

PNC BeneFit Plus
Administrative
Services
Agreement
PNC Bank, NA



August 1, 2024

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GENERAL TERMS AND CONDITIONS

This Administrative Services Agreement (“Agreement”), entered into by and between **PNC Bank, National Association (“PNC,” “we,” “our,” or “us”)** and the Employer as of the Effective Date. As used in this Agreement, the term **“you,” “your” and “yours”** refer collectively to the Employer. This Agreement contains the terms and conditions under which we will provide certain Services to you. These General Terms and Conditions apply to all of the Services described in this Agreement. The Terms and Conditions for each Service is described in the applicable HSA or Benefit Plan Services schedule(s) (**“Services Schedule(s)”**). We may provide additional implementation documents which, if applicable to a Service, we will supply to you before that Service is provided. The Agreement consists of these General Terms and Conditions along with any other documents, including but not limited to the applicable Services Schedules, that have been agreed to by the parties and that are specifically incorporated into this document by reference. This Agreement is not an agreement between the parties to resell any products or services provided pursuant to this Agreement.

This Agreement may be provided to you entirely or in part in paper form (including facsimile transmission) or electronically. Any part of this Agreement in electronic form shall be considered to be a “writing” or “in writing” and shall constitute an “original” when printed from electronic files or records established or maintained in the normal course of business.

In using and performing the Services, you and we agree respectively to comply with all applicable local, state and federal laws, rules and regulations as amended from time to time (**“laws”**), including without limitation the Bank Secrecy Act, the USA PATRIOT Act, the federal anti-money laundering statutes and any laws, regulations and Executive Orders that are enforced or administered by the Office of Foreign Assets Control (**“OFAC”**). You represent and warrant that you have all licenses or required authorization that may be required enter into this Agreement. We may delay, or refuse to process or carry out, any transaction initiated by you or involving one of your accounts with us if we believe in good faith that such action may be necessary in order to comply with laws. If there is a conflict between this Agreement and any law, then this Agreement shall vary such law to the fullest extent that the law allows.

I. Definitions

“Account(s)”, will mean Health Savings Accounts (“HSA”), and/or accounts established pursuant to an Employer Benefit Plan, including, but not limited to Health Reimbursement Arrangements (“HRA”), Lifestyle Spending Account (“LSA”), or Flexible Spending Accounts (“FSA”).

“Change in Fees Notice” will mean the notice provided by PNC to the Employer ninety (90) days prior to any proposed change in fees during the Term of the Agreement.

“Code” will mean the Internal Revenue Code of 1986, as amended from time to time.

“Employer” will mean the employer/company as defined in the Program Design Guide.

“Employer Benefit Plan” will have the meaning set forth in the Benefit Plan Services Schedule.

“Effective Date” will mean date upon which the last party signs resulting in a fully executed Agreement.

“Initial Term” will have the meaning set forth in Section XII herein.

“Program Design Guide” will mean the PNC BeneFit Plus Design Guide which is completed by the Employer and provides PNC Bank with the necessary information required for providing the Services.

“Renewal Term” will have the meaning set forth in Section XII herein.

“Services” will mean those actions and obligations undertaken by PNC as set forth in the Services Schedule(s) which are attached hereto and incorporated herein.

“Term” will mean, collectively, the Initial Term and any applicable Renewal Term.

II. Services

We will provide and you will use the Services in accordance with this Agreement and the Services Schedule(s) as follows:

- (i) Schedule A: Health Savings Account Administrative Service Schedule
- (ii) Schedule B: Benefit Plan Services Schedule which includes any Benefit Plan as described therein

In addition, each party will exercise ordinary care in the performance of its obligations hereunder. Substantial compliance by us with our standard procedures for providing a Service shall be deemed to constitute the exercise of ordinary care.

III. Relationship of the Parties

We are an independent contractor. Nothing in this Agreement or in the activities contemplated by the parties hereunder shall be deemed to create an agency, partnership, employment or joint venture relationship between the parties, affiliates, or any of their subcontractors or representatives. You acknowledge that we are not an accounting or law firm. No Services, and no written or oral communications made by us during the course of providing Services, are or should be construed by you as tax or legal advice.

IV. Fees

Our provision of the Services is conditioned on your payment of the agreed upon fees.

Standard Fees. PNC will charge Employer its Standard Fees for the Services (available upon request) unless otherwise mutually agreed to in writing. PNC will provide prior written notice of fee changes.

- (i) We may change fees during any Term after the Initial Term. In the event of such a change, we will provide you with a Change in Fees Notice. If you do not agree with the new fees, you may terminate the Agreement (or the applicable Services Schedule) as set forth in Section XII(B), any time prior to the effective date for the new fees as set forth in the Change in Fees Notice.

(ii) We may change fees during any Term to the extent that changes are made in applicable law that materially affect our obligations herein. In the event of such a change, we will provide you with a Change in Fees Notice. If you do not agree with the new fees, you may terminate the Agreement (or the applicable Services Schedule) as set forth in Section XII(B), any time prior to the effective date for the new fees as set forth in the Change in Fees Notice.

V. Confidentiality

All information, including but not limited to technology, know-how, processes, software, databases, employee information, trade secrets, contracts, proprietary information, historical and projected financial information, business strategies, operating data and organizational and cost structures, product descriptions, pricing information, and customer information (including without limitation names, addresses, telephone numbers, account numbers, demographic, financial and transactional information or customer lists), whether received before or after the date hereof, provided by a party or its Representatives, as defined below, (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”) in connection with this Agreement is confidential and is owned exclusively by the Disclosing Party or by the third parties from whom the Disclosing Party has secured the right to use such information (collectively, “**Confidential Information**”). The Receiving Party shall treat the Confidential Information as confidential and not copy (except for back-up purposes), disclose or otherwise make the Confidential Information available in any form to any person or entity except to its employees, affiliates, agents, consultants or representatives (“**Representatives**”) on a need-to-know basis, and to its applicable regulatory authorities and auditors. The Receiving Party agrees to inform its Representatives of the confidential and valuable nature of the Confidential Information and of its obligations under this Agreement. The Receiving Party agrees to use reasonable controls (but in all events at least the same degree of care and controls that such party uses to protect its own confidential and proprietary information of similar importance) to prevent the unauthorized use, disclosure or availability of Confidential Information. In addition to the foregoing, you and we shall have appropriate policies and procedures to (a) protect the security and confidentiality of the Confidential Information, (b) protect against any anticipated threats or hazards to the security or integrity of such Confidential Information, (c) protect against unauthorized access to or use of such Confidential Information that could result in harm or inconvenience to the other or to the other’s customers and (d) ensure the proper disposal of such Confidential Information as may be required by applicable law. You and we will notify each other of any known unauthorized access to, disclosure of or use of the Confidential Information. Confidential Information does not include “Protected Health Information” as that term is defined in the Business Associate Addendum (if any) incorporated into this Agreement. Protected Health Information will be subject to the terms of the Business Associate Addendum instead.

Upon termination of this Agreement, the Receiving Party shall return or destroy all Confidential Information to the Disclosing Party; provided, however, that each party may retain such limited media and materials containing Confidential Information of the other party for customary archival and audit purposes (including with respect to regulatory compliance) only for reference with respect to the prior dealings between the parties and subject to the terms of this Agreement.

It is understood and agreed that no Confidential Information shall be within the protection of this Agreement where such Confidential Information: (a) is or becomes publicly available through no fault of the Receiving Party or its Representatives; (b) is released by the Disclosing Party to anyone without restriction; (c) is rightly obtained from third parties, who, to the best of the Receiving Party's knowledge,

are not under an obligation of confidentiality; (d) was known to the Receiving Party prior to its disclosure without any obligation to keep it confidential; or (e) is independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information.

You and we agree that any breach of these confidentiality provisions, as set forth in this Section V, may result in immediate and irreparable injury to the other party, and so you and we agree that each other shall be entitled, upon demonstration of the likelihood of breach of these confidentiality provisions by the other party, to equitable relief, including injunctive relief and specific performance, without necessity of posting bond, in addition to all other remedies available at law.

In addition to, and not by way of limitation on, such disclosures of Confidential Information as may be otherwise permitted under this Section V, the Receiving Party may disclose Confidential Information if legally compelled to do so pursuant to a requirement or request of a governmental agency or pursuant to a court or administrative deposition, interrogatory, request for documents, subpoena, civil investigative demand or other similar legal process or requirement of law, or in defense of any claims or cause of action asserted against it; provided, however, that it shall (a) first notify the Disclosing Party of such request or requirement, or use in defense of a claim, (b) attempt to obtain the Disclosing Party's consent to such disclosure, and (c) in the event consent is not given, agree to permit a motion to quash, or other similar procedural step, to seek protection against the production or publication of Confidential Information; provided that the Receiving Party shall not be required to act in accordance with (a), (b) or (c) above if to do so would be prohibited by statute, rule or court order. In making any disclosure under such legal process or requirement of law, you and we agree to use reasonable efforts to preserve the confidential nature of such Confidential Information and to cooperate with the other in an effort to reasonably limit the nature and scope of any required disclosure of Confidential Information. Nothing herein shall require either you or us to fail to honor a subpoena, court or administrative order, or a similar requirement or request, on a timely basis.

VI. Our Recording of Calls, Monitoring of Use, Consent for Service Calls

On behalf of you and your employees, you agree that we may record and/or monitor any telephone conversations we have with you or them in connection with the Services. However, we will not be liable to you if we do not record or maintain a record of a conversation. We may monitor and record the activity of any person using a Service. Anyone using a Service consents to such monitoring and recording.

By providing telephone number(s) to us, now or at any later time, you authorize us and our affiliates and designees to contact you at any such numbers regarding your accounts and Services with us and our affiliates, using any means, including but not limited to placing calls using an automated dialing system to cell, VoIP or other wireless phone number, or by sending prerecorded messages or text messages, even if charges may be incurred for the calls or text messages.

VII. Intellectual Property

Each party owns all right, title and interest (including all intellectual property rights) in and to its trademarks, service marks, logos, and tag-lines (collectively, "Marks") and this Agreement does not confer on a party any right, interest, claim or title in or to the other party's Marks or any intellectual property therein and no license (whether express or implied) is granted to a party, by estoppel or otherwise, to the other party's Marks or any intellectual property therein.

VIII. Limitation of Liability

Limits of Liability: PNC shall not be responsible to perform (or responsible or liable for the failure to perform) any services or other obligations other than those expressly agreed to in this Agreement. PNC shall not be responsible or liable for any acts or omissions made pursuant to any direction, consent, or other request reasonably believed by the PNC to be genuine and to be from an employee or other authorized representative of the Employer (or a person reasonably believed by PNC to be such authorized representative). PNC is not responsible or liable for acts or omissions made in reliance upon erroneous data provided by the Employer, including its officers, employees, agents or subcontractors, or the failure of Employer to perform its duties or obligations under this Agreement.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NEITHER PNC NOR ITS AFFILIATES SHALL, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR INDIRECT DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING DAMAGES RELATING TO LOSS OF PROFITS, INCOME, GOODWILL OR DATA), WHETHER OR NOT PNC OR ITS AFFILIATES KNEW OR WERE APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES. IN NO EVENT SHALL WE NOR OUR AFFILIATES BE LIABLE TO YOU FOR ANY CLAIM OR CAUSE OF ACTION, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER LEGAL THEORY (I) IN THE CASE OF A TRANSFER OF MONEY OR OTHER PAYMENT THAT IS MISDIRECTED, LOST OR OTHERWISE PAID TO THE WRONG PERSON AS A RESULT OF OUR FAILURE TO COMPLY WITH THE TERMS OF THIS AGREEMENT OR APPLICABLE LAW, FOR AN AMOUNT IN EXCESS OF THE FACE AMOUNT OF SAID TRANSFER AND (II) IN ALL OTHER CASES, FOR AN AMOUNT IN EXCESS OF TWELVE (12) TIMES THE FEES YOU HAVE PAID US FOR THE PARTICULAR SERVICE TO WHICH THE CLAIM OR CAUSE OF ACTION RELATES DURING THE MONTH IMMEDIATELY PRIOR TO THE MONTH IN WHICH THE ACT OR OMISSION GIVING RISE TO THE CLAIM OCCURRED.

NO THIRD PARTY SHALL HAVE ANY RIGHTS OR CLAIMS AGAINST US UNDER THIS AGREEMENT.

IX. Indemnification

A. Our Indemnification of You. PNC shall indemnify, defend and hold harmless Employer, its officers, directors, employees, and agents (the "Employer Indemnified Parties") from and against all claims, damages, losses, liabilities and expenses (including all fees of counsel with whom any Employer Indemnified Party may consult and all expenses of litigation or preparation therefor) which any Employer Indemnified Party may incur, or which may be asserted against any Employer Indemnified Party by any person, entity or governmental authority ("Employer Losses") arising directly from the following:

(i) Violation by PNC, its officers, directors, and employees, of any applicable law, rule, regulation or administrative order or any statement, letter or guidelines issued by applicable bank regulatory authority in connection with its performance under this Agreement; or

(ii) Gross negligence or willful misconduct of PNC or its officers, directors, employees, agents or subcontractors, in connection with its duties or obligations under the terms of this Agreement, except to

the extent such Employer Losses result from the negligence, gross negligence or willful misconduct of Employer.

B. Your Indemnification of Us. You will indemnify, defend and hold harmless PNC, its officers, directors, employees, and agents (“PNC Indemnified Parties”) from and against all claims, damages, losses, liabilities and expenses (including all fees of counsel with whom any PNC Indemnified Party may consult and all expenses of litigation or preparation therefor) which any PNC Indemnified Party may incur, or which may be asserted against any PNC Indemnified Party by any person, entity or governmental authority (“PNC Losses”) arising out of this Agreement:

C. Indemnified Party (the party seeking indemnification) shall give the indemnifying party (the party providing indemnification) reasonably prompt notice of, and the Parties shall cooperate in, the defense of any such claim, suit or proceeding, including appeals, negotiations and any settlement or compromise thereof, provided that the Indemnified Party must approve the terms of any settlement or compromise that may impose any unindemnified or nonmonetary liability on Indemnified Party.

X. Your Agents and Representatives

Any third party including, without limitation, any third-party processor, used by you to take any action in connection with a Service shall be deemed for all purposes under this Agreement to be your agent. All terms of this Agreement will apply to the acts and omissions of each such third party and you will be legally bound thereby.

XI. Taxes and Other Payments

You are responsible for paying all applicable taxes, fees, or other amounts, however designated, levied or assessed by a third party that arise in connection with the Services other than federal or state income taxes imposed on us with respect to our gross income.

XII. Term and Termination

A. Term. This Agreement will begin on the Effective Date and shall continue for a period of one (1) year, (the “Initial Term”). The Term hereof shall be automatically extended for additional one (1) year terms, (each a “Renewal Term”).

B. Termination without Cause. Except as otherwise specifically set forth herein, either party may terminate this Agreement or any Services Schedule after the Initial Term, or prior to the end of the then current Renewal Term, by providing the other party with at least ninety (90) days advance written notice.

C. Termination with Cause. Either party may terminate this Agreement if the other party materially breaches the term of this Agreement and fails to cure such breach as soon as reasonably possible but no later than thirty (30) days after receiving notice of the breach by the non-breaching party. We may also terminate this entire Agreement or a particular Service immediately upon notice to you: (i) following your insolvency, receivership, or voluntary or involuntary bankruptcy, or the institution of any proceeding therefor, or any assignment for the benefit of your creditors; (ii) in our sole judgment, your financial condition or business is impaired or we reasonably believe that you may not have sufficient available funds in your accounts with us at the time you are required to settle transactions hereunder; (iii) in our sole judgment, it is necessary or desirable to do so because of legal process, applicable law or regulation,

or other government guidelines; or (iv) we suspect fraud or unlawful activity in connection with any Service.

Notwithstanding any such termination, this Agreement shall continue in full force and effect as to all transactions for which we have commenced processing and as to all rights and liabilities arising prior to such termination. This Section, and the following Sections shall survive termination of this Agreement: Confidentiality; Limitation of Liability; Indemnification; Your Agents and Representatives; Taxes and Other Payments; Force Majeure; Governing Law and Venue; Notices; Severability; Entire Agreement and Waiver of Jury Trial.

If it is necessary to customize any Services to meet your needs, we will first tell you our estimated direct and indirect cost of the development and implementation of such Services. If you authorize us to proceed, and if this Agreement then terminates for any reason before we shall have recovered such costs, you will pay to us the amount of such unrecovered costs. We will give you an invoice detailing our unrecovered costs promptly after termination of this Agreement.

XIII. Force Majeure

Neither party shall have any responsibility nor incur any liability for any failure to carry out, or any delay in carrying out, any of such party's obligations under this Agreement resulting from acts, omissions, or inaccuracies of third parties not under such party's reasonable control, acts of God (including, but not limited to, fire, floods or adverse weather conditions), labor difficulty, legal constraint, war, terrorism, the unavailability or interruption of transmission or communication facilities or utilities, equipment or other technological failure, emergency conditions, or any other cause beyond such party's reasonable control. Notwithstanding the foregoing, no event or occurrence described in this Section XIII shall relieve you of your obligation to make any payment to us at the time it is due hereunder.

XIV. Governing Law and Venue

This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania, without regard to principles of conflict of laws, including without limitation the Pennsylvania Electronic Transactions Act and, to the extent applicable, the laws of the United States, including without limitation the Electronic Signatures in Global and National Commerce Act..

You hereby irrevocably consent and agree that any action, suit or proceeding resulting from, arising out of or related to this Agreement shall be instituted in any state or federal court in the Commonwealth of Pennsylvania (including the courts of the United States of America for the Western District of Pennsylvania) and hereby waive any objection which you may now or hereafter have to the laying of the venue of any such action, suit or proceeding in any such jurisdiction, on the basis of a more convenient forum or otherwise.

XV. Notices

All notices, demands, requests, consents, approvals and other communications required or permitted under this Agreement must be in writing and will be effective upon receipt. Notices may be given in any manner to which you and we may separately agree, including electronic mail. Without limiting the foregoing, first-class mail, facsimile transmission and commercial courier service are hereby agreed to as acceptable methods for giving Notices.

All such Notices shall be delivered to us at:

PNC Bank, National Association
Attention: CDH PRODUCT MANAGEMENT
300 Fifth Avenue
Mail Stop: PT-PTWR-09-1
Pittsburgh, PA 15222
Fax: 412-762-6968
With a copy to:

PNC Bank, National Association
Attention: Legal Department
Treasury Management Counsel
1600 Market Street, 28th Floor
Philadelphia, PA 19103

or to you at the address set forth in the Program Design Guide and Notice to such address shall be effective Notice to you, including to all affiliated companies. Either party may change their address by Notice to the other given in accordance with this Section XV.

XVI. Assignment; Successors

Neither party may assign this Agreement or any of its rights or obligations hereunder, by operation of law or otherwise, without prior written consent of the other party, except that we may assign this Agreement or any part of it to any of our PNC affiliates or to any entity that is our successor upon notice to you. We may contract with others to provide all or any part of the Services. This Agreement shall be binding upon, and inure to the benefit of, you and us and your and our respective permitted successors and assigns.

XVII. No Waiver

Except for changes made in accordance with this Agreement, no deviation, whether intentional or unintentional, shall constitute an amendment of this Agreement, and no such deviation shall constitute a waiver of any rights or obligations of either you or us. Any waiver by either you or us of any provision of this Agreement shall be in writing and shall not constitute a waiver of your or our rights under that provision in the future or of any other rights.

XVIII. Headings

The headings in this Agreement are for convenience only and shall not be used for construction or interpretation of any provisions hereof.

XIX. Severability

In the event that any one or more of the provisions of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall not be affected or impaired thereby.

XX. Entire Agreement

This Agreement (including those documents that are incorporated herein), constitutes your and our entire agreement with respect to the Services covered by this Agreement and supersedes any previous or contemporaneous proposals, representations, warranties, understandings and agreements for such Services, either oral or in writing.

XXI. Amendment

Except as otherwise set forth herein, no amendments of any provision of this Agreement shall be valid unless made by an instrument in writing signed by both Parties specifically referencing this Agreement. PNC may unilaterally amend the Agreement to the extent that changes are made in applicable law that materially affect the rights and obligations of PNC set forth herein. In the event of such a change, PNC will provide written notice of the proposed changes to Employer. If Employer does not affirmatively reject the proposed changes in writing within thirty (30) days of receiving written notice of the proposed changes from PNC, such proposed changes will become effective the first day of the month following the end of the thirty (30) day response period or earlier as required by law. If Employer does not agree with such proposed changes, Employer may terminate the Agreement with no less than sixty (60) days prior written notice from the date that PNC notified Employer of the changes.

XXII. Electronic Signatures and Records

Notwithstanding any other provision of the Agreement, the Agreement, any amendment to the Agreement, and any other information, notice, disclosure, agreement or authorization related to the Agreement (each a "Communication") may, at PNC's option, be in the form of an electronic record. Any Communication, may, at PNC's option, be signed or executed using electronic signatures. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by PNC of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format) for transmission, delivery and/or retention.

XXIII. WAIVER OF JURY TRIAL

WE AND YOU EACH IRREVOCABLY WAIVE ALL OF OUR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE ARISING OUT OF, BY VIRTUE OF, OR IN ANY WAY CONNECTED TO THIS AGREEMENT, ANY DOCUMENT EXECUTED IN CONNECTION HERewith, ANY AMENDMENT OR SUPPLEMENT HERETO OR THERETO, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. WE AND YOU ACKNOWLEDGE THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, intending to be legally bound, each party hereto has caused its duly authorized representative to execute this PNC BeneFit Plus Administrative Services Agreement on its behalf, as of the Effective Date.

PNC BANK, NATIONAL ASSOCIATION

By: 

Name: Michael Houlihan

Title: Senior Vice President

SCHEDULE A: HEALTH SAVINGS ACCOUNT ADMINISTRATIVE SERVICES SCHEDULE (HSA SERVICE SCHEDULE)

This Health Savings Account Administrative Services Schedule (the “HSA Services Schedule”) is incorporated into and made a part of the PNC BeneFit Plus Administrative Services Agreement (“Agreement”) between the Employer, as defined in the Agreement, and PNC Bank (“PNC or Custodian”). Capitalized terms used in this HSA Services Schedule and not otherwise defined herein, shall have the meaning given them in the Agreement. If there is conflict between the Agreement and this HSA Services Schedule with respect to the matters specifically addressed herein, this HSA Schedule shall control.

This HSA Services Schedule provides the duties and obligations between PNC and the Employer. The Employer wishes PNC provide certain HSA Services and agrees to pay all Standard Fees related thereto. Standard Fees are available upon request.

Definitions

“Custodial Agreement” means the disclosure statement prepared by PNC and the custodial agreement between PNC and the HSA Owner, as amended from time to time.

“HDHP” means a qualifying high deductible health plan established by the Employer in accordance with Section 223 of the Code.

“HSA Owner” means the employee of the Employer who establishes an HSA with PNC as a result of the Services provided in accordance with the Agreement.

“HSA” or “Health Savings Account” means an account, as defined in Section 223(d) of the Code that is established with PNC in accordance with this Agreement.

Obligations of the Parties

1. The Employer has or intends to offer its eligible employees an HDHP and will maintain such plan throughout the term of this Agreement.
2. Pursuant to Section 408(n) of the Code, PNC is authorized to act as a custodian of HSAs and operates in this capacity for the PNC BeneFit Plus HSA. Hereinafter throughout this HSA Services Schedule PNC shall be referred to as the Custodian.
3. The Custodian shall provide the PNC BeneFit Plus HSA for certain of the Employer’s employees that choose to establish HSAs with the Custodian through the PNC BeneFit Plus HSA program.
4. Employer has agreed to forward payroll contributions to HSAs held by the Custodian on behalf of its employees, and may at its discretion make additional Employer contributions to its employee’s HSAs. Notwithstanding the foregoing, these actions on the part of the Employer shall not be considered an endorsement of the Custodian or the HSAs.

5. Subject to conditions set forth herein, the Custodian will make available and grant the Employer access to the PNC BeneFit Plus Employer Portal (hereafter, the “Website”) which will allow the Employer to verify whether an HSA has been opened for its eligible employees (hereafter, “HSA Owners”), transmit payroll contribution information and authorize the debiting of an Employer account via ACH (Automated Clearing House), or via an Employer initiated wire transfer, to forward contributions to the HSA Owners. Access to and use of the Website shall be governed by those certain terms and conditions contained on the Website.
6. The Employer is responsible for providing to the Custodian a list of authorized Website users, which may include the Employer’s payroll processor, and ensuring that such authorized users comply with this HSA Services Schedule. The Custodian will supply the Employer and/or its authorized Website users with a logon ID and Password. The Custodian may assume, without further inquiry, that any communications received through use of the Website were sent or authorized by the Employer. The Employer and its authorized Website users (to the extent applicable) will: (i) provide and maintain a web browser supporting the requirements provided to the Employer by the Custodian ; and (ii) maintain the confidentiality and security of logon ID(s), password(s), security question(s) and answer(s), and any other security or access information, and notify the Custodian immediately in the event that a logon ID or password is lost, stolen or the Employer has reason to believe that the logon ID and password are being used by an unauthorized person, or if the Employer becomes aware of any loss, theft or unauthorized use of any information available on the Website.
7. Except as expressly set forth herein, after receiving contributions from the Employer, such contributions will be allocated to the HSAs of HSA Owners pursuant to information provided by the Employer. The Employer understands that the Custodian will not be responsible or liable for the funding of the HSAs and that the Employer’s failure to fund the contributions may result in additional fees, rejection/return of the contributions submitted and termination of the Agreement. The Employer understands that any contributions from the Employer that are allocated by Custodian to HSAs are non-forfeitable and will not be returned to the employer under any circumstance.
8. The Employer will provide the Custodian with all data on employees and contributions, including payroll deduction and Employer contributions (if applicable), which data shall reconcile to the amount of funds transferred, that may be required to allocate contributions to individual HSAs. The Employer is responsible for reviewing and approving the documentation of such information, including transmissions of contribution information. The Employer shall cooperate with the Custodian to reconcile accounts in the event of any discrepancies between the contribution file and the actual funds transmitted and received by the Custodian. The Employer represents and warrants that it will provide the appropriate disclosures to, and obtain the appropriate authorizations or consents from, its employees that may be required under applicable law prior to sending the personal or financial information of any such employees to the Custodian. The Employer understands and agrees that (i) the Custodian is under no duty or obligation hereunder

to obtain any authorizations or consents from the Employer's employees (whether or not they establish an HSA with the Custodian) or to verify or confirm that the Employer has made such disclosures and obtained the appropriate authorizations or consents and (ii) the Custodian shall not be liable for (and will be indemnified by the Employer against) any failure by or on behalf of the Employer to obtain such authorizations or consents from its employees. The Custodian will not provide any information regarding HSA Owners to the Employer that is not permitted under the Custodian's privacy policy, the Program Documents and/or applicable law.

9. The Employer acknowledges that the Internet is an "open," publicly accessible network and not under the control of any party. The Custodian's provision of services is dependent upon the proper functioning of the Internet and services provided by telecommunications carriers, firewall providers, encryption system developers and others. The Employer agrees that the Custodian shall not be liable in any respect for the actions or omissions of any third party wrongdoers (i.e., hackers not employed by such party or its affiliates) or of any third parties involved in the services and shall not be liable in any respect for the selection of any such third party, unless that selection was grossly negligent.
10. The Custodian will provide custodial and administrative services to HSA Owners in accordance with the Custodial Agreement and related HSA account documents (collectively, the "Program Documents"). The Employer acknowledges that the Custodial Agreement is solely between the Custodian and the HSA Owner and Employer is not a party or beneficiary to that agreement. The Custodian shall retain sole authority and discretion to open and close an HSA or resign as custodian in accordance with the Program Documents. Neither the Employer nor the Custodian will restrict the ability of HSA Owners to move funds to another HSA beyond those restrictions imposed by the Code. The Custodian will invest and make available to HSA Owners contributions as soon as administratively feasible after receipt of the necessary contributions and allocation data and funding, consistent with the terms of the Program Documents and the HSA Owner's applicable investment allocations.
11. The Custodian shall be under no obligation to: (1) confirm or verify that HSA Owners are eligible to establish HSAs in accordance with the requirements of Section 223 of the Code; (2) ensure that contributions to an HSA do not exceed the maximum annual contribution limit applicable to a particular HSA Owner; or (3) ensure that distributions from an HSA Owner's HSA are for qualified medical expenses as defined in Section 223 of the Code.
12. The Custodian may make a menu of mutual funds available for investment by HSA Owners. All investments in mutual funds are "self-directed" in that each HSA Owner has sole discretion whether to invest in one or more of the mutual funds made available through the HSA. Neither the Custodian nor any of its affiliates is a fiduciary with respect to HSA Owners nor will they provide any investment advice to HSA Owners or be responsible or liable for the investment decisions of HSA Owners. The Custodian is not giving, and shall not be deemed to have given, the Employer or an HSA Owner any legal, tax or financial advice concerning any of the matters relating to this Agreement.
13. The Custodian has no responsibility or authority for the design, funding or operation of any Employer-sponsored health and welfare benefit plan, including but not limited to the HDHP, or

for compliance of any such plan with the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). The Employer agrees to take all reasonable steps to avoid application of ERISA to the HSAs established hereunder, including compliance with the conditions in the ERISA safe harbor exception for group or group-type insurance programs. In the event that any HSAs are or become subject to ERISA, the Employer shall ensure full compliance with ERISA with respect to such HSAs and under no circumstances shall the Custodian be responsible for any ERISA requirements.

14. The Employer acknowledges that it will not provide any individually identifiable health information to the Custodian via the Website or otherwise as the Custodian is not a “covered entity”, “business associate” or “plan sponsor” as those terms are defined under Health Insurance Portability and Accountability Act of 1996, and the regulations promulgated thereunder, as amended (“HIPAA”).
15. The Employer shall ensure that the HDHP it offers or makes available to employees satisfies the applicable requirements of Section 223 of the Code. The Custodian is under no obligation to confirm or verify that any HDHP satisfies the requirements of Section 223 of the Code, nor shall the Custodian be responsible for eligibility and benefit claims determinations with respect to any HDHP, whether sponsored by the Employer or otherwise.
16. The Employer shall comply with all state and federal laws in identifying and documenting the identity of any employee who establishes an HSA. The Employer represents that all employees for whom data is provided by the Employer have been positively identified by the Employer and that they have certified their authorization to work in the United States and have furnished their taxpayer identification numbers to the Employer.
17. The Employer shall not distribute any marketing, promotional materials or other literature regarding the HSAs except for information contained in a publication, release or guidance issued by the U.S. Department of the Treasury or as otherwise approved in advance in writing by the Custodian or its authorized agents. Moreover, the Employer may not include in its marketing materials or otherwise communicate to its employees that the Custodian provides services other than those set forth in the Program Documents or any information regarding the mutual funds or other investments made available to HSA Owners other than that information contained in the mutual fund’s prospectus, Statement of Additional Information, fund advertising or fund sales literature that complies with applicable laws and regulations and has been approved for use on behalf of the mutual fund by appropriate fund personnel.
18. The Custodian’s sole responsibility with respect to any HSA tax reporting requirements shall be in connection with its role as an HSA custodian. The Employer shall be responsible for wage reporting and any other tax reporting requirements applicable to it under federal, state or local law. The Custodian shall have no responsibility with respect to whether the Employer has made comparable contributions to HSAs for comparable participating employees under Section 4980G of the Code and applicable regulations.
19. Each party represents and warrants to the other party that the execution, delivery and performance

of this Agreement is: (i) within the power and authority of such party; (ii) does not violate or create a default under any of the party's organizational documents or any contract or agreement binding on or affecting such party or its property; and (iii) has been duly authorized by all necessary action.

SCHEDULE B: BENEFIT PLAN SERVICES SCHEDULE

This Benefit Plan Service Schedule, ("Services Schedule"), is incorporated into and made a part of the PNC BeneFit Plus Administrative Services Agreement between us and you (the "Agreement"). The responsibilities of the parties set forth in this Services Schedule are in addition to any responsibilities set forth in the Agreement. If there is a conflict between this Services Schedule and the Agreement with respect to the subject matter of this Services Schedule, the Services Schedule will control. In all other conflicts, the Agreement controls. Capitalized terms not otherwise defined herein are defined as set forth in the Agreement.

The Employer has established one or more of the following employee benefit plans ("Benefit Plans") for purposes of providing reimbursement of certain eligible expenses incurred by Covered Individuals:

1. A Code Section 105 Health Flexible Spending Arrangement ("Health FSAs")
2. A Code Section 129 Dependent Care Flexible Spending Arrangement ("Dependent Care FSAs")
3. A Code Section 105 Health Reimbursement Arrangements ("HRA") as described in IRS Notice 2002-45
4. A Code Section 132 Transportation Expense Reimbursement Arrangement ("Transit")
5. A Lifestyle Spending Account ("LSA"), which is an arrangement established by the Employer to reimburse certain expenses incurred by Covered Employees for which reimbursement is not otherwise expressly excluded from income by the Internal Revenue Code.

Employer has asked PNC to assist it with its administrative obligations under one or more of the Benefit Plans identified above. The specific Benefit Plan related administrative assistance that may be provided by PNC under this Services Schedule ("Services") is described below. Only those Services chosen by the Employer and for which the applicable fee is paid, will be provided by PNC.

Article I. Definitions

"Benefits" means direct or indirect reimbursements made to a Covered Individual in accordance with the terms of the Benefit Plans and this Schedule.

"Covered Employees" shall mean any employee or former employee of Employer who has satisfied the Benefit Plan's eligibility and enrollment requirements set forth in the Benefit Plan Documents.

"Covered Dependents" shall mean those individuals other than a Covered Employee who are entitled to receive benefits under the Benefit Plan by virtue of their relationship with the Covered Employee.

“Covered Individuals” shall mean all Covered Employees and Covered Dependents.

“Electronic Payment Card Transaction” means a service, treatment or item purchased by Covered Individual with an electronic payment card provided to such individual by PNC in accordance with this Agreement.

“ERISA” means the Employees Retirement Income Security Act of 1974, as amended from time to time.

“Program Design Guide” will mean the PNC BeneFit Plus Design Guide which is completed by the Employer and provides PNC Bank with the necessary information required for providing the Services.

Article II. Standard Benefit Plan Services

2.1 Employer is solely responsible for the operation and maintenance of the Benefit Plans. It is Employer’s sole responsibility and duty to ensure that each Benefit Plan complies with the applicable laws and regulations, and PNC’s provision of Services under this Agreement does not relieve the Employer of this obligation. Employer understands and acknowledges that PNC is not a named fiduciary of the Benefit Plans and that it shall have no discretionary authority or responsibility for construing and interpreting the provisions of the Benefit Plans or deciding any questions of fact arising under the Benefit Plans except as otherwise explicitly set forth herein. Employer further acknowledges that it is the “plan administrator”, as defined by ERISA, of the Benefit Plans (to the extent ERISA applies).

2.2 PNC will make available to Employer PNC’s standard Benefit Plan forms, reports and other Benefit Plan related materials that it provides in the normal course of Employee Benefit Plan administration to be used by Employer as permitted by PNC. Such standard documents and forms have been prepared in accordance with the standard of care set forth in the Agreement but are general in nature and do not take into consideration facts and circumstances specific to Employer and Employer’s Benefit Plans. Consequently, we make no warranties and representations that such documents and forms will comply with applicable law as they relate to the Benefit Plans. We are not responsible for making any changes to the documents. In addition, Employer completes the Program Design Guide provided to you by PNC, which will serve as the basis for PNC’s administration of the Benefit Plans. Employer agrees to ensure that all plan documents or other instruments not prepared by us that govern the terms of the Benefit Plans conform to the terms of the Program Design Guide agreed to by the Parties.

2.3 Employer will timely provide to PNC accurate and complete information relating to the Covered Individuals and the Benefit Plans as is necessary for PNC to satisfy its administrative and legal obligations hereunder. Employer will provide information in a manner and a format identified by PNC. Employer understands and agrees that PNC may rely on all information provided to it by Covered Individuals and/or the Employer in accordance with this Agreement as true and accurate without further verification or investigation. In the event that PNC must take additional manual

steps to resolve errors created by Employer's failure to satisfy its obligations under this Section 2.3, such additional correction efforts will be billed on an hourly basis.

2.4 PNC will process requests for Benefits that are submitted in accordance with methods approved by PNC. PNC will only pay Benefits for expenses that are defined as eligible expenses in the Program Design Guide. If PNC denies a request for Benefits, PNC will notify the Covered Individual that the request for Benefits has been denied. PNC will also review any appeals filed by the Covered Individual and provide notice to the Covered Individual if the request for reimbursement is again denied in whole or part in accordance with PNC's standard operating procedures. Employer will ensure that the Benefit Plan documents and summaries governing the Benefit Plan grant to PNC the authority and discretion necessary to make benefit determinations under the Benefit Plan. If the Employer determines that the Benefit Plan is required to make available an external review by an independent review organization in accordance with the Affordable Care Act, PNC will provide access to up to three (3) independent review organizations as determined by PNC. PNC will review all requests for reimbursements and, external reviews (where applicable), in accordance with its standard operating procedures. Under no circumstance will PNC be responsible for funding any Benefits unless and to the extent that the Benefit is deemed payable by a court of competent jurisdiction *solely* as a result of PNC's material breach of its obligations under this Agreement. Likewise, the Employer is obligated to fund all Benefit requests reasonably approved by PNC even if it is later determined that approval of such requests was based on fraudulent or misleading information. If a lawsuit is filed with respect to a request for Benefits denied by PNC, and PNC is named as a defendant in such lawsuit, PNC may choose its own counsel and Employer agrees to reimburse PNC for reasonable legal expenses incurred by PNC with respect to such lawsuit. Since PNC is not liable for funding any Benefit requests, PNC will not settle any lawsuits by a claimant related to Benefits without the approval of Employer, who will not unreasonably withhold such approval.

2.5 If a request for Benefits is approved by PNC in accordance with its obligations set forth herein, PNC will disburse Benefits as soon as reasonably possible after PNC approves the claim, provided that Employer has made sufficient funds available to pay such benefits. Benefits will be disbursed in accordance with PNC's standard policies and procedures. Employer will make sufficient funds available to pay Benefits under the Benefit Plans in accordance with the following funding methods and standards:

(i) **Funding Account.** Employer will establish a bank account at a bank of its choosing into which it will deposit funds to be used for Benefits ("Funding Account"). Employer will provide PNC with the necessary authorizations to transfer funds from the Funding Account via ACH, or via an Employer initiated wire transfer, to PNC for purposes of funding approved Benefit requests. PNC will notify the Employer as frequently as daily regarding the amount of Benefit requests approved by PNC. Employer will make sufficient funds available in the Funding Account within one (1) business day after receiving notice from PNC. Employer understands and acknowledges that it is responsible for funding all Benefits, including but not limited to Benefits made in advance by PNC.

(ii) If the Employer fails to fund the Funding Account as required herein, Employer understands and acknowledges that PNC may suspend the Services until such time as the Employer

has made sufficient funds available in the Funding Account to satisfy the Benefit requests. PNC may terminate this Services Schedule and/or the Agreement immediately upon written notice if the outstanding funding liability remains unsatisfied five (5) business days after the Employer first received notice from PNC of the amount required to fund Benefits.

(iii) **Benefit Check.** All Benefits paid by PNC in the form of a check, (“Benefit Check”) that are outstanding will be treated as null and void in accordance with PNC’s standard operating procedures. Any outstanding Benefit Checks that are deemed null and void will be used by PNC to offset any Benefits from a Benefit Plan or fee liability of the Employer. In the event that this Agreement has been terminated and Employer has Benefit Checks that have become void in accordance with this Agreement, PNC shall make reasonable attempts to locate Employer and return the funds. The parties acknowledge that such amounts will become property of PNC if PNC is unable to locate Employer after making reasonable attempts to locate Employer. In no event is PNC responsible for compliance with any applicable State unclaimed property or escheat laws with respect to outstanding Benefit Checks.

2.6 In the event that a Covered Employee is reimbursed less than is otherwise required by the Benefit Plans, PNC will promptly adjust the underpayment to the extent that the Employer has satisfied its funding obligations as set forth herein and that PNC has been notified of the underpayment. If it is discovered that a Covered Employee was overpaid, or the Covered Individual fails to substantiate an Electronic Payment Card Transaction as required by applicable rules and regulations, PNC will make reasonable attempts to collect repayment of overpaid or unsubstantiated Electronic Payment Card claims or offset the ineligible payment against any claims for future eligible expenses in accordance with applicable rules and regulations. PNC will make no more than two (2) requests for repayment from the Covered Employee or Covered Individual. If repayment or offset is not made, PNC will notify the Employer. Employer is responsible for taking any additional action required by law (e.g., including such amounts in income). In no event is PNC required to fund Benefits under the Benefit Plans. Employer acknowledges that PNC is not an insurer or guarantor of Benefits.

2.7 To the extent permitted by applicable law, PNC will provide to Employer any information readily maintained in PNC’s database that is required to be included on any forms or filings required to be furnished or filed by the Employer. PNC will furnish such information in a format determined by PNC. Such information will be provided within a reasonable period of time following Employer’s request. There may be additional fees for custom report needs that are not typically available with the standard Employer reporting options.

2.8 Upon request, PNC will assist Employer with certain nondiscrimination testing required under Sections 125 and 129 of the Code, (“Nondiscrimination Test”). To the extent necessary, PNC will provide Employer with a file template requesting data necessary to complete the Nondiscrimination Tests. PNC will complete the chosen Nondiscrimination Tests and provide a report summarizing its interpretations of the results within a reasonable amount of time after receipt of the requested information. Standard Fees for such Nondiscrimination Tests are available upon request.

2.9 The Employer may review written reports summarizing the Benefit Plan activities from the previous month at any time through PNC's on-line portal. Employer is responsible for reviewing the reports submitted by PNC and notifying PNC of any errors of which it is aware within a reasonable period of time after reviewing them; however, PNC shall not be liable for or required to take any action for any errors identified more than three (3) months after the date the report is first made available.

2.10 If PNC provides services for Employer's Transportation Reimbursement Plan, Employer will be responsible for making the determination whether cash reimbursement for transit passes is available in an area in accordance with the regulations issued under Section 132 of the Code.

2.11 Except for LSAs, at Employer's request and payment of all applicable fees, PNC may make an Electronic Payment Card available to Covered Individuals through which eligible expenses may be paid in accordance with the following terms:

- (i) PNC will provide an Electronic Payment Card to each Covered Employee and to any other Covered Individual to the extent requested by the Covered Employee, ("Card Recipient").
- (ii) Covered Individuals must agree to use the Card in accordance with the terms of the Cardholder Agreement that accompanies the Card. The Card will be deactivated if the Covered Individual fails to use the Card in accordance with the Cardholder Agreement or as otherwise required by applicable law.
- (iii) The Card may be used by Covered Individuals to pay for eligible expenses in accordance with the applicable rules and regulations.
- (iv) PNC will require substantiation of expenses paid with the Card in accordance with the requirements set forth in the Code and/or other applicable guidance. The Card will be deactivated if the Card Recipient fails to provide the requested substantiation in a timely manner as determined by PNC in accordance with Federal guidelines.
- (v) All Cards will be deactivated on the date this Agreement is terminated, the date that Employer fails to satisfy its funding obligations as set forth herein, and/or as necessary to prevent fraud or abuse (as determined by PNC). The Employer will reasonably assist PNC with any fraud investigations conducted by PNC, its agents, subcontractors or any regulatory agency.

Article III. Termination

3.1 Continuing Obligations after Agreement Termination. In addition to those surviving rights and obligations set forth in the Agreement, the following rights and liabilities of the parties shall survive for the specified time period following termination:

- (i) Employer's duty to pay PNC all funds required to be paid to PNC under this Agreement.
- (ii) Employer's duty to fund Benefits for expenses incurred before the termination.
- (iii) Employer's and PNC's duties and liabilities set forth herein.
- (iv) Employer's and PNC's indemnification duties and liabilities under this Agreement.
- (v) Employer's and PNC's termination obligations under all applicable Schedules to this Agreement until the appropriate statute of limitations has run; however, the parties understand and agree that in no event shall the time period for bringing any claims under

this Agreement, other than for payment of fees, exceed the lesser of the applicable statute of limitations or two (2) years from the date the claim arose.

- (vi) PNC's duties under Sections 3.2, 3.4 and 3.5 until those duties have been performed to the reasonable satisfaction of Employer.

3.2 Claims Records. When this Agreement terminates, PNC shall provide to the Benefit Plan or its designee a historical accounting of Benefits. At the option of PNC, all records of the Benefit Plan shall be returned to the Employer upon termination of this Agreement. Employer shall reimburse the PNC for the cost of retrieving Plan records from storage, if applicable, and shipping Plan records to the Employer. The delivery of records maintained on hard copy files, microfilm or magnetic tape, at PNC's option, shall be deemed to be in compliance with this Section 3.2. In the event records are stored on microfilm and a retrieval fee is charged to PNC, Employer shall pay such fee. In the event records are stored on magnetic tape, an explanation of record format shall be provided. At the time the transfer of records occurs, PNC shall be relieved of further responsibility for performing any of the services enumerated in this Agreement.

3.3 Outstanding Fees. Upon termination, Employer agrees to remit to PNC any outstanding balances due as described herein. PNC shall have the right to retain all records as until receipt of all outstanding monies due.

3.4 Cooperation with Successor. In the event Employer appoints a successor to PNC, PNC shall cooperate as reasonably necessary in transferring files, records, reports and the like, and PNC shall be entitled to reasonable compensation for its services in connection therewith. Notwithstanding any provision of this Agreement (including any Addendum hereto), PNC shall not, without prior written agreement with Employer, be obligated to assist a successor to PNC or otherwise take or continue any action following termination of the Agreement if and to the extent such assistance or action may, in the opinion of PNC, cause PNC to become (or continue to be) a fiduciary with respect to the Plan in any manner.

3.5 Final Financial Report. As soon as reasonably possible after the termination of this Agreement, PNC shall prepare and deliver its standard termination package and deliver any funds of Employer in its possession to Employer or to any successor to PNC. The PNC may charge for preparation of termination reports, and such charge will be quoted at the time the reports are requested.

3.6 Run-Out. Upon termination of this Agreement, PNC shall, in its discretion, continue to adjudicate claims received by PNC prior to the date of termination under the terms and conditions which would be applicable if this Agreement were still otherwise in full force and effect. PNC shall, at Employer's request, adjudicate claims incurred but not received by PNC during the term of this Agreement for a period of three (3) months after termination of this Agreement and for an additional fee of as mutually agreed by the parties of the administrative fee applicable at the time of the request payable in advance of providing such service. All service fees and claim funding must be current in order for service to be requested by Employer. If no run out services are provided, PNC will simply forward any requests for reimbursements that it receives for claims incurred prior to the termination to the Employer or to a third party upon its instruction.

Article IV: Service Fees

4.1 Fees. Employer shall compensate PNC for Services rendered under this Agreement in accordance with its Standard Fees (available upon request).

4.2 Calculation of Fees. PNC will notify the Employer that fees are due in accordance with its Standard Fees. The Employer will make such fees available in the Funding Account (or as otherwise agreed to by the parties) within two (2) business days of receiving notice from PNC. Employer must notify PNC in writing prior to the due date of such fees of any disputed amounts. The parties will make reasonable efforts to resolve the dispute during the thirty (30) day period following the date the Employer sends notice of the dispute. If the parties are unable to resolve the discrepancy or dispute, the disputed amounts shall become due and payable immediately, without prejudice. PNC may suspend the services if the Employer fails to pay any fees by the due date set forth herein.

4.3 Travel Reimbursement. Upon prior authorization, Employer agrees to reimburse PNC for expenses incurred for travel, meals and lodging of PNC's representative(s) while performing its duties and responsibilities under the terms of this Agreement or at the request of Employer.

4.4 Miscellaneous Expenses of the Plan. Reasonable miscellaneous expenses may be incurred in conjunction with the operation of the Benefit Plan. These expenses include, but are not limited to, wire transfer fees, check charges, resupply of forms, and other printing expenses, identification cards, physician reviews, consulting/vendor fees, medical records fees, and unusual programming requirements. PNC will charge the Employer or the Benefit Plan at cost as these expenses are incurred.

Article V. General

5.1 Consultation with Employer. PNC shall consult with and obtain prior approval from Employer and/or legal counsel designated by Employer when legal matters regarding the Plan arise. PNC shall not be obligated to defend against any legal action or claim for benefits by virtue of this Agreement.

5.2 Maintenance of Records. All records, as applicable, of PNC's internal claims review, determination of eligibility, authorization for adjudication, payment of premiums, banking records, and any other financial records generated by PNC under this Agreement shall be maintained in accordance with standard industry practices but no less than seven (7) years from the date the record was first created or received by PNC.

5.3 Other Service Providers. PNC may seek the services of others in performing its duties and obligations under this Agreement. Employer agrees that PNC may subcontract or delegate all or part of its administrative obligations under this Agreement to an affiliate and that doing so will not relieve PNC of any liability.

5.4 Ownership of Files. The Benefit Plan owns all claim files even though such files may be in the possession of PNC.

5.5 Prior Claims Administrator. In the event PNC replaces a prior claims administrator, no responsibility is accepted for the work performed by the prior claims administrator; nor does PNC agree to reevaluate or readjust claims or to perform or continue work previously done by the prior claims administrator (including acting as a named fiduciary for any pending claims appeals) unless otherwise agreed upon in writing by the parties for additional compensation.

5.6 Reliance on Instructions. PNC may rely upon any written instructions or information relating to PNC performance of services provided to PNC by Employer or Employer's designated representatives, and reasonably believed by PNC to be genuine and authorized by Employer.

5.7 HIPAA. All protected health information (as that term is defined in 45 C.F.R. 160.103) created, received and/or maintained by PNC by or on behalf of the Benefit Plans will be subject to the HIPAA Business Associate Addendum, (Exhibit A to this Schedule B), attached and incorporated into this Agreement.

EXHIBIT A TO SCHEDULE B: BUSINESS ASSOCIATE ADDENDUM

Exhibit A to Schedule B, “The Business Associate Addendum” is required to be completed for any Benefit Plan as described in the Benefit Plan Services Schedule (Schedule B) unless the Benefit Plan is a Transit Benefit Plan or Lifestyle Spending Account Plan as defined in the Benefit Plan Services Schedule.

Introduction

This is an Addendum (“Addendum”) to the Administrative Services Agreement (“Agreement”) between PNC Bank, National Association (“PNC”) and the Employer (“Client”). Except as otherwise specified herein, this Addendum shall be effective the on the date of the Agreement.

Client is a Covered Entity and, by providing certain services to Client under the Agreement, PNC is a Business Associate of Client, as those terms are defined in the Health Insurance Portability and Accountability Act of 1996.

PNC and Client wish to amend and supplement the Agreement to address their respective responsibilities relating to the Health Insurance Portability and Accountability Act of 1996, as amended, and its corresponding regulations at 45 CFR Parts 160 through 164 (collectively, “HIPAA”).

In consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

I. Definitions

- A. Business Associate. “Business Associate” means PNC.
- B. Covered Entity. “Covered Entity” means Client.
- C. Electronic Protected Health Information. “Electronic Protected Health Information” has the same meaning as the term “electronic protected health information” in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- D. HIPAA Breach. “HIPAA Breach” has the same meaning as the term “breach” in 45 CFR § 164.402.
- E. Individual. “Individual” has the same meaning as the term “Individual” in 45 CFR § 160.103 and includes a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- F. Law. “Law” means all federal and state statutes, together with their implementing regulations, that are applicable to Business Associate or Covered Entity or to Protected Health Information.

- G. Privacy Rule. “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 164, Subpart E.
- H. Protected Health Information. “Protected Health Information” has the same meaning as the term “protected health information” in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity, and includes Electronic Protected Health Information.
- I. Secretary. “Secretary” means the Secretary of the Department of Health and Human Services, or his or her designee.
- J. Security Incident. “Security Incident” has the same meaning as the term “security incident” 45 CFR § 164.304.
- K. Security Rule. “Security Rule” means the Standards for Security of Electronic Protected Health Information at 45 CFR Part 164, Subpart C.
- L. Unsecured Protected Health Information. “Unsecured Protected Health Information” has the same meaning as the term “unsecured protected health information” in 45 CFR § 164.402, but limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

II. Obligations and Activities of Business Associate

- A. Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by the Agreement, by this Addendum, or by Law. When carrying out Covered Entity’s obligations under the Privacy Rule, Business Associate agrees to comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations.
- B. Business Associate agrees to use reasonable safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the Agreement, by this Addendum, or by Law.
- C. To the extent Business Associate creates, receives, maintains or transmits Electronic Protected Health Information on Covered Entity’s behalf, Business Associate agrees that it has implemented administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of such Electronic Protected Health Information as required by HIPAA.
- D. Business Associate agrees to report to Covered Entity any use or disclosure of Protected Health Information, or any applicable Security Incident, which constitutes a material breach of this Addendum within a reasonable time after Business Associate has actual knowledge of such use, disclosure, or incident. Covered Entity and Business Associate acknowledge the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (defined below) for which no

additional notice to Covered Entity shall be required. “Unsuccessful Security Incidents” shall include, but not be limited to, pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-in attempts, denials of service and any combination of the above, so long as no incident results in unauthorized acquisition, destruction, access, use or disclosure of Covered Entity’s PHI.

- E. Business Associate agrees to include in any written agreement with any agent, including a subcontractor, to whom it provides Protected Health Information, a requirement that such agent agree to restrictions and conditions with respect to such information that are at least as restrictive as those that apply through this Addendum to Business Associate.
- F. Upon reasonable notice, Business Associate agrees to make Protected Health Information and books and records relating to the use and disclosure of Protected Health Information available to the Secretary in a reasonable time and manner, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy Rule and the Security Rule.
- G. If Business Associate discovers that there has been an unauthorized access, use or disclosure of PHI (“Unauthorized Disclosure”) that may constitute a Breach of Unsecured Protected Health Information, Business Associate shall notify Covered Entity without unreasonable delay but not more than 30 days after discovery. Covered Entity will determine whether the Unauthorized Disclosure constitutes a Breach, and provide notice to Business Associate within five (5) business days of receiving notice of the Unauthorized Disclosure from Business Associate. If Covered Entity determines that the Unauthorized Disclosure constitutes a Breach, Business Associate reserves the right to provide the notice to the affected individuals in accordance with 45 C.F.R. 164.404 and the media in accordance with 45 C.F.R. 164.406 as soon as reasonably possible, but no later than thirty (30) days following receipt of the Covered Entity’s determination. Business Associate agrees to cooperate with and to consider reasonable suggestions from Covered Entity regarding the contents of the notice. Covered Entity will be responsible for notifying the Secretary of the Department of Health and Human Services in accordance with 45 C.F.R. 164.408. For purposes of this paragraph, a HIPAA Breach shall be treated as discovered as of the first day on which the HIPAA Breach is known or should reasonably have been known to Business Associate (including any person, other than the one committing the HIPAA Breach that is an employee, officer, or other agent of Business Associate).
- H. Business Associate agrees to comply with applicable requirements of the Security Rule. Business Associate shall adopt, implement, and follow privacy and security policies and procedures as required by the Security Rule.

III. Permitted Uses and Disclosures by Business Associate

- A. Business Associate may use or disclose Protected Health Information as is reasonably necessary to perform functions, activities, or services for, or on behalf of Covered Entity as specified in the Agreement.

- B. Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- C. Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that: (i) the disclosure is Required by Law; or (ii) Business Associate obtains reasonable assurances from any person to whom the information is disclosed that (a) such information will remain confidential and used or further disclosed only as required by Law or for the purpose for which it was disclosed to the person, and (b) the person will notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- D. Business Associate shall refer to Covered Entity all requests by Individuals for access to, amendment to, restriction of disclosure of, or accounting of disclosures of Protected Health Information.
- E. Business Associate agrees to document its disclosures of Protected Health Information as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528. Business Associate has no obligation to document disclosures that are exempt from the accounting requirement, including but not limited to disclosures for treatment, payment or healthcare operations.
- F. Business Associate agrees to provide Covered Entity with information collected in accordance with Section E, to the extent required to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528. .

IV. Obligations of Covered Entity

- A. Covered Entity agrees not to use or disclose Protected Health Information other than as permitted or required by the Agreement, by this Addendum, or by Law.
- B. Covered Entity agrees to use reasonable safeguards to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement, by this Addendum, or by Law.
- C. Covered Entity shall notify Business Associate of (i) any changes in Covered Entity's notice of privacy practices that may affect Business Associate's use or disclosure of Protected Health Information and (ii) any restriction on the use or disclosure of Protected Health Information pursuant to 45 CFR § 164.522. Such notification shall occur prior to the effective date of such changes or acceptance of such restriction by Covered Entity so that Business Associate can determine whether it will be feasible for Business Associate to comply with such changes or

restriction. Once agreed to, Business Associate shall have a reasonable period of time to act on such notice.

- D. Covered Entity represents and warrants to Business Associate that Covered Entity shall not disclose any Protected Health Information to Business Associate unless Covered Entity has obtained any consents and authorizations that may be required by Law. Covered Entity further represents and warrants to Business Associate that any Protected Health Information Covered Entity discloses to Business Associate satisfies HIPAA's Minimum Necessary Standard within the meaning of 45 CFR § 164.502(b).
- E. Covered Entity acknowledges that Business Associate does not maintain any "designated record sets" within the meaning of 45 CFR § 164.501. Covered Entity shall not require or request Business Associate (i) to provide access to Protected Health Information pursuant to 45 CFR § 164.524 or (ii) to amend to Protected Health Information pursuant to 45 CFR § 164.526.
- F. Covered Entity warrants that it shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under applicable Law if done by Covered Entity.

V. Term and Termination

- A. Term. This Addendum shall continue for as long as Protected Health Information is being exchanged by Covered Entity and Business Associate pursuant to the Agreement, or until terminated pursuant to the following. Upon either party's knowledge of a material breach of this Addendum by the other party, the nonbreaching party shall have the following rights: (i) If the breach is curable, the nonbreaching party may provide an opportunity for the breaching party to cure the breach or end the violation. Alternatively, or if the breaching party fails to cure the breach or end the violation, the nonbreaching party may terminate this Addendum and the Agreement. (ii) If the breach is not curable, the nonbreaching party may immediately terminate this Addendum and the Agreement. (iii) If termination is not feasible, the nonbreaching party shall report the problem to the Secretary.
- B. Effect of Termination. Because it is not feasible for a financial institution to return or destroy Protected Health Information upon termination of the Agreement, Business Associate shall retain the Protected Health Information for the period of time required under applicable Law, or in accordance with Business Associate's internal record retention schedule as in effect from time to time, whichever is longer. For so long as Business Associate retains the Protected Health Information, Business Associate shall continue to protect the confidentiality of Protected Health Information in accordance with the terms of this Addendum. Thereafter, Business Associate shall destroy the Protected Health Information in accordance with procedures accepted in the financial services industry for destruction of financial records.
- C. Integration. Except as specifically amended by this Addendum, all terms of the Agreement remain in effect and shall apply to the activities of Business Associate and Covered Entity described in this Addendum. This Addendum supersedes and replaces any prior addendum to the Agreement

or separate agreement between the parties which was intended to fulfill the requirements under HIPAA of a business associate agreement.

VI. Miscellaneous

- A. Counterparts. This Addendum may be executed in counterparts, each of which may be deemed an original.
- B. Authority. By executing this document, Client warrants that it has the authority to bind such affiliates to the terms of this Addendum and the person signing warrants that he or she has the authority to sign for Client and such affiliates.

In Witness Whereof, the parties have caused their authorized representatives to execute this Addendum as of the date first set forth above, and the persons signing warrant that they are authorized to sign for their respective parties.

PNC Bank, National Association

By: Michael Haulton

Title: Senior Vice President