

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
TRISTAR BENEFIT ADMINISTRATORS, INC.**

THIS LINKING AGREEMENT (this “Agreement”) is entered into as of this 1st day of January, 2023, between the City of Glendale, an Arizona municipal corporation (the “City”), and TRISTAR Benefit Administrators, Inc, a(n) California Corporation authorized to do business in Arizona (“Contractor”), collectively, the “Parties.”

**RECITALS**

- A. On January 1, 2023 under (S.A.V.E Cooperative Purchasing Agreement, Mohave, etc.), the City of Chandler entered into a contract with Contractor to purchase the goods and services described in the City of Chandler Agreement NO. HR2-948-4495 (“Cooperative Purchasing Agreement”), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City’s Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City’s utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

- 1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was January 1, 2023, until the date the contract expires on December 31, 2024 unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond December 31, 2028. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until December 31, 2024. The City may renew the term of this Agreement for up to two additional terms of

two years each, or portions thereof until the Cooperative Purchasing Agreement expires on December 31, 2028. Glendale renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total price for Administrative Service Fee under this Agreement shall not exceed Forty Thousand dollars (\$40,000) annually or Two Hundred Twenty Seven Thousand, Three Hundred Forty Four dollars and Thirty Two cents (\$227,344.32) for the entire term of the Agreement (initial term plus any renewals).
- C. In addition to the Administrative Services Fees listed above, City acknowledges that all Short-Term and Long-Term disability benefits payments and expenses are the sole responsibility of the City (self-funded). The City shall establish, maintain, and fund a designated depository account "Benefit Account" by which TRISTAR will draw upon to pay disability payments and associated expenses. Additional funding details for disability payments and expenses are described in Exhibit C.

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.
9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
c/o Vicki Moss, HR Administrator  
5850 W. Glendale Ave.  
Glendale, AZ 85301  
(623) 930-2297  
VMoss@Glendaleaz.com

And

TRISTAR Benefit Administrators, Inc.  
c/o Thomas J. Veale, President  
100 Oceangate, Suite 840  
Long Beach CA 90802  
(562) 495-6600  
Tom.Veale@TRISTARgroup.net

TRISTAR Benefit Administrators, Inc.  
c/o Jeff Higgins, Vice President of Operations  
100 Oceangate, Suite 840  
Long Beach CA 90802  
(562) 495-6600 x1050  
Jeff.Higgins@TRISTARgroup.net

TRISTAR Insurance Group, Inc.  
c/o Tim McIntyre, SrVP/General Counsel  
100 Oceangate, Suite 840  
Long Beach CA 90802  
(562) 495-6600  
GeneralCounselOffice@TRISTARgroup.net

[Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.


“City”

“Contractor”

City of Glendale, an Arizona  
municipal corporation

TRISTAR BENEFIT ADMINISTRATORS, Inc.  
a(n) California Corporation

By: \_\_\_\_\_  
Kevin R. Phelps  
City Manager

By:  \_\_\_\_\_  
Thomas J Veale (Nov 24, 2022 11:30 EST)  
Name: Thomas J. Veale  
Title: President  
Nov 24, 2022

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey  
City Attorney

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
TRISTAR BENEFIT ADMINISTRATORS, INC.**

**EXHIBIT A**

(CITY OF CHANDLER AGREEMENT NO. HR2-948-4495)



City Clerk Document No. A-2022-1379

City Council Meeting Date: Oct. 27, 2022  
September 22, 2022

**CITY OF CHANDLER SERVICES AGREEMENT  
SHORT TERM DISABILITY AND FAMILY MEDICAL LEAVE ACT ADMINISTRATION  
CITY OF CHANDLER AGREEMENT NO. HR2-948-4495**

THIS AGREEMENT (Agreement) is made and entered into by and between the City of Chandler, an Arizona municipal corporation (City), and TRISTAR Benefits Administrators, Inc., a California corporation (Contractor), (City and Contractor may individually be referred to as Party and collectively referred to as Parties) and made October 31, 2022 (Effective Date).

**RECITALS**

- A. City proposes to enter an agreement for short term disability and family medical leave act administration services as more fully described in Exhibit A, which is attached to and made a part of this Agreement by this reference.
- B. Contractor is ready, willing, and able to provide the services described in Exhibit A for the compensation and fees set forth and as described in Exhibit B, which is attached to and made a part of this Agreement by this reference.
- C. City desires to contract with the Contractor to provide these services under the terms and conditions set forth in this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the premises and the mutual promises contained in this Agreement, City and Contractor agree as follows:

**SECTION I: DEFINITIONS**

For purposes of this Agreement, the following definitions apply:

- Agreement** means the legal agreement executed between the City and the Contractor
- City** means the City of Chandler, Arizona
- Contractor** means the individual, partnership, or corporation named in the Agreement
- Days** means calendar days
- May, Should** means something that is not mandatory but permissible
- Shall, Will, Must** means a mandatory requirement

**SECTION II: CONTRACTOR'S SERVICES**

Contractor must perform the services described in Exhibit A to the City's satisfaction within the

terms and conditions of this Agreement and within the care and skill that a person who provides similar services in Chandler, Arizona exercises under similar conditions. All work or services furnished by Contractor under this Agreement must be performed in a skilled and workmanlike manner. Unless authorized by the City in writing, all fixtures, furnishings, and equipment furnished by Contractor as part of the work or services under this Agreement must be new, or the latest model, and of the most suitable grade and quality for the intended purpose of the work or service.

### **SECTION III: PERIOD OF SERVICE**

Contractor must perform the services described in Exhibit A for the term of this Agreement.

The term of the Agreement is two years, and begins on January 1, 2023 and ends on December 31, 2024 unless sooner terminated in accordance with the provisions of this Agreement. The City and the Contractor may mutually agree to extend the Agreement for up to two additional terms of two years each, or portions thereof. The City reserves the right, at its sole discretion, to extend the Agreement for up to 60 days beyond the expiration of any extension term.

### **SECTION IV: PAYMENT OF COMPENSATION AND FEES**

Unless amended in writing by the Parties, Contractor's compensation and fees as more fully described in Exhibit B for performance of the services approved and accepted by the City under this Agreement must not exceed \$75,000. Contractor must submit requests for payment for services approved and accepted during the previous billing period and must include, as applicable, detailed invoices and receipts, a narrative description of the tasks accomplished during the billing period, a list of any deliverables submitted, and any subcontractor's or supplier's actual requests for payment plus similar narrative and listing of their work. Payment for those services negotiated as a lump sum will be made in accordance with the percentage of the work completed during the preceding billing period. Services negotiated as a not-to-exceed fee will be paid in accordance with the work completed on the service during the preceding month. All requests for payment must be submitted to the City for review and approval. The City will make payment for approved and accepted services within 30 days of the City's receipt of the request for payment. Contractor bears all responsibility and liability for any and all tax obligations that result from Contractor's performance under this Agreement.

All prices offered herein shall be firm against any increase for the initial term of the Agreement. Prior to commencement of subsequent renewal terms, the City may approve a fully documented request for a price adjustment. The City shall determine whether any requested price increases for extension terms is acceptable to the City. If the City approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon by the Parties a written Agreement Amendment shall be approved and executed by the Parties.

### **SECTION V: GENERAL CONDITIONS**

5.1 Records/Audit. Records of the Contractor's direct personnel payroll, reimbursable expenses pertaining to this Agreement and records of accounts between the City and Contractor must be kept on the basis of generally accepted accounting principles and must be made available to the City and its auditors for up to three years following the City's final acceptance of the services under this Agreement. The City, its authorized representative, or any federal agency, reserves the right to

audit Contractor's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate this Agreement and any amendments. The City reserves the right to decrease the total amount of Agreement price or payments made under this Agreement or request reimbursement from the Contractor following final contract payment on this Agreement if, upon audit of the Contractor's records, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data. The Contractor will include a similar provision in all of its contracts with subcontractors providing services under the Agreement Documents to ensure that the City, its authorized representative, or the appropriate federal agency, has access to the subcontractors' records to verify the accuracy of all cost and pricing data. The City reserves the right to decrease Contract price or payments made on this Agreement or request reimbursement from the Contractor following final payment on this Agreement if the above provision is not included in subcontractor agreements, and one or more subcontractors refuse to allow the City to audit their records to verify the accuracy and appropriateness of all cost and pricing data. If, following an audit of this Agreement, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, the Contractor will be liable for reimbursement of the reasonable, actual cost of the audit.

5.2 Alteration in Character of Work. Whenever an alteration in the character of work results in a substantial change in this Agreement, thereby materially increasing or decreasing the scope of services, cost of performance, or Project schedule, the work will be performed as directed by the City. However, before any modified work is started, a written amendment must be approved and executed by the City and the Contractor. Such amendment must not be effective until approved by the City. Additions to, modifications, or deletions from this Agreement as provided herein may be made, and the compensation to be paid to the Contractor may accordingly be adjusted by mutual agreement of the Parties. It is distinctly understood and agreed that no claim for extra work done or materials furnished by the Contractor will be allowed by the City except as provided herein, nor must the Contractor do any work or furnish any materials not covered by this Agreement unless such work is first authorized in writing. Any such work or materials furnished by the Contractor without prior written authorization will be at Contractor's own risk, cost, and expense, and Contractor hereby agrees that without written authorization Contractor will make no claim for compensation for such work or materials furnished.

5.3 Termination for Convenience. The City and the Contractor hereby agree to the full performance of the covenants contained herein, except that the City reserves the right, at its discretion and without cause, to terminate or abandon any service provided for in this Agreement, or abandon any portion of the Project for which services have been performed by the Contractor. In the event the City abandons or suspends the services, or any part of the services as provided in this Agreement, the City will notify the Contractor in writing and immediately after receiving such notice, the Contractor must discontinue advancing the work specified under this Agreement. Upon such termination, abandonment, or suspension, the Contractor must deliver to the City all drawings, plans, specifications, special provisions, estimates and other work entirely or partially completed, together with all unused materials supplied by the City. The Contractor must appraise the work Contractor has completed and submit Contractor's appraisal to the City for evaluation. The City may inspect the Contractor's work to appraise the work completed. The Contractor will receive compensation in full for services performed to the date of such termination. The fee shall be paid in accordance with Section IV of this Agreement, and as mutually agreed upon by the Contractor and the City. If there is no mutual agreement on payment, the final determination will be made in accordance

with the Disputes provision in this Agreement. However, in no event may the payment exceed the payment set forth in this Agreement nor as amended in accordance with Alteration in Character of Work. The City will make the final payment within 60 days after the Contractor has delivered the last of the partially completed items and the Parties agree on the final payment. If the City is found to have improperly terminated the Agreement for cause or default, the termination will be converted to a termination for convenience in accordance with the provisions of this Agreement.

5.4 Termination for Cause. The City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events: in the event that (a) the Contractor fails to perform pursuant to the terms of this Agreement, (b) the Contractor is adjudged a bankrupt or insolvent, (c) the Contractor makes a general assignment for the benefit of creditors, (d) a trustee or receiver is appointed for Contractor or for any of Contractor's property (e) the Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, (f) the Contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or (g) the Contractor fails to cure default within the time requested. Where Agreement has been so terminated by City, the termination will not affect any rights of City against Contractor then existing or which may thereafter accrue.

5.5 Indemnification. The Contractor (Indemnitor) must indemnify, defend, save and hold harmless the City and its officers, officials, agents and employees (Indemnitee) from any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees and costs of claim processing, investigation and litigation) (Claims) caused or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of the Contractor or any of its owners, officers, directors, agents, employees, or subcontractors in connection with this Agreement. This indemnity includes any claim or amount arising out of or recovered under workers' compensation law or on account of the failure of the Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Contractor must indemnify Indemnitee from and against any and all Claims, except those arising solely from Indemnitee's own negligent or willful acts or omissions. The Contractor is responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Agreement, the Contractor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to this Agreement. The obligations of the Contractor under this provision survive the termination or expiration of this Agreement.

5.6 Insurance Requirements. Contractor must procure insurance under the terms and conditions and for the amounts of coverage set forth in Exhibit C against claims that may arise from or relate to performance of the work under this Agreement by Contractor and its agents, representatives, employees, and subcontractors. Contractor and any subcontractors must maintain this insurance until all of their obligations have been discharged, including any warranty periods under this Agreement. These insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits stated in Exhibit C are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, the Contractor's agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

5.7 Cooperation and Further Documentation. The Contractor agrees to provide the City such other duly executed documents as may be reasonably requested by the City to implement the intent of this Agreement.

5.8 Notices. Unless otherwise provided, notice under this Agreement must be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally served on the party to whom notice is to be given, or (b) on the date notice is sent if by electronic mail, or (c) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid and properly addressed as follows:

<b>For the City</b>	<b>For the Contractor</b>
Name: <u>Christina Pryor</u>	Name: <u>Jeff Higgins</u>
Title: <u>Purchasing Manager</u>	Title: <u>Vice President</u>
Address: <u>175 S. Arizona Ave., 3<sup>rd</sup> Floor</u> <u>Chandler, AZ 85225</u>	Address: <u>100 Oceangate, Suite 840</u> <u>Long Beach, CA 90802</u>
Phone: <u>480-782-2403</u>	Phone: <u>562-495-6600 x1050</u>
Email: <u>christina.pryor@chandleraz.gov</u>	Email: <u>jeff.higgins@tristargroup.net</u>

5.9 Successors and Assigns. City and Contractor each bind itself, its partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Agreement. Neither the City nor the Contractor may assign, sublet, or transfer its interest in this Agreement without the written consent of the other party. In no event may any contractual relation be created between any third party and the City.

5.10 Disputes. In any dispute arising out of an interpretation of this Agreement or the duties required not disposed of by agreement between the Contractor and the City, the final determination at the administrative level will be made by the City Purchasing and Materials Manager.

5.11 Completeness and Accuracy of Contractor's Work. The Contractor must be responsible for the completeness and accuracy of Contractor's services, data, and other work prepared or compiled under Contractor's obligation under this Agreement and must correct, at Contractor's expense, all willful or negligent errors, omissions, or acts that may be discovered. The fact that the City has accepted or approved the Contractor's work will in no way relieve the Contractor of any of Contractor's responsibilities.

5.12 Withholding Payment. The City reserves the right to withhold funds from the Contractor's payments up to the amount equal to the claims the City may have against the Contractor until such time that a settlement on those claims has been reached.

5.13 City's Right of Cancellation. The Parties acknowledge that this Agreement is subject to cancellation by the City under the provisions of Section 38-511, Arizona Revised Statutes (A.R.S.).

5.14 Independent Contractor. For this Agreement the Contractor constitutes an independent contractor. Any provisions in this Agreement that may appear to give the City the right to direct

the Contractor as to the details of accomplishing the work or to exercise a measure of control over the work means that the Contractor must follow the wishes of the City as to the results of the work only. These results must comply with all applicable laws and ordinances.

5.15 Project Staffing. Prior to the start of any work under this Agreement, the Contractor must assign to the City the key personnel that will be involved in performing services prescribed in the Agreement. The City may acknowledge its acceptance of such personnel to perform services under this Agreement. At any time hereafter that the Contractor desires to change key personnel while performing under the Agreement, the Contractor must submit the qualifications of the new personnel to the City for prior approval. The Contractor will maintain an adequate and competent staff of qualified persons, as may be determined by the City, throughout the performance of this Agreement to ensure acceptable and timely completion of the Scope of Services. If the City objects, with reasonable cause, to any of the Contractor's staff, the Contractor must take prompt corrective action acceptable to the City and, if required, remove such personnel from the Project and replace with new personnel agreed to by the City.

5.16 Subcontractors. Prior to beginning the work, the Contractor must furnish the City for approval the names of subcontractors to be used under this Agreement. Any subsequent changes are subject to the City's written prior approval.

5.17 Force Majeure. If either party is delayed or prevented from the performance of any act required under this Agreement by reason of acts of God or other cause beyond the control and without fault of the Party (financial inability excepted), performance of that act may be excused, but only for the period of the delay, if the Party provides written notice to the other Party within ten days of such act. The time for performance of the act may be extended for a period equivalent to the period of delay from the date written notice is received by the other Party.

5.18 Compliance with Laws. Contractor understands, acknowledges, and agrees to comply with the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. All services performed by Contractor must also comply with all applicable City of Chandler codes, ordinances, and requirements. Contractor agrees to permit the City to verify Contractor's compliance.

5.19 No Israel Boycott. By entering into this Agreement, Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of the Agreement, not to engage in a boycott of Israel as defined by state statute.

5.20 Legal Worker Requirements. A.R.S. § 41-4401 prohibits the City from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A. A breach of this warranty will be deemed a material breach of the Agreement and may be subject to penalties up to and including termination of the Agreement. City retains the legal right to inspect the papers of any Contractor's or subcontractor's employee who provides services under this Agreement to ensure that the Contractor and subcontractors comply with the warranty under this provision.

5.21 Lawful Presence Requirement. A.R.S. §§ 1-501 and 1-502 prohibit the City from awarding

a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.

5.22 Covenant Against Contingent Fees. Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the Chandler City Council, or any City employee has any interest, financially, or otherwise, in Contractor's firm. For breach or violation of this warrant, the City may annul this Agreement without liability or, at its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

5.23 Non-Waiver Provision. The failure of either Party to enforce any of the provisions of this Agreement or to require performance of the other Party of any of the provisions hereof must not be construed to be a waiver of such provisions, nor must it affect the validity of this Agreement or any part thereof, or the right of either Party to thereafter enforce each and every provision.

5.24 Disclosure of Information Adverse to the City's Interests. To evaluate and avoid potential conflicts of interest, the Contractor must provide written notice to the City, as set forth in this Section, of any work or services performed by the Contractor for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice must be given seven business days prior to commencement of the services by the Contractor for a third party, or seven business days prior to an adverse action as defined below. Written notice and disclosure must be sent to the City's Purchasing and Materials Manager. An adverse action under this Agreement includes, but is not limited to: (a) using data as defined in the Agreement acquired in connection with this Agreement to assist a third party in pursuing administrative or judicial action against the City; or (b) testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the City; or (c) using data to produce income for the Contractor or its employees independently of performing the services under this Agreement, without the prior written consent of the City. Contractor represents that except for those persons, entities, and projects identified to the City, the services performed by the Contractor under this Agreement are not expected to create an interest with any person, entity, or third party project that is or may be adverse to the City's interests. Contractor's failure to provide a written notice and disclosure of the information as set forth in this Section constitute a material breach of this Agreement.

5.25 Data Confidentiality and Data Security. As used in the Agreement, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to the Contractor or its subcontractors in the performance of this Agreement. The Parties agree that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Contractor or its subcontractors in connection with the Contractor's or its subcontractor's performance of this Agreement is confidential and proprietary information belonging to the City. Except as specifically provided in this

Agreement, Contractor or its subcontractors must not divulge data to any third party without the City's prior written consent. Contractor or its subcontractors must not use the data for any purposes except to perform the services required under this Agreement. These prohibitions do not apply to the following data provided to the Contractor or its subcontractors have first given the required notice to the City: (a) data which was known to the Contractor or its subcontractors prior to its performance under this Agreement unless such data was acquired in connection with work performed for the City; or (b) data which was acquired by the Contractor or its subcontractors in its performance under this Agreement and which was disclosed to the Contractor or its subcontractors by a third party, who to the best of the Contractor's or its subcontractors knowledge and belief, had the legal right to make such disclosure and the Contractor or its subcontractors are not otherwise required to hold such data in confidence; or (c) data which is required to be disclosed by virtue of law, regulation, or court order, to which the Contractor or its subcontractors are subject. In the event the Contractor or its subcontractors are required or requested to disclose data to a third party, or any other information to which the Contractor or its subcontractors became privy as a result of any other contract with the City, the Contractor must first notify the City as set forth in this Section of the request or demand for the data. The Contractor or its subcontractors must give the City sufficient facts so that the City can be given an opportunity to first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure. Unless prohibited by law, within ten calendar days after completion or termination of services under this Agreement, the Contractor or its subcontractors must promptly deliver, as set forth in this Section, a copy of all data to the City. All data must continue to be subject to the confidentiality agreements of this Agreement. Contractor or its subcontractors assume all liability to maintain the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this Section are violated by the Contractor, its employees, agents or subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. Contractor agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Contractor. A violation of this Section may result in immediate termination of this Agreement without notice.

5.26 Personal Identifying Information-Data Security. Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times by Contractor and any of its subcontractors. At a minimum, Contractor must encrypt or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. In the event that data collected or obtained by Contractor or its subcontractors in connection with this Agreement is believed to have been compromised, Contractor or its subcontractors must immediately notify the City contact. Contractor agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach. Contractor agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Contractor. It is further agreed that a violation of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Contractor or its subcontractors under this Section must survive the termination of this

Agreement.

5.27 Jurisdiction and Venue. This Agreement is made under, and must be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto must be brought in the courts located in Maricopa County, Arizona, and for this purpose, each Party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

5.28 Survival. All warranties, representations, and indemnifications by the Contractor must survive the completion or termination of this Agreement.

5.29 Modification. Except as expressly provided herein to the contrary, no supplement, modification, or amendment of any term of this Agreement will be deemed binding or effective unless in writing and signed by the Parties.

5.30 Severability. If any provision of this Agreement or the application to any person or circumstance may be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application will not be affected and will be enforceable to the fullest extent permitted by law.

5.31 Integration. This Agreement contains the full agreement of the Parties. Any prior or contemporaneous written or oral agreement between the Parties regarding the subject matter is merged and superseded.

5.32 Time is of the Essence. Time of each of the terms, covenants, and conditions of this Agreement is hereby expressly made of the essence.

5.33 Date of Performance. If the date of performance of any obligation or the last day of any time period provided for should fall on a Saturday, Sunday, or holiday for the City, the obligation will be due and owing, and the time period will expire, on the first day after which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth in this Agreement, any performance provided for herein will be timely made if completed no later than 5:00 p.m. (Chandler time) on the day of performance.

5.34 Delivery. All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. The Contractor will retain title and control of all goods until they are delivered and accepted by the City. All risk of transportation and all related charges will be the responsibility of the Contractor. All claims for visible or concealed damage will be filed by the Contractor. The City will notify the Contractor promptly of any damaged goods and will assist the Contractor in arranging for inspection.

5.35 Third Party Beneficiary. Nothing under this Agreement will be construed to give any rights or benefits in the Agreement to anyone other than the City and the Contractor, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and the Contractor and not for the benefit of any other party.

5.36 Conflict in Language. All work performed must conform to all applicable City of Chandler

codes, ordinances, and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and those in the Exhibits, the provisions in this Agreement prevail.

5.37 Document/Information Release. Documents and materials released to the Contractor, which are identified by the City as sensitive and confidential, are the City's property. The document/material must be issued by and returned to the City upon completion of the services under this Agreement. Contractor's secondary distribution, disclosure, copying, or duplication in any manner is prohibited without the City's prior written approval. The document/material must be kept secure at all times. This directive applies to all City documents, whether in photographic, printed, or electronic data format.

5.38 Exhibits. The following exhibits are made a part of this Agreement and are incorporated by reference:

- Exhibit A - Project Description/Scope of Services
- Exhibit B - Compensation and Fees
- Exhibit C - Insurance Requirements
- Exhibit D - Special Conditions

5.39 Special Conditions. As part of the services Contractor provides under this Agreement, Contractor agrees to comply with and fully perform the special terms and conditions set forth in Exhibit D, which is attached to and made a part of this Agreement.

5.40 Cooperative Use of Agreement. In addition to the City of Chandler and with approval of the Contractor, this Agreement may be extended for use by other municipalities, school districts and government agencies of the State. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five times during a month, the Contractor will submit a full set of fingerprints to the school of each person or employee who may provide such service. The District will conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all Contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the District. Additionally, the Contractor will comply with the governing body fingerprinting policies of each individual school district/public entity. The Contractor, sub-contractors, vendors and their employees will not provide services on school district properties until authorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City will not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

5.41 Non-Discrimination and Anti-Harassment Laws. Contractor must comply with all applicable City, state, and federal non-discrimination and anti-harassment laws, rules, and regulations.

5.42 Licenses and Permits. Beginning with the Effective Date and for the full term of this

Agreement, Contractor must maintain all applicable City, state, and federal licenses and permits required to fully perform Contractor's services under this Agreement.

5.43 Warranties. Contractor must furnish a one-year warranty on all work and services performed under this Agreement. Contractor must furnish, or cause to be furnished, a two-year warranty on all fixtures, furnishings, and equipment furnished by Contractor, subcontractors, or suppliers under this Agreement. Any defects in design, workmanship, or materials that do not comply with this Agreement must be corrected by Contractor (including, but not limited to, all parts and labor) at Contractor's sole cost and expense. All written warranties and redlines for as-built conditions must be delivered to the City on or before the City's final acceptance of Contractor's services under this Agreement.

5.44 Emergency Purchases. City reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the Contractor.

5.45 Non-Exclusive Agreement. This agreement is for the sole convenience of the City of Chandler. The City reserves the right to obtain like goods or services from another source when necessary.

5.46 Budget Approval Into Next Fiscal Year. This Agreement will commence on the Effective Date and continue in full force and effect until it is terminated or expires in accordance with the provisions of this Agreement. The Parties recognize that the continuation of this Agreement after the close of the City's fiscal year, which ends on June 30 of each year, is subject to the City Council's approval of a budget that includes an appropriation for this item as expenditure. The City does not represent that this budget item will be actually adopted. This determination is solely made by the City Council at the time Council adopts the budget.

This Agreement shall be in full force and effect only when it has been approved and executed by the duly authorized City officials.

**FOR THE CITY**

By: Kevin Harthe

Its: Mayor

**FOR THE CONTRACTOR**

By: [Signature]

Its: President

**APPROVED AS TO FORM:**

By: Daniel L Brown for  
City Attorney

*DLB*

**ATTEST:**

By: Dana R. Dising  
City Clerk



## **EXHIBIT A TO AGREEMENT SCOPE OF SERVICES**

### **SCOPE OF SERVICES**

1. The Contractor shall provide rates that are independent of any other lines of coverage. Rates shall be a self-funded model. Services shall be advise to pay (ATP).
2. The initial rates shall be guaranteed at a minimum for three (3) years effective January 1, 2023.
3. The Contractor shall provide detailed Short Term Disability and Family Medical Leave Act claims information and reports on a weekly or monthly basis at no cost to the City.
4. The Contractor shall provide final renewal rates, costs, and underwriting analysis and documentation to the City at least 210 days prior to the contract anniversary date as well as any data relevant to the renewal at the request of the City at no cost to the City.
5. The Contractor must cover all benefits from the effective date of the contract such that no employee or dependent currently insured will suffer a loss of coverage by virtue of a change in contractors other than by a change in plan design as specified by the City. No employee or dependent shall lose benefits because of transition issues from the current carrier to the awarded carrier.
6. Commissions are not to be included in the rates submitted unless included in the carrier's filing with the State for Employer paid or Employee paid premiums. Any proposal that includes payment of commissions or any other form of remuneration shall be deemed non-responsive unless fully disclosed and approved by the City. If commissions or fees are included in the filed rates and cannot be removed from the rates provided, the level of commissions included in the proposed rates must be disclosed and noted.
7. The Contractor must agree to provide and administer, at a minimum, the current plans as specified in the City's policy documents.
8. The Contractor will comply with all HIPAA Privacy Rule Regulations where applicable.
9. The Contractor will provide all Policies, Certificates, and other customized communications (i.e. fliers, postcards, etc.) at no additional cost to the City.
9. The Contractor will provide any professional service representatives the City requires to understand, analyze, and/or plan for any plan changes including but not limited to general account servicing, underwriting-actuarial, clinical, and/or operational support.
10. The Contractor shall agree to participate in any open enrollment or special enrollment activities as specified by the City and shall provide materials and staff support as required at no additional cost to the City.
11. The Contractor agrees, that if awarded, the City may at any time request a change in key personnel assigned to service their account. In addition, should there be a change in key assigned personnel, the City will be immediately notified and replacement personnel will be

replaced with personnel of substantially equal ability and qualifications as established at the time of the award.

12. The Contractor will agree to maintain all pertinent claim records for up to seven years including claim records, individual case review and notes, and any member inquiry records as prudent business practice and provisions dictate.
13. The Contractor shall maintain identical eligibility requirements and continued coverage provisions as identified by the City, and as may be amended from time to time. The Contractor shall provide coverage to all eligible employees as determined by the City.
14. The City shall determine eligibility for benefits while the Contractor shall determine benefits payable.
15. The Contractor's "actively at work" provision will be waived for current covered employees.

## **PERFORMANCE GUARANTEES**

### **Initial Leave Packet**

**Guarantee:** The initial leave packet which provides provisional eligibility information will be mailed to the employee within 5 business days of the intake request.\*

\* This guarantee requires that the City provide the most current employment eligibility information to Contractor. (For borderline eligibility, Contractor may request additional information from City. Contractor shall not be responsible for non-performance when City does not provide substantially timely or accurate information.)

**Definition:** The difference between the date of intake and the date the packet is generated in the system, expressed as an average during the reporting period. Does not apply to inquiries regarding leave requests where a leave has not been established.

**Penalty:** Contractor will reduce its annual leave administration fee by 2.5%.

**Measurement Criteria:** Contractor's annual results will be used.

**Guarantee:** Leave approval or denial notices will be issued within 5 business days from Contractor receipt of a complete certification.

**Definition:** The difference between the date the employee provides Contractor with a fully completed certification of leave and the date Contractor issues a decision, expressed as an average during the reporting period.

**Penalty:** Contractor will reduce its annual leave administration fee by X%.

**Measurement Criteria:** Contractor's annual results will be used.

### **Claim Decision Notification Turnaround Time**

**Guarantee:** Claim approval or denial notices will be issued within 5 business days from Contractor receipt of a complete certification.

**Definition:** The difference between the date the employee provides Contractor with a fully completed certification of leave and the date Contractor issues a decision, expressed as an average during the reporting period.

**Penalty:** Contractor will reduce its annual claim administration fee by 2.5%.

**Measurement Criteria:** Contractor's annual results will be used.

### **Benefit Payments**

**Guarantee:** Benefit payments will be issued within one day of the system generated due date.

**Definition:** The difference between the benefit due date and the date the benefit is issued, expressed as an average for payments issued during the reporting period.

The system generated due date is defined by the agreed upon payment schedule.

Does not apply to cases where there are gaps in the medical certification and Contractor is unable to approve additional benefit payments.

**Penalty:** Contractor will reduce its annual leave administration fee by 2.5%

**Measurement Criteria:** Contractor's annual results will be used.

**EXHIBIT B TO AGREEMENT  
COMPENSATION AND FEES**

**Short Term Disability Administration**

Fees are inclusive and assume 1,623 employees. PEPM rates are guaranteed for six years.

<b>Administration Fee</b>	<b>CY 2023</b>	<b>CY 2024</b>	<b>CY 2025</b>	<b>CY 2026</b>	<b>CY 2027</b>	<b>CY 2028</b>
Total PEPM	\$1.79	\$1.79	\$1.79	\$1.79	\$1.79	\$1.79
Monthly Premium	\$2,905	\$2,905	\$2,905	\$2,905	\$2,905	\$2,905
Annual Premium	\$34,862	\$34,862	\$34,862	\$34,862	\$34,862	\$34,862

**Family Medical Leave Act Administration**

Fees are inclusive and assume 1,623 employees. PEPM rates are guaranteed for six years.

<b>Administration Fee</b>	<b>CY 2023</b>	<b>CY 2024</b>	<b>CY 2025</b>	<b>CY 2026</b>	<b>CY 2027</b>	<b>CY 2028</b>
Total PEPM	\$1.82	\$1.82	\$1.82	\$1.82	\$1.82	\$1.82
Monthly Premium	\$2,954	\$2,954	\$2,954	\$2,954	\$2,954	\$2,954
Annual Premium	\$35,446	\$35,446	\$35,446	\$35,446	\$35,446	\$35,446

## **EXHIBIT C TO AGREEMENT INSURANCE**

### **INSURANCE**

#### General.

- A. At the same time as execution of this Agreement, the Contractor shall furnish the City a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The Contractor and any of its subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Contractor from liabilities that might arise out of the performance of the Agreement services under this Agreement by Contractor, its agents, representatives, employees, subcontractors, and the Contractor is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of Subcontractors: If any work is subcontracted in any way, the Contractor shall execute a written contract with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the Contractor in this Agreement. The Contractor is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

Minimum Scope and Limits of Insurance. The Contractor shall provide coverage with limits of liability not less than those stated below.

- A. *Commercial General Liability-Occurrence Form.* Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent

contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

- B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:* Contractor must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Contractor owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- C. *Workers Compensation and Employers Liability Insurance:* Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.
- D. *Technology Errors and Omissions Liability including Network Security and Privacy Liability*

For Contracts under \$500,000

	Minimum Limits:
Per Loss	\$ 3,000,000
Aggregate	\$ 3,000,000

For Service Contracts over \$500,001

	Minimum Limits:
Per Loss	\$ 5,000,000
Aggregate	\$ 5,000,000

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning at the time work under this Contract is completed.

If such insurance is maintained on an occurrence form basis, Contractor shall maintain such insurance for an additional period of one year following termination of Contract. If such insurance is maintained on a claims-made basis, Contractor shall maintain such insurance for an additional period of three years following termination of the Contract.

If Contractor contends that any of the insurance it maintains pursuant to other sections of this clause satisfies this requirement (or otherwise insures the risks described in this section), then Contractor shall provide proof of same.

The insurance shall provide coverage for the following risks

- a. Liability arising from theft, dissemination and / or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form
- b. Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party, to gain access to your services including denial of service, unless caused by a mechanical or electrical failure
- c. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.

Additional Requirements:

- a. The policy shall provide a waiver of subrogation

Additional Policy Provisions Required.

- A. *Self-Insured Retentions or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
  1. The Contractor's insurance must contain broad form contractual liability coverage.
  2. The Contractor's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the Contractor and must not contribute to it.
  3. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  4. Coverage provided by the Contractor must not be limited to the liability assumed under the indemnification provisions of this Agreement.

5. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the Contractor for the City.
6. The Contractor, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of three years following completion and acceptance of the Work. The Contractor must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this three year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
7. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement.

B. *Insurance Cancellation During Term of Contract/Agreement.*

1. If any of the required policies expire during the life of this Contract/Agreement, the Contractor must forward renewal or replacement Certificates to the City within ten days after the renewal date containing all the required insurance provisions.
2. Each insurance policy required by the insurance provisions of this Contract/Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after 30 days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then ten days prior notice may be given. Such notice shall be sent directly to Chandler Law-Risk Management Department, Post Office Box 4008, Mailstop 628, Chandler, Arizona 85225. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the City of any cancellation, suspension, non-renewal of any insurance within seven days of receipt of insurers' notification to that effect.

A. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Contractor including the City's general supervision of the Contractor; Products and Completed operations of the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor.

2. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement.

**EXHIBIT D TO AGREEMENT  
SPECIAL CONDITIONS**

**NONE**

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
TRISTAR BENEFIT ADMINISTRATORS, INC**

**EXHIBIT B**

**SCOPE OF WORK**

I Contractor shall administer the City of Glendale's self-funded employee Short-Term Disability and Long-Term Disability programs according to eligibility and coverage requirements stipulated by the City of Glendale Human Resources and Risk Management Department and the Short-Term and Long-Term Disability Plan and Summary Documents, attached hereto and incorporated herein by this reference.

II Claim Administration Service

Upon receipt of the submitted claims, Contractor ("Claims Service Administrator") shall perform certain services with respect to the review of Plan claims made by Plan participants including, but not limited to, the following:

1. Obtain appropriate and adequate documentation to make informed determination regarding submitted claims under the Plan.
2. Review all aspects of the submitted claims including review of all documents and information, medical and otherwise, obtained to review eligibility for benefits and the amount of benefits, if any.
3. Pursuant to Article II, use the service of third parties, e.g., physicians, rehabilitation experts, investigators, etc. as deemed appropriate by Claims Service Administrator and approved by the City of Glendale.
4. Subject to Article III, determine whether the claimant is entitled to benefits under the terms of the plan and if so, calculate benefit amounts and notify Plan Sponsor whether the claim should be accepted or denied.
5. Complete claim determinations within seven (7) days after the receipt by Claims Service Administrator of all information necessary to make such a determination.
6. Notify claimants in writing as to the decision reached on the claim, the basis for the decision and their right to appeal the decision.
7. Withhold and report any income taxes withheld and any Social Security and Medicare taxes withheld from each benefit payment. Annually prepare, file and forward to claimant, under Claim Service Administrator's taxpayer identification number, any required Form W-2's reporting benefits paid.

### III Appeal Process

- A. All appeals shall be handled in accordance with the Plan Document.
- B. In the absence of an appeals process in the Plan Document, the appeals process shall be as follows:
  - 1. If the Plan allows for only one level of appeal, that appeal shall be handled and determined by the City.
  - 2. If the Plan allows for more than one level of appeal, the first appeal of a denied claim shall be reviewed by the Claims Service Administrator's Team Leader and/or Manager. The claim may also be reviewed by medical personnel, consultants or third-party experts provided by the Claims Service Administrator and other Claims Service Administrator personnel or third-party vendors, as necessary. Claims Service Administrator will formulate a decision on the first appeal and provide that decision in writing to the City.
  - 3. Notwithstanding any other provisions of this Agreement, and as provided by Article III, the City shall use its own discretion in determining all appeals, without regard to the determination by Claims Service Administrator.
  - 4. If the City concurs with the Claims Service Administrator's decision as formulated according to subsection 2 above, Claims Service Administrator will notify claimants in writing of the decision reached on the claim, the basis for the decision, and their right to appeal the decision.
  - 5. If the City does not concur with the Claims Service Administrator's decision as formulated according to subsection 2 above, City will notify claimants in writing of the decision reached on the claim, the basis for the decision, and their right to appeal the decision.
  - 6. Any additional appeals thereafter shall be handled and determined solely by the City.

### IV Consultation

Claims Service Administrator may consult with the City and the City may cooperate with Claims Service Administrator during the review of any claim or the appeal of any disputed claim.

### V Vendor Services

If the Claims Service Administrator determines that outside vendor services are necessary, Claims Service Administrator will seek prior written approval from the City before retaining the services of a subcontractor or third-party vendor. If approved

by the City, the outside vendor services will be considered an additional service provided to the City by Claims Service Administrator under this Agreement. Fees and charges incurred in connection with these services shall be billed and paid by the City in accordance with Exhibit C.

## VI Administration Fees and Benefit Payment Reimbursement

- A. The City shall pay to Claims Service Administrator an administration fee in accordance with paragraph C below. The administration fee for the initial term of this Agreement and other applicable charges are set forth in Exhibit D.
- B. The City shall deposit in the Benefit Account an initial required balance set forth in Exhibit C. Thereafter, maintain such required Target Amount by transferring additional funds to the Benefit Account at the interval indicated in Exhibit C so that it equals or exceeds the Target Amount.
- C. The Claims Service Administrator shall send a monthly itemized statement ("Claims Service Administrator's Itemized Statement") to the City setting forth all unpaid fees and charges and Plan benefits paid in the prior month(s). Within ten (10) business days of receipt of the Claims Service Administrator's Itemized Statement, the City shall remit full payment to Claims Service Administrator in the manner set forth in Exhibit D. Administration fees, charges and Plan benefit payments shall be funded in the same manner as specified in Exhibit D unless the parties agree in writing to alternate arrangements.
- D. If the City at any time fails or refuses to pay any amount due and payable under this Agreement, Claims Service Administrator, upon twenty-four (24) hours' notice, and in its sole discretion, may:
  1. Stop processing any further claims and stop making any benefit payments until the outstanding amounts are received.
  2. Change the frequency of the billing and reimbursement procedures.
  3. Change the method of payment set forth in Exhibit C; and/or
  4. Terminate this Agreement.
  5. If the Claims Service Administrator changes the method of payment in Exhibit C, pursuant to paragraph D above, the City shall cooperate with the Claims Service Administrator in providing all necessary information to facilitate that change. The City shall also ensure that amounts due and payable to Claims Service Administrator shall be available to Claims Service Administrator within forty-eight (48) hours of the date specified by Claims Service Administrator.

- E. As part of the renewal, the Claims Service Administrator may change the Plan administration fee. If the Plan administration fee is changed, Claims Service Administrator shall notify the City in writing of the change. The new Plan administration fee shall not become effective earlier than 30 days after the date such notice is given, and the City agrees to such change. The City's agreement to any such change in the Plan administration fee will not be unreasonably withheld. If the City rejects the new Plan administration fee, Claims Service Administrator may, in its sole discretion: (i) elect to continue providing services under the existing fee arrangement then in effect; (ii) negotiate a new Plan administration fee with City; or (iii) terminate this Agreement.

#### VII. Standard Review

The standards to be used by Claims Service Administrator when making claim determinations under the Plan are those set forth in the Plan. These standards include, but are not limited to, the definition of disability, eligibility, amount of benefit, and evidence required to establish proof of loss.

#### VIII Files and Records

- A. The claim file related to the Plan is the property of the City and is available to City upon request. To implement this provision, forms authorizing the release of medical records must include the City as a possible recipient of such records. In the absence of a specific request for Plan records by the City, Claims Service Administrator will hold such records for the City for the same period that the Claims similar records in connection with its insurance business.
- B. Upon termination of this Agreement, Claim Service Administrator will return all Plan files to the City.
- C. The City shall reimburse the Claims Service Administrator's actual costs incurred in providing all information requested under this Section and all costs incurred in returning the City's files.
- D. The City agrees that in reviewing any records, claims files or other information, it shall comply with the requirements set forth in Section XIV.
- E. Upon Claims Service Administrator's receipt of a subpoena, court order, child support order or any other judicial order compelling production of Plan records, Claims Service Administrator shall immediately forward to the City a copy of such order along with the Plan records provided by Claims Service Administrator to comply with the order.

IX BRISA

- A. This Agreement shall not be considered an employee welfare benefit plan under the provisions of the Employee Retirement Income Security Act of 1974 and any amendments thereto (BRISA) and the Employer shall be solely responsible for any duties and responsibilities imposed on it by BRISA, if any.
- B. For purposes of this Agreement and the duties performed thereunder, Claims Service Administrator is not a fiduciary as defined by BRISA.
- C. Claims Service Administrator shall have no power or duty to act on behalf of the City concerning the Plan except as expressly stated in the Plan and this Agreement. Claims Service Administrator has no discretionary authority or control over the Plan or the Plan Administration.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
TRISTAR BENEFIT ADMINISTRATORS, INC**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

**1. SHORT-TERM AND LONG-TERM ADMINISTRATION FEES**

- a. Contractor will invoice the City \$3,157.56 monthly for Administrative Services

Fees assume 1764 employees. PEPM rates are guaranteed for six years

<b>Administration Fee</b>	<b>CY 2023</b>	<b>CY 2024</b>	<b>CY 2025</b>	<b>CY 2026</b>	<b>CY 2027</b>	<b>CY 2028</b>
Total PEPM	1.79	1.79	1.79	1.79	1.79	1.79
Monthly Premium	\$3,157.56	\$3,157.56	\$3,157.56	\$3,157.56	\$3,157.56	\$3,157.56
Annual Premium	\$37,890.72	\$37,890.72	\$37,890.72	\$37,890.72	\$37,890.72	\$37,890.72

**2. SELF-FUNDED SHORT-TERM AND LONG-TERM DISABILITY PAYMENTS**

- a. City of Glendale is responsible for the actual cost of the Claims payment made to claimant. Actual cost of claims is equal to 66 2/3 of claimant's salary (STD) and 60% of claimant's salary (LTD), employer taxes and required banking fees.
- b. City will transfer sufficient funds to the depository, "Benefit Account" within five (5) business days of receipt of each request from TRISTAR to cover each obligation for Claims or Expenses.
- c. City of Glendale will maintain a Target Fund Balance of \$10,000
- d. City of Glendale shall fund the Benefit Account through the Federal Reserve:
- on any day the Benefit Account balance is less than the Minimum Balance; and
  - upon notification of a Cash Call; and
  - each month.

**3. NOT TO EXCEED AMOUNT**

- **Total cost of Administration Fees will not exceed** Forty Thousand dollars (\$40,000) annually or Two Hundred Twenty Seven Thousand ,Three Hundred Forty-Four dollars and Thirty Two cents (\$227,344.32) for the entire term of the contract.
- **Total cost for funding disability benefit payments** shall not exceed to actual cost of the claims and expenses.

## **DETAILED PROJECT COMPENSATION**

### **1. Account for the Payment of Benefits and Expense(s)**

- 1.1 All Benefits and Expenses are the obligations of Client and shall be paid by Client.
- 1.2 Client acknowledges and agrees that the depository bank for Client funds provided to TRISTAR for the payment of Benefits and Expenses shall be Citizens Business Bank ("CBB").
- 1.3 Client hereby authorizes TRISTAR to open an account with CBB in trust for (Interest Fee Trust Fund) Client to be used as the depository/funding account relating to the payment of Benefits and Expenses ("Benefit Account").

### **2. Duties of TRISTAR**

- 2.1 Any amounts collected by TRISTAR on behalf of or for Client and any amounts received from Client shall be deposited in the Benefit Account. Benefits and Expenses for the Claims will be paid by checks showing the identity of Client that are issued by TRISTAR against funds in this Benefit Account. CBB shall keep records clearly recording the deposits into and withdrawals from the Benefit Account and the balance held on behalf of Client. TRISTAR shall cause CBB to render an accounting each month detailing all transactions with respect to the Benefit Account, which accounting shall be provided by TRISTAR to Client.
- 2.2 TRISTAR shall collect, process, and report data in the Exhibit manner prescribed by the Internal Revenue Service for the purpose of preparing Client's 1099 Miscellaneous Income filing with respect to the Benefits and Expenses payments which are the subject of this Agreement. As respects the Benefit Account, TRISTAR shall file required Unclaimed Property reports.

### **3. Duties of Client**

- 3.1 Client shall:
  - 3.1.1 initially deposit in the Benefit Account an initial required balance set forth in Exhibit C1 attached hereto and made a part hereof ("Target Amount"); thereafter, maintain such required Target Amount by transferring additional funds to the Benefit Account at the interval indicated in Exhibit C1 so that it equals or exceeds the Target Amount. Client agrees to increase the Target Amount upon request of TRISTAR and in an amount to be determined by TRISTAR, within five (5) business days after Client is notified by TRISTAR of the amount of the increase.
  - 3.1.2 Always maintain a minimum balance equal to or greater than Thirty (30%) percent of the Target Amount ("Minimum Balance") in the Benefit Account. On any day the Benefit Account balance is less than the Minimum Balance, Client agrees to transfer sufficient funds to the Benefit Account within five (5) business days after it is notified by TRISTAR so that the balance in the Benefit Account equals or exceeds the Target Amount.
  - 3.1.3 transfer sufficient funds to the Benefit Account within five (5) business days of receipt of each request from TRISTAR to cover each obligation for Claims or Expenses exceeding Twenty-Five (25%) percent of the Target Amount ("Cash Call") that have been or are expected to be paid on behalf of Client.
  - 3.1.4 be liable for and pay all overdraft amounts including bank fees and charges and interest thereon. In the event TRISTAR pays any such amounts on Client's behalf pursuant to TRISTAR's agreement with the Bank, Client shall immediately reimburse TRISTAR upon demand; and

- 3.1.5 except as provided in Section 3.1.4 above, not be responsible for fees charged by CBB to administer the Client transactions and the Benefit Account. However, earnings or credits earned are applied toward such bank fees, with the excess, if any, retained by TRISTAR.
- 3.2 Client shall provide such documents, written authorizations, or resolutions, in a form required or acceptable to the Bank, authorizing TRISTAR and/or the Bank to affect the funding and payment arrangement agreed to under this Exhibit C.
- 3.3 In the event of any dispute between TRISTAR and Client regarding the propriety of any request for additional funds as contemplated by Subsection 3.1 above, or regarding the propriety of TRISTAR's actions in paying or determining to pay a Claim or Claims or an Expense, Client shall nonetheless permit or make the payments to the Benefit Account under a reservation of rights so that Client may enforce its rights with respect to any such payments or any other matters relating to this Exhibit C.
- 3.4 The Client's obligations under this Section 3 have been duly authorized by all necessary corporate action of the Client and do not and will not violate any provision of law or of the Client's charter, or by-laws, or require any consent or result in the breach of any agreement to which the Client is a party or by which it may be bound or affected.







# Glendale (Chandler) Linked LOA MSA (draft 11.15.2022) V2

Final Audit Report

2022-11-24

Created:	2022-11-23
By:	Michelle Selig (michelle.selig@tristargroup.net)
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## "Glendale (Chandler) Linked LOA MSA (draft 11.15.2022) V2" History

-  Document created by Michelle Selig (michelle.selig@tristargroup.net)  
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