



State of Wisconsin
Department of Employee Trust Funds
4822 Madison Yards Way
Madison, WI 53705-9100
P. O. Box 7931
Madison, WI 53707-7931

Contract By Authorized Board

Commodity or Service: Administrative Services
for the Wisconsin Deferred Compensation Program

Contract No.: ETJ0061 dated May 27, 2022

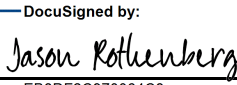
Authorized Board: The State of Wisconsin
Deferred Compensation Board

Empower Plan No.: 98971-01

Contract Period: December 1, 2022 through November 30, 2027 with the option to renew for two (2) additional three (3)-year periods.

1. This Contract is entered into by the State of Wisconsin, Department of Employee Trust Funds (Department), the State of Wisconsin Deferred Compensation Board (Board) and Empower Retirement, LLC, as successor in interest to Great-West Life & Annuity Insurance Company, hereinafter referred to as the "Contractor" or "Empower," whose address and principal officer appear on the following page. The Department is the sole point of contact for this Contract.
2. Whereby the Department agrees to direct the purchase and the Contractor agrees to supply the Contract requirements in accordance with the documents specified in the order of precedence below, which are hereby incorporated into this Contract by reference.
3. Authority to sign this Contract has been delegated by the Board to the Board Chair. This Contract becomes binding upon the Board and Empower when this document is signed by authorized representatives for each party. This Contract is not binding on either party until signed by both parties.
4. Request for Proposals (RFP) ETJ0061 Appendix 2 Department Terms and Conditions is deleted and replaced by this Contract EXHIBIT 1: Department Terms and Conditions.
5. RFP ETJ0061 Appendix 3 Program Agreement is deleted and replaced by this Contract EXHIBIT 2: Program Agreement and EXHIBIT 3: Performance Standards and Reporting.
6. For purposes of administering this Contract, the order of precedence is:
 - A) This Contract and Exhibits 1 - 6 dated May 27, 2022;
 - B) Request for Proposals (RFP) ETJ0061 dated April 9, 2021;
 - C) Final Price Sheet dated April 25, 2022;
 - D) Contractor's Cost Proposal Best and Final Offer dated August 16, 2021; and
 - E) Contractor's proposal dated May 17, 2021 and revised RFP responses dated July 20, 2021.

Contract Number & Service: ETJ0061 Administrative Services for the Wisconsin Deferred Compensation Program

State of Wisconsin Department of Employee Trust Funds	
By Authorized Board: Deferred Compensation Board	
Signature:	 DocuSigned by: Jason Rothenberg EB8DF2C970064C8...
Name and Title: Jason A. Rothenberg, Chair State of Wisconsin Deferred Compensation Board	
Phone: 608.266.0301 (Shirley Eckes, Deputy Secretary)	
Date: 5/27/2022	

Contractor	
Legal Company Name: Empower Retirement, LLC	
Trade Name:	
Taxpayer Identification Number: 84-1233483	
Company Address 8515 East Orchard Road Greenwood Village, CO 80111	
Name and Title: Daniel A. Morrison, SVP, Government Markets	
Signature:	 DocuSigned by: Daniel A. Morrison B449D0E1387E43B...
Phone: 303.737.6992	
Date: 5/27/2022	

CONTRACT BY AND BETWEEN

Empower Retirement, LLC

and

The State of Wisconsin Deferred Compensation Board

**§ 457(b) DEFERRED COMPENSATION PLAN
GROUP # 98971-01**

**CONTRACT FOR ADMINISTRATIVE SERVICES
INCLUDING RECORDKEEPING AND COMMUNICATIONS**

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**CONTRACT FOR ADMINISTRATIVE SERVICES
INCLUDING RECORDKEEPING AND COMMUNICATION
BY AND BETWEEN
EMPOWER RETIREMENT, LLC AND
THE STATE OF WISCONSIN DEFERRED COMPENSATION BOARD**

This CONTRACT is effective December 1, 2022, by and between the Wisconsin Deferred Compensation Board ("BOARD") and the Department of Employee Trust Funds ("DEPARTMENT") on behalf of the State of Wisconsin Deferred Compensation Plan ("PLAN"), located at 4822 Madison Yards Way, Madison, WI 53705 and Empower Retirement, LLC ("EMPOWER" and "CONTRACTOR"), and/or any successor, assign or affiliate, located at 8515 East Orchard Road, Greenwood Village, CO 80111 (its "HOME OFFICE"). This CONTRACT covers four (4) categories of services which will be provided by the following affiliates of Empower Retirement, LLC as noted below:

1. Recordkeeping services provided by Empower Retirement, LLC ("EMPOWER"),
2. Processing of securities provided by Great-West Financial Services Equities, Inc. ("GWFS Equities, Inc.")
3. Participant Fiduciary Services, Financial Planning Services, and Investment Advisory and Management Services, provided by Advised Assets Group, LLC ("AAG"), and
4. Investment analysis and reports for the Deferred Compensation Board ("BOARD") provided by EMPOWER.

Starting December 1, 2022, this CONTRACT term is for five (5) years ending on November 30, 2027 ("INITIAL TERM"). Upon written notice from the BOARD to EMPOWER within one hundred and eighty (180) calendar days prior to the termination of the INITIAL TERM of this CONTRACT or any extended term of this CONTRACT, this CONTRACT may be renewed for two (2) additional three (3)-year periods.

In the event that this CONTRACT is extended beyond 2027, the payments to EMPOWER set forth in Article V of this CONTRACT shall be adjusted to the mutual agreement of EMPOWER and the BOARD. After 2027, all of the conditions and provisions of this CONTRACT shall remain in full force and effect during the extended term, unless otherwise amended, modified, or supplemented in writing and mutually agreed to by the BOARD and EMPOWER.

ARTICLE I. DEFINITIONS

The following terms, when used and capitalized in this CONTRACT or any amendments are defined as follows and limited to that meaning only:

- 1.1 "BENEFICIARY" has the meaning set forth in Wis. Stat. § 40.02(8)(a).
- 1.2 "BOARD" means the State of Wisconsin Deferred Compensation BOARD. For purposes of this CONTRACT, "BOARD" is synonymous with "DEPARTMENT."
- 1.3 "BREACH" means (1) a compromise of Contractor's security that leads to accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to, protected customer data transmitted, stored or otherwise processed by Contractor, and (2) an occurrence with respect to Contractor's systems or services that actually or potentially jeopardizes the confidentiality, integrity, or availability of customer data in an information system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of Contractor's security policies, security procedures, or acceptable use policies, if any.

- 1.4 "BUSINESS DAY" means Monday through Friday, except for federal or STATE holidays and additional holidays observed by EMPOWER as specified in Article 2.9 Local Office and Full-Time Representatives, of this CONTRACT.
- 1.5 "CONFIDENTIAL INFORMATION" has the meaning set forth in Exhibit 1 - Department Terms and Conditions, Section 22.0(a)(1).
- 1.6 "CONTRACT" means this Administrative Services CONTRACT, including any and all Exhibits and Amendments, between the BOARD and EMPOWER.
- 1.7 "CONTRACTOR" means EMPOWER and any affiliate specifically noted in a section of this CONTRACT.
- 1.8 "COVERED ENTITY" has the meaning ascribed to it at 45 CFR 160.103 and in this CONTRACT refers to the Department of Employee Trust Funds.
- 1.9 "DEPARTMENT" means the Department of Employee Trust Funds. For the purposes of this CONTRACT, "DEPARTMENT" is synonymous with "BOARD."
- 1.10 "EMPLOYER" has the meaning specified under Wis. Stat. 40.02(28), and means the state, including each state agency, any county, city, village, town, school district, other governmental unit or instrumentality of two or more units of government now existing or hereafter created within the state, any federated public library system established under s. 43.19 whose territory lies within a single county with a population of 750,000 or more, a local exposition district created under subch. II of ch. 229, and a long-term care district created under s. 46.2895, except as provided under ss. 40.51(7) and 40.61 (3). "EMPLOYER" does not include a local cultural arts district created under subch. V of ch. 229. Each employer shall be a separate legal jurisdiction for OASDHI purposes.
- 1.11 "HOME OFFICE" means the corporate offices of EMPOWER and CONTRACTOR located at 8515 East Orchard Road, Greenwood Village, CO 80111.
- 1.12 "INDIVIDUAL PERSONAL INFORMATION" has the meaning specified by Wis. Admin. Code Section ETF 10.70 (1).
- 1.13 "INVESTMENT PRODUCT" means an investment option approved by the Deferred Compensation BOARD for offering to PARTICIPANTS and provided by an INVESTMENT PROVIDER that includes, but is not limited to, mutual funds, collective investment trusts, money market funds, a self-directed brokerage option, and certain bank and insurance products.
- 1.14 "INVESTMENT PROVIDER" means any company contracted by the Deferred Compensation BOARD to offer an INVESTMENT PRODUCT to PARTICIPANTS.
- 1.15 "PARTICIPANT" means any person who opens a Wisconsin Deferred Compensation Program account with EMPOWER pursuant to this CONTRACT.
- 1.16 "PLAN" means the deferred compensation plan offered by the STATE to public employees, established and administered pursuant to Section 457 of the Internal Revenue Code and Wis. Stat. § 40.80 et. seq.

- 1.17 “PLAN ADMINISTRATIVE ACCOUNT” means an account to be used for PLAN purposes as set forth in the Wisconsin Plan and Trust document.
- 1.18 “PLAN SPONSOR” means the BOARD or its designee to establish and administer an eligible deferred compensation plan pursuant to the Internal Revenue Code, as amended, and Wis. Stat. § 40.80 et.seq. for the benefit of public employees in Wisconsin.
- 1.19 “PROGRAM” means the deferred compensation PLAN(s) authorized under Wis. Stat. § 40.80 et.seq. and offered by the STATE, inclusive of all recordkeepers and marketers and INVESTMENT PRODUCTS.
- 1.20 “RECORDKEEPER” means EMPOWER provides recordkeeping services for PARTICIPANTS with account balances during the applicable period.
- 1.21 “SDB OPTION” or “SDBO” means the Self-Directed Brokerage Option.
- 1.22 “STATE” means the State of Wisconsin.
- 1.23 “STRATEGIC PARTNERSHIP PLAN” or “SPP” has the meaning specified in Section 2.15C of this CONTRACT.
- 1.24 “SUCCESSOR CONTRACTOR” means the recordkeeper and marketing company selected by the BOARD to be the recordkeeper and marketer for the primary PLAN for the CONTRACT period after the CONTRACT end date.
- 1.25 “TRADING DAY” means any day, and for only as many hours as the New York Stock Exchange is open.

ARTICLE II. RESPONSIBILITIES OF THE CONTRACTOR

2.1. DAILY SERVICES

EMPOWER is responsible for providing all day to day recordkeeping and communication activities set forth in the CONTRACT as directed by the BOARD for the operation of the PLAN.

2.2. SUBCONTRACTORS

EMPOWER shall be considered a prime contractor, i.e., the sole point of contact with regard to all contractual matters, including the performance of services, the payment of any and all charges resulting from contractual obligations, and responsibility for any subcontractor performance should any SUBCONTRACTORS be utilized by EMPOWER. All SUBCONTRACTORS shall abide by the terms and conditions of the CONTRACT. If SUBCONTRACTORS are required during the CONTRACT, EMPOWER shall obtain written approval from the BOARD prior to the SUBCONTRACTORS’ commencement of work. All SUBCONTRACTORS used for the performance of services uniquely under this CONTRACT shall be agents of EMPOWER, and EMPOWER shall remain responsible for the acts or omissions of EMPOWER’s SUBCONTRACTORS and their agents or employees in the performance of services under this CONTRACT, and shall indemnify and hold the BOARD harmless for such act or omissions in accordance with the indemnification provisions of this CONTRACT.

2.3. LEGAL ADVICE

Nothing in this CONTRACT is intended to constitute legal or tax advice from EMPOWER to the BOARD or any other party. Despite the fact that EMPOWER may have knowledge about provisions of the underlying PLAN document utilized by the BOARD, EMPOWER makes no representations or assurances to the BOARD or any other party regarding the legal sufficiency of the PLAN.

2.4. BANK ACCOUNTS

Should the BOARD choose not to self-trustee the PLAN and instead choose a custodial or trust account, the BOARD agrees that the trustee/custodian must be able to interface with the EMPOWER recordkeeping system in a passive role and all the monies must be sent to the omnibus custodial bank account.

2.5. RECORD KEEPING REQUIREMENTS

A. *BOARD Access to Recordkeeping System*

The BOARD may access the recordkeeping system online while EMPOWER administers the PLAN. The BOARD may access the reports currently available via the Plan Service Center directly online at any time.

Representative(s) will be made available to assist and train DEPARTMENT and EMPLOYER staff in properly accessing and processing transactions on to the recordkeeping system as requested.

The recordkeeping system will be made available consistent with the availability of the automated voice response (AVR) system as provided by Section 2.16 of this CONTRACT.

B. *Ownership of Records*

All materials, records, documents, and accounting records, which are specifically purchased or developed for purposes relating to accounts of the BOARD and maintained by EMPOWER shall at all times remain the property of the BOARD. The BOARD shall have access to the records at all times.

EMPOWER will make all books, records, ledgers and journals relating to the PLAN available, with a seventy-two (72)-hour advance notice, for inspection and audit by the PLAN SPONSOR or its designee at any time during normal working hours. Records requested will be provided on electronic media in a standard format within thirty (30) days of receipt of the request.

C. *Records Retention*

EMPOWER shall retain all records in its custody and control that are pertinent to performance under this CONTRACT in accordance with its record retention policy and as required by law. Subject to the foregoing, each party agrees to return or destroy the other party's CONFIDENTIAL INFORMATION and non-public information (NPI), defined as information that is not covered under Wisconsin public records laws, once it is no longer required for the purpose of performing or receiving the Services, provided that the parties are not obligated to destroy copies of CONFIDENTIAL INFORMATION or NPI that must be retained for audit, legal or regulatory purposes, or is stored in non-readily accessible electronic format, such as on archival systems.

D. *On-Site Security Procedures*

Unless otherwise agreed upon by the parties, any and all access by EMPOWER's employees to facilities of the DEPARTMENT shall be during normal DEPARTMENT office hours and all employees of EMPOWER shall be subject to the DEPARTMENT's on-site security procedures.

2.6. IDENTIFICATION AND REPLACEMENT OF KEY PERSONNEL

Notwithstanding EXHIBIT 1: Department Terms and Conditions, Section 27.0, two positions fall under the category of key personnel: Managing State Director (or of similar designation) and Senior Investment Strategist (or of similar designation). EMPOWER shall furnish the DEPARTMENT with a means of identifying all key personnel assigned to perform work under the CONTRACT and furnish the DEPARTMENT with security credentials on these personnel, if requested.

EMPOWER may not divert key personnel, as defined by the DEPARTMENT, for any period of time except in accordance with the procedure identified in this section. EMPOWER shall provide a notice of proposed diversion or replacement to the DEPARTMENT at least sixty (60) days in advance, together with the name and qualifications of the person(s) who will take the place of the diverted or replaced staff. At least thirty (30) days before the proposed diversion or replacement, the DEPARTMENT shall notify EMPOWER whether the proposed diversion or replacement is approved or rejected, and if rejected shall provide reasons for the rejection.

Replacement staff shall be working in their role at least two (2) weeks prior to the departure date of the person being replaced. EMPOWER shall provide the BOARD with reasonable access to any staff diverted by EMPOWER. Replacement of key personnel who have terminated employment with EMPOWER shall be with persons of equal ability and qualifications. The BOARD shall have the right to conduct separate interviews of proposed replacements for key personnel and may delegate this right to the DEPARTMENT. The BOARD shall have the right to approve, in writing, the replacement of key personnel. Failure to promptly replace key personnel who have terminated their employment with EMPOWER within sixty (60) calendar days after departure shall entitle the BOARD to liquidated damages of three thousand dollars (\$3,000) for each and every day thereafter until said replacement is accomplished.

Any of EMPOWER's staff that the BOARD or DEPARTMENT deem unacceptable shall be promptly and without delay removed by EMPOWER from the PLAN and replaced by EMPOWER within thirty (30) calendar days by another employee with acceptable

experience and skills subject to the prior approval of the BOARD.

2.7. LIMITS ON COMPENSATION FOR SERVICES RENDERED

The parties agree that EMPOWER and/or one or more of its affiliates may receive and retain revenues from the self-directed brokerage account provider, and such revenues will be disclosed to the PLAN. No other compensation or remuneration for EMPOWER or EMPOWER's staff will be received from any public employees in Wisconsin, the DEPARTMENT or investment companies for performing any services required or permitted by CONTRACT. EMPOWER's sole compensation for performing the services under the CONTRACT shall be the amount agreed to in Article 5.3 A Payments to EMPOWER.

With the exception of the SDB OPTION, EMPOWER will disclose and remit all shareholder service fees and reallowances it receives from the PLAN's INVESTMENT PROVIDERS into the PLAN ADMINISTRATIVE ACCOUNT established and maintained on EMPOWER's recordkeeping system.

The PLAN ADMINISTRATIVE ACCOUNT is to be used for PLAN purposes as set forth in the Wisconsin Plan and Trust document. These assets will be invested in INVESTMENT PRODUCTS as specified by the BOARD and transaction history will be reported quarterly to the BOARD as part of the plan summary report, which is system-generated by the Plan Service Center. (EMPOWER has historically called the report on the PLAN ADMINISTRATIVE ACCOUNT the Quarterly Unallocated Plan Account Reconciliation.)

EMPOWER agrees to disclose any other arrangement negotiated on behalf of its clients that would provide an increase in shareholder service fees to the PLAN. EMPOWER further agrees it will contact each INVESTMENT PROVIDER of the PLAN and seek their approval to provide the BOARD notice of any modifications to said agreements.

2.8. ANNUAL PLAN FINANCIAL STATEMENTS REPORT

EMPOWER will provide information to the DEPARTMENT and the auditor in order to satisfy all Government Accounting Standards Board (GASB) reporting requirements related to the annual financial statements report created for the PLAN by the DEPARTMENT. See Article 3.8 of this CONTRACT.

2.9. LOCAL OFFICE AND FULL-TIME REPRESENTATIVES

EMPOWER will establish a local office in Madison, Wisconsin exclusively dedicated to providing communication and marketing services to the PLAN. EMPOWER will assign ten (10) staff members to this local office who reside in Wisconsin and are dedicated to the PLAN. These local office staff members will be responsible for providing all group meetings and counseling sessions as directed by the BOARD. EMPOWER shall abide by the terms and conditions of this CONTRACT related to local office staffing.

Staff members assigned to the local Madison, Wisconsin office will include but are not limited to a Managing State Director (or similar designation), one or more Retirement Plan Advisors (or similar designation), and one or more Administrative Coordinators (or similar designation). The remaining Retirement Plan Advisors will be strategically located across the STATE to provide access to education services for eligible employees and PARTICIPANTS. EMPOWER will conduct an employee demographics and zip code analysis to determine the best placement of the Retirement Plan Advisors.

The local Madison office will be open for business on days that the STATE is open. Legal holidays observed by the STATE will also be observed by the local office. Notwithstanding the foregoing, the local Madison office will be closed on the following additional holidays observed by EMPOWER and other dates and times as mutually agreed in writing:

- Presidents' Day
- Good Friday
- Juneteenth

EMPOWER is responsible for applicable licensing of all its employees engaged in enrolling public employees in Wisconsin in the PLAN and in providing continuing service with respect to the PLAN and shall possess all licenses and permits required by all local, state, and federal governmental agencies.

No employee of EMPOWER shall contact any potential PARTICIPANTS for enrollment in the PLAN without all necessary and required licenses. EMPOWER shall likewise possess all necessary and required local, state, and federal licenses, permits and franchises necessary to carry out its responsibilities under this CONTRACT in accordance with STATE law. EMPOWER agrees that neither EMPOWER nor any officer, agent or employee of EMPOWER shall receive or handle any funds deferred by PARTICIPANTS under the PLAN except as provided in this CONTRACT.

2.10. PARTICIPANT ACCOUNT INFORMATION

EMPOWER will maintain the following account information for each PARTICIPANT: name; gender; social security number; mailing address; telephone number; date of birth; and BENEFICIARY information.

A PARTICIPANT account will consist of the following PARTICIPANT indicative data when received by EMPOWER in good order at its HOME OFFICE:

- Current investment allocation for each INVESTMENT PRODUCT authorized by the BOARD;
- History of investment allocations by the PARTICIPANT;
- Current account balances of each PARTICIPANT in each INVESTMENT PRODUCT authorized by the BOARD;
- Record of each transaction made to each INVESTMENT PRODUCT authorized by the BOARD;
- Indication of participation in the managed account service; and
- Indication of participation in the SDB OPTION.

To the extent the prior recordkeeper provided or provides historical PARTICIPANT transactional data to EMPOWER electronically and in a format compatible with EMPOWER's system and data requirements, EMPOWER agrees to recordkeep such data for the term of this CONTRACT.

2.11. INVESTMENT PRODUCTS

A. *Authorized Investment Products*

The BOARD is responsible for the selection of PLAN authorized core INVESTMENT PRODUCTS. The BOARD agrees to make changes to the authorized INVESTMENT PRODUCTS only once per calendar year, except in extraordinary situations where the BOARD determines that modifications be made more frequently than once per year, in which case no additional charges would be incurred.

Sixty (60) days' advance written notice (via a signed fund change agreement form) to EMPOWER of the BOARD's intent to add or terminate an INVESTMENT PRODUCT is required. EMPOWER will cooperate with the BOARD to terminate or add new INVESTMENT PRODUCTS and EMPOWER will assist the BOARD in appropriately notifying PARTICIPANTS of any changes via multiple channels as agreed upon by EMPOWER and the BOARD and will be in compliance with the requirements of WI Admin. Codes. 70.08. EMPOWER agrees that in extraordinary situations, such replacement(s) will be made as soon as practicable, as agreed to by the parties. In all other situations (not including once per calendar year or extraordinary situations) where the BOARD may request replacement of INVESTMENT PRODUCTS more frequently than once per year, an additional cost may be assessed to the BOARD as mutually agreed to by EMPOWER and the BOARD.

Should EMPOWER not have a trading agreement with any new INVESTMENT PRODUCT selected by the BOARD, EMPOWER will notify the BOARD and will make all reasonable efforts to execute a trading agreement with the applicable INVESTMENT PROVIDER. In the event that EMPOWER is unsuccessful in entering into the trading agreement necessary to implement the new INVESTMENT PRODUCT selected by the BOARD, the BOARD at its discretion may terminate this CONTRACT for convenience under the terms of EXHIBIT 1: Department Terms and Conditions, Section 16.0 Termination of the Contract; however, the BOARD shall not be required to reimburse EMPOWER any of the amounts set forth in that section.

B. *Self-Directed Brokerage Option*

The BOARD has selected a provider for the Self-Directed Brokerage Option. EMPOWER agrees to provide the SDB OPTION, as described in the Self Directed Brokerage Account Option Policies and Procedures (SDB OPTION Policies). Fees are payable by the PARTICIPANTS as described in the SDB OPTION Policies. The SDB Option provider will deduct commissions and/or fees directly from PARTICIPANTS' SDB OPTIONS, as described in the SDB OPTION Policies.

The BOARD agrees to abide by the SDB OPTION Policies, as amended from time to time, delivered to the BOARD by the SDB Option provider and/or EMPOWER. The BOARD further acknowledges that:

1. EMPOWER and its affiliates cannot direct or control the activities of the SDB Option provider and therefore, EMPOWER, its affiliates and their respective officers, directors, employees, agents and contractors are not responsible for any negligent or fraudulent acts or omissions of the SDB Option provider, its affiliates and their officers, directors, employees or authorized representatives;

2. The SDB Option provider's documents provide the sole remedy of the BOARD, the PLAN, PARTICIPANTS, Trustee(s), custodian(s) and PLAN fiduciaries and their respective agents, officers, directors, employees and contractors with respect to any negligent or fraudulent acts or omissions of the SDB Option provider, its affiliates and their officers, directors, EMPLOYERS, or authorized representatives; and
3. EMPOWER and its affiliates are not responsible for the content of the SDB Option provider website and does not represent or warrant that information provided on the SDB Option provider website is accurate or properly included.

Notwithstanding anything to the contrary in SDB Option Policies and Procedures, the BOARD hereby acknowledges and agrees that a PARTICIPANT who has met a qualifying distributable event and meets qualifying criteria may elect to distribute 100% of their SDB Option assets in-kind to an individual retirement account (IRA) or other qualifying plan according to the terms of the PLAN.

2.12. VALUATION OF PARTICIPANT ACCOUNT BALANCES

PARTICIPANT account balances held with respect to the PLAN will be accounted for as follows:

Amounts that are not guaranteed as to principal or interest will be accounted for at their fair market value as of the close of each TRADING DAY.

Amounts receiving a guaranteed interest rate and a guarantee of principal will be accounted for based on agreements between the BOARD and the INVESTMENT PROVIDER.

2.13. DEFERRALS, CONTRIBUTIONS, TRANSFERS, EQUITY WASH

All parties agree that purchases and sales of securities at the direction of PARTICIPANTS will be effected through a broker/dealer affiliate of EMPOWER. Instructions for the purchase, sale, exchange, or transfer of shares on behalf of the PLAN shall be transferred to GWFS Equities, Inc. for processing. Such broker/dealer will be the broker/dealer for all INVESTMENT PRODUCTS other than the SDB OPTION. A third party provider will be the broker/dealer for the transfer of cash to and from the SDB OPTION. Authorization to receive, transmit, and forward instructions for the transfer of cash on behalf of the PLAN is hereby granted under this CONTRACT.

A. *Receipt and Investment of Contributions*

EMPOWER will credit contributions for allocation to PARTICIPANT accounts in accordance with direction from the EMPLOYER and/or PLAN SPONSOR as set forth below. EMPOWER will allocate or otherwise apply forfeitures under the PLAN accounts, if any, as directed by the EMPLOYER and/or PLAN SPONSOR. EMPOWER will pass directions to invest such contributions, and to execute appropriate transactions related to forfeitures, to the PLAN trustee or custodian in accordance with investment directions of the EMPLOYER and/or PLAN SPONSOR.

B. Timing Requirements for Contributions Funded via ACH, Check or Wire

Contributions received by EMPOWER in good order prior to the close of any TRADING DAY will be processed effective that TRADING DAY, at that TRADING DAY's net asset / unit values. Contributions not received by EMPOWER prior to the close of TRADING DAY will be processed effective the next TRADING DAY.

C. Investment Transfer Requests

PARTICIPANT-initiated investment transfers will be processed and effective the TRADING DAY the request is received at EMPOWER's HOME OFFICE, if the request is received before the close of the New York Stock Exchange (typically 3:00 p.m. Central Time). Transfer requests will be processed and effective the same TRADING DAY if received before the close of the New York Stock Exchange (typically 3:00 p.m. Central Time) (or such earlier time as may have been implemented to comply with any applicable future law, rule, or regulation). If transfer requests are received at EMPOWER's HOME OFFICE after the close of the New York Stock Exchange, transfer requests will be processed and be effective the next TRADING DAY (or such earlier time as described above).

D. Equity Wash

The BOARD hereby instructs EMPOWER to prohibit any PARTICIPANT transfers between and among other competing INVESTMENT PRODUCTS as determined by the Stable Value Fund. In addition, in the event a PARTICIPANT transfers from the Stable Value Fund to any INVESTMENT PRODUCT in the PLAN other than a non-competing INVESTMENT PRODUCTS, the BOARD hereby approves and directs EMPOWER to prohibit all transfers from that non-competing INVESTMENT PRODUCT back to a competing INVESTMENT PRODUCT for ninety (90) days. The BOARD hereby agrees to direct EMPOWER in writing in the event any competing INVESTMENT PRODUCTS are changed, added or deleted.

2.14. PROCEDURES FOR COMPLYING WITH FUND COMPANY MARKET TIMING AND EXCESSIVE TRADING POLICIES

The notice which sets forth these procedures is included in the attached EXHIBIT 6: Market Timing and Excessive Trading.

2.15. COMMUNICATIONS RESPONSIBILITIES UNDER THIS CONTRACT

A. Special Representations

1. Representative(s) assigned to perform services under this CONTRACT will be properly licensed, trained, qualified, and supervised with respect to the conduct of their business activities.
2. Representative(s) will provide information in a manner consistent with applicable insurance and securities law. However, information supplied to PARTICIPANTS shall not constitute tax advice upon which PARTICIPANTS may rely.
3. No representative may discriminate with respect to INVESTMENT PRODUCTS provided under the PLAN. Representative(s) will give equal and fair representations when describing the various INVESTMENT PRODUCTS available under the PLAN.
4. Compensation to EMPOWER representative(s) will not vary based upon INVESTMENT PRODUCTS selected by the PARTICIPANTS.

B. *Communication Materials*

EMPOWER will provide PARTICIPANTS with educational materials and seminars/webinars regarding financial investing and retirement options. These materials and seminars shall include, but are not limited to, newsletters, brochures, and seminars/webinars, and otherwise mutually agreed-upon materials.

All educational materials and seminar content and formats will be approved by the DEPARTMENT.

C. *STRATEGIC PARTNERSHIP PLAN*

EMPOWER and the DEPARTMENT will jointly develop and provide annually a STRATEGIC PARTNERSHIP PLAN (SPP), subject to BOARD approval. The approved SPP will contain measurable goals utilizing EMPOWER's four dimensional communications program. The four dimensional program consists of, but is not limited to: (1) PLAN utilization (new PARTICIPANTS, deferral increases), (2) asset allocation, (3) education (4) retiree and BENEFICIARY outreach.

The execution of the SPP will be conducted utilizing communication materials, PARTICIPANT group seminars/webinars, individual PARTICIPANT counseling sessions, targeted and PLAN-wide campaigns or other methods as may be mutually agreeable.

The SPP will contain at a minimum:

- Three (3) different types of educational seminars/webinars;
- Annual offer to each participating EMPLOYER of an educational seminar/webinar for their employees; and
- Annual contact with eligible EMPLOYERS not participating in the PLAN.

If requested, EMPOWER agrees to fulfill all reasonable requests from eligible EMPLOYERS for multiple services visits.

Upon agreement by the BOARD to the upcoming year's initiatives, performance objectives will be established as mutually agreed upon and the SPP implemented by EMPOWER and evaluated by the BOARD at the end of each year.

D. *Local Services*

1. Individual PARTICIPANT Counseling Sessions

Upon request, representative(s) will conduct prescheduled individual counseling sessions utilizing a PARTICIPANT paycheck analysis, an asset allocation model, and retirement counseling services as approved by the BOARD.

2. EMPLOYER Training

From time to time, it may become necessary for EMPOWER representatives to provide EMPLOYERS with training and education regarding the PLAN, payroll procedures and payroll remittances, etc. The BOARD and EMPOWER will mutually agree on any training sessions and materials to be provided to EMPLOYERS.

E. *Enrollment*

EMPOWER will provide for secure online enrollment via the website and automatic enrollment for each EMPLOYER payroll center and will continue to process paper enrollment forms. Each service is made available as follows:

1. Online Enrollment

The BOARD hereby instructs EMPOWER to allow online enrollment and agrees to utilize the Plan Service Center, or other mutually agreed to process, to provide a full Payroll Data Interchange (PDI) file with a listing of all employees and required information as requested from time to time, should this information become available. Once a PDI file is transmitted, BOARD instructs EMPOWER to issue a Personal Identification Number (PIN) to every eligible employee allowing enrollment in the PLAN through the website.

2. Automatic Enrollment

In the event the BOARD and EMPOWER mutually agree in writing that EMPOWER will begin providing automatic enrollment services, EMPOWER will implement the Automatic Enrollment and Deferral Increase services as set forth in the "Automatic Enrollment & Deferral Increase Election Form" (which will be developed as part of the written agreement). All elections made on the form shall remain in effect until the BOARD provides EMPOWER with additional instructions.

F. *Electronic Delivery*

EMPOWER will deliver PLAN-related documents to PARTICIPANTS under the CONTRACT in an electronic manner as described below:

1. PLAN notices to be delivered by EMPOWER via an email notice of the availability of the PLAN-related documents on the PARTICIPANT website will be sent to an email address provided to EMPOWER by the PARTICIPANT, EMPLOYER or by PLAN SPONSOR. If EMPOWER is not provided with an email address, notices will be delivered to the PARTICIPANT via regular U.S. mail.

2. Empower will send an initial notification of default electronic delivery via regular U.S. mail to each PARTICIPANT at least ten (10) days prior to delivering any PLAN-related documents via email. The initial notice of default electronic delivery will include the PARTICIPANT's email address that will be used to deliver notices of the availability of PLAN-related documents, a statement of the PARTICIPANT's right to request and obtain a paper version of the documents and a statement of the option to opt out of electronic delivery and receive only paper versions of the documents.

3. If an email notice of availability of a PLAN-related document is returned undeliverable, EMPOWER will send the notice to another email on file for the PARTICIPANT. If no other email is on file for the PARTICIPANT or such other email is also returned undeliverable, PLAN-related documents will be delivered via regular U.S. mail to the PARTICIPANT until such time as EMPOWER is provided another email address for the PARTICIPANT.

4. PARTICIPANTS may request to receive one paper copy of a PLAN-related document for no cost. In addition, PARTICIPANTS may opt out of electronic delivery and request that their PLAN-related documents be delivered via regular U.S. mail at any time.

G. *Miscellaneous Services*

Representative(s) will attend BOARD meetings in person or virtually and will be prepared to provide information regarding the PLAN and its activities.

2.16. AUTOMATED VOICE RESPONSE SYSTEM (AVR)

PARTICIPANTS will have access to a custom toll-free, automated voice response system to inquire or make changes with respect to their account from a touch-tone telephone, using a Personal Identification Number (PIN). EMPOWER will provide a unique toll free number for this PLAN at EMPOWER's expense. Information available on this system shall be updated regularly and be current as of the close of the market the prior TRADING DAY.

The recordkeeping system will be available via the automated voice response system twenty-four (24) hours per day, seven (7) days per week, except for routine maintenance of the system, which, if possible, will take place on Sunday between the hours of 12:01 a.m. Mountain Time and 12:01 p.m. Mountain Time. The recordkeeping system may be unavailable at other times if the maintenance cannot be performed during the preferred time, as described above.

A non-custom TDD line shall be provided for the hearing impaired.

2.17. WEBSITE & MOBILE APPLICATION PARTICIPANT ASSISTANCE

PARTICIPANTS will have access to a website (using the unique URL owned by the BOARD, www.wdc457.org) to inquire or make changes with respect to their account using multi-factor authentication or next generation authentication credentials. Changes PARTICIPANTS can make via the website include but are not limited to transferring money from investment option to investment option, redirecting future contributions, and/or changing deferral amounts from their paycheck. Information available via the website shall be updated regularly and be current as of the close of the market the prior TRADING DAY.

In addition, Participants can download a complimentary Android app and an iOS phone, iPad and Apple Watch app. The Android and Apple Watch apps currently support inquiry-only capabilities while the iOS phone / iPad app supports both inquiry and certain change capabilities. All such apps will be subject to the terms of the CONTRACT, as related to privacy and data security. Notwithstanding the foregoing, EMPOWER reserves the right update the application and to make next generation enhancements in order to align with evolving industry standards.

The recordkeeping system will be available via the website twenty-four (24) hours per day, except for routine maintenance of the system, which shall take place on Sundays between the hours of 12:01 a.m. Mountain time and 12:01 p.m. Mountain Time, if possible. However, access to the website may be limited or unavailable during periods of peak demand, market volatility, systems upgrades, maintenance, or for other reasons.

EMPOWER will make reasonable efforts to conform to accessibility guidelines for web content such as those published by the World Wide Web consortium.

EMPOWER may periodically update or add new content, features, services, tools or other functionality to the PARTICIPANT website or other EMPOWER software as part of its ongoing enhancement of services offered to PLAN SPONSOR or its PARTICIPANTS. Such

additions will be offered at no additional cost unless expressly agreed by PLAN SPONSOR or PARTICIPANTS (as applicable).

A. *Online Enrollment*

PARTICIPANTS may elect to enroll online into the PLAN as noted in EXHIBIT 1: Department Terms and Conditions.

B. *Contribution Processing*

EMPOWER will provide for contribution processing. PARTICIPANTS may request contribution changes via the website or automated voice response system. Payroll centers (EMPLOYERS) will receive this information electronically via the Plan Service Center. DEPARTMENT acknowledges that EMPOWER must rely on EMPLOYERS to retrieve information and process such contribution changes accordingly.

C. *Website Content*

The appearance (content) of the PLAN's website will be customized in terms of such items as the URL, the PLAN's logo, information and colors. The website functionality and access to system data cannot be customized. Mutually agreeable enhancements to the website's content and errors in the website's content will be completed/corrected on a timely basis after written notification is received at the HOME OFFICE.

The DEPARTMENT will review and approve all changes to the portions of the website that are customized for the PLAN. Corrections to the functionality of the recordkeeping system or data records maintained on the recordkeeping system shall be made only as mutually agreeable.

D. *Password Security*

In addition to user name password security, BOARD hereby instructs EMPOWER, and EMPOWER agrees, to implement additional password security functionality for PARTICIPANTS accessing the website, including an alphanumeric pass code. EMPOWER agrees to provide additional enhancements to coincide with technology advancements, such as but not limited to a two-step login process, as these advancements are developed and implemented on its system.

2.18. CUSTOMER CARE CENTER

EMPOWER will assign a custom toll-free number (877-457-WDCP/877-457-9327) for the PLAN's PARTICIPANT calls. EMPOWER agrees to maintain a call center in Wisconsin.

PARTICIPANTS who opt out of the automatic voice response system to speak to client service representatives will first be automatically transferred to the Milwaukee, Wisconsin call center during the hours of 7:00 a.m. to 9:00 p.m. Central Time each BUSINESS DAY and on Saturdays between the hours of 8:00 a.m. Central Time and 4:30 p.m. Central Time. PARTICIPANTS who request to speak with a service representative in the local office in Madison, Wisconsin, may request a transfer to the Madison office during local business office hours of 8:00 a.m. to 4:30 p.m. Central Time each BUSINESS DAY.

EMPOWER's client service representatives will be available to receive calls and answer PARTICIPANT questions between the hours of 7:00 a.m. Central Time and 9:00 p.m.

Central Time each BUSINESS DAY and on Saturdays between the hours of 8:00 a.m. Central Time and 4:30 p.m. Central Time.

2.19. REPORTING

A. *For Reports see EXHIBIT 3: Performance Standards and Reporting*

B. *PLAN Summary Information Pertaining to Local EMPLOYERS*

Local EMPLOYERS will have access to data specific to their own organizations that is included in the PLAN summary reports. These reports are system-generated and issued digitally by the Plan Service Center.

C. *PARTICIPANT Statements*

Each PARTICIPANT will receive a statement and/or notification from EMPOWER of their PLAN account summarizing all activity for the previous calendar quarter.

Such statements will be available on the website for each statement period. Statement information shall be available online within ten (10) BUSINESS DAYS after receipt of information in good order from third party sources, or mailed within fifteen (15) BUSINESS DAYS of the end of each calendar quarter, whichever is later.

Each PARTICIPANT will receive a confirmation of initial participation account establishment; transfers, including dollar cost averaging and rebalancing; allocation changes; deferral changes, if applicable; and indicative data, including name and BENEFICIARY changes.

PARTICIPANTS will also have access to their account activity via an automated voice response system, the PLAN's website and mobile applications.

D. *Statement Error Corrections*

Should notification of any EMPLOYER errors on a PARTICIPANT's statement be received at the HOME OFFICE within ninety (90) days after the statement date, EMPLOYER shall retroactively correct any such errors within the previous statement period to make the PARTICIPANT whole. However, should errors not be identified by the PARTICIPANT within ninety (90) days of the statement date, or the errors have been made by the PARTICIPANT, the BOARD, or a third party, the error(s) will be corrected, but not made effective retroactively. PARTICIPANT statements will include notice of the PARTICIPANT's obligation to review the statement for accuracy and to report any errors to EMPOWER as soon as possible. Errors made by EMPOWER shall be corrected at any time as soon as possible after the error is discovered.

In addition to the ninety (90) day period for retroactive changes, the BOARD has an additional thirty (30) days in extraordinary situations that have resulted in an appeal to the BOARD.

2.20. LEGISLATIVE AND REGULATORY UPDATES AND ASSISTANCE

EMPOWER agrees to periodically make information available concerning federal legislative activity of which EMPOWER is aware which may affect the PLAN and related funding

contracts. Such information, however, does not constitute legal or tax advice regarding the legal sufficiency of the PLAN.

EMPOWER will provide technical and legal expertise to the BOARD in a timely manner to:

1. Inform the BOARD of proposed changes to federal regulations that EMPOWER becomes aware of, including but not limited to Internal Revenue Code and SEC regulations relating to Section 457 plans;
2. Assist with the development and revision of the WDC Plan and Trust document as required to comply with changes in federal or STATE law or regulations as requested by the BOARD and DEPARTMENT;
3. Incorporate PLAN changes allowed by federal or STATE law or regulations as instructed by the BOARD; and
4. Respond to all technical and legal questions that relate to the PLAN.

2.21. BENEFITS, TAX WITHHOLDING, AND REPORTING

EMPOWER agrees to provide benefits processing services.

Benefit payment options include:

- Lump sum payments;
- Partial lump sum payments;
- Periodic payments (fixed dollar payment or fixed period payment); and
- Required minimum distributions.

Upon receipt of complete payment instructions from the PARTICIPANT by EMPOWER at its HOME OFFICE, benefit payments to PARTICIPANTS and BENEFICIARIES will be made within three (3) BUSINESS DAYS via paper or ACH to an appropriately designated account, if available. For the purposes of this CONTRACT, "complete payment instructions" means that all of the requested information on the PARTICIPANT benefit request form has been properly completed along with the required signature(s). The benefit payments with respect to each PARTICIPANT account will be made, tax withheld and the tax reporting reported as described in this section.

A record will be maintained of any distribution from the PLAN made with respect to the PARTICIPANT and the reason for the distribution. Appropriate federal and state income tax withholding and tax reporting that is applicable at the time of the distribution will be performed and sent to the PARTICIPANT or BENEFICIARY for each benefit payment from the PLAN with respect to the PARTICIPANT or BENEFICIARY. The income tax withholding will be forwarded to the Internal Revenue Service and other appropriate state or local entities will be completed by the applicable due dates. Information will be provided to the Internal Revenue Service annually showing an accounting for all PARTICIPANTS who have received distributions during the previous calendar year.

2.22. CHANGE IN OWNERSHIP OR BANKRUPTCY

If EMPOWER experiences a change in ownership or enters bankruptcy proceedings during the term of the CONTRACT or any extension thereof, the BOARD must be notified of the event in writing at the time the event occurs or is identified. Willful failure to notify the BOARD upon receipt of an SEC Form 13g shall constitute cause for canceling the

CONTRACT. Failure to notify the BOARD of bankruptcy proceedings shall constitute cause for terminating the CONTRACT under EXHIBIT 1: Department Terms and Conditions, Section 17.0. For the purpose of this section, "change of ownership" does not include a sale or transfer of EMPOWER's publicly held securities unless an individual partnership, corporation, associate group of investors or legal entity obtains an ownership interest of EMPOWER in the amount of five percent (5%) or more.

2.23. DOMESTIC RELATIONS ORDERS

The BOARD hereby instructs EMPOWER, and EMPOWER agrees, to review and process WDC Domestic Relations Orders (DROs). DROs will be reviewed, processed and distributed by EMPOWER pursuant to the terms of the PLAN and Internal Revenue Code requirements in effect on the date of the distribution.

The BOARD agrees that PARTICIPANTS must provide, at a minimum, the following information to EMPOWER prior to the establishment and distribution of an alternate payee account:

- Copy of court approved Domestic Relations Order;
- Application for alternate payee; and
- Verification that the alternate payee can or cannot transfer among investment options.

2.24. UNFORESEEABLE FINANCIAL EMERGENCY WITHDRAWALS

The BOARD authorizes the DEPARTMENT to instruct EMPOWER to process and either approve or deny, without DEPARTMENT signature, all unforeseeable financial emergency withdrawal requests received in good order, and in a manner satisfactory to EMPOWER, due to an unforeseeable financial emergency as described below resulting in a severe financial hardship to the PARTICIPANT or BENEFICIARY that cannot be alleviated by any other means available to the PARTICIPANT. EMPOWER agrees that this service will be performed without an additional cost to the BOARD. DEPARTMENT further instructs EMPOWER to rely on any and all representations made by a PARTICIPANT in an unforeseeable financial emergency withdrawal request, including, but not limited to:

1. An illness or accident of the PARTICIPANT or BENEFICIARY, the PARTICIPANT's or BENEFICIARY's spouse, or PARTICIPANT's or BENEFICIARY's dependent (as defined in Internal Revenue Code §152, and for taxable years beginning on or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B));
2. Loss of the PARTICIPANT's or BENEFICIARY's property due to casualty;
3. The following extraordinary and unforeseeable circumstances if they arise as a result of events beyond the control of the PARTICIPANT or BENEFICIARY:
 - a. The imminent foreclosure of or eviction from the PARTICIPANT's or BENEFICIARY's primary residence;
 - b. The need to pay for medical expenses, including nonrefundable deductibles, as well as the cost of prescription drug medication; and
 - c. The need to pay for the funeral expenses of a spouse or a dependent (as defined in Internal Revenue Code §152, and, for taxable years beginning on

or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B)) of PARTICIPANT or BENEFICIARY.

Except in extraordinary circumstances, the following are examples of situations that are not considered eligible for withdrawal:

1. Purchase of real estate;
2. Payment of college tuition;
3. Unpaid rent or mortgage payments, except in the event of imminent foreclosure or eviction;
4. Unpaid utility bills;
5. Loan repayments;
6. Personal bankruptcy (except when resulting directly and solely from illness, casualty loss or other similar extraordinary and unforeseeable circumstances beyond the PARTICIPANT's control);
7. Payment of taxes, interest or penalties; or
8. Marital separation or divorce.

For each PARTICIPANT receiving an unforeseeable financial emergency distribution, the BOARD authorizes DEPARTMENT to instruct EMPOWER to notify the appropriate payroll department to suspend elective deferrals for the period required by the PLAN. For each request that cannot be approved due to its failure to satisfy the criteria for an unforeseeable emergency event or due to a failure to provide information necessary to process the unforeseeable financial emergency withdrawal request, the BOARD authorizes DEPARTMENT to instruct EMPOWER to notify the PARTICIPANT that he or she can request a DEPARTMENT determination from the DEPARTMENT.

After receiving the notice from EMPOWER, the PARTICIPANT may file a written request with DEPARTMENT for a DEPARTMENT determination. The written request must be received by DEPARTMENT within sixty (60) days of the date of the notice from EMPOWER. The PARTICIPANT may appeal in writing to the BOARD the DEPARTMENT determination that was issued by DEPARTMENT. The appeal must be received by the BOARD within ninety (90) days of the date of the DEPARTMENT determination.

The BOARD agrees to provide EMPOWER direction in unusual circumstances upon request.

In the event of any changes to applicable laws and/or regulations, EMPOWER shall revise this authorization and instruction and shall provide notice of these revisions to the DEPARTMENT.

2.25. ROLLOVERS FROM OTHER ELIGIBLE PLANS

Using documents developed by EMPOWER, PARTICIPANTS will be allowed to roll over money they have with former employers as long as the money comes from an eligible plan and the PLAN accepts the rollover dollars. Separate accounts will be maintained for rollovers from eligible Internal Revenue Code Section 457 plans, Section 401(a), 401(k) and 403(b) plans and IRAs. For the avoidance of doubt, separate accounts are not maintained for transfers to the PLAN from a different Section 457 plan offered by the same EMPLOYER. Other accounts may be established from time to time for PLAN administration.

The BOARD agrees that rollovers will be administered according to the rollover policy and procedures established by EMPOWER and updated from time to time.

Amounts distributed from rollover accounts will be tax reported pursuant to the Internal Revenue Service guidelines in effect on the date of the distribution.

The BOARD instructs and authorizes EMPOWER to accept, without BOARD approval, requests from PARTICIPANTS who are active employees for rollover contributions to the PLAN that are accompanied by a properly completed form and any required supporting documentation and are received in good order and in a manner acceptable to EMPOWER. The BOARD instructs and authorizes EMPOWER to rely on the complete form and accompanying documentation, without further investigation or action by EMPOWER, as sufficient to show that the funds being rolled into the PLAN constitute an eligible rollover distribution from an eligible retirement plan within the meaning of Internal Revenue Code Section 402. If other than a direct rollover, the employee must provide documentation to show that the rollover is being made to the PLAN within sixty (60) days of the date the employee received the distribution from the prior eligible retirement plan.

The BOARD instructs EMPOWER to establish a separate PARTICIPANT rollover account for recordkeeping all incoming rollovers. In the event that any necessary PARTICIPANT information is missing from such PARTICIPANT rollover requests (including address, birth date, hire date, rehire date, termination date, eligibility indicator and participation date), the BOARD instructs EMPOWER to obtain such information from PARTICIPANTS. If EMPOWER cannot obtain such additional information within ten (10) days after the request is received by EMPOWER, the BOARD instructs EMPOWER to reject any rollover request received without proper documentation and to return any rollover amounts received with such request.

2.26. MONITORING DEFERRAL LIMITS, INCLUDING CATCH-UP AMOUNTS

EMPOWER shall monitor the amount of contributions deferred (into the Internal Revenue Code Section 457 Plan RECORDKEPT under this CONTRACT only) by individual PARTICIPANTS to ensure that the total amount of contributions does not exceed that amount that is permitted by law under Internal Revenue Code Section 457(b) limit (for Section 457 contributions) at the end of the calendar year.

During the third quarter of each year, EMPOWER will run a report from the system to determine if any PARTICIPANTS are near or exceeding the maximum. PARTICIPANTS at or near exceeding the maximum will be contacted and to the extent practicable, assisted by EMPOWER in determining a remedy. Any excess deferrals into the PLAN that would result in amended tax reporting or refund from the PLAN to the PARTICIPANTS will be corrected consistent with the applicable Internal Revenue Code and regulations.

The catch-up amount available to eligible PARTICIPANTS shall be calculated by EMPOWER, provided that PARTICIPANTS provide complete information and execute a catch-up provision worksheet noting normal retirement age and eligibility.

2.27. TRUSTEE-TO-TRUSTEE TRANSFERS FOR PERMISSIVE SERVICE PURCHASES

EMPOWER will maintain a recordkeeping system with sufficient capacity and procedures to permit PARTICIPANTS to make a direct trustee-to-trustee transfer of all or part of their account balances to a defined benefit governmental plan as defined in Internal Revenue Code Section 414(d) if such transfer is either for the purchase of permissive service credit

as defined in Section 415(n)(3)(A) under such plan or a repayment permissible by Section 415(k).

2.28. INTERNAL REVENUE CODE (IRC) SECTION 457(b) SAMPLE PLAN DOCUMENT AND ADOPTION AGREEMENT

If requested by the BOARD, EMPOWER will provide a Section 457(b) sample plan document and adoption agreement (with amendments required by changes in regulations or applicable law) at no additional cost to the PLAN.

2.29. INTERNAL REVENUE CODE (IRC) SECTION 402(f) NOTICE

EMPOWER shall provide the Internal Revenue Service Model Notice, as amended from time to time, to PARTICIPANTS pursuant to Internal Revenue Code Section 402(f).

2.30. REQUIRED MINIMUM DISTRIBUTIONS

Any PARTICIPANT who attains the age specified in IRC 401(a)(9) and has not provided direction with regard to the requirements will be informed by EMPOWER of the required minimum distribution.

2.31 PLAN SURVEYS

2.31.1 An annual electronic PARTICIPANT survey will be developed that will demonstrate both statistical significance and validity. The PARTICIPANT survey will include an evaluation of items to be determined by the DEPARTMENT such as satisfaction with EMPOWER, the website, Customer Care Center, and other areas of PARTICIPANT services that are mutually agreeable. The DEPARTMENT will have final approval before the survey is conducted.

2.31.2 EMPOWER will monitor PARTICIPANT satisfaction of its Customer Care Center interactions by offering an after-call survey to 100% of callers that captures valuable feedback about the call and a rating of their experience on a one- to five-point scale.

2.31.3 For PARTICIPANTS who engage in one-on-one meetings with local EMPOWER RPAs, EMPOWER will send an online survey inviting the PARTICIPANTS to provide feedback on the meeting. EMPOWER will review those results regularly and provide those results to the DEPARTMENT upon request. Additionally, EMPOWER will work to incorporate areas of improvement into RPAs' ongoing training and development plans.

2.31.4 EMPOWER will provide an annual electronic EMPLOYER survey, in a format agreed upon between EMPOWER and the DEPARTMENT that will demonstrate both statistical significance and validity. The EMPLOYER survey will include an evaluation of items to be determined by the DEPARTMENT and are mutually agreeable. The DEPARTMENT will have final approval before the survey is conducted.

2.32 LOANS

If loans are available under the PLAN, EMPOWER will administer such a loan program. The BOARD agrees that all loans shall be account reduction loans repaid by payroll deduction and consistent with the loan policy and the procedures established by the EMPOWER from time to time. PARTICIPANTS will be subject to the fees in the Miscellaneous Fee Provisions in Section 5.5 of this CONTRACT.

2.33 INVESTMENT ADVISORY AND MANAGEMENT SERVICES

EMPOWER, by and through its affiliate, AAG, agrees to make available a managed accounts service known as Investment Advisory and Management Services to PARTICIPANTS in the PLAN.

The terms and conditions for the Investment Advisory and Management Services are included as EXHIBIT 4 attached to this CONTRACT.

2.34 DISTRIBUTIONS

A. *Provision of Termination Date*

EMPOWER may process all distribution request forms without the DEPARTMENT's signature, so long as EMPLOYERS or the DEPARTMENT provide PARTICIPANT's termination date to EMPOWER. EMPOWER representatives may rely upon the accuracy of the PARTICIPANT's termination date on the EMPOWER recordkeeping system as provided by EMPLOYERS. If the termination date is not on the EMPOWER recordkeeping system, the PARTICIPANT's EMPLOYER or the DEPARTMENT must provide this information to EMPOWER.

B. *Retired Public Safety Officer Insurance Premium Distributions*

The BOARD instructs EMPOWER, and EMPOWER agrees, to receive, process and take appropriate action to accomplish properly completed PARTICIPANT requests to direct payments from the PLAN to insurance carriers of premiums under health, dental, vision or long-term care plans of eligible retired public safety officers as follows:

1. Retired public safety officer insurance premium distributions requests must be submitted on an appropriate form.
2. EMPOWER shall only process requests for which EMPOWER receives a properly signed and completed distribution request form from an eligible PARTICIPANT or a written authorization from the DEPARTMENT. Authorization signatures from the DEPARTMENT, the PLAN or BOARD are not required to process a PARTICIPANT request. If instructed by the DEPARTMENT not to process a request, EMPOWER will follow the DEPARTMENT's instructions.
3. EMPOWER shall process each request and distribute amounts based on the information provided on the distribution request form by a PARTICIPANT. EMPOWER may generally rely upon and accept as accurate all information that is provided to EMPOWER by PARTICIPANTS, except when EMPOWER knows, or ought to know, that there is good reason to believe that the information submitted in respect to a particular application is mistaken, erroneous or false. EMPOWER shall have no duty or obligation, and shall take no action, to confirm or investigate any information provided by a PARTICIPANT or other party in connection with a request for services, including but not limited to EMPLOYER at time of retirement, public safety officer position at time of retirement, and eligibility for such distribution.

4. EMPOWER shall refer any PARTICIPANT appeals arising from PARTICIPANTS' requests to the DEPARTMENT and shall both cooperate fully in any DEPARTMENT investigation of the matter and abide by the final decision on the matter.

2.35 UNCASHED CHECKS

With respect to any checks issued from PLAN assets during the term of the CONTRACT, PLAN SPONSOR directs EMPOWER to follow state unclaimed property regulations and escheat such assets to the PLAN's or the PARTICIPANT's state of residence based on EMPOWER's records. However, PLAN SPONSOR may direct EMPOWER, in writing, to treat the PLAN's uncashed checks in a different manner. PLAN SPONSOR is solely responsible for determining the appropriate handling of uncashed checks and any unclaimed property under the applicable federal and state laws including the determination and handling of amounts related to lost PARTICIPANTS.

2.36 ERROR CORRECTION

A. *Transactional Errors.* If EMPOWER does not accurately process contribution, distribution, or investment instructions provided in good order by a PARTICIPANT or the EMPLOYER (e.g., investment allocation of PLAN contributions, INVESTMENT PRODUCT exchanges or transfers, or timely processing of a PLAN distribution) and the issue is brought to EMPOWER's attention within ninety (90) days of the statement date in which the error occurred, EMPOWER will, at its own expense, retroactively correct the PLAN or PARTICIPANT account to reflect its adjusted financial position had the error not occurred, including any investment earnings and reduced by any investment losses. If the issue is not timely brought to EMPOWER's attention, EMPOWER may correct the error by adjusting the PLAN or PARTICIPANT account prospectively.

B. *PLAN Operational Errors.* If EMPOWER is timely notified that it has made an error that creates an operational or fiduciary issue for the PLAN, EMPOWER will, within a reasonable time after being notified of or discovering such error, notify the PLAN SPONSOR and describe the corrective option that EMPOWER proposes to employ that is consistent with the Internal Revenue Service, Department of Labor, or other agency correction guidelines, where applicable, and PLAN SPONSOR shall review the proposed correction option. Unless the PLAN SPONSOR objects to such proposed correction and requests an alternate correction option within five (5) BUSINESS DAYS after receiving notice of EMPOWER's suggested corrective option, the PLAN SPONSOR directs EMPOWER to promptly process the correction in accordance with the proposal, at EMPOWER's expense. If EMPOWER's proposed correction is consistent with Internal Revenue Service, Department of Labor, other agency correction guidelines, or other guidance, but the PLAN SPONSOR requests an alternate correction method resulting in expenses in excess of what EMPOWER would have incurred under its proposed correction, the PLAN SPONSOR shall bear such additional expenses (including without limitation any attorney's fees, regulatory filing costs and additional net loss resulting from such method).

C. *Trading Errors.* If EMPOWER does not accurately process a trade with an investment company as directed by the PLAN SPONSOR or as instructed by a PARTICIPANT, then

EMPOWER will correct the share position at the investment company as if the error had not occurred. In the event there are multiple funds or related errors in one or more INVESTMENT PRODUCTS involved, Empower will net gains and losses across all INVESTMENT PRODUCTS involved in the associated error(s). If the Plan Sponsor utilizes the services of a third-party trustee and/or custodian ("Third-Party Trustee"), Empower shall in no event be required to perform any correction: (i) for a trading error that results from an error or omission by the Third-Party Trustee, (ii) to be performed under the terms of any service arrangements between the Plan Sponsor and such Third-Party Trustee (the "Third-Party Trust Agreement"), (iii) that falls within error tolerance ranges under the Third-Party Trust Agreement, or (iv) that otherwise would exceed any requirements for error correction by the Third-Party Trustee under the Third-Party Trust Agreement.

2.36.1 The parties acknowledge and agree that EMPOWER will have no liability for an error caused by acts or omissions of the PLAN SPONSOR, EMPLOYERS, PARTICIPANTS or any other third party.

2.36.2 *Duty to Mitigate.* The parties acknowledge and agree that the PLAN SPONSOR, the BOARD, EMPLOYERS and PARTICIPANTS each have a duty to mitigate any errors so as to minimize the expenses that may be incurred to correct such errors by promptly reviewing transaction confirmations, account statements and other PLAN reports, as applicable, and providing notification of any error, providing timely approval of correction measures and taking such other reasonable steps as may be necessary (e.g., proactively transferring account holdings into the appropriate INVESTMENT PRODUCT).

2.36.3 *Transactional Gain/Loss Compensation Policies for Error Correction.* EMPOWER may incur a gain or loss in the process of adjusting a PLAN or PARTICIPANT account to correct certain errors due to changes in the share/unit price of an INVESTMENT PRODUCTS between the original transaction date and the correction date. The adjusted position of PLAN and PARTICIPANT accounts are not impacted by transactional gains or losses incurred by EMPOWER to settle the INVESTMENT PRODUCT positions in the course of correcting the account. EMPOWER will net any INVESTMENT PRODUCT pricing differences as part of the correction process. If a correction is made at EMPOWER's expense, EMPOWER, not the PLAN, PARTICIPANT or EMPLOYER, will incur any transactional loss and EMPOWER will retain any transactional gain.

2.37 ACCOUNT PROTECTION

EMPOWER, EMPLOYER or the PARTICIPANT will promptly notify the other parties if it discovers that an unauthorized distribution was made from the PARTICIPANT's account. EMPOWER will conduct an investigation and take any appropriate steps, which may include working with law enforcement, to determine the root cause of the unauthorized distribution. PLAN SPONSOR agrees to cooperate in any such investigation and will comply with reasonable requests for information. To the extent EMPOWER offers PARTICIPANTS protection against account losses that result from unauthorized transactions, EMPOWER will restore losses as of the date of the account loss once EMPOWER has had sufficient time to conduct a preliminary investigation and attempt to ascertain the root cause. Such protection is not available if PLAN SPONSOR refuses or neglects to follow commercially reasonable security practices, as set forth in EXHIBIT 5, Empower Retirement, LLC: Data Security & Privacy Addendum of the CONTRACT, or if the loss resulted

from a compromise of the systems or security protocols of PLAN SPONSOR or its third party service providers (other than EMPOWER).

2.38 ADDITIONAL SERVICES

EMPOWER shall provide the following services for PARTICIPANTS through its retirement education consultants, Retirement Solutions Group (RSG), and/or its affiliate, Advised Assets Group, LLC ("AAG"):

A. *Distribution Education Services*

EMPOWER or its affiliates will make retirement education consultants available to PARTICIPANTS to provide distribution education services and may contact PARTICIPANTS who are eligible to receive distributions from the PLAN to provide information regarding distribution options under the PLAN including rollover services and products offered by EMPOWER.

B. *Participant Fiduciary Services*

EMPOWER or its affiliates may offer investment advice and provide recommendations as a fiduciary under applicable law to PARTICIPANTS on certain PLAN transactions, such as point-in-time investment advice on designated investment alternatives, investment advisory services available under the PLAN, and recommendations on distribution and rollover options, which may include services and products offered by EMPOWER and its affiliates. When EMPOWER acts as a fiduciary, it will do so in the best interest of the PARTICIPANTS. EMPOWER will provide such fiduciary services pursuant to applicable law.

C. *Financial Planning Services*

Advised Assets Group, LLC (AAG) may offer services to PARTICIPANTS under the terms of this Contract. These services will include consultation with the PARTICIPANTS about financial goals which may include budgeting, savings, income planning and other financial concepts, and may include information regarding financial services and products offered by AAG and its affiliates. The services are provided as a point-in-time evaluation and are not subject to ongoing monitoring or review on a regular or periodic basis by AAG. PARTICIPANTS may contact AAG to update or make changes to the financial plan.

The fee for the services will be:

One-Time Financial Plan

For Participants enrolled in AAG's Managed Account Service:	\$399
For Participants not enrolled in AAG's Managed Account Service:	\$499

Ongoing Subscription

(Includes a financial plan, ongoing access to an AAG financial planner, and an annual financial plan update upon request)

For PARTICIPANTS enrolled in AAG's Managed Account Service: \$199 initial fee + \$15/month thereafter

For PARTICIPANTS not enrolled in AAG's Managed Account Service: \$299 initial fee + \$29/month thereafter

PLAN SPONSOR understands and agrees that the PARTICIPANT will be responsible for paying AAG for the services from the PARTICIPANT's personal account (ACH or credit/debit card).

2.39 TRSFlex Services for Defined Benefit/Pension Data

A. Recordkeeping and Other Services

On an annual basis, EMPOWER will take in an outside asset feed (the "TRSFlex Feed") via standard secure file transfer protocol (SFTP) and layout regarding Wisconsin Retirement System, ("WRS") pensions from the DEPARTMENT. Certain data elements shall be as mutually agreed to by the parties and in accordance with the standard layout.

Via TRSFlex functionality, EMPOWER will report certain of the DEPARTMENT's data elements, as set forth above, on (1) EMPOWER's PARTICIPANT website, (2) automated voice response (AVR) system and (3) individual PARTICIPANT statements. Certain data elements shall also be utilized to provide estimated hypothetical monthly retirement income projections and performance against retirement goals via EMPOWER's PARTICIPANT website experience.

In addition, EMPOWER will establish a link to the DEPARTMENT website, so that PARTICIPANT can access online tools that the DEPARTMENT makes available.

C. EMPOWER will not charge an additional one-time implementation fee per PLAN for TRSFlex set-up.

D. EMPOWER will not charge an annual maintenance fee. However, in the event there is a substantial change: plus or minus 10% from the initial PARTICIPANT count at implementation, EMPOWER and the BOARD will discuss and determine a mutually agreed upon fee amount.

2.40 REMOVAL OF INVESTMENT PRODUCTS

EMPOWER must cooperate with the BOARD and the DEPARTMENT in applying the procedures established in s. 70.08(3), WI Admin. Code, for terminating any INVESTMENT PRODUCT that the BOARD determines is no longer acceptable for inclusion in the PLAN.

ARTICLE III. RESPONSIBILITIES OF THE BOARD

3.1. PROVISION OF INFORMATION

The BOARD agrees to provide all information in accordance with its duties as set forth in this CONTRACT.

Eligible nonparticipating employee contact information will be provided at the discretion of the DEPARTMENT to allow CONTRACTOR to inform these employees of the benefits of using the PLAN. Such information will be provided to the CONTRACTOR not more than once per year.

3.2. TRSFLEX SERVICES

The BOARD acknowledges that EMPOWER cannot effectively provide the TRSFlex services, as defined above in Section 2.39, without the DEPARTMENT's cooperation. EMPOWER will have no responsibility for any incorrect information provided by the BOARD or DEPARTMENT.

3.3. PARTICIPANT CONTACT

The BOARD authorizes EMPOWER to contact PARTICIPANTS at their home email or home mailing address or business mailing address to obtain information needed to perform the services set forth in this CONTRACT, such as clarification of transactions and recordkeeping. EMPOWER agrees to consult with the DEPARTMENT regarding the content and frequency of various targeted PARTICIPANT contacts.

3.4. INVESTMENT PROVIDERS

The BOARD agrees to use its best efforts, to secure and maintain the cooperation of the participating INVESTMENT PROVIDER(s), as needed by EMPOWER pursuant to its responsibilities to the PLAN.

3.5. PLAN ADMINISTRATIVE ACCOUNT

The BOARD will establish at least one PLAN ADMINISTRATIVE ACCOUNT for the purpose of receiving all PARTICIPANT recoveries debited from PARTICIPANT accounts, shareholder service fees and reallowances received from the PLAN's INVESTMENT PROVIDERS, with the exception of the SDB OPTION. PLAN ADMINISTRATIVE ACCOUNTS may be through:

1. the STATE's banking procedures; and
2. a PLAN ADMINISTRATIVE ACCOUNT established and maintained under the recordkeeping system of EMPOWER.

Should these assets be maintained within the recordkeeping system of EMPOWER, they will be invested in a single INVESTMENT PRODUCT of the options available for PARTICIPANT investments as specified by BOARD and transaction history will be reported quarterly to the BOARD as part of the PLAN summary report in the Plan Service Center. The BOARD further agrees to request transfers no more frequently than quarterly for transfers from the PLAN ADMINISTRATIVE ACCOUNT established and maintained on EMPOWER recordkeeping system to the account maintained through the STATE's banking procedures.

3.6. PRESENTATIONS

The DEPARTMENT agrees to cooperate with EMPOWER in their facilitation of scheduling group and individual presentations and to assist EMPOWER in the selection of facilities at which both the DEPARTMENT and EMPOWER mutually agree that satisfactory attendance can be expected for public employees in Wisconsin. The DEPARTMENT agrees to assist EMPOWER, as necessary, with local EMPLOYERS to facilitate the scheduling of group and individual presentations and assist EMPOWER in the selection of facilities at which both the DEPARTMENT and EMPOWER mutually agree that satisfactory attendance can be expected for employees of local EMPLOYERS in Wisconsin.

3.7. ADDITIONAL LEGAL, ACTUARIAL, OR OTHER CONSULTING SERVICES

On an as-needed basis, the BOARD may determine that additional independent legal, actuarial, auditing or other consulting services are required and instructs EMPOWER to pay for such services from the PLAN ADMINISTRATIVE ACCOUNT.

3.8 ANNUAL PLAN FINANCIAL STATEMENTS REPORT AND AUDIT

At the BOARD's direction, the DEPARTMENT will compile an annual financial statements report for the PLAN disclosing value of PLAN assets, liabilities, analysis of cash receipt and disbursements, and other relevant information.

The DEPARTMENT will select, monitor and retain an independent certified public accountant to audit the annual financial statements report on the financial status of the PLAN in accordance with accounting principles generally accepted in the United States of America.

3.9 ANNUAL BOARD SATISFACTION SURVEY

The DEPARTMENT will create an Annual Board Satisfaction Survey based on mutually agreed upon questions resulting from a collaborative effort. The DEPARTMENT will send such survey to the BOARD and report results back to EMPOWER.

ARTICLE IV. CONFIDENTIALITY OF INFORMATION

EMPOWER acknowledges that some of the data it may become privy to in the performance of the CONTRACT is CONFIDENTIAL INFORMATION, and EMPOWER shall make all reasonable efforts to ensure that no such CONFIDENTIAL INFORMATION is disseminated or used by EMPOWER or its employees in a manner that is not permitted by this CONTRACT.

In addition to the provisions of EXHIBIT 1: Department Terms and Conditions, Section 22.0, the following Sections apply to Article IV.

4.1. DUTY TO MITIGATE EFFECT OF MISUSE OR UNAUTHORIZED DISCLOSURE

If the DEPARTMENT and EMPOWER mutually determine that the provision of credit-monitoring services is necessary to mitigate the misuse, unauthorized disclosure, or other SECURITY INCIDENT and to comply with the provisions of Wis. Stat. § 134.98, EMPOWER will bear the full cost of the provision of these services.

4.2. FRAUD AND/OR IDENTITY THEFT

If CONFIDENTIAL INFORMATION is compromised due to an error by EMPOWER or the BREACH of EMPOWER's records, EMPOWER shall indemnify the PARTICIPANT to the extent the PARTICIPANT's identity is stolen as a direct result of the negligent or fraudulent acts or omissions of EMPOWER.

4.3. SAFEGUARDS

EMPOWER agrees to furnish current documentation of its information safeguards to the DEPARTMENT upon request.

4.4. THIRD PARTY REQUESTS FOR PARTICIPANT INFORMATION

EMPOWER shall promptly notify the DEPARTMENT and request guidance regarding any third party requests, including a subpoena, for disclosure of CONFIDENTIAL INFORMATION.

4.5. MODIFICATION, WAIVER, AND CONSENT

No modification or waiver of any provision of this CONTRACT and no consent by any party to any deviation from its terms by any other party will be effective unless such modification, waiver or consent is in writing and signed by all parties. The modification, waiver or consent will be effective only for the period, on the conditions and for the specific instance and purposes specified in such writing. The waiver of any breach of any term or condition in this CONTRACT will not be deemed a waiver of any prior or subsequent breach.

ARTICLE V. COMPENSATION OF PARTIES

5.1. PARTICIPANT FEES AND CHARGES

The BOARD, with assistance from EMPOWER, will determine the amount of fees and/or charges that will be assessed to PARTICIPANTS to recover all costs for administration of the PLAN. The BOARD's determination of fees/charges will be based on EMPOWER's costs and estimated DEPARTMENT costs for administration of the PLAN. The amount of charges may be recomputed as frequently as quarterly. EMPOWER will assess charges to PARTICIPANT accounts on a monthly basis and deposit amounts into the PLAN ADMINISTRATIVE ACCOUNT established for the PLAN under EMPOWER's recordkeeping system.

5.2. ADDITIONAL REIMBURSEMENTS FROM INVESTMENT PROVIDERS

The BOARD may seek the assistance of EMPOWER to request additional reimbursements from INVESTMENT PROVIDERS to compensate the BOARD for communication materials not contemplated.

5.3. PAYMENTS TO EMPOWER

With the exception of the SDB OPTION, EMPOWER's compensation for performing services required under this CONTRACT shall be as outlined below.

EMPOWER is authorized to deduct 1/12 of the Annual Administrative Fee to be paid EMPOWER from the PLAN ADMINISTRATIVE ACCOUNT on the 25th, or next BUSINESS DAY of each month thereafter.

A. *Recordkeeping and Communication Fees*

EMPOWER shall provide the basic recordkeeping and communication services described in this CONTRACT for an Annual Administrative Fee of \$2,623,960 beginning December 1, 2022 through November 30, 2027.

B. *Shareholder Service Fees*

With the exception of the SDB OPTION, all fees EMPOWER and/or one or more of its affiliates receives from mutual fund families and other INVESTMENT PROVIDERS for providing certain administrative or other services (revenue) will be credited by EMPOWER to PARTICIPANTS with balances in the revenue-paying funds on the processing date. The revenue will be credited monthly by multiplying each fund's revenue rate by the average daily balance of the fund's total PARTICIPANT account balances, excluding loan balances, during the respective month. In the event revenue already credited to PARTICIPANTS becomes uncollectible from a fund company, EMPOWER will collect in a manner mutually agreeable with both parties.

EMPOWER and/or one or more of its affiliates may receive revenues from Self-Directed Brokerage (SDB) Option that are used to offset daily administrative expenses and systems development, maintenance and interface. Although none of the revenue will accrue to the PLAN, if requested in writing, an accounting of the revenue received from SDB Option will be provided to the BOARD within forty-five (45) days after the calendar year end. The accounting of the revenues will be based upon the ratio of the assets in the PLAN versus the total assets with SDB Option.

5.4. LICENSING FEES AND AGREEMENTS

EMPOWER shall secure and pay for, at no additional cost to the PLAN, all licenses and approvals required under state, federal or local law for the performance of its duties under this CONTRACT.

5.5. MISCELLANEOUS FEE PROVISIONS

- A. If the BOARD selects a custodian or trustee that requires the procedures or services in this CONTRACT to change, EMPOWER and the BOARD will discuss whether to adjust fees in this section not to exceed actual additional costs incurred by EMPOWER (excluding profit and overhead).
- B. If loans are offered under the PLAN, a \$75.00 loan origination fee will be deducted from the amount of each loan processed. In addition, a \$25.00 annual maintenance fee per loan will be deducted from the PARTICIPANT's account in an amount of \$6.25 per quarter.
- C. EMPOWER shall invoice the DEPARTMENT \$250.00 for each DRO reviewed. EMPOWER shall prepare an invoice within forty-five (45) days of calendar quarter end. Upon review and acceptance of the invoice, on behalf of the BOARD the

DEPARTMENT authorizes EMPOWER to deduct the invoiced amount from the PLAN ADMINISTRATIVE ACCOUNT.

- D. If, in the future, the BOARD elects to create custom profile asset allocation funds utilizing the underlying investment options, the cost of recordkeeping for each option is \$5,000.00 annually to the PLAN.
- E. The BOARD and EMPOWER agree that any services which are requested to be performed beyond the scope of the services described in this CONTRACT shall be provided at a mutually agreed upon price negotiated prior to the performance of such services.
- F. Should a PARTICIPANT request an overnight delivery, EMPOWER will assess the PARTICIPANT its current overnight delivery fee.
- G. Should a PARTICIPANT request a one-time only ACH payment distribution, a payment via Automated Clearing House (ACH) for partial and full withdrawals or periodic payments via ACH, EMPOWER will not assess the PARTICIPANT an ACH fee.

5.6. REIMBURSEMENTS TO THE BOARD

- A. The BOARD assumes no liability for costs for the PLAN. All DEPARTMENT costs for administering the PLAN shall be recovered through PARTICIPANT fees and charges. The DEPARTMENT will submit a statement to EMPOWER, no more frequently than quarterly, of the DEPARTMENT's estimated annual costs. EMPOWER will effect a transaction from the PLAN ADMINISTRATIVE ACCOUNT maintained under EMPOWER's recordkeeping system and, should sufficient funds be available from the PLAN ADMINISTRATIVE ACCOUNT, reimburse DEPARTMENT for such expenses within fifteen (15) working days from receipt of the request from the DEPARTMENT.

B. Annual Independent Auditor Allowance

EMPOWER agrees to remit within ninety (90) days after the end of the calendar year to the PLAN ACCOUNT \$15,000 each year of the CONTRACT to assist the BOARD with the cost of the annual audit by the independent auditor selected, monitored and retained by the BOARD for that purpose. Partial years will be paid on a pro rata basis.

5.7. REIMBURSEMENT OF COSTS

Should the BOARD request EMPOWER make payments directly for DEPARTMENT costs related to the administration of the PLAN, including but not limited to such items as expenses related to annual third party audits, site inspections (travel, lodging, etc.) to EMPOWER's HOME OFFICE, EMPOWER agrees to make payments directly and provide an invoice for such costs directly to the PLAN. The BOARD agrees that should such requests be made, EMPOWER is entitled to be reimbursed for the invoice from the PLAN ADMINISTRATIVE ACCOUNT maintained by EMPOWER within thirty (30) days.

ARTICLE VI. CONTRACT TERMINATION

6.1. TERMINATION FOR MALFEASANCE AND FRAUD

In addition to the provisions of Sections 16.0 and 17.0 of EXHIBIT 1: Department Terms and Conditions, with thirty (30) days' written notice and explanation to the other party, this CONTRACT may be terminated by either party for malfeasance, misfeasance, and/or fraud at any time with no penalty to the BOARD, with the understanding that EMPOWER would require an additional sixty (60) days following that thirty (30) day period to successfully deconvert the PLAN(S).

Termination for cause by the BOARD under such circumstances shall, in addition to any other rights the BOARD may have, impose an obligation upon EMPOWER to reimburse the BOARD's reasonable termination costs up to \$100,000 and fulfill its termination-related obligations including, but not limited to, delivery of documentation and related items. Termination costs exceeding \$100,000 must be mutually agreed upon prior to incurring.

6.2. ADDITIONAL GROUNDS FOR TERMINATION AND RIGHT TO CURE

If either party to this CONTRACT fails to perform any of the material services set forth in this CONTRACT, the party alleged to be in breach of this CONTRACT shall receive a written notice of the default from the other party. The party alleged to be in breach of this CONTRACT shall have ninety (90) calendar days from receipt of the written notice to cure the default specified in the notice. If the default specified in the notice cannot be reasonably cured within ninety (90) calendar days of receipt of the notice, the party alleged to be in breach of this CONTRACT, within that ninety (90) calendar day period, shall have the right to present a written plan to cure the default, for the other party's approval, which approval shall not be unreasonably withheld; and thereafter commence during the default; and diligently pursue the cure of the default to completion.

If the breach specified in the notice is timely cured or a cure of the breach is commenced, with approval of the other party, and diligently pursued as provided herein, the notice shall be deemed rescinded and the CONTRACT shall continue in full force and effect. Notwithstanding the foregoing, if the breach specified in the notice is not cured to the satisfaction of the terminating party within one hundred and eighty (180) calendar days of the date the other party received the notice, the terminating party may terminate the CONTRACT on account of such breach effective upon the date of a new written notice of termination.

6.3. ARTICLE VI AND EXHIBIT 1: Department Terms and Conditions

In the event there is a conflict between language in Article VI and similar language in Sections 16.0 and 17.0 of EXHIBIT 1: Department Terms and Conditions, the terms of Article VI shall control.

ARTICLE VII. OBLIGATIONS AT CONTRACT TERMINATION AND TRANSITION REQUIREMENTS

This section outlines the requirements placed upon EMPOWER at no additional fee to the BOARD pertaining to the transition of all information, documentation and any PLAN-related information pertaining to the BOARD's PLAN upon termination or at the end of the CONTRACT period or any extensions. Transition assistance to a SUCCESSOR CONTRACTOR and the BOARD is required. The BOARD will require a transition which will not disrupt customer service or flow of services to PARTICIPANTS, EMPLOYERS, the DEPARTMENT, BOARD or any other representative affected by the PLAN.

Specific objectives are to:

1. Provide for an orderly and controlled transition to a SUCCESSOR CONTRACTOR; and
2. Minimize any disruption of processing and services provided to PARTICIPANTS, EMPLOYERS, and any operational user of the PLAN and its systems.

7.1. EMPOWER'S TRANSITION REQUIREMENTS

At the termination of this CONTRACT, EMPOWER will turn over all paper documents and physical files maintained at the local Madison office and all required data pertaining to the PLAN in an electronic media format, acceptable to the DEPARTMENT, that includes a record layout and data description of the information contained on the electronic media or in an alternative format mutually agreeable to the DEPARTMENT and EMPOWER.

- A. EMPOWER will release all final files and data to the DEPARTMENT in a mutually agreeable time frame but in no case later than thirty (30) BUSINESS DAYS after the CONTRACT end date.
- B. EMPOWER will cooperate with both the DEPARTMENT and the SUCCESSOR CONTRACTOR in meeting any reasonable requests to ensure a smooth transition.
- C. EMPOWER will provide information, including but not limited to, test data files in a mutually agreed upon format to the SUCCESSOR CONTRACTOR and if required, to the DEPARTMENT, prior to final termination of this CONTRACT.
- D. Upon relinquishing responsibilities at the termination of the CONTRACT, if requested, investment balances for all PARTICIPANTS will be provided to assure appropriate account balances within thirty (30) BUSINESS DAYS of termination of the CONTRACT in the recordkeeping system's standard format, including:
 1. All PARTICIPANT indicative data maintained on the recordkeeping system, including BENEFICIARY information;
 2. Each PARTICIPANT account balance as of the termination date;
 3. PARTICIPANT current investment allocation and deferral information;
 4. Information regarding outstanding periodic payments, DROs and unforeseeable emergencies, if any.
 5. Historical data maintained on the recordkeeping system.
- E. Employer plan summaries will be provided up to and including the statement for the last calendar quarter covered by this CONTRACT.

- F. At no additional cost to the PLAN other than what is detailed in Article VII, EMPOWER will provide PARTICIPANTS with a final PARTICIPANT statement, as required, within thirty (30) days after the quarter end following the CONTRACT end date detailing all required PARTICIPANT account information from the previous quarter's statement to the CONTRACT end date.
- G. The DEPARTMENT will be provided one final report for each of the applicable reports defined in EXHIBIT 3: Performance Standards and Reporting, with information provided for the period from the last report date to the CONTRACT end date within thirty (30) days from the CONTRACT end date.
- H. EMPOWER will make all books, records, ledgers, and journals relating to the PLAN available, with seventy-two (72) hour advance notice, for inspection and audit by the BOARD or its designee at any time during the BUSINESS DAY. Records requested will be provided on electronic media in a standard format within thirty (30) days of receipt of the request.
- I. Within thirty (30) days of the CONTRACT termination date, EMPOWER will complete reconciliations of all suspended contributions and related amounts; investment options' statements to general ledger; and PARTICIPANTS' statements to general ledger control account. Any and all variances will be explained, corrected, or reimbursed to the satisfaction of the BOARD.
- J. Upon cancellation, termination, expiration, or other conclusion of the CONTRACT, the BOARD and EMPOWER will mutually agree on maintenance of PARTICIPANT records as required or permitted by law. EMPOWER's obligation to safeguard the PARTICIPANT information that cannot feasibly or lawfully be returned or destroyed will be continuous and survive the termination of this CONTRACT. Any material retained under this subsection is perpetually subject to inspection by the BOARD upon reasonable notice and during EMPOWER's normal business hours.
- K. EMPOWER will provide all staff during the transition and will not restrict such staff from becoming employees of the SUCCESSOR CONTRACTOR in order to enhance continuity. However, EMPOWER may restrict such staff from becoming employees of the SUCCESSOR CONTRACTOR to the extent necessary to fulfill obligations under this CONTRACT.
- L. EMPOWER shall provide the DEPARTMENT with access to its Plan Service Center, training and technical advice and assistance during transition.

7.2. FINAL TERMINATION DATE

Once a notice of termination becomes effective, the obligations under this CONTRACT shall cease at a date specified by the BOARD not longer than three (3) months after the effective termination date. EMPOWER shall provide the BOARD with all reports, statements and other records as mutually agreed in order to continue the PLAN and effect an orderly and expeditious transition to a SUCCESSOR CONTRACTOR as appointed by the BOARD.

Such records shall include all file information of individual PARTICIPANT data. EMPOWER shall also produce a final PARTICIPANT statement showing activity or the most recent calendar quarter through the date assets are transferred to the new custodian or trust.

7.3. DEPARTMENT TRANSITION RESPONSIBILITIES

- A. The DEPARTMENT will oversee transition activities by assigning coordination responsibilities and approvals to a staff person. Status meetings will be held between representatives of the DEPARTMENT, EMPOWER and the SUCCESSOR CONTRACTOR, if applicable.
- B. The DEPARTMENT will review and approve a transition report that documents completion of each step of the transition plan.
- C. The DEPARTMENT will obtain post-transition support from EMPOWER at no extra charge for ninety (90) days following CONTRACT termination.

7.4. TRANSITION PLAN

EMPOWER's transition plan is provided below in Section 7.5 Transition Assistance Services. EMPOWER will update the transition plan as deemed necessary by both EMPOWER and the DEPARTMENT.

Upon termination of this CONTRACT, EMPOWER will provide the DEPARTMENT with the deconversion and transition services set forth in Article VII, Section 7.5 Transition Assistance Services.

7.5 TRANSITION ASSISTANCE SERVICES

- A. **Transition Services.** EMPOWER agrees to support the transition of recordkeeping and administrative services ("Transition Services") to a SUCCESSOR CONTRACTOR subject to the terms and conditions of the CONTRACT. EMPOWER shall provide the following Transition Services prior to the "Service End Date" (ninety (90) days following the CONTRACT's termination effective date) of the CONTRACT.
- B. **Planning.** Participate in conference calls and in-person meetings, as needed, with PLAN SPONSOR and the SUCCESSOR CONTRACTOR to designate the transfer team, define communication channels, discuss the transfer process and define expectations, responsibilities, and applicable deadlines. EMPOWER will designate a transition Project Manager to lead and be the contact person for the transition effort. Excluding the Managing State Director (or person of similar designation), in the event PLAN SPONSOR requests that other deconversion team members attend a transition services meeting in person at a site other than EMPOWER's office location, EMPOWER's fees for time and travel for such in-person meetings are \$1,500 per day, per person.
- D. C. **Data Layouts.** Provide the SUCCESSOR CONTRACTOR with data layouts for Participants and Plan data residing on EMPOWER administration systems, including but not limited to data layouts for paper statement indicators, rebalance frequency elections, ACH indicators, outstanding loan terms and payment amounts, powers of attorney on file, and dividend pass-through elections. The data layouts will correspond to EMPOWER standard file formats. **Plan Materials.** Upon termination, EMPOWER shall provide the SUCCESSOR CONTRACTOR with copies of all Plan summaries, individual Participant statements (upon request) and other forms, reports, or web

content; provided, however, EMPOWER will provide such Plan materials only to the extent designed specifically for the Plan and not deemed by EMPOWER to be proprietary. In addition, PLAN SPONSOR agrees, and will require any third party to whom PLAN SPONSOR provides the materials to agree, to maintain the confidentiality of all EMPOWER materials and information, including but not limited to web content, communications material, and information on EMPOWER's PLAN SPONSOR Website.

- E. **“Test” Data Transfer Files.** Provide the SUCCESSOR CONTRACTOR with two (2) full volume test extract data transfer files for the Plan. Such files will be provided at a time mutually agreed upon by the parties. Control totals and standard EMPOWER reports will accompany the files.
- F. **“Refresher” Data Transfer Files.** Provide the SUCCESSOR CONTRACTOR with one (1) full volume test extract refresher data transfer files for the Plan. Such files will be provided at a time mutually agreed upon by the parties. Control totals and standard EMPOWER reports will accompany the files.
- G. **“Live” Data Transfer Files.** Provide the SUCCESSOR CONTRACTOR with one (1) full live data transfer file in EMPOWER standard file format for the Participant and Plan data residing on EMPOWER administration systems as of a date mutually agreed upon by the parties. The live data file will be in the same format as the test data file or in the test data file format. Control totals and standard EMPOWER reports will accompany the live data transfer file.
- H. **Questions about Data on Transfer Files.** Provide up to twenty-five (25) aggregate hours of EMPOWER's time to answer questions about system data provided by EMPOWER on the test data transfer files, the refresher data transfer files and the live data transfer file. EMPOWER will charge the PLAN or PLAN SPONSOR at then-current hourly rates for time spent in excess of twenty-five (25) hours.
- I. **Answering Questions.** Provide up to twenty-five (25) aggregate hours of EMPOWER's time responding to questions about PLAN administrative practices and communication materials used by EMPOWER in servicing the PLAN. EMPOWER will charge the PLAN or PLAN SPONSOR at then-current hourly rates for time spent in excess of 25 hours.
- J. **Final Participant Valuation.** Send to the SUCCESSOR CONTRACTOR, at a mutually agreed upon date, reports of all historical files, documents and records necessary for the continuing administration and recordkeeping of the PLAN in electronic form (where available) and/or paper form (“**Final Participant Valuation**”). As of the Service End Date, the Final Participant Valuation includes: (i) Current PARTICIPANT indicative and financial data; (ii) PARTICIPANT level reports; (iii) PLAN level totals; (iv) Investment valuation statement; (v) Employee loan status report; (vi) Loan summary report; (vii) Deemed loan report; (viii) Highest outstanding loan balance report; (ix) RMD report; (x) Installment tax withholding report; (xii) On-line beneficiary data, if maintained by EMPOWER; and (xiii) Scanned beneficiary forms, if maintained by EMPOWER. Notwithstanding the foregoing, the parties acknowledge that the reports and information

identified as Final Participant Valuation are subject to change based upon changes in plan administration and/or system requirements. PLAN SPONSOR acknowledges that at the mutually agreed upon date, EMPOWER will provide only those reports applicable to the PLAN and currently available from EMPOWER's recordkeeping system.

- K. **Open Participant Case Records.** Send open case records at a mutually agreed upon date, or Service End Date, if later, to PLAN SPONSOR or to SUCCESSOR CONTRACTOR at PLAN SPONSOR's direction.
- L. **Year-end Processing.** For services that conclude as of December 31 for a calendar year plan or the end of the PLAN's fiscal year, as applicable, EMPOWER will perform any compliance testing, government filings, or other reporting required as of that year-end. For services that conclude as of any date other than December 31, EMPOWER will perform any government filings for completed Services (e.g., Forms 1099-R for Participant distributions) and provide to PLAN SPONSOR the same year-end reports and information otherwise provided for a calendar or fiscal year, as applicable, but only reflecting the portion of the calendar or fiscal year, as applicable, for which services were provided.
- M. **Fees Related to Transition Services.** In the event PLAN SPONSOR requests EMPOWER to provide additional or extraordinary Transition Services (beyond those described in items 7.5.1 through 7.5.12 above) including, but not limited to, change in data layout, change of data elements in standard layouts, number of data transfer files, or services beyond Service End Date, EMPOWER reserves the right to charge the PLAN or PLAN SPONSOR, as Directed by the PLAN SPONSOR, for additional or extraordinary Transition Services at then-current hourly rates. EMPOWER shall receive payment for services rendered within thirty (30) days of invoice delivery. In the event payment is not received within the stated timeframe all Transition Services will cease until such time payment is received.
- N. **Transition Services after Service End Date.** In addition to the foregoing, EMPOWER agrees to provide the following Transition Services for ninety (90) days following the CONTRACT's termination effective date ("**Service End Date**").
- (1) Provide up to twenty-five (25) hours of EMPOWER's time responding to questions from the PLAN SPONSOR or its auditor. EMPOWER will charge the Plan or PLAN SPONSOR at then-current hourly rates for time spent in excess of twenty-five (25) hours.
- (2) To the extent information and/or reporting is readily available from EMPOWER's systems, EMPOWER agrees to provide to the SUCCESSOR CONTRACTOR the following Transition Services for up to 110 requests per month: (a) loan repayment information; (b) PARTICIPANT account balances as of specific dates; (c) PARTICIPANT account earnings and/or dividends for specific time periods; (d) distribution history information; (e) reporting or respond to other PARTICIPANT account history information requests; (f) PARTICIPANT account history information (excluding DRO related information); (g) PARTICIPANT Statements; (h) Duplicate Forms 1099-R;

(i) Provide DRO related account history; (j) Respond to questions regarding PLAN-specific processes, provided however that if the number of requests exceeds 110 in any given month, a per-request fee of \$500 will be assessed.

EXHIBIT 1: Department Terms and Conditions

- 1.0 ENTIRE AGREEMENT:** The following terms and conditions are hereby made a part of the underlying contract. These Department Terms and Conditions, the underlying contract, its exhibits, subsequent amendments and other documents incorporated by order of precedence in the contract encompass the entire contract ("Contract") and contain the entire understanding between the Wisconsin Department of Employee Trust Funds ("Department") and the contractor named in the Contract ("Contractor") on the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, not embodied herein shall be of any force or effect. The Contract supersedes any other oral or written agreement entered into between the Department and the Contractor on the subject matter hereof. The terms "State" and "Department" may be used interchangeably herein.

The Contract may be amended at any time by written mutual agreement of the Department and Contractor, but any such amendment shall be without prejudice to any claim arising prior to the date of the change. No one, except duly authorized officers or agents of the Contractor and the Department, shall alter or amend the Contract. No change in the Contract shall be valid unless evidenced by an amendment that is signed by such officers of the Contractor and the Department. Notwithstanding the foregoing, Contractor may add or enhance the services, update the method of providing the services without any reduction in service, or modify the services to comply with applicable laws by providing written notice to Department at least thirty (30) days in advance of the effective date of such change, provided that Department may opt out of certain services that directly impact Participants and any changes that result in an increase in fees to the Plan.

- 2.0 COMPLIANCE WITH THE CONTRACT AND APPLICABLE LAW:** In the event of a conflict between the Contract and any applicable federal or state statute, administrative rule, or regulation; the statute, rule, or regulation will control.

In connection with the performance of work under the Contract, the Contractor agrees not to discriminate against employees or applicants for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Wis. Stat. § 51.01(5); sexual orientation as defined in Wis. Stat. § 111.32(13m), or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Contractor further agrees to take affirmative action to ensure equal employment opportunities.

Pursuant to 2019 Wisconsin Executive Order 1, the Contractor agrees it will hire only on the basis of merit and will not discriminate against any persons performing a contract, subcontract or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information or political affiliation.

Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the Contractor. Contractors with an annual work force of less than fifty (50) employees are exempt from this requirement. Contractor shall provide the plan to the Department within fifteen (15) business days of the Department's request for such plan after the award of the Contract.

The Contractor shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA) of 1990. Evidence of compliance with ADA shall be made available to the Department upon request.

The Contractor acknowledges that Wis. Stat. § 40.07 specifically exempts information related to individuals in the records of the Department of Employee Trust Funds from the Wisconsin Public Records Law. Contractor shall treat any such records provided to or accessed by Contractor as non-public records as set forth in Wis. Stat. § 40.07.

Contractor will comply with the provisions of Wis. Stat. § 134.98 **Notice of Unauthorized Acquisition of Personal Information.**

- 3.0 LEGAL RELATIONS:** The Contractor shall at all times comply with and observe all federal and State laws, local laws, ordinances, and regulations which are in effect during the period of the Contract and which in any manner affect the work or its conduct. This includes but is not limited to laws regarding compensation, hours of work, conditions of employment and equal opportunities for employment.

In carrying out any provisions of the Contract or in exercising any power or authority granted to the Contractor thereby, there shall be no liability upon the Department, it being understood that in such matters the Department acts as an agent of the State.

The Contractor accepts full liability and agrees to hold harmless the State, the Department's governing boards, the Department, its employees, agents and contractors for any act or omission of the Contractor, or any of its employees, in connection with the Contract.

No employee of the Contractor may represent himself or herself as an employee of the Department or the State.

- 4.0 CONTRACTOR:** The Contractor will be the sole point of contact with regard to contractual matters, including the performance of services specified in the Contract (the "Services") and the payment of any and all charges resulting from contractual obligations.

None of the Services to be provided by the Contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals, or other such entity without prior written notification to, and acknowledgement of, the Department. If the Department has concerns regarding the subcontractors a meeting will be scheduled to discuss a resolution.

After execution of the Contract, the Department and the Contractor will provide each other with the name of their designated contact persons.

The Contractor shall be solely responsible for its actions and those of its agents, employees or subcontractors under the Contract. The Contractor will be responsible for Contract performance when subcontractors are used. Subcontractors must abide by all terms and conditions of the Contract.

Neither the Contractor nor any of the foregoing parties has the authority to act or speak on behalf of the State.

The Contractor will be responsible for payment of any losses by its subcontractors or agents.

Any notice required or permitted to be given shall be deemed to have been given on the date of delivery or three (3) business days after mailing by the United States Postal Service, certified or registered mail-receipt requested. In the event the Contractor moves or updates contact information, the Contractor shall inform the Department of such changes in writing within ten (10) business days. The Department shall not be held responsible for payments delayed due to the Contractor's failure to provide such notice.

- 5.0 CONTRACTOR PERFORMANCE:** Work under the Contract shall be performed in a timely, professional and diligent matter by qualified and efficient personnel and in conformity with the strictest quality standards mandated or recommended by all generally-recognized organizations establishing quality standards for the work of the type specified in the Contract. The Contractor shall be solely responsible for controlling the manner and means by which it and its employees or its subcontractors perform the Services, and the Contractor shall observe, abide by, and perform all of its obligations in accordance with all legal and Contract requirements.

Without limiting the foregoing, the Contractor shall control the manner and means of the Services so as to perform the work in a reasonably safe manner and comply fully with all applicable codes, regulations and requirements imposed or enforced by any government agencies. Notwithstanding the foregoing, any stricter standard provided in plans, specifications or other documents incorporated as part of the Contract shall govern.

The Contractor shall provide the Services with all due skill, care, and diligence, in accordance with accepted industry practices and legal requirements, and to the Department's satisfaction; the Department's decision in that regard shall be final and conclusive. Notwithstanding anything to the contrary herein, Contractor shall not be liable for any acts or omissions undertaken at the direction of the Department or the direction of any third party retained by the Department to provide direction to Contractor, or any performance of the Services that is in strict compliance with the terms of the Agreement.

All Contractor's Services under the Contract shall be performed in material compliance with the applicable federal and state laws and regulations in effect at the time of performance, except when imposition of a newly enacted or revised law or regulation would result in an unconstitutional impairment of the Contract.

The Contractor will make commercially reasonable efforts to ensure that Contractor's professional and managerial staff maintain a working knowledge and understanding of all federal and state laws, regulations, and administrative code appropriate for the performance of their respective duties, as well as contemplated changes in such law which affect or may affect the Services delivered under the Contract.

The Contractor shall maintain a written contingency plan describing in detail how it will continue operations and Services under the Contract in certain events including, but not limited to, strike and disaster, and shall submit it to the Department upon request.

- 6.0 AUDIT PROVISION:** The Contractor and its authorized subcontractors are subject to audits by the State, the Legislative Audit Bureau (LAB), an independent Certified Public Accountant (CPA), or other representatives as authorized by the State. The Contractor will cooperate with such efforts and provide all requested information permitted under the law.
- 6.1 SOC 1/Type 2 Report:** If the Department requires Contractor to provide a Service Organization Control (SOC) audit report, Contractor will furnish the Department with a copy of Contractor's annual independent service auditor's report on management's description of Contractor's system and the suitability of the design and operating effectiveness of controls (SOC 1, Type 2). This independent audit of the Contractor's controls must be completed in accordance with the American Institute of Certified Public Accountants' (AICPA) Statements on Standards for Attestation Engagements (SSAE) No. 18 (SOC 1, Type 2). The SSAE 18 (SOC 1, Type 2) annual audit will include all programs under the Contract and will be conducted at the Contractor's expense. If the Contractor's SSAE 18 (SOC 1, Type 2) audit covers less than twelve (12) months of a calendar year, the Contractor will provide a bridge letter to the Department, stating whether processes and controls have changed since the SSAE 18 (SOC 1, Type 2) audit. In addition, the Department requires Contractor to submit a letter of attestation indicating Contractor's receipt of management's assertion of control compliance from Contractor's subcontractors, when applicable.
- 6.2 SOC 2/Type 2 Report:** If the Department requires Contractor to provide a SOC audit report, Contractor will furnish the Department with a copy of Contractor's annual independent service auditor's report on Contractor's controls relevant to security, availability, processing integrity, confidentiality, and privacy. The SOC audit report must be a type 2 report that includes management's description of Contractor's system and the suitability of the design controls set forth in AICPA Trust Services Criteria Section 100 (2017). This independent audit of the Contractor's controls must be completed in accordance with the AICPA SSAE No. 18 (SOC 2, Type 2). The SSAE 18 (SOC 2, Type 2) annual audit will include all programs under the Contract and will be conducted at the Contractor's expense. If the Contractor's SSAE 18 (SOC 2, Type 2) audit covers less than twelve (12) months of a calendar year, the Contractor will provide a bridge letter to the Department, stating whether processes and controls have changed since the SSAE 18 (SOC 2, Type 2) audit. In addition, the Department requires Contractor to submit a letter of attestation indicating Contractor's receipt of management's assertion of control compliance from Contractor's subcontractors.
- 6.3 Contract Compliance Audit:** The Department may schedule and arrange for an independent certified public accountant to perform agreed upon procedures or consulting work related to the Contractor's compliance with the Contract on a periodic basis, as determined by the Department. The audit scope will be determined by the Department and may include recordkeeping, participant account activity, claims processing, administrative performance standards, and any other relevant areas to the programs under the Contract. The timeline of the audit will be mutually agreed upon by the Department and the Contractor. A minimum ten (10) business day notice is required.
- 6.4 Open Access:** All Contractor books, records, ledgers, data, and journals relating to the programs under the Contract will be open for inspection and audit by the Department, its designees, or the State of Wisconsin Legislative Audit Bureau, at any time during normal working hours. A minimum ten (10) business day notice will be provided. Records or data requested shall be provided electronically in a format mutually agreed upon by the Department and Contractor. The Department shall have access to interview any employee and authorized agent of the Contractor involved with the Contract in conjunction with any audit, review, or investigation deemed necessary by the Department or the State.
- 6.5 LAB Audit:** The Department is audited by the State of Wisconsin Legislative Audit Bureau annually, as required by Wis. Stat. § 13.94(1)(dd). The Contractor agrees to provide necessary information related to any such audit for all programs under the Contract, as requested by the Department or auditor.
- 7.0 CRIMINAL BACKGROUND VERIFICATION:** The Department follows the provisions in the Wisconsin Human Resources Handbook Chapter 246, Securing Applicant Background Checks (see: https://dpm.wi.gov/Hand%20Book%20Chapters/WHRH_Ch_246.pdf). The Contractor is expected to perform background checks that, at a minimum, adhere to those standards. This includes the criminal history record from the Wisconsin Department of Justice (DOJ), Wisconsin Circuit Court Automation Programs (CCAP), and other state justice departments for persons who have lived in a state(s) other than Wisconsin. More stringent background checks are permitted. Details regarding the Contractor's background check procedures should be provided to the Department regarding the measures used by the Contractor to protect the security and privacy of program data and participant information. Contractor will provide a written attestation that the background check was completed and such check passed. The Department reserves the right to conduct its own criminal background checks on any or all employees or subcontractors of and referred by the Contractor for the delivery or provision of Services.
- 8.0 COMPLIANCE WITH ON-SITE PARTY RULES AND REGULATIONS:** Contractor and the Department agree that their employees, while working at or visiting the premises of the other party, shall comply with all internal rules and

regulations of the other party, including security procedures, and all applicable federal, state, and local laws and regulations applicable to the location where said employees are working or visiting.

The Department is responsible for allocating building and equipment access, as well as any other necessary services available from the Department that may be used by the Contractor. Any use of the Department facilities, equipment, internet access, and/or services shall only be to assist Contractor in providing the Services, as authorized by the Department. The Contractor will provide its own personal computers, which must comply with the Department security policies before connection to the Department's local computer network.

- 9.0 SECURITY OF PREMISES, EQUIPMENT, DATA AND PERSONNEL:** The Department shall have the right, acting by itself or through its authorized representatives, to enter the premises of the Contractor at mutually agreeable times to inspect and copy the records of the Contractor and the Contractor's compliance with this Section. In the course of performing Services under the Contract, the Contractor may have access to the personnel, premises, equipment, and other property, including data files, information, or materials (collectively referred to as "data") belonging to the Department.

The Contractor shall be responsible for damage to the Department's equipment, workplace, and its contents, or for the loss of data, when such damage or loss is caused by the Contractor, contracted personnel, or subcontractors, and shall reimburse the Department accordingly upon demand. This remedy shall be in addition to any other remedies available to the Department by law or in equity.

- 10.0 BREACH NOT WAIVER:** A failure to exercise any right, or a delay in exercising any right, power or remedy hereunder on the part of either party shall not operate as a waiver thereof. Any express waiver shall be in writing and shall not affect any event or default other than the event or default specified in such waiver. A waiver of any covenant, term or condition contained herein or in the Contract shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The making of any payment to the Contractor under the Contract shall not constitute a waiver of default, evidence of proper Contractor performance, or acceptance of any defective item or Services furnished by the Contractor.

- 11.0 SEVERABILITY:** The provisions of the Contract shall be deemed severable and the unenforceability of any one or more provisions shall not affect the enforceability of any of the other provisions. If any provision of the Contract, for any reason, is declared to be invalid, unenforceable, or illegal, the parties shall substitute an enforceable provision that, to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

- 12.0 DISCOUNT FOR LATE DELIVERY:** The Contractor agrees to accept a discount in the fees due to the Contractor under the Contract in the event any of the major deliverables is delivered by Contractor more than twenty-five (25) business days after the delivery date set forth in the then-current project work plan. The parties agree that the Contractor shall discount its fees, beginning on the twenty-sixth (26th) business day after the delivery date set forth in the then current project work plan, by an amount of one thousand dollars (\$1,000) for each business day Contractor fails to deliver any or all major deliverables until such major deliverable is delivered as mutually agreed, up to a total of one hundred twenty thousand dollars (\$120,000) per major deliverable. Any such discount is not a penalty, and shall be in addition to all other legal or equitable remedies that may be available to the Department. Notwithstanding the foregoing, Contractor shall not owe any discount to the extent that any late delivery of a major deliverable was the result of a Department-caused delay. In the event that Contractor provides a discount under this Section, then the timeline set forth in the project work plan for each subsequent major deliverable shall be extended by the number of days for which the discount was applied.

- 13.0 CONTRACT DISPUTE RESOLUTION:** In the event of a dispute between the parties under the Contract, whether with respect to the interpretation of any provision of the Contract, or with respect to the performance of either party thereto, except for breach of Contractor's intellectual property rights, each party shall reserve the right to appoint a representative to meet for the purpose of endeavoring to resolve such dispute or negotiate for an adjustment to such provision.

Contractor shall continue without delay to carry out all its responsibilities under the Contract, which are not affected by the dispute. Should Contractor fail to perform its responsibilities under the Contract that are not affected by the dispute without delay, the Department reserves the right to pursue recovery of any and all additional costs incurred by the Department as a result of such failure to proceed. Any costs incurred by the Contractor shall be borne by the Contractor and the Contractor shall not make any claim against the Department for such costs. The Department's non-payment of fees in breach of the Contract that are overdue by sixty (60) calendar days is a dispute that will always be considered to affect Contractor's responsibilities.

No legal action of any kind, except for the seeking of equitable relief in the case of the public's health, safety or welfare, may begin in regard to the dispute until this dispute resolution procedure has been elevated to the Contractor's highest executive authority and the equivalent executive authority within the Department, and either

of the representatives in good faith concludes, after a good faith attempt to resolve the dispute, that amicable resolution through continued negotiation of the matter at issue does not appear likely.

The party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by delivering written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by the Contract. After such notice, the parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between authorized negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Level	Contractor	The Department	Allotted Time
First	Level 1 entity	Level 1 entity	20 business days
Second	Level 2 entity	Level 2 entity	30 business days

The allotted time for the First Level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is the number of days from the date that the Invoking Party's notice was originally received by the other party. If the Second Level parties cannot resolve the issue within thirty (30) business days of the Invoking Party's original notice, then the issue shall be designated as a dispute at the discretion of the Invoking Party and, if so, shall be resolved in accordance with the appropriate Sections herein. The allotted time periods above are in addition to those periods for a party to cure provided elsewhere herein or in the Contract, and do not apply to claims for equitable relief (e.g., injunction to prevent disclosure of Confidential Information). The Department may withhold payments on disputed items pending resolution of the dispute.

14.0 CONTROLLING LAW: All questions as to the execution, validity, interpretation, construction and performance of the Contract shall be construed in accordance with the laws of the State of Wisconsin, without regard to any conflicts of laws or choice of law principles. Any court proceeding arising or related to the Contract or a party's obligations under the Contract shall be exclusively brought and exclusively maintained in the State of Wisconsin, Dane County Circuit Court, or in the District Court of the United States Western District (if jurisdiction is proper in federal court), or upon appeal to the appellate courts of corresponding jurisdiction, and Contractor hereby consents to the exclusive jurisdiction and exclusive venue therein and waives any right to object to such jurisdiction or venue. To the extent that in any jurisdiction Contractor may now or hereafter be entitled to claim for itself or its assets immunity from suit, execution, attachment (before or after judgment) or other legal process, Contractor, to the extent it may effectively do so, irrevocably agrees not to claim, and it hereby waives, the same.

15.0 RIGHT TO SUSPEND OPERATIONS: If, at any time during the period of the Contract, the Department determines that the best interest of the Department or its governing boards would be best served by the Contractor temporarily suspending all Services, the Department will promptly notify the Contractor. Upon receipt of such notice, the Contractor shall suspend all Services.

16.0 TERMINATION OF THE CONTRACT: The Department may terminate the Contract at any time at its sole discretion by delivering one-hundred eighty (180) calendar days written notice to the Contractor.

Upon termination, the Department's liability shall be limited to the prorated cost of the Services performed as of the date of termination plus expenses incurred with the prior written approval of the Department.

If the Contractor terminates the Contract, the Contractor shall refund all payments made under the Contract by the Department to the Contractor for work not completed or not accepted by the Department. Such termination shall require written notice to that effect to be delivered by the Contractor to the Department not less than one-hundred eighty (180) calendar days prior to said termination.

Upon any termination of the Contract, the Contractor shall perform the Services specified in a transition plan if so requested by the Department; provided, however, that except as expressly set forth otherwise herein, the Contractor shall not be obligated to perform such Services unless all amounts due to the Contractor under the Contract, including payment for the transition Services, have been paid. Failure of the Contractor to comply with a transition plan upon the Department's request and upon payment shall constitute a separate breach for which the Contractor shall be liable.

Upon the expiration or termination of the Contract for any reason, each party shall be released from all obligations to the other arising after the expiration date or termination date, except for those that by their terms survive such termination or expiration.

17.0 TERMINATION FOR CAUSE: If the Contractor fails to perform any material requirement of the Contract, breaches any material requirement of the Contract, or if the Contractor's full and satisfactory performance of the Contract is substantially endangered, the Department may terminate the Contract. Before terminating the Contract, the Department shall give written notice of its intent to terminate to Contractor after a thirty (30) calendar day written

notice and cure period with the understanding that Empower would require an additional sixty (60) days following that thirty (30) day period to successfully deconvert the Plan(s).

The Department reserves the right to cancel the Contract in whole or in part without penalty in the event one (1) or more of the following occurs:

- (a) If the Contractor intentionally furnished any statement, representation, warranty, or certification, in connection with the Contract which is materially false, incorrect, or incomplete;
- (b) If applicable, if the Contractor fails to follow the sales and use tax certification requirements of Wis. Stat. § 77.66;
- (c) If the Contractor incurs a delinquent Wisconsin tax liability;
- (d) If the Contractor fails to submit a non-discrimination or affirmative action plan per the requirements of Wis. Stat. § 16.765 and Wis. Stat. § 111 Subchapter II, Wisconsin's Fair Employment Law, as required herein;
- (e) If the Contractor is presently identified on the list of parties excluded from State of Wisconsin procurement and non-procurement contracts;
- (f) If the Contractor becomes a state or federal debarred Contractor, or becomes excluded from State contracts;
- (g) If the Contractor fails to maintain and keep in force all required insurance, permits and licenses as required per the Contract;
- (h) If the Contractor fails to maintain the confidentiality of the Department's information that is considered to be Confidential Information or Protected Health Information;
- (i) If the Contractor files a petition in bankruptcy, becomes insolvent, or otherwise takes action to dissolve as a legal entity;
- (j) If at any time the Contractor's performance threatens the health or safety of a State employee, citizen, or customer;
- (k) If the Contractor violates any requirements in Section 22.0 below regarding Confidential Information; or
- (l) If the Department or State fails to appropriate funds for the project described in the Contract.

In the event of a termination for cause by the Department, the Department shall be liable for payments for any work accepted by the Department prior to the date of termination.

17.1 BREACH BY PATTERN OR PRACTICE: The Department has the right to terminate the Contract and/or pursue all available legal and equitable remedies if the Contractor, by pattern or practice, materially breaches any provision of the Contract. Actions that shall constitute a material breach include, but are not limited to, neglect, failure, or refusal to perform in accordance with any of the terms of the Contract. The Department may provide the Contractor with an opportunity to cure the material breach. Such cure period would be thirty (30) calendar days after the Contractor's receipt of the Department's written notice, as noted above. If Contractor's efforts to cure are unsuccessful, as determined by the Department in its sole discretion, the Department may terminate the Contract as soon as administratively feasible and/or pursue all available legal and equitable remedies.

18.0 REMEDIES OF THE DEPARTMENT: The Department shall be free to invoke any and all remedies permitted under Wisconsin law. In particular, if the Contractor fails to perform as specified in the Contract, the Department may issue a written notice of default providing for at least a thirty (30) business day period in which the Contractor shall have an opportunity to cure, provided that cure is possible, feasible, and approved in writing by the Department. Time allowed for cure of a default shall not diminish or eliminate the Contractor's liability. If the default remains, after opportunity to cure, then the Department may: (1) exercise any remedy provided in law or in equity and/or (2) terminate Contractor's Services.

If the Contractor fails to remedy any delay or other problem in its performance of the Contract after receiving reasonable notice from the Department to do so, the Contractor shall reimburse the Department for all reasonable costs incurred as a direct consequence of the Contractor's delay, action, or inaction.

In case of failure to deliver Services in accordance with the Contract, or services from other sources as necessary to fulfill the Contract, the Contractor shall be responsible for the additional cost of such services, including purchase price and administrative fees. This remedy shall be in addition to any other legal remedies available to the Department.

19.0 TRANSITIONAL SERVICES: Upon cancellation, termination, or expiration of the Contract for any reason, the Contractor shall provide reasonable cooperation, assistance and Services, and shall assist the Department to facilitate the orderly transition of the work under the Contract to the Department and/or to an alternative contractor selected for the transition upon written notice to the Contractor at least thirty (30) business days prior to termination or cancellation, and subject to the terms and conditions set forth in the Contract.

20.0 ADDITIONAL INSURANCE RESPONSIBILITY: The Contractor shall exercise due diligence in providing the Services under the Contract. In order to protect the Department's governing boards and any Department employee against liability, cost, or expenses (including reasonable attorney fees), which may be incurred or sustained as a result of Contractor's errors or other failure to comply with the terms of the Contract, the Contractor shall maintain

errors and omissions insurance including coverage for network and privacy risks, BREACH of privacy and wrongful disclosure of information in an amount acceptable to the Department with a minimum of **\$1,000,000** per claim and **\$5,000,000** aggregate in force during the Contract period and for a period of three (3) years thereafter for Services completed. Contractor shall furnish the Department with a certificate of insurance for such amount. Further, this certificate shall designate the State of Wisconsin Department of Employee Trust Funds and its affiliated boards as additional insured parties. The Department reserves the right to require higher or lower limits where warranted.

21.0 OWNERSHIP OF MATERIALS: Except as otherwise provided in Section 22, Subsection (v), all information, data, reports and other materials as are existing and available from the Department and which the Department determines to be necessary to carry out the scope of Services under the Contract shall be furnished to the Contractor and shall be returned to the Department upon completion of the Contract. The Contractor shall not use such materials for any purpose other than carrying out the work described in the Contract.

The Department will be furnished without additional charge all data, models, information, reports, and other materials associated with and generated under the Contract by the Contractor.

The Department shall solely own all customized software, documents, and other materials developed under the Contract. Use of such software, documents, and materials by the Contractor shall only be with the prior written approval of the Department.

The Contract shall in no way affect or limit the Department's rights to use, disclose or duplicate, for any purpose whatsoever, all information and data pertaining to the Department, employees or members and generated by the claims administration and other Services provided by Contractor under the Contract.

All files (paper or electronic) containing any Wisconsin plan member, claimant or employee information and all records created and maintained in the course of the work specified by the Contract are the sole and exclusive property of the Department. Contractor may maintain copies of such files during the term of the Contract as may be necessary or appropriate for its performance of the Contract. Moreover, Contractor may maintain copies of such files after the term of the Contract (i) for one hundred twenty (120) days after termination, after which all such files shall be transferred to the Department or destroyed by Contractor, except for any files as to which a claim has been made, and (ii) for an unlimited period of time after termination for Contractor's use for statistical purposes, if Contractor first deletes all information in the records from which the identity of a claimant or employee could be determined and certifies to the Department that all personal identifiers have been removed from the retained files.

22.0 CONFIDENTIAL INFORMATION, ACCEPTABLE USE AND UNAUTHORIZED DISCLOSURE: This Section is intended to cover the protection and handling of Confidential Information under the standards of the Department, State and federal law.

(a) **DEFINITIONS:** As used herein, unless the context otherwise requires:

- (1) Confidential Information. "Confidential Information" means all tangible and intangible information and materials being disclosed in connection with the Contract, in any form or medium without regard to whether the information is owned by the State of Wisconsin or by a third party, which satisfies at least one of the following criteria where applicable: (i) Individual Personal Information under Wis. Admin. Code Section ETF 10.70(1); (ii) Personally Identifiable Information under Wis. Stat. § 19.62(5); (iii) Protected Health Information under HIPAA, 45 CFR 160.103; (iv); proprietary information; (v) non-public information related to the State of Wisconsin's employees, customers, technology (including databases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; (vi) information expressly designated as confidential in writing by the State of Wisconsin; (vii) all information that is restricted or prohibited from disclosure by state or federal law, including Individual Personal Information and Medical Records as governed by Wis. Stat. §§ 40.07, ETF 10.70(1) and ETF 10.01(3m); or (viii) any material submitted by the Contractor in response to a Department solicitation that the Contractor designates confidential and proprietary information and which qualifies as a trade secret, as provided in Wis. Stat. § 19.36(5) or material which can be kept confidential under the Wisconsin public records law.
- (2) Individual Personal Information. "Individual Personal Information" has the meaning ascribed to it at Wis. Admin. Code ETF § 10.70 (1).
- (3) Medical Record. "Medical Record" has the meaning ascribed to it at Wis. Admin. Code ETF § 10.01(3m).

(b) **PROVISION OF CONFIDENTIAL INFORMATION FOR CONTRACTED SERVICES:** The Department or a contractor performing services for the Department may provide Confidential Information to the Contractor

under the Contract as the Department determines is necessary for the proper administration of the Contract, as provided by Wis. Stat. § 40.07 (1m) (d) and (3).

- (c) **DUTY TO SAFEGUARD CONFIDENTIAL INFORMATION:** The Contractor shall safeguard Confidential Information supplied to the Contractor or its employees under the Contract. In addition, the Contractor will only share Confidential Information with its employees on a need-to-know basis. Should the Contractor fail to properly protect Confidential Information, any cost the Department incurs to mitigate the failure will be subtracted from the Contractor's invoice(s) or otherwise reimbursed by the Contractor.
- (d) **USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION:** Contractor shall:
- (1) Not use or disclose Confidential Information for any purpose other than as permitted or required by the Contract or as required by law. Contractor shall not use or disclose member or employee names, addresses, or other information for any purpose other than specifically provided for in the Contract;
 - (2) Access, use or disclose only the minimum necessary Confidential Information required in performance of the Contract;
 - (3) Use appropriate safeguards to prevent use or disclosure of Confidential Information other than as provided for by the Contract;
 - (4) Not use or disclose Confidential Information in a manner that would violate Wis. Stat. § 40.07;
 - (5) If applicable, be allowed to use or disclose Confidential Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided the disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Contractor of any instances of which it is aware the confidentiality of the information has been or is suspected of being breached;
 - (6) Not use for its own benefit outside of the Contract, monetary or otherwise, Confidential Information or any information derived from such information; and
 - (7) If required by a court of competent jurisdiction or an administrative body to disclose Confidential Information, Contractor will notify the Department in writing promptly upon receiving notice of such requirement and prior to any such disclosure, to give the Department an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so).
- (e) **REQUIREMENT TO KEEP CONFIDENTIAL INFORMATION WITHIN THE UNITED STATES:** The Contractor's transmission, transportation or storage of Confidential Information outside the United States, or access of Confidential Information from outside the United States, is prohibited except on prior written authorization by the Department, provided that this clause shall not restrict Contractor or its affiliates from utilizing resources outside of the United States to provide back office services, such as transaction processing and system development services so long as: (1) data is not stored at locations outside of the United States and (2) compensating controls are enacted with such offshore resources to prevent any downloading or retention of data at offshore locations.
- (f) **MANDATORY REPORTING:** Contractor shall report to the Department in the manner set forth in Subsection 22(g) any use or disclosure of Confidential Information not provided for by the Contract, of which it becomes aware.
- (g) **CONTRACTOR REPORTING OF BREACH, IMPERMISSIBLE USE OR IMPERMISSIBLE DISCLOSURE TO THE DEPARTMENT:**
- (1) Within forty-eight (48) hours after Contractor becomes aware of a BREACH, impermissible use, or impermissible disclosure, Contractor shall notify in writing the Department Privacy Officer at ETFSMBPrivacyOfficer@etf.wi.gov, and the Department Program Manager. A BREACH, impermissible use, or impermissible disclosure is considered to be discovered as of the first day on which such occurrence is known to Contractor, or, by exercising reasonable diligence, would have been known to Contractor. The notification must contain details sufficient for the Department Program Manager and Privacy Officer to determine the Department's response. Sufficient details include, without limitation to the extent known:
 - a. The nature of the unauthorized access, use or disclosure;
 - b. A list of any persons affected (if available);

- c. A description of the information included in the BREACH, impermissible use, or impermissible disclosure;
 - d. The date or dates of the BREACH, impermissible use, or impermissible disclosure;
 - e. The date of the discovery by Contractor;
 - f. A list of the proactive steps taken by Contractor and being taken to correct the BREACH, impermissible use or impermissible disclosure; and
 - g. Contact information at Contractor for affected persons who contact the Department regarding the issue.
- (2) Not less than two (2) business days before Contractor makes any external communications to the public, media, other governmental entity, or persons potentially affected by the BREACH, impermissible use, or impermissible disclosure, provide a copy of the planned communication to the Department Program Manager and Privacy Officer.
- (3) Within thirty (30) business days after Contractor makes the initial report under this Section, Contractor shall research the BREACH, impermissible use, or impermissible disclosure of Confidential Information and provide a report in writing to the Department Program Manager. The report must contain, at a minimum, to the extent known:
- a. A complete list of any persons affected (whose Confidential Information was supplied to Contractor by the Department) and their contact information;
 - b. Copies of correspondence or notifications provided to the public, media, other governmental entity, or persons potentially affected;
 - c. Whether Contractor's Privacy Officer has determined there has been an unauthorized acquisition under Wis. Stat. §134.98 and the reasoning for such determination;
 - d. If Contractor determines there has been a BREACH, impermissible use, or impermissible disclosure, an explanation of the root cause of the BREACH, impermissible use, or impermissible disclosure;
 - e. A list of the corrective actions taken to mitigate the BREACH, impermissible use, or impermissible disclosure; and
 - f. A list of the corrective actions taken to prevent a similar future BREACH, impermissible use, or impermissible disclosure.

(h) COORDINATION OF BREACH RESPONSE ACTIVITIES:

- (1) Contractor will fully cooperate with the Department's investigation of any BREACH of Confidential Information involving Contractor including but not limited to making witnesses, documents, systems logs, video recordings, or other pertinent or useful information available immediately upon Contractor's reporting of the BREACH and throughout the investigation. Contractor's full cooperation will include but not be limited to Contractor:
- a. Immediately preserving any potential forensic evidence relating to the BREACH, and remedying the BREACH as quickly as circumstances permit;
 - b. Within forty-eight (48) hours designating a contact person to whom the Department will direct inquiries, and who will communicate Contractor responses to Department inquiries; Contractor will designate a Privacy Officer and Security Officer to serve as contacts for the Department;
 - c. As rapidly as circumstances permit, applying appropriate resources to remedy the BREACH condition, investigate, document, restore the Department service(s) as directed by the Department, and undertake appropriate response activities such as working with the Department, its representative, and law enforcement to identify the BREACH, identify the perpetrator(s), and take appropriate actions to remediate the security vulnerability;
 - d. Providing status reports to the Department at mutually agreed upon timeframes until the root cause of the BREACH is identified and a plan is devised to fully remediate the BREACH;
 - e. Once the root cause of the BREACH is identified and a plan is devised to fully remediate the BREACH, providing status reports to the Department daily or at mutually agreed upon timeframes, to the Department on BREACH response activities, findings, analyses, and conclusions;
 - f. Coordinating all media, law enforcement, or other BREACH notifications with the Department in advance of such notification(s), unless expressly prohibited by law; and
 - g. Ensuring that knowledgeable Contractor staff is available on reasonable short notice, if needed, to participate in Department-initiated meetings and/or conference calls regarding the BREACH.
- (i) **CLASSIFICATION LABELS:** Contractor shall ensure that all data classification labels contained on or included in any item of Confidential Information shall be reproduced by Contractor on any reproduction, modification, or translation of such Confidential Information. Contractor shall make a reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the Department, as directed by the Department.

- (j) **SUBCONTRACTORS:** If applicable, Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit Confidential Information on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information.
- (k) **NOTICE OF LEGAL PROCEEDINGS:** If Contractor or any of its employees, agents, or subcontractors is legally required in any administrative, regulatory or judicial proceeding to disclose any Confidential Information, Contractor shall give the Department prompt notice (unless it has a legal obligation to the contrary) so that the Department may seek a protective order or other appropriate remedy. In the event that such protective order is not obtained, Contractor shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature.
- (l) **MITIGATION:** The Contractor shall take immediate steps to mitigate any harmful effects of the suspected or actual unauthorized use, disclosure, or loss of any Confidential Information provided to Contractor under the Contract. The Contractor shall reasonably cooperate with the Department's efforts to comply with breach notification requirements, to seek appropriate injunctive relief or otherwise prevent or curtail such suspected or actual unauthorized use, disclosure or loss, or to recover its Confidential Information, including complying with a reasonable corrective action plan, as directed by the Department.
- (m) **COMPLIANCE REVIEWS:** The Department will have access to within the secure Plan Sponsor website provided by Contractor, documentation that supports and informs the Department about Contractor's current security program and practices. Such documentation currently includes a Security Program Overview document, SOC 1 Type 2 report, SOC 2 Type 2 report, available IT certification reports (e.g. Verizon CRP) and a completed SIG questionnaire with related supporting materials.
- (n) **AMENDMENT:** The parties agree to take such action as is necessary to amend the Contract as necessary for compliance with applicable law.
- (o) **SURVIVAL:** The obligations of Contractor under this Section shall survive the termination of the Contract.
- (p) **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION:** Upon termination of the Contract for any reason, Contractor, with respect to Confidential Information received from the Department, another contractor of the Department, or created, maintained, or received by Contractor on behalf of the Department, shall:
 - (1) Retain only that Confidential Information which is necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities;
 - (2) Return to the Department or, if agreed to by the Department, destroy the remaining Confidential Information that Contractor still maintains in any form;
 - (3) Continue to use appropriate safeguards and prevent use or disclosure of Confidential Information, other than as provided for in this Subsection, for as long as Contractor retains the Confidential Information;
 - (4) Not use or disclose the Confidential Information retained by Contractor other than for the purposes for which such Confidential Information was retained and subject to the same conditions set out under Subsection 22(d) which applied prior to termination;
 - (5) Return to the Department or, if agreed to by the Department, destroy the Confidential Information retained by Contractor when it is no longer needed by Contractor for its proper management and administration or to carry out its legal responsibilities; and
 - (6) If required by the Department, transmit the Confidential Information to another contractor of the Department.
- (q) **ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS:** Contractor will make itself and any employees, subcontractors, or agents assisting Contractor in the performance of its obligations available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of a BREACH or other unauthorized disclosure of Confidential Information caused by Contractor that results in litigation, governmental investigations, or administrative proceedings against the Department, its directors, officers, agents or employees based upon a claimed violation of laws relating to security and privacy or arising out of these Terms and Conditions or the Contract.

23.0 INDEMNIFICATION:

- 23.1 **SCOPE OF INDEMNIFICATION FOR INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT:** In the event of a claim against the parties for Intellectual Property Rights Infringement associated with a claim for benefits, Contractor agrees to defend, indemnify and hold harmless the Department and its governing boards ("Indemnified Parties") from and against any and all claims, actions, loss, damage, expenses, costs (including reasonable fees for Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office) reasonable attorneys' fees otherwise incurred by the Department, its governing boards, and/or the

Wisconsin Attorney General's Office, court costs, and related reasonable legal expenses whether incurred in defending against such claims or enforcing this Section.

- 23.2 SCOPE OF OTHER INDEMNIFICATION:** In addition to the foregoing Section, Contractor shall defend, indemnify and hold harmless the Indemnified Parties from and against any and all claims, actions, loss, damage, expenses, costs (including reasonable fees for the Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office), court costs, and related reasonable legal expenses whether incurred in defending against such claims or enforcing this Section, or liability arising from or in connection with the following: (a) Contractor's performance of or failure to perform any duties or obligations under any agreement between Contractor and any third party; (b) injury to persons (including death or illness) or damage to property caused by the act or omission of Contractor, Contractor employees or subcontractors; (c) any claims or losses for Services rendered by any subcontractor, person, or firm performing or supplying Services, materials, or supplies in connection with the Contractor's performance of the Contract; (d) any claims or losses resulting to any person or third party entity injured or damaged by the Contractor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by federal or State statutes or regulations; and (e) any failure of the Contractor, its officers, employees, or subcontractors to observe State and federal laws including, but not limited to, labor and wage and hour laws.
- 23.3 INDEMNIFICATION NOTICE:** The Department shall give the Contractor prompt written notice of such claim, suit, demand, or action (provided that a failure to give such prompt notice will not relieve the Contractor of its indemnification obligations hereunder except to the extent Contractor can demonstrate actual, material prejudice to its ability to mount a defense as a result of such failure). The Department will cooperate, assist, and consult with the Contractor in the defense or investigation of any claim made or suit filed against the Department resulting from Contractor's performance under the Contract.
- 23.4 NO INDEMNIFICATION OBLIGATIONS:** Contractor shall, as soon as practicable, notify the Department of any claim made or suit filed against Contractor resulting from Contractor's obligations under the Contract if such claim may involve the Department. The Department has no obligation to provide legal counsel or defense to Contractor if a suit, claim, or action is brought against Contractor or its subcontractors as a result of Contractor's performance of its obligations under the Contract. In addition, Department has no obligation for the payment of any judgments or the settlement of any claims against Contractor arising from or related to the Contract. Department has not waived any right or entitlement to claim sovereign immunity under the Contract.
- 23.5 CONTRACTOR'S DUTY TO INDEMNIFY:** The Contractor shall comply with its obligations to indemnify, defend and hold the Indemnified Parties harmless with regard to claims, damages, losses and/or expenses arising from a claim. The Contractor shall be entitled to control the defense of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing; however, the Contractor shall consult with the Department regarding its defense of any claim and not settle or compromise any claim or action in a manner that imposes restrictions or obligations on Department, requires any financial payment by the Department, or grants rights or concessions to a third party without first obtaining the Department's prior written consent. Contractor shall have the right to assert any and all defenses on behalf of the Indemnified Parties, including sovereign immunity.

In carrying out any provision of the Contract or in exercising any power or authority granted to the Contractor thereby, there shall be no liability upon the Department, it being understood that in such matters the Department acts as an agent of the State.

The Contractor shall at all times comply with and observe all federal and State laws and regulations which are in effect during the period of the Contract and which in any manner affect the work or its conduct.

- 24.0 EQUITABLE RELIEF:** The Contractor acknowledges and agrees that the unauthorized use, disclosure, or loss of Confidential Information may cause immediate and irreparable injury to the individuals whose information is disclosed and to the State, which injury shall not be compensable by money damages and for which there is not an adequate remedy available at law. Accordingly, the Department and the Contractor specifically agree that the Department, on its own behalf or on behalf of the affected individuals, shall be entitled to obtain injunctive or other equitable relief to prevent or curtail any such BREACH, threatened or actual, without posting security and without prejudice to such other rights as may be available under the Contract or under applicable law.
- 25.0 RIGHT TO PUBLISH OR DISCLOSE:** Throughout the term of the Contract, the Contractor must secure the Department's written approval prior to the release of any information which pertains to work or activities covered by the Contract.

The Department and the Contractor agree that it is a breach of the Contract to disclose any information to any person that the Department or its governing boards may not disclose under Wis. Stat. § 40.07. Contractor acknowledges that it will be liable for damage or injury to persons whose Confidential Information is disclosed by any officer, employee, agent, or subcontractor of the Contractor without proper authorization.

26.0 TIME IS OF THE ESSENCE: Timely provision of the Services required under the Contract shall be of the essence of the Contract, including the provision of the Services within the time agreed or on a date specified in the Contract.

27.0 IDENTIFICATION OF KEY PERSONNEL AND PERSONNEL CHANGES: The Department will designate a contract administrator, who shall have oversight for performance of the Department's obligations under the Contract. The Department shall not change the person designated without prior written notification to the Contractor.

The State of Wisconsin reserves the right to approve all individuals assigned to the project described in the Contract. The Contractor agrees to use its best efforts to minimize personnel changes during the Contract term.

At the time of Contract negotiations, the Contractor shall furnish the Department with names of all key personnel assigned to perform work under the Contract and furnish the Department with criminal background checks.

The Contractor will designate a contract administrator who shall have executive and administrative oversight for performance of the Contractor's obligations under the Contract. The Contractor shall not change this designation without prior written notice to the Department.

The Contractor may not divert key personnel for any period of time except in accordance with the procedure identified in this Section. The Contractor shall provide a notice of proposed diversion or replacement to the Department Program Manager and Contract Manager at least sixty (60) calendar days in advance, together with the name and qualifications of the person(s) who will take the place of the diverted or replaced staff. At least thirty (30) calendar days before the proposed diversion or replacement, the Department shall notify the Contractor whether the proposed diversion or replacement is approved or rejected, and if rejected shall provide reasons for the rejection. Such approval by the Department shall not be unreasonably withheld or delayed.

Replacement staff shall be on-site within two (2) weeks of the departure date of the person being replaced. The Contractor shall provide the Department with reasonable access to any staff diverted by the Contractor.

Replacement of key personnel shall be with persons of equal ability and qualifications. The Department has the right to conduct separate interviews of proposed replacements for key personnel. The Department shall have the right to approve, in writing, the replacement of key personnel. Such approval shall not be unreasonably withheld. Failure of the Contractor to promptly replace key personnel within thirty (30) calendar days after departure shall entitle the Department to terminate the Contract. The Contractor's notice and justification of a change in key personnel must include identification of proposed substitute key personnel and must provide sufficient detail to permit the Department to evaluate the impact of the change on the project and/or maintenance.

Any of the Contractor's staff that the Department deems unacceptable shall be promptly and without delay removed from the project by the Contractor and replaced by the Contractor within thirty (30) calendar days by another employee with acceptable experience and skills subject to the prior approval of the Department. Such approval by the Department will not be unreasonably withheld or delayed.

For any unauthorized change by the Contractor of any contracted personnel designated as key personnel, the Contractor will pay the Department a replacement fee of ten thousand dollars (\$10,000) per occurrence.

28.0 INFORMATION SECURITY AGREEMENT

(a) PURPOSE AND SCOPE OF APPLICATION: This Information Security Agreement ("Agreement") is designed to protect the Department's Confidential Information (defined above in Section 22.0) and Department Information Resources (defined below). This Agreement describes the information security obligations of Contractor, its employees, contractors and third-party users that connect to Department Information Resources and/or gain access to Confidential Information.

(b) DEFINED TERMS:

- (1) Department Information Resources.** "Department Information Resources" means those devices, networks and related infrastructure that the Department has obtained for use to conduct Department business. Devices include but are not limited to, Department-owned devices; devices managed or used through service agreements; storage, processing, and communications devices and related infrastructure on which Department data is accessed, processed, stored, or communicated; and may include personally owned devices. Data includes, but is not limited to, Confidential Information, other

Department-created or managed business and research data, metadata, and credentials created by or issued on behalf of the Department.

- (c) **ACCESS TO DEPARTMENT INFORMATION RESOURCES:** In any circumstance when Contractor is provided access to Department Information Resources, it is solely Contractor's responsibility to ensure that its access does not result in any access by unauthorized individuals to Department Information Resources. Contractors who access the Department's Information Resources from any Department location must at a minimum conform with Department security standards that are in effect at the Department location(s) where the access is provided. Any Contractor technology and/or systems that gain access to Department Information Resources must comply with, at a minimum, the elements in the Information Security Plan Requirements set forth in this Agreement.
- (d) **COMPLIANCE WITH APPLICABLE LAWS:** Contractor agrees to comply with all applicable state and federal laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Confidential Information.
- (e) **SAFEGUARD STANDARD:** Contractor agrees to protect the security of Confidential Information according to all applicable laws and regulations by generally accepted information risk management security control frameworks, standards or guidelines such as the ISO/IEC 27000-series, NIST800-53, CIS Critical Security Controls for Effective Cyber Defense or HIPAA Security Rule – 45 CFR Part 160 and Subparts A and C of Part 164 and no less rigorously than it protects its own confidential information, but in no case less than reasonable care. Contractor will implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of the Confidential Information. Contractor will ensure that all security measures are regularly reviewed including ongoing monitoring, monthly vulnerability testing and annual penetration and security incident response tests, revised, no less than annually, to address evolving threats and vulnerabilities while Contractor has responsibility for the Confidential Information under the terms of this Agreement.
- (f) **INFORMATION SECURITY PLAN:**
- (1) Contractor acknowledges that the Department is required to comply with information security standards for the protection of Confidential Information as required by law, regulation and regulatory guidance, as well as the Department's internal security program for information and systems protection.
 - (2) Contractor shall develop, implement, and maintain a comprehensive Information Security Plan that contains administrative, technical, and physical safeguards designed to ensure the privacy, security, integrity, availability, and confidentiality of the Confidential Information. Contractor must provide evidence to the Department of one or more of the following for the plan:
 - a. Certification in, or compliance with, generally accepted information risk management security control frameworks, standards or guidelines such as:
 - i. ISO/IEC 27000-series;
 - ii. NIST800-53;
 - iii. CIS Critical Security Controls for Effective Cyber Defense; or
 - iv. HIPAA Security Rule - 45 CFR Part 160 and Subparts A and C of Part 164; and
 - b. Compliance with any state or federal regulations by which the person or entity who owns or licenses such information may be regulated; or
 - c. At a minimum, include the elements listed in the Information Security Plan Requirements set forth below.
 - (3) Upon the Department's request, Contractor shall submit one of the following documents to the Department:
 - a. Independent attestation of certification;
 - b. Information Security Plan scope statement;
 - c. Information Security Plan statement of applicability; or
 - d. SOC 2, Type 2 audit and letter of attestation indicating Contractor's receipt of management's assertion of control compliance from Contractor's subcontractors as described in Section 6 Audit Provision.

The Department reserves the right to require the Contractor to provide more than one of the above documents. If Contractor is unable to produce one of the above documents, Contractor may satisfy the requirement by providing the assurances in Section 28.0(h) below.
 - (4) Annually, or upon a significant change in risk posture, Contractor will review its Information Security Plan and update and revise it as needed. If at any time there are any material reductions to Contractor's Information Security Plan, Contractor will notify the Department within two weeks of the completion of the review and prior to implementation. In such instances, the Department will require an explanation of

the reductions. At the Department's request, Contractor will make modifications to its Information Security Plan or to the procedures and practices thereunder to conform to the Department's security requirements as defined herein.

- (5) Empower's response to the 'State of Wisconsin: Department of Employee Trust Funds Privacy and Security Questionnaire' dated 03.04.22, is hereby incorporated into this Agreement. Notwithstanding the foregoing, the parties agree that due to the ever-evolving nature and ongoing maturation of Empower's data security program, Empower reserves the right to make changes to its data security program that could alter its responses to such Privacy and Security Questionnaire dated 03.04.22 without notifying Plan Sponsor. For the avoidance of doubt, any such changes made by Empower to its data security program and any resulting changes to its responses to the Questionnaire shall be consistent with past practice and shall not be materially diminished from the data security program and version of the Privacy and Security Questionnaire dated 03.04.22 that were in place at the time of the execution of this Agreement.

- (g) **ADDITIONAL INSURANCE:** In addition to the insurance required under the Contract, Contractor, at its sole cost and expense, will obtain, keep in force, and maintain an insurance policy (or policies) that provides coverage for privacy and data security breaches. This specific type of insurance is typically referred to as Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability. In some cases, Professional Liability policies may include some coverage for privacy and/or data breaches. Regardless of the type of policy in place, it needs to include coverage for reasonable costs in investigating and responding to privacy and/or data breaches with the following minimum limits unless the Department specifies otherwise: \$1,000,000 Each Occurrence and \$5,000,000 Aggregate. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Department requires and is entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Department.

(h) **INFORMATION SECURITY PLAN REQUIREMENTS:**

If Contractor cannot provide evidence of its Information Security Plan as required in Section 28.0(f)(2)a above, Contractor shall provide the following assurances to the Department:

(1) Security Policies:

- a. Contractor's security policy is documented, has obtained management approval, is reviewed no less frequently than annually and is maintained to ensure its continuing suitability, adequacy and effectiveness; and
- b. Contractor's operational, technical and administrative policies, standards and guidelines are documented, have obtained management approval, are reviewed no less frequently than annually and are maintained to ensure their continuing suitability, adequacy and effectiveness.

(2) Security Organization:

- a. The Contractor's security organization is governed and overseen by Contractor's senior leadership;
- b. Contractor's security organization includes representation from across Contractor's organization with defined roles and responsibilities;
- c. Contractor has clearly defined information security responsibilities;
- d. Contractor has confidentiality or non-disclosure agreements in place with the appropriate external entities;
- e. Contractor's management and implementation of information security (i.e. control objectives, controls, policies, processes, and procedures for information security) are reviewed independently at planned intervals, or when significant changes to the implementation of information security occur; and
- f. Contractor's agreements with third parties involving accessing, processing, communicating or managing the Contractor's information or information processing facilities, cover all relevant security requirements.

(3) Asset Management:

- a. Contractor has identified, inventoried, assigned ownership and established rules for acceptable use for information and associated assets; and
- b. Contractor has a process in place to classify information in terms of its value, legal requirements, sensitivity and criticality to Contractor.

(4) Human Resources:

- a. Security roles and responsibilities of Contractor's employees, contractors and third-party users have been defined and documented in accordance with Contractor's information security policy;

- b. Contractor performs background verification checks on all candidates for employment, contractors, and third-party users in accordance with relevant laws, regulations and ethics, and proportional to the business requirements, the classification of the information to be accessed, and the perceived risks;
- c. All Contractor's employees and, where relevant, contractors and third-party users, shall receive appropriate security awareness training and regular updates regarding Contractor's security policies and procedures, as relevant for their job function;
- d. Contractor has a formal disciplinary process in place for employees who have committed a security breach;
- e. Contractor's employees' responsibilities for performing employment terminations and changes of employment status are clearly defined and assigned;
- f. All Contractor's employees, contractors and third-party users shall return all Contractor's and the Department's assets in their possession upon termination of their employment, contract or agreement; and
- g. The access rights of all Contractor employees, contractors and third-party users to information and information processing facilities are removed upon termination of their employment, contract or agreement, or adjusted upon a status change.

(5) Physical and Environmental Security:

- a. **Secure Areas**
 - i. Contractor has a physical and environmental policy in place, with standards and guidelines that have been documented and obtained management approval, that is reviewed no less frequently than annually and is maintained to ensure its continuing suitability, adequacy and effectiveness;
 - ii. Contractor's secure areas are protected by appropriate entry controls to ensure that only authorized personnel are allowed access; and
 - iii. Contractor's physical protection and guidelines for working in secure areas have been adequately designed and applied.
- b. **Equipment security**
 - i. Contractor's equipment, and the equipment Contractor may utilize in its operations that is owned by a third party, is maintained to ensure its continued availability and integrity; and
 - ii. Contractor's security measures have been applied to off-site equipment to address the risks of working outside the Contractor's premises.
- c. **Operations management**
 - i. Contractor's operating procedures have been documented, maintained, and made available to all users who require them;
 - ii. Contractor controls changes to information processing facilities and systems; and
 - iii. Contractor has segregated duties and areas of responsibility to reduce opportunities for unauthorized or unintentional modification or misuse of Contractor's assets.
- d. **Third party service delivery management**
 - i. Security controls, service definitions and delivery levels included in Contractor's third-party service delivery agreements are implemented, operated, and maintained by the third party; and
 - ii. The services, reports and records provided by third parties are regularly monitored, reviewed and audited by Contractor.
- e. **Back-up**
 - i. Contractor regularly makes and tests back-up copies of information and software in accordance with Contractor's backup policy.
- f. **Network security management**
 - i. Networks are managed and controlled, either by Contractor or a third party under contract with Contractor; and
 - ii. Security features, service levels, and management requirements of all Contractor's network services have been identified and included in any network services agreement, whether these services are provided in-house by Contractor or outsourced.
- g. **Media handling**
 - i. Contractor has procedures in place to prevent unauthorized disclosure, modification, misuse, removal or destruction of assets, and interruption to business activities; and
 - ii. Contractor has procedures in place for the management of removable media, including the secure and safe disposal of media when no longer required.
- h. **Exchange of information**
 - i. Contractor has established agreements for the secure exchange of information and software between Contractor and appropriate external parties;
 - ii. Contractor shall ensure information involved in electronic messaging is protected;

- iii. Contractor has developed and implemented policies and procedures to protect the exchange of information; and
 - iv. Contractor shall ensure the integrity of information being made available on a publicly available system is protected to prevent unauthorized modification.
- i. Monitoring**
- i. Contractor shall produce and keep a rolling twelve (12) consecutive months of audit logs recording user activities, exceptions, and information security events to assist in future investigations and access control monitoring;
 - ii. Contractor's logging facilities and log information are protected against tampering and unauthorized access; and
 - iii. Contractor's system administrator and system operator activities are logged.
- (6) Access Management:**
- a. Access control**
- i. Contractor has an established and documented access control policy that is reviewed regularly based on business and security requirements for access;
 - ii. Contractor has a formal user registration and de-registration procedure in place for granting and revoking access to all information systems and services;
 - iii. Contractor restricts and controls the allocation and use of access privileges;
 - iv. Contractor controls the allocation of passwords through a formal management process; and
 - v. Contractor's management reviews users' access rights at regular intervals using a formal process.
- b. User responsibilities**
- i. Users are required to follow good security practices in the selection and use of passwords;
 - ii. Users shall ensure that unattended equipment is protected; and
 - iii. Users shall adopt a clear desk policy for papers and removable storage media and a clear screen policy for information processing facilities.
- c. Network access control**
- i. Contractor's users shall only be provided with access to the services that they have been specifically authorized to use;
 - ii. Contractor has implemented appropriate authentication methods to control access by remote users;
 - iii. Contractor has segregated groups of information services, users, and information systems on networks;
 - iv. For shared networks, especially those extending across Contractor's boundaries, Contractor has restricted the capability of users to connect to the network, in line with Contractor's access control policy; and
 - v. Contractor has implemented routing controls for networks to ensure that computer connections and information flows do not breach Contractor's access control policy.
- (7) Security Requirements of Information Systems:**
- a. Correct processing in applications**
- i. Contractor shall validate data input to applications to ensure the data is correct and appropriate, and incorporate validation checks to detect any corruption of information through processing errors or deliberate acts;
 - ii. Contractor has identified the requirements for ensuring authenticity and protecting message integrity in applications, and identified and implemented appropriate controls; and
 - iii. Contractor has validated the data output from an application to ensure that the processing of stored information is correct and appropriate to the circumstances.
- b. Cryptographic controls**
- i. Contractor has a cryptographic controls policy in place that is documented, has obtained management approval, is reviewed no less frequently than annually and is maintained to ensure its continuing suitability, adequacy and effectiveness.
- c. Security of system files**
- i. Contractor has procedures in place to control the installation of software on operational systems;
 - ii. Contractor selects test data carefully, and the test data is protected and controlled; and
 - iii. Contractor restricts access to program source code.
- d. Security in development and support processes**
- i. Contractor has implemented procedures to maintain the security of application system software and information;

- ii. Contractor utilizes formal change control procedures to implement changes; and
 - iii. Contractor supervises and monitors outsourced software development.
- e. Technical Vulnerability Management**
- i. Contractor documents the technical vulnerabilities, the exposure evaluated, and the appropriate measures taken to address the associated risk.

(8) Information Security Incident Management:

- a. Contractor communicates information security events and weaknesses associated with information systems in a manner allowing timely corrective action to be taken;
- b. All Contractor's employees, contractors and third-party users of information systems and services are provided awareness training on reporting an observed or suspected incident; and
- c. **Management of information security incidents and improvements**
 - i. The responsibilities and procedures of Contractor's management have been established to ensure timely, effective, and orderly response to information security incidents;
 - ii. Contractor has mechanisms in place to enable the security incidents to be quantified and monitored; and
 - iii. Where a follow-up action against a person or organization after an information security incident involves legal action (either civil or criminal), Contractor shall collect, retain and present evidence in conformance with the rules for evidence established in the relevant jurisdiction(s).

(9) Business Continuity Management:

- i. Contractor has implemented one or more business continuity plans, including an information security plan, to maintain or restore operations and ensure availability of information at the required level and in the required timeframe following interruption to, or failure of, critical business processes;
- ii. Contractor tests and updates its business continuity plans regularly to ensure that they are up to date and effective; and
- iii. Contractor shall include the Department's designated contact in Contractor's business continuity plans for notification concerning any disruption that may impact the Services.

(10) Compliance:

a. Identification of applicable legislation

- i. Contractor understands all relevant statutory, regulatory and contractual requirements under the Contract, and Contractor's approach to meet these requirements has been explicitly defined, documented, and kept up to date;
- ii. Contractor has implemented appropriate procedures to ensure compliance with legislative, regulatory, and contractual requirements under the Contract on the use of material which may be afforded intellectual property rights;
- iii. Contractor shall ensure that important records are protected from loss, destruction and falsification, in accordance with the statutory, regulatory, contractual, and business requirements under the Contract; and
- iv. Contractor shall ensure the protection and privacy of data as required in relevant legislation, regulations, and, as applicable, the Contract.

29.0 DISCLOSURE: If a State public official (Wis. Stat. § 19.42), a member of a State public official's immediate family, or any organization in which a State public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to the Contract, and if the Contract involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, the Contract is voidable by the Department unless appropriate disclosure is made according to Wis. Stat. § 19.45(6), before the Contract is signed. Disclosure must be made to the Department or the State of Wisconsin Ethics Commission, P.O. Box 7125, Madison, Wisconsin 53703 (telephone: 608-266-8123; fax: 608-264-9319; email: Ethics@wi.gov).

30.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:

30.1 Contractor certifies that no relationship exists between Contractor and the Department that interferes with fair competition or is a conflict of interest, and no relationship exists between the Contractor and another person or organization that constitutes a conflict of interest with respect to a State contract. The Department may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

30.2 Contractor agrees that during performance of the Contract, the Contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the Department or has interests that are adverse to the Department. The Department may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES: Reference to or use of the Department, the State, any of its departments, agencies or other subunits, or any State official or employee for commercial promotion is prohibited. News releases pertaining to the Contract, shall not be made without prior approval of the Department. Release of broadcast e-mails pertaining to the Contract shall not be made without prior written authorization of the Department.

32.0 EMPLOYMENT: The Contractor will not engage the services of any person or persons now employed by the State, including any department, commission or board thereof, to provide services relating to the Contract without the written consent of the employing agency of such person or persons and of the Department.

33.0 INDEPENDENT CAPACITY OF CONTRACTOR: The Department and the Contractor agree that the Contractor, its officers, agents, and employees, in the performance of the Contract shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. The Contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the Contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State.

34.0 TAXES: The State and its agencies are exempt from payment of all federal tax and State and local taxes on its purchases except Wisconsin excise taxes as described below.

The State is exempt from payment of Wisconsin sales or use tax on its purchases. The State may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay State use tax on the cost of materials.

35.0 VENDOR TAX DELINQUENCY: The State may offset Contractor's payments if Contractor has a delinquent State tax liability. If such action is taken by the State, the Department will not be liable for any impact sustained by the Contractor due to any delay, or total offset, of any payment owed to the Contractor under the Contract by the Department.

36.0 FOREIGN CORPORATION: If Contractor is a foreign corporation (any corporation other than a Wisconsin corporation), Contractor is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporations, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.

37.0 RECORDKEEPING AND RECORD RETENTION: The Contractor shall establish and maintain adequate records of all expenditures incurred under the Contract. All records must be kept in accordance with generally accepted accounting procedures. All procedures must be in accordance with federal, State and local ordinances.

The Department shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to the Contract held by the Contractor.

It is the intention of the State to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of a contract. Pursuant to Wis. Stat. §19.36(3), all records of the Contractor that are produced or collected under the Contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of a public records request for records produced or collected under the Contract, the Contractor shall provide the requested records to the Department. The Contractor, following final payment, shall retain all records produced or collected under the Contract for six (6) years.

38.0 ANTITRUST ASSIGNMENT: The Contractor and the State recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State (purchaser). Therefore, the Contractor hereby assigns to the State any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

39.0 ASSIGNMENT: No right or duty in whole or in part of the Contractor under the Contract may be assigned or delegated without the prior written consent of the Department. Notwithstanding the foregoing, a party may assign this Agreement in connection with: (i) the sale of substantially all of its assets or the assets of any business unit to an entity that assumes the assignor's obligations under this Agreement; (ii) a merger, acquisition or divestiture; and/or (iii) a transfer to a parent or Affiliate, in each case without the other party's consent.

- 40.0 PATENT INFRINGEMENT:** If goods, products, or articles are provided under the Contract, the Contractor guarantees such items were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of such items described in the Contract will not infringe any United States patent. The Contractor covenants that it will, at its own expense, defend every suit which shall be brought against the State (provided that the Contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such items, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.
- 41.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the Department must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 42.0 FORCE MAJEURE:** Neither the Contractor nor the Department shall be in default by reason of any failure in performance of the Contract in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the non-performing party.
- 43.0 SURVIVAL:** The obligations and terms listed in this Section shall survive termination of the Contract in perpetuity unless otherwise noted. Contractor's duty to cooperate with audits under Sections 6.3 and 6.4 shall survive for one year after termination of the Contract or until the resolution of any Contract dispute, whichever is longer. Contractor's duties under Section 28.0 shall survive for as long as the Contractor has access to Department Information Resources and Department data. Payment obligations that accrue prior to the date of termination, or as part of a transition plan, shall survive termination of the Contract. Section 1.0, Section 10.0, Section 11.0, Section 13.0, Section 14.0, Section 18.0, Section 21.0, Section 22.0, Section 23.0, Section 25.0, Section 31.0, Section 35.0, Section 37.0, Section 39.0, and this Section 43.0 shall also survive termination of the Contract.

EXHIBIT 2: Program Agreement

The Wisconsin Deferred Compensation Program (WDC) is one of the ten largest s. 457 supplemental defined contribution retirement savings plans for public sector employees in the United States. It is available to all State and University of Wisconsin employees, as well as employees of local governments and school districts in Wisconsin that have elected to offer the WDC. The WDC provides eligible Employees with the opportunity to invest a portion of their annual earnings on a before or after-tax basis to supplement retirement income, provides ongoing financial education and services, and offers flexible distribution options.

The Wisconsin Department of Employee Trust Funds (Department) and the Deferred Compensation Board (Board) have statutory authority for administration and oversight of the WDC. The Board contracts with a third-party administrator (TPA) for a full range of services and functions related to the WDC, including marketing, customer service, recordkeeping and overall plan administration.

The WDC terms and conditions are governed by the following:

- [Wisconsin Statute § 40.80, 40.81, & 40.82](#) and WI Admin. Code ETF [Chapter 70](#).
- Wisconsin Plan and Trust document:
<https://etf.wi.gov/boards/deferredcompensation/plantrust/direct>
- Investment Policy Statement:
<https://etf.wi.gov/boards/deferredcompensation/13investpolicystatement/direct>
- Investment Option Selection and Reimbursements Policy:
<https://etf.wi.gov/boards/deferredcompensation/optionselectreimbursement/direct>

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DEFINITIONS AND ACRONYMS

Board means the Deferred Compensation Board.

Business Day means each Calendar Day except Saturday, Sunday, and official State of Wisconsin holidays.

Capital Preservation means an investment option where the primary goal is to preserve capital and prevent loss.

Calendar Day or Day means a period of twenty-four hours starting at midnight.

Calendar Year or Year means the time period from January 1 to December 31.

Contract means the written agreement resulting from the successful Proposal and subsequent negotiations that shall incorporate the documents as set forth in the Order of Precedence.

Contractor means the Proposer who is awarded a Contract from this RFP ETJ0061.

Department or ETE means the State of Wisconsin Department of Employee Trust Funds.

Eligible Beneficiaries has the meaning given in Wis. Stat. §40.02 (8).

Employee means any person who receives earnings as payment for personal services rendered for the benefit of any employer including officers of the employer and is eligible to participate in the deferred compensation program

Equity Wash Provisions means contractual provisions in certain competing investment options (ex. a stable value option) that requires any transfer a Participant makes from the fund to a competing option to be first directed to any other investment option not designated as a competing option for a set period of time.

Investment Product means any insurance or annuity contract, bank or credit union account, mutual or money market fund, collective investment trust (CIT), or other type of investment vehicle.

Investment Provider means any company that manages and offers investment products.

Participant means an individual who is currently deferring compensation, or who has previously deferred compensation under the WDC by salary reduction and who has not received a distribution of their entire benefit under the WDC. Only individuals who perform services for the employer as an employee may defer compensation under the WDC. See WDC Plan and Trust Document.

Plan or Program means the State of Wisconsin Deferred Compensation Program created and regulated under Chapter 40 of the Wisconsin State Statutes.

Program Agreement means this document, Exhibit 2 (revised RFP Appendix 3), the specific agreement that describes the Deferred Compensation Program offered to Employees.

Self-Directed Brokerage Account (SDBA) means an Investment Product that permits knowledgeable investors to invest in a range of mutual funds not found in the WDC core lineup.

Services means all work performed, labor, actions, recommendations, plans, research, and documentation provided by the Contractor necessary to fulfill that which the Contractor is obligated to provide under the Contract as described in this document, Exhibit 2 – Program Agreement and the Wisconsin Plan and Trust Document as may be amended and restated.

Short-term trading restrictions refers to timeframe limitations placed on “in-and-out” buying or selling of an investment product by an Investment Provider or as required by federal or state law.

WDC means the Wisconsin Deferred Compensation Program.

1 DISCLOSURES

The Contractor shall:

- 1.1 Accurately and fully disclose all fund expense and revenue sharing arrangements associated with all funds being offered by the WDC. Fixed or general account products will not be excluded from this requirement. Contractor must provide an accurate assessment of product expenses and revenue remitted to the Contractor.
- 1.2 Accurately and fully disclose all expenses and revenues associated with any service made available under the

WDC. This includes services such as managed accounts, investment advice, financial planning and self-directed brokerage accounts.

- 1.3 Carry fiduciary insurance or errors and omissions insurance sufficient to cover any claims incurred by the WDC for which Contractor is liable under the Agreement.
- 1.4 Carry cyber security insurance or errors and omissions insurance sufficient to cover any claims incurred by the WDC for which Contractor is liable under the Agreement.
- 1.5 Make Participants whole at the Contractor's expense and not at the expense of the WDC or the Participants, to the extent the error is the result of the Contractor.
- 1.6 Provide staff assistance to the WDC and perform tasks and schedule assistance in a mutually agreed upon manner.
- 1.7 Provide access to Contractor software as necessary for Department staff to fulfill Department's obligations under the Agreement and ensure that its staff and Department staff are trained to use this system to obtain information on employees and employers participating in the WDC.
- 1.8 Assist in resolving system access issues for the Department and employers including, but not limited to password, authorization problems, slow response time and system down-time.
- 1.9 Share data and provide strategic coordination in developing an annual strategic plan with the Department and Board that outlines yearly goals and tactics to achieve those goals.
- 1.10 Perform other duties as agreed upon between the Contractor and the Department which are necessary for the efficient and effective operation of the WDC.
- 1.11 Furnish the Department with an annual report itemizing administrative costs (percentage of total and actual dollar amounts) incurred by the Contractor for marketing, processing transaction costs, forms/printing costs, etc. specifically for the WDC.
- 1.12 Maintain an administrative expense account to handle all expenses relating to the WDC. Revenues from Participant fees as well as the interest generated on the account are deposited into the administrative expense account. The recordkeeping of this administrative account is the responsibility of the Contractor. The Contractor maintains this account and provides a monthly report to the Department detailing all generated revenues and expenses.
- 1.13 Make payments for WDC expenses from the administrative expense account by the Contractor as requested by the Department.
- 1.14 Ensure Contractor and none of its officers, agents or employees receive or handle any funds deferred by Participants under the WDC except as stated in the Contract.
- 1.15 Not establish any other public employee deferred compensation plan for any employing bodies that could also be included in the WDC, unless there is prior approval by the Department and an impartial comparison of the WDC to any other plan has first been presented. In the event that the Contractor administers "other" plans in Wisconsin, the Contractor shall provide detail of how many "other" plans are established and for existing "other" plans, the Contractor will furnish a report detailing the number enrolled and the amount deferred on an annual basis.
- 1.16 Notify the Board and Department in writing if the Contractor experiences a change in ownership or enters bankruptcy proceedings during the period prior to the award of a Contract pursuant to the RFP, or during the term of the Contract. The Board must be notified in writing at the time the event occurs or is identified. Willful failure to notify the Board upon receipt of an SEC Form 13g shall constitute cause for canceling the Contract. Failure to notify the Board of bankruptcy proceedings shall constitute cause for canceling the Contract. For the purpose of this section, "change of ownership" does not include a sale or transfer of Contractor's publicly held securities unless an individual partnership, corporation, associate group of investors or legal entity obtains an ownership interest of the Contractor in the amount of five percent (5%) or more.

2 RECORDKEEPING REQUIREMENTS

The Contractor shall:

- 2.1 Provide necessary recordkeeping functions and accounting procedures for the WDC.
- 2.2 Ensure Contractor's recordkeeping system is in compliance with all applicable local, State and federal statutes and regulations.
- 2.3 Properly receive, disburse, control and audit Participant accounts and ensure timeliness, accuracy and confidentiality of records.
- 2.4 Offer all the investment options utilized by the WDC on the Contractor's trading platform. See Wisconsin Deferred Compensation Program Fact Sheet <http://etf.wi.gov/publications/et8904.pdf> for the investment option list.
- 2.5 Maintain and provide secure online access to a system for Participants and employers participating in the WDC to view their information, request changes and complete transactions.
- 2.6 Maintain a system that contains, at a minimum, the following Participant Information:
 - (a) The full name, Social Security Number or member ID number, phone number, email and mailing address of each WDC Participant. Social Security numbers may be incorporated into the data file and may be used for identification purposes only and not disclosed or used for any other purpose. The Contractor must always keep a record of Social Security numbers for providing data and other reports to the Department or its authorized contractors. Any costs incurred by the Department because of Contractor's failure to comply with this requirement shall be paid by Contractor.
 - (b) The Participant's gender identification, date of birth, and date of hire.
 - (c) The Participant's employer(s).
 - (d) All Participant beneficiary designations.
 - (e) The type of contribution/deferral amounts selected by the Participant.
 - (f) The amount of each contribution/deferral selected by the Participant.
 - (g) The investment options to which the contributions were originally directed.
 - (h) The dates of any transactions or other updates.
 - (i) Other data as mutually agreed upon by the Contractor and the Department.
- 2.7 Maintain each employer's name, primary contact, email, phone number, address, and be capable of retrieving a list of Participants of that employer in the recordkeeping system.

3 STAFF AND WISCONSIN PRESENCE

The Contractor shall:

- 3.1 Designate a "state director" or plan manager who shall be available to the Department as needed to confer in person or by telephone regarding current questions on WDC operations, claims, and unusual problems. This individual will be based in Wisconsin and regularly attend meetings as determined by the Department. The Contractor shall abide by Exhibit 1: Department Terms and Conditions, Section 27.0 Identification of Key Personnel and Personnel Changes of the Department Terms and Conditions.
- 3.2 Agree that compensation or remuneration for the Contractor or the Contractor's staff will not be received from any State or local employees, the Department or Investment Providers for performing Services required or permitted under the Contract.
- 3.3 Agree that a salary-based compensation structure (which may include eligibility for an annual bonus) is required for all representatives dedicated to the WDC; commission-based compensation or financial incentives to promote any Investment Products or services will not be permitted for such dedicated representatives.
- 3.4 Agree that Contractor's sole compensation for performing the Services under the Contract shall be the

monthly amount agreed to in the Contract. Any amounts paid by Investment Providers for reimbursement for recordkeeping services, material reimbursements, etc., will be totaled and reduce, dollar for dollar, the monthly disbursement to the Contractor from the WDC's administrative expense account.

- 3.5 Provide a customer service office dedicated to the WDC located in Madison, Wisconsin. The Contractor must agree to obtain Department approval prior to determining location. The Contractor will be responsible for establishing its own local office, including any applicable rent. This office must provide service to Participants between 8:00 a.m. and 4:30 p.m. Central Standard Time (CST) every Business Day. This office must be staffed by employees working solely on the WDC/for the WDC (no other service offerings/sales).
- 3.6 Employ WDC representatives "field staff" across Wisconsin at a level to be mutually agreed upon by the Contractor and the Department prior to the beginning of the Contract.

These staff will report to the Contractor's state director or plan manager and represent only the WDC when meeting with Participants and employers.

4 PARTICIPANT COMMUNICATION AND EDUCATION

The Contractor shall:

- 4.1 Provide numerous education presentations in various formats (paper, electronic, in-person, virtual and online) as agreed upon by the Department and develop materials to support these presentations.
- 4.2 Submit drafts of all literature, forms, website, digital recordings, eLearnings, video presentations, etc. regarding the WDC to the Department for approval. All WDC literature and other written or visual aids prepared by the Contractor for use with the WDC shall at all times be the property of the Department, and the Contractor shall not obtain or reserve any proprietary or literary rights on its own with respect thereto and, upon request of the Board, shall execute any assignments necessary to release any such proprietary rights.
- 4.3 Be responsible for the cost of printing, labels and postage for the mailing of all WDC communications to Participants as may be required during the course of each plan year.
- 4.4 Conduct annual surveys with Participants, at the direction of the Department.
- 4.5 Contact all known eligible Employees throughout Wisconsin annually and offer them an opportunity to elect participation in the WDC.
- 4.6 Work with the Department, other State agencies, and local Employers to communicate the benefits of the WDC through bulletins, brochures, benefit fairs, emails, websites, recorded presentations, live webinars and other appropriate channels.
- 4.7 Offer appropriate financial education for Participants, including personalized retirement planning services and investment guidance using methods listed in 4.2.
- 4.8 Offer online/electronic enrollment for Participants.
- 4.9 Not sell and/or promote any products not directly affiliated with the WDC unless given specific, written authorization by the Board to do so.

5 ELECTRONIC INTERFACES

The Contractor shall:

- 5.1 Provide a customized WDC Web site at the URL www.wdc457.org, available 24/7 and optimized for mobile devices.
- 5.2 Make a call center available M-F from 7 am to 9 pm, Central Standard Time (CST) and Saturdays between 8 am and 4:30 pm (CST), excluding holidays.
- 5.3 Provide an Integrated Voice Response (IVR) system available 24/7.
- 5.4 Provide a customized mobile app for the WDC throughout the term of the Contract, available 24/7.

6 PARTICIPANT STATEMENTS

The Contractor shall:

- 6.1 Create and distribute a quarterly consolidated account statement to all Participants that provides detail on all cash flow (contributions, distributions and other transactions), fees and charges, personal rate of return, performance of all WDC Investment Products (monthly, quarterly, 1, 3, 5 and 10 year) and expense ratios, and indicate if the Participant is using the self-directed brokerage service or managed accounts service.
- 6.2 Include customized messages from the WDC in the quarterly consolidated statement distributed to all Participants.
- 6.3 Include individual Participants' defined benefit pension estimates as available from the Wisconsin Retirement System with the Participant's WDC account information during the term of the Contract.

7 ACCOUNTING AND INVESTMENT FLEXIBILITY

The Contractor shall:

- 7.1 Maintain all individual Participant records.
- 7.2 Develop a system of reporting and submitting deferrals, transfers and withdrawals to Investment Providers.
- 7.3 Submit Participant deferrals to each Investment Provider no later than the next Business Day after the date received.
- 7.4 Maintain adequate records and submit reports to allow the Department to monitor transactions.
- 7.5 Not make restrictions on the number of trades a Participant may make in a month, quarter, and year, subject to excessive trading restrictions required by Investment Providers.
- 7.6 Be able to apply Short-term trading restrictions in accordance with Investment Provider policies.
- 7.7 Cooperate with the Board and the Department in applying the procedures established in [ch. ETF 70.08\(3\), Wisc. Admin. Rules](#) for terminating any Investment Product that the Board determines is no longer acceptable for inclusion in the WDC.
- 7.8 Not have other agreements with Investment Providers participating in the WDC without prior notification to and consent of the Board except for marketing affiliations, broker, or dealer agreements and loan agreements that are fully disclosed to the Department. If the Contractor has affiliations with Investment Providers, these will either be eliminated from consideration or the Contractor must provide the Department and the Board with a separate review and analysis from a qualified independent third-party that will be paid for and provided by the Contractor with approval from the Board.
- 7.9 Agree to no front-end charges and/or no back-end charges to Participants. In addition, there will be no restrictions or penalties associated with any Plan- or Participant- initiated transfers or withdrawals (including those due to Contract termination) with the exception of Capital Preservation (stable value or others) Equity Wash Provisions.
- 7.10 Provide complete disclosure regarding agreements and pending agreements with any Investment Provider.

8 EMPLOYER SERVICES

The Contractor shall:

- 8.1 Provide all employers eligible to participate in the WDC with annual information about the WDC to keep them informed of WDC procedures and to review current questions.
- 8.2 Provide participating employers with continuing services, including but not limited to periodic assistance and training for processing new enrollments, submitting deferral amounts, processing changes to Participant accounts, etc.

- 8.3 Assist all participating employers with such technical, administrative, and other services as necessary for the employer to offer the WDC to its Employees.
- 8.4 Cooperate with all participating employers to withhold and report WDC payroll deductions and transmit information and payments from eligible Employees to the Contractor.
- 8.5 Provide all participating employers with a report to verify accounting of deferrals for each specific employer and illustrate the portion of the WDC assets attributable to their employees.
- 8.6 Conduct annual surveys with participating employers, at the direction of the Department.
- 8.7 Develop and implement a plan for offering the WDC to non-participating local employers annually, including visits, mailings, and customized reports to inform the non-participating local employers of WDC features and changes and benefits.

9 LEGAL AND ADMINISTRATIVE SERVICES

The Contractor shall:

- 9.1 Provide non-discretionary administrative services to the Board and the Department. Nothing in this Agreement is intended to constitute legal or tax advice from Contractor to the Department, or to any other party. The Department understands that Contractor has not given and may not give legal advice. All issues should be reviewed and discussed with the Department's legal counsel and/or tax adviser.
- 9.2 Perform or agree to develop processes to complete Participant transactions in accordance with federal and State law and the WDC Plan and Trust document, including but not limited to:
 - (a) Enrollments
 - (b) Beneficiary changes
 - (c) Deferring funds to selected investment options
 - (d) Allocation exchanges between options
 - (e) Terminated/separated distributions including lump sums
 - (f) Required minimum distributions
 - (g) Rollovers into and out of the WDC
 - (h) De minimus distributions
 - (i) Perform or agree to develop processes to complete certain Participant transactions:
 - (j) Domestic relations orders and alternate payee accounts
 - (k) Financial emergency hardship distributions
- 9.3 Work with the Department as needed on all administrative matters required for the efficient and effective operation of the WDC.
- 9.4 Develop, revise, and implement WDC policies and procedures, under the direction of the Department, as may be required to comply with changes in federal or State law or regulations.
- 9.5 Comply with all applicable State and federal laws and administrative rules affecting the operation of the WDC.
- 9.6 Provide counsel and defense on contested claims. In addition, the Contractor shall work with the Department on all legal matters associated with the WDC.
- 9.7 Provide counsel and defense for the Contractor when the Contractor has been named as a defendant by a plaintiff. In accordance with Wis. Stat. § 40.03(3), this representation shall not extend to the State, Department, or Board absent a special, express agreement for that purpose.
- 9.8 Provide assistance to the Department on legal matters associated with the WDC, including technical and legal questions that relate to proposed legislation, administrative rule and code changes, Contract changes and Department and Board recommendations when requested by the Department and within reasonable

limitations given Contractor's staff and resources.

- 9.9 Fully cooperate with the Department and the Board regarding any claim or litigation against any or all of the State, Department, or Board regarding a matter pertaining to the WDC, including but not limited to providing relevant records, technical assistance and witnesses if necessary, to the defense of such litigation. With respect to any litigation to which the Department and the Board is not a party, the Contractor shall keep the Department and the Board fully apprised concerning particulars of any litigation or threatened litigation directly concerning the WDC or benefits thereunder, including settlement discussions. In litigation to which the Department and the Board are not a party, the Contractor shall have sole responsibility regarding any claim or litigation filed by a Participant or the Participant's Beneficiary.

10 INVESTMENT PRODUCT EVALUATION AND MONITORING

The Contractor shall:

- 10.1 Provide expertise to the WDC in the areas of monitoring and evaluating Investment Providers and products, including providing objective analysis and recommendations regarding retaining, removing, and adding Investment Products.
- 10.2 Provide analyses that include detail as to how an Investment Product meets the Board's established selection and evaluation criteria as found in the [WDC Investment Policy Statement](#).
- 10.3 Prepare quarterly evaluations of all investment products offered by the WDC for presentation at one of the Board's annual meetings. The reports will include a detailed analysis of the performance of the investment products compared to appropriate indices; how the Investment Product meets the Board's established selection and evaluation criteria, information on the credit worthiness of the Investment Provider offering the product; evaluation of the products continued ability to meet other predetermined criteria; and recommendations for retaining or replacing Investment Products offered.
- 10.4 Assist with an annual evaluation of the Board's Investment Policy Statement, reviewing this document and offering suggestions for improvements where appropriate.

11 RECORDS RETENTION

The Contractor shall:

- 11.1 In addition to the records retention requirements specified in Article 2.5(C) Records Retention, the Contractor shall retain information/documents related to its services provided to WDC according to the Contractor's records retention schedules and applicable law, which may change from time to time. As of the date of this document, the applicable schedules are in RDC #00101, Deferred Compensation Program and require items to be maintained for seven (7) years.

12 CONTRACTOR PERFORMANCE GUARANTEES

See Contract ETJ0061, Exhibit 3: Performance Standards and Reporting.

13 CONTRACTOR RESPONSIBILITIES UPON TERMINATION OR EXPIRATION

In addition to other requirements under the Contract, at the termination or expiration of the Contract, the Contractor shall:

- 13.1 Turn over all physical and electronic files and all required data pertaining to the WDC in an electronic media format, acceptable to the Department, that includes a record layout and data description of the information contained on the electronic media or in an alternative format mutually agreeable to the Department and the Contractor. The Contractor must provide historical transaction information for all Participants so that quarterly account statement information can be recreated and future inquiries regarding domestic relations orders, Beneficiary claims, etc. can be addressed.
- 13.2 Cooperate with both the Department and the new Contractor in meeting any reasonable requests.
- 13.3 Provide the Department with a Transition Plan within six (6) months of the Contract begin date. After that,

the Transition Plan will be updated as deemed necessary by the Contractor and the Department.

- 13.4 Provide the Department with a final report for each of the reports and files normally provided during the term of the Contract. Final reports will provide information for the period from the last report or file date to the Contract end date and will be due within one hundred eighty (180) Calendar Days from the Contract end date.
- 13.5 Allow and cooperate with an independent audit of the WDC prepared by a Certified Public Accounting firm that is acceptable to the Board for the business reporting period from the last WDC audit to the Contract termination date that provides an audit of all business activities for that period and financial position as of the Contract termination date, in addition to the audit requirements in Department Terms and Conditions, Section 6.0.

14 ADMINISTRATION RESPONSIBILITIES OF THE DEPARTMENT

The Department shall:

- 14.1 Require local employers seeking to offer the WDC to their employees to adopt and file a resolution under terms and conditions determined by the Board and on forms prescribed by the Department as required in [ETF 70.11, WI Admin. Code](#).
- 14.2 Assist the Contractor in communicating the provisions of the WDC to all eligible State and local employers and eligible Employees or Participants in the WDC.
- 14.3 Be responsible for making all decisions, or providing the Contractor with the Board's decisions, that are necessary for the appropriate operation of the WDC, including determinations regarding: The classification of any person as being an eligible Employee, the fact and date of separation of an Employee from public sector service, and the status of leave or temporary layoff during which no earnings are received.
- 14.4 Assist the Contractor, when necessary, to determine Eligible Beneficiary(ies). All decisions relating to determination of Eligible Beneficiary(ies) will be the responsibility of the Department.
- 14.5 Administer the appeal process by which interested parties may contest the Department's determinations related to the WDC. These appeals are ultimately decided by the Board.
- 14.7 Make payments for contractual costs to the Contractor on a monthly basis, as agreed upon by Department and Contractor and stated in the Contract.
- 14.8 Provide the Contractor with the following annual reports:
 - (a) all local employers eligible to offer the WDC to their employees; and
 - (b) defined benefit pension (Wisconsin Retirement System) estimate information for actively employed WDC Participants.

EXHIBIT 3:
Performance Standards and Reporting

I. Performance Standards

EMPOWER agrees to provide services in accordance with the performance standards stated herein.

In the event EMPOWER does not meet the performance standards listed below, EMPOWER will be given an opportunity to cure such failure. If EMPOWER fails to meet the performance standard in the subsequent quarter, EMPOWER agrees to forfeit revenue for each performance standard not met pursuant to the "Fees at Risk" column below.

In no event, however, shall the total amount forfeited by EMPOWER in any given calendar year exceed:

- 1) up to 15% of EMPOWER's annualized per PARTICIPANT fees determined as of the beginning of each calendar year; and
- 2) 3.75% of EMPOWER's annualized per PARTICIPANT fees determined as of the end of each calendar quarter based upon the number of PARTICIPANTS with a balance in the PLAN as of the last day in any given quarter.

The amount of EMPOWER annualized per PARTICIPANT fees shall equal the number of PARTICIPANTS with a balance in the PLAN as of each December 31 multiplied by the PLAN's annual per PARTICIPANT fee. For illustrative purposes, the calculation for quarterly revenue placed at risk would be: $[(A*B) *C]$, in which

"A" is the quarterly per PARTICIPANT fee of for Defined Contribution Plan(s) and;

"B" is the number of PARTICIPANTS in the PLAN with an account balance as of the last day of each calendar quarter; and

"C" equals the lesser of the sum of the percentages attributed to each performance standard not met by EMPOWER for a calendar quarter or 3.75%.

EMPOWER shall remit any applicable monetary penalty incurred as a result of failing to meet the stated standards to the PLAN Account within sixty (60) days of the end of the calendar quarter.

PLAN SPONSOR & Service	Minimum Service Standard	Performance Measurement	Fees at Risk
Customer Care Center Hours of Availability	Retirement representatives available 99% of time during regular hours of service. (7:00 a.m. to 9:00 p.m. CT, Monday through Friday and 8 a.m. to 4:30 p.m. CT, Saturdays) except for closings of NYSE, holidays and shortened hours associated with early market close or holiday eves	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Call Abandon Rate	Less than 3% of PARTICIPANT calls abandoned	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Call Answering Speed	80% of PARTICIPANT calls answered within 20 seconds	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
First Call Resolution for PARTICIPANTS	90% of PARTICIPANT questions resolved during first call	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Automated Voice Response (AVR) / Website Availability	99% of the time AVR/Internet available excluding regularly scheduled maintenance	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
PARTICIPANT and PLAN Level Reporting for PLAN SPONSOR via Plan Service Center	99% of the time reports available online - updated monthly and nightly excluding regularly scheduled maintenance	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Distribution of Form 1099R or 1099-MISC	Available by January 31 of each calendar year, excluding corrected 1099R or 1099-MISC	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees

PLAN SPONSOR & PARTICIPANT Service	Minimum Service Standard	Performance Measurement	Fees at Risk
PARTICIPANT Confirmation Statement	99% mailed or available online on within two (2) BUSINESS DAYS following completion of transaction processing	Metric provided as part of the quarterly Empower Service Level Agreement Report	1% of quarterly fees
PARTICIPANT Statement Mailing/Availability	PARTICIPANT statements made available online within ten (10) BUSINESS DAYS after receipt of information in good order from third party sources, or mailed within fifteen (15) BUSINESS DAYS of quarter-end.	Metric provided as part of the quarterly Empower Service Level Agreement Report	1% of quarterly fees
Distribution Upon Request of Generic and/or PARTICIPANT Specific Documents Including Administrative Forms, Enrollment and Termination Materials, and PARTICIPANT Statement Copies	99% of documents distributed within one (1) BUSINESS DAY of PARTICIPANT request. (Excludes enrollment material delays directly related to quarterly performance information updates required by FINRA)	Executed as part of automated processes. Accuracy consistent with minimum service standard unless otherwise disclosed.	1% of quarterly fees
Disbursements	99% of PARTICIPANT disbursement requests processed accurately within two (2) BUSINESS DAYS of completed requests received in good order. Transactions must be entered by 4 p.m. EST or close of market due to shortened hours associated with early market close /holiday eves	Metric provided on the quarterly Empower Client Service Report	1% of quarterly fees
Contribution and Loan Repayment Processing	Contribution and loan repayment processing (if applicable) completed the same business following confirmation of totals provided in funding request to the PLAN SPONSOR and wire received by 4 p.m. EST. Wires received after 4 p.m. EST will receive the following days trade date.	Metric provided on the quarterly Empower Client Service Report	1% of quarterly fees
Submission of Feedback Files to EMPLOYERS Payroll/ Third Parties	95% of interfaces and feed files will be accurate and provided within timeframe as mutually agreed by parties.	Metric provided on the quarterly Empower Client Service Report	1% of quarterly fees

PLAN SPONSOR & PARTICIPANT Service	Minimum Service Standard	Performance Measurement	Fees at Risk
Timeliness of Callbacks to DEPARTMENT	Same day assuming message left before noon CT; if after noon CT, call will be returned no later than 1:00 pm CT the following BUSINESS DAY excluding Paid Time Off (PTO) days of the Relationship Manager or Client Service Manager.	Ongoing, joint evaluation by PLAN SPONSOR and Relationship Manager	~
Investment Transfers	99% of investment transfers processed accurately on the same BUSINESS DAY if PARTICIPANT direction received in good order by EMPOWER by 3:00 p.m. CT, early close time of investment, or close of market due to shortened hours associated with early market close or holiday eves.	Executed as part of automated processes. Accuracy will be consistent with minimum service standard unless otherwise disclosed.	1% of quarterly fees
PARTICIPANT Satisfaction – Customer Care Center After-Call Survey	Quality assurance is conducted by EMPOWER to enable successful PARTICIPANT satisfaction.	PARTICIPANT satisfaction will be ranked on a scale of 1-5; Service Benchmark is an average score of 4 out of 5 in the overall PARTICIPANT survey or higher.	1% of quarterly fees
EMPLOYER Satisfaction	Quality assurance is conducted by EMPOWER to enable successful EMPLOYER satisfaction. Survey and respondent minimums to be mutually agreed upon by both parties.	Total EMPLOYER satisfaction will be ranked on a scale of 1-10; Service Benchmark is an average score of 7 or higher.	1% of quarterly fees

EMPOWER shall not be liable for the performance standards and the revenue at risk stated herein for failure to meet any of the performance standards as a result of an interruption of any service provided under this CONTRACT or delayed or defective performance of such service arising out of war, natural disasters, acts of terrorism, loss of utilities, government restrictions, trading halts, exchange or market rulings, extraordinary market volatility or exchange conditions, disabling strikes or any other causes beyond its reasonable control. EMPOWER shall maintain a reasonable disaster recovery plan and shall use its best efforts to resume services on a normal basis as soon as practicable.

EMPOWER shall provide copies of reports to the Department when due. EMPOWER will place reports in the file sharing section of EMPOWER's "Plan Service Center" prior to each due date and send an email to Shelly.Schueller@etf.wi.gov or Department designee providing notice of their placement.

II. Quarterly Reports

Type of reports and their content to be mutually agreed upon between the parties, with the understanding that reporting requirements should remain open and flexible to reflect potential content changes and technological improvements.

1. **Performance Standards Report**: Due **forty-five (45) days** after each quarter. Performance Standards Report should report on all items listed in Exhibit 3: Performance Standards and Reporting.
2. **Plan Investment Performance and Expense Ratio Review**: Due **sixty (60) days** after quarters 1, 2, and 3. Due **seventy-five (75) days** after quarter 4.

The review, completed by EMPOWER, will use the PLAN's Investment Policy Statement (IPS) as the foundation for evaluation and analysis and include between two and four presentations to the BOARD in person. As mutually agreed upon, reports will include but are not limited to:

- (a) Providing quarterly information and year-to-date information in a mutually agreed upon format.
- (b) Measuring each INVESTMENT PRODUCT'S compliance with the IPS. For those INVESTMENT PRODUCTS that are not compliant, details on the INVESTMENT PRODUCT'S non-performance will be included. A performance attribution analysis will be conducted if appropriate.
- (c) Including data on the core INVESTMENT PRODUCTS including the date the INVESTMENT PRODUCT was added to the PLAN, performance benchmarking, expense ratio information, quarter and asset summary, total number of PARTICIPANT accounts, and other items as mutually agreed upon.

3. **Quarterly PLAN Review**: Due **forty-five (45) days** after each quarter.

Includes quarterly information and year-to-date information containing:

- (a) PLAN transactions and assets,
- (b) contributions,
- (c) withdrawals, including financial emergency hardship distributions (new applications received, approved, denied or pending),
- (d) periodic payments,
- (e) summarization in dollars and units/shares of the INVESTMENT PRODUCTS grand totals, including date added to the PLAN, quarter and PARTICIPANT accounts, average quarterly deferral and net exchange activity by option,
- (f) summarization in dollars and units/shares of the INVESTMENT PRODUCTS grand totals by money type, asset class and pre-tax or post-tax (Roth) contributions,
- (g) enrollment – new State and local Participants and total new Participants,
- (h) total PARTICIPANT accounts: State, local and total,
- (i) current PARTICIPANTS using the target date funds,
- (j) current PARTICIPANTS utilizing the SDB Option,
- (k) current PARTICIPANTS using the managed account services, including advice and managed accounts by account balance, age and gender,
- (l) current PARTICIPANTS using the managed account service by
 - i. age,
 - ii. gender; and
 - iii. assets

- (m) website activity: number of PARTICIPANTS accessing the PLAN website including distinct users and usage for previous quarter and year-to-date,
- (n) customer care center usage: number of PARTICIPANTS accessing the automated voice response system, inquiries by type, changes by type, transfers to client service representatives for previous quarter and year-to-date,
- (o) summary of new EMPLOYER adoptions, including name of employers joined,
- (p) summary of revenue sharing, including amounts received by INVESTMENT PRODUCTS and distribution data (which INVESTMENT PRODUCTS, how many PARTICIPANTS, average reimbursement),
- (q) Domestic Relations Orders (DROs) completed, including account divisions completed and full, partial and periodic payments and
- (r) other items as mutually agreed upon.

4. **Unallocated Plan Account Reconciliation:** Due **thirty (30) days** after each quarter.

Shared with the DEPARTMENT's Division of Trust Finance (DTF). Includes, at a minimum, the following in a mutually agreed upon format:

- (a) beginning balance,
- (b) deposits,
- (c) withdrawals, and
- (d) ending balance.

5. **Plan Summary Report:** Due **forty-five (45) days** after each quarter.

Shared with the DEPARTMENT's Division of Trust Finance. Includes detail on all transactions in a mutually agreed upon format:

- (a) Summary Reports including:
 - i. account summary,
 - ii. participant summary by INVESTMENT PRODUCT and money source, and
 - iii. forfeiture/asset holding account.
- (b) Transaction Reports including:
 - i. contributions,
 - ii. additional deposits,
 - iii. additional activity,
 - iv. unallocated contributions/deposits,
 - v. refunds,
 - vi. transfer balancing,
 - vii. withdrawals,
 - viii. prior periods contributions, and
 - ix. fees/withdrawal changes.

6. **Detailed Domestic Relations Orders (DROs) Report:** Due **thirty (30) days** after each quarter.

- i. SSN
- ii. Name
- iii. Segregation Date
- iv. Fee charged.

7. All survey results will be compiled and reported by EMPOWER to the BOARD within **ninety (90) days** following conclusion of the survey period.

III. Annual Submittals

1. **Strategic Partnership Plan (SPP):** Due approximately **one (1) month** in advance of the final quarterly BOARD meeting of the calendar year.
SPP is the annual plan developed jointly by EMPOWER and the DEPARTMENT for approval by the BOARD. The SPP will include proposed initiatives, objectives and benchmarking focused on such items as: (1) enrollment, (2) asset allocation, (3) retention, and (4) education. Upon agreement by the BOARD to the upcoming year's initiatives, performance objectives will be established as mutually agreed upon and the results of the SPP implemented by EMPOWER and evaluated by the BOARD at the end of each year. See Article 2.15(C) Strategic Partnership Plan.
2. **Contractor's SOC 1/Type 2 and SOC 2/Type 2 Reports:** Due **ninety (90) days** after the final, approved version is available. See EXHIBIT 1: Department Terms and Conditions, Subsection 6.1 SOC 1/Type 2 Report and Subsection 6.2 SOC 2/Type 2 Report.
3. **Contractor's Annual Independent Audit Allowance:** Due **ninety (90) days** after the end of the calendar year. \$15,000 due annually for WDC financial statements report audit. See Article 5.6 Reimbursements to the Board, B. Annual Independent Auditor Allowance.
4. **Contractor's Administrative Cost Report:** Due **one hundred and twenty (120) days** after the end of the calendar year. Provided to the DEPARTMENT to include marketing and plan administration costs for the local office in Madison, Wisconsin. See EXHIBIT 2: Program Agreement, Section 1.0 Disclosures, Subsection 1.11.
5. **WDC Annual Plan Review:** Due **one hundred and twenty (120) days** after the end of the calendar year. See Article 3.8 Annual Plan Financial Statements Report and Audit.

The review will include the following statistics and demographic information as mutually agreed upon:

- (a) Total number of eligible, enrolled, and active participants by State, local, and total.
- (b) New enrollments by gender and age.
- (c) Participating employers, including State, local and total.
- (d) Summary of assets, deferrals, earning/withdrawals.
- (e) Plan-level Lifetime Income Score or comparable PLAN-level metric.
- (f) Contribution history.
- (g) Asset allocation of PLAN assets identifying percent of total assets and number of participants utilizing each INVESTMENT PRODUCT:
 - Fixed.
 - Bond.
 - Balanced, including target date funds.
 - Equity (domestic, international, and total).
 - Self-directed.

- Empower Retirement Managed Account Service.
- (h) Communication and education update containing such items as:
- Number of individual counseling sessions and group participant meetings (including attendees).
 - Survey results.
 - Summaries of SPP and other special projects or initiatives.
 - Local services provided (calls received, walk-ins).
 - Number of new EMPLOYERS.
 - Automated voice response system and website usage.
- (i) Annual contacts to:
- Eligible and participating EMPLOYERS.
 - Participating employees.
 - Eligible, nonparticipating employees.
- The contacts will be made in a cost-effective manner in a mutually agreed-upon method, and subject to scheduling at the DEPARTMENT's discretion.
- (j) Demographic analysis containing items such as:
- Changes in the utilization of INVESTMENT PRODUCTS used.
 - Number of PARTICIPANTS by account balance including previous year and historical, if available.
 - Utilization by account size.
 - Average account values to include annual deferral amount and account size.
 - Yearly comparisons.
 - Other items as mutually agreed upon.
7. **Investment Policy Statement (IPS) Review:** Due approximately **one (1) month** in advance of a scheduled BOARD meeting. The WDC's IPS will be reviewed and discussed at least annually with the BOARD. CONTRACTOR will provide comments and offer suggestions for changes where appropriate. Custom benchmarks will be used where applicable. See EXHIBIT 2: Program Agreement, Section 10.
8. **Annual Board Satisfaction Survey Report:** Due to EMPOWER **thirty (30) days** following availability of year-end results. Such results to be collectively shared among the parties. See Article 3.9, Annual Board Satisfaction Survey.

IV. As Necessary

1. **Approval of Communications:** All materials and communications shall be pre-approved by the DEPARTMENT prior to distribution to PARTICIPANTS, potential PARTICIPANTS, and EMPLOYERS. This includes all customized WDC website content and written and electronic communication (marketing, information, standard letters, PLAN descriptions, summary of PLAN features, etc.).
2. **Ad-Hoc Reports for Certain Investment Option Providers:** Reports requested by the WDC's INVESTMENT PRODUCT providers will be delivered in a mutually agreed upon format and schedule.
3. **Manager/Fund Searches:** Up to two (2) searches per year for replacement INVESTMENT PRODUCTS not meeting the standards of the IPS will be conducted as necessary for the BOARD. INVESTMENT PRODUCTS will be selected from appropriate

INVESTMENT PROVIDERS meeting the criteria of the BOARD's IPS and revenue requirements, if applicable. These searches will be documents and presented to the BOARD.

4. **Complaints/Error Resolution:** Respond to PARTICIPANTS within ten (10) BUSINESS DAYS for written complaints. Inquiries/complaints not resolved within ten (10) BUSINESS DAYS must be added to a tracking document/log that must summarize the issue and the current resolution status. This tracking document/log must be kept current and must be provided to the DEPARTMENT within two (2) BUSINESS DAYS of the DEPARTMENT's request.
5. **Adviser's Form ADV Brochure:** Provide notification that an updated Adviser's Form ADV Brochure is available on the website in a timely manner following an update to such brochure.
6. **CONTRACTOR's Privacy Notice:** Provide notification that an updated Privacy Notice is available on the website in a timely manner following an update to such notice.

V. Upon Request

1. **Transition Services Agreement:** A complete Transition Services Agreement is due from Contractor to the DEPARTMENT prior to this EMPOWER and the BOARD signing this CONTRACT and thereafter updated upon request as determined by the Department and Contractor.
2. **ADA Compliance:** Evidence of compliance with ADA shall be made available to the DEPARTMENT upon request.
3. **State of Wisconsin Department of Employee Trust Funds Privacy and Security Questionnaire:** EMPOWER to provide updated responses to questionnaire upon request. For the avoidance of doubt, the DEPARTMENT reserves the right update the questions within the questionnaire as needed.
4. **Business Continuity Program Summary:** EMPOWER to provide a copy of EMPOWER's Business Continuity Program Summary upon request.
5. **RPA One-on-One Meeting Survey Results:** EMPOWER to provide a summary of RPA one-on-one meeting survey results upon request.
6. **SDB Option Revenue:** If requested, EMPOWER to provide an accounting of the revenue received from SDB Option in writing within forty-five (45) days after the calendar year end.

**EXHIBIT 4:
Investment Advisory and Management Services Agreement**

This Investment Advisory and Management Services Agreement is entered into pursuant to this CONTRACT by the State of Wisconsin Deferred Compensation Board (the "Plan Sponsor") and Advised Assets Group, LLC ("AAG"), located at 8515 East Orchard Road, Greenwood Village, Colorado 80111.

RECITALS

Whereas, the Plan Sponsor has established a defined contribution plan under the Internal Revenue Code; and

Whereas, the Plan Sponsor has selected Empower to provide administrative, recordkeeping, and other services to the Plan as set forth in the Contract between the Plan Sponsor and Empower; and

Whereas, AAG, an affiliate of Empower, makes available investment guidance, advisory, and discretionary managed account services ("Advisory Services") to Participants; and

Whereas, AAG has selected an Independent Financial Expert ("IFE") pursuant to Department of Labor Advisory Opinion 2001-09A issued on December 14, 2001 to provide such services to AAG for use under Advisory Services; and

Whereas, the IFE has developed a methodology and proprietary software and technology used to provide Participant-level investment advice and discretionary managed account services; including personalized Internet-based guidance, investment advisory services, and discretionary managed account services with respect to investment choices held within defined contribution plans; and

Whereas, the Plan Sponsor desires to make Advisory Services available to Participants; and

Now therefore, the parties hereto, in consideration of the mutual covenants and representations herein contained, do hereby agree as follows:

1. Definitions

"Adviser" shall mean Advised Assets Group, LLC or AAG, an affiliate of Empower.

"Advisers Act" shall mean the Investment Advisers Act of 1940, as amended.

"Agreement" means this EXHIBIT 4 - Investment Advisory and Management Services Agreement, including EXHIBIT 4-1 that is attached hereto as of the Effective Date or as mutually agreed to in writing by the parties.

"Business Day" "BUSINESS DAY" means Monday through Friday, except for federal or STATE holidays and additional holidays observed by EMPOWER as specified in Article 2.9 Local Office and Full-Time Representatives, of the CONTRACT.

“**Code**” shall mean the Internal Revenue Code of 1986, as amended.

“**Contract**” means this Administrative Services CONTRACT, including any and all Exhibits and Amendments, between the BOARD and EMPOWER.

“**Empower**” means Empower Retirement, LLC and any affiliate specifically noted in any section of the Contract.

“**ERISA**” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“**Managed Account Participant**” shall mean a Participant participating in the Managed Account Service, or its successor service.

“**Managed Account Service**” shall mean Adviser’s discretionary investment advisory service, as further defined in EXHIBIT 4-1.

“**Online Advice Participant**” shall mean Participants using the Online Advice Service by accepting Adviser’s online investment service agreement or terms of use.

“**Online Advice Service**” shall mean Adviser’s non-discretionary investment advisory service, Online Advice, or its successor, as further defined in EXHIBIT 4-1.

“**Opt-Out Feature**” shall mean a feature of the Managed Account Service selected by the Plan Sponsor through which Participants, designated by the PLAN SPONSOR, are automatically enrolled in the Managed Account Service, as further defined in EXHIBIT 4-1.

“**Participant**” shall mean any person who opens a Wisconsin deferred compensation account with Empower pursuant to the Contract.

“**Plan**” shall mean the deferred compensation plan offered by the STATE to public employees in Wisconsin, established and administered pursuant to Section 457 of the Internal Revenue Code and Wis. Stat. § 40.80 et. seq.

“**Plan Administrator**” shall mean the “administrator” of the Plan as that term is defined under Section 3(16)(A) of ERISA and Section 414(g) of the Code, or such comparable person responsible for the administration of the Plan in the event the Plan is not subject to such ERISA or Code provisions.

“**Plan Sponsor**” shall mean the BOARD or its designee to establish and administer an eligible deferred compensation plan pursuant to the Internal Revenue Code, as amended, and Wis. Stat. § 40.80 et. seq. for the benefit of public employees in Wisconsin, the entity identified in the opening paragraph of this EXHIBIT 4.

“**Rollout Date**” shall mean that date on which Adviser has made all of the services provided under this Agreement available to Participants.

“**Services**” shall mean the specific services with respect to the Plan(s) covered by this EXHIBIT 4 and EXHIBIT 4-1.

“**Subadviser**” shall mean Morningstar Investment Management, LLC.

2. SERVICES PROVIDED BY ADVISER

2.1. This Agreement sets forth the terms and conditions pursuant to which Adviser agrees to provide Services with respect to the Plan pursuant to EXHIBIT 4 and EXHIBIT 4-1. The terms and conditions of this Agreement shall be deemed to be incorporated by reference into each and every exhibit, without regard to an express reference therein. Adviser acknowledges and agrees that: (i) it is registered with the Securities and Exchange Commission as an investment adviser under the Advisers Act, (ii) it is an investment adviser and fiduciary under the Advisers Act and is a fiduciary under ERISA to the extent it provides Services to Online Advice Participants, and (iii) it is an investment adviser and fiduciary under the Advisers Act and is an investment manager (as defined under Section 3(38) of ERISA) to the extent it provides Services to Managed Account Participants.

2.2. The parties specifically agree that no provision of this EXHIBIT 4 or EXHIBIT 4-1 will require Adviser to: (i) provide investment advice to Plan Sponsor or Plan Administrator; (ii) exercise any discretionary authority or discretionary control with respect to the management of the Plan; or (iii) have or exercise any discretionary authority or responsibility in the administration of the Plan, including the selection of the Opt-Out Feature of the Managed Account Service (if applicable). Adviser has no discretion or responsibility to interpret provisions of the Plan or to determine eligibility, participation, or the right to receive benefits under the Plan.

2.3. Adviser shall take appropriate actions and maintain policies and procedures reasonably necessary to ensure Adviser does not engage in any nonexempt prohibited transaction under ERISA in providing Services hereunder. Adviser's policies and procedures are designed to comply with applicable law, including Department of Labor Advisory Opinion 2001-09A (and any modifications or amendments thereto), pursuant to which Adviser has delegated certain obligations under this Agreement to Subadviser, as described in Adviser's Form ADV Brochure.

2.4. Adviser has authorized GWFS Equities, Inc. ("GWFS"), an affiliate of Adviser, and its licensed agents and registered representatives who are Empower employees (collectively referred to as "Agents") to solicit, refer and market Adviser's services. In addition to their salary, such Agents may earn bonus compensation based upon engaging Plan Sponsors to offer Adviser's services. Other Agents and Adviser representatives may be indirectly compensated through bonus compensation, in addition to their salary, for communication, education and/or assisting Participants to enroll in Adviser's services. Compensation paid to Agents or Adviser representatives does not increase the fees paid by the Plan and/or their Participants.

2.5. Nothing in this Agreement is intended to constitute legal or tax advice from Adviser to Plan Sponsor, or to any other party. Plan Sponsor understands that Adviser has not given and may not give legal advice. All issues should be reviewed and discussed with Plan Sponsor's legal counsel and/or tax adviser.

3 RESPONSIBILITIES OF PLAN SPONSOR

3.1 Plan Sponsor, employer, or its designated agents shall be responsible for providing to Adviser accurate data and information necessary to enable Adviser to perform the Services required under this Agreement, including but not limited to, timely and reasonable notification of employer-initiated events, the information, materials, instructions or other data referenced in any Exhibit, and the information reasonably requested by Adviser to enable it to comply with federal law concerning Know Your

Customer rules under the USA PATRIOT Act, in such form and at such time as the parties mutually agree. Adviser reserves the right to reject or return any documents, materials, or other information that are unreadable, corrupted, or which Adviser is otherwise unable to process. Plan Sponsor, Employer, or its designated agents agree to provide or to assist Adviser in obtaining all participant data that is necessary to perform its duties under this Agreement, including but not limited to: date of birth, income, gender, and state of residence. Plan Sponsor acknowledges that timely receipt of appropriate information is a prerequisite to the performance of Adviser's Services and Adviser shall not be liable for any delay or failure in the performance under this Agreement due to Plan Sponsor's failure to comply with the information submission deadlines established and communicated to Plan Sponsor by Adviser in a timely manner.

- 3.2 Plan Sponsor or Plan Administrator shall make all discretionary decisions with respect to the administration of the Plan relative to the Services and shall direct Adviser in accordance with such decisions. Plan Sponsor shall be responsible for selecting and monitoring the investment options offered through the Plan. In addition, Plan Sponsor agrees, for itself and on behalf of the Plan, that neither Adviser nor Subadviser shall have any authority or responsibility under this Agreement for the selection or monitoring of the Plan's investment options, or the provision of investment advice to Plan Sponsor with respect to the Plan's investment options. Plan Sponsor acknowledges that Empower, as the Plan's recordkeeper, may facilitate the use and awareness of the Services during the Plan enrollment process or as otherwise requested by Plan Sponsor and Empower's call center may refer Participants to Adviser's investment adviser representatives if the call concerns the Plan or their Plan account. Plan Sponsor understands and agrees that, in the event the Participant terminates or otherwise un-enrolls from the Managed Account Service, such Participant's account shall remain invested in the investment options as selected by the Adviser or Subadviser prior to such termination or un-enrollment and that the Participant or Plan Sponsor is responsible for changes to the investment options.
- 3.3 Plan Sponsor shall be responsible for deciding whether to implement the Opt-Out Feature of the Managed Account Service and determining which Participants shall be subject to the Opt-Out Feature and direct Adviser with respect to such decisions. To the extent Plan Sponsor designates the Managed Account Service as the default investment for the Plan, Plan Sponsor shall be responsible for selecting an investment option for purposes of allocating individual accounts until such time as the Adviser begins management of a Managed Account Participant's account; provided, however, in the event the individual is not eligible for the Managed Account Service, such individual's account shall remain invested in the investment options selected by the individual or the Plan Sponsor until the individual or Plan Sponsor directs otherwise.
- 3.4 Under the terms of this Agreement, Plan Sponsor appoints Adviser as an investment adviser or investment manager, as applicable. As an investment manager, Plan Sponsor authorizes Adviser, without limitation, to initiate with Empower buys, sells, reallocations or other investment transactions and to calculate installment distributions, if applicable, under the Plan for Managed Account Participants. Plan Sponsor acknowledges and agrees that each Managed Account Participant will acknowledge Adviser at the time of participation in the Managed Account Service. Any Managed Account Participant enrolled in the Managed Account Service through the Opt-Out Feature or Plan default process will be deemed, by and through the Plan

Sponsor, to have so acknowledged Adviser by the Managed Account Participant's continued participation in the Managed Account Service after the applicable deadline by which such Participant was required to have declined participation in the Managed Account Service. Plan Sponsor understands and acknowledges that: (i) Adviser does not affect investment transactions and that investment transactions will be affected by the appropriate party or agent chosen by the Plan Sponsor, including the Plan's trustee or custodian; (ii) Adviser will communicate, through Empower, information to initiate the investment transactions to such parties; and (iii) Empower will make available to Adviser the investment transaction information related to the investment allocations directed by Adviser. Plan Sponsor also agrees that transactions initiated by Adviser on behalf of Managed Account Participants shall not be subject to any Plan limitations or corporate policy restrictions, such as blackout periods (other than a blackout period applicable to all Managed Account Participants at the same time), preclearance requirements, or other transaction restrictions, unless required by law.

- 3.5 Plan Sponsor acknowledges and agrees that it has received and read Adviser's Form ADV Brochure as required by Rule 204-3 of the Advisers Act.
- 3.6 Plan Sponsor understands and agrees that the Plan's investment options shall be held by a custodian or trustee duly appointed by Plan Sponsor. Except with respect to the fee deduction described in Section 4, nothing contained herein shall be deemed to authorize Adviser to take or receive physical possession of any of the assets of the Plan or to confer custody of such assets upon the Adviser within the meaning of Rule 206(4)-2 of the Advisers Act. Adviser does not have any proxy voting or other execution powers under the Plan, the Services, this Agreement or otherwise. Plan Sponsor has designated a person or persons other than Adviser to vote proxies with respect to the Plan's investment options.
- 3.7 Adviser shall be entitled to rely upon and act upon any instruction, certification, direction or approval received (whether in writing, orally, by telephone, voice response system, fax or other teleprocess, or by other electronic means or other medium, including internet or e-mail transmission, acceptable to Adviser) from any person Adviser reasonably believes to be so authorized to provide such instruction, certification, direction or approval. Adviser shall have no duty to inquire or question the accuracy or completeness of any data or instructions provided to it.
- 3.8 Plan Sponsor represents that the Plan is qualified under Section 401(a) of the Code, where applicable, that the Plan Administrator has been duly appointed under the Plan, and that the person executing this Agreement is authorized to do so. Plan Sponsor shall be responsible for maintaining the Plan's documents, including any amendments thereto based upon design modifications, for determining operational compliance of the Plan with Plan documents, and, where applicable, for ensuring that the Plan is qualified under Section 401(a) of the Code and its related trust is tax-exempt under Section 501(a) of the Code. Plan Sponsor will notify Adviser promptly if Plan Sponsor should learn of any facts or of any regulatory action or prospective action which may result in the Plan ceasing to be qualified, where applicable, under Section 401(a) of the Code. Plan Sponsor acknowledges that while Adviser may possess and consult a copy of the Plan, trust agreement or related document(s), the possession or consultation of those documents shall not alter or expand Adviser's responsibilities under this Agreement. If the Services will be offered in a non-qualified plan, Plan

Sponsor has reviewed the form of payment of Adviser's fees and determined that it is appropriate given the design and operation of the non-qualified plan.

4 FEES & CHARGES

- 4.1 Adviser shall be entitled to compensation for the Services it provides in accordance with the fee provisions set forth in the applicable Exhibit 4-1. Fees will be deducted from the Plan's trust or other funding vehicle, charged to Participant accounts, or invoiced to the Plan Sponsor as elected in the applicable Schedule or directed by Plan Sponsor. Plan Sponsor shall be responsible for determining that fees paid are reasonable expenses of administering the Plan.
- 4.2 Plan Sponsor acknowledges and agrees the Managed Account Service fees will be deducted directly from Managed Account Participant accounts in arrears. Plan Sponsor authorizes Empower to collect these fees on behalf of Adviser and to deduct fees from Managed Account Participant accounts in accordance with the service elections and fees described in Exhibit 4-1.
- 4.3 Adviser may provide additional services pursuant to instruction or direction from the Plan Sponsor. Any fees for such additional services will be agreed upon by Adviser and the Plan Sponsor prior to the provision of additional services.

5 CONFIDENTIAL PROPRIETARY INFORMATION

- 5.1 In order to perform the Services, both parties may have access to certain information of the other party, including, without limitation, trade secrets, commercial and competitively sensitive information of the party related to business methods or practices, and proprietary software, websites, programming techniques, documentation and training materials owned or licensed by the party ("Confidential Proprietary Information"). For the purpose of clarity, any software or website made available by Adviser, including software licensed by third parties ("Adviser Software") is Confidential Proprietary Information of Adviser. The parties mutually agree to hold all Confidential Proprietary Information of the other party in confidence and not to disclose any Confidential Proprietary Information of the other party to anyone except the parties' affiliates, suppliers, and respective personnel in connection with the performance or receipt of Services hereunder or as directed or approved by the other party or its agents. Confidential Proprietary Information does not include: information that is otherwise in the public domain through no action of the non-disclosing party; information that is acquired by a party from a person other than the other party or its agents without any obligation of confidentiality; or information that is independently developed by a party without reference to the Confidential Proprietary Information of the other party.
- 5.2 In the event a party is required to make a legally required disclosure of the other party's Confidential Information, such party shall notify the other party of the disclosure as soon as reasonably practicable and shall cooperate with any efforts by such party to obtain protective treatment of such Confidential Proprietary Information to the extent permitted by law. The foregoing shall not apply to (i) broad-based regulatory examinations associated with a party's general business or operations; (ii) disclosures made in conjunction with a law enforcement investigation or inquiry; (iii) or where notice is prohibited by laws. For purposes of Rule 14(b)-1 and Rule 14(b)-2 of the

Securities Exchange Act of 1934, as amended from time to time, Plan Sponsor authorizes Adviser, and/or its affiliates and services providers, to provide the name, address and share position of the Plan with respect to any class of securities registered under the Investment Company Act of 1940 when requested by such SEC registrant for purposes of shareholder meetings. The above-referenced rules prohibit the requesting SEC registrant from using the Plan's name and address for any purpose other than corporate communications of the type contemplated under the rules.

- 5.3 Plan Sponsor authorizes Adviser to disclose Data to Adviser's affiliates and service providers in connection with Adviser's performance of Services under this Agreement. In addition, Plan Sponsor authorizes Adviser to disclose Data to Plan Sponsor's advisors, third-party administrators, service providers (such as payroll providers) and representatives authorized by Plan Sponsor in writing to receive such Data. Adviser may use and disclose, for benchmarking and research purposes, de-identified Data that is aggregated with other anonymized data of a similar nature across Adviser's client base in a manner that makes such Data unidentifiable to a particular individual or plan. Adviser's/EMPOWER's current Privacy Notice shall not lessen any of Adviser's obligations regarding Personal Data hereunder.

6 PRIVACY & DATA SECURITY

- 6.1 Plan Sponsor acknowledges and agrees that Adviser may receive Participant data from any and all Participants, including those Participants that are not enrolled in the Managed Account Service or the Online Advice Service (as described in Exhibit 4-1) and from Plan Sponsor or its authorized agent or advisors. Plan Sponsor authorizes Adviser to obtain all necessary data from Participants, Plan Sponsor, Plan Sponsor's agents or advisors, and Adviser's affiliates, including the Plan's recordkeeper, Empower.
- 6.2 In alignment with EXHIBIT 1: Department Terms and Conditions, Section 28.0, Adviser and Plan Sponsor agree to maintain and hold in confidence all Data and Confidential Information, as applicable, received in connection with the performance of Services under this Agreement. Adviser and Plan Sponsor agree that their collection, use and disclosure of all Data is and will at all times be conducted in compliance with all applicable data protection and/or privacy laws. Each party will implement, support, and maintain appropriate physical and logical security measures designed to secure Data, and will take all commercially reasonable organizational and technical steps to protect against unlawful and unauthorized processing of Personal Data. In accordance with the foregoing, Adviser and/or its Affiliates maintain a comprehensive data security program designed to safeguard Data and access to the Adviser Software and systems that complies with EXHIBIT 1: Department Terms and Conditions, Section 28.0 Information Security Agreement.
- 6.3 The parties will promptly notify each other in the event of an Information Security Breach as set forth in EXHIBIT 1: Department Terms and Conditions, Section 22.0(g), Contractor Reporting of Breach, Impermissible Use or Impermissible Disclosure to the Department. In addition to the foregoing, Plan Sponsor will notify Adviser immediately upon discovering a compromise of the security and/or log-on credentials of any Plan Sponsor employee or agent that has a plan administration role in Adviser's system.

- 6.4** Adviser acknowledges that it is a “financial institution,” within the meaning of Regulation S-P, Privacy of Consumer Financial Information, issued by the Securities and Exchange Commission (“Reg S-P”) along with the GLBA and other applicable federal and state laws. Adviser acknowledges and agrees that Participant information which uniquely identifies a Participant and as provided to Adviser under this Agreement (“Participant Information”) constitutes “personally identifiable financial information,” within the meaning of those federal and state laws. Adviser utilizes a Privacy Notice, which will apply to Participant Information, that may be amended from time to time.

7 BUSINESS CONTINUITY & DISASTER RECOVERY

In alignment with EXHIBIT 1: Department Terms and Conditions, Section 28.0(9), Business Continuity Management, Adviser will maintain business continuity and disaster recovery procedures to address the security, integrity and availability of the technology, operational, financial, human and other resources required to provide mission-critical Services in the event of a natural disaster or other interruption of normal business operations. Such procedures will be tested at least once annually. GWFS Equities, Inc.’s current Business Continuity Plan Notice is attached to this CONTRACT. By executing this Agreement, Plan Sponsor acknowledges receipt of this Notice.

8 RECORDS

In alignment with Article 2.5(C) Records Retention and EXHIBIT 2: Program Agreement, Section 11.0, Records Retention, Adviser shall retain all records in its custody and control that are pertinent to performance under this Agreement in accordance with its record retention policy, and as required by law. Subject to the foregoing, each party agrees to return or destroy the other party’s Confidential Information and Data once it is no longer required for the purpose of performing or receiving the Services, provided that the parties are not obligated to destroy copies of Confidential Information or Data that must be retained for audit, legal or regulatory purposes, or is stored in non-readily accessible electronic format, such as on archival systems; in such cases Adviser’s data protection obligations shall continue until such Data is destroyed in accordance with Adviser’s record retention policy.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 Plan Sponsor Materials.** As between the parties hereto, excluding Adviser Materials (as defined below), Plan Sponsor shall own all materials, trademarks, tradenames, logos, trade dress, and other Confidential Information provided or made accessible by Plan Sponsor to Adviser for use in providing the Services (collectively, the “Plan Sponsor Materials”). Plan Sponsor Materials do not include data and information in the form supplied by Adviser to Plan Sponsor. Plan Sponsor grants to Adviser a limited, revocable right and license to use Plan Sponsor Materials in connection with its provision of the Services.

- 9.2 Adviser Materials.** As between the parties hereto, Adviser and its affiliates shall own all materials, documentation, user guides, forms, templates, business methods, trademarks, tradenames, logos, websites, Adviser Software, technology, computer codes, domain names, text, graphics, photographs, artwork, interfaces and other information or material provided by Adviser or its affiliates hereunder (collectively, the “Adviser Materials”). Adviser grants to Plan Sponsor a nonexclusive, non-transferable

and non-sublicensable license to use the Adviser Materials during the term of the Agreement for purposes of using Adviser's Services hereunder and subject to the terms and conditions set forth in this Agreement and any terms of use associated with Adviser Software. Plan Sponsor and Plan Administrator shall not, and shall not enable third parties to, reproduce, modify, create derivative works of, or distribute any or all of Adviser's services or reverse engineer any of the software or other technology related thereto. All rights with respect to the Adviser Materials not specifically granted hereunder are reserved by Adviser.

10 LIABILITY & INDEMNIFICATION

- 10.1 The parties agree to be held to the indemnity provisions as set forth in EXHIBIT 1: Department Terms and Conditions, Section 23.0 Indemnification.
- 10.2 Adviser represents that it maintains error and omissions insurance, a fidelity bond under Section 412 of ERISA, and other appropriate insurance coverage in amounts sufficient to satisfy all material obligations of Adviser for Services under this Agreement.

11 DISPUTE RESOLUTION

In alignment with EXHIBIT 1: Department Terms and Conditions, Section 13.0, Contract Dispute Resolution, the parties shall engage in reasonable and good faith discussions to resolve any dispute arising out of or relating to this Agreement. If the parties are unable to agree between themselves, the parties will submit the dispute to non-binding mediation conducted by a private mediator agreed to by both parties. If the parties cannot agree on a mediator, the mediator may be selected by a nationally recognized, independent arbitration or mediation organization to which the parties mutually agree. The costs of mediation shall be borne equally by the parties, and each party shall pay its own expenses. If the parties are unable to resolve the dispute through non-binding mediation, either party may initiate litigation; provided, however, that if one party requests mediation and the other party rejects the proposal or refuses to participate, the requesting party may initiate litigation immediately upon such refusal.

12 TERM & TERMINATION

- 12.1 In alignment with EXHIBIT 1: Department Terms and Conditions, Section 16.0 Termination of the Contract, either party may terminate this Contract with one hundred and eighty (180) days written notice to the other party of its intent to terminate unless terminated in accordance with the applicable provisions of Section 12.2 of this Agreement.
- 12.2 **Termination.** This Agreement shall terminate automatically in the following circumstances:
 - 12.1.1 Either party notifies the other of that it has determined in good faith that the Agreement is not consistent with its fiduciary duties under ERISA or applicable federal or state law; or
 - 12.1.2 The CONTRACT for recordkeeping, administrative and other services between Plan Sponsor and Empower terminates or expires; or

12.1.3 The agreement between Adviser and Subadviser terminates or expires and Adviser is unable to contract with a suitable replacement to serve as a Subadviser.

12.2 Effect of Termination. As of the effective date of the termination, Adviser will terminate Participant access to the Services and cease providing any Services to Participants. PLAN SPONSOR will notify Participants, including Online Advice Participants and Managed Account Participants, of the termination as soon as practicable. Excluding 12.1.3, Adviser may assist Plan Sponsor in notifying Participants, Online Advice Participants and Managed Account Participants regarding the termination of Services; provided, however, to the extent Plan Sponsor requests such assistance, Adviser reserves the right to charge Plan Sponsor all reasonable fees, costs or expenses incurred by Adviser in connection with the provision of such assistance. Termination of the Agreement does not relieve Plan Sponsor or Managed Account Participants of their respective obligations, if any, to compensate Adviser for Services rendered through the effective date of such termination. If applicable, Adviser shall reimburse Plan Sponsor or Participants for any prepaid amounts that relate to the provision of Services after the effective date of termination.

13 MISCELLANEOUS

13.1 Affiliates & Agents. Plan Sponsor acknowledges and agrees that Adviser may utilize the services of affiliates, agents, vendors and suppliers selected by Adviser. Adviser's use of any such party will not relieve Adviser of its obligations hereunder, and Adviser shall at all times remain liable for the performance of the Services hereunder. Plan Sponsor acknowledges that Adviser has delegated certain of its obligations to Subadviser and that Adviser reserves the right, in its sole discretion, to replace Subadviser upon reasonable prior notice to Plan Sponsor. In the event, the Subadviser terminates its agreement with the Adviser and provides advance notice to the Adviser, Adviser will notify the Plan Sponsor of such change as soon as reasonably practicable. If the Subadviser replacement is deemed unsatisfactory by the Plan Sponsor, the Plan Sponsor may terminate this Agreement at any time in accordance with Section 12 herein. Adviser represents that Subadviser is not affiliated with Adviser or Empower and that Adviser has entered into an agreement with Subadviser that includes representations that the Subadviser: (i) is registered with the Securities and Exchange Commission as an investment adviser under the Advisers Act, and (ii) will maintain the required federal or state investment advisory registrations that permit it to perform its obligations under its agreement with Adviser, and (iii) will act, at all times in providing the methodology and software for Adviser's Services, in conformity with the requirements imposed upon Subadviser as an Subadviser under Department of Labor Advisory Opinion 2001-09A (and any modifications or amendments thereto), to the extent applicable to the Services.

13.2 Relationship of the Parties. The relationship between the parties is that of independent contractors. Neither party nor its personnel shall be considered employees of the other party for any purpose. None of the provisions of this Agreement shall be construed to create an agency, partnership or joint venture relationship between the parties or the partners, officers, or employees of the other party by virtue of either this Agreement or actions taken pursuant of this Agreement.

13.3 No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and their affiliates and is not intended to confer any rights or remedies upon any other person.

- 13.4 Assignment.** This Agreement shall be binding upon and inure to the benefit of each of the parties, their affiliates, successors and permitted assigns; provided, however, that neither party may assign its rights or obligations hereunder without the other party's prior written consent, which will not be unreasonably withheld or delayed, and as consistent with the Advisers Act.
- 13.5 Entire Agreement.** The parties agree to be held to the Entire Agreement provision as set forth in Exhibit 1 – Department Terms and Conditions, Section 1.0 Entire Agreement.
- 13.6 Governing Law; Waiver of Jury Trial.** To the extent not preempted by federal law, this Agreement shall be construed and enforced in accordance with and governed by the laws of the state of Wisconsin, without regard to conflict of law principles, and any claim arising under or related to this Agreement shall be subject to the exclusive jurisdiction of the federal and state courts located in Dane County, Wisconsin. Both parties agree to waive any right to have a jury participate in the resolution of any dispute or claim arising out of, connected with, related to or incidental to this Agreement to the fullest extent permitted by law.
- 13.7 Force Majeure.** In the event of a force majeure event, the parties agree to act in alignment with Exhibit 1 – Department Terms and Conditions, Section 42.0, Force Majeure.
- 13.8 Severability.** The provisions of this Agreement are severable, and if for any reason a clause, sentence, paragraph or provision of this Agreement is determined to be invalid by a court or federal or state agency, board or commission having jurisdiction over the subject matter thereof, such invalidity will not affect other provisions of this Agreement that can be given effect without the invalid provision.
- 13.9 Notices.** All formal notices required by this Agreement will be in writing and shall be sent to Adviser as set forth below and to the most current Plan Sponsor and trustee address on file with Adviser. All notices sent shall be effective upon receipt.

To Adviser:

Ken Verzella (or his successor)
Vice President, Participant Advisory Services
Advised Assets Group, LLC
8515 East Orchard Road
Greenwood Village, CO 80111

with a copy to:

Advised Assets Group, LLC
8515 East Orchard Road
Greenwood Village, CO 80111
Attn: General Counsel

To Plan Sponsor:

State of Wisconsin
Department of Employee Trust Funds
4822 Madison Yards Way
P.O. Box 7931
Madison, WI 53707-7931


13.10 Headings; Defined Terms; Counterparts. Section headings used in this Agreement are intended for reference purposes only and shall not affect the interpretation of this Agreement. Unless the context requires otherwise, capitalized terms defined in this Agreement have the meanings set forth herein for all purposes of this Agreement including any Schedules or Exhibits. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The parties' execution and delivery of this Agreement by facsimile, email, or electronic copies shall have the same force and effect as execution and delivery of an original.

13.11 Survival. The provisions of the following sections shall survive the termination of this Agreement: Fees & Charges; Confidential Information; Privacy & Data Security; Liability & Indemnification; Dispute Resolution; Governing Law; Waiver of Jury Trial; Survival; Severability; No Third-Party Beneficiaries; and any other section that would by its context be reasonably expected to survive termination.

13.12 Signatures/Corporate Authenticity. By signing this Agreement the parties certify that they have read and understood it, that they agree to be bound by its terms, and that they have the authority to sign it. This Agreement is not binding on either party until signed by both parties.

13.13 Electronic Signatures. Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures reasonably believed to be genuine on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

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State of Wisconsin Department of Employee Trust Funds	
By Authorized Board (Name): Deferred Compensation Board	
Signature:	DocuSigned by:  EB8DF2C970064C8...
Name and Title: Jason A. Rothenberg, Chair State of Wisconsin Deferred Compensation Board	
Phone: 608.266.0301 (Shirley Eckes, Deputy Secretary)	
Date : 5/27/2022	

Adviser	
Legal Company Name: Advised Assets Group, LLC	
Trade Name:	
Company Address (City, State, Zip) 8515 East Orchard Road Greenwood Village, CO 80111	
Name and Title: Ken Verzella, SVP, Chief Product Development Officer	
Signature:	DocuSigned by:  59B3E2970314410...
Phone: 860.562.2158	
Date: 5/27/2022	

EXHIBIT 4-1

DISCRETIONARY INVESTMENT ADVISORY AND NON-DISCRETIONARY SERVICES

List of Plans:

The State of Wisconsin Deferred Compensation Program

The parties agree that the Services under this Exhibit 4-1 will commence upon a date as directed by the Plan Sponsor and mutually agreed to by the parties, as administratively and operationally feasible.

1. GENERAL DESCRIPTION OF SERVICES

1.1. Adviser provides a full suite of discretionary and non-discretionary investment advisory services to eligible Participants as selected by the Plan Sponsor. Such services may include set-up services, communications, reporting, investment recommendations, calculation of installment distributions and initiation of investment transactions, subject to the terms and conditions of the CONTRACT and this EXHIBIT 4-1, as the same may be amended in writing by the parties from time to time.

1.2. As part of its Services, Adviser provides Participants access by telephone to the Customer Care Center (investment adviser representatives available from 7:00 a.m. to 8:00 p.m. Central Time, Business Days), and Adviser shall provide Participants, and designated representatives of Plan Sponsor, web access to Plan and Participant account information, subject to periodic maintenance and system availability.

2. SERVICE ELECTIONS

2.1. Managed Account Service

2.1.1. As further described in Adviser's Form ADV Brochure, the Managed Account Service provides discretionary advisory services, consisting of personalized portfolios created by Subadviser based upon the investment options available in the Plan, to Managed Account Participants. The Managed Account service allocates enrolled Participant accounts to personalized portfolios, and automatically rebalances portfolio allocations if Adviser believes rebalancing to be appropriate.

2.1.2. Managed Account Participants may further customize their portfolio by providing additional information, including investment objective, to Adviser by phone or online and such information shall be considered by Subadviser to determine portfolio recommendations for the Managed Account Participant. Adviser shall periodically review and rebalance the Managed Account Participant's portfolio.

2.1.3. A Managed Account Participant may cancel their participation in the Managed Account Service by calling Adviser's representative. Upon a Managed Account Participant terminating participation in the Managed Account Service, the Managed Account Participant is solely responsible for the investment of their Plan account.

2.1.4. For the Managed Account Service, Plan Sponsor designates the Participants, identified below, as eligible to be automatically enrolled in the Managed Account Service unless a Participant opts out of enrollment.

_____ Plan Sponsor Directed Enrollments (Qualified Default Investment Alternative (QDIA)/Default Investment and/or Opt-Out Campaign Feature)

Plan Sponsor designates the following PARTICIPANTS to be eligible for enrollment in the Managed Account Service:

_____ All eligible Participants

_____ All Participants newly eligible for Plan enrollment (QDIA/Default investment)

_____ Only Participants hired on and after [insert date]

 X Other: Those PARTICIPANTS who choose to opt-in to the Managed Account Service

2.1.5. Plan Sponsor elects the Income+ Feature.

 X **Income+ Feature:** Plan Sponsor elects to use the Income+ Feature. Adviser shall provide installment distribution calculations to Managed Account Participants who elect to receive installment distributions under the Plan. If a Managed Account Participant provides additional information to customize their portfolio, such information shall be considered by the Subadviser to determine installment calculations for the Managed Account Participant. Upon a Managed Account Participant terminating their participation in the Managed Account Service, calculations of installment distributions shall cease.

2.2. Online Advice Service. In addition, Adviser shall provide access to the Online Advice Service, selected below, to Participants. For the Online Advice Service, Adviser shall provide non-discretionary advisory services, consisting of investment recommendations created by Subadviser based upon the investment options available in the Plan, to Online Advice Participants. Online Advice Participants shall be responsible for implementing the investment recommendations. Beyond the initial recommendation, Adviser is not responsible for providing additional investment recommendations or the management of an Online Advice Participant's account. The Online Advice Service selected below, including enrollment, is only available through websites supported by Empower and Subadviser. Managed Account Participants are not eligible for the Online Advice Service while participating in the Managed Account Service.

3. COMMUNICATION AND ONGOING MAINTENANCE

3.1 Enrollment. Plan Sponsor agrees that Adviser will conduct (at no additional charge to Plan Sponsor) an education/enrollment campaign as part of the rollout of the Services to all eligible Participants and an annual campaign thereafter. The campaign materials will be provided to each Participant and may include but are not limited to a descriptive brochure, descriptive letter from Plan Sponsor, enrollment form, follow-up communication and other appropriate materials. Participants can enroll in the Managed Account Service through an online website (accessed through the Plan's participant website or enrollment site), Adviser's investment adviser representatives or by returning an enrollment form.

3.2 Ongoing Communications

3.2.1 Adviser will provide ongoing communications, including materials related to enrollment and adoption of the Services, retirement preparedness materials, investment transaction reporting and other appropriate materials. Plan Sponsor agrees to employ such communications.

3.2.2 Upon the request of Adviser, Plan Sponsor agrees to work in good faith to provide Adviser, through an affiliate of Adviser, a current and complete list of the email and physical home addresses of eligible Participants, in an electronic format reasonably acceptable to Adviser at a mutually agreed upon time.

3.2.3 Plan Sponsor authorizes Adviser or its designee to elect such electronic delivery on behalf of all Participants including (1) those documents currently available for electronic delivery and (2) those documents that may become available for electronic delivery in the future. Pursuant to such authorization by the Plan Sponsor such documents are to be provided directly to Participants via those email addresses provided by either the Plan Sponsor or Participants, or to be made available to such participants in a secure, online database with notices of the availability of such documents delivered electronically. Plan Sponsor will work in good faith to provide Adviser email addresses for Participants where email addresses are available and will periodically provide updates to the Adviser or its designee regarding this information. In addition to the foregoing, Plan Sponsor further authorizes Adviser to utilize the email addresses its affiliate has in its recordkeeping system pursuant to the separate services CONTRACT.

3.2.4 If a Participant objects or otherwise elects to no longer receive documents via electronic delivery Adviser will deliver such documents in hard-copy, paper format via U.S. mail or other suitable means. Adviser will also make available to participants the ability to revert back to electronic delivery at any time of their choosing.

3.2.5 E-mail communication campaigns will be fulfilled by Adviser or its designee, but it may appear to recipients that the originating e-mail address is from Plan Sponsor, the Adviser or an affiliate of the Adviser.

3.3 Reports. Adviser, at times in conjunction with Empower, may provide Plan Sponsor with periodic participant and plan sponsor reports, as agreed to by the parties.

4. FEES

Managed Account Service Fee. Managed Account Participants will be charged for the Managed Account Service in accordance with the following schedule:

Participant Account Balance	Managed Account Annual Fee
First \$100,000 of account balance	0.45 %
Next \$150,000, up to \$250,000 account balance	0.35 %
Next \$150,000, up to \$400,000 account balance	0.25 %
Amounts greater than \$400,000	0.15 %

* The fees for individual Managed Account Participants shall be paid at the fee rates indicated based on such Managed Account Participant's average daily assets under management while participating in the Program, calculated in arrears.

** The initial fee schedule will be charged from the date a Managed Account Participant enters the Managed Account Service until the occurrence, if at all, of the Reset Date, as defined below. Participation in the Managed Account Service will be determined by dividing the number of Managed Account Participants by the number of Participants (the "**Program Participation Rate**"), in each case determined as of the end of each calendar quarter. Once the Program Participation Rate has exceeded 20%, the fee schedule will be modified on the first day of the calendar quarter commencing on or immediately after the next occurring anniversary of the Rollout Date (the "**Reset Date**"), and the change in fee schedules will be communicated to Managed Account Participants.

5. ADDITION OF NEW PLANS

Tax-deferred plans not listed at the top of this Exhibit 4-1 that are added to Plan Sponsor's program after the Effective Date will not be included in this Agreement, and will be subject to additional fees.

EXHIBIT 5:

EMPOWER RETIREMENT, LLC DATA SECURITY & PRIVACY ADDENDUM

This Data Security & Privacy Addendum applies to Empower and its Affiliates and describes how Empower protects Personal Data and Plan Data (the “**Addendum**”). Capitalized terms used but not defined herein have the meanings given to them in the CONTRACT executed by Empower and Plan Sponsor under which Empower provides services to Plan Sponsor (“CONTRACT”).

1. Definitions. The following terms have the meanings set out below and similar terms shall be construed accordingly:

“**Data**” means Personal Data and Plan Data.

“**Data Protection Laws**” means any law with respect to the protection of Personal Data that is applicable to Empower’s Services under the CONTRACT or any Schedule or Exhibit thereto.

“**Information Security Breach**” means a confirmed compromise of an information system within the authority or responsibility of Empower that results in: (i) the unauthorized acquisition, disclosure, modification or use of unencrypted Personal Data, or encrypted Personal Data where the encryption key has also been compromised; and (ii) a reasonable likelihood of identity theft or fraud against a data subject in the Plan. An Information Security Breach includes, without limitation, theft and/or malicious use of Data by Empower personnel. A good faith but unauthorized or unintentional acquisition, disclosure, modification or use of Personal Data by an employee or contractor of Empower or a party who has signed a confidentiality agreement with Empower does not constitute a Security Breach if the Personal Data is not subject to further unauthorized acquisition, disclosure, loss, modification, or use.

“**Personal Data**” shall mean information that identifies or is reasonably capable of being associated with a Participant in the Plan or an eligible employee of Plan Sponsor, and includes personally identifiable financial information as defined by Title V of the Gramm-Leach-Bliley Act, but excluding data that is publicly-available and data from which individual identities have been removed and that is not linked or reasonably linkable to any individual.

“**Plan Data**” shall mean non-public Plan level information that is provided to Empower in connection with receipt of the Services. Plan Data excludes data that is de-identified and aggregated for benchmarking and research purposes.

“**Subprocessor**” means any person (including any third party service provider and any Empower Affiliate, but excluding personnel employed by such parties) engaged by Empower to process Personal Data.

2. Direction. Plan Sponsor Directs Empower and its Affiliates (and authorizes Empower and its Affiliates to Direct each Subprocessor), where applicable, to process Personal Data as follows: (a) processing in accordance with the CONTRACT and any amendments thereto as executed by the parties; and (b) processing initiated by Participants in their use of the Services.

Plan Sponsor represents that it is and covenants that it will at all relevant times remain duly and effectively authorized to give the Direction set out herein.

3. Security. In order to protect Personal Data, Empower will implement appropriate technical and organizational measures designed to protect Personal Data in accordance with the requirements of any Data Protection Laws. In addition to the foregoing, Empower's security program shall conform to the commitments described below.

4. Subprocessing. Plan Sponsor hereby agrees that Empower may engage its Affiliates and third parties as Subprocessor in connection with the provision of Services under the CONTRACT. Empower shall carry out reasonable due diligence as appropriate to the nature of each Subprocessor's services to ensure that the Subprocessor is capable of providing the level of protection for Personal Data required by the Information Security Policies. Upon request, Empower shall make available a current list of any material Subprocessors that have access to Personal Data; the parties hereto agree that such list is the Confidential Information of Empower and subject to the confidentiality provisions of the CONTRACT.

5. Data Subject Rights. Empower responds to any request from a Participant under applicable Data Protection Laws (such as "Right to Know" requests) as required by applicable Data Protection Laws. Empower will advise Plan Sponsor of any such request that requires Plan Sponsor's assistance or response, and in such case the parties shall cooperate with respect to the response to such Participant.

6. Data Security. Empower's Information Security Policies and related policies address the management of information security, the security controls employed by the organization. These policies include, without limitation:

6.1 An Information Security Board that is responsible for the development, implementation, and ongoing maintenance of Empower's data security.

6.2 Documented policies ("**Information Security Policies**") that Empower formally approves, internally publishes, communicates to appropriate personnel and reviews at least annually. Empower's Information Security Policies shall (i) mandate the secure protection and handling of confidential data, (ii) comply with applicable laws, (iii) conform to or exceed applicable industry standards for the retirement plan services industry, and (iv) documented, clear assignment of responsibility and authority for data security-related activities.

6.3 Policies covering acceptable computer use, record retention/destruction, information classification, cryptographic controls, access control, network security, removable media, remote access, mobile computing and wireless access.

6.4 Regular testing of the key controls, systems and procedures, including (i) testing of information technology general controls (ITGC) at least annually or whenever there is a material change in business practices, and (ii) infrastructure penetration tests and scans against internet-facing points of presence. Empower will correct vulnerabilities or security issues discovered through such assessments in a manner and time frame consistent with established standards.

6.5 Policies and procedures designed to protect the security of Plan Data and Personal Data that is accessible to, or held by, Empower's third party suppliers. Such policies shall be based on Empower's Information Security Policies, and shall address, as applicable: (i) the identification and risk assessment of such supplier; (ii) minimum cybersecurity standards required to be met by such suppliers; (iii) due diligence processes used to evaluate the adequacy of cybersecurity practices of such suppliers; and (iv) periodic assessment of such suppliers based on the risk they present and the continued adequacy of their cybersecurity practices.

6.6 Use of appropriate administrative, technical and operational measures designed to ensure Personal Data and Plan Data is secure.

6.7 Monitoring, evaluating and adjusting, as appropriate, its data security protocols summarized herein, in light of relevant changes in Data Protection Laws, Services, technology or industry security standards, the sensitivity of data collected or processed by Empower in the provision of its Services, and evolving internal or external risks. Empower may make such updates to its data security protocols and the terms hereof at any time without notice so long as such updates maintain a comparable or better level of security. Individual measures may be replaced by new measures that serve the same purpose without diminishing the security level protecting Personal Data or Plan Data.

7. Risk Management. Empower has a risk assessment program that includes regular risk assessments and management for risk identification, analysis, monitoring and reporting.

8. Human Resources.

8.1 Acknowledgements. Empower shall provide training on its information security practices to its personnel at least annually. Empower personnel shall acknowledge their information security and privacy responsibilities under Empower's policies.

8.2 Personnel Controls. Empower completes appropriate pre-employment background checks and screening on its personnel, and requires personnel to complete initial security training at the time they are first employed with Empower and annually thereafter. All personnel attest annually to Empower's Code of Business Conduct and Ethics, which enforces the tenets of Empower's Information Security Policies and its privacy policies. Empower has disciplinary processes for violations of information security or privacy requirements, and promptly removes personnel access to Plan Data or Personal Data upon termination or applicable role change.

9. Physical and Environmental Safety.

9.1 Physical and Environmental Security Controls. Empower has appropriate physical and environmental controls to protect Empower's equipment, assets, and facilities used to provision services. Physical security includes, without limitation (i) physical security in the protection of valuable information assets of the business enterprise; and (ii) the provision of

protection techniques for the entire facility, from the outside perimeter to the inside office space, including the datacenters and wiring closets.

9.2 Ongoing Operations. Empower protects its facilities and systems containing Data from failures of power, networks, telecommunications, water supply, sewage, heating, ventilation, and air-conditioning.

10. Communications and Operations Management.

10.1 Controls. Empower has policies and procedures in place for communications and operations management controls. Such controls address: hardening, change control, segregation of duties, separation of development and production environments, network security, virus protection, patch management, media controls, data in transit, encryption, audit logs, and time synchronization.

10.2 Operations Security. Empower's Information Security Policies mandate ongoing operations security requirements, including but not limited to, installing or maintaining (i) security patches for operating systems and applications within standard timeframes based on severity; (ii) industry standard versions of operating systems, software and firmware for system applications and components; and (iii) up-to-date system security agent software which includes updated malware and virus definitions.

11. Access Control.

11.1 Access Control. Empower utilizes access controls designed to ensure that only Empower personnel with the proper need and authority can access its internal recordkeeping system and associated data. Empower's access controls include but are not limited to: limiting access to personnel with a requirement to view Personal Data; establishing least-privilege controls to protect systems and Personal Data; generation of audit trails; periodic review and approval of personnel who need to access the Empower recordkeeping system; and termination of personnel access promptly following severance from employment.

11.2 Authentication. Empower authenticates user identity through appropriate authentication controls such as strong passwords, token devices, or biometrics. Passwords must meet minimum length and complexity requirements.

11.3 Remote Access to Empower Systems. Empower uses multi-factor authentication for remote access to its systems.

12. Information Systems Acquisition, Development and Maintenance.

12.1 Systems Development Security. Empower addresses security as part of information systems development and operations and follows secure coding methodologies based on application development security best practices.

12.2 Software Security Management. Empower's information systems (including operating systems, infrastructure, business applications, off-the-shelf products, services and user-developed applications) adhere to the information security standards set forth in Empower's Information Security Policies.

12.3 Vulnerability Assessments/Ethical Hacking. Empower performs vulnerability assessments and penetration testing against Internet-facing points of presence. Empower corrects vulnerabilities or security issues discovered through such assessments in a manner and time frame consistent with established standards set forth in Empower's Information Security Policies.

12.4 Cryptography. Empower uses cryptography techniques that assist Empower with preventing the unauthorized capture, modification of or access to data or information. Empower uses standard encryption algorithms that follow up-to-date encryption standards and industry practices. Such cryptography techniques may include but are not limited to: encryption of sensitive data sent across external communication lines; requirement of minimum 128-bit encryption TLS encryption for web browsers; and encryption of Personal Data while stored on laptops, mobile devices, and in recordkeeping databases.

13. Information Security Breach Management.

13.1 Incident Management Program. Empower maintains investigative measures and techniques for incident handling, including but not limited to: a formalized, enterprise-wide Computer Security Incident Response Team ("**CSIRT**"), and CSIRT processes which are tested at least annually.

13.2 Information Security Breach Response. Empower will notify Plan Sponsor after becoming aware of any Information Security Breach in accordance with all applicable Data Protection Laws. For the avoidance of doubt, Empower will (i) keep the Plan Sponsor informed of significant developments in connection with the investigation of such incident; (ii) investigate and assist any regulator or other governmental body with oversight over the Information Security Breach in investigating, remedying and taking any other action regarding the Information Security Breach as appropriate or required by law; and (iii) provide Plan Sponsor with information about remedial measures that have been undertaken to prevent such Information Security Breach from reoccurring. In the event that individual or regulatory notifications are required under applicable Data Protection Laws, the parties will cooperate with respect to notifications. To the extent the Information Security Breach is caused by Empower's failure to abide by its obligations as set forth in this Addendum, Empower shall bear the costs of such notifications and provision of credit monitoring services to affected individuals to the extent required by law or otherwise appropriate in Plan Sponsor's and Empower's reasonable judgment.

14. Plan Sponsor Assessment Rights.

14.1 Assessment via Security Assurance Package. Within the secure Plan Sponsor website provided by Empower, Empower provides documentation that supports and informs the reader about Empower's current security program and practices. These documents are referred

to as the Security Assurance Package (“**SAP**”), which currently consists of the following items: Security Program Overview document, SOC 1 report, SOC 2 report, available IT certification reports (e.g. Verizon CRP), and a completed SIG questionnaire with related supporting materials. (The SIG is a standardized document template created by the Shared Assessments Program, a consortium of leading financial institutions, the Big 4 accounting firms, and companies from a wide array of industries.)

14.2 Regulatory Assessment. If Plan Sponsor’s governmental regulators require that Plan Sponsor perform an on-site audit of Empower’s network security, as supported by evidence provided by Plan Sponsor, Plan Sponsor may conduct an on-site audit of Empower’s network security, relevant to the security of Plan Data (“**Regulatory Audit**”). Unless a different notice or frequency is required by Plan Sponsor’s governmental regulators, a Regulatory Audit may be conducted by Plan Sponsor once per year at a mutually agreed-upon time with at least 60 days’ advance written notice to Empower. If a Regulatory Audit requires the equivalent of more than two business days of Empower Personnel’s time to support such audit, Empower may charge Plan Sponsor’s an audit fee at Empower’s then-current rates for each day thereafter.

14.3 Miscellaneous. This Addendum is governed by and incorporated into the CONTRACT. In the event of any conflict between the CONTRACT and this Addendum, the CONTRACT will prevail. Any capitalized terms used but not otherwise defined herein shall have the meaning set forth in the CONTRACT.

**EXHIBIT 6:
PROCEDURES FOR COMPLYING WITH FUND COMPANY MARKET TIMING AND
EXCESSIVE TRADING POLICIES**

This Exhibit shall apply to any Exhibits or Schedules under the Services Agreement.

**PROCEDURES FOR COMPLYING WITH FUND COMPANY MARKET TIMING AND EXCESSIVE
TRADING POLICIES**

The prospectuses, policies and/or procedures of certain fund companies require retirement plan providers offering their fund(s) to agree to restrict market timing and/or excessive trading (prohibited trading”) in their funds. The following procedures describe how we will comply with fund company instructions designed to prevent or minimize prohibited trading.

Various fund companies instruct intermediaries to perform standardized trade monitoring while others perform their own periodic monitoring and request trading report when they suspect that an individual is engaging in prohibited trading. If an individual’s trading activity is determined to constitute prohibited trading, as defined by the applicable fund company, the individual will be notified that a trading restriction will be implemented if prohibited trading does not cease. (Some funds may require that trading restrictions be implemented immediately without warning, in which case notice of the restriction will be provided to the individual and plan, if applicable). If the individual continues to engage in prohibited trading, the individual will be restricted from making transfers into the identified fund(s) for a specified time period, as determined by the applicable fund company. Individuals are always permitted to make transfers out of the identified fund(s) to other available investment options. When the fund company’s restriction period has been met, the individual will automatically be allowed to resume transfers into the identified fund(s).

Additionally, if prohibited trading persists, the fund company may reject all trades initiated by the plan, including trades of individuals who have not engaged in prohibited trading.

Note: certain plan sponsors have or may elect to implement plan level restrictions to prevent or minimize individual prohibited trading. To the extent that such procedures are effective, we may not receive requests for information from the fund companies or requests to implement the restrictions described above.