

## SCHEDULE 'A'

### SCHEDULE A – SERVICES AND OBLIGATIONS

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#### FLEXIBLE BENEFIT PLANS

#### I. NBS SERVICES

NBS shall provide services as described in this Service Agreement on behalf of the Plan Sponsor and as agreed upon herein by the Parties. NBS shall provide the services described herein in a professional, workmanlike manner. NBS, as a Third Party Administrator, shall be obligated to perform only those services specifically enumerated in this Service Agreement. NBS reserves the right to perform other services, which in its sole discretion it believes are necessary to the efficient, professional, and workmanlike execution of its obligations hereunder; however, performance of any services not enumerated herein shall not create an ongoing obligation to perform such services. In no event shall NBS be deemed to have breached its obligations to the Plan Sponsor because of a failure to perform a function not enumerated herein and agreed-upon by the Parties.

#### A. Plan Setup and Document Services

NBS shall:

1. *Prepare plan document.* NBS shall prepare a flexible benefits (or “Cafeteria”) plan document according to instructions received from the Plan Sponsor on a form provided by NBS. The plan document contains the formal description of the benefits provided under the Plan, including but not limited to:
  - who may participate (“Participant”)
  - what expenses may be reimbursed
  - contribution amounts
  - the starting date of the plan year
  - non-discrimination rules (required by federal law)
2. *Prepare and maintain summary plan description (“SPD”) (as necessary).* NBS will prepare and provide to the Plan Sponsor an SPD to furnish to each Participant in accordance with federal disclosure requirements. The SPD includes a description of the Plan which is consistent with the terms of the plan document, and instructions and rules of the Plan in a format designed to be of assistance to Participants.
3. *Prepare Amendments to plan document.* NBS will prepare amendments to the plan document requested by Plan Sponsor, or required by changes to federal law. A Summary of Material Modification (SMM) or an updated SPD will be provided to Plan Sponsor for distribution to Participants.
4. *Prepare Enrollment Materials.* NBS will prepare easy-to-understand enrollment materials for Participants, including enrollment forms, claim forms, website instructions, debit card instructions and HIPAA Notices. All materials, forms, and instructions will be provided in electronic format only.

#### B. NBS Administration Services

1. *Provide Information and Customer Support.* NBS will serve as a nondiscretionary information resource to the Plan and Participants as follows:
  - a. Upon execution of the Service Agreement an account representative will be assigned to the Plan to assist the Plan Sponsor with specific questions regarding the Plan as well as general questions regarding the benefits selected by the Plan Sponsor. Direct email and telephone contact information for the assigned account representative will be provided to the Plan Sponsor during Plan setup.

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- b. The assigned account representative will generally be available Monday through Friday, 8:00 a.m. to 5:00 p.m. Mountain Time.
  - c. General benefits information is available online at [www.nbsbenefits.com](http://www.nbsbenefits.com)
  - d. Participants may contact NBS at (801) 532-4000 (Salt Lake City area) and (800) 274-0503, Monday through Friday, 7:00 a.m. to 6:00 p.m., Mountain Time and via email at 125claims@nbsbenefits.com
2. *Process and maintain Participant Enrollment Information.* NBS will process enrollment information within five (5) days from when it is received from Plan Sponsor either as hard copy (paper) or electronic (secure data files or online enrollment) files. Once received, information is maintained in a secure environment. Information that must be collected includes Participant name, Participant identifying number, date of birth, date of hire, election amounts (FSA, LFSA and DCAP), effective date, banking information (if direct deposit of claim reimbursements has been elected by the Participant), email address to send confirmation of claim payment, physical mailing address (for HSA benefit Participants this cannot include a P.O. box), debit card election for Participants, and relevant dependent information.
3. *Receive contribution detail reports from Plan Sponsor in an NBS-approved system-readable electronic format.* NBS will provide Plan Sponsor with contribution detail report requirements specific to the Plan during plan setup. NBS will specify when the contribution detail reports are required from Plan Sponsor (which will be on a consistent, regularly-recurring basis), as well as the approved electronic format of the reports.
4. *Receive and Process Payments from Employer General Funds.* NBS shall establish a security fund in the name of the employer sponsoring the Plan ("Employer"), which consists of payments received from Employer ("Security Fund"), held in a custodial account for the benefit of the Employer, as described more fully in Section II.B below. As required under the Plan Document and consistent with relief described in Department of Labor ("DOL") Technical Releases 88-1 and 92-01, NBS shall consider the Security Fund as an Employer general asset and not as an asset of the Plan regardless of whether the Plan is subject to ERISA.

NBS will notify Employer at any time participant claims exceed the amount of funds in the Security Fund. By executing this Service Agreement, Plan Sponsor authorizes NBS to retain any amounts remaining in the Security Fund at the end of the plan year in anticipation of increased claim activity which typically occurs at the beginning of the subsequent plan year.

5. *Adjudicate and process claims under Health FSA.* Generally, NBS adjudicates Health FSA claims in the manner prescribed in the Plan Document and according to requirements of Code Section 213(d) and the rulings and Treasury regulations thereunder. The procedures used by NBS are more fully described in Appendix 1 to this Schedule. In the event that a claim is received by NBS which does not clearly meet the requirements for an eligible medical expense under the Plan Document, the Code, and Treasury rulings and regulations, NBS will deny the claim. Plan Sponsor may consult with NBS regarding whether the claim should be approved. All final determinations as to a Participant's entitlement to benefits under the Plan are to be made by Employer, acting in its capacity as the Plan Administrator, including any determination upon appeal of a denied claim for benefits under the Plan. Employer is considered the Plan Administrator and Named Fiduciary of the Program benefits for purposes of ERISA. Without limiting the foregoing, once an FSA claim is submitted to NBS for reimbursement, NBS will

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- a. Verify Plan limits or election limits are not exceeded
  - b. Confirm the expense is a qualifying expense for medical care under Internal Revenue Code § 213 and the plan document
  - c. Obtain the Participant's signed certification stating that, among other things, the expense was qualified (for debit card transactions and electronically-submitted claims use of the card or electronic submission satisfies this certification requirement)
  - d. Confirm receipt of a written statement from an independent third party evidencing the date, nature, and amount of the expense, unless the expense meets the requirements of IRS proposed regulation §1.125-6(e) or §1.125-6(f) for automatic or real-time claims substantiation. For limited purpose and post-deductible health FSAs, substantiation from an independent third party is also required to establish that the Participant has met the deductible requirements or is for limited-purpose-eligible expenses
6. *Calculate Dependent Care Assistance Program (DCAP) claim payment (if applicable).* Once a DCAP claim is submitted to NBS for reimbursement NBS will:
- a. Verify the amount of reimbursement is no more than the maximum amount contributed by the participant as of the date of the reimbursement request and does not exceed the limits imposed by the Plan and Code
  - b. Verify the expense was incurred during the coverage period
  - c. Obtain the Participant's signed certification stating that, among other things, the expense meets the requirements of §21(b) of the Code
  - d. Confirm receipt of a written statement from an independent third party evidencing the date, nature, and amount of the expense
7. *Review debit card transactions.* NBS reviews debit card transactions which do not qualify for automatic or real-time substantiation under the requirements of IRS proposed regulation §1.125-6(e) or §1.125-6(f). NBS utilizes written statements from an independent third-party submitted in hard-copy or electronic form indicating that medical expenses have been incurred and the amount of the expenses to substantiate these transactions. NBS also ensures that Participants have provided a statement indicating that any expense for which reimbursement is sought under the Plan will not be reimbursed or is not reimbursable under any other health plan.
8. *Issue reimbursement checks or direct deposit for Participants in the Health FSA, and DCAP (if applicable).* NBS reviews, adjudicates, processes and pays each Health FSA and DCAP claim received as soon as possible after receipt and approval. Typical *claim processing* time for NBS is approximately two (2) business days from time of claim receipt. Claims are paid directly to the Participant in the form of a check unless the Participant has provided NBS with ACH transfer instructions during enrollment or thereafter using NBS's website, in which case the claim is sent directly to the Participant's bank account. Additionally, claims may be paid directly to the provider of the services at the Participant's request through the NBS website. Time for mail and bank processing is in addition to the two (2) business days for claims processing (the timeframes used in this section are for reference purposes only, and do not constitute a guarantee of delivery by a particular date. NBS will not be liable for processing and delivery times which exceed the estimate contained in this section).

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9. *Prepare Participant benefit statements and summaries for Participant website.* NBS provides a website which allows Participants and the Plan Sponsor to view balances, reports, funding information, forms and more. This website is available 24 hours a day unless maintenance to the site is being performed. NBS will not be liable for the unavailability of the website due to scheduled or unscheduled maintenance.
10. *Provide access to Plan operational reports to Plan Sponsor.* NBS provides access to reports to facilitate operation of the Plan through its website which are available to Employer through the NBS website. These reports provide details on funding, the amount of claims paid and terminated employees.
11. *Discontinue claims processing and terminate participation upon receipt of notice from Plan Sponsor of loss of Participant eligibility.* Within five (5) business days of receipt of notice from Plan Sponsor that a Participant is no longer eligible to participate in the Plan, NBS will suspend processing claims for reimbursement for services rendered after the effective date of ineligibility. Any claims for reimbursement for services which were rendered prior to the date of ineligibility will still be processed unless the claim amount exceeds the remaining election balance for the Participant for the current plan year.
12. *Comply with FSA COBRA Rules.* Upon receipt of notice from Plan Sponsor that a terminated Participant has elected and otherwise qualifies to continue participation of Plan benefits under COBRA, NBS will process any claims pending for that Participant, unless the claim amount exceeds the remaining election balance for that plan year.
13. *Prepare annual IRC compliance testing for the Plan and component benefits.* NBS performs comprehensive nondiscrimination testing for the Plan and component benefits. The guidelines NBS follows for testing are found in Code Sections 105, 125, 129 and 410, as well as the proposed 125 regulations and final regulations promulgated under Code Sections 105 and 410. Where official guidance from the Treasury Department regarding how the tests must be performed is absent or unclear, NBS generally follows the most conservative interpretation of relevant official and unofficial Treasury guidance. The testing procedures employed by NBS are set forth in more detail in Appendix 2 to this Schedule. In the event that the Plan or a component benefit offered under the Plan fails testing, NBS will consult with Plan Sponsor regarding the results. Any corrections for failed tests shall be applied according to the terms of the Plan Document. NBS's testing services also include testing of projected benefits. If the Plan fails testing based upon projected data, NBS will consult with Plan Sponsor regarding how Plan Sponsor wishes to prevent failure of the final tests. Plan Sponsor is fully responsible for the correction of any test failures reported to Plan Sponsor by NBS.

NBS performs the following nondiscrimination tests:

§ 125 Cafeteria Plan Tests (includes all benefits offered under the Plan):

- a. **Eligibility Test:** NBS tests the Plan to ensure that it does not discriminate in favor of highly compensated individuals as to eligibility to participate as required under § 125(b)(1)(A) of the Code.
- b. **Contributions and Benefits Test:** NBS tests the Plan to determine whether the contributions by the Employer to the Plan, or the benefits provided through the Plan do not discriminate in favor of highly compensated Participants as required under § 125(b)(1)(B) of the Code.

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- c. Key Employee Concentration Test: NBS tests the Plan to verify that the value of qualified benefits provided to key employees is less than 25% of the total value of all such benefits provided for all employees under the Plan as required under § 125(b)(2) of the Code.

### Health FSA:

- a. Eligibility Test: NBS utilizes the three alternative tests identified in § 105(h)(3)(A) of the Code to ensure that the Health FSA benefit does not discriminate in favor of highly compensated individuals as to eligibility to participate as required under § 105(h)(2)(A).
- b. Benefits Test: NBS tests the Health FSA to ensure that the same benefit provided to Participants who are highly compensated individuals is provided to all other Participants as required under Code §§ 105(h)(2)(B) and 105(h)(4).

### DCAP:

- a. Eligibility Test: NBS tests the DCAP benefit to ensure that it does not discriminate in favor of highly compensated employees or their dependents in terms of eligibility as required under § 129(d)(3) of the Code.
- b. Contributions and Benefits Test: NBS tests the DCAP benefit to ensure that contributions and benefits that are available to eligible employees under the DCAP do not discriminate in favor of highly compensated employees or their dependents as required under § 129(d)(2) of the Code.
- c. More-Than 5% Owners Concentration Test: NBS tests the DCAP benefit to ensure that no more than 25% of the total amount paid for dependent care assistance during the year is provided to more than 5% shareholders or owners or their spouses or dependents as required under § 129(d)(4) of the Code.
- d. 55% Average Benefits Test: NBS tests the DCAP benefit to ensure that the average DCAP benefits provided to employees who are not highly compensated employees is at least 55% of the average benefits provided to highly compensated employees as required under § 129(d)(8) of the Code.

### Premium Only Payment (POP) Plans:

- a. Eligibility Test: NBS tests the POP to ensure that it does not discriminate in favor of highly compensated individuals as to eligibility to participate as required under § 125(b)(1)(A) of the Code. (Under a special IRS "safe harbor," a plan that offers health premium payments as its exclusive benefit is treated as nondiscriminatory if it satisfies the eligibility requirements of IRC § 125(b)(1)(A)).

## **C. Requested Services Not Specified in Schedule A**

1. *Extra Hourly Work.* NBS will charge an additional amount on an hourly basis for services not specified in this Schedule. The hourly rate is specified on Schedule B of the Service Agreement.

## **II. PLAN SPONSOR OBLIGATIONS**

Prior to commencement of Services by NBS, Plan Sponsor shall complete and return to NBS the fully-executed Service Agreement. NBS shall not perform any services for the Plan Sponsor prior to receipt of the signed Service Agreement.

*The following Obligations are those which are specifically related to the Services performed by NBS for the Plan under the Agreement. These Obligations are intended to supplement and not supersede the general obligations*

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contained in the Service Agreement. Performance of all Plan Sponsor obligations is governed by Section 3 of the Service Agreement.

### A. Obligations Related to Plan Setup and Document Services.

1. *Authorize Plan Setup and Plan Document Creation.* Prior to commencement of Services by NBS, Plan Sponsor shall complete and return to NBS the document authorization form, which will be the sole basis for setting up the Plan and creating the plan documents. NBS specifically disclaims responsibility for Plan or document errors caused by the provision of inaccurate or incomplete information.
2. *Provide Necessary Plan Data.* Plan Sponsor shall provide NBS with Participant data, which includes Participant name, Participant identifying number, date of birth, date of hire, election amounts (FSA, LFSA and DCAP), effective date, banking information (if direct deposit of claim reimbursements has been elected by the Participant), email address to send confirmation of claim payment, physical mailing address (for HSA benefit Participants this cannot include a P.O. box), debit card election for Participants, and relevant dependent information. For existing Plans, additional information which must be provided includes year-to-date deposits, claims, and Participant terminations.
3. *Notify NBS of Plan Changes.* Plan Sponsor must notify NBS of Plan changes (Participant or benefit changes) prior to the effective date of the change. For changes which require document amendment, written notice shall be provided not less than thirty (30) days prior to the start of the plan year or effective date of the amendment. For Participant information changes (including addition of a new Participant or modification of the information for an existing Participant), notice must be received by NBS not less than fifteen (15) days prior to implementation. NBS will include in its calculation of per-participant billing for a given month any Participants who are listed as active as of the first day of the month billed, including Participants have not been reported to NBS as terminated at least ten (10) days prior to the end of the prior month. As used in this subsection, "active Participants" shall mean any Participant identified in the NBS administration system as being eligible to receive Plan benefits on any day of the month billed, including, but not limited to, individuals with positive account balances during the Plan's claim run-out period or, where applicable, during any a roll-over period, regardless of whether the Participant has elected to receive benefits for the current plan year.
4. *Distribute SPD (where applicable) and Other Plan-Related documents to Participants.* Provide the SPD prepared by NBS according to the requirements of federal law. Initially a Participant must receive the SPD not later than ninety (90) days after he or she becomes covered by the Plan. Updated SPDs must also be provided every 5 years (if the Plan has changed), every 10 years, and upon request. When the Plan is amended, Plan Sponsor must provide the SMM or updated SPD (prepared by NBS) to Participants.

### B. Obligations Related to Plan Administration

1. *Promptly Deliver to NBS Completed Enrollment Materials.* Plan Sponsor will ensure delivery of benefit information and Participant information to NBS in good order (as defined in subsection 4.A. of the Service Agreement) not less than fifteen (15) days prior to performance of the Services. For takeover plans, notwithstanding any assistance which NBS may provide with facilitating the transfer of information, Plan Sponsor is responsible to coordinate with current services provider

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to ensure that information is timely received. Information that must be provided includes Participant name, Participant identifying number, date of birth, date of hire, election amounts (FSA, LFSA and DCAP), effective date, banking information (if direct deposit of claim reimbursements has been elected by the Participant), email address to send confirmation of claim payment, physical mailing address (for HSA benefit Participants this cannot include a P.O. box) completed debit card election for Participants, and relevant dependent information.

2. *Provide contribution detail reports to NBS in an NBS-approved system-readable electronic format.* Plan Sponsor will provide NBS with contribution detail reports pursuant to the requirements provided to the Plan by NBS during plan setup. Reports will be provided on a consistent, regularly-recurring basis in the approved electronic format specified by NBS.
3. *Maintain a Positive Security Fund Balance.* Upon initial Plan setup and on a regular basis thereafter, Plan Sponsor shall remit maintenance payments to NBS via Check or Electronic Funds Transfer (EFT). Such maintenance payments shall constitute the Security Fund, and shall be remitted per an agreed-upon schedule (which may be more frequent than the regular payroll cycle), and as further agreed as to the payment method and amount. NBS will notify Plan Sponsor when Participant claims exceed the Security Fund balance. If Plan Sponsor fails to make any requested maintenance payment upon notice from NBS, NBS may suspend claims services for the Plan until requested funding is received. Compliance with this Subsection II.B.3. shall be a material term of the Service Agreement.

By entering into this Agreement, Employer authorizes NBS to deposit Employer's Security Deposit funds into a custodial account at a federally insured bank on behalf of the Employer. Employer hereby authorizes NBS to use such funds only as specified in this Agreement and to retain the interest (if any) generated on amounts in the Security Fund as additional fees. The amount of such interest will vary according to market fluctuations outside of NBS's control, but any gain or loss will be absorbed by NBS. Upon termination of the Agreement and payment by Employer of any outstanding expenses to NBS, any remaining balance will be remitted to Employer, or handled according to Employer's express written instruction.

4. *Claims Processing and Debit Card Services.*
  - a. Make final determinations as to a Participant's entitlement to benefits under the Plan, including any determination upon appeal of a denied claim for benefits under the Plan. Employer is considered the Plan Administrator and Named Fiduciary of the Program benefits for purposes of ERISA.
  - b. Ensure the Plan does not discriminate in any way regarding availability of reimbursements under the Plan. The Plan violates this provision if it refuses to approve qualified expenses for some employees while approving the same expenses for other employees.
  - c. Assist NBS in informing Participants to acquire, retain, and promptly provide to NBS sufficient documentation, including explanations of benefits, invoices, and receipts where appropriate, for any expenses paid or reimbursed under the Plan. Plan Sponsor will assist in submitting such documentation to NBS upon NBS request. Such documentation must demonstrate, at a minimum, (1) a complete description of the service or product provided; (2) the date of service or sale; (3) the amount of the claim, and (for DCAP reimbursements only) the tax identification number of the day care provider.
  - d. With NBS's assistance, assume primary responsibility for correcting account deficits occurring due to improper payment or reimbursement. These efforts shall include, as necessary, the

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following: (1) requiring the employee to pay back to the Plan an amount equal to the improper payment; (2) withholding from employee's wages or other compensation an amount equal to the improper payment, or any outstanding portion thereof; (3) utilizing a claims substitution or offset approach. The Employer must exhaust the foregoing correction methods before treating the improper payment as business indebtedness in accordance with Prop. Treasury Reg. §1.125-6(d)(7)(v). The Employer should report the amount of any indebtedness forgiven by the Employer to the employee as wages on a Form W-2 for the year in which the debt was forgiven.

- e. Where violations of the terms of the card agreement have occurred, other actions may be required to ensure that further violations of the terms of the card do not occur, including denial of access to the card until the indebtedness is repaid by the employee.
- f. Notify NBS of any terminations or change in employment status of any Participant. Employer is responsible for any amounts expended by any Participant or former Participant during the period ending five (5) business days after NBS is notified by the Plan Sponsor of any such employment status change.

### **C. Obligations Related to Plan Compliance and Record-keeping**

1. *Promptly Respond to Plan Data Requests.* Provide NBS with information requested by NBS to ensure the Plan complies with federal law. Plan Sponsor's response shall be subject to the requirements of Section 7 of the Service Agreement.
2. *Provide Complete and Accurate Information.* In order to provide the Plan with accurate nondiscrimination testing results and to ensure Plan compliance in operation, the information provided by the Plan Sponsor must be complete and accurate. As used in this section II.C.2., "complete and accurate" includes, if applicable, all information regarding the employees and benefits of any companies with which the Plan Sponsor is affiliated as a member of a controlled group or affiliated service group of companies.
3. *Make Plan Corrections to Address Failed Nondiscrimination Tests.* When necessary, Plan Sponsor shall take the corrective measures set forth in the Plan Document to resolve any nondiscrimination testing failure reported to Plan Sponsor by NBS. NBS will in no way be held responsible for plan testing failures or the costs related to any correction.