

## COBRA: STATEMENT OF WORK

This Statement of Work is entered into as of \_\_\_\_\_ (“Effective Date”) by and between GBS Benefits, Inc., a Utah corporation with offices at 2200 South Main Street, Suite 600, Salt Lake City, UT, 84118 (“**GBS**”) and \_\_\_\_\_, with offices at \_\_\_\_\_,

(the “**Client**”) pursuant to that certain GBS Master Services Agreement by and between GBS and Client (the “**Agreement**”). This Statement of Work is incorporated into the Agreement by reference. Any term not otherwise defined herein shall have the meaning set forth in the Agreement.

A. Client as employer and plan administrator has established certain programs providing employee health benefits for its employees (collectively the “**Plans**”).

B. With regard to the Plans listed above, Client has advised GBS that Client is subject to the requirements of the Consolidated Omnibus Budget Reconciliation Act of 1985 (“**COBRA**”) and Client has requested that GBS furnish certain COBRA services in connection with those Plans as such services are more particularly described in this Agreement.

C. Client desires to have GBS provide (i) COBRA notice and (ii) COBRA premium collection services as described herein for Client’s COBRA qualified beneficiaries under COBRA (sometimes hereinafter referred to as “**COBRA continuees**”) under the Plans as such COBRA continuees are identified in writing to GBS by Client. Client and GBS acknowledge and agree that GBS is responsible only for those COBRA notices and premium collection functions specifically enumerated herein and with regard to those COBRA continuees identified to GBS in writing by Client.

Therefore, Client and GBS agree as follows.

**1. Services.** In consideration for the fees and charges detailed below, GBS hereby agrees to perform the following COBRA notice and premium collection functions for Client in connection with the Plans:

a. Preparing and mailing COBRA notices with respect to the Plans including, shortly after execution of this Agreement, an initial one time notice of COBRA rights to all current employees (and their spouses/dependents) of the Client who are covered under any of the Plans, and thereafter, during the term of the Agreement, initial notices to those employees, spouses/dependents who become covered under any of the Plans and whom the Client has notified GBS in writing are entitled to such notice. In addition to the initial notice, GBS shall prepare and mail to those individuals identified to GBS by Client, in writing, the following additional notices to COBRA continuees as to the extent required by COBRA: election notice and forms for initial qualifying event, notice for extension of COBRA due to a disability determination or second qualifying event, notice of ordinary termination of COBRA and availability of conversion coverage, notice of early termination of COBRA, notice to ineligible individuals who have provided notice of a qualifying event but who are not eligible for COBRA and notice of unavailability of COBRA due to gross misconduct. Client acknowledges and agrees GBS is not responsible to send any other documents or notices, including, without limitation, annual open enrollment materials, any SPDs, or any HIPAA required notices of any kind.

b. Receiving from Client completed data, in writing and in the format reasonably requested by GBS, listing active employees covered under the Plans, newly covered employees and their covered spouses/dependents, new or existing COBRA continuees, the coverage they are eligible to elect under COBRA, the applicable premium per Plan and participant, correct and current addresses for all employees, COBRA continuees, spouses and dependents. Client acknowledges and agrees that failure of Client to promptly supply the complete and accurate information described above, or otherwise

reasonably requested by GBS, will absolutely preclude GBS from fully and promptly performing its obligations hereunder, and GBS will not be liable for consequences, direct or indirect, in connection with the failure to timely supply complete information.

c. Monthly billing and collecting of COBRA premiums at the rates directed by Client in writing, which rates may change from time to time.

d. Monthly reporting to Client of the amount of premiums received from COBRA continuees and remitting premiums received directly to the Client as more fully described herein.

e. Monthly reporting to Client of the identity of COBRA enrollees who are paying COBRA premiums.

f. Monthly reporting to Client of any COBRA continuees who fail to timely remit premium payments to GBS. GBS and Client agree that premiums shall be deemed timely received for purposes of this Agreement if the premium payment envelope bears a postmark, or is otherwise received by GBS or Client, within thirty (30) days of the due date for such premium.

g. Monthly reporting to Client of the identity of COBRA continuees who are sent termination notices or notice of COBRA unavailability.

(Collectively the "Services")

**2. Account for Premiums.** As part of the Services described above, GBS further agrees to account for collected premiums by:

a. Placing collected premiums in an account established by GBS. The account shall be a separate, interest bearing COBRA premium account at an FDIC insured institution and shall be used for no other purpose than the deposit of premiums collected, the payment of monthly fees to GBS as described herein, and the subsequent payment of premiums to the Client.

b. Providing the Client with a report by the 10th of the month following a premium reporting month detailing premiums collected.

c. Forwarding to the Client by the 10th of the month following a premium reporting month a check drawn on Account for all premiums collected during the preceding Premium Reporting Month.

d. The premium due under COBRA shall be set by the Client at the rate of one hundred two percent (102%) of its premium for COBRA continuees, and one hundred fifty percent (150%) of such rate for COBRA continuees on a COBRA disability extension, not to exceed the maximum permitted by law. Client agrees that GBS shall retain as a portion of its administrative fee hereunder the two percent (2%) or fifty percent (50%) margin allowed by COBRA plus any earnings on COBRA premiums in the Account thereon as monthly compensation for services rendered hereunder.

**3. Client's Responsibilities.** Notwithstanding the foregoing, the Client acknowledges and agrees that during the term of this Agreement, the Client will be solely responsible for determining and confirming eligibility for coverage under the Plan(s) with respect to COBRA qualified beneficiaries and their spouse or dependents and completing the data to be supplied to GBS as well as:

a. Providing all information concerning the amount and timing of premium payments with respect to each of the Plans (including, but not limited to, the due dates for premium payments, open enrollment

changes, identity of the Plans and premium amounts by Plan, and available coverage (e.g. single, family etc.), and all other information to GBS as GBS determines is reasonably necessary to facilitate the COBRA services it has herein agreed to provide with respect to the Plans.

b. Reviewing each report and statement issued to the Client by GBS in connection with the services under this Agreement. The Client shall be responsible for all errors in providing COBRA continuation coverage to the extent the Client, in reviewing the reports or statements issued by GBS, knew, or on the basis of information reasonably available to the Client should have known, the information was inaccurate.

c. Determining whether COBRA premium payments from COBRA qualified beneficiaries before this Agreement effective date were paid in a timely fashion.

d. Determining whether COBRA is unavailable under the circumstances including whether gross misconduct has occurred or circumstances for early termination of COBRA have occurred.

**4. Changes in Coverage.** Client agrees it is Client's sole responsibility to communicate any changes in coverage or status that will affect the premiums to be collected for each COBRA continuee immediately to GBS. Client understands this information/communication will be the sole basis of GBS's notice and premium collection activities.

**5. Exclusions.** Client acknowledges and agrees that the Services to be provided by GBS hereunder do not include:

a. Drafting, producing, mailing or other delivery of any notices to any employees, retirees, former employees, spouses, dependents, qualified beneficiaries (other than the COBRA notices explicitly described herein, and premium statements consistent with GBS's premium collection duties hereunder). Client shall be solely responsible to prepare and deliver all other notices of any kind or nature concerning the Plans. Specifically, and not by way of limitation, Client shall be responsible to prepare and send all annual open enrollment notices to both active employees and COBRA continuees.

b. Drafting, amending, publishing or distributing any of the Client's benefit plan document or booklets for any or all of the Plans including, without limitation, any SPDs or any annual notices (other than the separate COBRA initial notices and subsequent COBRA notices and premium billing statements as explicitly provided herein).

c. Verifying or determining the accuracy, validity or completeness of information provided by Client or a plan administrator of a Plan, and GBS shall not be responsible for errors, delays or additional costs resulting from the receipt of inaccurate, invalid, incomplete or untimely information or information provided in an unacceptable format or media. Client and/or a plan administrator of the Plans agree to provide any and all information to GBS on a timely basis in a format acceptable to GBS.

d. GBS shall not have any obligation or liability whatsoever with respect to any Services before the effective date of this Agreement including, without limitation, any notices due prior to the Effective Date of this Agreement or collection and remitting of premiums to the Insurance Carrier that were due prior to the Effective Date of this Agreement.

**6. Client to Supply Information.** In order for GBS to execute its functions, Client agrees it is responsible to deliver, on the Effective Date, completed data files for each employee, spouse and dependent currently covered under the Plans and who become covered under the Plans during this Agreement. Further, during the term of this Agreement, Client is responsible to deliver promptly to GBS written information that a

qualifying event has occurred under COBRA so that GBS can generate and deliver a timely and appropriate COBRA election notice. Client acknowledges and agrees that failure of Client to promptly supply the complete and accurate information described above or otherwise reasonably requested by GBS, will absolutely preclude GBS from fully and promptly performing its obligations hereunder, and GBS will not be liable for consequences, direct or indirect, in connection with the failure to timely supply complete information. Further, the Client is responsible for receiving COBRA premium payments from qualified beneficiaries until the later of (i) the effective date of this Agreement or (ii) GBS's receipt of a complete information packet from Client of those persons currently on COBRA. Client shall always have, during the term of this Agreement, the sole authority and responsibility for the Plans and their operation, including the authority and responsibility for administering, construing and interpreting the provisions of the Program and making all determinations thereunder. Client gives GBS the authority to act on behalf of Client in preparing and mailing notices and collecting and remitting premiums in connection with the Plans, but only as expressly stated in this Agreement. All final determinations as to a person's entitlement to COBRA benefits are to be made by Client, including any determination of unavailability or early termination of benefits. Client is considered the Plan Administrator and the Named Fiduciary of the Plans for purposes of ERISA.

**7. Fees.** Client agrees to pay GBS the following fees in consideration of services rendered under the Agreement: A one-time setup fee of \$0.00 per Plan which includes the preparation and mailing of initial COBRA notices. In addition, a monthly fee for the Services equal to (i) any earnings on COBRA premium payments during the time GBS holds such premium payments until such payments are remitted to the Client plus (ii) two percent (2%) of the monthly premium amount due under the Plan for each COBRA continuee on ordinary COBRA coverage or to fifty percent (50%) of the monthly premium amount for those COBRA continuees who are paying a disability premium. Such fee shall be paid by COBRA continuees as part of their overall COBRA premium payment.

**8. Good Faith.** GBS agrees to perform the Services with respect to the Plan(s) in accordance with a reasonable good faith interpretation of the applicable requirements of COBRA and other federal and state laws. Except for such responsibilities explicitly assumed by GBS pursuant to this Agreement, Client shall be responsible for compliance with all laws and governmental regulations (including state and local health care continuation laws) affecting Client's business and any use it may make of the Services to assist it in complying with such laws and governmental regulations.

The parties have executed this Statement of Work below to indicate their acceptance of its terms.

GBS Benefits, Inc., a Utah corporation

**GBS**

**CLIENT**

Name:     Matt Kiisel    

Name: \_\_\_\_\_

Title:     SVP of Operations    

Title: \_\_\_\_\_

Signature:     *Matt Kiisel*    

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_