

CITY OF CRETE, NEBRASKA
CITY COUNCIL REGULAR MEETING

March 2, 2021

Notice of the meeting was given by posting and publishing in The Crete News, the appointed method for giving notice as shown by the Proof of Publication attached to the minutes. Advance notice of the meeting was also given to the Mayor and City Council. Pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act, the City has posted a current copy of the Open Meetings Act, Laws of the State of Nebraska in the back of the Council Chambers. Additional copies are available to read. The City may consider items listed on the agenda in random order. All proceedings shown were taken while the meeting was open to the attendance of the public.

Those in attendance pledged allegiance to the flag.

1. Open Meeting

Finance Committee Chair Travis Sears called the meeting to order at 5:10pm.

2. Roll Call

Brian
Carnes: Absent

Kyle
Frans: Present

Travis
Sears: Present

Present: 2, Absent: 1.

3. Items of Business

A. Discuss and provide a recommendation to the City Council on entering into a Flex Spending Account Administrative Services Agreement with Union Bank and Trust.

Recommend City Council enter into a Flexible Spending Account Administrative Services Agreement with Union Bank & Trust. Carried with a motion by Kyle Frans and a second by Travis Sears.

Kyle Frans: Aye, Travis Sears: Aye

Aye: 2, No: 0

4. Officers' Reports

Committee Chair Travis Sears suggested that the ongoing formal agreement with SCAT be discontinued, which would allow SCAT more flexibility in setting rider fees.

5. Adjournment

The meeting was adjourned at 5:25pm.

Mayor

(SEAL)

City Clerk

I, Judi Meyer, City Clerk for the City of Crete, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council. I hereby certify that a copy of the Open Meetings Act was posted in the back of the Council Chambers. I certify that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk. I certify that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting and that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public. I certify that the minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of the City Council. I certify that all news media requesting notification concerning meetings of the City Council were provided with advance notification of the time and place of said meeting and the subjects to be discussed.

City Clerk

(S E A L)

FLEXIBLE SPENDING ACCOUNT ADMINISTRATIVE SERVICES AGREEMENT

THIS FLEXIBLE SPENDING ACCOUNT AGREEMENT ("AGREEMENT") is made and entered into by and between Union Bank and Trust Company ("Union Bank"), and the City of Crete, Nebraska (the "Employer") as of the 03/01/2021.

WITNESSETH

WHEREAS, Employer has, or will have as of the Effective Date, established a Flexible Benefit Plan under Section 125 of the Internal Revenue Code for the benefit of its eligible employees;

WHEREAS, pursuant to such establishment of the Flexible Benefit Plan, Employer has also adopted one or more of the following: a health flexible spending arrangement ("Health FSA"), a limited purpose health flexible spending arrangement ("Limited Purpose Health FSA"), a dependent care flexible spending arrangement ("Dependent Care FSA"), and/or an adoption assistance flexible spending arrangement (the foregoing arrangements, including the Flexible Benefit Plan, shall collectively be referred to as the "Plan");

WHEREAS, Employer, as the administrator of the Plan, desires to retain the services of Union Bank to assist in the administration of the Plan and Union Bank desires to assist the Employer in the Administration of the Plan on the terms outlined in this Agreement; and

WHEREAS, the parties to this arrangement desire to set forth their understandings in this matter in a written agreement;

NOW, THEREFORE, in consideration of the mutual promises and duties set forth in this Agreement, the parties hereto, intending to be legally bound, do agree as follows:

This Agreement sets forth the terms and conditions for Union Bank's services with respect to the Plan. The terms and conditions of this Agreement shall be deemed incorporated into and part of the specific service agreement of each and every Exhibit without express reference therein. It is agreed that Union Bank's authority and services as an agent or fiduciary of the Plan shall extend only to the performance of the specific services and functions set forth and described in this Agreement and any Exhibit hereto. Any performance of additional services to the Plan in connection with this Agreement shall not be treated as altering the Agreement or Union Bank's duties hereunder and shall not create additional obligations of Union Bank under any circumstances. It is further agreed that the responsibility for any Plan-related services and duties not identified in this Agreement or the Exhibits hereto are retained by and remain the sole responsibility of the Employer.

The parties further agree that this Agreement, including any Exhibit hereto, shall not cause Union Bank to be the administrator of the Plan. Union Bank shall act as an agent of the Employer. The Employer remains responsible for maintaining the Plan, including the establishment of eligibility terms and paying all benefits owed or established under the Plan to its participants. Union Bank shall provide the agreed upon services to the Plan, without assuming any liability beyond the performance of services as set forth below.

1. BENEFIT ADMINISTRATION SERVICES

Union Bank's services in the administration of the Plan shall include the following:

1.1 Plan Administration. Union Bank shall assist the Employer in the administration of the specific Plans listed in Exhibit A as provided in this Agreement. Union Bank shall have no responsibilities or duties with respect to a Plan or arrangement not listed in Exhibit A as a covered plan. Union Bank's responsibilities and duties with respect to the Plan shall be limited to those expressly provided for in this Agreement or those subsequently agreed to in writing by the parties to this Agreement.

1.2 Plan Documents. Union Bank shall provide sample documents, including a sample plan document, summary plan description, and other applicable documentation, to assist the Employer in the establishment and operation of the Plan. Such sample documents shall be compliant as of the Effective Date with respect to applicable legal or regulatory requirements then in effect. Employer, in conjunction with the advice of its legal counsel, shall be

responsible for ensuring that the documents are legally compliant for purposes of the Employer's needs and business, are appropriately completed, are in compliance with the requirements of the Employer's Plan, and are appropriately and timely adopted by the Employer. To the extent the Employer uses its own plan documents in lieu of the sample plan documents provided by Union Bank, Union Bank shall have no responsibilities or duties with respect to ensuring the legal or regulatory compliance of such plan documents. The Employer shall provide Union Bank with an executed copy of its Plan document.

1.3 Amendments to Plan Documents. Periodically, Union Bank shall provide necessary Plan amendments and/or summaries of material modifications to the sample Plan documents for review by the Employer's legal counsel. Employer, in conjunction with the advice of its legal counsel, shall be responsible for ensuring that the amendments and other revisions are legally compliant for the Employer's purposes, are appropriately completed, are in compliance with the requirements of the Employer's Plan, and are appropriately and timely adopted by the Employer. To the extent the Employer uses its own plan documents in lieu of the sample plan documents provided by Union Bank, Union Bank shall not be obligated to provide any amendments or updates to such plan documents and shall have no responsibilities or duties with respect to ensuring the legal or regulatory compliance of such amendments or updates.

1.4 Recordkeeping. Union Bank shall provide appropriate services and assistance to the Employer as needed for the development and maintenance of administrative and recordkeeping systems for the Plan. The recordkeeping services are listed in Exhibit A.

1.5 Forms. Union Bank shall provide administrative forms for the Employer's use in administering the Plan, as well as forms for the processing of benefit claims under the Plan. All forms and supplementary information shall be subject to periodic updates and revisions.

1.6 Plan Payments. Union Bank shall pay the amounts due as a result of the operation of the Plan, using funds received from the Employer for such purpose. All payments shall be made in compliance with the respective participant's current Plan elections.

1.7 Claims Processing. Union Bank shall process submitted claims and shall arrange for the payment of approved reimbursement requests as provided in the Plan. Union Bank shall consider any initial claims for benefits made under the Plan, provided the claim is in accordance with the Plan, the summary plan description, and any reasonable rules established by Union Bank and communicated to participants, and shall grant or deny each participant's initial claim for benefits after making such investigation as it deems necessary. Union Bank's procedures for reviewing and paying claims shall be consistent with the Plan's claims review procedures. Union Bank shall be responsible for making decisions with respect to allowance or denial of all appeals of denied benefit claims and for notifying each participant of the determination regarding the appeal consistent with Section 503 of ERISA, if applicable. In making determinations regarding claims for benefits and appeals of denied claims, Union Bank shall have discretionary authority to construe and interpret the terms of the Plan and to determine whether a claim is properly payable under the Plan. Notwithstanding anything herein to the contrary, all Plan eligibility determinations and all remaining fiduciary duties under this Agreement are the responsibility of the Employer.

1.8 Reports to Employer. Union Bank shall deliver to the Employer the following reports on a schedule and in a manner to be agreed upon by Union Bank and the Employer with respect to each report:

- Employer Funding Report
- Reimbursement History Report
- Open Enrollment Report
- Enrollee Account Balance Report
- Payroll Deduction Report
- Billing Report

1.9 Plan Reporting Obligations. Union Bank shall provide general information regarding reporting and disclosure requirements relating to the Plan and shall assist the Employer in the preparation of governmental returns, reports, information reporting, or other similar documents required of the Employer, and shall provide general information regarding reporting and disclosure requirements related to the Plan. The foregoing notwithstanding, Union Bank shall not be responsible for the accuracy of any information provided by the Employer in preparation of any of these reports by Union Bank, nor shall Union Bank be responsible for determining the level of compliance required by

the Employer's Plan. It is the sole responsibility of the Employer to assure compliance with all legal reporting and disclosure requirements.

1.10 Custodial Account. Funds provided by the Employer for the payment of Plan benefits ("Employer Funds") shall be held in a bank or custodial account ("Custodial Account") at a financial institution of Employer's choosing.

1.11 Forfeited Funds. All amounts that remain unpaid for a Health FSA, Limited Purpose Health FSA, or Dependent Care FSA Account after the end of the applicable period specified by the Plan during which the participant can make a claim, plus any periods for appeal or any claim dispute, shall be immediately forfeited by the participant to the Employer, minus any applicable fees and expenses that are owing to Union Bank pursuant to this Agreement or any other agreement between Union Bank and the Employer. Any unclaimed amounts, including any previous reimbursement checks or other similar methods of payment that have been issued but remain unendorsed or uncashed, and that remain unpaid after the end of the applicable run-out period selected by the Employer, shall be returned to the Employer, minus any applicable fees and expenses that are owing to Union Bank pursuant to this Agreement or any other agreement between Union Bank and the Employer. The applicable terms and provisions of the Plan document may alter the forfeiture provisions of this subsection 1.11, but only with respect to a Plan participant.

1.12 Bonding Requirements. To the extent necessary, Union Bank shall secure the appropriate bonding required by ERISA and applicable state law with respect to it and its employees and shall remain appropriately bonded throughout the duration of this Agreement.

1.13 Record Retention and Transition of Services. Union Bank agrees to retain Plan records under this Agreement for seven years. Such records subject to retention under this subsection 1.13 include, without limitation, records of all assets and transactions between Employer and Union Bank for purposes of this Agreement. Following the termination of this Agreement, and subject to all fees having been paid for services performed under this Agreement and all Employer funding obligations having been met, Union Bank shall cooperate with Employer to affect an orderly transition of services covered by the Agreement to either the Employer to the Plan's subsequent service provider, as applicable.

1.14 Litigation Notices. Union Bank shall notify the Employer promptly of any summons, complaint, or other communication concerning threatened litigation with respect to the Plan, as well as of any inquiry by any governmental agency with respect to the Plan, to the extent such notification would not be a violation of applicable law.

1.15 Disclaimer. Union Bank shall not be liable or use its own funds for the payment of Plan benefits, including where sought as damages in an action against the Employer, Union Bank, or the Plan. Employer shall have the sole responsibility and liability for payment of all benefits under the Plan.

1.16 Red Flag Rule Compliance. To the extent applicable, Union Bank shall comply with the Red Flag Rules with respect to the Covered Services. For purposes of this provision, (a) "Red Flag Rules" mean the regulations adopted by various federal agencies, including the Federal Trade Commission, in connection with the detection, prevention, and mitigation of identity theft, and located at 72 Fed. Reg. 63718 (November 9, 2007), as amended, and (b) "Covered Services" mean the services provided by Union Bank (if any) with respect to the Plan, as designated and described in Exhibit A, that allow Plan participants to pay for eligible expenses under the Plan with a debit or other stored-value card and any other services provided by Union Bank under this Agreement that are covered by the Red Flag Rules, as determined by Union Bank in its sole discretion. Union Bank and Employer agree that if a Breach of Unsecured PHI (as defined in the Business Associate Agreement between the parties) and a violation of the Red Flag Rules occur with respect to the same incident, both the Red Flag Rules and the Business Associate Agreement provisions shall apply, except that the notice requirements of the Business Associate Agreement shall satisfy any notice obligations of this section.

1.17 Erroneous Payments. Union Bank shall undertake all reasonable efforts to recover all overpayments of Plan benefits or all amounts paid to ineligible persons, upon its determination that an erroneous payment has been made. Union Bank and Employer agree that reasonable recovery efforts may vary according to the circumstances and amount of the erroneous payment, and that Union Bank shall have the sole discretion to determine the reasonableness of its recovery methods. Employer shall cooperate fully with Union Bank's reasonable efforts to recover erroneous payments of Plan benefits pursuant to this subsection 1.17. The Employer is solely responsible for making the Plan

whole if fraud is committed against the Plan by Plan participants or Employer's employees. Union Bank shall not be responsible for pursuing or correcting any such actions.

1.18 External Reviews. To the extent that the external review requirements set forth in 29 CFR § 2590.715-2719, shall apply to the Plan, Union Bank shall send appropriate information to, and shall cooperate fully with, the external review organization conducting the review. The foregoing notwithstanding, the Employer shall pay any fees and/or expenses related to a request for external review. If Union Bank pays any such fee or expense on behalf of Employer, Employer shall reimburse Union Bank promptly upon request.

1.19 Subcontractors of Union Bank. Union Bank may contract with other subcontractors to perform certain of the administrative and benefits services required under the Plan. However, Union Bank will be responsible for those services to the same extent that it would have been responsible had Union Bank performed those services directly hereunder.

2. EMPLOYER OBLIGATIONS

Employer's responsibilities under this Agreement and in the administration of the Plan shall include the following:

2.1 General Compliance. Despite Union Bank's responsibilities and duties to render services to the Plan pursuant to this Agreement, the Employer remains solely responsible for all Plan activities, including compliance with the Affordable Care Act ("ACA"), ERISA, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Internal Revenue Code (the "Code"), and other applicable laws or regulations. Employer shall hold Union Bank harmless (including reasonable attorney fees and costs) and expressly releases any claims against Union Bank in connection with any claim or cause of action, for any occurrences prior to the effective date of this Agreement, that results from the failure or alleged failure of Employer (its officers and employees, and any other entity related to or performing services on behalf of Employer) to comply with ACA, ERISA, HIPAA, the Code, or any other applicable law or the provisions of this Agreement. Employer shall be solely responsible for ensuring the Plans meet the requirements of the Code both in form and substance.

2.2 Participants. The Employer shall provide Union Bank with a complete list of all employees eligible to participate in the Plan, and any other related information that Union Bank may need to properly administer the Plan pursuant to this Agreement. The Employer shall notify Union Bank of all changes in eligible employees on a monthly basis. Employer shall also be solely responsible for determining employee eligibility to participate in the respective Plans and collecting requested information from employees.

2.3 Contributions. In accordance with the Plan and the terms of this Agreement, the Employer shall contribute to the Custodial Account the funds to be used for purposes of paying Plan benefits or other Plan expenses. Contributions to the Custodial Account shall consist solely of Employer's general assets and participant contributions, if any, made to the Plan through salary reduction or otherwise, shall be used to reimburse Employer for contributions advanced by the Employer to pay benefits under the Plan.

2.4 Enrollment. The Employer shall assist Union Bank in the enrollment of the employees in the Plan and with regard to proper settlement claims. Employer shall forward any Plan inquiries to Union Bank. In the event provision of late notification of Plan eligibility or incorrect Plan eligibility information results in erroneous payments of benefits, the Employer shall be solely responsible for such erroneous payment and for the recovery of such erroneous payment. If, pursuant to the erroneous payment, there are insufficient funds available to pay Plan benefits, Union Bank has the right to request immediate restoration of funds from the Employer directly and suspend or terminate all services under this Agreement.

2.5 Amendments. Employer shall provide a copy of any amendment to the Plan no less than thirty (30) days prior the effective date of such amendment; provided, however, the Employer shall not, without Union Bank's prior written consent, adopt an amendment that would alter Union Bank's duties under this Agreement. Except as set forth in Article 1 of this Agreement, Union Bank shall have no obligation to provide any Plan amendments or updates to the Employer.

2.6 Plan Documents. It shall be the Employer's responsibility to distribute to participants all materials and documents as may be necessary or convenient for the operation of the Plan or to satisfy the requirements of applicable law, and the Employer shall remain responsible for the final contents of all materials and documents. The Employer

shall also be responsible for filing with the appropriate governmental agencies all required returns, reports, documents, and other papers relating to the Plan.

2.7 Nondiscrimination Testing. Union Bank shall, as part of its agreed services hereunder, perform the following nondiscrimination testing with respect to the Plans, based on information provided by the Employer: 1) Section 125 25% Key Employee Concentration Test; 2) Section 129 More than 5% Owners Concentration Test; and 3) Section 129 55% Average Benefits Test. The frequency with which each test is performed, and the fees associated with each test shall be as set forth in administrative fee schedule in Exhibit A or as otherwise agreed to in writing between the parties to this Agreement. All other nondiscrimination tests that may be applicable to the Plan shall be the responsibility of the Employer. Union Bank may assist in performing other nondiscrimination tests with respect to any Plan at an additional Cost to the Employer, as agreed upon in writing by the Parties. The Employer must provide Union Bank with the information that Union Bank requires to perform the nondiscrimination testing services required under this Agreement or any other agreement between the parties. This information must be provided in the file format required by Union Bank and may be relied by Union Bank in performing any testing pursuant to this Agreement. Employer shall either maintain a non-discriminatory Plan or shall be responsible for taking any immediate corrective action required in the event the Plan becomes discriminatory. Union Bank shall cooperate with the Employer fully to implement any corrective action that is required as a result of the failure or potential failure of one or more applicable discrimination tests.

2.8 Plan Funding. Employer and Union Bank shall agree to and Employer shall establish a pre-determined initial deposit (the "Minimum Account Balance") within the Custodial Account that will adequately fund the reasonable needs of the Employer's Plan. If the Employer's account balance falls below the Minimum Account Balance amount, the Employer will be further required to transfer additional monies until such time the Employer's Minimum Account Balance can be restored. If the Employer fails to immediately restore the Minimum Account Balance, Union Bank shall have the immediate right to suspend or terminate all services under this Agreement after providing written notice of the deficiency to the Employer (see "Termination" section below).

2.9 Debit Card Payments. All participants in the Health FSA and Dependent Care FSA shall receive at least one debit card. The terms of the debit card provisions shall control and are incorporated into this Agreement at Exhibit B.

2.10 Account Assets. All amounts transferred by the Employer to the Custodial Account shall remain general assets of the Employer. Amounts deposited by the Employer shall only be withdrawn from the Custodial Account by Union Bank if it is an allowable Plan expense as determined by the Employer or its representative (including Union Bank), or as otherwise required by a court of appropriate jurisdiction. Union Bank shall only be responsible for administering the Employer's funds in accordance with the terms of this Agreement.

2.11 Reliance by Union Bank. Union Bank shall be fully protected in relying upon representations by Employer set forth in this Agreement and communications made by or on behalf of Employer in effecting its obligations under this Agreement. Union Bank shall not be responsible for actions taken pursuant to written or verbal instructions from Employer and Employer agrees to hold Union Bank harmless (including reasonable attorney fees and costs) and expressly releases all claims against Union Bank in connection with any claim or cause of action which results from or in connection with Union Bank following Employer's written or verbal instructions.

3. CUSTODIAL ACCOUNT

3.1 Establishment of Custodial Account. Employer shall establish a Custodial Account from which all benefit payments under the Plan shall be made.

3.2 Access to Custodial Account. All funds provided for the purposes of paying benefits shall be available by Employer to Union Bank through the Custodial Account. Employer shall provide Union Bank with the correct banking information, including any changes to such information during the duration of this Agreement, so as to provide Union Bank with the means to access the Custodial Account for the sole purpose of payment of benefit reimbursements, expenses, and fees. Union Bank shall draw funds from the Custodial Account as needed to cover payment of benefit reimbursements, expenses, and fees.

3.3 Employer Funds. All Employer Funds in the Custodial Account shall be comprised of the Employer's general assets and the Employer shall not deposit funds into the Custodial Account that are deemed to be "plan assets",

as such term is defined under ERISA. Except for with respect to Employer Funds required to satisfy outstanding checks or withdrawals made against the Custodial Account on behalf of the Employer, Employer Funds may be withdrawn by the Employer at any time and are subject to Employer's general creditors. The foregoing notwithstanding, this Agreement does not alter or eliminate any separate obligation of the Employer to fund and maintain a Minimum Account Balance in the Custodial Account pursuant to Section 2.8 of this Agreement.

3.4 Disbursements. Union Bank shall make withdrawals from the Custodial Account in accordance with its policies, interpretations, rules, practices, and procedures established for such purpose, and as set forth in the Plan or as otherwise agreed upon or directed by Employer. Union Bank shall not have, nor be deemed to have, any discretion, control, or authority with respect to the disposition of Employer Funds from the Custodial Account.

3.5 Records. Union Bank shall provide the Employer with an accounting of all assets, transfers, and transactions involving the Employer's Custodial Account, including description of all receipts, disbursements, and other transactions, at such time and in such manner as mutually agreed to in writing between Employer and Union Bank.

4. CONFIDENTIALITY

Union Bank and Employer agree to treat as confidential and use only in connection with this Agreement all Plan data, records, and information ("confidential information") regarding the recordkeeping system, including computer programs and software, reports and other documents, which are furnished to the other under this Agreement. Union Bank and Employer shall protect the security of such confidential information and shall not disclose such confidential information to third parties except as required by law or when requested to do so by the other; provided, however, that Union Bank may disclose such confidential information to its agents in the course of performing its duties under this Agreement. The Employer furthermore agrees to comply with any confidentiality or security requirements as may be established from time to time by Union Bank. Union Bank is entitled to presume that, unless notified to the contrary by the Employer, all actions necessary to ensure compliance with applicable data protection laws have been satisfied with respect to the information and data furnished to Union Bank.

Union Bank agrees that all Plan information and data, including instructions from the Employer, provided to Union Bank by the Employer (or its agent) are the confidential information of the Employer or the Plan. Union Bank agrees not to disclose such confidential information to third parties except: (a) to its affiliates or agents for the purpose of providing services to the Plan; (b) in any administrative or judicial forum involving a dispute under this Agreement; (c) as may be required by law or by order of any government agency, regulatory body, or court of competent jurisdiction for purposes other than those specified in the Agreement without the prior consent of the Employer; (d) that non-participant specific information may be provided to support industry surveys; and (e) for the limited purpose of collecting satisfaction surveys from the Employer and/or Plan Participants from time to time.

5. TERM AND TERMINATION OF AGREEMENT

5.1 This Agreement shall commence as of the Effective Date and shall continue for a period of a twelve (12) months. This Agreement shall automatically renew at the end of such twelve-month term and at the end of each subsequent twelve-month term, unless terminated in writing by either Party within sixty (60) days prior to the end of any twelve-month term.

5.2 This Agreement may be terminated by either party without cause and without liability by written notice of intention to terminate given to the other party at least sixty (60) days in advance of the termination date. Except as provided in Section 5.6, all obligations of Union Bank relating to payment of claims under the Employer's Plan will be terminated on the effective date of termination given in the notice regardless of when the claim for such benefits is incurred.

5.3 The Agreement shall automatically terminate if: (a) any law is enacted or interpreted to prohibit the continuance of this Agreement, upon the effective date of such law or interpretation; (b) any administrative fee for any service provided by Union Bank to Employer remains unpaid to Union Bank beyond thirty (30) days past the due date, upon notification by Union Bank to the Employer in writing that Union Bank intends to exercise its option to enforce this provision; or (c) at any time, the Employer fails to provide funds for the payment of Plan benefits or fails to restore the Minimum Account Balance, upon written notification by Union Bank.

5.4 If either party is in default under any provision of this Agreement, the other party may give written notice to the defaulting party of such default. If the defaulting party has not used good faith efforts to cure such breach or default within thirty (30) days after it receives such notice, or if good faith efforts to cure have begun within thirty (30) days but such cure is not completed within sixty (60) days after receipt of the notice, the other party shall have the right by further written notice to terminate the Agreement as of any future date designated in such notice.

5.5 Upon termination of this agreement, Union Bank will immediately cease the performance of any further services under this Agreement unless both parties agree that Union Bank shall continue performing services during any post-termination period. If the Employer engages Union Bank to administer the Plan during a post-termination period in accordance with the terms of the plan document, Union Bank will invoice and collect fees based on the fee schedule in place during the regular contract period. Upon receipt of payment for post-termination administration, Union Bank will continue the processing of qualifying expense reimbursements and general Plan administration with respect to any claims that are received by Union Bank on or before the date agreed to by both parties in writing.

5.6 Upon the completion of the later of the Agreement, or any agreed-upon post-termination or "run-out" period, Union Bank will cease the processing of any expense reimbursement requests received after the post-termination period ends and the Employer shall be immediately responsible for all aspects of its Plan, including the processing of all expense reimbursements, annual reporting, and general plan administration. Union Bank shall also return any funds in the Custodial Account that have not been used for Plan benefit payments to the Employer, along with any unpaid or other pending payment requests and/or any subsequent reimbursement requests that are received after the date of the specified post-termination period. However, the return of such funds shall remain subject to the completion of a final accounting of all account activities, as well as the deduction of applicable unpaid fees and other expenses under this Agreement or any other agreement between the parties. If necessary, Union Bank shall have the immediate right to demand and pursue collection of any unpaid fees, reimbursements, or other amounts that are due and owing to Union Bank as of the date of termination pursuant to the terms of this Agreement or any other agreement between the parties.

5.7 Within sixty (60) days after the later of the termination of this Agreement or the applicable post-termination period, Union Bank shall prepare and deliver to the Employer a complete and final accounting and report of the financial status of the Plan as of the date of termination, together with all books and records in its possession and control pertaining to the administration of the Plan, all claim files, and all reports and other paper pertaining to the Plan.

6. COST OF ADMINISTRATION

6.1 Administrative Services Fees. Union Bank shall be entitled to a fee for its services to the Plan and under this Agreement, which fees shall be payable in accordance with the fee schedule attached as Exhibit A. Fees will be invoiced monthly and are due within thirty (30) days after invoice.

6.2 Past Due Amounts. Notwithstanding anything in this Agreement or any other agreement between the parties to the contrary, if the Employer fails to pay Union Bank within the required time period, any undisputed amount that is due as a result of any product or service provided by Union Bank to the Employer under this Agreement or any other agreement between the parties, including, without limitation, services provided with respect to flexible spending arrangements, Union Bank shall be permitted to deduct the past due undisputed amount from any funds held by Union Bank that were provided by the Employer pursuant to this Agreement or any other agreement between the parties without prior notice and without prior approval of the Employer. This right of offset shall be in addition to any other remedies that Union Bank may have in this Agreement or any other agreement between the parties with respect to such non-payment, including, without limitation, any right to terminate the Agreement, regardless of whether the past due amount is paid in full as a result of the offset rights provided herein.

6.3 Definition of Participant for Purposes of Calculating Fees. Reimbursement account participants are defined as those individuals who are eligible to receive reimbursement from their account based on the Employer's Plan document, including carryovers in accordance with IRS Notice 2013-71 or applicable grace period per IRS code section 1.125-1(e). Participant counts for billing purposes are determined on the last business day of each month. In addition, Participants that lose eligibility to receive reimbursement after the first business day of a month will be included in the count for that month's billing.

7. MISCELLANEOUS

7.1 Applicable Law. The laws of the State of Nebraska shall govern this Agreement, to the extent they are not inconsistent with or preempted by ERISA, the Internal Revenue Code, or any other applicable federal law.

7.2 Entire Agreement. This Agreement, including any Exhibits attached hereto, constitutes the entire contract between Union Bank and Employer and no modification or amendment shall be valid unless agreed to in writing by both parties. This Agreement supersedes all prior or contemporaneous agreements and understanding with respect to the same subject matter hereof, and if there is an inconsistency between the terms of this Agreement and the terms of any prior agreement between the parties, the terms of this Agreement will control, unless otherwise provided in such other agreement.

7.3 Final Authority. Union Bank is only an agent of the Employer for processing of qualifying expense requests under the Plan, as provided under this Agreement. Except as expressly provided otherwise in this Agreement, Employer has total and final control and discretionary authority over the Plan and the manner in which it is operated.

7.4 No Responsibility for Other Service Providers. Except as otherwise provided herein, Employer acknowledges that Union Bank shall not be responsible, nor be liable, for the actions or omissions of any other person providing services to the Plan.

7.5 Fiduciary. Employer agrees that Union Bank is not the plan administrator, the Named Fiduciary, nor a plan fiduciary under the Plan(s), as such terms are described under ERISA, except as noted elsewhere in this Agreement. Union Bank shall have no power or authority to waive, alter, breach, or modify any terms and conditions of the Plan. Union Bank shall make payments in accordance with the framework of policies, interpretations, rules, practices, and procedures set forth in the Plan, this Agreement, and as otherwise agreed upon or directed by Employer. Union Bank shall neither have nor shall be deemed to exercise any discretion, control, or authority with respect to the disposition of Employer funds. Employer agrees that use of or offset of amounts in the Custodial Account to pay for fees or other amounts due to Union Bank under this Agreement or any other agreement between the parties shall constitute an Employer action that is authorized by the Employer under this Agreement. Employer agrees that such actions are not discretionary acts of Union Bank and do not create fiduciary status for Union Bank. Union Bank agrees that it will perform services on the Plan's behalf, as set forth in this Agreement and any attachments or other exhibits. However, Union Bank will not undertake any duties or responsibilities, regardless of whether they are set forth in the Plan, if such actions are in violation of any applicable laws or regulations.

7.6 Instructions to Union Bank. Employer hereby authorizes Union Bank to act on the written instructions, on instructions provided in the form of facsimile transmission, by e-mail, or any other method, electronic or otherwise, acceptable to Union Bank. To the extent such instructions are submitted to Union Bank in the form of facsimile or e-mail, Union Bank may act on such instructions notwithstanding the fact that such instructions do not bear an original authorized signature, provided the instructions acted upon: (a) appear to be signed by a person entitled to give binding instructions to Union Bank in the case of instructions provided by facsimile; (b) appear to have been sent from the computer of a person entitled to give binding instructions to Union Bank in the case of instructions provided by e-mail; and (c) are consistent with the established authority of such person in the case of instructions provided by facsimile or e-mail. Union Bank shall not be liable for any loss of the confidentiality of information sent by e-mail prior to its reception. Employer acknowledges that there are encryption methods available for the confidential transmission of data by e-mail, and its failure to encrypt such e-mail transmissions evidences Employer's acceptance of the potential loss of confidentiality of such e-mail transmitted data. The authorization provided in this Section 7.6 shall continue in effect until revoked or amended in writing (or via facsimile or e-mail). To the extent Union Bank acts within the scope of this authorization, Employer expressly releases Union Bank from and indemnifies Union Bank against any liability that may directly or indirectly arise as a result of Union Bank's action or inaction based on the facsimile, email, or electronic instruction.

7.7 Online Administration/Telephone and Electronic Directions. To the extent permitted under applicable law and in accordance with Union Bank's practices, unless Union Bank agrees otherwise, Union Bank may process directions submitted by the Employer or Plan Participants to Union Bank via Union Bank's website or voice response unit with respect to any of its administrative responsibilities under this Agreement, as long as such directions comply with Union Bank policies and procedures in place for administering the Plan. Union Bank may act upon such telephone or electronic instructions without questioning the authenticity of such direction. A Participant may be required to provide Union Bank with his/her name, Plan name, Social Security Number, personal identification

number, and any other personal information Union Bank deems necessary or appropriate. For security purposes, Union Bank shall have the right to require a Participant to respond to additional questions (e.g., date of birth, date of hire, or other “challenge” questions) before being able to access his/her account. Only authorized representatives shall have access to such Participant’s account. Some services provided by Union Bank may require oral, telephone, electronic or written instructions or information provided by the Participant and/or the Participant’s spouse. Instructions or other information provided to Union Bank under a signature which purports to be that of the Participant or provided with a personal identification number or other identifying information used to verify that the transmission originated from the Participant shall be deemed to be complete, accurate, authentic and timely. Union Bank shall act in accordance with such instructions or information and shall have no duty to inquire into their completeness, accuracy, authenticity or timeliness. Union Bank shall not be responsible for, and makes no warranties regarding access, speed, or availability of any services required for electronic communication, nor does Union Bank make any warranties, express or implied, and disclaims all warranties of merchantability, fitness for a particular purpose and non-infringement. Employer shall indemnify, and hold harmless Union Bank (including its employees, representatives and agents) from and against any liability, loss or expenses (including reasonable attorneys’ fees and court costs) incurred by Union Bank in connection with providing information or processing transactions in accordance with the directions of a Participant via written telephone, internet or other means for use with the Plan.

7.8 Successor. In the event of Union Bank's resignation or inability to serve, the Employer may appoint a successor. Any successor, upon appointment and acceptance, shall succeed to and be invested with all powers conferred on Union Bank. In such situations, the replacement of Union Bank shall be considered a termination of this Agreement and the Termination provisions of Article 5 shall remain effective and controlling.

7.9 Taxes. If any tax, fee, assessment, and/or penalty is assessed against or with respect to the Plan and/or the services provided by Union Bank pursuant to this Agreement, and Union Bank is required to pay that tax, fee, assessment, and/or penalty, Union Bank shall report the payment to the Employer and the Employer shall promptly reimburse Union Bank for such amount. Without limiting the generality of the foregoing, this provision shall apply to the patient-centered outcomes research fee owed pursuant to Sections 4375 or 4376 of the Internal Revenue Code. The Employer is at all times responsible for the tax consequences in the establishment and operation of the Plan.

7.10 Indemnification and Liability Limitations.

- a. Union Bank shall not be liable to Employer, its agents, Plan Participants, or any other person whatsoever for any acts or omissions, with the exception of its gross negligence or willful misconduct relating to the services provided by Union Bank pursuant to this Agreement. Unless otherwise provided under applicable law, Union Bank shall not be responsible or liable for any acts or omissions made pursuant to any Plan Participant's use, or any other person's use, of the internet, other electronic system, or telephonic voice response system, made available by Union Bank except for its grossly negligent or willful acts or omissions.
- b. Union Bank shall not be responsible or liable for any acts or omissions made in reliance on any information, direction, consent, or other data reasonably believed by Union Bank to be: (a) genuine; and (b) from an authorized representative of Employer or, with respect to Participant investment directions, the Participant or his or her representative. Union Bank shall not be responsible or liable for any acts or omissions made in reliance on erroneous data provided by Employer or any other person or the failure of Employer to perform its obligations under this Agreement. Union Bank shall not be responsible or liable for any acts or omissions made by any person providing services to the Plan or Participant.
- c. Union Bank shall not be responsible or have any liability for any acts or omissions of any previous recordkeeper, third party administrator, fiduciary, or any other service provider for the Plan, or for any acts taken by Union Bank in reliance upon or on the basis of any records or information prepared by a previous recordkeeper, third party administrator, fiduciary, or any other service provider.
- d. In addition to and not in limitation of the specific indemnification obligations of Employer provided elsewhere in this Agreement, Employer agrees to indemnify and hold harmless Union Bank, its officers, directors, agents and employees, from and against any and all claims, damages, losses, liabilities, taxes, penalties, fines and expenses, including court costs and reasonable attorneys' fees, arising out of or in any way connected to any act done or omitted to be done by Union Bank with

respect to carrying out its responsibilities with respect to the services as specified in this Agreement, except as to those matters as to which Union Bank is finally adjudged to be guilty of gross negligence or willful misconduct. Such indemnification by Employer shall include, but shall not be limited to, any and all actual or threatened claims, suits, proceedings, or causes of action against Union Bank by any Plan Participant or beneficiary, or any other person.

- e. The Employer's obligation under this Agreement to indemnify and hold harmless Union Bank from certain claims, damages, losses, liabilities, penalties, taxes, fines and expenses shall survive the termination of this Agreement.

7.11 Limitation of Remedies. In no event shall either party to this Agreement be liable to the other for consequential, special, exemplary, punitive, indirect, or incidental damages, including without limitation any damages resulting from loss of use or loss of profits arising out of or in connection with this Agreement, whether in an action based on contract, tort (including negligence), or any other legal theory whether existing as of the Effective Date or subsequently developed, even if the Party has been advised of the possibility of such damages. In addition, notwithstanding any other provision in this Agreement to the contrary, the maximum total liability of Union Bank to Employer shall be limited to direct money damages in the dollar amount that is equal to the fees paid or required to be paid to Union Bank under this Agreement. This remedy is Employer's sole and exclusive remedy.

7.12 Authority. Neither party to this Agreement, when dealing with the other party in relation to the Plan, will be obliged to determine the other party's authority to act pursuant to the Agreement. Furthermore, the individuals executing this Agreement on behalf of Union Bank and Employer do each hereby represent and warrant that: (a) they are duly authorized by all necessary action to execute this Agreement on behalf of their respective principals, and (b) the execution and delivery of this Agreement and the consummation of the transactions herein provided have been duly approved by Employer and Union Bank and do not violate any agreements to which Employer or Union Bank is a party or otherwise bound.

7.13 Intellectual Property. All materials, including, without limitation, documents, forms (including data collection forms provided by Union Bank), brochures and online content ("Materials") furnished by Union Bank to Employer are licensed (not sold). Employer is granted a personal, non-transferable, and nonexclusive license to use Materials solely for Employer's own internal business use. Employer does not have the right to copy, distribute, reproduce, alter, display, or use these Materials or any Union Bank trademarks for any other purpose. Employer agrees that it will keep Materials confidential and will use commercially reasonable efforts to prevent and protect the content of Materials from unauthorized use.

7.15 Gender. Where the context of the Agreement requires, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine.

7.16 Amendments. Any amendment to this Agreement must be in writing and signed by authorized representatives of both Parties.

7.17 Legal Notice. Union Bank shall not be bound by any communication until it has been received at its office via PO Box 82518, Lincoln, Nebraska 68501, or at such other address (including an email address) as it has specified to the Employer.

7.18 Unenforceable Provisions. If any provision of this Agreement is found to be unenforceable, the Agreement's unaffected provisions will remain in effect and the parties will negotiate a mutually acceptable replacement provision consistent with the parties' original intent.

7.19 Assignment. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, assigns and successors in interest. Neither party may assign any of its rights under this Agreement without the prior written consent of the other party.

7.20 Waiver. If either party fails to enforce any right or remedy under this Agreement, that failure is not a waiver of the right or remedy for any other breach or failure by the other party.

7.21 Severability. If any provision of this Agreement is determined by a court to be unenforceable or invalid, such determination shall not affect any other provision, each of which shall be construed and enforced as if such invalid

or unenforceable provision were not contained herein.

7.22 Disputes. The parties shall cooperate in good faith to resolve any and all disputes (each, a "Dispute") that may arise under or in connection with this Agreement. The existence or resolution of any Dispute as to a matter shall not reduce or otherwise affect the payment or performance by Employer of its obligations under this Agreement as to any other matter, unless pursuant to the terms of any such resolution. Employer and Union Bank shall attempt in good faith to resolve any Dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Either party may give the other party written notice of any Dispute not resolved in the normal course of business. Within fifteen (15) days after delivery of the notice, the receiving party shall submit to the other party a written response. The notice(s) and the response(s) shall each include (i) a statement of each party's position and a summary of arguments supporting that position, and (ii) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within thirty (30) days after delivery of the disputing party's notice(s), the executives of the parties subject to the dispute shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to attempt to resolve the Dispute. All reasonable requests for information made by one party to the other will be honored.

7.23 Force Majeure. Neither Union Bank nor Employer, as applicable under the circumstances, shall be liable or deemed to be in default for failure to perform or delay in performance of any of their respective obligations under this Agreement (other than the Employer's obligation to provide funding for claims or pay service fees) to the extent that such failure or delay results from any act of God; military operation; terrorist attack; widespread and prolonged loss of use of the Internet; national emergency or government restrictions.

7.24 Relationship of Parties. The parties agree that in performing their responsibilities under this Agreement, they are in the position of independent contractors. This Agreement is not intended to create, nor does it create and shall not be construed to create, a relationship of partner or joint venturer or any association for profit between Employer and Union Bank.

7.25 No Third-Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to confer upon any person (other than the Employer, and Union Bank) any rights, benefits or remedies of any kind or character whatsoever, and no person will be deemed a third-party beneficiary of or under this Agreement.

7.26 Counterparts. Any number of counterparts of this Agreement may be signed and delivered, each of which shall be considered an original and all of which, together, shall constitute one and the same instrument. Nothing express or implied in this Agreement is intended to confer, and nothing herein shall confer, upon any person other than the parties hereto any rights, remedies, obligations or liabilities whatsoever.

IN WITNESS WHEREOF, Employer and Union Bank have caused this Agreement to be executed this _____ day of _____, 2021, to be effective March 1, 2021.

City of Crete, Nebraska
Employee

Union Bank & Trust Company

By: _____
Its: _____
Print Name: _____

By: _____
Its: _____
Print Name: _____

EXHIBIT A

A.1 Covered Plans. The Plans covered by this Agreement include the following:

- ☐ Health Flexible Spending Account (Health FSA)
- ☐ Limited Purpose Health Flexible Spending Account (Limited Purpose Health FSA)
- ☐ Dependent Care Flexible Spending Account (Dependent Care FSA)
- ☐ Adoption Assistance

A.1 Administrative Fee Schedule and Recordkeeping Services.

IMPLEMENTATION/COMPLIANCE, REPORTING, and DISCLOSURE

First Year Fee
\$250

- Implementation
 - Plan design consultation and annual review
 - Plan Document
 - Summary Plan Description (SPD) (master copy)
 - Information for annual 5500 Filing (if applicable)
- Annual nondiscrimination testing

\$250

RECORDKEEPING AND ADMINISTRATION

Benefits

\$4.00/participant/month

- Plan Design and Set Up
- Web Enrollment
- Online Enrollment Presentation
- Employee Group Meetings

Recordkeeping

- Debit Card (as provided in Exhibit B)
- Claims Based Disbursements (as provided in Exhibit B)
- Automatic email to participant when claims received and reimbursement is made
- Adjudicate FSA Reimbursement Requests
- IIAS Compliant Debit Card
- Daily processing of reimbursement requests
- Issue direct deposit to participant savings or checking accounts
- Postage for Standard Mailings
- Process claims during plan year run-out period
- Reconcile records to employer's payroll, if applicable
- Administration for 2 ½ month grace period extension, if applicable
- Archive records for 7 years

Reporting and Communication – Employer

- Employer Web Portal
- Employer Administrative Guide
- Daily, weekly, and/or monthly reporting available on status of accounts balances
- Consult on interpretation of applicable laws

Reporting and Communication - Participant

- Employee Administrative Guide
- Enrollment Materials
- Statement included with each reimbursement check
- Communication concerning ineligible claims
- Online access to account information 24/7
- Toll-free customer service line (844-472-6567) 8:00 a.m. to 5:00 p.m.
CST Monday through Friday

Employer: _____

By: _____

Print Name: _____

Its: _____

Dated: _____

EXHIBIT B

DEBIT CARD TERMS AND PROVISIONS

To the extent debit cards (referred to as a "Card" in this Exhibit B) are provided with respect to Health FSA, Limited Purpose Health FSA, Dependent Care FSA, and/or Adoption Assistance FSA accounts, the following additional provisions shall apply with respect to the debit card services. Unless otherwise provided below, all of the provisions of the Agreement shall apply to the provision of debit card services as well.

C.1 Definitions. The following terms shall be defined as set forth below:

- 1.1 **"Card Transaction"** means when the Card is presented for payment of Qualified Services.
- 1.2 **"Qualified Services"**, with respect to a Health FSA or Limited Purpose Health FSA, mean any and all related goods and services within the meaning of the term "medical care" or "medical expense" as defined in Code Section 213 and the rulings and Treasury regulations promulgated thereunder to the extent such goods and services are allowable for the Account in question.
- 1.3 **"Qualified Services"**, with respect to a Dependent Care FSA, mean any and all related expenses for household and dependent care services necessary for gainful employment within the meaning of Code Section 21 and the rulings and Treasury regulations promulgated thereunder to the extent such expenses are allowable for the Account in question.
- 1.4 **"Qualified Services"**, with respect to an Adoption Assistance FSA, mean any and all reasonable and necessary expenses in the form of adoption fees, court costs, attorney fees, and other expenses that are directly related to, and for the principal purpose of, the legal adoption of an eligible child, within the meaning of Code Section 137 and the rulings and Treasury regulations promulgated thereunder to the extent such expenses are allowable for the Account in question.
- 1.5 **"Account"** means the Health FSA, Limited Purpose Health FSA, Dependent Care FSA, and/or Adoption Assistance FSA as the context requires and as elected by the Employer as part of this Agreement.
- 1.6 **"Plan Participants"** or **"Participants"** means Employees that are participating in the Accounts.
- 1.7 **"Employee"** means those employees eligible to participate in the Plan.

C.2 General Terms and Provisions.

- 2.1 Union Bank shall be responsible for providing administrative services to Participants, including updating Participant records, maintaining accurate account balances and deposit information, activating and deactivating Cards, responding to Participant inquiries, and providing appropriate notices of actions taken.
- 2.2 Union Bank agrees to reasonably ensure compliance with proper use of the Card and take whatever action is necessary to investigate and resolve errors in Card transactions asserted by Participants according to the Card Service Agreement.
- 2.3 Union Bank agrees to cancel, as soon as is practical, access to a Participant's account when a Card is reported lost or stolen.
- 2.4 Union Bank agrees, upon notice from Employer of termination or ineligibility of a Participant, to, as soon as is practical, deactivate such Participant's Card. Should Employer fail to provide this notice in a timely manner causing payment of ineligible expenses, Employer shall be responsible for all costs incurred for subsequent Card transactions made by the terminated or ineligible Participant.
- 2.5 Union Bank will make available to the Employer, for distribution to the Participants, information as to the proper use of the Card.
- 2.6 Employer agrees to re-credit Participant Accounts by facilitating an after-tax payroll deduction in accordance with applicable law in those instances where the debit card was used to pay for an ineligible expense and the participant failed to reimburse the Plan or the ineligible expense could not be offset with an eligible expense.
- 2.7 Employer agrees to notify Union Bank immediately upon suspicion or confirmation of inappropriate or fraudulent Card use.

- 2.8 The Employer or the Plan participants shall bear the liability in its entirety for payment of claims. Any additional costs, including administrative costs, shall be paid by the Employer or Plan Participant. In no event shall Union Bank be responsible for these payments.
- 2.9 Employer agrees to administer the Plan in accordance with the rules and regulations of the Plan and the Agreement.
- 2.10 Employer understands and acknowledges that the origination of ACH transactions to the account must comply with the provisions of U.S. law.
- 2.11 Employer agrees to provide all information to be included in any reports or other required documents in a timely fashion, as established by the rules of all governmental entities involved with the Plan, including but not limited to the Department of Labor and the Internal Revenue Service.
- 2.12 Pursuant to this Agreement, the Employer has authorized and instructed Union Bank to implement its standard administrative procedures to provide services in accordance with this Agreement. Such standard administrative procedures may be different for Card Transactions with respect to a health FSA and Dependent Care FSA and with respect to one or more groups of Card Transactions, as determined solely by Union Bank. Such standard administrative procedures may change without notice, as determined solely by Union Bank.

C.3 Settlement Terms and Provisions.

- 3.1 Employer has, in conjunction with this Agreement, executed and delivered an authorization agreement form to Union Bank that, among other things, authorizes the issuer of Cards (the "Issuer") to debit the account ("Account") designated by Employer in such authorization agreement form, as more fully set forth therein and in this Exhibit B.
- 3.2 All information regarding Employer and its Account in the authorization agreement form is true and correct. Employer will provide the Issuer's company ID and routing number to Employer's Depository. If Employer wishes to change the designated Account, Employer must submit the change to Issuer in writing at least ten (10) days before the intended effective date of the change.
- 3.3 Each business day, Issuer is authorized to debit Employer's Account in the amount required to settle all Card Transactions (the "Daily Settlement Amount"). Each business day, collected and available funds in Employer's Account must be greater than or equal to the Daily Settlement Amount for the previous business day.
- 3.4 Notwithstanding whether there are sufficient funds in the Account to pay a debit originated by Issuer, Employer shall reimburse Issuer for all Card Transactions irrespective of whether any authorization for a Card Transaction was made in accordance with the terms of the applicable health or other Employer Plan.
- 3.5 If Employer fails to fund the Account to settle with Issuer for Card Transactions, fails to reimburse Issuer for all Card Transactions, or breaches its obligations to Issuer, Issuer may, at its option, suspend or terminate all Cards or change the method by which Employer may settle with Issuer for Card Transactions, including requiring Employer to prefund a settlement account at Issuer.

C.4 Other Terms and Provisions.

Debit card transactions and direct deposit payments will be settled directly to the Employer Account at Union Bank. This authorization is to remain in full force and effect until Union Bank receives written notification from an authorized representative of its termination in such time and in such manner as to afford Union Bank a reasonable opportunity to act on it.

Employer: _____

By: _____

Print Name: _____

Its: _____

Dated: _____