

FLORES MASTER AGREEMENT

This Master Agreement (this “Agreement”) is entered into this 1st day of October, 2023 (the “Effective Date”) by and between Flores & Associates, LLC (“Flores”) and City of North Las Vegas, a municipal corporation (“Company”).

For and in consideration of the terms and conditions herein, Flores and Company agree as follows:

1. SCOPE OF AGREEMENT

Flores provides certain professional services or software services (the “Services”) as set forth in Exhibits A and B, attached hereto to Company.

Such Services in Exhibit A are provided to Company as plan administrator of a health plan, subject to the requirements of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (“COBRA”). Flores will assist Company in meeting its COBRA obligations for such health plan or plans (“Health Plan”).

Flores also provides Services to Company in order for Company to establish employee benefit plans and serving as sole and exclusive claims administrator for such plans (the “Plan”). Such Services are set forth in Exhibit B.

2. LICENSE

2.1. Access to Services. Subject to the terms and conditions of this Agreement, Flores shall provide to Company the Services, and hereby grants to Company a non-exclusive, non-transferable license (without the right to sublicense) to use the Services, in each case during the Term solely for the Company’s access and use for its internal business purposes.

2.2. Reservation of Rights; Feedback. As between Flores and Company, all rights, title and interest (including all intellectual property rights) in and to the Services and all improvements, enhancements and modifications thereto shall be owned by Flores. To the extent Company provides to Flores any suggestions, enhancement requests, recommendations or other feedback relating to the Services (“Feedback”), Flores shall have the perpetual, irrevocable, transferable and royalty-free right to use and exploit any and all such Feedback. All information relating to the Services shall be considered Flores’s Confidential Information, and Company agrees not to disclose or make available such information to any third party, or use such information for its benefit or the benefit of any third party.

2.3. Authorized Users. Company shall permit only Authorized Users to access and use the Services. “Authorized Users” shall mean employees of Company who are authorized to access the Services. Company shall not make available the Services to any person or entity other than Authorized Users, shall use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and shall provide Flores prompt notice of any such unauthorized access or use. Company shall be responsible for the Authorized Users’ compliance with this Agreement.

2.4. Restrictions. Company shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Services available to any third party, other than as expressly permitted by this Agreement; (ii) copy or create derivative works based on the Services, or remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels on, or embedded in, the Services; (iii) interfere with or disrupt the integrity or performance of the Services; (iv) reverse engineer or attempt to gain unauthorized access to the Services or related systems or networks; (v) use the Services to store or transmit infringing, libelous, or otherwise unlawful content or material, or to store or transmit content or material in violation of any rights

of any third party; or (vi) disseminate or use performance information or analysis (including without limitation benchmarks) relating to the Services.

3. FEES

Company shall pay to Flores the fee as set forth on the Flores Proposal/Letter of Intent (the "Fee"), in accordance with the payment schedule set forth on the Flores Proposal/Letter of Intent. All Fees paid are non-refundable. All amounts payable by Company to Flores hereunder are exclusive of any sales, use and other taxes or duties, however designated (collectively "Taxes"). Company shall be solely responsible for payment of any Taxes, except for those taxes based on the income of Flores. Company will not withhold any Taxes from any amounts due to Flores. The pricing and other terms in this Agreement are confidential to Flores, and Company shall not disclose or make available such information to any third party without Flores's prior written consent. Flores may assess interest on any overdue amounts of 1.5% per month and Company shall pay any costs of collection in the event Flores is the prevailing party. In the event any Company check is returned for insufficient funds, then, Flores may assess its then current charges, interest and/or terminate this Agreement and/or any Exhibit.

4. TERM, TERMINATION

4.1. Term. The term of the Agreement shall commence on the Effective Date and continue for five (5) years (the "Initial Term"). Following the Initial Term, this Agreement shall automatically renew for successive one (1) year renewal terms (each, a "Renewal Term"), unless either party provides notice to the other of its intention to allow the Agreement to expire at least thirty (30) days prior to expiration of the then-current Term. The Initial Term and all Renewal Terms shall collectively be referred to as the "Term".

4.2. Termination for Breach. Each party may terminate this Agreement upon written notice to the other party in the event the other party commits any material breach of this Agreement and fails to cure such breach within thirty (30) days after written notice of such breach, in the event Company breaches any of its payment obligations under this Agreement, within seven (7) days after written notice of such breach, or immediately, in the event Company files or has filed against it any petition in bankruptcy and such petition is not dismissed within thirty (30) days.

4.3. Termination for Convenience. Either party may terminate this Agreement without cause for its convenience upon sixty (60) days' prior written notice to the other party. In the event Company terminates this Agreement or any Exhibit for its convenience, then, Company will, at the option of Flores, be responsible for prorated fees for Services through the termination date.

4.4. Obligations on Termination. Upon expiration or termination of this Agreement (a) all obligations of Flores to provide the Services shall immediately terminate, and (b) Company shall remove any copies of any portions of the Services on its systems.

Any expiration or termination of this Agreement shall not modify or alter any right of a party hereto, which arose prior to such expiration or termination.

5. WARRANTIES AND EXCLUSIONS

5.1. Representations and Warranties. Each party represents and warrants to the other party that such party has the required rights, power and authority to enter into this Agreement and to grant all rights, authority and licenses granted hereunder. Flores shall use reasonable efforts consistent with prevailing industry standards to perform and maintain the Services in a manner which minimizes errors and interruptions.

5.2. Exclusions. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES ARE PROVIDED “AS IS” WITHOUT ANY WARRANTY OF ANY KIND AND FLORES DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY ACKNOWLEDGES THAT FLORES DOES NOT WARRANT THAT THE SERVICES WILL BE PROVIDED IN AN UNINTERRUPTED OR ERROR FREE FASHION AT ALL TIMES OR THAT THE SERVICES WILL MEET COMPANY’S REQUIREMENTS. COMPANY AGREES THAT FLORES SHALL HAVE NO LIABILITY FOR ANY DAMAGES SUFFERED BY COMPANY ARISING FROM OR IN CONNECTION WITH ANY CYBERSECURITY BREACH. FLORES DOES NOT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES.

6. INDEMNIFICATION

6.1. Indemnification by Flores. Flores shall defend at its expense any claim, suit or proceeding (each a “Claim”) brought against Company by a third party based upon a claim that Company’s use of the Services as contemplated by this Agreement infringes such third party’s rights under any United States patent or copyright or misappropriates such third party’s rights under a trade secret enforceable in the United States, and Flores shall pay all damages finally awarded against Company by a court of competent jurisdiction as a result of any such Claim. If the use of the Services by Company has become, or in Flores’s opinion is likely to become, the subject of any claim of infringement, Flores may at its option and expense (a) procure for Company the right to continue using the Services as set forth hereunder; (b) replace or modify the Services to make them non-infringing; or (c) if options (a) or (b) are not reasonably practicable, terminate this Agreement. Flores shall have no liability or obligation under this Section with respect to any Claim to the extent caused by (i) use of the Services outside the scope of this Agreement; (ii) modification of the Services in accordance with Company’s specifications or instructions or by any person or entity other than Flores without Flores’s express consent; (iii) the combination, operation or use of the Services with other applications, portions of applications, product(s), data or services not provided by Flores; or (iv) use of the Services by Company after Company has been notified of the potential infringement.

6.2. Indemnification Conditions. The foregoing indemnification obligations are conditioned upon the following: (a) Company shall promptly notify Flores of the applicable Claim, (b) Flores shall have the sole and exclusive right and authority to control the defense and/or settlement of any such Claim, and (c) Company shall reasonably cooperate with Flores in connection therewith.

7. ADDITIONAL TERMS

Certain additional terms with respect to COBRA Services or Plan Services are set forth in the respective Exhibit attached hereto. Such additional terms apply to the designated Services, and in the event of a conflict between the terms and conditions in this Agreement and the Exhibit, the terms and conditions in such Exhibit shall control.

8. CONFIDENTIALITY AND PUBLICITY

8.1. Definition of Confidential Information. For the purposes of this Agreement, “Confidential Information” means: (a) with respect to Flores, the Services, any and all source code relating thereto, all pricing and Fees relating to the Services and any related services, and any other non-public information or material regarding Flores’s legal or business affairs, financing, or customers, and (b) with respect to Company any non-public information or material regarding Company’s legal or business affairs, products, services, financing, or customers. Notwithstanding any of the foregoing, Confidential Information does not include information which: (i) is or becomes public knowledge without any action by, or involvement of, the party to which the Confidential Information is disclosed (the “Receiving party”); (ii) is documented as being known to the Receiving party prior to its disclosure by the other party (the “Disclosing party”); (iii) is independently developed by the Receiving party without reference or access to the Confidential Information of the Disclosing party and is so documented; or (iv) is obtained by the Receiving party without restrictions on use or disclosure

from a third person who, to the Receiving party's knowledge, did not receive it, directly or indirectly, from the Disclosing party.

8.2. Use and Disclosure of Confidential Information. The Receiving party will, with respect to any Confidential Information of the Disclosing party: (i) use such Confidential Information only in connection with the Receiving party's performance of its obligations and exercise of its rights under this Agreement; (ii) restrict disclosure of such Confidential Information within the Receiving party's organization to only those employees and consultants of the Receiving party who have a need to know such Confidential Information in connection with the Receiving party's performance of this Agreement and (iii) except as expressly contemplated under the preceding clause (ii), not disclose such Confidential Information to any third party unless authorized in writing by the Disclosing party to do so.

8.3. Protection of Confidential Information. The Receiving party will protect the confidentiality of any Confidential Information disclosed by the Disclosing party using at least the degree of care that it uses to protect its own confidential information (but no less than a reasonable degree of care).

8.4. Compliance by Personnel. The Receiving party will, prior to providing any employee, consultant, or vendor access to any Confidential Information of the Disclosing party, inform such employee or consultant, or vendor of the confidential nature of such Confidential Information and require such employee, consultant, or vendor to comply with the Receiving party's obligations hereunder with respect to such Confidential Information. The Receiving party will be responsible to the Disclosing party for any violation of this Section by any such employee, consultant, or vendor.

8.5. Required Disclosures. In the event the Receiving party becomes or may become legally compelled to disclose any Confidential Information (whether by deposition, interrogatory, request for documents, subpoena, civil investigative demand or other process, or otherwise), the Receiving party shall provide to the Disclosing party prompt prior written notice of such requirement so that the Disclosing party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Section. In the event that such protective order or other remedy is not obtained, or that the Disclosing party waives compliance with the provisions hereof, the Receiving party shall furnish only that portion of the Confidential Information which it is advised by counsel is legally required to be disclosed, and shall use its best efforts to insure that confidential treatment shall be afforded such disclosed portion of the Confidential Information.

8.6. **Public Records.** Pursuant to NRS 239.010 and other applicable legal authority, each and every document provided to Company may be a "Public Record" open to inspection and copying by any person, except for those documents otherwise declared by law to be confidential. Company shall not be liable in any way to Flores for the disclosure of any public record including, but not limited to, documents provided to Company by Flores. In the event Company is required to defend an action with regard to a public records request for documents submitted by Flores, Flores agrees to indemnify, hold harmless, and defend Company from all damages, costs, and expenses, including court costs and reasonable attorneys' fees related to such public records request. This section shall survive the expiration or early termination of the Agreement.

In addition, Flores shall comply with all laws or regulations with respect to the disclosure of Confidential Information or other information.

9. LIMITATION OF LIABILITY

EXCLUDING INTENTIONAL TORTS AND GROSS NEGLIGENCE, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF THIS

AGREEMENT, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST DATA, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF A REPRESENTATIVE OF SUCH PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. FLORES SHALL NOT BE LIABLE TO COMPANY UNDER THIS AGREEMENT FOR ANY DAMAGES, COSTS, OR LIABILITIES IN EXCESS OF THE FEES PAID OR PROPERLY PAYABLE BY COMPANY UNDER THIS AGREEMENT TO FLORES FOR THE TWELVE (12) MONTHS PRECEDING THE TIME OF ANY CLAIM.

10. GENERAL

10.1. Force Majeure. Neither party shall be deemed in breach hereunder for any cessation, interruption or delay in the performance of its obligations due to causes beyond its reasonable control, including, without limitation, earthquake, flood, or other natural disaster, act of God, labor controversy, civil disturbance, terrorism, war (whether or not officially declared) or the inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, or any change in or the adoption of any law, regulation, judgment or decree; provided that financial inability in and of itself shall not be a force majeure event.

10.2. Compliance with Laws. Without limiting the generality of the foregoing, Company shall not transfer, either directly or indirectly, the Services or any Confidential Information, either in whole or in part, to any destination subject to export restrictions under United States law, unless prior written authorization is obtained from the appropriate United States agency and shall otherwise comply with all other applicable import and export laws, rules and regulations.

10.3. No Assignment. Neither party may assign this Agreement in whole or in part without the prior written consent of the other party, except that Flores may assign this Agreement, without the prior written consent of Company, to a corporation or other business entity succeeding to all or substantially all of the assets and business of Flores to which this Agreement relates by merger or purchase. Any attempt to assign or transfer any of the rights, duties or obligations of this Agreement in violation of the foregoing shall be null and void.

10.4. Amendment; Waiver. This Agreement may not be amended or modified, in whole or part, except by a writing signed by duly authorized representative of both parties. No provision or part of this Agreement or remedy hereunder may be waived except by a writing signed by a duly authorized representative of the party making the waiver. Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

10.5. Relationship. Nothing in this Agreement shall be construed to place the parties in an agency, employment, franchise, joint venture, or partnership relationship. Neither party will have the authority to obligate or bind the other in any manner, and nothing herein contained shall give rise or is intended to give rise to any rights of any kind to any third parties.

10.6. Severability. In the event that any provision of this Agreement is found to be unenforceable, such provision will be reformed only to the extent necessary to make it enforceable, and such provision as so reformed will continue in effect, to the extent consistent with the intent of the parties as of the Effective Date.

10.7. Governing Law, Jurisdiction. All disputes, claims or controversies arising out of this Agreement, or the negotiation, validity or performance of this Agreement, or the transactions contemplated hereby shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its rules of conflict of laws. Each of the parties hereby irrevocably and unconditionally consents to submit to the sole and exclusive jurisdiction of the applicable courts in the State of Delaware for any litigation among the parties arising out of or relating to this Agreement, or the negotiation, validity or performance of this Agreement, waives any objection to the laying of venue of any such litigation in the Delaware courts and agrees not to plead or claim in any Delaware court that such litigation

brought therein has been brought in any inconvenient forum or that there are indispensable parties to such litigation that are not subject to the jurisdiction of the Delaware courts.

10.8. Notices. All notices under or related to this Agreement will be in writing and will reference this Agreement. Notices will be deemed given when: (a) delivered personally; (b) sent by confirmed telecopy or other electronic means; (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial overnight carrier, with written verification of receipt. All communications will be sent to the addresses set forth in this Agreement, or such other addresses designated pursuant to this Section.

Certain other notice requirements shall be as set forth in the applicable Exhibits.

10.9. Entire Agreement. This Agreement constitutes the entire agreement between the parties. It supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter, and prevails over any conflicting terms or conditions contained on printed forms submitted with purchase orders, sales acknowledgments or quotations.

Each party has caused this Agreement to be executed by its duly authorized representative as of the Effective Date:

FLORES & ASSOCIATES, LLC

CITY OF NORTH LAS VEGAS

By: Daniel Taylor

By: _____

Name: Dan Taylor

Name: Pamela A. Goynes-Brown

Title: SVP Business Development

Title: Mayor

Date: May 15, 2023

Date: _____

Attest:

Address for Notice:

Address for Notice:

By: _____
Jackie Rodgers, City Clerk

Flores & Associates, LLC
Address: 2013 W Morehead St. Suite B
Charlotte, North Carolina 28208
Phone: (704) 335 8211

City of North Las Vegas
Address: 2250 Las Vegas Boulevard North
North Las Vegas, NV 89030
Phone: (702) 633-1000

Approved as to Form:

By: _____
Micaela Rustia Moore, City Attorney

EXHIBIT A

COBRA SERVICES

SECTION 1: FLORES RESPONSIBILITIES:

Cobra Manual

Flores will provide the Company with a COBRA administrative manual that will include:

- i. Procedures to be followed by the Company in meeting its COBRA obligations and information necessary for Flores to administer the COBRA services
- ii. Initial COBRA Notification Form (unless COBRA Notification service is declined by Company during implementation)
- iii. Qualifying Event Notification Form
- iv. Right to Convert to Individual Insurance Notification (available only for insured plans to the extent the insurance contract grants conversion privileges)
- v. Sample language for revision of Summary Plan Description for the Health Plan
- vi. Reporting Forms for Qualifying Event Notification
- vii. Other Administrative Forms
- viii. Instructions

Note: The COBRA Initial and Qualifying Event Notification Forms included in the COBRA Manual are based upon model documents provided by the U.S. Department of Labor (“DOL”) and Internal Revenue Service (“IRS”).

Initial Notices

Flores will provide Initial COBRA Notice services if selected during implementation. Flores will provide the initial COBRA notice to all new employees of Company and dependents who are participants under the Health Plan beginning after the Effective Date and whose names and addresses are furnished by the Company.

Qualifying Event Notices

Flores will mail the Qualifying Event Notice directly to Qualifying Beneficiaries, who are those employees and dependents who lose coverage under the Health Plan as a result of a “qualifying event.” Flores will provide the Qualifying Event Notice within ten (10) days from notice receipt of a Qualifying Event from the Company. The Company must provide timely information to Flores of qualifying events (see Company’s Responsibilities below).

Administration of Coverage Elections and Premium Collection

Flores will undertake the following responsibilities for the administration of continuation coverage:

- a. Flores will accept elections for continuation coverage received from Qualified Beneficiaries and will notify the Company within ten (10) business days after the end of each month of the status of each Qualified Beneficiary’s election. Election forms are to provide all necessary data Flores requires to efficiently process an election.
- b. If a Qualified Beneficiary makes an election for continuation and if the Company confirms that the Qualified Beneficiary is eligible for continuation coverage (such a Qualified Beneficiary will be referred to as a “Continuant”), Flores will collect premiums (plus administrative charges) from or on behalf of Continuants, and forward the amount of the paid premiums less the administrative charges to the Company on a monthly basis.
- c. Flores will advise the Company via email of the status of each Continuant within ten (10) business days after the end of each month. These status reports will include Continuants who are current on their payments, and those whose Health Plan coverage should be cancelled for failing to timely remit payments pursuant to the

requirements of COBRA. The Company will be responsible for making the final decision to cancel Health Plan coverage for failure to timely remit premium payments.

Maintenance Records

Flores shall store data provided by the Company with respect to periods of coverage of participants and dependents under the Health Plan retroactive to October 1, 2023 and shall retrieve such data in connection with the issuance of Notices. Flores shall maintain proof of Services performed by Flores for a period of seven (7) years from the date that a Notice is issued.

Telephone Access to Customer Service

Flores shall provide a toll-free telephone number for access to a Customer Service Representative, who will be available during normal business hours (8:30 a.m. to 5:00 p.m. E.S.T., Monday to Friday, except holidays) that may be used by Health Plan participants and dependents (or their authorized representatives) in connection with the Services provided by Flores under this Agreement.

Other Responsibilities

Flores will not provide any COBRA services not described in this Agreement, except that Flores may provide additional COBRA services at its option for no additional charge.

Company's Responsibilities

The Company shall notify Flores of the following events that result in the loss of coverage by a covered employee or dependent under the Health Plan ("Qualifying Events"):

- a. Death of a covered employee/retiree;
- b. Termination of employment of a covered employee (for reasons other than gross misconduct) or reduction in the employee's hours;
- c. Divorce/legal separation from the covered employee;
- d. Covered employee/retiree becoming entitled to benefits under Title XVIII of the Social Security Act (Medicare);
- e. Dependent children who cease to be eligible as "dependents" under the terms of the Health Plan;
- f. Company filing for bankruptcy;
- g. Any other event resulting in a covered employee and/or dependent becoming qualified to continue coverage under the provisions of COBRA;

Note: The Company shall provide the notice of a Qualifying Event for a covered employee or dependent not later than twenty-one (21) days after the date of the Qualifying Event. The Company shall be solely responsible for determining whether an employee has had a Qualifying Event, whether a covered employee has been terminated for gross misconduct, or whether a covered employee or dependent is or has been incompetent.

Notice of Other Events - In addition, the Company shall notify Flores of the following events, whether or not they result in the loss of coverage by a Qualified Beneficiary:

A Qualified Beneficiary being determined, under title II or XVI of the Social Security Act, to have been disabled at any time during the first sixty (60) days of continuation coverage or that the qualified beneficiary is no longer disabled. Such notice(s) shall be provided to Flores as soon as practicable, but in no event later than five (5) business days after the date the Company becomes aware of such event; and

The termination of any plan that is part of the Health Plan, such notice(s) to be provided at least thirty (30) days prior to, or, if less, as soon as practicable in advance of, the termination of the plan that is part of the Health Plan.

Notification of Premium Rates - The Company shall determine and notify Flores of the applicable premium rates to be charged for COBRA continuation coverage as follows:

- a. The Company will give Flores the rates for all participants and dependents' electing continuation coverage as of the Effective Date. If the Company changes rates in mid-year, it shall notify Flores of the new rates at least thirty (30) days before the first billing date that the new rates apply; and
- b. The Company will notify Flores of the rates for the next year at least thirty (30) days before the first billing date for the next year.

Procedures

In providing COBRA services, Flores shall follow these rules:

- a. Flores shall consider COBRA premiums to be timely paid if, within thirty (30) days of the due date, such premiums are actually delivered to Flores, postmarked by the U.S. Postal Service or sent by express delivery service (with evidence thereof), unless the Company advises Flores in writing that a longer period applies under the Health Plan. Actual delivery, postmark or evidence of express delivery will also be used to determine timeliness of COBRA elections based on applicable statutory periods. Flores shall not be responsible for reviewing the Health Plan in any respect or for comparing the Health Plan with the group health plan sponsored by another employer or Medicare.
- b. Notices will be sent by Flores by U.S. Postal Service first class mail to the affected participant or dependent at the address provided to Flores by the Company pursuant to procedures established by Flores. Flores shall maintain records showing the date of mailing, the address, and any returns. If mail is returned without a forwarding address, Flores will notify the Company.
- c. In addressing correspondence to participants, dependents and other individuals, Flores, where practicable, will use zip+4, for those addresses that are furnished to Flores without such information, and to use its best efforts to correct or complete addresses that it recognizes to be incorrect and or incomplete.
- d. Flores shall accept verbal direction from the Company when necessary to fulfill Flores' duties under the terms of this Agreement.

SECTION 2: ADDITIONAL SERVICES

Flores Responsibilities

Flores will provide the following additional Services:

1. COBRA UPDATES - Flores shall provide current and updated information to the Company relating to compliance with COBRA, if such Services have been selected, including any changes or modifications in compliance requirements, notification language and related steps necessary to act in accord with said changes or modifications.
2. GOVERNMENT AUDITS - Flores or its officer or designated agent, shall be available to attend any audit held by the Internal Revenue Service, or hearing by any governmental agency or bureau, regarding compliance with COBRA, and will provide, at such audit or hearing, records and documentation so as to assist the Company at such hearing in evidencing compliance with COBRA.

SECTION 3: FLORES RELIANCE ON THE COMPANY

Not a Party to Plan

The Company understands that all Services, reports and forms prepared by Flores under this Agreement will be based on information provided by the Company, and that the timeliness and accuracy of the Notices and other Services provided under this Agreement depend upon the timeliness and accuracy of the information provided by the Company.

Flores will rely fully on the accuracy and completeness of information submitted by the Company and will have no duty or responsibility to verify such information. The Company represents that it is the plan administrator for the Health Plan and is authorized to act for the Health Plan and to engage agents in this capacity to assist in the performance of administrative duties.

Flores will not become a fiduciary or a party to the Health Plan by this Agreement and will assume only those responsibilities described in this Agreement. Flores does not contract to provide tax or legal advice, and the Company is responsible for the preparation, adequacy or validity of any legal documents affecting the Health Plan.

SECTION 4:

Not a Party to Plan

It is specifically understood by the Company, and notwithstanding anything in this Agreement to the contrary, that Flores shall not be responsible to receive or review claims for benefits under the Health Plan or be liable for the payment of any claims for benefits under or in connection with the Health Plan or any group health plan of the Company, including without limitation, where sought as damages in an action against the Company, Flores, or otherwise.

No provision of this Agreement shall be deemed to make Flores or any entity affiliated with Flores a party to the Health Plan or a fiduciary of the Health Plan. The Company agrees to indemnify and hold Flores harmless from and against any and all liability or liabilities, claims, penalties, damages or costs, including attorneys' fees, which Flores may incur arising out of the Company's exercise of, or failure to exercise, fiduciary authority under the Health Plan and/or the failure to perform any other obligation of the Company contemplated by this Agreement.

SECTION 5: MISCELLANEOUS

Unclaimed Funds

Flores maintains an escheats process for all checks. If a check is not deposited within one hundred eighty (180) days from when the check was issued, then a letter is mailed to the last known address on record to whom the check was issued. If after 180 days from the date the letter has been mailed, no response has been received by Flores, then Flores will issue a forfeiture check to the Company containing a detailed report of the undeposited funds. If the funds remain undeposited for a period of three (3) years, Flores reserves the right to use these funds to offset general plan administration expenses.

EXHIBIT A-1

ELECTRONIC NOTICE [for COBRA only]

☒ In the event Flores and Company have agreed that Flores will provide certain Electronic Notices, the following terms and conditions shall apply.

Prior to or in conjunction with this Exhibit A-1, the parties have entered into the COBRA Administration Exhibit A, the terms of which remain in full force and effect.

The parties now believe that they can better and more efficiently serve the Company's employees and eligible covered beneficiaries (collectively "Covered Individuals") by providing certain employee benefit notices electronically. These notices include, Initial COBRA Notices and COBRA Qualifying Event Notices (collectively, "COBRA Notices").

The Company understands the additional administrative burdens posed by providing electronic notice, which include but are not limited to notifying Covered Individuals of certain aspects of electronic notice; obtaining consent from Covered Individuals to provide COBRA Notices electronically; and tracking the current email addresses of Covered Individuals.

1. The Company hereby directs Flores to provide COBRA Notices via electronic means to Covered Individuals when the Company provides an email address for that Covered Individual.
2. By providing an email address, the Company acknowledges it provided notice to and obtained the informed consent of that Covered Individual as described in the Department of Labor electronic notice safe harbor.
3. The Company acknowledges and agrees that it is solely responsible for (1) obtaining informed consent from Covered Individuals regarding the use of electronic notices; (2) collecting email addresses of Covered Individuals; (3) remitting those email addresses to Flores; and (4) notifying Flores within two (2) business days in the event a Covered Individual withdraws consent for electronic delivery or provides notice regarding a change of email address. The Company shall only provide email addresses for Covered Individuals who have executed, and not subsequently revoked, Notice and Consent Forms.
4. Flores is not responsible for and under no obligation to verify or confirm the email addresses or the acknowledgement of consent to receive electronic notices provided by the Company. The Company understands that all COBRA Notices will be based on information provided by the Company, and that the timeliness and accuracy of the COBRA Notices depend upon the timeliness and accuracy of the information provided by the Company. Flores will rely fully on the accuracy and completeness of information submitted by the Company.

EXHIBIT B

PLAN SERVICES

The Company shall check any applicable boxes below with respect to Plan Services, and in such event, the applicable terms and conditions set forth below shall apply.

- | | |
|--|---|
| <input checked="" type="checkbox"/> Health Care Flexible Spending Account (HCFSA) | <input checked="" type="checkbox"/> Dependent Care Flexible Spending Account (DCFSA) |
| <input type="checkbox"/> Health Reimbursement Account (HRA) | <input type="checkbox"/> Health Savings Account (HSA) |
| <input type="checkbox"/> Commuter Benefit Account (CBA) | <input checked="" type="checkbox"/> COBRA/Retiree/Leave of Absence Billing |
| <input type="checkbox"/> Tuition Assistance Reimbursement Plan (TARP) | <input type="checkbox"/> Life Balanced Reimbursement Account |
| <input type="checkbox"/> Student Loan Repayment Assistance Plan (LRAP) | <input type="checkbox"/> Medical Travel Employee Assistance Program (MTEAP) |
| <input type="checkbox"/> HR Compliance Center Portal Access | |

HCFSA

The Company wants to establish a Health Care Flexible Spending Arrangement for its employees under Section 105(b) of the Internal Revenue Code.

HRA

The Company wants to establish a Health Reimbursement Account Plan for its employees under Section 105(b) of the Internal Revenue Code.

Commuter (CBA)

The Company wants to establish a Commuter Benefit Account plan for its employees under Section 132 of the Internal Revenue Code.

Tuition Assistance Reimbursement Plan (TARP), Student Loan Repayment Assistance Plan (LRAP)

The Company wants to establish an Education Assistance Plan for its employees under Section 127 of the Internal Revenue Code.

HR Compliance Center Portal Access

The Company wants to establish access to the HR Compliance Center online resource portal ("Portal") to obtain certain human capital management, HR, safety, and corporate compliance services ("HR Compliance Services") through a dedicated Third-Party Vendor. In addition to this Master Agreement, Company must execute an agreement with the Third-Party Vendor who provides the HR Compliance Center services directly to Company through HR professionals and/or attorneys through a Service Firm designated by the Third-Party Vendor. The terms and conditions of said third-party agreement shall control with respect to the Portal and delivery of the HR Compliance Services.

DCFSA

The Company wants to establish a Dependent Care Flexible Spending Arrangement for its employees under Section 129 of the Internal Revenue Code.

HSA

The Company wants to establish a benefit plan for its employees known as a Health Savings Account. Flores is in the business of helping establish employee benefit plans and serving as data transmitter and funding administrator for such plans. Flores has agreed to provide the Company with materials necessary to establish and administer a Health Savings Account (the "Plan"). Flores has also agreed to help the Company install the Plan and to serve as a liaison with the bank trustee (the "Bank").

COBRA/Retiree/Leave of Absence Billing

The Company wants Flores to conduct billing for insurance premiums for COBRA participants (if COBRA services are in effect for the Company), retirees and/or employees on an approved leave of absence whether subject to the Family and Medical Leave Act or otherwise.

Life Balanced

The Company wants to establish a Life Balanced post-tax reimbursement account for its employees.

MTEAP

The Company wants to establish a Medical Travel Employee Assistance Program for its employees pursuant to Department of Labor Regulation Section § 2590.732(c)(3)(vi) and Section 105(b) of the Internal Revenue Code.

COBRA

The Company is the plan administrator of a health plan subject to the requirements of “COBRA” (the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended). Flores is in the business of helping plan administrators meet their obligations under COBRA. The Company and Flores wish to enter into this Agreement whereby Flores will assist the Company in meeting its COBRA obligations for the health plan or plans (“Health Plan”).

Plan Implementation (HCFA, DCFA, Commuter, HRA, TARP, LRAP, and MTEAP)

Flores will provide the Company with the following forms to implement the Plan:

- a. Plan Documents;
- b. Resolution for Plan Adoption;
- c. Summary Plan Description;
- d. Notice to Employees Announcing Plan;
- e. Enrollment Forms (if applicable);
- f. Election/Salary Reduction Agreement (if applicable); and
- g. Other Administrative Forms
- h. Section 132 Policy Statement (for Commuter Benefit Account Only)

The Plan Document, Resolutions, and Summary Plan Description are prototype documents and are intended to be reviewed by and completed/edited with the help of the attorney for the Company. The Company shall be responsible for enrolling employees on the Participant Enrollment Forms and having the Election/Salary Reduction Agreements completed, as applicable. The Company shall furnish copies of such forms and agreements to Flores.

Plan Implementation (HSA)

Flores will provide the Company with the following forms to implement the Plan:

- a. Cafeteria Plan Document/ Summary Plan Description when needed
- b. Notice to Employees Announcing Plan
- c. Agreements with the Bank
- d. Enrollment Forms
- e. Other Administrative Forms

The Company shall be responsible for enrolling employees on the Participant Enrollment Forms. The Company shall furnish copies of such forms and agreements to Flores. Enrollment information must be completed in full for Flores to establish the HSA with the Bank.

Plan Implementation (Life Balanced)

Flores will provide the Company with the following forms to implement the Plan:

- a. Implementation Checklist
- b. Notice to Employees Announcing Plan
- c. Other Administrative Forms

The Company shall be responsible for enrolling employees and providing enrollment to Flores.

Enrollment Data and Funding Administration (HSA only)

Flores shall act as enrollment data receiver/transmitter and funding receiver/transmitter for the Plan operating as a liaison between the Company and the Bank. It shall maintain the necessary records and accounts to operate the Plan. Flores shall prepare and deliver to the Company all reports and returns which are required for the Company to properly report to governmental agencies regarding the Plan. In its role as data receiver/transmitter and funding receiver/transmitter, Flores shall process enrollment and funding within a framework of policies, rules and interpretations of appropriate governmental agencies for operation of a Health Savings Account, and within the framework of the Plan documentation as reviewed and approved by the Company. To the extent any enrollment or funding issue is not addressed by an appropriate governmental agency or by Plan documentation, or is unclear, the claims administrator shall act in accordance with instruction of the Company.

Company Account (HSA)

To facilitate HSA administration, Flores maintains a master checking account. Within this account it shall maintain a sub-account for the Company (the "Company Account") for all transmittals of Company monies. The Company shall transmit all Company monies to the Company Account on a predetermined schedule agreed to by both Flores and the Company. Flores shall use such Company transmittals to make deposits to the proper HSA accounts managed by the Bank. Flores shall keep such records as are necessary to reflect transmittals, and account balances attributable to each participant and shall provide written accounting to the Company upon request. Flores has no ownership interest in the monies held in the Company Account, which Flores holds in escrow and trust for the benefit of participants in the case of legitimate claims for reimbursement, and for the benefit of the Company in the case of forfeiture or termination. Flores owes a duty to the Company to hold, account for, and disburse monies transmitted by Company to Flores strictly for the purposes set forth, and in accordance with, in this Agreement.

No Claims Review (HSA Only)

Health Savings Accounts require no third party claims review. The HSA accountholder is responsible for using the account to pay for eligible medical expenses as defined by the IRS. Helpful lists are provided at the Bank web portal. HSA participants access their funds via the Bank utilizing a debit card or electronic bill pay.

Claims (HCFSA, DCFSA, Commuter, HRA, Life Balanced, and MTEAP Only)

All claims for Health Care Reimbursements shall be submitted by the participants to Flores in accordance with the instructions. Flores shall pay Health Care Reimbursement claims in accordance with instructions provided to participants during enrollment. Due to the necessity for funds to be available for Reimbursement transactions made by the participant on a debit card, a 5% prefund of the aggregate participant accounts' election must be made prior to the start of the plan year in order to fund debit card purchases. Flores shall not make any Health Care Reimbursement claims payment to a participant if the amount of the aggregate Health Care Reimbursement claims exceeds the balance credited to the aggregate participants' accounts in the Company Account. In such event, Flores shall immediately notify the Company of the amount by which the Health Care Reimbursement claims exceed the aggregate amount credit to the participants' accounts. The Company shall then transmit such amount to Flores for credit to the participant's account so the Health Care Reimbursement claim can be paid.

All claims for Dependent Care Assistance reimbursements shall be submitted by the participants to Flores in accordance with the instructions. Flores shall pay Dependent Care Assistance claims in accordance with instructions provided to participants during enrollment. Flores shall not make any Dependent Care Assistance claims payments to a participant if the amount of the Dependent Care Assistance claim exceeds the balance credited on the participant's balance in the Company Account.

All MTEAP claims shall be submitted by participants to Flores in accordance with the instructions. Flores shall pay claims from the applicable participant's account in accordance with the terms of the MTEAP. No such payment shall exceed the balance credited to the participant's account.

All Health Reimbursement Account and Life Balanced account claims shall be submitted by the participants to Flores in accordance with the instructions provided during the enrollment process. Flores shall pay claims in accordance with instructions provided to participants during enrollment. On the pre-determined schedule, Flores will fax or e-mail a check register listing and totaling all claims approved for payment during the scheduled period. The Company shall then transmit such amount to Flores and Flores will release the payments listed on the check register.

Unclaimed Funds

Flores maintains an escheats process for all checks. If a check is not deposited within 180 days from when the check was issued, then a letter is mailed to the last known address on record to whom the check was issued. If after 180 days from the date the letter has been mailed, no response has been received by Flores, then Flores will issue a forfeiture check to the Company containing a detailed balance of the un-deposited funds.

Forfeitures (FSA only)

If at the end of a Plan Year there is any forfeiture of balances in participants' accounts, the Company shall instruct Flores as to how the forfeited balances are to be applied, provided that such application is in accordance with the Plan's governing instruments. These balances will be returned to the Company at the end of the Claims Run Out period net of any unpaid administration fees. If a forfeiture check remains uncashed, despite Flores attempts to remit funds back to company through Flores' unclaimed property process, then funds will be used to offset general plan administration expenses.

Plan Administration. As Plan Administrator, it will be the Company's responsibility to collect data in a preferred method, determine employee contribution limits, have participants make payroll deduction elections, transmit election data, Company monies as requested, and deliver reimbursement checks from Flores to the participants (if required). For HSA, it will be the Company's responsibility to collect enrollment forms, determine employee contribution limits, determine employee age, certify HSA eligibility based on HDHP coverage, have participants make payroll deduction elections if required, and transmit Company monies as requested.

Fees and Compensation

The Company agrees to compensate Flores for the setup charges upon installation of the Plan. Fees for annual plan administration will be billed on a monthly basis. Upon termination of the Administration Agreement, the Company will be responsible for the administration fees billed for the Claims Run Out Period (if applicable for plan selection). Attached is a copy of the Professional Fees Summary which is included as part of this Exhibit.

Authority

The Company represents herein that the Company is the plan administrator for the Plan and is as such duly authorized to act for the Plan and to engage agents in this capacity to assist in the performance of administrative duties. Flores will not become a fiduciary or a party to the Plan by this Agreement, and will assume only those responsibilities described in this Agreement. The Company understands that Flores does not contract to provide tax or legal advice, and that any

responsibility for the preparation, adequacy or validity of any legal documents affecting this Plan will be vested in the attorney retained by the Company or the Plan.

Information from Company

The Company understands that all Services, reports and forms prepared according to the terms of this Agreement will be based on information provided by the Company, and that Flores will incur no responsibility for the performance of such Services until and unless such information as it requests is provided. Flores will be entitled to rely fully on the accuracy and completeness of information submitted by the Company, and will have no duty or responsibility to verify such information. The Company remains responsible for verifying all information contained on reporting and disclosure forms prepared by Flores for supplying any data unavailable to Flores but necessary to fully complete those forms, for obtaining any required signatures and for submitting those forms in a timely fashion to the appropriate governmental agency directly.

Not a Party to Plan

No provision of this Agreement shall be deemed to make Flores or any entity affiliated with Flores a party to the Plan or a fiduciary of the Plan. The Company agrees to indemnify and hold Flores harmless from and against any and all liability or liabilities, claims, penalties, damages or costs, including attorneys' fees, which Flores may incur arising out of any exercise of discretionary authority by the Company under the Plan, the failure of the Company to furnish Flores with timely, accurate, and complete information, failure of Company to transmit monies required pursuant to this Exhibit and/or the failure to perform any other obligation of Company contemplated by this Agreement.

Privacy/PHI

Flores acknowledges that it may from time to time receive or otherwise have access to certain personally identifying information, including protected health information, of the Company's employees. Flores agrees to take appropriate steps to secure this data in a way that will prevent unauthorized disclosure of such data.

Insurance

Flores will maintain appropriate levels of insurance policies for cybercrime and errors and omissions.

EXHIBIT C

Flores & Associates, Inc. Business Associate Agreement Provisions

WHEREAS, pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 2024 (Aug. 21, 1996) (“HIPAA”), the Office of the Secretary of the Department of Health and Human Services has issued regulations governing the Standards for Privacy and Security of Individually Identifiable Health Information at 45 CFR Parts 160 and 164 (“Privacy Rule” and “Security Rule”); and

WHEREAS, the Privacy Rule provides, among other things, that a Covered Entity is permitted to disclose Protected Health Information to a Business Associate and to allow the Business Associate to obtain, receive, and create Protected Health Information on the Covered Entity’s behalf, only if the Covered Entity obtains satisfactory assurances in the form of a written contract that the Business Associate will appropriately safeguard the Protected Health Information; and

WHEREAS, the Security Rule provides, among other things, that a Covered Entity may permit a business associate to create, receive, maintain, or transmit electronic PHI on the covered entity’s behalf, only if the Covered Entity obtains satisfactory assurances in the form of a written contract that the Business Associate will appropriately safeguard the Protected Health Information; and

WHEREAS, the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) and the regulations promulgated thereunder have amended HIPAA; and

WHEREAS, Flores & Associates, Inc. (“Business Associate”) and City of North Las Vegas (“Covered Entity”) desire to determine the terms under which they shall comply with the Privacy Rule, Security Rule, HITECH Act, and other applicable federal and state laws;

NOW THEREFORE, Business Associate, Covered Entity and Plan Sponsor agree as follows:

I. Definitions

- a. Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- b. Specific definitions:
 - i. Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Flores & Associates, Inc.
 - ii. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean City of North Las Vegas.
 - iii. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

II. Obligations and Activities of Business Associate

Business Associate agrees to:

- a. Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- b. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- c. Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- e. Make available protected health information in a designated record set to the individual or the individual's designee as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
- f. Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;
- g. Maintain and make available the information required to provide an accounting of disclosures to the individual as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
- h. To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and
- i. Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

III. Permitted Uses and Disclosures by Business Associate

- a. Business associate may only use or disclose protected health information as necessary to perform the services set forth in the Administrative Agreement.
- b. Business associate may use or disclose protected health information as required by law.
- c. Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.

- d. Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity except for the specific uses and disclosures set forth below.
- e. Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.
- f. Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate 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 business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- g. Business associate may provide data aggregation services relating to the health care operations of the covered entity.

IV. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

- a. Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information.
- b. Covered entity shall notify business associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect business associate's use or disclosure of protected health information.
- c. Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate's use or disclosure of protected health information.

V. Permissible Requests by Covered Entity

- a. Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity.

VI. Term and Termination

- a. Term. The Term of this Agreement shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or, if it is infeasible to destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

VII. Miscellaneous

- a. Indemnification by Covered Entity. Covered Entity agrees to indemnify, defend and hold harmless the Flores & Associates, Inc. ("Business Associate") and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as "Indemnified Party", against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity's breach of this BAA. Accordingly, on demand, Covered Entity shall reimburse any

Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity's breach hereunder. Covered Entity's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this BAA for any reason.

For Business Associate:

By: *Daniel Taylor*

Title: SVP Business Development

Date: May 15, 2023

For Covered Entity:

By: _____

Title: Mayor

Date: _____

Attest:

By: _____

Jackie Rodgers, City Clerk

Approved as to Form:

By: _____

Micaela Rustia Moore, City Attorney

EXHIBIT D

Medical Travel Benefit Disclaimer, Acknowledgement, and Indemnification

In adopting a medical travel benefit plan or amending its plan to provide medical travel benefits, the Employer/Plan Sponsor acknowledges the environment of uncertainty created by the United States Supreme Court's recent decision in the *Dobbs* case, and the evolving nature of the legal constraints that may apply to reproductive health care, including abortions and abortion-related travel. As such, the Employer/Plan Sponsor agrees to indemnify, release, and hold Flores harmless from any and all liability, claims, penalties, damages, or costs, including attorney's fees, arising as a result of the type of program or program design selected by the Employer/Plan Sponsor or its decision to pay or reimburse reproductive health care expenses, including expenses for abortions and abortion-related travel. The Employer/Plan Sponsor is encouraged to consult with benefits counsel and/or employment counsel in evaluating its options for, and the risks associated with, the provision of access to reproductive health care and/or the payment or reimbursement of reproductive health care expenses, including expenses for abortions and abortion-related travel. The Employer/Plan Sponsor specifically acknowledges that those risks include, but are not limited to, the following:

- Need for Ongoing Revisions. Due to the number of variables impacting an employer's decision-making (including ongoing changes in state laws, anticipated legal challenges, and possible regulations from both federal and state entities), actions taken now may need to be revised in the near future, and may need to be revisited often to ensure ongoing compliance.
- Limits on ERISA Preemption. Although ERISA (which allows for the payment or reimbursement of various reproductive health care expenses, including abortions services and certain travel-related expenses that are primarily for and essential to obtaining reproductive health care services, including abortions) generally preempts (*i.e.*, overrides) state laws that restrict a group health plan participant's right to seek or obtain reproductive health care services, including abortions, such preemption applies only to self-funded health plans. Preemption does not apply to fully insured health plans. Furthermore, ERISA generally does not preempt state criminal laws. Therefore, if a state that has outlawed abortion and has enacted (or intends to enact) a law that imposes criminal liability on anyone aiding or abetting or assisting a resident of the state in procuring an abortion, it is possible that the state would seek to prosecute an employer or plan that has, in any way, assisted a plan participant in obtaining abortion services outside of the state (for example, by reimbursing the participant's abortion-related expenses). It is not clear whether ERISA would preempt a state law that imposes civil penalties for aiding or abetting or assisting a resident of the state in procuring an abortion. Therefore, it is possible that a state seeking to restrict/outlaw abortion could seek to impose civil liability on an employer or plan that has, in any way, assisted a plan participant in obtaining abortion services outside of the state (for example, by reimbursing the participant's abortion-related expenses).
- Inadvertent Creation of Group Health Plan. Because medical care includes travel-related expenses that are primarily for and essential to medical care, an employer's decision to pay or reimburse travel-related expenses incurred in connection with reproductive health care will generally result in the creation of a group health plan (which would then be subject to COBRA, HIPAA, ACA, and other laws governing group health plans) where one may not otherwise exist. Unless such plan qualifies as a limited or excepted benefit plan, integration with the employer's comprehensive group health plan will be required in order to satisfy the ACA rules. As such, only those individuals participating in the comprehensive group health plan could receive the travel-related benefit.
- Requirements for Employee Assistance Program ("EAP") Excepted Benefit Status. EAPs designed to qualify as excepted benefits are not required to comply with certain laws and requirements, such as the ACA and the Mental Health Parity Rules. Department of Labor Regulation § 2590.732(c)(3)(vi) provides specific requirements which must be met in order for an EAP to qualify as an excepted benefit plan. One such requirement under the

regulations is that the arrangement cannot provide “significant benefits in the nature of medical care.” The regulations do not define the term “significant benefits” and it is unclear when a Medical Travel Employee Assistance Plan could be considered to provide “significant benefits” in the form of reimbursement of medical travel expenses thus causing the plan not to qualify as an excepted benefit. Disqualification from excepted benefit status will result in the application of laws such as the ACA and the Mental Health Parity Rules, for which the plan is not designed to comply and thus an employer/plan could be found liable for violations of these laws. Employers should consider this when setting reimbursement limits under the plan and avoid adding additional benefits outside of medical travel so as to avoid providing significant benefits.

- Recognition of Taxable Expenses. Although certain travel-related expenses that are primarily for and essential to medical care are reimbursable as tax-free medical expenses, other such travel-related expenses (such as meal expenses) are not reimbursable on a tax-free basis. In addition, there are limitations on the amounts that may be reimbursed on a tax-free basis for lodging expenses and transportation expenses. Employers must include any amount of any reimbursement in excess of the applicable limit and/or any reimbursement for meals associated with medical travel in the employee’s taxable income and said amount would be subject to the applicable withholding requirements.
- Restricting Medical Travel Reimbursements. Travel reimbursement programs that are limited to abortion-related travel are more likely to catch the attention of regulators in states with an anti-abortion stance. As such, employers may want to consider offering a broader program that reimburses travel expenses for all medical treatments.
- Parity Considerations. Because the Mental Health Parity Rules require group health plans offering mental health or substance use disorder (MH/SUD) benefits to provide those benefits “in parity” with the medical and surgical benefits covered under the plan, an employer that elects to provide travel benefits only for reproductive health care services and not for MH/SUD services could be found liable for violations of the Mental Health Parity Rules.
- Impact on HSA-Eligible Individuals. Any employee covered under a qualified high deductible health plan (HDHP) will not be able to receive first-dollar coverage for travel expenses incurred in connection with obtaining reproductive health care services (or in connection with obtaining any other health care service) until the employee satisfies the HDHP’s applicable annual deductible. Such employee could, however, withdraw funds from an available health savings account (HSA) to reimburse such expenses.
- Administration. An employer seeking to amend any current program or adopt a new program will need to assess whether its insurance carriers and/or service providers will be willing and able to administer the revised program or the new program, as applicable, and the frequency and extent to which such insurance carriers and/or service providers will be willing and able to alter course and implement changes as new requirements or restrictions are imposed and as new guidance becomes available.

EXHIBIT E

HR Compliance Center Disclaimer, Acknowledgement, and Indemnification

Upon execution of the Flores Master Agreement and this Exhibit E, execution of the Third-Party Vendor's Compliance Center Terms of Service Agreement, and in exchange for payment to Flores the fee for the HR Compliance Center Portal Access as set forth on the Flores Proposal/Letter of Intent (the "Fee"), in accordance with the payment schedule set forth on the Flores Proposal/Letter of Intent, Company will be granted a non-exclusive, non-transferable, limited license by the Third-Party Vendor to access the HR Compliance Center online resource portal ("Portal"). The Company specifically acknowledges and agrees as follows:

- Third-Party Vendor Compliance Center Terms of Service Agreement. The terms and conditions of the Third-Party Vendor's Compliance Center Terms of Service Agreement shall control with respect to the Portal and delivery of the HR Compliance Services.
- Term of Service and Portal Access. Company acknowledges that the initial minimum term of the Third-Party Vendor's Compliance Center Terms of Service Agreement is a period of one (1) year from the effective date of said agreement. Company is responsible for payment of the Fee to Flores for Portal access for the initial one (1) year term and all renewal terms of said agreement. Termination of the agreement between the Third-Party Vendor and Company does not relieve Company of any remaining payment obligations for Portal access. Initial and ongoing access to the Portal is contingent upon payment of the Fee to Flores and compliance with the terms and conditions of the Third-Party Vendor's Compliance Center Terms of Service Agreement.
- Third-Party Service. Flores does not directly or indirectly provide any services through or associated with the Portal. Such benefits and services are provided by human resource professionals and/or attorneys ("Service Firm") designated by the Third-Party Vendor. The Third-Party Vendor, not Flores, has selected the Service Firm.
- Relationship. The HR professionals or attorneys providing the HR Compliance Services for Company through the Portal are not agents or employees of Flores. Nothing in this Agreement shall be construed to place the parties in an agency, employment, franchise, joint venture, or partnership relationship. Neither party to this Agreement will have the authority to obligate or bind the other in any manner, and nothing herein contained shall give rise or is intended to give rise to any rights of any kind to any third parties other than the Third-Party Vendor, with respect to the Portal and the HR Compliance Services.
- Compliance Acknowledgment and Indemnification. Flores is merely facilitating Company's access to the Third-Party Vendor. Flores does not own, control, create, or review any sample forms, documents, templates, resources, information, or advice (legal or otherwise) provided through Portal or the Service Firm. The HR Compliance Services and materials are provided by the Service Firm, without any representation or warranty by Flores, and Flores shall not be liable for the quality, accuracy or contents of any materials provided, information or advice given, the use of said materials by Company, or actions taken by Company as a result of said materials, content, information, or advice. Company acknowledges that sample forms and documents provided by the Third-Party Vendor and/or the Service Firm via the Portal may not comply with every judicial decision from every federal, state, and local court, and may not comply with every federal, state, county or local law, statute, regulation and ordinance. Such materials are provided as illustrations and Company should not rely upon them as written, without engaging Service Firm or Company's professional counsel to review the same. Company and/or its professional counsel shall be solely responsible for the review of all materials to ensure compliance with applicable laws and fitness for use by Company. As such, Company agrees to indemnify, defend, release, and hold Flores,

including its officers, board of directors, shareholders, employees, agents, and representatives, harmless from any and all liability, claims, penalties, damages, or costs, including attorneys' fees, arising from or in connection, directly or indirectly, with Company's use of the Portal or receipt of HR Compliance Services or any other services provided by the Service Firm or through the Third-Party Vendor.

- Remedies and Limitations of Liability. Company acknowledges that its remedies for any and all liability, claims, penalties, damages, or costs, including attorneys' fees, arising from or in connection, directly or indirectly, with Company's use of the Portal or the Service Firm rest exclusively with the Third-Party Vendor and the Service Firm, and that the agreements between these entities and Company may address their respective limitations of liability for the services provided.
- Resolution of Service Issues. Company acknowledges that there is no dedicated Flores Account Manager for the Portal and the HR Compliance Services. Flores has limited access to the Portal for purposes of onboarding Company. Issues related to access of the Portal should be directed to the Third-Party Vendor, which is responsible for making access to the service through the Portal available. Billing issues between Flores and Company related to access to the Portal should be directed to Flores.
- Retaining Legal Counsel. Company may need to retain the services of legal counsel on certain matters. While Company has access to discounted attorney rates if it enters into a legal retainer agreement with the Service Firm, Company acknowledges it may retain the Service Firm or legal counsel of its own choosing. Flores makes no representations with respect to qualifications of or services provided by attorneys of the Service Firm. Flores is not a law firm and does not provide legal advice. The contents (including any attachments) of any communication from Flores are not intended to provide, and should not be relied on for, legal advice.
- Termination of Third-Party Vendor Relationship. Flores may terminate its exclusive agreement with the Third-Party Vendor at any time without cause by giving appropriate notice to said Third-Party Vendor. Flores will provide advance notice to Company of any such termination and will use its best efforts to enter a comparable third-party arrangement and transition the Company the new vendor in an effort to avoid disruption of service to Company.
- Termination of Agreement between Company and Third-Party Vendor. Company agrees to promptly notify Flores if it terminates its service agreement with the Third-Party Vendor or decides not to renew said service agreement following the initial one (1) year term.






5. Flores MSA_CNLV_CA Rev.V3 05.12.23_Final

Final Audit Report

2023-05-15

Created:	2023-05-12
By:	Aaron Hunt (aaron.hunt@flores247.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAv72-q-OTVkyxkFNFSIIDQ-knXdmkIIEm

"5. Flores MSA_CNLV_CA Rev.V3 05.12.23_Final" History

-  Document created by Aaron Hunt (aaron.hunt@flores247.com)
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-  Document e-signed by Dan Taylor (dan.taylor@flores247.com)
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