

EMPLOYER SERVICES AGREEMENT

This Employer Services Agreement (the “Agreement”) is entered into as of the last date executed below (the “Execution Date”) and is between Pinnacle Bank, a Tennessee state chartered bank having its principal offices at 21 Platform Way South, Suite 2300, Nashville, TN 37203 (“Pinnacle”), and *Knox County Government*, a Tennessee Government having its principal offices located at 400 Main Street, Suite 360, Knoxville, TN 37902 (the “Employer”).

RECITALS

WHEREAS, Employer (i) has adopted a Code Section 125 Cafeteria Plan (“Cafeteria Plan”) for its eligible employees, and included in the Cafeteria Plan is one or more of the following plans or arrangements: a health flexible spending arrangement (“Health FSA”); a dependent care flexible spending arrangement (“Dependent Care FSA”); and/or a limited purpose health flexible spending arrangement (“Limited Health FSA”); and (ii) may also offer one or more of the following benefits to its eligible employees: a health reimbursement arrangement (“HRA”) pursuant to Code Section 105; a Health Savings Account pursuant to Code Section 223 (“HSA”); a commuter or transportation fringe benefit spending account pursuant to Code Section 132(f) (“TSA”); and/or a lifestyle spending account (“LSA”) (collectively, the “Employer Plans”);

WHEREAS, the Employer may also sponsor, for its eligible employees and their eligible dependents, one or more group health plan(s) (collectively, the “Group Health Plans”) that are subject to COBRA’s continuation of coverage requirements;

WHEREAS, Pinnacle provides certain services (“HSA Services”) to support HSAs made available by the Employer, certain other services supporting other Employer Plans (“Employer Plan Services”), and certain administrative services in connection with COBRA to assist the Employer in satisfying its COBRA administration responsibilities (“COBRA Services”); and

WHEREAS, Employer desires to use Pinnacle’s HSA Services, Employer Plan Services and/or COBRA Services (collectively, “Services”) as indicated on Exhibit A, and as further described in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, the sufficiency of consideration of which is hereby acknowledged, the parties agree as follows:

1. Definitions

1.1 Important Terms Used in this Agreement. As used in this Agreement and the Exhibits hereto, the following terms have the indicated meanings:

“Applicable Law” means all applicable state, federal, local and foreign laws, rules, orders and regulations and other laws including the Code and the rules, regulations, orders, directives and operating circulars of each regulatory authority or governmental agency with jurisdiction over either party.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, as amended from time to time, and the regulations issued thereunder.

“COBRA Participants” means Qualified Beneficiaries enrolled in COBRA continuation coverage under the Group Health Plans.

“COBRA Services” means the administrative services provided to Employer by Pinnacle expressly set forth in this Agreement and in Exhibit C hereto in connection with COBRA that are not provided by Pinnacle as part of the HSA Services or the Employer Plan Services.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, and the regulations issued thereunder.

“Custodial Account” means a depository account at Pinnacle or other FDIC-insured bank, held for the benefit of Employer (i) in connection with the Employer Plans (with the exception of any HSA made available by the Employer), and containing all funds received from the general assets of Employer from time to time and/or (ii) in connection with premiums remitted by individuals for Group Health Plan continuation coverage under COBRA.

“Dependent” means an eligible Employee’s spouse, child or other person whose expenses are eligible for reimbursement from an HSA, as set forth in the applicable HSA Agreements.

“Employees” means Employer’s employees.

“Employee Information” means any information about an Employee shared by Pinnacle or by a third party on its behalf with Employer or that Employer accesses through the Employer Portal other than information contained in Employer’s records that it obtained directly from the Employee or sources other than Pinnacle.

“Employer Plan Data” has the meaning set forth in Section 2.1 below.

“Employer Portal” means the online portal accessible by the internet, used by Employer for entering Employee Information in order to enroll Employees in, and perform maintenance to Employee Information for purposes of, the Employer Plans and COBRA continuation coverage under the Group Health Plans, and for downloading of certain reports related to the Employer Plans and COBRA Services.

“Employer Plan Services” means the services provided to Employer by Pinnacle expressly set forth in this Agreement that are not provided by Pinnacle as part of the HSA Services or the COBRA Services.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and rules and regulations promulgated thereunder.

“Health Savings Account” or “HSA” means a health savings custodial or trust account that is established by an HSA Account Holder with Pinnacle in accordance with the Code in connection with

the HSA Services and to which Employer, HSA Account Holder, and/or other permissible third party may contribute money.

“HSA Account Holder” means any eligible Employee participating in the Employer’s high deductible health plan and to whom Pinnacle is providing HSA Services pursuant to executed HSA Agreements and this Agreement, as well as any eligible Dependents of the Employee who are participating in the HSA.

“HIPAA” means the privacy, security and administrative simplification rules set forth in the Health Insurance Portability and Accountability Act of 1996 and the regulations set forth in C.F.R. 160, 162 and 164, as amended from time to time.

“HSA Agreements” means Pinnacle’s standard account agreement and documents for Health Savings Accounts as provided, amended and updated by Pinnacle from time to time including an HSA custodial agreement and disclosure statement, the Pinnacle Bank Health and Benefits Cardmember Agreement (or similarly titled document) specifying the terms and conditions for use of a debit card associated with the HSA, and any applicable fee schedule and related agreements each between Pinnacle and the HSA Account Holder.

“HSA Services” means the custodial and related services provided by Pinnacle to HSA Account Holder pursuant to the HSA Agreements.

“Materials” means any materials including Pinnacle brochures, user guides, promotional material, and other materials relating to the Services provided to the HSA Account Holder or Employer by Pinnacle.

“Qualified Beneficiary” means a qualified beneficiary within the meaning of COBRA who is eligible to elect continuation coverage under COBRA.

“Qualifying Event” means a qualifying event within the meaning of COBRA (generally, an event upon which a Qualified Beneficiary must be given the opportunity to elect continuation coverage under COBRA.

“Services” means Employer Plan Services, HSA Services, and COBRA Services. For avoidance of doubt, the Services do not include the sale, solicitation or negotiation of insurance policies or products by Pinnacle or any of its affiliates, directly or indirectly, as an insurance producer, broker or agent, to Employer.

2. Employer Plan Data

2.1 General Information. Employer agrees to provide in the manner and format required by Pinnacle all information that Pinnacle reasonably requires at any time to enable Pinnacle to provide the Services, including: (a) complete and accurate enrollment information with respect to each eligible Employee and HSA Account Holder and monthly updates regarding changes to such information; (b) bank and funding related information for contributions; and (c) eligible Employee and HSA Account Holder personal information or personal data (each as defined under Applicable Law), including but not limited to contribution information (collectively, “Employer Plan Data”). Employer represents and

warrants that it has properly obtained, in accordance with Applicable Law, all consents and authorizations necessary to disclose such information to Pinnacle. Employer shall also provide Pinnacle with such documents, instructions and information in such form and manner as Pinnacle may reasonably request from time to time in order for Pinnacle to provide the Services or comply with Applicable Law and Pinnacle's internal policies in connection with the Services.

2.2 Reliance. Pinnacle is entitled to assume and rely upon the completeness, accuracy, and legality of all information, documents and authorizations (including all Employer Plan Data) received from authorized representatives of Employer in connection with the Services. Pinnacle shall have no liability to Employer, Employees, HSA Account Holders or third parties arising from or relating to Employer's failure to provide Pinnacle with timely and correct information or documents or to obtain necessary consents or authorizations to provide Pinnacle with Employer Plan Data. Employer shall promptly notify Pinnacle of any errors in Employer Plan Data and shall be responsible for the resolution of disputes with third parties, Employees and/or HSA Account Holders arising from such errors. Pinnacle shall use commercially reasonable efforts to assist Employer in the correction of any errors, subject to Applicable Law, and may impose fees for error correction.

2.3 Compliance with Applicable Law. Notwithstanding anything in this Agreement to the contrary, Employer is solely responsible for compliance with Applicable Law in connection with the establishment and operation of the Employer Plans, Group Health Plans, its collection, processing, use, distribution, disclosure, storage, and maintenance of Employer Plan Data, and its obligations under this Agreement, including tax and reporting obligations.

2.4 Communications. Pinnacle is authorized to accept directions and data transmitted to Pinnacle by Employer, Employees or HSA Account Holders through any commercially recognized means including facsimile, electronic mail and other electronic means.

2.5 Consents. Employer is solely responsible for obtaining from Employees and HSA Account Holders all authorizations or consents required by Applicable Law in order for Pinnacle to provide the HSA Services to HSA Account Holders and/or the Employer Plan Services and/or COBRA Services to Employer. Employer understands and acknowledges that Pinnacle is under no obligation to (i) obtain any authorizations or consents; (ii) verify or confirm that Employer has obtained the appropriate authorizations or consents under Applicable Law; or (iii) verify or confirm that a particular Employee is eligible to establish an HSA with Pinnacle.

3. HSA Services

3.1 Pinnacle HSA Services. Pinnacle will make the HSA Services available to eligible Employees by any reasonable means Pinnacle determines and assist Employer in marketing the availability of the HSA Services to eligible Employees. Pinnacle will serve as custodian of the HSA Accounts and will administer HSAs in accordance with Section 223 of the Code. Pinnacle retains complete discretion, subject to Applicable Law, to determine whether to accept an Employee as an HSA Account Holder. If Pinnacle approves and accepts an Employee for an HSA, Pinnacle will provide the HSA Services to the HSA Account Holder in accordance with the HSA Agreements. Pinnacle has the sole authority and discretion to open and/or close an HSA or resign as custodian in accordance with the HSA Agreements. Section 3 of this Agreement is limited to those HSA Services described herein and does not cover any other Employer Plan Services or COBRA Services.

3.2 Materials and Assistance. Pinnacle agrees to provide: (a) an appropriate supply of Materials (in paper or electronic format) for use by Employer in promoting the availability of the HSA Services; and (b) HSA management tools, and HSA education, enrollment and application processes and information through an online system provided by Pinnacle or through other methods made available by Pinnacle. All Materials are the property of Pinnacle or its vendors and may not be reproduced, added to, modified or changed in any way, without the prior written consent of Pinnacle.

3.3 Establishment. Employer acknowledges that: (a) the HSA Account Holder is Pinnacle's customer and the record and beneficial owner of the HSA established by the HSA Account Holder; and (b) Employer has no ownership interest in, or rights to, any HSA, and is not a party to, nor has any rights in the HSA Agreements. Pinnacle, through the Pinnacle Bank Trust and Investment Services Team ("Pinnacle Trust") or a third-party investment advisor of Pinnacle's choosing, will in its sole discretion make available to HSA Account Holders investment alternatives for funds in the HSA subject to Pinnacle's criteria in effect from time to time and subject to the terms and conditions Pinnacle establishes including pursuant to the HSA Agreements.

3.4 Funding Procedures. Pinnacle will implement reasonable procedures to enable the funding of HSAs by the HSA Account Holders and Employer. Pinnacle has no obligation with respect to the funding of contributions to any HSA, other than to receive the contributions paid or transferred to Pinnacle from the Employer and/or the Employee and allocate them in accordance with directions given by or through Employer. Employer agrees to provide clear and timely instructions to Pinnacle for the allocation of contributions among the HSAs of various HSA Account Holders. If any instruction or direction to Pinnacle is unclear or ambiguous, Pinnacle may take such action or respond as Pinnacle believes in good faith is appropriate, and Pinnacle reserves the right to refrain from acting until the instruction or direction is clear and unambiguous.

3.5 Access to Funds. Pinnacle shall provide HSA Account Holders with reasonable access to their HSA funds in accordance with their respective HSA Agreements. Pinnacle has no obligation to examine or determine whether withdrawals, debits, directions or any other distributions or payments from an HSA comply with the requirements of the Code, or for funding any reimbursement through or shortfall in an HSA.

3.6 Cards. Pinnacle agrees to issue debit cards to HSA Account Holders who request them. Use of such cards by HSA Account Holders will be subject to the HSA Agreements and the terms and conditions of the Pinnacle Bank Health and Benefits Cardmember Agreement (or similarly titled document), specifying the terms and conditions for use of a debit card associated with an HSA, and all Applicable Law.

3.7 Reports. To the extent not prohibited by Applicable Law, Pinnacle agrees to provide to Employer Pinnacle's standard reports regarding HSAs established by their HSA Account Holders, including the name of such Employee and the aggregate contributions in their HSA and tax reporting with respect to HSA contributions and distributions as required by the Code and Applicable Law.

3.8 HSA Account Holder and Employer Support. Pinnacle, or its third party provider, will provide a call center and online support to Employer and HSA Account Holders.

3.9 Administration. Pinnacle will maintain usual and customary records in Pinnacle's possession that relate to the HSA Services. Pinnacle is not responsible for (i) verifying that the Employees are "eligible individuals" under Code Section 223(c)(1); (ii) ensuring that contributions to an HSA do not exceed the applicable maximum annual contribution limits applicable to a particular owner of an HSA; (iii) ensuring that distributions from an HSA are for qualified medical expenses as defined in Code Section 223(d)(2); or (iv) maintaining records sufficient to show that HSA distributions are tax-free.

4. Employer Plan Services

4.1 Pinnacle Employer Plan Services. Pinnacle will make the Employer Plan Services described in this Agreement and Exhibit B hereto available to the Employer by any reasonable means Pinnacle determines. Pinnacle agrees to act as custodian of any depository account described in this Section 4 and to hold any Employer funds received hereunder in accordance with the terms and conditions set forth in this Agreement. Section 4 of this Agreement is limited to those Employer Plan Services described herein and does not cover any HSA Services or COBRA Services. The Employer Plans for which Pinnacle is providing Services under this Agreement are set forth in Exhibit A hereto.

4.2 Custodial Account.

(a) General Terms. The Employer must maintain one or more depository accounts ("Custodial Account") for the purposes of processing claims disbursements with respect to the Employer Plans (other than HSAs). The Employer must provide Pinnacle with access to its Custodial Account to process claims disbursements. If the Custodial Account is not maintained by Pinnacle, Employer agrees to take such action as is necessary to provide Pinnacle with the appropriate authorization to access and utilize the Employer's Custodial Account in order to process claims disbursements and otherwise provide the Employer Plan Services described in this Agreement.

(b) Custodial Account Maintained by Pinnacle. If the Employer's Custodial Account is maintained by Pinnacle:

- (i) Pinnacle will hold in such Custodial Account all funds initially received from Employer plus any additional funds that may be received from Employer together with similar funds from other employers in a single Custodial Account (or one or more Custodial Accounts as determined by Pinnacle). Pinnacle shall maintain records as to the exact amount of funds attributable to each employer so that each employer has a legal right to the specific amount of its funds held in the Custodial Account (less any applicable fees, costs or expenses). At all times, the assets comprising each employer's funds in the Custodial Account shall be considered a separate subaccount for purposes of this Agreement. Depending upon the context, the term "Custodial Account" as used herein shall refer to either the separate subaccount for Employer or all of the subaccounts for all employers in the aggregate.
- (ii) Except to the extent that outstanding checks have been written or withdrawals have been made against the Custodial Account balance on behalf of Employer, all funds received from Employer and deposited into the Custodial Account may be withdrawn by Employer at any time (less applicable fees, costs or expenses) and are subject to

the claims of Employer's general creditors in the same manner as funds contributed to Employer's ordinary operating accounts.

- (iii) Employer acknowledges and understands that from time to time Pinnacle may receive interest earned on the funds held in a Custodial Account and that any such interest shall be part of Pinnacle's compensation for the Employer Plan Services. Employer acknowledges and understands that fees otherwise charged by Pinnacle for services under this Agreement would be greater if Pinnacle did not retain such interest on these funds. The period during which interest may be earned begins on the date the funds are deposited in the Custodial Account maintained by Pinnacle and ends when this Agreement terminates.

4.3 Employer Funds. Pinnacle and Employer intend and agree that all funds deposited in the Custodial Account shall be comprised of and shall remain Employer's general assets. In no event will funds deposited by Employer in the Custodial Account constitute or include participant or Employee contributions to Employer Plans, whether made by salary reduction or otherwise, as those terms have their general meaning under ERISA. Notwithstanding the foregoing, this Agreement does not alter or eliminate any separate obligation of Employer to fund and maintain a minimum account balance in the Custodial Account as may be required by Pinnacle from time to time.

4.4 Disbursements. Pinnacle (or a designated third-party processor, as described in Section 8) shall make payments or distributions from the Custodial Account in accordance with the framework of policies, interpretations, rules, practices, and procedures established by Pinnacle for this purpose and as set forth in the Employer Plans or as otherwise agreed upon or directed by Employer. Pinnacle shall neither have nor be deemed to have any discretion, control, or other authority with respect to the disposition of Employer funds.

4.5 Unused Amounts and Unclaimed Amounts. Except for those amounts that are (1) subject to a Health FSA or Limited Health FSA carryover elected by the Employer Plans in accordance with IRS Notice 2013-71 (as such guidance may be modified or updated), or (2) held in an HRA designed to permit unused amounts to be carried over into future years, all amounts that remain unused in a Health FSA, Limited Health FSA, HRA, Dependent Care FSA, TSA, or LSA after the end of the period specified by the Employer Plan during which a participant can make a claim plus any periods for appeal or claim dispute, shall be forfeited by the participant and returned to Employer less any applicable fees and expenses then-owing to Pinnacle. The direct terms of an applicable Employer Plan may alter the forfeiture provisions of this Section 4.5 only with respect to an Employer Plan participant. Any amounts unclaimed by participants, including any unclaimed reimbursement checks (or other methods of payment) that have been issued but remain unendorsed or uncashed and unpaid after the end of the plan year's run-out period (if any) elected by the Employer Plans, shall be returned to Employer less any applicable fees and expenses that are due and then-owing to Pinnacle. Employer shall be responsible for reporting unclaimed amounts in accordance with applicable state escheat laws.

4.6 Cards. Pinnacle agrees to issue debit cards to Employer for distribution to Employees participating in the Employer Plans, upon request by the Employer. Use of such cards by Employees will be subject to the terms and conditions of the Pinnacle Bank Health and Benefits Cardmember Agreement (or similarly titled document), specifying the terms and conditions for use of a debit card associated with the Employer Plans, and all Applicable Law.

4.7 Plan Document and Compliance Services. From time-to-time, Pinnacle may make available to Employer sample plan documents for certain Employer Plans for which Pinnacle is providing HSA Services or Employer Plan Services. Except as set forth herein, Employer will be responsible for completing such sample documents. Notwithstanding the foregoing, to the extent Employer has elected HSA Services or Employer Plan Services, Pinnacle agrees to make available to Employer certain add-on plan document preparation and/or compliance services, as selected by Employer on Exhibit A (collectively, the “Compliance Services”). By selecting the Compliance Services, Employer agrees that the Compliance Services provided by Pinnacle shall be subject to the general terms and conditions of this Agreement and Exhibit B hereto. At all times, to the extent Employer uses the sample documents, it is Employer’s responsibility to determine whether the sample documents are legally compliant for purposes of Employer’s needs and business, are appropriately completed, are in compliance with the requirements of Employer’s Plan, and are appropriately and timely adopted by Employer.

4.8 Maintenance of Records. Upon Employer’s written request, and subject to payment by Employer of any applicable fees, Pinnacle shall provide Employer with an accounting of all assets and transactions involving the Custodial Account in relation to Employer, including a description of all receipts, payments or disbursements, and other transactions.

5. COBRA Services

5.1 Pinnacle COBRA Services. To the extent selected by Employer in Exhibit A hereto, Pinnacle will make the COBRA Services described in this Agreement and Exhibit C hereto available to the Employer by any reasonable means Pinnacle determines. Pinnacle agrees to act as custodian of any depository account described in this Section 5 and to hold any funds received hereunder in accordance with the terms and conditions set forth in this Agreement. Section 5 of this Agreement is limited to those COBRA Services described herein and does not cover any HSA Services or Employer Plan Services.

5.2 Custodial Account.

(a) General Terms. The Employer must maintain one or more depository accounts (“Custodial Account”) for the purposes of processing premium payments made by individuals enrolled in continuation coverage under the Group Health Plans. The Employer must provide Pinnacle with access to its Custodial Account to process premium payments. If the Custodial Account is not maintained by Pinnacle, Employer agrees to take such action as is necessary to provide Pinnacle with the appropriate authorization to access and utilize the Employer’s Custodial Account in order to process premium payments and otherwise provide the COBRA Services described in this Agreement.

(b) Custodial Account Maintained by Pinnacle. If the Employer’s Custodial Account is maintained by Pinnacle:

- (i) Pinnacle will hold all funds initially received from the Employer’s COBRA Participants together with similar funds with respect to the COBRA Participants of other employers in a single Custodial Account (or one or more Custodial Accounts as determined by Pinnacle). Pinnacle shall maintain records as to the exact amount of funds attributable to premium payments received from each employer’s COBRA

Participants so that each employer has a legal right to the specific amount of the funds held in the Custodial Account related to its COBRA Participants (less any applicable fees, costs or expenses) for purposes of remitting the same to the applicable insurance carrier or third party administrator for the Group Health Plans. For purposes of this Agreement, at all times the assets comprising the funds in the Custodial Account related to the COBRA Participants of a particular employer shall be considered a separate subaccount for the relevant employer. Depending upon the context, the term “Custodial Account” as used herein shall refer to either the separate subaccount related to the amounts received from the COBRA Participants of a particular employer or all of the subaccounts for all amounts received from employers’ COBRA Participants in the aggregate.

- (ii) Except to the extent that outstanding checks have been written or withdrawals have been made against the Custodial Account balance for remittance to Employer, all funds received from COBRA Participants and deposited into the Custodial Account may be withdrawn by Employer in such amounts (less applicable fees, costs or expenses) and at such times as Employer is then obligated to remit the same to the applicable insurance carrier or third party administrator from the Group Health Plans in accordance with the framework of policies, interpretations, rules, practices and procedures established by Pinnacle. Prior to any such withdrawal, all amounts held in the Custodial Account for the benefit of Employer shall be subject to the claims of Employer’s general creditors in the same manner as funds contributed to Employer’s ordinary operating accounts.
- (iii) Employer acknowledges and understands that from time to time Pinnacle may receive interest earned on the funds held in a Custodial Account and that any such interest shall be part of Pinnacle’s compensation for the COBRA Services. Employer acknowledges and understands that fees otherwise charged by Pinnacle for services under this Agreement would be greater if Pinnacle did not retain such interest on these funds. The period during which interest may be earned begins on the date the funds are deposited in the Custodial Account maintained by Pinnacle and ends when this Agreement terminates.

5.3 Disbursements. Pinnacle (or a designated third-party processor, as described in Section 8) shall make payments or distributions from the Custodial Account to Employer for remittance to the applicable insurance carrier or third party administrator for the Group Health Plans in accordance with the framework of policies, interpretations, rules, practices, and procedures established by Pinnacle for this purpose or as otherwise agreed upon or directed by Employer.

5.4 Maintenance of Records. Upon Employer’s written request, and subject to payment by Employer of any applicable fees, Pinnacle shall provide Employer with an accounting of all assets and transactions involving the Custodial Account in relation to Employer, including a description of all receipts, payments or disbursements, and other transactions.

6. Employer Obligations

6.1 Compliance with Applicable Law. Employer represents and warrants that the Employer Plans and Group Health Plans comply with the requirements of Applicable Law, including

the Code, and that each Employee who establishes an HSA with Pinnacle does so in compliance with Applicable Law. Employer shall keep the Employer Plans and Group Health Plans in full compliance with Applicable Law, including the Code, and shall comply with all Applicable Law to which Employer is subject related to the HSA Accounts and this Agreement. Nothing in this Agreement relieves Employer of any duty imposed by Applicable Law or contract regarding the maintenance of records or from employing adequate audit, accounting and review practices..

6.2 Fiduciary Responsibility. Employer shall retain sole administrative and fiduciary responsibility for the Employer Plans and Group Health Plans as plan administrator, except as properly delegated to a committee or other agent of Employer. Employer shall retain the exclusive and discretionary authority and control to manage the Employer Plans and Group Health Plans and the disposition of their assets, to establish plan benefit terms, conditions and procedures, and to review the application of such policies and conditions. Employer acknowledges and agrees that Pinnacle's Services to the Employer Plans and/or Group Health Plans subject to ERISA are purely ministerial in nature and shall be performed within the framework established by Employer. Employer further acknowledges and agrees that Pinnacle is not a fiduciary with respect to HSA assets nor the "plan sponsor," "administrator," "claims fiduciary," nor "named fiduciary" of the Employer Plans, Group Health Plans, or other Employer-sponsored employee benefit plans, as those terms are defined in ERISA or other Applicable Law.

6.3 Eligibility. Employer shall be solely responsible for determining which of its employees are eligible to participate in the respective Employer Plans and/or Group Health Plans, collecting the required information from Employees and informing Pinnacle of such affected or eligible Employees.

6.4 Non-Applicability of ERISA to HSA Accounts. Employer acknowledges and agrees that the HSA Accounts are not employee benefit plans, and the assets held in the HSA Accounts are not plan assets, subject to the provisions of ERISA, and covenants and agrees to take all necessary steps to ensure that the HSA Accounts do not become employee benefit plans, and that the assets held therein do not become, subject to ERISA.

6.5 Contributions.

(a) General Terms. Pinnacle agrees to accept funding through the customary means it offers to Pinnacle customers generally for similar services. Employer will provide Pinnacle with all data on Employees and contributions, including payroll deduction and Employer's contributions (if applicable), which data shall reconcile contributions to individual HSAs and to the Custodial Account. Employer is responsible for reviewing and approving the documentation of such information, including transmissions of contribution information. Employer shall cooperate with Pinnacle to reconcile accounts in the event of any discrepancies between the contribution file and the actual funds transmitted and received by Pinnacle. Employer represents and warrants that it will provide the appropriate disclosures to, and obtain the appropriate authorizations or consents from, its Employees that may be required under Applicable Law prior to sending the personal or financial information of any such Employees to Pinnacle. Employer understands and agrees that (i) Pinnacle is under no duty or obligation hereunder to obtain any authorizations or consents from the Employees (whether or not they establish an HSA with Pinnacle) or to verify or confirm that Employee has made such disclosures

and obtained the appropriate authorizations or consents and (ii) Pinnacle shall not be liable for any failure by or on behalf of Employer to obtain such authorizations or consents from its Employees.

(b) HSAs. Employer and HSA Account Holders are responsible for funding their respective HSAs with good collected funds in accordance with the Employer Plans; provided, however, that if Employer elects to add the HSA Advance feature, the Employer shall be responsible for funding the HSA Advance total and, if an HSA Account Holder terminates from employment with the Employer with an outstanding contribution advance, the Employer shall be responsible for that loss. Employer shall not be entitled to recoup any contributions made by it to an HSA, except for correction of errors and related adjustments as permitted by Applicable Law, which may be processed at Pinnacle's discretion. Employer, not Pinnacle, is solely responsible for complying with Applicable Law relating to contributions to an HSA including ensuring that contributions do not exceed the contribution limit applicable to each HSA.

(c) Custodial Account for Employer Plans (Other than HSAs and Group Health Plans). Employer shall deposit contribution funds in a Custodial Account to be used to pay benefits and expenses under the Employer Plans as agreed to herein and in accordance with the Employer Plan documents. Funds contributed to the Custodial Account shall consist solely of general assets of the Employer. Participant contributions, if any, made by Employees to the Employer Plans (other than the HSA) through salary reduction or otherwise, shall be used to reimburse the Employer for the contributions advanced by Employer to the Custodial Account to pay benefits under the Employer Plans. Employer has the sole responsibility and liability for the funding of all benefits under the Employer Plans through the Custodial Account.

(d) Custodial Account for Group Health Plans (for COBRA Services). Pinnacle shall hold premiums received from COBRA Participants in a Custodial Account. All such funds shall be remitted to Employer for the purpose of payment of premiums for continuation coverage under the Group Health Plans. Employer has the sole responsibility and liability for the funding of all benefits under the Group Health Plans, and for the remittance of premiums paid by COBRA Participants to the applicable Group Health Plan insurance carrier or third party administrator.

6.6 Reliance on Information and Instructions.

(a) Pinnacle shall provide the Services in accordance with this Agreement based on the Employer Plan Data provided to Pinnacle by Employer or any agent, designee or representative of Employer.

(b) Employer has authorized and instructed Pinnacle to implement its standard administrative forms and procedures to provide the Services in accordance with this Agreement, which forms and procedures may be revised by Pinnacle at any time with notice to Employer. Pinnacle shall be fully protected in relying upon representations by Employer set forth in this Agreement. Pinnacle shall be fully protected in relying upon communications made by or on behalf of Employer in effecting its obligations under this Agreement. Pinnacle is entitled to rely on the most current information in its possession when providing services under this Agreement.

(c) Pinnacle is not responsible for any acts or omissions it makes in reliance upon: (i) the direction or consent of Employer or any agent, designee or representative of Employer; or (ii)

inaccurate or incomplete information received by Pinnacle from anyone other than Pinnacle, its agents or subcontractors.

(d) Employer and Pinnacle agree that if Employer instructs Pinnacle with a specific written request (in a format acceptable to Pinnacle) to provide services in a manner other than in accordance with Pinnacle standard forms and procedures, Pinnacle may (but need not) comply with such a request. To the extent that Pinnacle complies with such a request, Employer shall be solely responsible for Pinnacle's action so taken.

6.7 Employer Plan and/or Group Health Plan Tax and Reporting Obligations. The Employer Plans, Group Health Plans, and/or Employer on behalf of the Employer Plans and/or Group Health Plans, as applicable, shall be responsible for any state or federal tax, fee, assessment, surcharge and/or penalty imposed, assessed or levied against or with respect to the Employer Plans, Group Health Plans and/or Pinnacle relating to the Employer Plans, Group Health Plans, or the Services provided by Pinnacle pursuant to this Agreement. In the event that Pinnacle is required to pay any such tax, fee, assessment, surcharge and/or penalty, Pinnacle shall report the payment to Employer along with documentation of the payment and Employer shall promptly reimburse Pinnacle for such amount (or for Employer's proportionate share of such amount), except as provided in Section 12 of this Agreement. This payment shall be in addition to the fees described in Section 9. Pinnacle's sole responsibility with respect to any tax reporting requirements shall be in connection with its role as a custodian.

6.8 Employer's Additional Duties. Employer will ensure that each Employee on behalf of whom it is providing contributions to HSAs is an "eligible individual" as defined in Code Section 223(c)(1). Employer is responsible for providing Pinnacle with the following information regarding each Employee: (i) notification of an Employee's termination of employment with Employer; and (ii) information as requested by Pinnacle from time to time to prepare any report required by Code Section 223(h). Employer will provide Pinnacle with a list of all authorized users of the Employer Portal. Employer will be solely responsible for determining whether Employer has made comparable contributions to HSAs for comparable participating employees under Code Section 4980G and applicable regulations and, to the extent that Employer's contributions are made through a Cafeteria Plan and applicable regulations, that the Cafeteria Plan passes nondiscrimination testing.

7. Representations and Warranties

7.1 Mutual. Pinnacle and Employer each represent and warrant to the other that: (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized; (b) the execution, delivery and performance of this Agreement has been authorized by all necessary entity and governmental action on its part; (c) the person signing this Agreement on its behalf is duly authorized to do so; and (d) this Agreement represents its legal, valid and binding obligation that is enforceable against it in accordance with its terms.

7.2 Pinnacle. Pinnacle represents and warrants to Employer that (a) together with its Processors (as defined in Section 8.1 below), Pinnacle has the necessary rights to provide the Services as provided in this Agreement and the HSA Agreements; (b) the Services will be provided in compliance in all material aspects with Applicable Law; and (c) the Services will be provided in a

reasonable manner consistent with standards prevailing for financial institutions providing similar services.

8. Use of Third Parties

8.1 Processors. Employer acknowledges and agrees that Pinnacle may arrange for certain or all of the aspects of the Services, including software and claims processing, to be performed or provided by third-party service providers or processors expressly engaged by Pinnacle (“Processors”). To the extent Pinnacle has engaged a Processor, Pinnacle is responsible for the aspects of the Services provided by the Processor.

8.2 Vendors. Any third party servicer or vendor used by Employer in connection with its use of the Employer Plan Services, COBRA Services or establishment of the HSA Services (“Vendor”) is Employer’s agent and not an agent of Pinnacle. Employer will be liable and solely responsible for: all fees, costs and expenses owed to each Vendor for its services.

8.3 Third-Party Websites. Employer acknowledges and agrees that Pinnacle may provide it with access to or use of certain tools through a link to third-party websites (“Third-Party Sites” or “Third-Party Site”), including but not limited to certain self-service Non-Discrimination Testing tools, that are not owned or controlled by Pinnacle. Pinnacle assumes no responsibility for the content, accuracy, suitability, terms and conditions, privacy policies, or practices of or services provided by any Third-Party Sites and makes no representations with respect to the quality or sufficiency thereof. Unless Employer has specifically contracted for the provision of services as set forth in Exhibit A, Pinnacle is not obligated to support, interpret, or otherwise assist Employer with any Third-Party Site tools or any recommendations, reports or results obtained therefrom. Accordingly, Pinnacle encourages Employer to carefully review the terms and conditions, privacy policies, instructions, and other governing documents of each Third-Party Site that Employer may visit. For the purposes of this Section 8.3, “Non-Discrimination Testing” shall refer to both FSA Non-Discrimination and POP Non-Discrimination Testing.

9. Fees

Employer agrees to pay the fees and other charges as set forth in the Benefits Design Guide published by Pinnacle from time to time, and provided to Employer, and in the fee schedules in Exhibit B and/or Exhibit C, as applicable. Employer hereby acknowledges receipt of Benefits Design Guide and the fee schedules in Exhibit B and/or Exhibit C, as applicable. HSA Account Holders will be subject to the fees indicated for HSA Account Holders in the Benefits Design Guide and/or in the HSA Agreements (including any Pinnacle Fee Disclosure Statement), which Employer may pay on behalf of the HSA Account Holders. Pinnacle reserves the right to change or add any fees or other charges set forth in the Benefits Design Guide, the fee schedules in Exhibit B and/or Exhibit C and/or the Pinnacle Fee Disclosure Statement upon thirty (30) days’ notice to Employer and to Account Holder, as applicable.

Notwithstanding anything in this Agreement, the fees applicable to Employer's HSA, FSA, and HRA programs shall be as follows:

- HSA: \$0.75 per participant per month
- FSA: \$2.50 per participant per month
- HRA: \$0.00 per participant per month

The foregoing HSA, FSA, and HRA fees are the fees awarded pursuant to Employer's RFP process and shall remain fixed for five (5) years from the applicable Service Effective Date. During such period, such fees shall not be subject to modification pursuant to Section 9. All other fees, charges, penalties, and payment terms set forth in this Agreement, the Benefits Design Guide, and any applicable fee schedules shall remain unchanged.

Pinnacle will transmit an invoice to Employer for all applicable monthly Services each month and will transmit invoices for one-time or additional Services immediately following the performance of such Services. Payment is due upon receipt of such invoice.

10. Intellectual Property

10.1 Rights. Employer acknowledges and agrees that Pinnacle and its Processors and other third parties expressly engaged by them to provide any part of the Services ("IP Service Providers"), shall own and exclusively retain any and all patent, trademark, copyright, trade secret, and other intellectual property and proprietary rights, and any related rights associated with the Services including the software, design, functionality, processes, procedures, systems, know-how, inventions, implementation guides, checklists and other materials (including Materials) provided by Pinnacle pursuant to this Agreement (collectively referred to as "Intellectual Property Rights"). Employer further acknowledges and agrees that Pinnacle or its IP Service Providers, as the case may be, shall exclusively own all Intellectual Property Rights in and to any and all improvements, enhancements, derivative works, modifications or developments made to or resulting from any of the foregoing materials, including materials that were developed, worked on, learned or conceived by them or their respective IP Service Providers in connection with the Services, and Employer shall have no rights therein or thereto. Employer shall not (i) modify, copy or otherwise reproduce the Intellectual Property Rights, (ii) remove, destroy or omit any Intellectual Property Rights or ownership notices, legends or labels appearing in, on or in connection with the Materials or the Services, including without limitation copyrights, branding, or trademark notifications displayed in the Materials; (iii) license, market, sell, sublicense, resell, assign, distribute, otherwise commercially exploit or transfer the Intellectual Property Rights, or act as an administrator regarding the Services, in whole or in part, except with the prior written consent of Pinnacle; or (iv) interfere with or disrupt the integrity or performance of the Services.

11. Limitation of Liability

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

EMPLOYER AGREES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW THAT IN NO EVENT WILL PINNACLE (OR PINNACLE'S OFFICERS, DIRECTORS, SHAREHOLDERS, AFFILIATES, EMPLOYEES, PROCESSORS OR AGENTS) BE LIABLE OR RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR SPECULATIVE LOSSES, EXPENSES, INJURY, COSTS OR DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, REVENUE, SAVINGS, TIME, DATA, GOODWILL AND OPPORTUNITIES, ATTORNEYS' FEES, AND COURT AND OTHER DISPUTE RESOLUTION COSTS) THAT EMPLOYER OR ANY OTHER PERSON MAY INCUR OR SUFFER IN CONNECTION WITH THIS AGREEMENT, EVEN IF PINNACLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, COST OR DAMAGE AND REGARDLESS OF THE TYPE OF CLAIM.

Pinnacle's liability to Employer arising from any service to Employer, the Services or this Agreement will be limited in all cases to actual monetary damages that are the direct result of Pinnacle's failure to exercise reasonable care. Pinnacle shall not be responsible for any act or omission of Employer's officers, employees or agents, or of any third party (other than Pinnacle's Processors and subcontractors), or for any failure to act by Pinnacle if Pinnacle reasonably believed taking the omitted action would have violated Applicable Law. In no event shall the aggregate maximum liability of Pinnacle for any and all claims in connection with any service to Employer, the Services or this Agreement exceed, in the aggregate the Cap (as defined below) which is calculated at the time the claim is first asserted against Pinnacle in writing. The "Cap" is the amount of fees actually paid by Employer to Pinnacle in the twelve-month period preceding the making of any claim by Employer less the amount of any previous claim paid by Pinnacle in connection with this Agreement or the Services.

12. Termination of Agreement

12.1 Term. This Agreement, including any Exhibits hereto, shall be effective as of the Execution Date and shall continue in effect thereafter until terminated in accordance with this Section 12 (the "Term").

12.2 Mutual Termination Rights. Pinnacle or Employer may terminate this Agreement and any Exhibits hereto: (a) without cause, by providing the other party with thirty (30) days' prior written notice of termination; (b) with thirty (30) days' advance written notice, if the other party breaches a material representation, warranty or obligation under this Agreement and in the case of a breach that is curable, the breach is not cured within thirty (30) days of the date on which written notice is given by the non-breaching party to the breaching party of such material breach; (c) immediately if the other party violates Applicable Law, in any material respect, in connection with the Services; or (d) immediately if the other party makes an assignment of assets for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to applicable bankruptcy laws.

12.3 Pinnacle. Pinnacle may terminate this Agreement and any Exhibits hereto immediately upon notice to Employer if (a) so directed or required by a regulator having jurisdiction over Pinnacle; (b) Pinnacle determines in good faith that the continued provision of its Services would violate Applicable Law or any material requirement or policy of any regulatory authority with jurisdiction over Pinnacle; (c) Pinnacle determines in good faith that any of the HSA Services may be

subject to ERISA; (d) Employer fails to pay the fees described in Section 9 or fails to (i) fund in full, by the required dates, the bank accounts designated to receive HSA contributions hereunder on more than two (2) occasions or (ii) fund to at least the minimum account balance required by Pinnacle, if any, by the required dates, the Custodial Accounts on more than two (2) occasions; or (e) an agreement between Pinnacle and one of its Processors relating to critical components of the Services is terminated.

12.4 Effect on HSA Accounts. The termination of this Agreement will not result in the termination of any existing HSA established by any HSA Account Holder.

12.5 Cessation of Services. Upon the later of the date of termination of this Agreement or the end date of any specified run-out period, Pinnacle will (i) cease the processing of any claims (or ask its Processor to cease processing any claims) that are received and Employer shall be immediately responsible for all aspects of its Employer Plans, including the processing of all claims, annual reporting, and general plan administration; and (ii) with respect to the COBRA Services, complete the processing of all amounts received prior to the termination date by Pinnacle as premiums payable by those who have elected continuation coverage. To the extent the Custodial Account of the Employer is maintained by Pinnacle, Pinnacle shall promptly return to Employer any funds in the Custodial Account that have (i) not been used for Employer Plan benefit payments, along with any unpaid or other pending payment requests and/or subsequent claims that are received after the end date of the specific run-out period; and/or (ii) been collected, but not yet remitted to Employer, for payment of COBRA premiums. However, such return shall remain subject to the completion of a final accounting of all account activities, as well as the deduction of any undisputed unpaid fees and other expenses under this Agreement or any other agreement between the parties. As necessary, Pinnacle shall have the immediate right to demand and pursue collection of any unpaid fees, reimbursements or other amounts that are due and owing to Pinnacle as of the date of termination or the end of the specified run-out period under the terms of this Agreement or any other agreement between the parties. The Agreement will remain in force during the specified run-out period.

12.6 Final Accounting. Within sixty (60) days after the later of the termination of this Agreement or the specified run-out period, Pinnacle shall prepare and deliver to Employer a complete and final accounting and report of the financial status of the Custodial Account(s) as of the date of termination, together with all books and records in Pinnacle's possession and control pertaining to the administration of the Custodial Account on behalf of the Employer Plans, all claim files (if any), and all reports pertaining to the Custodial Account or the Employer Plans.

12.7 Survival. The obligations of the parties under Sections 6, 10, 11, 12, 13, 14, and 16 of the Agreement, and, to the extent Exhibit D applies, the obligations under Section 5.3 of Exhibit D, shall survive the expiration or termination of this Agreement.

13. HIPAA

13.1 Business Associate Agreement. To the extent Pinnacle is providing Services to or with respect to any Employer Plan or Group Health Plan that is a "covered entity" as defined in HIPAA (e.g., a Health FSA, Limited Health FSA, HRA and/or certain HSAs), and to the extent such Services are as contemplated for a "business associate" as defined in HIPAA (in 45 C.F.R. § 160.103), Pinnacle acknowledges that it is a business associate and the Business Associate Agreement attached hereto as

Exhibit D will therefore apply. Except as specifically set forth in the preceding sentence, Pinnacle shall not be a business associate with respect to the Employer Plans or Group Health Plans. Further, Employer understands and acknowledges that Pinnacle is not a “covered entity” or “plan sponsor” as those terms are defined in HIPAA in connection with the Services contemplated by this Agreement, and Pinnacle expressly disclaims responsibility for duties imposed on covered entities and plan sponsors under HIPAA.

13.2 Transmission of Protected Health Information. To the extent HIPAA applies to the Employer Plans or Group Health Plans, when transmitting any “protected health information” (as that term is defined in HIPAA), in connection with or related to this Agreement or the Services, Employer will make such transmission in a secure and encrypted manner that satisfies the Advanced Encryption Standard and any and all applicable rules under HIPAA.

14. Confidentiality

14.1 Employer. Subject to Employer's duties under Applicable Law, Employer agrees to keep confidential and not disclose to any third party (other than its agents) Pinnacle's pricing arrangement, fees and charges, terms of the Services, user guides, software, non-public Service features and other proprietary information and systems Pinnacle or Pinnacle's Processors provide and disclose in connection with the Services. Employer acknowledges the exclusive ownership by Pinnacle or Pinnacle's subcontractors of such information, and agrees to use such information solely for purposes of using the Services. Employer agrees to take appropriate measures to (a) protect the security and integrity of the Employer Portal; (b) protect against unauthorized access to or use of the Employer Portal; (c) protect all Employee Information printed, extracted, downloaded or otherwise obtained from the Employer Portal from unauthorized access or disclosure; and (d) protect all Employee Information that Employer provides to Pinnacle or a third party on Pinnacle's behalf (including any Processor). Without limiting the foregoing, Employer shall endeavor to ensure that all of Employer's Vendors agree to and comply with confidentiality and non-use obligations no less restrictive than those set forth in this Agreement, pursuant to a separate written agreement between Employer and each such Vendor.

14.2 Pinnacle. Pinnacle acknowledges that non-public information Pinnacle obtains from Employer in connection with this Agreement may be confidential. Pinnacle will maintain the confidentiality of such information in accordance with Pinnacle's normal procedures for safeguarding employer information and Applicable Law subject to Pinnacle's right to disclose information as required in connection with providing the Services, as permitted under this Agreement, or as required by Applicable Law or Pinnacle's regulatory authorities.

15. Records and Audits

15.1 Retention. Employer agrees to retain sufficient records and supporting documentation relating to the Services Pinnacle provides under this Agreement, including the HSA Services, in accordance with Applicable Law and its normal record retention policies for at least seven (7) years from the date such record or documentation is created.

15.2 Review. During regular business hours but no more frequently than once a year, Pinnacle may, at its sole expense, perform a confidential audit of Employer's compliance with the

requirements of this Agreement, subject to Employer's duties under Applicable Law and contractual obligations. Such audits shall be conducted on a mutually agreed upon date which shall be no more than thirty (30) days after written notice of the purpose, time, location and duration. Employer acknowledges and agrees that any federal or state regulatory agency with jurisdiction over Pinnacle may audit Employer's use of the Services provided by Pinnacle and related records at any time during normal business hours.

15.3 Documentation. The parties acknowledge and agree that all documents evidencing, relating to or arising from the parties' relationship may be scanned or otherwise imaged and electronically stored by Pinnacle and the originals (including manually signed originals) may be destroyed. The parties agree to treat such imaged documents as original documents for all purposes. Employer agrees that the records of Pinnacle shall, in the absence of manifest error or as otherwise agreed by Pinnacle, be deemed true and correct for all purposes.

15.4 Recordings. Employer agrees that Pinnacle may electronically monitor and/or record any telephone communications between Pinnacle and Employer related to the Services or the Accounts for service quality purposes, or for any other purpose permitted under Applicable Law.

16. Miscellaneous

16.1 Notices. Except for communications in connection with the day to day use or provision of the Services, all notices by either party relating to this Agreement shall be given promptly in writing or electronic medium to a mutually agreed upon address and shall be effective either on the date it is actually received or five (5) days after it is mailed or sent by courier, whichever is earlier. All notices to be sent (other than notices given electronically as permitted in this Agreement) concerning this Agreement shall be sent to the individual executing this Agreement at a party's address as set forth on the first page of this Agreement.

16.2 Assignment. Employer may not sell, assign or transfer, or grant a security interest in any of its rights or obligations under this Agreement without Pinnacle's prior written consent. For avoidance of doubt, Pinnacle may assign this Agreement without restriction or consent in connection with any merger, consolidation sale or other similar transaction involving Pinnacle or the business unit of Pinnacle providing Services.

16.3 Force Majeure. Neither party shall be responsible, or incur any liability to the other, for any failure, error, malfunction or any delay in carrying out any of its obligations under this Agreement resulting from causes beyond such party's reasonable control, including without limitation, fire, casualty, lockout, strike, unavoidable accident, act of God, disruption of the Internet or telecommunications systems, act of terrorism, riot, war or the enactment, issuance or operation of any Applicable Law or an emergency that prevents such party from operating normally.

16.4 Validity. If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision shall be valid, legal and enforceable to the maximum extent permitted by such holding and the validity, legality, or enforceability of the other provisions of this Agreement will not be affected or impaired by such holding.

16.5 Amendment. This Agreement may be modified by a written agreement executed and signed by the parties. Notwithstanding the foregoing, if a modification to this Agreement is required by or under Applicable Law or by a regulatory authority with jurisdiction over Pinnacle or performance of Services in accordance with the terms of this Agreement would result in Pinnacle being in violation of any Applicable Law or governmental policy to which Pinnacle is subject, Pinnacle may modify this Agreement by giving Employer notice of the modification by any means permitted by Applicable Law, and the modification will be effective immediately upon the giving of such notice.

16.6 Integration. This Agreement, together with the Exhibits, contains the complete and exclusive understanding of the parties with respect to the subject matter of this Agreement and supersedes any prior or contemporaneous agreements between the parties with respect to that subject matter. Nothing in this Agreement is intended to supersede, replace or modify the terms of any other agreements between Employer and Pinnacle for other services provided by Pinnacle including under the account deposit and treasury agreements.

16.7 Waiver. No waiver, alteration or modification of any of the provisions of this Agreement will be binding unless in writing and signed by a duly authorized representative of the party to be bound. Neither the course of conduct between the parties nor trade usage will act to modify or alter the provisions of this Agreement.

16.8 Waiver of Jury Trial. Each party agrees that any suit, action or proceeding, whether as part of a claim or counterclaim, brought or instituted by Employer or Pinnacle on or with respect to this Agreement or any event, transaction or occurrence arising out of or in any way connected with this Agreement shall be tried only by a court and not by a jury. EACH PARTY EXPRESSLY, KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING.

16.9 Governing Law and Venue. This Agreement and any claims or disputes relating to or arising out of this Agreement or the Services shall exclusively be governed by, and construed in accordance with, the laws of the State of Tennessee, without regard to Tennessee's conflict of law principles, and with applicable federal laws and regulations. Employer irrevocably submits to the nonexclusive jurisdiction of the courts of the state and federal courts in Knox County, Tennessee and agrees that any legal action or proceeding with respect to this Agreement may be commenced in such courts.

16.10 Publicity. Neither party shall advertise, publish or otherwise make known to other parties or the general public or industry by any means any information regarding this Agreement, its existence, parties (or their personnel), or terms, or regarding the Services.

16.11 Electronic Copies. The parties agree that this Agreement, including any schedules, exhibits and related agreements, may be executed and delivered, or provided, as the case may be, by facsimile or electronic mail in PDF or similar format and that the copies or counterpart signature pages so sent shall be treated and have the same force and effect as delivery of an original with a manual signature.

16.12 Counterparts. The Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument.

Signature Page to Employer Services Agreement

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the parties hereto and shall be effective as of the last date executed below.

PINNACLE BANK:

SIGNED BY:

NAME:

TITLE:

DATE:

NAME OF EMPLOYER

SIGNED BY:

NAME:

TITLE:

DATE:

EXHIBIT A
to the
Employer Services Agreement

Pinnacle will provide Services to the Employer with respect to the following Employer Plans:

Select **January 1, 2027 * (Service Effective Date)**

- ☒ Health FSA
- ☒ Limited Health FSA
- ☒ Dependent Care FSA
- ☒ HRA
- ☒ HSA
- ☐ Transportation Fringe Benefit Plan Spending Account
- ☐ Lifestyle Spending Account

Select **YES** **NO**

Debit Card X

HSA and Employer Plan Services Add-On Plan Document Preparation and Compliance Services

Select **January 1, 2027* (Service Effective Date)**

- ☒ Section 125 Plan Document and SPD (includes HSA, pre-tax premium benefits, and FSA Plans)
- ☒ HRA Plan Document
- ☐ Transportation Spending Account Plan Document
- ☐ Nondiscrimination Testing (Sections 125, 129, 105h)
- ☐ Employer elects not to have Pinnacle provide these services and understands Employer's responsibility and obligation to comply with all Applicable Law.

COBRA Services

Select _____, ____ * (Service Effective Date)

☐ COBRA Services

***Service effective date (if other than the Agreement Execution Date)**

Add-On Plan Document Preparation and Compliance Services available only with a corresponding selection for HSA Services administration and/or Employer Plan Services administration. Pinnacle will include FSA Plan administration language in the Section 125 Plan Document and SPD only in the event Pinnacle is the FSA administrator on the effective date of the Plan Document.

EXHIBIT B
to the
Employer Services Agreement

Plan Document and Compliance Services

This Exhibit outlines the rights and responsibilities of the parties related to the add-on plan document and compliance services, as selected by the Employer on Exhibit A. Unless otherwise stated, all other terms and conditions of the Agreement shall apply to this Exhibit.

RECITALS

WHEREAS, Employer has established one or more of the following plans for its employees: (i) Section 125 Premium Only Plan; (ii) health flexible spending arrangement (“Health FSA”); (iii) dependent care flexible spending arrangement (“Dependent Care FSA”); (iv) limited purpose health flexible spending arrangement (“Limited Health FSA”); (v) health reimbursement arrangement (“HRA”) pursuant to Code Section 105; and/or (vi) a commuter or transportation fringe benefit spending account pursuant to Code Section 132(f) (“TSA”). Individually and collectively, as the context may require, the foregoing shall be referred to as the “Plan.”

WHEREAS, Employer desires to retain Pinnacle to provide certain plan documentation and non-discrimination testing services (collectively, the “Compliance Services”) as further described in this Exhibit.

WHEREAS, Employer and Pinnacle agree that Pinnacle will provide the Compliance Services on the terms and conditions set forth in this Exhibit, including, without limitation that:

- Employer is the administrator (within the meaning of ERISA) of the Plan.
- Employer remains responsible for the operation and maintenance of the Plan, including the establishment of eligibility and paying all premiums or benefits owed or established under the Plan(s) to its participants.
- Pinnacle is an independent contractor in relation to the Employer and to the Plan and acts as an agent on behalf of the Employer in rendering services for Employer pursuant to this Exhibit.
- Pinnacle is to provide the agreed-upon services without assuming any liability for the performance of any services beyond those set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the sufficiency of consideration of which is hereby acknowledged, the parties agree as follows:

1. Pinnacle Compliance Services.

1.1 Plan Administration Assistance.

Pinnacle shall assist Employer in the administration of the Plan as provided in this Exhibit. Pinnacle’s duties with respect to the Plan are limited to those expressly provided for in the Agreement and this Exhibit. The Plans with respect to which services under this Exhibit are to be provided are limited to those Plans selected in Exhibit A. If a Plan is not covered under this Exhibit, then Pinnacle shall have no responsibilities with respect to such non-covered Plan.

1.2 Plan Documents.

(a) Pinnacle shall assist Employer in the establishment of the Plan by providing sample documents, including a sample plan document, a sample summary plan description, and other sample documents relating to the administration of the Plan, for review by Employer. Employer is under no obligation to use the sample documents provided by Pinnacle in establishing and maintaining the Plan.

(b) The sample plan document, the sample summary plan description, and the other sample documents provided by Pinnacle will be drafted by a Processor engaged by Pinnacle, based on the legal and regulatory requirements then in effect, which may change from time to time.

(c) Pinnacle will complete the sample documents for Employer based on information provided to it by Employer regarding its Plan design and specifications for any plan documents (Section 125 Plan Document and SPD, HRA Plan Document and/or Transportation Spending Account Plan Document) selected on Exhibit A ("Add-On Plan Document Services"). If Employer wishes to use a sample document made available by Pinnacle for a Plan for which Employer did not select Add-On Plan Document Services, Employer will be responsible for completing such sample document(s). At all times, it is Employer's responsibility to determine whether the sample documents are legally compliant for purposes of Employer's needs and business, are appropriately completed, are in compliance with the requirements of Employer's Plan, and are appropriately and timely adopted by Employer. Employer shall provide Pinnacle with an executed copy of its Plan document.

(d) Pinnacle will provide sample amendments to the Plan when regulations change or when requested by Employer due to Employer changing Plan design. It is Employer's responsibility to determine whether the amendments and other revisions are legally compliant for Employer's purposes, are appropriately completed, are in compliance with the requirements of Employer's Plan, and are appropriately and timely adopted by Employer. Employer shall provide Pinnacle with an executed copy of any amendment or amended Plan document.

1.3 Non-Discrimination Plan Testing.

(a) Section 125 Plans and FSA Tests. Employer must maintain non-discriminatory Plans and is responsible to complete required non-discrimination tests for the Plan. As such, Employer is responsible for taking immediate corrective action in the event the Plan becomes discriminatory. However, notwithstanding the foregoing, if Employer selected non-discrimination testing services in Exhibit A, Pinnacle will perform all required non-discrimination subtests under Code Sections 125, 129 and 105(h) using a testing platform designed by Processor in accordance with Applicable Law. These standard non-discrimination tests shall be performed once during the plan year unless the parties agree otherwise. All other non-discrimination tests are the responsibility of Employer to complete. For an additional charge, Pinnacle may provide other non-standard non-discrimination testing services including re-running a test that is failed. Employer must provide Pinnacle with the information necessary to perform the standard non-discrimination testing services and in the file format required by Pinnacle. Employer's HRIS/payroll system is the system of record for non-discrimination testing information. Pinnacle may rely on the information provided by Employer in performing the testing for non-discrimination testing.

(b) HRA Tests. Employer must maintain non-discriminatory plans and is responsible to complete required non-discrimination tests for the Plan. As such, Employer is responsible for taking immediate corrective action in the event the Plan becomes discriminatory. All HRA non-discrimination tests are the responsibility of Employer to complete. However, notwithstanding the foregoing, if Employer selected non-discrimination testing services in Exhibit A, for an additional charge and upon Employer request, Pinnacle may provide non-discrimination testing services for the HRA, including re-running a test

that is failed, using a testing platform designed by Processor in accordance with Applicable Law. Employer must provide Pinnacle with the information necessary to perform the standard non-discrimination testing services and in the file format required by Pinnacle. Employer's HRIS/payroll system is the system of record for non-discrimination testing information. Pinnacle may rely on the information provided by Employer in performing the testing for non-discrimination testing.

1.4 Confidentiality of Plan Information. Pinnacle shall keep confidential all information that it obtains concerning the Plan pursuant to its obligations in Section 14.2 of the Agreement. Employer may request that Pinnacle share Plan and other data with another vendor of the Plan or Employer. Pinnacle shall consider all reasonable requests; however, prior to releasing or sharing any Plan information or other data with another vendor, Pinnacle may, in Pinnacle's sole discretion, require Employer to enter into a confidentiality and data sharing agreement with such vendor. Pinnacle shall have no liability to Employer, Employees, HSA Account Holders, or third parties arising from or relating to Pinnacle's sharing of such Plan information or other data with such vendors at Employer's request pursuant to this Section 1.4.

1.5 Reliance on Information and Instructions.

(a) Pinnacle shall provide the services in accordance with this Exhibit based on information that is provided to Pinnacle by Employer or any agent, designee or representative of Employer. For this purpose, the term "information" means all data, records, and other information supplied to Pinnacle, obtained by Pinnacle or produced by Pinnacle (based on data, records or other information supplied to, or obtained by, Pinnacle) in connection with performing the services pursuant to this Exhibit, regardless of the form of the information (e.g., paper, oral, electronic etc.) or the manner in which the information is provided to Pinnacle.

(b) Pinnacle shall be fully protected in relying upon representations by Employer set forth in this Agreement. Pinnacle shall be fully protected in relying upon communications made by or on behalf of Employer in effecting its obligations under this Agreement. Pinnacle is entitled to rely on the most current information in its possession when providing services under this Agreement.

(c) Pinnacle is not responsible for any acts or omissions it makes in reliance upon: (i) the direction or consent of Employer or any agent, designee or representative of Employer; or (ii) inaccurate or incomplete information received by Pinnacle from anyone other than Pinnacle, its agents or subcontractors.

1.6 Disclaimer. Pinnacle does not insure or underwrite Employer's liability to provide benefits under the Plan. Pinnacle shall not be liable or use its funds for payment of benefits under the Plan, including without limitation, where such payment of benefits is sought as damages in an action against Employer, Pinnacle or the Plan.

2. Employer Responsibilities and Agreements

2.1 Compliance with Laws. Although Pinnacle serves as Employer's agent for services rendered pursuant to this Exhibit, Employer remains responsible for all Plan activities, including compliance with the Code, HIPAA, ERISA, the Patient Protection and Affordable Care Act of 2010 (the "PPACA"), and other Applicable Law.

2.2 Plan Documents. Employer is responsible for the final content of all Plan materials and documents. It is Employer's responsibility to ensure that the Plan documents and any amendments to the Plan documents are legally compliant for Employer's purposes, appropriately completed, in compliance with the requirements of the Plan, and appropriately and timely adopted by Employer. Employer shall file with the appropriate governmental agencies all required returns, reports, documents, and other papers relating to the Plan. Employer shall distribute to its employees participating in the Plan all materials and documents as may be necessary or convenient for the operation of the Plan and to satisfy the requirements of Applicable Law.

2.3 Summary Plan Description. Employer shall distribute to its employees participating in the Plan a copy of the summary plan description and/or the summary of benefits and coverage in compliance with Applicable Law.

2.4 Plan Amendments. Employer shall provide Pinnacle with a copy of any contemplated amendment to the Plan no less than thirty (30) days prior to the anticipated amendment effective date. Under no circumstances may Employer adopt any amendment that would alter Pinnacle's services or obligations under the Exhibit without prior written consent of Pinnacle. Pinnacle has no obligation to provide any Plan amendments to Employer other than described in Section 1.2 of this Exhibit.

2.5 Plan Fiduciary. Employer acknowledges and agrees that Pinnacle's Services to the Employer Plans subject to ERISA are purely ministerial in nature and shall be performed within the framework established by Employer. Employer further acknowledges and agrees that Pinnacle is not the plan administrator, the named fiduciary or a plan fiduciary under the Plan as such terms are described under ERISA or other Applicable Law. Pinnacle shall have no power or authority to waive, alter, breach or modify any terms and conditions of the Plan.

2.6 Total Authority. Except as otherwise expressly provided in this Agreement, Employer has exclusive control and discretionary authority over the Plan and the manner in which the Plan is operated.

2.7 Plan Tax Obligations. The Plan and/or Employer on behalf of the Plan is responsible for any state or federal tax, fee, assessment, surcharge and/or penalty imposed, assessed or levied against or with respect to the Plan and/or Pinnacle relating to the Plan or the services provided by Pinnacle pursuant to this Agreement, including those imposed pursuant to PPACA, as amended from time to time. Employer is at all times responsible for the tax consequences of the establishment and operation of the Plan. Pinnacle is responsible for all taxes based upon its net income and its property ownership.

2.8 Third Parties. Employer acknowledges and agrees that, pursuant to Section 8.1 of the Agreement, Pinnacle has arranged for some or all of the aspects of the services described in this Exhibit to be performed or provided by a third-party service provider expressly engaged by Pinnacle (a "Processor"). Specifically, Pinnacle has engaged a Processor to prepare the sample plan documents, design a testing platform, and develop related software for document templates and testing. Pinnacle is responsible for the aspects of the services provided by the Processor.

3. Fees

Employer shall pay Pinnacle a fee for its services rendered pursuant to this Exhibit in accordance with the fee schedule attached hereto.

Fee Schedule

HSA and Employer Plan Services Add-On Plan Document & Compliance Preparation Services	Fee
Section 125 Plan Document and SPD (includes HSA, pre-tax premium benefits and FSA Plans)±	\$200
HRA Plan Document	Included in HRA Administration Fee
Transportation Spending Account Plan Document	\$200
Annual Nondiscrimination Testing	\$600
- Section 125 Cafeteria Plan - Eligibility Test - Contributions and Benefits Test - Key Employee Concentration Test	
- Health FSA (Section 105(h)) - Eligibility Test - Benefits Test	
- Dependent Care FSA (Section 129) - Eligibility Test - Contributions and Benefits Test - More than 5% Owners Concentration Test 55% Average Benefits Test	
Failed Test Follow-up or Additional Standard Test Runs	Included
<i>All fees are per document and per occurrence. In the event multiple plan documents are needed for an Employer to adhere to nondiscrimination rules or to remedy a testing failure, each extra document is priced at \$100 per plan document. Agreement addendums are not required to implement this corrective action.</i> ±Pinnacle will include FSA Plan administration language in the Section 125 Plan Document and SPD only in the event Pinnacle is the FSA administrator on the effective date of the Plan Document.	

EXHIBIT C
to the
Employer Services Agreement

COBRA Services

This Exhibit outlines the rights and responsibilities of the parties related to the COBRA services, as selected by the Employer on Exhibit A. Unless otherwise stated, all other terms and conditions of the Agreement shall apply to this Exhibit.

RECITALS

WHEREAS, Employer sponsors one or more group health plans for its eligible employees and their dependents (individually and collectively, as the context may require, the foregoing shall be referred to as the “Group Health Plan”) that are required to offer continuation of coverage to certain individuals pursuant to COBRA;

WHEREAS, Employer is the Group Health Plan’s administrator (within the meaning of ERISA and the Code), and under COBRA, the Group Health Plan’s administrator has the responsibility for the administration of COBRA as it applies to the Group Health Plan;

WHEREAS, Employer desires to retain Pinnacle to provide COBRA Services to assist the Employer in satisfying its COBRA administration responsibilities with respect to the Group Health Plan as further described in this Exhibit, in its capacity as the Group Health Plan’s administrator; and

WHEREAS, Employer and Pinnacle agree that Pinnacle will provide the COBRA Services on the terms and conditions set forth in this Exhibit, including, without limitation that:

- Employer remains responsible for the operation and maintenance of the Group Health Plan, including the establishment of eligibility and paying all premiums owed by, or benefits established under the Group Health Plan to, its participants.
- Pinnacle is an independent contractor in relation to the Employer and to the Group Health Plan and acts as an agent on behalf of the Employer in rendering services for Employer pursuant to this Exhibit C.
- Pinnacle is to provide the agreed-upon services without assuming any liability for the performance of any services beyond those set forth below.
- Pinnacle will provide the agreed-upon services in compliance with federal COBRA requirements (i.e., the services may not conform to the requirements of state or local continuation of coverage laws).

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the sufficiency of consideration of which is hereby acknowledged, the parties agree as follows:

1. Pinnacle COBRA Services, Responsibilities and Agreements.

1.1 COBRA Services. Pinnacle shall assist Employer in the administration of COBRA under the Group Health Plan as provided in this Exhibit. Pinnacle’s duties with respect to the Group Health Plan are limited to those expressly provided for in the Agreement and this Exhibit. Specifically, Pinnacle shall:

(a) Provide access to the Employer Portal for the purposes of providing Employee Information necessary to perform the COBRA Services, including new hire and Qualified Beneficiary information;

- (b) Process initial notice and Qualifying Event data feeds from Employer and any of its designated third party vendors;
- (c) Mail initial COBRA notifications to new employees enrolled in the Group Health Plan at the address provided by Employer;
- (d) Mail each Qualified Beneficiary notification of the right to continue applicable Group Health Plan coverage under COBRA and an appropriate COBRA election form within fourteen (14) days after Pinnacle receives notice of the occurrence of a Qualifying Event from Employer, to the address provided by Employer;
- (e) Upon receipt of notice from Employer or a COBRA Participant, determine if a covered Employee or other eligible beneficiary's Qualifying Event, second Qualifying Event, or a request for a disability extension, is entitled to COBRA or a COBRA extension of coverage, as applicable, and mail the notice and election form described in (d) above to an individual that qualifies for COBRA coverage;
- (f) Receive and process duly executed COBRA election forms from Qualified Beneficiaries, including determining whether such election is valid;
- (g) If COBRA coverage is elected, mail to the COBRA Participants payment coupons indicating the monthly premium payments for continued coverage, and methods of payment available, within fourteen (14) days of the date the signed and completed election form is received by Pinnacle;
- (h) Provide access to a portal for Qualified Beneficiaries and COBRA Participants ("Member Portal");
- (i) Collect and remit to Employer all premium payments made by or on behalf of COBRA Participant on a monthly basis for past and current months' premiums via electronic funds transfer/ACH; provided, however that Pinnacle will not be liable for uncollected premiums;
- (j) Make available a customer service phone number and email address to all COBRA Participants for questions regarding COBRA continuation coverage;
- (k) Establish, maintain, and update information regarding enrollment status of Qualified Beneficiaries and COBRA Participants (e.g., new enrollments, changes to enrollments, terminations of coverage) and provide such information to Employer periodically and upon request;
- (l) Notify COBRA Participants of the termination of COBRA coverage as soon as practicable after expiration of the COBRA continuation coverage period or early termination for any permitted reason including failure to timely pay the full premium for coverage;
- (m) If Employer notifies Pinnacle of an increase in premiums in accordance with Applicable Law, send notices of such rate increases to COBRA Participants at least thirty (30) days prior to the effective date of the increase, provided that Employer has notified Pinnacle of the rate increase forty-five (45) days prior to the effective date of such increase; and
- (n) Refer to Employer for its exclusive and final resolution of any disputes or appeals with respect to the termination of a COBRA Participant's coverage or denials of disability extension of COBRA coverage; Pinnacle will not make such determinations.

1.2 Confidentiality of Group Health Plan Information. Pinnacle shall keep confidential all information that it obtains concerning the Group Health Plan, Qualified Beneficiaries and COBRA Participants pursuant to its obligations in Sections 15.2 of the Agreement. Employer may request that Pinnacle share Group Health Plan, Qualified Beneficiary, COBRA Participant and other data with another vendor of the Group Health Plan or Employer. Pinnacle shall consider all reasonable requests; however, prior to releasing or sharing any Group Health Plan information, COBRA information or other data with another vendor, Pinnacle may, in Pinnacle's sole discretion, require Employer to enter into a confidentiality and data sharing agreement with such vendor. Pinnacle shall have no liability to Employer, Employees, COBRA Participants, or third parties arising from or relating to Pinnacle's sharing of such Group Health Plan, Qualified Beneficiary, or COBRA Participant information or other data with such vendors at Employer's request pursuant to this Section 1.2.

1.3 Reliance on Information and Instructions.

(a) Pinnacle shall provide the services in accordance with this Exhibit based on information that is provided to Pinnacle by Employer or any agent, designee or representative of Employer. For this purpose, the term "information" means all data, records, and other information supplied to Pinnacle, obtained by Pinnacle or produced by Pinnacle (based on data, records or other information supplied to, or obtained by, Pinnacle) in connection with performing the services pursuant to this Exhibit, regardless of the form of the information (e.g., paper, oral, electronic etc.) or the manner in which the information is provided to Pinnacle.

(b) Pinnacle shall be fully protected in relying upon representations by Employer set forth in this Agreement. Pinnacle shall be fully protected in relying upon communications made by or on behalf of Employer in effecting its obligations under this Agreement. Pinnacle is entitled to rely on the most current information in its possession when providing services under this Agreement.

(c) Pinnacle is not responsible for any acts or omissions it makes in reliance upon: (i) the direction or consent of Employer or any agent, designee or representative of Employer; or (ii) inaccurate or incomplete information received by Pinnacle from anyone other than Pinnacle, its agents or subcontractors.

1.4 Disclaimer. Pinnacle does not insure or underwrite Employer's liability to provide benefits under the Group Health Plan. Pinnacle shall not be liable or use its funds for payment of benefits under the Group Health Plan, including without limitation, where such payment of benefits is sought as damages in an action against Employer, Pinnacle or the Group Health Plan.

2. Employer Responsibilities and Agreements

2.1 Employer Responsibilities. With respect to the COBRA Services, and in addition to the other agreements set out in this Section 2, Employer shall:

(a) As of the Execution Date and upon any updates thereafter, furnish Pinnacle with information regarding (i) the Group Health Plan(s) for which COBRA continuation coverage is available and their applicable plan years, and (ii) the premium rates for each Group Health Plan;

(b) Provide to Pinnacle via the Employer Portal or automated data feed from Employer or its designated vendor information necessary to provide the COBRA Services, including: (i) Employee census information (e.g., names, mailing addresses, date of enrollment, and any other information reasonably requested by Pinnacle) for each Employee enrolled in a Group Health Plan; and (ii) information regarding each Qualifying Event, including the names of all Qualified Beneficiaries eligible to elect continuation coverage, the Qualifying Event date and the type of event (e.g., termination of employment), the coverage

the Employee had at the time of the Qualifying Event, and dependent information for all dependents covered under the Group Health Plan at the time of the Qualifying Event;

(c) Notify Pinnacle forty-five (45) days prior to any change in COBRA benefits, coverage, or coverage options under the Group Health Plan;

(d) Provide Pinnacle with the names of those authorized to act for Employer in connection with the COBRA Services;

(e) Remit all collected premiums received from Pinnacle to the appropriate insurance carrier or third party administrator for the Group Health Plan;

(f) Be solely responsible for collection of due, but unpaid, premiums owed by Qualified Beneficiaries to whom continuation coverage was provided and who did not remit premiums for such continuation coverage;

(g) Review all reports received from Pinnacle and/or provided by Pinnacle to insurance carriers and/or third party administrators, as applicable, including the remittance report and the list of COBRA Participants and those whose COBRA coverage has been terminated, and notify Pinnacle of any errors or discrepancies of which Employer is, or reasonably should be, aware; provided that, if Employer fails to notify Pinnacle of any such errors or discrepancies within fourteen (14) days after Employer is provided the eligibility reports, Pinnacle shall have no liability for such errors or discrepancies; and

(h) Resolve all ambiguities, appeals, and/or disputes with respect to eligibility of a COBRA Participant or termination of a COBRA Participant's coverage or denials of disability extension of COBRA coverage.

2.2 Compliance with Laws. Although Pinnacle serves as Employer's agent for services rendered pursuant to this Exhibit, Employer remains responsible for all Group Health Plan activities, including compliance with the Code, HIPAA, ERISA, the Patient Protection and Affordable Care Act of 2010 (the "PPACA"), and other Applicable Law.

Employer agrees to hold Pinnacle harmless from and against any and all liability, damages, costs, losses and expenses (including attorneys' fees) that result from the failure or alleged failure of Employer, its officers and employees, and any other entity related to, or performing services on behalf of, Employer (other than Pinnacle) to comply with the Code, HIPAA, ERISA, PPACA, COBRA, and any other Applicable Law or the provisions of this Exhibit.

Employer expressly releases all claims against Pinnacle in connection with any claim or cause of action based on any activity or occurrence prior to the Execution Date that results from the failure or alleged failure of Employer, its officers and employees, and any other entity related to or performing services on behalf of Employer to comply with the Code, HIPAA, ERISA, PPACA, COBRA and any other Applicable Law.

2.3 Group Health Plan Documents and Amendments. Employer is responsible for ensuring that the Group Health Plan materials and documents, including their summary plan descriptions, contain a description of COBRA continuation coverage and its availability to the extent required by Applicable Law. It is Employer's responsibility to ensure that the Group Health Plan documents and any amendments to the Group Health Plan documents are in compliance with Applicable Law, appropriately completed, and appropriately and timely adopted by Employer. To the extent Employer intends to amend the Group Health Plan in such a way as to affect the COBRA coverage available thereunder, Employer shall provide Pinnacle with a copy of such contemplated amendment no less than thirty (30) days prior to the anticipated

amendment effective date. Under no circumstances may Employer adopt any amendment that would alter Pinnacle's services or obligations under the Exhibit without prior written consent of Pinnacle.

2.4 Group Health Plan Fiduciary. Employer acknowledges and agrees that Pinnacle's COBRA Services to the Group Health Plan are purely ministerial in nature and shall be performed within the framework established by Employer. Employer further acknowledges and agrees that Pinnacle is not the plan administrator, the named fiduciary or a plan fiduciary under the Group Health Plan as such terms are described under ERISA or other Applicable Law. Pinnacle shall have no power or authority to waive, alter, breach or modify any terms and conditions of the Group Health Plan.

2.5 Total Authority. Except as otherwise expressly provided in this Agreement, Employer has exclusive control and discretionary authority over the Group Health Plan and the manner in which the Group Health Plan is operated.

2.6 Group Health Plan Tax Obligations. The Group Health Plan and/or Employer on behalf of the Group Health Plan is responsible for any state or federal tax, fee, assessment, surcharge and/or penalty imposed, assessed or levied against or with respect to the Group Health Plan and/or Pinnacle relating to the Group Health Plan or the services provided by Pinnacle pursuant to this Agreement, including those imposed pursuant to PPACA and/or COBRA, each as amended from time to time. Employer is at all times responsible for the tax consequences of the establishment and operation of the Group Health Plan. Pinnacle is responsible for all taxes based upon its net income and its property ownership.

2.7 Notification to Carriers. Employer acknowledges and agrees that it will notify Group Health Plan insurance carriers or third party administrators of any applicable COBRA enrollee status changes and that it is responsible for ensuring the applicable insurance carrier or third party administrator has made such change. Pinnacle will notify Employer of any applicable changes in COBRA enrollee status via email, and may, as a courtesy to Employer, send such emails to the insurance carrier or third party administrator, but is not responsible for ensuring that the insurance carrier or third party administrator receives such notice or takes the appropriate action based on that notice. Pinnacle is not responsible for any errors or omissions on the part of such insurance carriers or third party administrators.

2.8 Third Parties. Employer acknowledges and agrees that, pursuant to Section 8.1 of the Agreement, Pinnacle has arranged for some or all of the aspects of the services described in this Exhibit to be performed or provided by a third-party service provider expressly engaged by Pinnacle (a "Processor"). Specifically, Pinnacle has engaged a Processor to maintain a "lock box" for paper checks and to process electronic premium payments sent by Qualified Beneficiaries. Pinnacle is responsible for the aspects of the services provided by the Processor.

3. Fees

Employer shall pay Pinnacle a fee for its services rendered pursuant to this Exhibit in accordance with the fee schedule attached hereto.

Fee Schedule

COBRA Services	Fee
Per Employee Per Month (PEPM) Fee	\$0.65*
Initial Setup Fee	Included
Annual Renewal Fee	Included
Takeover Fee	Included
Notice Fee	\$0 during active administration
	\$3.00/initial notice mailed at takeover (if notices are mailed to all then-current participants)
	\$10.00/employee for emailed open enrollment notices for pending or enrolled qualified beneficiaries (\$100.00 minimum fee)
<i>*Calculated based on employed individuals enrolled in at least one COBRA-eligible benefit (\$60.00 minimum monthly fee), and will be charged regardless of whether such individual pays the premiums for such coverage.</i>	

EXHIBIT D
to the
Employer Services Agreement
Business Associate Agreement

This Business Associate Agreement (“BAA”) is by and between Pinnacle Bank (“Business Associate”) and the Employer named in the Employer Services Agreement to which this Exhibit D is attached (“Sponsor”) on behalf of the Sponsor’s group health plan(s) (collectively, “Covered Entity”), each, individually, a “Party”; and collectively, the “Parties.” The Parties intend this BAA to satisfy the Business Associate contract requirements under the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Insurance Technology for Economic and Clinical Health Act (“HITECH”), and their respective implementing regulations set forth at 45 C.F.R. Parts 160 and 164 (“HIPAA Rules”) all, collectively, “HIPAA”.

This BAA is effective as of the Execution Date set forth in the Employer Services Agreement to which this Exhibit D is attached (“Services Agreement”) or, if later, as of the first date on which Business Associate may receive protected health information in connection with the Services Agreement. Notwithstanding the preceding sentence, if and to the extent Business Associate must receive protected health information from Covered Entity in connection with any Services prior to the Execution Date of the Services Agreement in order to perform the Services, then this BAA will be effective as of the earliest date such protected health information is to be received by Business Associate. Also, for the avoidance of doubt, this BAA only applies with respect to the Services provided by Pinnacle Bank to or with respect to any group health plan that is a “covered entity” and only to the extent such Services are as contemplated for a “business associate,” each as defined in HIPAA (at 45 C.F.R. § 160.103).

RECITALS

WHEREAS, pursuant to the terms and conditions set forth in the Services Agreement, Business Associate provides Services to or on behalf of Covered Entity that may require Covered Entity to disclose protected health information to Business Associate or may require Business Associate to create, receive, disclose, use, maintain, or transmit health information on behalf of Covered Entity.

WHEREAS, Covered Entity desires to protect the security and confidentiality of the health information that it maintains, and to disclose such information only under circumstances and in a manner that is permissible by law, and to require the same of any and all persons and entities with which it contracts.

WHEREAS, Business Associate acknowledges that to the extent Business Associate is acting as a business associate of Covered Entity pursuant to the Services Agreement or otherwise, the provisions of this BAA shall apply and Business Associate shall be subject to the penalty provisions of HIPAA as specified in 45 C.F.R. Part 160.

WHEREAS, the Parties desire to enter into this BAA to comply with the provisions in HIPAA requiring a business associate to provide adequate assurances to a covered entity with respect to the confidentiality of protected health information.

In consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Terms used (regardless of whether capitalized), but not otherwise defined, in this BAA shall have the same meanings as those terms in the HIPAA Rules. The use of the term “Information” in this BAA shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, and includes “electronic protected health information” as that term is defined in the same section, provided that it shall be limited to protected health information created, used, received, maintained, disclosed, or transmitted by Business Associate on behalf of Covered Entity.

ARTICLE II

EFFECT OF SERVICES AGREEMENT

To the extent that any provisions of the BAA conflict with provisions contained in the Services Agreement, the provisions of this BAA shall control, unless the Services Agreement is more protective of Information in which case the relevant provisions of such Services Agreement shall control. The Parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with HIPAA.

ARTICLE III

RESPONSIBILITIES OF BUSINESS ASSOCIATE

3.1 Permitted Uses and Disclosures. Business Associate may:

(a) Use or disclose Information to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Services Agreement currently in place, or negotiated in the future between the Parties, that involves the use or disclosure of Information between Covered Entity and Business Associate, provided that such use or disclosure would not violate HIPAA if done by Covered Entity.

(b) Use Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that such use or disclosure would not violate HIPAA if done by Covered Entity.

(c) Disclose Information as necessary for the proper management and administration of Business Associate, and to carry out its legal responsibilities, if: (i) the disclosure is required by law; or (ii) Business Associate obtains reasonable assurances in writing from the person to whom Information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person to whom the Information is disclosed agrees that it will notify Business Associate of any instances of which it is aware in which the security or confidentiality of Information has been breached.

(d) Use Information to provide Data Aggregation services relating to the health care operations of Covered Entity.

(e) Use or disclose Information to report violations of the law to federal or state authorities consistent with 45 C.F.R. §164.502(j)(1).

To the extent Business Associate is to carry out an obligation of Covered Entity under the HIPAA Rules, Business Associate shall comply with the requirements of the HIPAA Rules that apply to Covered Entity in the performance of such obligation. In no case shall Business Associate sell Information or use or disclose Information for purposes of marketing or fundraising, as defined and proscribed in the HIPAA

Rules. Further, notwithstanding any of the foregoing permitted uses or disclosures, in the event Covered Entity notifies Business Associate of an Individual's restriction request that would restrict a use or disclosure otherwise permitted by this BAA, Business Associate will comply with the terms of the restriction request.

3.2 Relationship to Individuals.

(a) Business Associate agrees that Covered Entity and the Individual retain all ownership rights to the Information, and that Business Associate does not obtain any right, title, or interest to the Information furnished by Covered Entity.

(b) Business Associate shall permit Covered Entity or an Individual (or the Individual's designee) to inspect and obtain a copy of their Information that is in Business Associate's custody or control and that is maintained by Business Associate in a Designated Record Set, in accordance with 45 C.F.R. § 164.524. If the requested Information is maintained electronically, Business Associate must provide a copy of the Information in the electronic form and format requested by the Individual, if it is readily producible, or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

(c) Business Associate will, upon receipt of notice from Covered Entity, promptly amend or permit Covered Entity access to amend Information held in a Designated Record Set by Business Associate so that Covered Entity may meet its amendment obligations under 45 C.F.R. § 164.526.

3.3 Safeguards. Business Associate will use appropriate administrative, technical, and physical safeguards to prevent the use or disclosure of Information other than as permitted by this BAA. Business Associate will also comply with the provisions of 45 C.F.R. Part 164, Subpart C of the HIPAA Rules with respect to electronic Information to prevent any use or disclosure of such information other than as provided by this BAA.

3.4 Reporting. To the extent Business Associate becomes aware or discovers any use or disclosure of Information not permitted by this BAA, any Security Incident involving electronic protected health information, any Breach of Unsecured Protected Health Information, Business Associate shall promptly report such use, disclosure, Security Incident, or Breach to Covered Entity. Our goal will be to provide notification within ten (10) to fifteen (15) days, unless circumstances require a longer investigation or containment period. In such cases, we will provide initial notification within this time frame and follow up with more detailed information as it becomes available. Notwithstanding the foregoing, the Parties acknowledge and agree that this Section 3.4 constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Covered Entity shall be required. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of electronic Information. All reports of Breaches shall include the information specified at 45 C.F.R. § 164.410.

3.5 Subcontractors. In accordance with 45 C.F.R. §§ 164.308(b)(2) and 164.502(e)(1)(ii), Business Associate will ensure that all of its Subcontractors that create, receive, maintain or transmit Information on behalf of Business Associate agree by written contract to comply with the same restrictions and conditions that apply to Business Associate with respect to such Information, including but not limited to the obligation to comply with the applicable provisions of 45 C.F.R. Part 165, Subpart C.

3.6 Accounting of Disclosures. Except for disclosures excluded from the accounting obligation by the HIPAA Rules, Business Associate will record for each disclosure that Business Associate makes of Information, the information necessary for Covered Entity to make an accounting of disclosures pursuant to the HIPAA Rules. In the event the U.S. Department of Health and Human Services (“HHS”) finalizes regulations requiring Covered Entities to provide access reports, Business Associate shall also record such information with respect to electronic protected health information held by Business Associate as would be required under the regulations for Covered Entities beginning on the required compliance date of such regulations. Business Associate will make information required to be recorded pursuant to this Section 3.6 available to Covered Entity promptly upon Covered Entity’s request for the period required, but for no longer than required by the HIPAA Rules (except Business Associate need not have any information for disclosures occurring before the effective date of this BAA).

3.7 Minimum Necessary. Business Associate will limit its uses and disclosures of, and requests for, Information (i) when practical, to the information making up a Limited Data Set as defined in 45 C.F.R. § 164.514(e); and (ii) in all other cases, subject to the requirements of 45 C.F.R. §164.502(b), to the minimum amount of Information necessary to accomplish the intended purpose of the use, disclosure or request.

3.8 Availability of Information. Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of Information available upon request of HHS to determine compliance with the HIPAA Rules.

3.9 Transfer Outside US. Business Associate agrees not to transfer Information outside the United States without the prior written consent of Covered Entity.

3.10 Reproductive Health Care Protections. Subject to the provisions below, Business Associate will not use or disclose Information when the request for the use or disclosure of Information is made to conduct a civil, criminal or administrative investigation into or impose civil, criminal or administrative liability on any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health care where the reproductive health care was lawfully provided, or to identify any person for the purpose of conducting such an investigation or imposing such liability.

Business Associate shall presume that reproductive healthcare provided by another party is lawful unless it has actual knowledge or the party requesting the use or disclosure of Information provides information demonstrating a substantial factual basis that the reproductive healthcare in question is not lawful.

If Business Associate receives a request for Information potentially related to reproductive health care and the purpose of the request is identified as one pursuant to 45 C.F.R. § 164.512(d), (e), (f), or (g)(1), it will forward such request to Covered Entity so that Covered Entity may obtain a signed written attestation form from the person requesting the Information that the use or disclosure is not for a prohibited purpose.

3.11 Part 2 Compliance. To the extent applicable, Business Associate agrees to comply with the provisions of 42 C.F.R. Part 2 relating to substance use disorder records within the scope of 42 C.F.R. § 2.12.

ARTICLE IV

RESPONSIBILITIES OF COVERED ENTITY

4.1 Disclosure of Information. Covered Entity agrees to disclose Information to Business Associate upon its own volition, upon Business Associate’s request, or upon the request of a third party if such disclosure is permissible by law, so that Business Associate may provide the agreed to services to or on behalf of Covered Entity under the Services Agreement or as otherwise agreed by the Parties, unless

Covered Entity otherwise objects to the disclosure, or Business Associate is no longer providing the services to Covered Entity. Covered Entity shall not request Business Associate to use or disclose Information in any manner that would not be permissible under HIPAA if done by Covered Entity, provided that Business Associate may use and disclose Information as permitted by Sections 3.1(b) and (c).

4.2 Notification of Changes and Restrictions. Covered Entity shall notify Business Associate of: (i) any limitations in its notice of privacy practices; (ii) any changes in, or revocation of, permission by an Individual to use or disclose Information; and (iii) any confidential communication request or restriction on the use or disclosure of Information that Covered Entity has agreed to or with which Covered Entity is required to comply, to the extent any of the foregoing affect Business Associate's use or disclosure of Information.

4.3 General Obligations. Covered Entity shall obtain all permissions or authorizations, if any, required to disclose Information to Business Associate in order for Business Associate to perform its obligations under the BAA or the Services Agreement, and shall only disclose to Business Associate the minimum Information necessary to allow Business Associate to perform its obligations under the Services Agreement.

ARTICLE V

TERM & TERMINATION

5.1 Term. The term of this BAA shall be effective as of the Execution Date and shall terminate when the Services Agreement terminates or expires or Business Associate is not otherwise performing services for or on behalf of Covered Entity.

5.2 Termination for Cause. Either Party may immediately terminate the BAA, the Services Agreement, and any other arrangement involving the use or disclosure of Information between the Parties if it determines that the other Party has breached a material term of this BAA and failed to cure such breach within thirty (30) days of being notified by the other Party of the breach. If the non-breaching Party determines that cure is not possible, such Party may terminate this BAA and the Services Agreement effective immediately upon written notice to the other Party.

5.3 Effect of Termination. Business Associate agrees that upon termination of the BAA, Business Associate shall, if feasible, return to Covered Entity or destroy all Information maintained by Business Associate in any form or medium, including all copies of such Information. Further, Business Associate shall recover Information in the possession of its Subcontractors and return to Covered Entity or securely destroy all such Information.

If Business Associate determines that returning or destroying any of the Information is not feasible, then Business Associate may maintain such Information but shall continue to abide by the terms and conditions of this BAA with respect to such Information, and will limit its further use or disclosure of such Information to those purposes that make the return or destruction of the Information infeasible. All of Business Associate's obligations under this BAA shall survive termination and remain in effect (a) until Business Associate has completed the return or destruction of Information as required by this Section 5.3 and (b) to the extent Business Associate retains any Information pursuant to this Section 5.3.

ARTICLE VI

MISCELLANEOUS

6.1 Amendments. This BAA may only be amended by the written consent of both Parties. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for

the Parties to comply with the requirements of HIPAA and the HIPAA Rules. Notwithstanding the foregoing, the Parties agree that in the event that any final regulation or amendment to final regulations is promulgated by HHS or other governmental authority with respect to Information, this BAA will automatically be amended to remain in compliance with such regulations, and Business Associate shall promptly amend its contracts, if any, with Subcontractors to conform to the terms of such regulations and this BAA.

6.2 Assignment. No assignment of this BAA or the rights and obligations hereunder shall be valid without the specific written consent of both Parties hereto. Notwithstanding the foregoing, this BAA shall be deemed to be assigned automatically to any successor entity operating Covered Entity or Business Associate, and to apply automatically to any services provided pursuant to any agreement entered into between the Parties in the future (whether or not specifically referenced herein) that involves the use or disclosure of Information between or by the Parties. This BAA shall be binding upon the Covered Entity and Business Associate and their respective permitted successors and assigns.

6.3 Waiver of Breach. The waiver by either Party of a breach or violation of any provision of this BAA shall not operate as, or be construed to be a waiver of, any subsequent breach of the same or other provision hereof.

6.4 Severability. In the event any provision of this BAA is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this BAA, which shall remain in full force and effect and enforceable in accordance with its terms.

6.5 Entire Agreement. This BAA constitutes the entire agreement of the Parties with respect to the subject matter hereof, and all prior and contemporaneous understandings, agreements, and representations, whether oral or written, with respect to such matters are superseded.

6.6 Additional Provisions. A reference in this BAA to a law means the law as in effect or as amended, and for which compliance is required. Nothing in this BAA shall be construed as limiting the right of either Party to affiliate or contract with any other person or entity on either a limited or general basis while this BAA is in effect. Nothing in this BAA shall be construed to create any rights or remedies in any third parties or any agency relationship between the Parties. The aforesaid Recitals are hereby incorporated into this BAA as if fully set forth herein. This BAA shall be subject to any of liability specified in the Services Agreement.

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ACH AUTHORIZATION AGREEMENT

Payment of employee claims, debit card transactions and direct deposit payments will be settled directly to the Company's bank account ("Account") at the depository financial institution named below ("Depository").

Company Name Knox County Government Tax ID# 62-6007979

I hereby authorize Pinnacle Health and Benefits to initiate debit/credit entries to the Account for:

- ☒ Reimbursement Claims (each business day or as they occur. The Reimbursement Claims include, but are not limited to, manual/online/debit card transactions for FSAs and HRAs)
- ☒ HSA Funding (payroll deductions and employer contributions)
- ☒ Fee Funding (Any employer paid fees, including, but not limited to, Setup Fees and Monthly Fees)

Important Pinnacle Bank originating company IDs: **3064009254, 1064009254, 4064009254, 5064009254**; should filters not be established, ACH errors will occur and could delay plan set up processes.

Depository Name FIRSTBANK Branch BEARDEN BRANCH
Address 5537 KINGSTON PIKE Phone 865-251-1246
City KNOXVILLE State TN Zip 37919
Routing Number _____ Account Number _____

This authorization is to remain in full force and effect until Pinnacle Health and Benefits has received written notification from an authorized representative of its termination in such time and in such manner as to Pinnacle Health and Benefits and Depository a reasonable opportunity to act on it.

I acknowledge that the origination of ACH transactions to the account must comply with the provisions of U.S. law.

Primary Contact Signature

Date

Primary Contact Printed