caused by any circumstances beyond such party's reasonable control (a "**Force Majeure Event**"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either party may terminate this Agreement if a Force Majeure Event continues substantially uninterrupted for a period of thirty (30) days or more. In the event of any failure or delay caused by a Force Majeure Event, the affected party shall give prompt written notice to the other party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

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11.6 Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by each party. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

11.7 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

11.8 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Florida. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Florida in each case located in the city of Tampa and County of Hillsborough, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

11.9 Mandatory Arbitration. Any controversy or claim arising out of or relating to this Agreement may be properly submitted to binding arbitration in accordance with the rules of the American Arbitration Association. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction. The cost and expenses of arbitration, including the fees of the arbitrators, shall be borne by the losing party or in such proportions as the arbitrators may determine. The successful party shall recover as expenses all reasonable attorney's fees incurred in connection with the arbitration proceeding or any appeals therefrom.

11.10 Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party against the other party arising out of or related to this Agreement, the prevailing party is entitled to recover its [reasonable/actual] attorneys' fees and court costs from the non-prevailing party.

11.11 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signatures on following page]

SAMPLE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

MIDAMERICA ADMINISTRATIVE & RETIREMENT SOLUTIONS, LLC

By:_____

Name: TrentonTeesdale,CEBS

Title: SVP Business Development

[EMPLOYER NAME]

By:_____

Name:_____

Title:_____

SAMPLE

EXHIBIT A
SERVICES

MidAmerica will provide administrative services on behalf of Employer, including processing Participant claims for eligible health and dependent care expense reimbursements, as set forth below.

Set forth below is a list of standard services (collectively, the "**Services**") offered by MidAmerica to administer the a Health Reimbursement Arrangement or Flexible Spending Arrangement for active or retired employees, as applicable, of Employer that are sponsored by the Employer. MidAmerica may, in its discretion, modify and/or customize such Services for any Employer.

Health Reimbursement Arrangement Only:

- Post contributions to participant accounts in accordance with the terms of the Plan and any additional information provided by the Plan Sponsor.
- Deposit funds to the selected funding choices of the Plan based on the latest allocation instructions.
- Daily valuation of the funding choices, including earnings, for the Plan and each Plan participant's account.
- Daily post and process all transfers among the funding choices to the appropriate Plan and Plan participant account, if applicable.
- Daily post and process all distributions, forfeitures, and withdrawals from the appropriate Plan participant account.
- Prepare quarterly or annual (dependent on plan design) participant statements of account balances and distribute to each participant.
- Prepare annual year-end reports to the Plan Sponsor. The Plan Sponsor and Plan participants will have access to account and Plan level information daily through Journey Platform
- HRA claim reimbursements are disbursed daily. Claim payment can be issued via check or direct deposit to participants.
- To monitor and support the program on an ongoing basis, MidAmerica will provide the following additional services at no additional cost:
    - A quarterly review of the investment performance experienced by the Plan, if necessary
    - Periodic meetings with employees to explain the program and answer questions, if necessary
    - Additional supplies of employee brochures to explain the program to newly eligible employees
    - Implementation and compliance support provided on an as-needed basis

Flexible Spending Arrangement Only:

- Upon receiving instructions from the Employer with regard to a Participant's FSA change in status or other event that permits an allowable election change under IRS regulations and the Plan Document, MidAmerica shall make the requested change in the participant's election as soon as practicable.
- FSA benefit payments shall be made to the Participant every Friday and issued via check or direct deposit.

Both Plan Types:

- MidAmerica shall make health and dependent care expense payment and reimbursement options available to Plan participants by providing a payment card or by using the 'Submit a Claim' option on the MidAmerica Journey website (www.mymidamericajourney.com), mobile app, or submitting a manual claim form found at www.mymidamerica.com.

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- MidAmerica shall notify Plan participants with regard to any claims that are denied due to inadequate substantiation or data submission and provide an adequate period of time for the participant to resubmit the claim.

- Participant Services Call Center is available to Plan participants to communicate with a service representative who can answer questions about the Plan and participants' accounts.

- Dedicated Account Manager is available for the Plan Sponsor who can answer questions about the Plan and participants' accounts.

For purposes hereof, "**Plan**" and "**Plan Sponsor**" have the meanings set forth in Section 1 of the attached Master Service Agreement.

Services Not Included:

- The Employer's compliance with Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") and/or HIPAA.

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EXHIBIT B
NOTICE ADDRESSES

If to MidAmerica: MidAmerica Administrative & Retirement Solutions
2855 Interstate Drive, Suite 115
Lakeland, FL 33805

If to Employer: [EMPLOYER NAME]
[EMPLOYER ADDRESS]

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EXHIBIT C
BUSINESS ASSOCIATE ADDENDUM

THIS HIPAA BUSINESS ASSOCIATE ADDENDUM ("Addendum") supplements and is made a part of the MidAmerica Service Agreement ("Agreement") by and between MidAmerica Administrative & Retirement Solutions ("MidAmerica"), which is acting as the Business Associate to a health plan covered by the HIPAA Privacy & Security Rule, and [EMPLOYER] ("Covered Entity"), and is effective as of [DATE] (the "Addendum Effective Date").

RECITALS:

WHEREAS, Covered Entity wishes to disclose certain information to MidAmerica pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI") (as hereinafter defined); and

WHEREAS, the parties intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services ("HIPAA Privacy & Security Rule") and other applicable laws; and

WHEREAS, the HIPAA Privacy & Security Rule (as hereinafter defined) requires the parties to enter into a contract containing specific requirements prior to the disclosure of PHI;

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. **Definitions**.

Unless otherwise defined, terms used in this Addendum have the same meanings as those terms in the HIPAA Privacy & Security Rule.

"Business Associate" means MidAmerica.

"Covered Entity" means .

"HIPAA Privacy & Security Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information or the HIPAA Security Standards found at 45 CFR Parts 160-164.

"Protected Health Information" or **"PHI"** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

"Designated Record Set" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

"Treatment" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

"Payment" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

"Health Care Operations" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

2. Obligations of Business Associate.

2.1 Use or Disclosure of PHI. MidAmerica agrees not to use or disclose PHI, other than as permitted or required by the Agreement or as Required By Law.

2.2 Prohibited Uses and Disclosures. MidAmerica shall not use PHI other than as permitted by the HIPAA Privacy & Security Rule or this Addendum. MidAmerica shall not disclose PHI in any manner that would

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constitute a violation of the Privacy Rule if disclosed by the Covered Entity, except that MidAmerica may disclose PHI in a manner permitted pursuant to this Addendum.

2.3 Appropriate Safeguards. MidAmerica shall implement appropriate safeguards as are necessary to protect the confidentiality of PHI or to prevent its use or disclosure of PHI other than as permitted by this Addendum or the HIPAA Privacy & Security Rule.

2.4 Reporting of Improper Use or Disclosure. MidAmerica shall report to Covered Entity any use or disclosure of PHI other than as provided for by this Addendum of which it becomes aware. MidAmerica further agrees to mitigate, to the extent possible, the harmful effects of the unauthorized disclosure.

2.5 Disclosure to Agents. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), MidAmerica agrees to ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of MidAmerica agree to the same restrictions, conditions, and requirements that apply to MidAmerica with respect to such information.

2.6 Access to PHI. MidAmerica agrees to provide individuals with access to their PHI, as held in a Designated Record Set by MidAmerica, in order to meet the requirements under 45 CFR 164.524.

2.7 Amendment of PHI. MidAmerica agrees to make any amendment(s) to PHI it holds in a Designated Record Set, as directed by the Covered Entity pursuant to 45 CFR 164.526.

2.8 Accounting Rights. MidAmerica agrees to document and provide a description of any disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. MidAmerica agrees to provide such information to Covered Entity, or to an individual at the direction of the Covered Entity, in order for Covered Entity to comply with the accounting requirements in 45 CFR 164.528.

2.9 Governmental Access to Records. MidAmerica shall make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Covered Entity's compliance with the HIPAA Privacy & Security Rule within a reasonable time of a request for the same.

2.10 Covered Entity's Right to Restrict. MidAmerica agrees to comply, upon communication by Covered Entity, with any restrictions to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522.

2.11 HIPAA Security Standards. MidAmerica agrees to comply with the HIPAA Privacy & Security Rule with respect to any Electronic PHI ("EPHI") that MidAmerica holds on behalf of the Plan.

a. MidAmerica agrees to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to EPHI to prevent use or disclosure of PHI other than as provided for by the Addendum.

b. MidAmerica agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required in the HIPAA Privacy & Security Rule.

c. MidAmerica agrees to ensure that any agent, including a subcontractor, to whom it provides EPHI agrees to implement reasonable and appropriate safeguards to protect such information.

d. MidAmerica agrees to report to Covered Entity any security incident under the HIPAA Privacy & Security Rule of which it becomes aware, including the identities of any individual whose EPHI was breached.

2.12 Responsibilities If Security Breach. MidAmerica shall notify Covered Entity immediately if there is a breach by either MidAmerica or one of its agents of unsecured PHI, as defined in, and consistent with, the HITECH Act and any regulations or guidance issued thereunder, including 45 CFR Part 164, Subpart D. Such notification shall:

a. Be made in writing to the Covered Entity's Privacy Officer or other designated party.

b. Be made within sixty (60) days of discovery.

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c. Include the names of the individuals whose information was breached, the circumstances surrounding the breach, the date of the breach and date of discovery, the information breached, any steps the individuals should take to protect themselves, the steps MidAmerica (or its agent) is taking to investigate the breach, mitigate losses, and protect against future breaches, and a contact person for more information. If requested by MidAmerica, Covered Entity shall allow MidAmerica to approve the content of any notification in advance.

If requested by Covered Entity, MidAmerica shall notify the individuals involved, or the media or the US Department of Health and Human Services, as applicable, in accordance with the HITECH Act, and regulations or guidance issued thereunder, including 45 CFR Part 164, Subpart D. For purposes of this provision, MidAmerica is considered an independent contractor of Covered Entity.

3. Permitted Uses and Disclosures by Business Associate.

3.1 Disclosures Generally. Except as otherwise provided in this Addendum, MidAmerica may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, provided that such use or disclosure would not violate the HIPAA Privacy & Security Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3.2 To Carry Out Covered Entity Obligations. To the extent MidAmerica is to carry out one or more of Covered Entity's obligations under Subpart E of 45 CFR Part 164, MidAmerica agrees to comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

3.3 Management and Administration.

a. MidAmerica may use PHI for the proper management and administration of MidAmerica or to carry out the legal responsibilities of MidAmerica.

b. MidAmerica may disclose PHI for the proper management and administration of MidAmerica, provided that disclosures are: (a) required by law or (b) MidAmerica obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person, and the person notifies MidAmerica of any instances of which it is aware in which the confidentiality of the information has been breached.

3.4 Data Aggregation and De-Identification. Except as otherwise limited in this Addendum, MidAmerica may use PHI to provide Data Aggregation services to Covered Entity or to de-identify PHI. Once information is de-identified this Addendum shall no longer apply.

3.5 Required By Law. MidAmerica may use or disclose PHI as required by law.

4. Termination.

4.1 Material Breach. A breach by MidAmerica of any material provision of this Addendum shall constitute a material breach of the Agreement and shall provide grounds for termination of the Agreement by Covered Entity. In the event of such breach, Covered Entity shall provide MidAmerica with written notice of the breach and thirty (30) days in which to cure the breach. If the breach is not cured within thirty (30) days, Covered Entity shall terminate the Agreement.

4.2 Effect of Termination. Upon termination of the Agreement for any reason, MidAmerica shall return or destroy all PHI that MidAmerica or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI. If return or destruction is not feasible, MidAmerica shall continue to extend the protections of Section 2 of this Addendum to such information, and limit further use or disclosure of such PHI to those purposes that make the return or destruction of such PHI infeasible.

5. Amendment.

5.1 Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA Privacy & Security Rule and other applicable laws relating to the security or confidentiality of PHI. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum

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embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Privacy & Security Rule or other applicable laws.

5.2 Amendment of Addendum. This Addendum may be modified or amended by mutual agreement of the parties at any time without amendment of the Agreement.

6. Conflicts. The terms and conditions of this Addendum will override and control any conflicting term or condition of the Agreement. All non-conflicting terms and conditions of the Agreement will remain in full force and effect.

7. Relationship of Parties. The parties intend that MidAmerica is an independent contractor and not an agent of Covered Entity.

Covered Entity Health Plan

Name of Employer: _____

Signature:_____

Print Name: _____

Title: _____

Date: _____

MidAmerica Administrative & Retirement Solutions

Signature:_____

Print Name: Trenton Teesdale, CEBS

Title: SVP Business Development

Date: _____

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SCHEDULE 1
FEE SCHEDULE

MidAmerica will charge Administrative fees and Manual Claim fees for its services in accordance with the Adoption Agreement, as defined therein, and will bill these fees as described in Section 4 of this Agreement.

Ancillary Fees			
Item	Description	Cost	Unit Measure
Returned Card Fee	Cost for undeliverable cards returned. Returned card fee shall be paid by: ☐ Employer or ☐ Participant	$5.00	Per card, per occurrence
Dependent, Replacement, or Additional Card Fee	Cost per dependent, replacement (i.e. lost/stolen) or additional card issued. Fee shall be paid by: ☐ Employer or ☐ Participant	$5.00	Per card
Lost or Stolen Card Investigation	Cost for investigative reports and research on lost or stolen cards. Lost or stolen card investigation fees shall be paid by: ☐ Employer or ☐ Participant	$25.00	Per report, per occurrence
Chargeback Disputes	Cost for research on disputed transactions. Fees associated with chargeback disputes shall be paid by: ☐ Employer or ☐ Participant	$25.00	Per disputed transaction submitted
Card Embossing Cancellation	Cost for cancellation of card orders that have already been submitted to the card issuer and are in the production process. Card embossing cancellation fees shall be paid by Employer or Participant, depending on which party initiated the initial request.	$5.00	Per card, per occurrence
Card Redirect	Cost for a redirect request to send a card and mail to a different address other than the address supplied. Redirected cards are shipped via US Mail, unless otherwise specified. Express delivery fees apply if express delivery is requested. Costs associated with a card redirect request shall be paid by Participant.	$5.00	Per card, per occurrence
Failed ACH Transfer *(FSA and Unfunded HRA only)*	Cost for failed ACH transfers. This fee is in addition to banking related fees associated with the failed transaction.	$50.00 Plus bank fees	Per failed ACH transaction
Failure to Maintain Minimum Funding *(FSA and Unfunded HRA only)*	Cost for failure to maintain minimum funding requirements.	$20.00	Per each day the balance falls below minimum
Negative Minimum Balance *(FSA and Unfunded HRA only)*	Cost for any day in which the Employer has a negative balance, plus interest, applied daily at an annual rate of 25%.	$200.00 plus interest	Per day, per occurrence

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