
Information Form

Please complete this first page and the information provided will appear where applicable throughout the remaining documents. Not every space will be filled in, so please review the documents. If there is a space for you to complete, you may type directly in that area or click on the boxes that pertain to your plan.

Employer Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Employer Phone: _____

Employer Fax: _____

Tax ID Number: _____

Effective Date: _____

Plan Year End: _____

Employer Contact for Plan Document & Compliance Updates:

Contact Name & Title: _____

Contact Phone Number: _____

Contact Email Address: _____

Employer Contact for Payroll (Contributions, Data Requirements and Billing)

Contact Name & Title: _____

Contact Phone Number: _____

Contact Email Address: _____

Employer Contact for Protected Health Information (HRA & FSA Only)

Contact Name & Title: _____

Contact Phone Number: _____

Contact Email Address: _____

Does Employer sponsor a FSA plan not administered by MidAmerica? _____
If yes, please provide FSA Plan Administrator Contact Information below.

FSA Administrator Name: _____

FSA Administrator Address: _____

FSA Administrator Phone: _____

FSA Administrator Contact: _____

Health Reimbursement Arrangement

IMPLEMENTATION BOOK



MidAmerica

Administrative & Retirement Solutions, Inc.

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863.688.4500 / (FAX) 863.686.9557 / 800.430.7999
www.MyMidAmerica.com

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**Requires employer signature(s)*

Overview

Our Plan allows the Employer to make deposits on behalf of active Employees and/or Retirees. Deposits are made tax-free, carry over year-to-year, earn interest tax-free and are used tax-free for qualified medical expenses and premiums. Our Plan can also be used in conjunction with our Special Pay Plan.

Source of Funds

The source of funds can be based on unused sick leave, unused vacation or other incentives. Applications can also include deposits in lieu of health insurance or as an incentive for plan design changes. Our Plan can also be used when transitioning from a defined benefit, such as continuing retiree health insurance, to a defined contribution by making annual deposits on behalf of Employees. There is flexibility as to eligibility and vesting schedules can apply.

Benefits to the Employer

The Employer obtains the intangible benefits of providing to participants a tax-free method of reimbursement for qualified medical expenses and premiums. The Employer also permanently saves the 7.65% FICA taxes (Social Security and Medicare) over the traditional payment method. Employers may also be able to reduce health insurance claims experience and premiums.

Benefits to the Employee

Employer contributions on behalf of participants are made on a tax-free basis. Because there are no taxes, the participant receives 100% of the value of each benefit dollar. Funds are invested in a fixed annuity with a guaranteed minimum rate of return. Other investments are also available. All earnings are tax-free! The participant has flexibility on the timing and eligible use of funds. The Plan Administrator provides a list of eligible fund uses as defined in IRS Publication 502 and IRC Section 213(d).

Administration

Simplicity of plan design reduces administrative costs. Plan documents, implementation materials and Plan Administration are provided to the Employer. Employer representatives have direct access to our administrative and management personnel.

Employee Communications/Account Information

Employee needs are serviced by a national service center through a toll-free number. Deposit confirmation and quarterly statements are provided. Employees also have access to their personal account information via the internet.

The Health Reimbursement Arrangement is provided by:



Securities offered through GWN Securities, Inc.

11440 Jog Road • Palm Beach Gardens, FL 33418 • 561/472-2700 • Member FINRA, SIPC

Sample Employer Resolution

Action Item

Authorize the Administration to establish a trust based Health Reimbursement Arrangement (HRA) in the name of the Employer. This Plan will save the Employer payroll taxes.

Supporting Information

Master contract agreements with various Employee groups and Employer Policy currently provide payments to Employees and/or retirement incentives. Enhancements to the IRS Tax Code allow the Employer to implement plans that save the Employer the 7.65% FICA taxes (Social Security and Medicare) on these payments. The Employee/Retiree also derives a tax-advantage as a result of implementing this Plan.

Contributions by the Employer into the trust based Health Reimbursement Arrangement are discretionary and can be made in any amount at any time.

The Administration, in cooperation with Employee group representatives and with legal review, has selected the Health Reimbursement Arrangement offered through National Insurance Services and administered by MidAmerica Administrative & Retirement Solutions, Inc. The Plan and Plan Administration best provides for the interests of the Employer and its Employees. It is the intent of the Administration that if this item is approved, the Plan be implemented as soon as practical.

Health Reimbursement Arrangement for Retirees

ADOPTION AGREEMENT

for

Employer Address: _____

Employer Telephone Number: _____

Employer Identification Number: _____



The undersigned Employer, by executing this Adoption Agreement, hereby adopts and implements the Health Reimbursement Arrangement for Retirees (hereinafter referred to as the “Plan” or the “HRA”) and agrees to abide by the terms of the Plan. With this Adoption Agreement, and by its authorized signature below, the Employer hereby makes the following designations.

Effective Date. The Plan’s Original Effective Date is _____. The Plan’s Restated Effective Date is _____
_____. The Plan is available to Retirees of the Employer effective _____.

Plan Year. The Plan Year ends on _____.

Eligible Classes. The class or classes of Retirees covered by this Plan are: *(See attached Class Specifications.)*

Class RetA: _____ Class RetB: _____

Class RetC: _____ Class RetD: _____

Class RetE: _____ Class RetF: _____

Designation of Plan Administrator. The Employer hereby designates the following initial Plan Administrator: MidAmerica Administrative & Retirement Solutions, Inc.

Designation of Individuals to Have Access to Protected Health Information (“PHI”). The following Employees, classes of Employees, or other persons shall be given access to the PHI to be disclosed:

The Employer hereby agrees to the provisions of the Plan and has executed this Adoption Agreement on this _____ **day of**
_____, 20_____.

Name of Employer: _____

Signature: _____

Print Name: _____

Title: _____

Employer CONTACT (print): _____

Title: _____

E-Mail: _____

Telephone: _____ Ext. _____

Fax: _____

IRS Circular 230 Notice: We are required to advise you no person or entity may use any tax advice in this communication or any attachment to (i) avoid any penalty under federal tax law or (ii) promote, market or recommend any purchase, investment or other action.

Employer Representations

- The Employer intends to reduce its Retirees' medical expenses by providing reimbursement of such expenses, in a limited capacity. The Employer anticipates that participation in the HRA will encourage prospective Retirees to retire earlier, as they will be better able to afford quality health care prior to the age at which they are Medicare eligible.
- The Employer may allow Retirees to participate in both the HRA and the Special Pay Plan (403(b)).
- Retirees are not permitted to make any election or choice between cash, the HRA, and/or the Special Pay Plan, or any other tax deferred program.
- The Employer will base HRA allocations on its estimates of the costs required to provide a certain amount of medical reimbursements to its Retiree population as that population approaches Medicare age.
- The Employer has discretion in determining classes of Employees eligible to participate in the Retiree HRA. Once determined, Retirees in the class shall be treated uniformly and be provided a uniform allocation to the HRA. Such class shall remain in effect for the Employer's entire fiscal year for all affected Retirees in such year and for all future contributions to such class. Each year, the Employer may reevaluate allocations and classes for new Retirees only.
- The Employer may gather information from the Retiree to determine the appropriate allocation to the HRA, but individual Participants are not allowed to elect or to determine their allocation.
- The Employer will monitor all rehires to ensure that less than two employees are in the Retiree HRA Plan.
- The Employer acknowledges that it has received the Plan document for the HRA and agrees with all the terms therein.
- The Employer understands that whether a contribution to the HRA is non-elective for tax purposes is a facts and circumstances determination, and the Employer is responsible for whether the contribution is truly non-elective or not. The Employer understands that MidAmerica Administrative & Retirement Solutions, Inc. and its agents and employees are not tax or legal advisors. They may provide general information regarding the tax treatment of health reimbursement arrangements, but the Employer should consult with its own tax or legal advisors as to how tax and other rules may apply to its own facts and circumstances.
- The Employer will not provide any information or forms or enter into any contracts inconsistent with the preceding.

Effective Date _____ **Employer Initials** _____

Eligible Class RetA: _____

Defined as: _____

Employment Status Upon the initial contribution to the Plan, Participant employment status shall be:

- Retiree
- Active with no access to benefit until retirement or separation of service

Contribution Types All funds for the Plan shall come exclusively from the Employer and shall be determined in accordance with the following formula:

- Dollar Amount
- Percentage of Compensation or Retirement Pay

Contribution Frequency

- One Time
- Semi-Annually
- Annually
- Monthly
- Quarterly
- Other _____

Vesting Schedule Participants shall own their account balance in accordance with the following vesting schedule:

- 100% Immediate
- 100% upon Retirement, meeting the Employer’s eligible requirements for retirement
- 100% upon Separation of Service
- Other _____
- 100% upon death (can be selected in addition to “other” above)

Forfeitures Employees who are not 100% vested under the Vesting Schedule at the time of termination shall forfeit their unvested funds. In the event of the death of the Participant, the Participant’s spouse, and all of the Participant's qualifying dependents, any vested funds remaining in the account shall be forfeited. In the event that the Participant opts out of participation in the Plan, all vested and unvested funds shall be forfeited. Forfeitures shall:

- Reduce future Employer contributions
- Be redistributed pro-rata at the end of each Plan Year to all Plan Participants who are actively employed as of the end of the Plan Year

Run-off Times Participants will be allowed 0 (zero) days to continue incurring expenses after the date that their Participation in the Plan ends. The Run-off time for Participants to submit claims for reimbursement from funds that shall be forfeited will be 90 (ninety) days. The Run-off time for funds that shall be forfeited due to death will be one year.

Reimbursements Reimbursements shall be for:

- All eligible Medical Expenses specified in section 213(d) of the Internal Revenue Code
- Limited Purpose _____
- Post Deductible
- Premium Only Medical Expenses

HRA/FSA Ordering

- The Employer maintains a Flexible Spending Account (FSA) plan in which Participants may elect to participate.
- The Plan permits reimbursements for expenses eligible to be reimbursed by the FSA plan and therefore the HRA shall not reimburse before expenses exceeding the dollar amount of any FSA have been paid.
- The Plan permits reimbursements for Limited Purpose, Deductible or Premium Only expenses which are not eligible to be reimbursed by the FSA plan and therefore the HRA shall reimburse before the Participant’s FSA account is exhausted.

Administration Fees: Administrative Fees are paid by the Employer for former employees.

Manual Claim Fees: Not Applicable.

Reimbursement Eligibility A Participant shall be eligible for reimbursement of medical expenses at the time selected below.

- Immediate
- Upon becoming 100% vested
- Upon Retirement or Separation of Service

Investment Selection **Investment Provider:** _____

- Type of Investment:** Fixed annuity only Variable annuities – Default _____ Forfeiture Default _____
- Employer directed
 - Participant directed; restrictions are:
 - None
 - 100% vested
 - At Retirement
 - Account balance in excess of \$ _____
 - Other _____
 - Funds limited (see attachment)

Effective Date _____ **Employer Initials** _____

Health Reimbursement Arrangement for Retirees

PLAN DOCUMENT

The Plan's Original Effective Date is _____. The Plan's Restated Effective Date is _____. The Plan is available to Retirees of the Employer effective _____.



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Introduction

The Employer has established and adopted the MidAmerica Administrative & Retirement Solutions, Inc. Health Reimbursement Arrangement for Retirees (the "Plan") to enable eligible former employees and their dependents to be reimbursed tax-free for eligible medical and dental expenses. Contributions to the Plan shall be made by the Employer and credited to Participants' accounts. Claims for reimbursement shall be processed and reimbursements paid out on a tax-free basis for medical expenses in accordance with Internal Revenue Service Guidelines for Health Reimbursement Agreements, IRS Publication 502, Internal Revenue Code (the "Code") Sections 213(d), 105 and 106 as described in Revenue Ruling 2002-41 and IRS Notice 2002-45.

Legal Status

This Plan is intended to qualify as an employer-provided medical reimbursement plan under Code Sections 105 and 106 and regulations issued thereunder, as a health reimbursement arrangement as described in IRS Notice 2002-45 and Revenue Ruling 2002-41, and to comply with IRS Notice 2013-54 and shall be interpreted to accomplish those objectives. The expenses reimbursed under the Plan are intended to be eligible for exclusion from Participants' gross income under Code Section 105(b).

Notwithstanding anything to the contrary, the portion of the Plan that reimburses Highly Compensated Individuals, as defined in Code Section 105(h), for premiums paid under an insured plan shall be treated as a separate plan that is not subject to the requirements of Code Section 105(h), pursuant to Treasury Regulation Section 1.105-11(b)(2).

Participation

Eligible former employees of the class or classes set forth by the Employer in the Plan Adoption Agreement will be Participants in the Plan. Notwithstanding any election in the Plan Adoption Agreement to the contrary, eligible former employees of the class or classes set forth by the Employer in the Plan Adoption Agreement who are Highly Compensated Individuals, as defined in Code Section 105(h), and whose benefits exceed those of other Plan Participants, will be Participants only in that portion of the Plan that reimburses Participants for "premium only medical expenses," as described below. Under no circumstances are such individuals eligible for reimbursements of any medical and dental expenses other than premium expenses. For purpose of this section, a retiree who was a Highly Compensated Individual prior to his or her retirement from the Employer shall be treated as a Highly Compensated Individual thereafter and during retirement.

Participation Opt Out

At least once per Plan Year, Participants shall be entitled to permanently opt out of participation in the Plan. Any such opt out will result in the forfeiture of the Participant's account balance, including any vested funds, and the waiver of any future reimbursements from the Plan. The Participant may, however, continue to submit claims for reimbursement of expenses incurred prior to the opt out date, pursuant to the Run-Off Times section of the Plan Adoption Agreement. Any forfeited amount shall be applied as elected by the Employer in the Plan Adoption Agreement.

In the event that the Participant is reemployed as an active employee of the Employer and terminates employment with the Employer, the Participant shall be entitled to permanently opt out of participation in the Plan at the time of termination. In addition to the forfeiture of unvested funds as provided for in the Forfeiture section of the Plan Adoption Agreement, any such opt out will result in the forfeiture of any vested funds and the waiver of any future reimbursements from the Plan. The Participant may, however, continue to submit claims for reimbursement of expenses incurred prior to the opt out date, pursuant to the Run-Off Times section of the Plan Adoption Agreement. Any forfeited amount shall be applied as elected by the Employer in the Plan Adoption Agreement.

Benefits and Eligibility for Benefits

A Participant shall be entitled to reimbursements of eligible medical and dental expenses upon the occurrence of the event selected in the Plan Adoption Agreement, but in no event until after expenses exceeding the dollar amount of any flexible spending arrangement ("FSA") in which the Participant shall also participate have been paid, or, if the medical or dental expense is reimbursable from a health savings account ("HSA"), amounts shall only be available from this Plan in accordance with paragraph 9 of the Administration section herein.

If the Employer indicates in the Adoption Agreement that Reimbursements shall be for "all eligible section 213(d) medical expenses," eligible medical and dental expenses for purposes of this Plan are those expenses that are:

- a. incurred by the Participant, spouse or tax dependent (as defined in paragraph 9 of the "Administration" section);
- b. incurred for Medical Care - "Medical Care" shall have the same meaning as in section 213(d) of the Code, and shall include: (i) amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, except that eligible medical and dental expenses shall specifically exclude expenses for a medicine or drug incurred on or after January 1, 2011, unless such medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin, and (ii) premiums for medical and dental coverage, including premiums under part B and part D of title XVIII of the Social Security Act (relating to supplementary medical insurance for the aged and prescription drug coverage, respectively); and
- c. not compensated through insurance and not paid for with a tax-free distribution from a Medical Savings Account (MSA), Health Savings Account (HSA), or Health Flexible Spending Arrangement and not attributable to a deduction allowed under Code section 213(d) for any prior taxable year.

If the Employer indicates in the Adoption Agreement that reimbursements shall be for "premium only medical expenses," eligible medical and dental expenses for purposes of this Plan are those expenses that are:

- a. incurred by the Participant, spouse or tax dependent (as defined in paragraph 9 of the "Administration" section);
- b. premiums for medical and dental coverage, including premiums under part B and part D of title XVIII of the Social Security Act (relating to supplementary medical insurance for the aged and prescription drug coverage, respectively); and
- c. not paid for with a tax-free distribution from a Medical Savings Account (MSA) or Health Savings Account (HSA) and not attributable to a deduction allowed under Code section 213(d) for any prior taxable year.

Funding

All funds for the Plan shall come exclusively from the Employer and shall constitute either a specified dollar amount and/or a specific percentage of the former employees' compensation or retirement pay as the Employer shall from time to time determine. The amount or percentage to be determined by the Employer shall be subject to, and not in contravention of, the Employer's obligations to its former employees. Subject to any vesting schedule which may be elected in the Plan Adoption Agreement, all funds in the Plan belong to the individual Participants as allocated to their accounts. Also subject to any vesting schedule which may be elected in the Plan Adoption Agreement, once funds are allocated to the Plan, the Employer relinquishes all right, title, control, and interest to such funds.

Interest Credit

Interest shall be credited on a daily basis to Participant accounts based on the rate credited by the underlying AUL fixed annuity investment option. If variable annuity investments are allowed pursuant to the Adoption Agreement, earnings and losses shall be credited on a daily basis based on the investment funds selected.

Vesting

Funds in a Participant's account shall vest and be available to pay eligible medical expenses in accordance with the vesting schedule elected by the Employer in the Plan Adoption Agreement. If a Participant is not fully vested in his account balance when participation hereunder of the Participant and his surviving spouse and/or dependents ends as described in the section hereof entitled "Death Benefit," any forfeited amount shall be applied as elected by the Employer in the Plan Adoption Agreement.

Continuation Coverage

COBRA continuation coverage ("COBRA coverage"). COBRA coverage shall be available on the same terms and conditions as described herein with respect to Participants upon payment of the applicable COBRA premium. Each qualified beneficiary (i.e., the Participant's former spouse and former eligible dependents) shall be entitled to COBRA coverage for a period of 36 months upon the qualifying events of death of Participant, divorce from Participant, or a dependent reaching an age under which he/she is ineligible under the terms of the Plan. The level of coverage will be the Participant's account balance at the time of the qualifying event (adjusted for investment earnings and losses), plus Employer contributions, and minus reimbursements for claims paid from the account. Contributions shall be made at the same times as they are made for similarly situated Participants who have not experienced a qualifying event. The balance of the Participant's account shall be available to all qualified beneficiaries electing continuation coverage on an aggregate basis.

The COBRA premium shall be a single premium regardless of the number of qualified beneficiaries electing COBRA coverage. That premium shall be as determined annually by the Employer. The Employer shall have no obligation to pay any portion of the COBRA premium.

Coverage in lieu of COBRA. As an alternative to COBRA continuation coverage, qualified beneficiaries may choose to continue to access the Participant's account via coverage in lieu of COBRA. No additional contributions will be made to the Participant's account during the coverage in lieu of COBRA period and no premium will be charged for the coverage. Administrative fees as indicated herein will be applied. The balance of the Participant's account shall be available to all qualified beneficiaries electing coverage in lieu of COBRA on an aggregate basis. Furthermore, if some qualified beneficiaries elect COBRA and others select coverage in lieu of COBRA, all qualified beneficiaries will have access to the Participant's account on an aggregate basis.

Plan Investments

Plan investments will be made in accordance with the Employer's elections in the Plan Adoption Agreement, and will consist of investments in either fixed or variable annuities.

Plan Administrator

The Employer designates as the initial Plan Administrator the entity named in the Plan Adoption Agreement. The initial Plan Administrator shall serve as Plan Administrator until such time as a new Plan Administrator is appointed.

Administrative Fees

An administration fee shall be payable by the Employer. Participants may be charged a distribution fee by the Plan's administrative services provider in such amount as shall be agreed to by the Employer.

Administration

1. Health reimbursement requests may be made monthly with no minimum reimbursement dollar amount for recurring claims. There is a \$100 minimum claim amount for all other claims unless the participant account balance is less than \$100. Additionally, a reimbursement request can only be made for expenses incurred subsequent to the date the Participant first becomes enrolled in the Plan.
2. Participants are entitled to request reimbursements from their accounts as soon as the accounts are funded by the Employer, but only for medical expenses incurred subsequent to the date the Participant first becomes enrolled in the Plan. Hardship withdrawals or loans are not permitted under this Plan and Plan funds may only be used to reimburse Participants and their dependents for qualified medical expenses.
3. In order to receive reimbursement for eligible medical expenses, Participants shall provide the Plan Administrator with whatever information is reasonably required. This Plan shall not and cannot reimburse for any claims other than those allowed under Code Section 213(d) and the regulations thereunder, as generally described in IRS Publication 502.
4. When a request is approved it shall be scheduled for disbursement. Disbursements shall be made not later than the fifteenth (15th) day of each month for all reimbursement requests received by the Plan Administrator prior to the end of the preceding month.
5. Subject to the Claims Procedures rules below, decisions of the Plan Administrator shall be final on the issue of eligible expenditures and such decisions shall be based on Code Section 213(d) and the regulations thereunder, as interpreted by the IRS or court rulings or directives concerning the deductibility of medical expenses for Federal Income Tax purposes, which interpretations shall be controlling for purposes of determining reimbursement eligibility under this Plan.
6. Other than establishing this Plan and providing funding for the Plan, the Employer does not assume any responsibility for any aspect of any Participant's health care. Participant questions shall be directed to the Plan Administrator.
7. Each Participant shall be notified by the Plan Administrator of his or her account balance at the time a deposit is made to his or her account. The Plan Administrator shall provide each Participant with a quarterly statement setting forth the Participant's account balance and earnings and disbursements for the quarter. Additionally, the Plan Administrator shall provide a Participant with a statement of account balance in conjunction with each reimbursement distribution.
8. Funds in a Participant's account at the end of each year shall be rolled into the following year.
9. Reimbursement is available for the Participant, the Participant's spouse, the Participant's tax dependents as defined in Internal Revenue Code Section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof, and any child (as defined in Code Section 152(f)(1)) of the Participant who as of the end of the taxable year has not attained age twenty-seven (27). For purposes of this Plan, such qualified tax dependents and children shall collectively be referred to as "dependents." Submission of a request for reimbursement on behalf of someone other than the Participant shall be deemed a representation by the Participant that the request for reimbursement is made on behalf of a spouse or dependent.

Death Benefit

If a Participant dies prior to exhausting his vested account balance, the Participant's surviving spouse and/or dependents are eligible to be reimbursed under this Plan for their eligible medical expenses until the vested account balance is exhausted. In the event of the death of the Participant, the Participant's spouse, and all of

the Participant's qualifying dependents, any funds remaining in the account shall be forfeited. Forfeitures shall be applied as elected by the Employer in the Plan Adoption Agreement.

Plan Amendments

The Employer has the authority to amend this Plan at any time, in whole or in part. Participants will be notified of any Plan changes. Any amendment to the Plan shall not adversely affect the rights of existing Participants. Changes imposed by the Internal Revenue Service, either by law change, regulations, or rulings, will be effective immediately and without notice.

Involuntary Access to Funds

Funds in a Participant's Plan account are not assignable by a Participant, either in law or in equity, or subject to estate tax, or to execution, levy, attachment, garnishment, or any other legal processes.

Plan Termination

In the event the Employer elects to terminate this Plan, which it may do, in its sole discretion, at any time and for any reason, amounts credited to Participants' accounts will remain in the Participants' accounts and Participants will continue to utilize their accounts as set forth in this Plan Document until their accounts are exhausted.

HIPAA Compliance

1. Disclosure of Summary Health Information to the Employer

In accordance with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Standards") issued and pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), the Plan may disclose Summary Health Information to the Employer, if the Employer requests the Summary Health Information for the purpose of (a) obtaining premium bids from health plans for providing health insurance coverage under this Plan or (b) modifying, amending or terminating the Plan.

"Summary Health Information" may be individually identifiable health information and it summarizes the claims history, claims expenses or the type of claims experienced by individuals in the Plan, but it excludes all identifiers that must be removed for the information to be de-identified, except that it may contain geographic information to the extent that it is aggregated by five-digit zip code.

2. Disclosure of Protected Health Information ("PHI") to the Employer for Plan Administration Purposes

In order that the Employer may receive and use a Participant's individually identifiable health information or PHI (including electronic PHI) for "Plan Administration" purposes, the Employer agrees to:

- a. Not use or further disclose PHI other than as permitted or required by the Plan Documents or as Required by Law (as defined in the Privacy Standards);
- b. Ensure that any agents, including a subcontractor, to whom the Employer provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Employer with respect to such PHI;
- c. Not use or disclose PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer, except pursuant to an authorization which meets the requirements of the Privacy Standards;

- d. Report to the Plan any PHI use or disclosure that is inconsistent with the uses or disclosures provided for of which the Employer becomes aware, including any security incident or actual or suspected breach that may compromise PHI.;
 - e. Make available PHI in accordance with Section 164.524 of the Privacy Standards (45 CFR 164.524);
 - f. Make available PHI for amendment and incorporate any amendments to PHI in accordance with Section 164.526 of the Privacy Standards (45 CFR 164.526);
 - g. Make available the information required to provide an accounting of disclosures in accordance with Section 164.528 of the Privacy Standards (45 CFR 164.528);
 - h. Make its internal practices, books and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of the U.S. Department of Health and Human Services ("HHS"), or any other officer or employee of HHS to whom the authority involved has been delegated, for purposes of determining compliance by the Plan with Part 164, Subpart E, of the Privacy Standards (45 CFR 164.500 et seq);
 - i. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI;
 - j. If feasible, return or destroy all PHI received from the Plan that the Employer still maintains in any form and retain no copies of such PHI when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible; and
 - k. Ensure that adequate separation between the Plan and the Employer, as required in Section 164.504(f)(2)(iii) of the Privacy Standards (45 CFR 164.504(f)(2)(iii)), is established as follows:
 - i. The employees, or classes of employees, or other persons under control of the Employer who are identified in the Plan Adoption Agreement, shall be given access to the PHI to be disclosed.
 - ii. The access to and use of PHI by the individuals described in subsection (i) above shall be restricted to the Plan Administration functions that the Employer performs for the Plan.
 - iii. In the event any of the individuals described in subsection (i) above do not comply with the provisions of the Plan Documents relating to use and disclosure of PHI, the Plan Administrator shall impose reasonable sanctions as necessary, in its discretion, to ensure that no further non-compliance occurs. Such sanctions shall be imposed progressively (for example, an oral warning, a written warning, time off without pay and termination), if appropriate, and shall be imposed so that they are commensurate with the severity of the violation.
- "Plan Administration" activities are limited to activities that would meet the definition of payment or health care operations, but do not include functions to modify, amend or terminate the Plan or solicit bids from prospective issuers. "Plan Administration" functions include quality assurance, claims processing, auditing, monitoring and management of carve-out plans, such as vision and dental. It does not include any employment-related functions or functions in connection with any other benefit or benefit plans.

3. Disclosure of Certain Enrollment Information to the Employer

Pursuant to Section 164.504(f)(1)(iii) of the Privacy Standards (45 CFR 164.504(f)(1)(iii)), the Plan may disclose to the Employer information on whether an individual is participating in the Plan or is enrolled in or has disenrolled from a health insurance issuer or health maintenance organization offered by the Plan to the Employer.

4. Disclosure of PHI to Obtain Stop-loss or Excess Loss Coverage

The Employer hereby authorizes and directs the Plan, through the Plan Administrator or its third party administrator, to disclose PHI to stop-loss carriers, excess loss carriers or managing general underwriters (MGUs) as directed by the Employer for underwriting and other purposes in order to obtain and maintain stop-loss or excess loss coverage related to benefit claims under the Plan, provided that genetic information will not be used for underwriting purposes. Such disclosures shall be made in accordance with the Privacy Standards. The Employer certifies that such disclosures are for Plan administration purposes and that any third party to whom the Employer directs disclosure from the Plan has agreed to also comply with this amendment, as set out in Section 2.b.

5. Other Disclosures and Uses of PHI

With respect to all other uses and disclosures of PHI, the Plan shall comply with the Privacy Standards.

Claims Procedure

A Participant, spouse or dependent (the "Claimant") shall apply for Plan benefits in writing on a form provided by the Plan Administrator, or in such other manner as prescribed by the Plan Administrator. A communication regarding benefits that is not made in accordance with these procedures will not be treated as a claim under these procedures. Claims shall be evaluated by the Plan Administrator or such other person or entity designated by the Plan Administrator and shall be approved or denied in accordance with the terms of the Plan and Plan Adoption Agreement. All references to the Plan Administrator shall include any such delegate. No Claimant shall be entitled to benefits unless the Plan Administrator or its delegate determines in its discretion that the Claimant is entitled to benefits.

1. Claims

The Plan Administrator shall make a determination within a reasonable period of time, but not later than 30 days after receipt of the claim. This period may be extended one time by the Plan for up to 15 days, provided that the Plan Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the Claimant, prior to the expiration of the initial 30-day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If such an extension is necessary due to a failure of the Claimant to submit the information necessary to decide the claim, the notice of extension shall specifically describe the required information, and the Claimant shall be afforded at least 45 days from receipt of the notice within which to provide the specified information and the period for making the benefit determination shall be tolled from the date on which the notice of extension is sent to the Claimant until the date on which the Claimant responds to the request for additional information, or the deadline to submit the additional information, if earlier.

2. Notice of Denial

If the claim is denied in whole or in part, the Claimant will receive a written notice that includes:

- a. The specific reason or reasons for the denial;

- b. Reference to the specific Plan provision(s) on which the denial is based;
- c. A description of any additional material or information needed from the Claimant in connection with the claim and the reason such material or information is needed;
- d. An explanation of the claims review procedures and the applicable time limits, including a statement concerning the Claimant's right to bring a civil action following an adverse determination on review;
- e. A statement regarding any internal rule, guideline, protocol or other criterion that was relied upon in making the adverse determination (or a statement that a copy will be provided free upon request);
- f. If the denial is based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment that led to this determination (or a statement that a copy will be provided free upon request);
- g. Any other information required by law.

3. Right to Request Review: Internal Appeal

The Claimant must make a written request for review to the Plan Administrator within 180 days of the initial denial of the claim. If a written request for review is not made within such 180- day period, the Claimant shall forfeit his or her right to review. The Claimant's written request for review may (but is not required to) include issues, comments, documents, and other records the Claimant wants considered in the review. All the information the Claimant submits will be taken into account on review, even if it was not reviewed as part of the initial decision. The appeal will be conducted by a person different from the person who made the initial decision. No deference will be given to the initial decision. The Claimant may ask to examine or receive free copies of Plan documents, records, and other information relevant to the claim by asking the Plan Administrator.

The Claimant will be given the identity of medical or vocational experts if requested, whose advice was obtained by the Plan in connection with the Claimant's initial claim denial, if any, even if their advice was not relied upon in making the initial decision. Where an adverse determination is based in whole or in part on a medical judgment, including determinations with regard to whether a particular treatment, drug or other item is experimental, investigational, or not medically necessary or appropriate, the Plan will consult with a health care professional who has experience in the field of medicine involved in the medical judgment to decide the Claimant's appeal. The Plan Administrator reserves the right to delegate its authority to make decisions.

4. Decision Upon Review: Internal Appeal

The Plan Administrator shall make a determination within a reasonable period of time, but not later than 60 days after receipt by the Plan of the Claimant's request for review of adverse determination.

5. Notice of Denial of Internal Appeal

If the decision on the appeal is denied, the Claimant will receive a written notice that includes:

- a. The specific reason or reasons for the denial;
- b. Reference to the specific Plan provisions on which the denial is based;

- c. A statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the Claimant's claim for benefits;
 - d. A statement explaining any voluntary appeal procedures offered by the Plan and the Claimant's right to bring a civil action;
 - e. A statement regarding any internal rule, guideline, protocol or other criterion that was relied upon in making the adverse determination (or a statement that a copy will be provided free upon request);
 - f. If the denial is based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment that led to this determination (or a statement that a copy will be provided free upon request);
 - g. Any other information required by law.
6. External Appeal Process

Where required by law, a Claimant may be able to file an external appeal with an independent review organization. The independent review organization may overturn the Plan's decision, and the independent review organization's decision will be binding on the Plan. A Claimant must file a claim for external review within four (4) months of the date the Claimant receives the internal appeal denial notice. Filing a request for external review will not affect a Claimant's ability to bring a legal claim in court. When a Claimant files a request for external review, the Claimant will be required to authorize release of any medical records that may be required to be reviewed for the purpose of reaching a decision on the external review. Additional information on the external review process, where applicable, will be included in the internal appeal determination notice, or the Claimant may contact the Plan Administrator to request such additional information.

IN WITNESS WHEREOF, this Plan has been executed this ____ day of _____, 20___, by **MidAmerica Administrative & Retirement Solutions, Inc.**

**MIDAMERICA ADMINISTRATIVE &
RETIREMENT SOLUTIONS, INC.**

By: _____

Its: SVP Business Development

IRS Circular 230 Notice: We are required to advise you no person or entity may use any tax advice in this communication or any attachment to (i) avoid any penalty under federal tax law or (ii) promote, market or recommend any purchase, investment or other action.

Health Reimbursement Arrangement Section 115 Employee Benefit Trust

ADOPTION AGREEMENT

for

This Adoption Agreement is executed on this, the _____ day of _____, 20____, by and between _____, the Grantor, and _____ as the Trustee, and sets forth the designations required by the Trust.

1. Trust Administrator: **MidAmerica Administrative and Retirement Solutions, Inc.** is hereby designated as the Trust Administrator.
2. Custodian: **American United Life** is hereby designated as Custodian of the Trust assets.

By:

Grantor & Trustee*: _____

[* The Trustee may be a governmental employer if permitted under applicable local authority. This Adoption Agreement should be executed below by a duly authorized representative on behalf of the governmental employer. The employer representative is not the trustee and is merely signing for the employer, the trustee.]

Signature: _____

Print Name: _____

Title: _____

Date: _____

IRS Circular 230 Notice: We are required to advise you no person or entity may use any tax advice in this communication or any attachment to (i) avoid any penalty under federal tax law or (ii) promote, market or recommend any purchase, investment or other action.

Health Reimbursement Arrangement Trust
for



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EMPLOYEE BENEFIT TRUST

THIS TRUST AGREEMENT is made this _____ day of _____, 20____ by and between _____ (the "Employer") and _____, as Trustee ("Trustee").

WITNESSETH:

WHEREAS, the Employer has adopted Benefit Plans and Programs for Employees and Former Employees of the Employer, and

WHEREAS, the Employer desires to establish a Trust to secure and hold funds that will be contributed by the Employer and held for the benefit of the employees and their eligible dependents under and in accordance with the Employer's Employee Benefit Plans and Programs, and

WHEREAS, the Employer desires the Trustee to hold and administer the Trust, and the Trustee is willing to hold and administer such Trust, pursuant to the terms of this Agreement, and

WHEREAS, the Employer, by action of its duly authorized officer or governing body, has designated the Trustees to serve as the trustees for the Trust,

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

1. **NAME AND PURPOSE.** The name of this Trust, and the Trust Account established pursuant to this Trust, shall be the _____ Employee Benefit Trust Account. The exclusive purpose of this Trust is to provide a source of funds for the Employer's employee welfare benefit obligations.
2. **COMPLIANCE WITH LAWS.** This Trust is to be interpreted in accordance with the laws of the State in which the Employer is located.
3. **ACCEPTANCE.** The Trustee accepts the Trust and agrees to perform the obligations imposed on it by the terms and conditions set forth in this Trust document.
4. **RECEIPT OF CONTRIBUTIONS.** The Trustee is accountable to the Employer for the funds contributed to it by the Employer. The Trustee is not obliged to collect any contributions from the Employer.
5. **BENEFICIARIES.** The Trust assets, including any earnings accruing on them, shall be held solely for the purpose of providing funding for payment of the Employer's employee welfare benefit obligations and for payment of Trust expenses as provided for herein. It shall be impossible at any time for any part of the Trust to be used for or diverted to purposes other than to provide the benefits identified and contemplated under the Plans referenced herein for the exclusive benefit of covered employees and their dependents. No portion of the principal or income of this Trust shall revert to the Employer.

6. INVESTMENT POWERS. Subject to applicable State law and its fiduciary responsibility, the Trustee has full discretion and authority with regard to the investment of the Trust assets, except with respect to an asset under the control or direction of a properly appointed investment manager, or with respect to an asset subject to Employer direction of investment.
7. ADMINISTRATION. The administration of the Trust shall be provided by the Trust Administrator designated by the Employer in the Adoption Agreement for this Trust. By its agreement to serve as Trustee, the Trustee accepts the Employer's designation of the Trust Administrator. The Employer may designate another Trust Administrator at any time, with proper notice to the Trustee and subject to the Trustee's approval. The Trust Administrator shall be responsible for all administrative aspects of the Trust, including the filing of all reports and tax returns, if any, required of the Trust.
8. CUSTODIAN. The Employer shall appoint a Custodian of the Trust Assets. The Custodian shall be designated and appointed in the Adoption Agreement. The Custodian shall invest the Trust assets as directed by the Trustee. The Custodian shall not have any discretion as to the investment of the Trust assets and shall at all times follow the direction and instruction of the Trustee. So long as the Custodian invests the Trust assets pursuant to the instructions of the Trustee, the Custodian shall not have any liability for following the Trustee's instructions.
9. RECORDS AND STATEMENTS. The records of the Trustee, Custodian, and Trust Administrator, pertaining to the Trust, must be open to the inspection of the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer may specify in writing.
10. FEES AND EXPENSES FROM FUND. The Trustee and Trust Administrator may receive reasonable annual compensation as may be agreed upon from time to time between the Employer and the Trustee and the Trust Administrator. The Trustee will pay, from the Trust Fund, all fees and expenses reasonably incurred by the Trust to the extent such fees and expenses are for the ordinary and necessary administration and operation of the Trust unless the Employer pays such fees and expenses directly. The above notwithstanding, the Trustee shall not be entitled to compensation if the Trustee is also the Employer.
11. PARTIES TO LITIGATION. Any final judgment entered in any court proceeding involving the Trust will be binding on the Employer, Trustee, Trust Administrator, and the Custodian.
12. PROFESSIONAL AGENTS. The Trustee may employ and pay from the Trust Fund reasonable compensation to, agents, attorneys, accountants and other persons, to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant, or other person selected by it, any non-Trustee power or duty vested in it by the Trust, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.
13. DISTRIBUTION OF CASH OR PROPERTY. The Trustee may make distributions from the Trust in cash or property, or partly in each, at its fair market value as determined by the Trustee. No distributions shall be made from this Trust other than for the payment of benefits identified under the Plans, except that payments of reasonable expenses for the administration of the Trust shall be permitted in accordance with paragraph 10 above.
14. DISTRIBUTION DIRECTIONS. If no one claims a payment or distribution made from the Trust, the Trustee shall return the payment to the corpus of the Trust.

15. THIRD PARTY / MULTIPLE TRUSTEES. No person dealing with the Trustee is obligated to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to the terms of this Trust. Each person dealing with the Trustee may act upon any notice, request, or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and is not liable to any person in so acting. If two persons act as Trustee and reach a deadlock, the Grantor shall appoint a third person as temporary Trustee to cast a vote in order to break the deadlock. A decision of the majority of the Trustees shall control with respect to any decision regarding the administration or investment of the Trust Fund or of any portion of the Trust Fund with respect to which such persons act as Trustees. However, the signature of only one Trustee is necessary to effect any transaction on behalf of the Trust.
16. RESIGNATION. The Trustee may resign its position at any time by giving 30 days written notice in advance to the Employer. If the Employer fails to appoint a successor Trustee within 60 days of its receipt of the Trustee's written notice of resignation, the Trustee will treat the Employer as having appointed itself as Trustee and as having filed its acceptance of appointment with the former Trustee.
17. REMOVAL. The Employer, by giving 30 days' written notice in advance to the Trustee, may remove any Trustee. In the event of the resignation or removal of a sole Trustee, the Employer must appoint a successor Trustee if it intends to continue the Trust. If multiple persons hold the position of Trustee and one or more, but less than all, are removed as Trustee, in the event of the removal of one such person, the remaining person or persons shall act as Trustee.
18. INTERIM DUTIES AND SUCCESSOR TRUSTEE. Each successor Trustee succeeds to the title to the Trust vested in his predecessor by accepting in writing his appointment as successor Trustee and by filing the acceptance with the former Trustee and the Employer without the signing or filing of any further statement. The resigning or removed Trustee, upon receipt of acceptance in writing of the Trust by the successor Trustee, must execute all documents and do all acts necessary to vest the title of record in any successor Trustee. Each successor Trustee has and enjoys all of the powers, discretionary and ministerial, conferred under this Agreement upon his predecessor. A successor Trustee is not personally liable for any act or failure to act of any predecessor Trustee, except as required under applicable law. With the approval of the Employer, a successor Trustee, with respect to the Plan, may accept the account rendered and the property delivered to it by a predecessor Trustee without incurring any liability or responsibility for so doing.
19. VALUATION OF TRUST. The Trustee must value the Trust Fund as of each Accounting Date to determine the fair market value of the Trust. The Trustee also must value the Trust Fund on such other valuation dates as directed in writing by the Employer. Accounting Date shall mean the last day of the Employer's fiscal year.
20. RECORDS AND REPORTS. The Trustee and the Trust Administrator shall create and maintain records that are appropriate to the administration of the Trust.
21. TERMINATION OF TRUST. This Trust shall terminate when all Trust funds have been expended for the fulfillment of the Employer's welfare benefit obligations to its employees, and the Employer notifies the Trustee and all other interested parties that the Employer will not be providing any additional funds to the Trust.
22. IRREVOCABLE. This Trust is irrevocable by the Employer.

23. SUCCESSORS and ASSIGNS. This Trust Agreement and the rights and duties hereunder shall not be assignable by either of the parties hereto. The assets held under this Trust shall not be subject to the rights of the creditors of the Employer, the Trustees, or the Custodian, and shall be exempt from execution, attachment, prior assignment, or any other judicial relief or order for the benefit of creditors or other third persons.
24. AMENDMENTS. This Trust Agreement may be amended from time to time by an instrument in writing executed by duly authorized officers of the Employer and Trustee.
25. NO THIRD PARTY BENEFIT. This Agreement is intended for the exclusive benefit of the parties to this Agreement and nothing contained in this Agreement shall be construed as creating any rights or benefits in or to any other party.
26. INCORPORATION OF ADOPTION AGREEMENT. The Trust Adoption Agreement, any Appendix thereto, and any future modifications, are incorporated in this Trust Document and made a part thereof as though specifically set forth herein.
27. EMPLOYER REPRESENTATION. The Employer represents and warrants that:
 - (A) it is a State or political subdivision of a State or agency or instrumentality of the foregoing within the meaning of Code Section 414(d);
 - (B) it has authority under State law to enter into, maintain, and establish this Trust and the Plan(s).
 - (C) the funding of the Trust is from employer contributions or contributions of employees of the Employer;
 - (D) the Trust is exempt from taxes under Code Section 115; and
 - (E) the Trust and Plan is a governmental plan as defined in Code Section 414(d), established for the exclusive benefit of the employees of the Employer.

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be SIGNED, SEALED, and DELIVERED on _____ day of _____, 20_____.

By:

Employer Name: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

and

Trustee: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

IRS Circular 230 Notice: We are required to advise you no person or entity may use any tax advice in this communication or any attachment to (i) avoid any penalty under federal tax law or (ii) promote, market or recommend any purchase, investment or other action.

Health Reimbursement Arrangement for Retirees

SERVICE AGREEMENT

ISSUED BY

MIDAMERICA ADMINISTRATIVE & RETIREMENT SOLUTIONS, LLC

TO

Fort Ord Reuse Authority

THIS SERVICES AGREEMENT (“Agreement”) is entered into between MidAmerica Administrative and Retirement Solutions, LLC (“MidAmerica”), and, **Fort Ord Reuse Authority** (“Employer”), (collectively the “Parties”).

WHEREAS, Employer hereby appoints MidAmerica to provide administrative services on behalf of the Health Reimbursement Arrangement (the “Plan”) for the benefit of its eligible employees and their dependents;

WHEREAS, MidAmerica shall at all times adhere to the terms and conditions of the Plan.

WHEREAS, Employer shall provide to MidAmerica any and all information which is necessary in order for MidAmerica to fulfill its obligations hereunder. Administrative Services are described in Appendix A.; and

NOW, THEREFORE, in consideration of the forgoing, MidAmerica and Employer agree that the services specified below will be provided under the following terms and conditions:

Definitions:

- (a) "Agreement" means this Administrative Service Agreement, including all Exhibits hereto.
- (b) "Card Transaction" means a transaction by a Participant making use of the debit card issued by MidAmerica through Payment Card Provider.
- (c) "Debit Card Claims" means the claims received through payment with a debit card issued by MidAmerica through Payment Card Provider.
- (d) "Employer" has the meaning given in the Recitals.
- (e) "Payment Card Provider" refers to the Payment Card issuer who shall produce and distribute Cards, Card carrier and Cardholder agreement to each new Participant.
- (f) "MidAmerica Payment Card" means the Payment Card issued by MidAmerica through a Payment Card Provider and used by Participants in the Plan.
- (g) "Payment Card" means a debit card or a stored-value card.
- (h) "Plan" means the Health Reimbursement Arrangement.

Section 1.0: Responsibilities of MidAmerica

MidAmerica accepts on behalf of the Employer the fiduciary responsibility for the following administrative, compliance and related services including those described in Appendix A:

1.1 **Provision of Plan Documents.** MidAmerica will provide a basic Plan Document and Agreement to the Employer. The Employer will complete and review the documents to assure that they reflect the intended operation of the Plan by the Employer. MidAmerica will also provide updates, amendments and restatements of these documents as it deems appropriate to conform to changing statutory and regulatory requirements.

1.2 **Participant Claims.** MidAmerica will review and approve all Participant claims, assuring compliance with the Plan provisions and in accordance with Internal Revenue Code (IRC) 213(d) eligibility guidelines.

1.3 **Employee Communications Materials.** MidAmerica will provide Plan Highlights for the Employer to provide to Plan Participants, which will include basic information about Plan features and participation procedures. The Plan Highlights will also provide any required notice to Participants of their eligibility to receive Plan benefits.

1.4 **Other Assistance.** MidAmerica may agree in writing to provide additional non-discretionary services as may be reasonably requested by the Employer to assist it in the administration of the Plan at an agreed fee.

1.5 **Basic Service Enhancements.** MidAmerica will provide any future service enhancements that MidAmerica makes available in its basic package of administrative and compliance services it offers to new and existing clients. Modifications in the basic duties of MidAmerica as set forth in this Agreement must be reflected in an amendment to the Agreement within 60 days advance written notice between MidAmerica and the Employer.

Section 2.0: Responsibilities of the Employer

The duties described below will remain the responsibility of Employer:

2.1 **Participant and Plan Data.** The Employer shall furnish the information requested by MidAmerica as determined necessary by MidAmerica for it to perform its functions hereunder, including information concerning the Plan and the eligibility of individuals to participate in and receive Plan benefits. Also, Employer will provide Participant dates of birth, addresses, Social Security Numbers, and will provide and verify information upon the request of MidAmerica on eligibility to participate in the Plan and such other information as MidAmerica may reasonably request for the administration of the Plan. Although some of this data may be provided by a prior administrative services provider or payroll vendor who may ultimately be responsible, as between Employer and MidAmerica, Employer is responsible for the accuracy, timeliness and completeness of all of this data. Data will be provided in a format acceptable to MidAmerica, in electronic media, unless otherwise agreed by Employer and MidAmerica. If MidAmerica specifically requests such data and Employer fails to deliver accurate information in a timely basis to MidAmerica, MidAmerica will not be responsible for benefits paid in error due to the Employer's failure to timely provide or update such information or for meeting regulatory deadlines or other compliance requirements and Employer will be responsible for any resulting fines, penalties or corrective actions.

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

2.3 **Authorized Representatives.** Employer will designate at least one individual to serve as a primary contact for the Employer, and at least one individual to serve as a backup contact. The authorized representatives for the Employer are _____

Unless the authority of these individuals is expressly limited by the Employer in writing, MidAmerica shall be entitled to rely on the authority of these individuals to act for the Employer, to rely on any information or authorizations provided by such individuals, and to receive any Plan or participant information and Plan reports or notices. MidAmerica will similarly designate primary and backup contacts but notes that only individuals who are designated as a Vice President or higher are authorized to execute contracts or amendments for MidAmerica.

Section 3.0: Duration of Agreement

3.1 **Termination.** Termination of this Agreement shall not terminate the rights or obligations of either party arising out of a period prior to such termination. If there is a breach in this Agreement which is not remedied to the satisfaction of the Employer and MidAmerica within sixty (60) days of written notification. Unless otherwise mutually agreed, termination will be effective two full month's after written notice is provided.

3.2 **Law, Rule, Regulation, Court or Administrative Decision.** If the application of any law, rule, regulation, or court or administrative decision prohibits the continuation of this Agreement or would cause a penalty to either party if the Agreement is continued, and if after meeting and conferring in good faith, the Agreement cannot be amended to conform to such law, rule, regulation, court or administrative decision in a manner that would preserve the original intent of the parties with respect to their rights and duties under this Agreement, this Agreement may be terminated within such time frame necessary to comply with any law, rule, regulation, or court or administrative decision prohibiting the continuation, or if such compliance allows for more than thirty (30) days, than upon thirty (30) days written notice.

3.3 **Force Majeure.** Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, power outages, failure of computer systems, machinery or supplies, vandalism, strikes, or other work interruptions, or any similar or other cause that is beyond the reasonable control of either party. Each party shall make a good faith effort to perform under this Agreement in the event of any such circumstances and shall resume full performance once the cause of the delay has abated.

Section 4.0: Confidentiality

4.1 **Confidential Work Product.** The services specific to the Employer performed by MidAmerica, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by MidAmerica, pursuant to this Agreement, are for the sole use of the Employer, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the Employer. This provision does not apply to information that (a) was publicly known, or otherwise known to MidAmerica, at the time that it was disclosed to MidAmerica by the Employer, (b) subsequently becomes publicly known through no act or omission of MidAmerica or (c) otherwise becomes known to MidAmerica other than through disclosure by the Employer. Except for any other parties that may be allowed upon prior agreement, neither the documents nor their contents shall be

released to any third party without the prior written consent of the Employer. The sole purpose of this section is to prevent disclosure of the Employer's confidential and proprietary information by MidAmerica.

4.2 Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate the rights of private individuals and entities, including the parties and third parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law, and all other information protected by applicable law ("Confidential Information"). The party receiving Confidential Information ("Receiving Party") of the other ("Disclosing Party") shall not, and shall cause its employees and agents who are authorized to receive Confidential Information, not to, use Confidential Information for any purpose except as necessary to implement, perform or enforce this Agreement or comply with its legal obligations. Receiving Party will use the same reasonable efforts to protect the Confidential Information of Disclosing Party as it uses to protect its own proprietary information and data. The Receiving Party will not disclose or release Confidential Information to any third person without the prior written consent of the Disclosing Party, except for where required by law or for authorized employees or agents of the Receiving Party. The Receiving Party shall comply with all applicable laws regarding use and disclosure of Confidential Information, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-1991 ("HIPAA") and Florida Medical Records Laws (Florida Civil Rights Laws). Prior to disclosing the Confidential Information to its authorized employees or agents, Receiving Party shall inform them of the confidential nature of the Confidential Information and require them to abide by the terms of this Agreement. Receiving Party will as soon as reasonably practical notify Disclosing Party if Receiving Party discovers any improper use or disclosure of Confidential Information and will commence reasonable efforts to investigate and correct the causes of such improper use or disclosure. If Receiving Party believes the Confidential Information must be disclosed under applicable law, Receiving Party may do so provided that, to the extent permitted by law, the other party is given a reasonable notice and opportunity to contest such disclosure or obtain a protective order. Confidential Information does not include information that: (i) is or becomes known to the public without fault or breach of the Receiving Party; (ii) the Disclosing Party regularly discloses to third parties without restriction on disclosure; or (iii) the Receiving Party obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligation. Confidential Information does not include any information that is required to be provided to the public pursuant to the laws of the United States and/or Florida such as the Florida Medical Records Laws. The non-disclosure and non-use obligations of this Agreement will remain in full force with respect to each item of Confidential Information for a period of ten (10) years after the Receiving Party's receipt of that item.

Section 5.0: Security

5.1 Implementation. MidAmerica shall implement commercially reasonable administrative, technical and physical safeguards designed to: (i) ensure the security and confidentiality of data and information provided by the Employer or used in connection with providing services under this Agreement, including data or information about third parties ("MidAmerica's Data"); (ii) protect against any anticipated threats or hazards to the security or integrity of MidAmerica's Data; and (iii) protect against unauthorized access to or use of MidAmerica's Data. MidAmerica shall review and test such safeguards on no less than an annual basis.

5.2 **Network.** If MidAmerica makes MidAmerica's Data accessible through the Internet or other networked environment, MidAmerica shall be solely responsible for all aspects of Internet use, and shall maintain, in connection with the operation or use of MidAmerica's Data, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication and non-repudiation and virus detection and eradication.

5.3 **Personal Data.** If MidAmerica processes or otherwise has access to any personal data or personal information on the Employer's behalf when performing MidAmerica's services and obligations under this Agreement, then: (i) Employer shall be the data controller (where "data controller" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and MidAmerica shall be a data processor (where "data processor" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own); (ii) Employer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to MidAmerica so that MidAmerica may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on the Employer's behalf in order for MidAmerica to provide the services and perform its other obligations under this Agreement; (iii) MidAmerica shall process the personal data and personal information only in accordance with any lawful and reasonable instructions given by the Employer from time to time and in accordance with the terms of this Agreement; and (iv) each party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the parties will cooperate to document these measures taken.

5.4 **Information Security.** MidAmerica represents and warrants that its collection, access, use, storage, disposal and disclosure of Confidential Information accessed and/or collected from the Employer does and will comply with all applicable federal and state privacy and data protection laws. In the event of any security breach, MidAmerica shall: (a) Provide Employer with the name and contact information for an employee who shall serve as Employer's primary security contact and shall be available to assist Employer twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a security breach; and (b) Notify Employer of a security breach as soon as practicable, but no later than twenty-four (24) hours after MidAmerica becomes aware of it. Immediately following MidAmerica's notification to Employer of a security breach, the parties shall coordinate with each other to investigate the security breach. Employer agrees to fully cooperate with MidAmerica in MidAmerica's handling of the matter. MidAmerica shall use best efforts to immediately remedy any security breach and prevent any further security breach at MidAmerica's own expense in accordance with applicable privacy rights, laws, regulations and standards. MidAmerica agrees to provide, at its expense, up to one year of credit monitoring services to third parties impacted by any data breach involving the loss of personally identifiable information.

5.5 **Indemnity.** Employer shall defend (with counsel acceptable to MidAmerica where such acceptability shall not unreasonably be withheld), indemnify and hold MidAmerica harmless from and against all claims, actions, proceedings, losses, costs (including attorney fees and other charges), liabilities, damages, judgments, settlements, and court awarded attorney's fees resulting from, arising out of or related to a security or data breach except to the extent the breach is caused by MidAmerica. The terms of this section shall survive termination of this Agreement. For purposes of this provision, "security breach" means any act or omission that compromises either the security, confidentiality, or integrity of Confidential Information or the physical, technical, administrative or organizational safeguards put in

place by MidAmerica or any authorized persons that relate to the protection of the security, confidentiality or integrity of Confidential Information or a breach or alleged breach of this Agreement relating to such privacy practices or privacy obligations imposed by any applicable law.

5.6 **Notice and Remedy of Breaches.** Each party shall promptly give notice to the other of any actual or suspected breach by it of any of the provisions of this Agreement, whether or not intentional, and the breaching party shall, at its expense, take all steps reasonably requested by the other party to prevent or remedy the breach.

5.7 **Enforcement.** Each party acknowledges that any breach of any of the provisions of this Agreement may result in irreparable injury to the other for which money damages would not adequately compensate. If there is a breach, then the injured party shall be entitled, in addition to all other rights and remedies which it may have, to have a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all persons involved from continuing the breach.

Section 6.0: Pricing

6.1 **Fees, Payment, Other Revenue.** MidAmerica will charge fees for its services in accordance with the Fee Schedule on the Adoption Agreement and will bill these fees to the Employer or to the Participants as provided in the Fee Schedule, or as specifically instructed by the Employer in writing. If the Employer agrees to pay the fees, but either (a) does not do so within 60 days from the date of the Fee Invoice, or (b) the Employer instructs MidAmerica to pay the fees from Plan contributions and MidAmerica accepts such instructions, the fees will be paid out of contributions and, if necessary, allocated to Participant accounts. If fees are Employer paid, such fees shall be invoiced to Employer on a quarterly basis by MidAmerica following the end of the quarter. The Fee Schedule shall remain in effect in the amounts described in Fee Schedule for a term of three (3) Plan years in which MidAmerica is providing administrative services. Thereafter, any changes to the fee agreement will be supplied to the Employer 60 days prior to the effective date of the changes. Additional ancillary fees are described in Exhibit A, hereto.

6.2 **Liability for Payment of Card Claims.** In the event a Payment Card is used for an ineligible expense, MidAmerica will attempt to recoup the funds from the Participant by requesting funds paid in error to be returned to MidAmerica. If such efforts fail, MidAmerica may deactivate Payment Card temporarily ceasing Payment Card transactions until the balance has been offset by manual claim(s), at which point the card will be reactivated. In no event will MidAmerica or the Payment Card Provider be liable for any ineligible transactions. If all attempts are exhausted, Employer will cover the loss of an uncollected amount.

6.3 **Employer's Failure to Maintain Sufficient Funds for Benefit Payments.** In the case that the participating Employer does not forward the monthly contribution amounts to MidAmerica in a timely manner, MidAmerica reserves the right to delay the payments of claims until monies are received. Employer is responsible for any and all third-party costs incurred by the Payment Card Provider as a result of not consistently maintaining the funding of the plan.

Section 7.0: Miscellaneous

7.1 **Hold Harmless Agreement, Indemnity and Limitation of Liability.** MidAmerica and the Employer agree that they will each be responsible for the prompt and complete performance of the services each has agreed to provide under this Agreement, as set forth above. In addition to these undertakings, the parties assume the following responsibilities:

- (a) Hold Harmless Agreement of MidAmerica: MidAmerica shall indemnify and hold harmless the Employer, any member of the governing board, and Employees from every claim, demand or suit

which may arise out of, be connected with, or be made due to the negligence of MidAmerica or failure of MidAmerica to meet the requirements of this Agreement. However, this indemnification shall not cover any claim, demand, or suit based on erroneous information provided by the Employer or Employees or their willful misconduct or negligence. MidAmerica's liability hereunder shall be limited to actual damages and out-of-pocket legal fees and expenses only.

(b) **Other Providers:** If the services provided by MidAmerica under this Agreement were previously provided by the Employer or a third party, the Employer agrees that MidAmerica shall not be responsible for any failure of the prior Plan document or administrative services to comply with the requirements for employer-provided medical reimbursement Plan under Code Sections 105 and 106 and regulations issued thereunder, and as a health reimbursement arrangement as described in IRS Notice 2002-45 and Revenue Ruling 2002-41, other applicable law, or the prior Plan. This does not exempt or diminish MidAmerica's responsibility as the active administrator and other responsibilities as described herein and required under IRS regulations. MidAmerica is also not responsible for the accuracy and completeness of participant and payroll data provided by the Employer or any third-party provider. Employer agrees that MidAmerica and its affiliates and employees will be indemnified by any responsible third parties from any claim asserted against any of them for any of these reasons, and will further be indemnified from any cost and expense they incur, including reasonable attorney's fees, due to the assertion of such a claim, or by the Employer if not adequately indemnified by third parties. Nothing herein will prevent the assertion of any claim directly against any third party by MidAmerica or the Employer.

(c) Notwithstanding anything to the contrary in this Agreement, in no event shall either party be liable for any punitive damages, fines, penalties, taxes or any indirect, incidental damages incurred by the other party, its officers, employees, agents, contractors or consultants whether or not foreseeable and whether or not based in contract or tort claims or otherwise, arising out of or in connection with this Agreement even if advised of the possibility of such damage.

7.2 Right to Audit. MidAmerica reserves the right to perform an audit of Employer's Plan including services, process and accounts at the MidAmerica's expense. Employer agrees to provide all necessary data, access to information and assistance with such audit and to correct any identified items and concerns as determined by the audit in a manner and time frame as agreed upon by both parties.

7.3 No Waiver. No failure of either MidAmerica or the Employer to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

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

7.5 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

7.6 Drafting Ambiguities. The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each party. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement.

7.7 Notices and Communications.

(a) **Notices.** All notices provided for herein shall be sent by confirmed facsimile, or guaranteed overnight mail with tracing capability or by first class United States mail, with postage prepaid, addressed to the other party at its respective addresses set forth below or such other addresses as either party may designate in writing to the other from time to time for such purposes. All notices provided for herein shall be deemed given or made when received.

(b) **Addresses.** The MidAmerica address for notices as described above is MidAmerica Administrative & Retirement Solutions, 2855 Interstate Drive, Suite 115, Lakeland, FL 33805. The ___Plan/Employer address for notices as described above is _____.

(c) **Communications.** The Employer agrees that MidAmerica may communicate confidential, protected, privileged or otherwise sensitive information to the Employer through a named contact designated by the Employer (“Named Contact”) and specifically agrees to indemnify MidAmerica and hold it harmless; (i) for any such communication directed to the Employer through the Named Contact attempted via fax, mail, telephone, e-mail or any other media, acknowledging the possibility that such communication may be inadvertently misrouted or intercepted; and (ii) from any claim for the improper use or disclosure of any health information by MidAmerica where such information is used or disclosed in a manner consistent with its duties and responsibilities hereunder.

7.8 **Entire Agreement, Supplements, and Amendments.** This Agreement (including the Appendix) generally constitutes the entire agreement between the parties, merging all prior discussions. It may be modified by written side agreements executed by all parties along with this Agreement. It may be further supplemented, but not modified, by MidAmerica from time to time with written procedures that provide a description of the ordinary processes for the parties to fulfill their obligations hereunder, which shall not exclude extraordinary processing in appropriate situations that produces comparable results. Finally, this Agreement may be amended at any time, but only by written agreement signed by the parties.

7.9 **Assignment.** Some or all of the rights and duties of MidAmerica hereunder may be assigned to an affiliate of MidAmerica, or to any successor through merger, reorganization, or sale of assets. Some or all of the duties of MidAmerica may also be performed by others under subcontract to MidAmerica, without the release of MidAmerica for responsibility for such services. MidAmerica may, by letter or other writing, agree to extend this Agreement to any other Plan of the Employer or Plans sponsored by affiliates of the Employer. Otherwise, no party may assign this Agreement nor any rights or duties hereunder without written consent from the other party.

7.10 **Standard of Care; Erroneous Payments.** MidAmerica shall use reasonable care and due diligence in the exercise of its powers and the performance of its duties under this Agreement. If MidAmerica makes any payment under this Agreement to an ineligible person, or if more than the correct amount is paid, MidAmerica shall make a diligent effort to recover any payment made to or on behalf of an ineligible person or any overpayment. However, MidAmerica will not be liable for such payment, unless MidAmerica would otherwise be liable under another provision of this Agreement.

7.11 **Compliance with the law.** The Employer is responsible for the Plan's compliance with all applicable federal and state laws and regulations. The Employer acknowledges that MidAmerica is not providing tax or legal advice and that the Employer shall be solely responsible for determining the legal and tax status of the Plan.

7.12 **Mandatory Arbitration.** Any controversy or claim arising out of or relating to this Agreement may be properly submitted to binding arbitration in accordance with the rules of the American Arbitration Association. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction. The cost and expenses of arbitration, including the fees of the arbitrators, shall be borne by

the losing party or in such proportions as the arbitrators may determine. The successful party shall recover as expenses all reasonable attorney's fees incurred in connection with the arbitration proceeding or any appeals therefrom.

7.13 **Governing Law.** Except to the extent governed by federal law, this Agreement shall be governed by and constructed according to the Laws of the State of Florida.

By the signature of its authorized agent below, Employer agrees to MidAmerica extending pricing, terms and conditions of this solicitation or this resultant Agreement to other governmental entities at the discretion of MidAmerica. MidAmerica agrees to provide all administrative services called for under the herein referenced Plan for the Employer and charge only those fees permitted under the Plan.

Name of Employer: Fort Ord Reuse Authority
Signature: _____
Print Name: Josh Metz
Title: Executive Officer
Date: _____

MidAmerica Administrative & Retirement Solutions, LLC.

Signature: _____
Print Name: Trenton Teesdale, CEBS
Title: SVP Business Development
Date: _____

Appendix A

Health Reimbursement Arrangement

Administrative Services

This is an outline of the standard services offered by MidAmerica Administrative & Retirement Solutions, LLC to administer a Health Reimbursement Arrangement. MidAmerica will customize this standard service offering to accommodate Plan design at Employer's request.

- Post contributions to participant accounts in accordance with the terms of the Plan Adoption Agreement and any additional information provided by the Plan Sponsor.
- Deposit funds to the selected funding choices of the Plan based on the latest allocation instructions.
- Daily valuation of the funding choices, including earnings, for the Plan and each Plan participant's account.
- Daily post and process all transfers among the funding choices to the appropriate Plan and Plan participant account.
- Daily post and process all distributions, forfeitures, and withdrawals from the appropriate Plan participant account.
- Prepare quarterly or annual (dependent on plan design) participant statements of account balances and distribute to each participant.
- Prepare annual year-end reports to the Plan Sponsor. The Plan Sponsor and Plan participants will have access to account and Plan level information daily through MidAmerica's website. Participants and Employer are able to print customized statements and reports via the website.
- Claims adjudication administration services for the Plan. MidAmerica reviews all claims for eligibility before processing. HRA claims are processed daily.
- Issue distribution checks or Direct deposit to participants for claims payment.
- Participant Services Call Center for participants to communicate with a service representative who can answer questions about the Plan and the participant's account.
- Dedicated Account Manager for Plan Sponsor who can answer questions about the Plan and plan related questions
- To ensure proper monitoring and support of the program on an ongoing basis, MidAmerica will provide the following additional services at no additional cost:
 - A quarterly review of the investment performance experienced by the Plan, if necessary
 - Periodic meetings with employees to explain the program and answer questions, if necessary
 - Additional supplies of employee brochures to explain the program to newly eligible employees
 - Implementation and compliance support provided on an as-needed basis

EXHIBIT A
Ancillary Fee Schedule

Fees			
Item	Description	Cost	Unit Measure
Returned Card Fee	Cost for undeliverable cards returned. Returned card fee shall be paid by: <input type="checkbox"/> Employer or <input type="checkbox"/> Participant	\$5.00	Per card, per occurrence
Dependent, Replacement, or Additional Card Fee	Cost per dependent, replacement (i.e. lost/stolen) or additional card issued. Fee shall be paid by: <input type="checkbox"/> Employer or <input type="checkbox"/> Participant	\$5.00	Per card
Lost or Stolen Card Investigation	Cost for investigative reports and research on lost or stolen cards. Lost or stolen card investigation fees shall be paid by: <input type="checkbox"/> Employer or <input type="checkbox"/> Participant	\$25.00	Per report, per occurrence
Chargeback Disputes	Cost for research on disputed transactions. Fees associated with chargeback disputes shall be paid by: <input type="checkbox"/> Employer or <input type="checkbox"/> Participant	\$25.00	Per disputed transaction submitted
Card Embossing Cancellation	Cost for cancellation of card orders that have already been submitted to the card issuer and are in the production process. Card embossing cancellation fees shall be paid by Employer or Participant, depending on which party initiated the initial request.	\$5.00	Per card, per occurrence
Card Redirect	Cost for a redirect request to pull a card and mail to a different address other than the address supplied. Redirected cards are shipped via US mail, unless otherwise specified. Express delivery fees apply if express delivery is requested. Costs associated with a card redirect request shall be paid by Participant.	\$5.00	Per card, per occurrence

HIPAA BUSINESS ASSOCIATE ADDENDUM

THIS HIPAA BUSINESS ASSOCIATE ADDENDUM (“**Addendum**”) supplements and is made a part of _____ Agreement (“**Agreement**”) by and between MidAmerica Administrative & Retirement Solutions, Inc. (“**MidAmerica**”), which is acting as the Business Associate to a health plan covered by the HIPAA Privacy & Security Rule, and _____ (“**Covered Entity**”), and is effective as of _____ (the “**Addendum Effective Date**”).

RECITALS:

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

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

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

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

1. **Definitions.**

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

- a. “Business Associate” means MidAmerica.
- b. “Covered Entity” means _____.
- c. “HIPAA Privacy & Security Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information or the HIPAA Security Standards found at 45 CFR Parts 160-164.
- d. “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with

respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

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

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

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

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

2. **Obligations of Business Associate.**

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

b. Prohibited Uses and Disclosures. MidAmerica shall not use PHI other than as permitted by the HIPAA Privacy & Security Rule or this Addendum. MidAmerica shall not disclose PHI in any manner that would constitute a violation of the Privacy Rule if disclosed by the Covered Entity, except that MidAmerica may disclose PHI in a manner permitted pursuant to this Addendum.

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

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

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

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

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

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

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

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

k. HIPAA Security Standards. MidAmerica agrees to comply with the HIPAA Privacy & Security Rule with respect to any Electronic PHI (“E PHI”) that MidAmerica holds on behalf of the Plan.

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

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

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

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

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

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

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

3. Include the names of the individuals whose information was breached, the circumstances surrounding the breach, the date of the breach and date of discovery, the information breached, any steps the individuals should take to protect themselves, the steps MidAmerica (or its agent) is taking to investigate the breach, mitigate losses, and protect against future breaches, and a contact person for more information.

If requested by MidAmerica, Covered Entity shall allow MidAmerica to approve the content of any notification in advance.

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

3. **Permitted Uses and Disclosures by Business Associate.**

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

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

c. **Management and Administration.**

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

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

d. **Data Aggregation and De-Identification.** Except as otherwise limited in this Addendum, MidAmerica may use PHI to provide Data Aggregation services to Covered Entity or to de-identify PHI. Once information is de-identified this Addendum shall not apply.

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

4. **Termination.**

a. **Material Breach.** A breach by MidAmerica of any material provision of this Addendum shall constitute a material breach of the Agreement and shall provide grounds for termination of the Agreement by Covered Entity. In the event of such breach, Covered Entity shall provide MidAmerica with written notice of the breach and thirty (30) days in which to cure the

breach. If the breach is not cured within thirty (30) days, Covered Entity shall terminate the Agreement.

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

5. **Amendment.**

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

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

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

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

Covered Entity Health Plan

Name of Employer: _____
Signature: _____
Print Name: _____
Title: _____
Date: _____

MidAmerica Administrative & Retirement Solutions, Inc.

Signature: _____
Print Name: Trenton Teesdale, CEBS
Title: Sr. Vice President of Business Development
Date: _____

Unallocated Fixed Contract Application, Acceptance, & New Business Agreement

American United Life Insurance Company®
P. O. Box
Indianapolis, Indiana 46206-0368

Version 1.0 -- 04/2008

Contract Number _____

Contract Effective Date _____

Contract Suffix Number _____

Plan Sponsor's State of Domicile _____

The Proposed Contractholder identified below hereby applies to American United Life Insurance Company (AUL) for the Group Annuity Contract Number identified above. This completed form must be approved by the AUL Corporate Office before a group annuity contract will be issued.

Contract Type:

Unallocated Fixed-Only (15FP)

Select Governmental or Non-Governmental Plan Sponsor (select only one):

Governmental (non-registered) Private Sector (registered)

Select Plan Type (select only one):

(1) 3121 or Special Pay 401(a) (3) 3121 or Special Pay or Employer-Sponsored 401(a)/403(b) (7) 3121
457(b) (R) HRA Trust/VEBA (S) HSA (T) GASB 45 OPEB Trust/VEBA

Select Product Type (select only one):

E0 E1 R2 E0B E1B R2B

Select Business Type (select only one):

Start-up Takeover

General Information

Proposed Contractholder:		
Employer's Identification Number (EIN):		
Executive Contact:	Phone # :	Fax # :
Executive Contact's Address:		
Executive Contact's Email Address:		
Administrative Contact:	Phone # :	Fax # :
Administrative Contact's Address:		
Administrative Contact's Email Address:		

Producer Information

Primary Producer:	Primary B/D:
Primary Producer Address:	
Primary Producer Email Address:	
Primary Phone:	Primary Fax:

TPA Information

MidAmerica, Administrative & Retirement Solutions, Inc.

2855 Interstate Drive, Suite 115

Lakeland, FL 33805

800.430.7999

Investment Option Selection

The AUL Fixed Interest Account(FIA) (I2) will be the only annuity investment option made available.

Withdrawal Charge

A withdrawal charge will not be applied under this contract.

Summary of Billable Expenses

Currently, there are none.

Contract Termination Provisions

Upon termination of the contract, the FIA Withdrawal Value must be taken in 5 equal annual installments. A cash lump-sum payment of monies invested in the FIA is not an available option. This restriction applies to all Contribution sources.

AUL Recordkeeping/Administrative Services Agreement

The Proposed Contractholder hereby requests **only** investment recordkeeping for assets held in the applied-for Contract, and does not request any other recordkeeping or administrative services. AUL will only maintain recordkeeping of assets at a contract/plan-level. Furthermore, AUL will not be providing statements, confirmations, or any other reporting to the Contractholder.

The Proposed Contractholder hereby acknowledges and agrees that, as Plan Fiduciary, it has the sole responsibility for assuring that the Plan complies with all applicable state and federal law, including ERISA, the Internal Revenue Code, and securities laws, both in form and in operation.

The Proposed Contractholder hereby acknowledges and agrees that MidAmerica Administrative & Retirement Solutions, Inc. is the Third Party Administrator (TPA) and Plan Administrator, and that, other than in this Unallocated Contract Application, Acceptance, and Agreement form, AUL shall accept direction and instructions regarding both the Plan and the Contract only from MidAmerica, and shall not accept direction and instructions directly from the Contractholder.

Facsimile/Electronic Media Acceptance Agreement

Instructions provided to AUL and its agents to execute, cancel, or otherwise proceed with transactions including those related to, but not limited to, enrollments, loan applications, distributions, and correspondence will be accepted via facsimile, copy, or via other electronic media. This agreement does not include retirement plan adoption agreements, group annuity contracts, amendments thereto, the annual census, and Notice, Election & Release or Contract Settlement Agreement documents.

This agreement includes instructions from the TPA, Plan Sponsor, Plan Administrator, and/or Contractholder. The Contractholder and TPA will indemnify and hold harmless AUL for all claims, losses, liabilities and expenses, including legal fees and expenses, resulting from any action taken or not taken by AUL in good faith in accordance with this agreement.

Preliminary Agreement for the Group Annuity Contract

- (1) Upon the date a contribution is made to the Contract following the Proposed Contractholder's receipt of the Contract (but no earlier than 60 days after the Contract Date of Issue), if AUL does not receive a signed acceptance of the Contract at its Corporate Office by that date, the Proposed Contractholder shall be deemed to have accepted the Contract and any accompanying amendment to the Contract by the making of such contribution. The Contract and any accompanying amendment shall be effective as of the effective dates shown on the Contract and amendment.
- (2) If the Contract is not accepted or deemed accepted, and if the Proposed Contractholder notifies AUL at its Corporate Office in writing that it will not accept the Contract, the following amount shall be paid in a single sum to the Proposed Contractholder on a mutually agreed-upon date: any contributions to the Contract which have been allocated to AUL's general asset account, plus interest credited thereon as determined pursuant to the Contract, which remain in AUL's general asset account as of such date of payment. AUL shall make such payment only upon receipt at its Corporate Office of a proper form signed by the Proposed Contractholder and, if applicable, by the employer sponsoring the retirement plan for which the Contract is to be a funding vehicle, releasing AUL, its agents, and its employees from any and all liability arising out of such payment by AUL.
- (3) This Preliminary Agreement shall terminate when:
 - (A) the signed Contract acceptance is received by AUL at its Corporate Office; or
 - (B) the Contract is deemed accepted under Section (1) above; or
 - (C) payment is made by AUL pursuant to Section (2) above.

Electronic Contribution Processing and Employee Data Gathering

The Employer/Plan Sponsor/TPA has elected to send contributions and employee information electronically using tools provided by AUL. The Employer/Plan Sponsor agrees to allow AUL to debit its checking account for the allocable contribution amount shown on each of its contribution listings submitted to AUL. Additionally, the Employer/Plan Sponsor/TPA agrees that AUL can rely on information provided through the electronic data transmission vehicles. To establish electronic data transmission accounts, you must first complete an Electronic Data Transmission Account Profile available from AUL.

Fiduciary Acceptance

Any reference to Contractholder in this Application, Acceptance, and Agreement should be read as Proposed Contractholder until the applied-for group annuity contract goes into effect.

I, the undersigned, as TPA/Plan Administrator of the _____ Plan ("Plan"), hereby appoints AUL as the TPA/Plan Administrator's agent for the sole purpose of executing the Plan's investment instructions through the OneAmerica TeleServe® and Account Services systems. It is understood that AUL will execute the Plan's investment instructions received through the OneAmerica TeleServe® and Account Services systems effective as of the close of business on the valuation date, as referenced in your contract, in which AUL receives the request. It is further understood that AUL has no direction or authority to alter or decline to execute any Plan's investment instructions received through the OneAmerica TeleServe® or Account Services systems, unless such instructions are impossible to execute. If any such instructions are impossible to execute, AUL will so notify the TPA/Plan Administrator before the instructions are accepted by OneAmerica TeleServe® or Account Services. All investment instructions received and executed through the OneAmerica TeleServe® or Account Services system will be confirmed in writing to the TPA/Plan Administrator within ten business days.

The Contractholder, TPA/Plan Administrator, and AUL hereby agree by signing below, that they will be bound by the terms of this Application, Acceptance, and Agreement as of the date of AUL's acceptance. The terms of the Preliminary Agreement are superseded by the terms of the applied-for Contract as issued by AUL, and the Contract is accepted or is deemed accepted under the provisions of the Preliminary Agreement. If an amendment accompanies the issued contract, the Contractholder must sign and date the amendment and return a copy to AUL.

Electronic acceptance of this Application, Acceptance, and Agreement by AUL, Indianapolis, Indiana indicates that AUL has reviewed its contents along with all other required materials and has accepted its terms, and is equivalent to AUL's written signature.

NON-REGISTERED FIXED ANNUITY OFFERING REPRESENTATION
(For governmental applicants with an HRA or a GASB 45 OPEB Plan)

The undersigned Employer and Trustee(s) understand that American United Life Insurance Company (AUL), in reliance on the following representations and warranties, will offer a non-registered fixed annuity contract to the Employee Benefit Trust or the VEBA Trust entered into by and between the Employer and the Trustee, dated _____, in connection with certain benefit plans offered by the Employer for the exclusive benefit of its employees. Such offer is based upon the governmental plan exception to securities registration under Section 3(a)(2) of the Securities Act of 1933.

REPRESENTATIONS AND WARRANTIES

EMPLOYER

The Employer hereby represents and warrants that:

- (1) the Employer is a State, or political subdivision of a State, or agency or instrumentality of a State or political subdivision, within the meaning of Section 414(d) of the Internal Revenue Code of 1986 ("Code");
- (2) the Employer has authority under applicable State laws and regulations to enter into, maintain, and establish said Employee Benefit Trust or VEBA Trust (and benefit plan(s) thereunder);
- (3) any contributions to the Trust shall be made exclusively by the Employer or its employees and be held for the exclusive benefit of the employees;
- (4) the Employee Benefit Trust is exempt from taxes under Code Section 115, or the VEBA Trust is exempt from taxes under Code Section 501(c)(9); and
- (5) the Employee Benefit Trust or the VEBA Trust (and benefit plan(s) thereunder) is a governmental plan as defined in Code Section 414(d), established for the exclusive benefit of the employees of the Employer.

TRUSTEE

The Trustee hereby represents and warrants that:

- (1) the Employee Benefit Trust or the VEBA Trust was established to secure and hold funds to be contributed by the Employer under certain benefit plans sponsored by the Employer;
- (2) the Trust assets will be held for the exclusive benefit of the Employer's employees, and no portion of the corpus or income of the Trust will revert to the Employer or otherwise divert to third parties, except to pay for reasonable administrative expenses incurred by the Trust;
- (3) the Employee Benefit Trust is exempt from taxes under Code Section 115, or the VEBA Trust is exempt from taxes under Code Section 501(c)(9); and
- (4) the Employee Benefit Trust or the VEBA Trust (and benefit plan(s) thereunder) is a governmental plan as defined in Code Section 414(d), established for the exclusive benefit of the employees of the Employer.

IN WITNESS WHEREOF, the undersigned have executed this Representation on the signature page below, on the date(s) set forth on the signature page below.

Application for, and Acceptance of, the Contract:

**APPLICATION TO THE AMERICAN UNITED LIFE INSURANCE COMPANY FOR
A GROUP ANNUITY CONTRACT**

_____ (hereinafter called the Applicant) hereby applies for Group Annuity Contract Number G _____. This application is made a part of said contract, which is hereby approved and its provisions and conditions accepted. This application is executed in duplicate, one counterpart being attached to said contract, and the other being returned to American United Life Insurance Company. It is agreed that this application supersedes any previous application for said contract.

STATE NOTIFICATION

All states excluding those states listed below: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

In Colorado, any person who knowingly provides false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company commits a crime. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

In Florida, any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

In Louisiana, Pennsylvania, and Tennessee, any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

In Maine and Washington, any person who knowingly provides false, incomplete or misleading information to an insurance company for the purpose of defrauding the company commits a crime. Penalties may include imprisonment, fines or denial of insurance benefits.

In New Jersey and Virginia, any person who includes any false or misleading information on any application for an insurance policy is subject to criminal and civil penalties.

In Florida: Does this group annuity contract replace any existing group annuity contract?

Yes No

If yes, submit any required replacement forms.

By signing and completing the information below, the following parties hereby agree to this Unallocated Contract Application, Acceptance, and New Business Agreement.

Dated at _____ on _____

APPLICANT/PROPOSED CONTRACTHOLDER/PLAN FIDUCIARY

Signature: _____

Printed Name: _____

Title: _____

Date: _____

AUL RETIREMENT SERVICES OFFICER

Signature: _____

Printed Name: _____

Title: _____

Date: _____

TPA/PLAN ADMINISTRATOR

Signature: _____

Printed Name: _____

Title: _____

Date: _____

SOLICITING PRODUCER

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Florida License ID No. (for Florida Applications)

ID No. _____

For governmental employers applying for a fixed group annuity contract to be used with an HRA or a GASB 45 OPEB Plan, by signing and completing the information below, the following parties hereby agree to the "Non-Registered Fixed Annuity Offering Representation" above.

"EMPLOYER" (with respect to Employer representations only)

Dated: _____

By: _____

TRUSTEE(S) (with respect to Trustee representations only)

Dated: _____

By: _____

Name: _____

Dated: _____

By: _____

Name: _____

Dated: _____

By: _____

Name: _____