

**RESTATED  
MASTER SERVICES AGREEMENT**

for

**CITY OF STOCKTON**

(the "Plan Sponsor")

**Group Client Numbers**

**772929**

**772932**

**772933**

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This Restated Master Services Agreement is dated July 1, 2023, or such earlier or later date as modified under Section 11.1 herein, (“**Effective Date**”) and sets forth the general terms and conditions under which Empower Retirement, LLC will provide Services to the undersigned Plan Sponsor with respect to the employee benefit plan(s) sponsored by Plan Sponsor, as identified in the attached Schedules (the “**Plan**” or “**Plans**”). This MSA amends and replaces the Master Services Agreement effective July 5, 2022 between the parties in its entirety.

## 1. DEFINITIONS

“**Affiliate**” means a corporate entity that directly or indirectly is controlled by or is under common control with a party, including any entity that conforms to this definition after the effective date of this MSA.

“**Agreement**” includes this Master and any Exhibits, Schedules, notices and other documents attached, incorporated or referenced herein.

“**Business Day**” means any day, and only for as many hours as, the New York Stock Exchange is open.

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time.

“**Data**” has the meaning set forth in the Data Security & Privacy Addendum, attached as Exhibit 1.

“**Data Protection Laws**” has the meaning set forth in the Data Security & Privacy Addendum, attached as Exhibit 1.

“**Direction**” and “**Direct**” and their similar terms shall mean the instruction, authorization, or direction given to Empower by the Plan Sponsor, another fiduciary of the Plan, or a person that Empower reasonably believes to be authorized to act on behalf of the Plan Sponsor or another fiduciary. Plan Sponsor directs Empower to process certain Plan transactions based solely on Participant instruction under the terms of this MSA.

“**Empower**” and “**Empower Retirement**” refer to Empower Retirement, LLC and its Affiliates with respect to products and Services offered in the retirement markets, including but not limited to recordkeeping and other financial services.

“**Information Security Breach**” has the meaning set forth in the Data Security & Privacy Addendum, attached as Exhibit 1.

“**Investment Options**” means those investment options made available under the Plan based on Plan Sponsor or another Plan investment fiduciary designated by the Plan Sponsor (other than Empower or one of its Affiliates).

“**MSA**” means this Master Services Agreement.

“**Participant**” shall mean an employee, former employee, participant, former participant, member, beneficiary or alternate payee who is or may be entitled to participate in or receive benefits under the Plan.

“**Personal Data**” has the meaning set forth in the Data Security & Privacy Addendum, attached as Exhibit 1.

**“Plan Administrator”** means a designated employee or committee, or a third party retained by Plan Sponsor or named in the Plan (other than Empower or one of its Affiliates), to be the “plan administrator” and “named fiduciary” as defined by applicable law.

**“Plan Data”** has the meaning set forth in the Data Security & Privacy Addendum, attached as Exhibit 1.

**“Plan Sponsor”** means the Plan Sponsor identified above, the Plan Administrator, named fiduciaries, and other delegates of the Plan Sponsor (other than Empower or one of its Affiliates) as dictated by the context.

**“Services”** means the services provided by Empower or an Empower Affiliate, as applicable, acting as a service provider Directed by the Plan Sponsor to perform such Services under an applicable Schedule. Empower shall provide the Services in a non-fiduciary capacity (except where Empower acknowledges its fiduciary status in writing). The provision of Services shall be governed by the terms and conditions set forth in this MSA, by applicable law and regulations and any additional terms and conditions contained in the applicable Schedule.

## 2. SCOPE OF THE AGREEMENT

This MSA sets forth the terms and conditions pursuant to which Plan Sponsor may receive Services from Empower or an Empower Affiliate, as the case may be, pursuant to a separate Services Schedule attached hereto. These terms and conditions will be deemed to be incorporated by reference into each and every Schedule entered into between the parties. Each Schedule will be a separate agreement between Plan Sponsor and the Empower Affiliate that enters into the Schedule. All references to “Empower” in this MSA will be deemed references to Empower or the Empower Affiliate, as the case may be, that entered into the Schedule.

## 3. FEES/CHARGES

**3.1 Fees / Charges.** Plan Sponsor agrees to pay Empower for the Services in accordance with the terms of each Schedule or attachment hereto. Unless otherwise Directed by the Plan Sponsor, the Plan Sponsor hereby Directs Empower to deduct applicable Plan expenses from the Plan and/or Participant accounts, as applicable.

## 4. CONFIDENTIALITY

**4.1 Confidential Information.** 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 information, software or websites of a party (“**Confidential Information**”). For the purpose of clarity, any software or website owned, licensed, or made available by Empower (“**Empower Software**”) is Confidential Information of Empower. The parties mutually agree to hold all Confidential Information of the other party in confidence and not to disclose any Confidential 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 otherwise directed or approved by the other party or its agents. Confidential 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 Information of the other party.

## 4.2 Permitted Disclosures of Confidential Information.

**4.2.1 Legally Required Disclosures.** 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 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 law. 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 Empower, 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.

**4.2.2 Authorized Disclosures.** Plan Sponsor authorizes Empower to disclose Data to Empower's Affiliates and service providers in connection with Empower's performance of Services under this MSA. In addition, Plan Sponsor authorizes Empower 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. Empower may use and disclose, for benchmarking and research purposes, de-identified Data that is aggregated with other anonymized data of a similar nature across Empower's client base in a manner that makes such Data unidentifiable to a particular individual or plan. Empower's current Privacy Notice is attached to this MSA but shall not lessen any of Empower's obligations regarding Personal Data hereunder. Plan Sponsor agrees that any changes to the Privacy Notice may be delivered to Plan Sponsor through the Plan Service Center or by email to designated representatives of Plan Sponsor.

**4.2.3 Disclosures of Personal Data to Plan Sponsor.** Plan Sponsor may Direct Empower to provide Plan Sponsor or its designated agent with information (which may include Personal Data) received from or in relation to Participants in connection with the performance of Services under this MSA, which may include private information shared by the Participant during recorded phone calls and written or electronic correspondence.

## 5. DATA PROTECTION

**5.1. Mutual Obligation to Protect Data.** Empower and Plan Sponsor each agree to maintain and hold in confidence all Data and Confidential Information, as applicable, received in connection with the performance of Services under this MSA. Empower 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 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, Empower maintains a comprehensive data security program designed to safeguard Data and access to the Empower Software and systems, as further set forth in the Data Security & Privacy Addendum attached hereto as Exhibit 1.

**5.2. Mutual Notice of an Information Security Breach. (A) Notice by Empower.** Empower will notify the Plan Sponsor of an Information Security Breach as set forth Exhibit 1, Data Security & Privacy Addendum. **(B) Notice by Plan Sponsor.** In order to help Empower facilitate the safety of Data and Participant accounts, Plan Sponsor will notify Empower: (i) promptly in the event of a security breach of Plan Sponsor's systems that could impact Empower's systems or the integrity of Data sent to Empower, including without limitation a suspected virus or malware event; and/or (ii) 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 Empower's system. Such notice shall include: (a) information reasonably necessary to enable Empower to promptly put additional protective measures in place, such as file scrubbing protocols and/or fraud alerts on Participant accounts; and (b) the corrective action taken to remedy the breach.

## **6. BUSINESS CONTINUITY & DISASTER RECOVERY**

Empower 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. Empower Financial Services, Inc.'s current Business Continuity Plan Notice is attached to this MSA. By executing this MSA, Plan Sponsor acknowledges receipt of this Notice.

## **7. RECORDS**

**7.1 Record Retention.** Empower shall retain all records in its custody and control that are pertinent to performance under this MSA 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 that is stored in non-readily accessible electronic format, such as on archival systems; in such cases Empower's data protection obligations shall continue until such Data is destroyed in accordance with Empower's record retention policy.

## **8. INTELLECTUAL PROPERTY RIGHTS**

**8.1 Plan Sponsor Materials.** As between the parties hereto, excluding the Empower Materials (as defined below), Plan Sponsor shall own materials, trademarks, trade names, logos, trade dress, and other Confidential Information provided or made accessible by Plan Sponsor to Empower for use in providing the Services (collectively, the "**Plan Sponsor Materials**"). Plan Sponsor grants Empower a limited, revocable right and license to use Plan Sponsor's name, logo, and trademarks in materials created by Empower in connection with providing the Services. Nothing contained herein shall prohibit Empower from referencing client partnerships in the normal course of public-relations communications or in materials prepared at the request of prospective clients.

**8.2 Empower Materials.** As between the parties hereto, Empower and its Affiliates shall own all materials, documentation, user guides, forms, templates, business methods, trademarks, trade names, logos, websites, Empower Software, technology, computer codes, domain names, text, graphics, photographs, artwork, interfaces, and other information or material provided by Empower or its Affiliates

hereunder (collectively, the “**Empower Materials**”). Empower grants to Plan Sponsor and Participants (as applicable) a non-exclusive, non-transferable license to use the Empower Materials during the term of the MSA for purposes of using Empower’s Services hereunder and subject to the terms and conditions set forth in this MSA and any terms of use associated with Empower Software. All rights with respect to the Empower Materials not specifically granted hereunder are reserved by Empower.

## **9. INDEMNIFICATION, LIMITATION OF LIABILITY & INSURANCE**

**9.1. Indemnification.** Empower agrees to indemnify the Plan Sponsor from and against any and all expenses, costs, reasonable attorneys’ fees, settlements, fines, judgments, damages, liabilities, penalties or court awards asserted by a third party (collectively, “**Damages**”) to the extent resulting from Empower’s breach of this Agreement, negligence, or willful misconduct. Notwithstanding anything to the contrary herein, Empower shall not be liable to Plan Sponsor for any Damages resulting from: 1) any acts or omissions undertaken at the Direction of the Plan Sponsor or any agent or any third party authorized by Plan Sponsor to provide Direction to Empower, including but not limited to prior service providers, investment advisors, or any authorized agent thereof; 2) any performance of the Services that is in strict compliance with the terms of this Agreement; or 3) Plan Sponsor’s or its designee’s failure to provide accurate documents, material, information or data to Empower or its Affiliates, as applicable on a timely basis. Plan Sponsor acknowledges that Empower and its directors, officers, employees and authorized representatives are not responsible for the investment performance of any Investment Options under the Plan.

**9.2. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFIT) EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**9.3. Insurance.** Empower will, at its own cost and expense, procure and maintain in full force and effect throughout the term of this MSA insurance coverage that is reasonably appropriate to the Services provided under this MSA and any Schedule hereto. The requirements in this section are not intended to, and will not in any way, limit or qualify the liabilities and obligations of Empower under this MSA.

## **10. 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.

## 11. TERM & TERMINATION

**11.1. Term & Termination.** This MSA shall be in effect commencing on the Effective Date set forth above and continuing for a term of three (3) years from July 1, 2023 through June 30, 2026 (the "Term"), with the option to exercise two (2) additional one (1) year renewal periods. In the event this MSA should terminate or expire prior to the completion date designated in any Schedule, such Schedule shall terminate concurrently with the MSA. To the extent any Services are provided prior to the Effective Date, including without limitation, implementation and conversion services, or the receipt of payroll contributions, the Effective Date of this MSA is modified to the date that such contributions are determined to be in good order by Empower or its Affiliate and this MSA will be in effect for the limited purpose of accepting such contributions and holding them in trust. For all other Services, the Effective Date of the MSA shall be on TOA.

**11.2. Termination for Convenience.** This MSA or any Schedule attached hereto may be terminated by either party by delivering ninety (90) days advance written notice to the other party. The termination of this MSA shall also operate as a termination of all Schedules hereto.

**11.3. Termination for Default.** Either party may, upon written notice, terminate this MSA or any Schedule attached hereto if the other party materially breaches or is in default of any material obligation hereunder, which default is incapable of cure, or which being capable of cure, has not been cured within ninety (90) days after receipt of notice of such default from the non-defaulting party, or within such additional cure period as mutually agreed upon by the parties.

**11.4. Transition Assistance Services.** Upon termination for any reason, Empower will provide to Plan Sponsor the deconversion and transition assistance services set forth in the Recordkeeping Services Schedule, attached hereto. For the avoidance of doubt, this MSA will govern the transition assistance services provided.

## 12. MISCELLANEOUS

**12.1. Affiliates & Agents.** Plan Sponsor agrees that Empower may utilize the services of Affiliates, agents and suppliers selected by Empower. Empower's use of any such party will not relieve Empower of its obligations under this MSA and Empower shall at all times remain liable for the performance of such Services. Plan Sponsor further agrees that the Empower Affiliate entering into each Schedule (including the terms of the MSA incorporated therein by reference) is separately bound for its performance obligations contained therein and is not jointly bound with any other entity.

**12.2. 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 MSA shall be construed to create an agency, partnership or joint venture relationship between the parties or the partners, officers, members or employees of the other party by virtue of either this MSA or actions taken pursuant to this MSA. The parties shall bear sole responsibility for its own taxes, including income, franchise, privilege, gross receipts, sales and use, excise, real and personal property (including software), payroll and any other taxes or assessments, surcharges or governmental charges that may be imposed, levied, collected or assessed by a taxing jurisdiction. If applicable, the parties shall reasonably cooperate with each other to enable each party to more accurately



determine its own tax liability and to minimize such liability to the extent legally permissible and administratively reasonable.

**12.3. No Third Party Beneficiaries.** This MSA 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.

**12.4. Assignment.** This MSA 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. Notwithstanding the foregoing, a party may assign this MSA 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 MSA; (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.

**12.5. Entire Agreement.** Each Schedule, including any Exhibits, notices and attachments (including an incorporation by reference of the terms and conditions of this MSA), constitutes the entire agreement of the parties thereto with respect to the subject matter thereof and supersedes all prior drafts, agreements, negotiations and proposals, written or verbal, relating to the Services contained in the applicable Schedule. This MSA or any Schedule may be amended by written agreement of the parties; for that purpose, emails do not constitute signed writings. Notwithstanding the foregoing, Empower 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 Plan Sponsor at least 30 days in advance of the effective date of such change, provided that Plan Sponsor may opt out of certain Services that directly impact Participants and any changes that result in an increase in fees to the Plan. Any Empower notices or policies that are attached to or referenced in this MSA may be updated by Empower at any time, provided that such updates shall not materially degrade the rights or protections set forth therein. No waiver of any breach of any provision of this MSA shall constitute a waiver of any prior, concurrent or subsequent breach of such provision or any other provision hereof and no waiver shall be effective unless made in writing.

**12.6. Governing Law; Waiver of Jury Trial.** Unless and to the extent provided otherwise in a Schedule hereto, this MSA shall be construed and enforced in accordance with and governed by the laws of the state of California, without regard to conflict of law principles, and any claim arising under or related to this MSA shall be subject to the exclusive jurisdiction of the federal and state courts located in California. 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 MSA to the fullest extent permitted by law.

**12.7. Force Majeure.** Neither party shall be liable to the other for any and all losses, damages, costs, charges, attorney fees, payments, expenses or liability due to delay or interruption in performing its obligations hereunder, and without the fault or negligence of such party, due to causes or conditions beyond its control, including, without limitation, labor disputes, riots, war and war-like operations including acts of terrorism, explosions, sabotage, civil disturbance, governmental restriction, transportation problems, failure of power or other utilities including phones, internet disruptions, fire or other casualty, natural disasters, epidemics, pandemics, acts of God, disruptions in orderly trading on any relevant exchange or market, or any other cause that is beyond the reasonable control of either party.

**12.8. Severability.** The provisions of this MSA are severable, and if for any reason a clause, sentence, paragraph or provision of this MSA 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 MSA that can be given effect without the invalid provision.

**12.9. Notices.** All formal notices required by this MSA will be in writing and shall be sent to Empower as set forth below and to the most current Plan Sponsor and trustee address on file with Empower. All notices sent shall be effective upon receipt.

**Notice To Empower:**

Empower Retirement, LLC  
8515 East Orchard Road  
Greenwood Village, CO 80111  
Attn: Market Segment Head

**With a copy to:**

Empower Retirement, LLC  
8515 East Orchard Road  
Greenwood Village, CO 80111  
Attn: General Counsel

**12.10. Headings; Defined Terms; Counterparts.** Section headings used in this MSA are intended for reference purposes only and shall not affect the interpretation of this MSA. Unless the context requires otherwise, capitalized terms defined in this MSA have the meanings set forth herein for all purposes of this MSA, including any Schedules or Exhibits. This MSA 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 MSA by facsimile, email, or electronic copies shall have the same force and effect as execution and delivery of an original.

**12.11. No Tax or Legal Advice.** Nothing in this MSA is intended to constitute legal or tax advice from Empower to Plan Sponsor, or to any other party. Plan Sponsor understands that Empower 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.

**12.12. Survival.** The provisions of the following sections shall survive the termination of this MSA: Fees & Charges; Confidentiality; Data Protection; Record Retention; Intellectual Property Rights; Indemnification; Limitation of Liability; Dispute Resolution; Governing Law; Waiver of Jury Trial; Survival; Severability; Transition Assistance Services; No Tax or Legal Advice; No Third-Party Beneficiaries; and any other section that would by its context be reasonably expected to survive termination.

**12.13. Signatures/Corporate Authenticity.** By signing this MSA, 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 MSA is not binding on either party until signed by both parties.

**12.14. Electronic Signatures.** Each party agrees that this MSA 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 MSA or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

By signing this MSA, the parties certify that they agree to be bound by its terms and it's to be executed by their respective duly authorized officers as of the Effective Date.

**Empower Retirement, LLC**



\_\_\_\_\_  
Signature

Daniel A. Morrison  
\_\_\_\_\_

Printed Name

Senior Vice President, Government Markets  
\_\_\_\_\_

Title

May 5, 2023  
\_\_\_\_\_

Date Signed

**Plan Sponsor: City of Stockton**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

**EXHIBIT 1:  
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 Master Service Agreement executed by Empower and Plan Sponsor under which Empower provides services to Plan Sponsor (“**Agreement**”).

**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 Agreement or any Schedule 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 Master Agreement 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. CCPA Compliance.** Each Party hereto agrees and certifies that such Party complies with all applicable sections of the California Consumer Privacy Act of 2018 and its implementing regulations, as

amended or superseded (the “**CCPA**”), in connection with this Agreement. Empower will notify Plan Sponsor in the event it determines that it is no longer able meet its obligations under the CCPA.

**4.1** Empower processes Personal Data to provide the Services under the Agreement for the following purposes: to maintain or service retirement accounts, provide participant service, education and support, to offer financial wellness programs to participants, to maintain online participant accounts, to provide call center services, to respond to inquiries, to provide benchmarking services to Plan Sponsor, and additional specific services as further described in Schedule A-1 (collectively, the “**Business Purpose**”).

**4.2** Except as otherwise permitted by the CCPA, Empower will use, disclose, and retain Personal Data solely for the Business Purpose and will not use, disclose, or retain Personal Data for commercial purposes other than for the Business Purpose. Except as otherwise permitted under the CCPA, Empower will not use, disclose, or retain Personal Data processed in connection with the Services outside the direct business relationship with Plan Sponsor nor combine personal information that it received from, or on behalf of, Plan Sponsor with personal information that it received from another source or collected from its own interaction with the consumer, except as required to provide the Business Purpose or as otherwise permitted by applicable laws.

**4.3** Empower will not sell or share Personal Data in any manner in violation of the CCPA.

**4.4** Upon prior written notice to Empower, Plan Sponsor may take reasonable and appropriate steps to (i) ensure Empower uses the Personal Data collected is in a manner that complies with the CCPA and (ii) stop and remediate any unauthorized use of Personal Data by Empower.

**4.5** Empower shall enable the Plan Sponsor to comply with consumer requests made pursuant to the CCPA to the extent compliance with such requests is required by the CCPA.

**4.6** In the event the CCPA is pre-empted by Federal laws, the terms of this Section 4 shall no longer be applicable, and upon the request of either party hereto, the parties shall cooperate in good faith to reasonably amend or modify these terms to address future changes to Data Protection Laws that require such amendments.

**4.7** Empower shall implement security practices and procedures appropriate to the nature of the Personal Information as set forth herein.

**5. 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 Agreement. Empower shall carry out reasonable due diligence as appropriate to the nature of each Subprocessor’s services to ensure that the Subprocessor can provide the level of protection for Personal Data required by this Program. 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 Agreement.

**6. Data Subject Rights.** In the event that Empower receives a request from a Participant relating to an exercise by the Participant of the Participant’s rights under applicable Data Protection Laws (such as a “right to know” or “right to delete” request), Empower will Direct such Participant to take the request to the Plan Sponsor. Empower will cooperate with any request by the Plan Sponsor to respond to requests to the extent required by applicable Data Protection Laws.

**7. 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:

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

**7.2** 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.

**7.3** 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.

**7.4** 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.

**7.5** 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.

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

**7.7** 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.

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

**9. Human Resources.**

**9.1 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.

**9.2 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.

## **10. Physical and Environmental Safety.**

**10.1 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.

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

## **11. Communications and Operations Management.**

**11.1 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.

**11.2 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.

## **12. Access Control.**

**12.1 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.

**12.2 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.

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

## **13. Information Systems Acquisition, Development and Maintenance.**

**13.1 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.

**13.2 Software Security Management.** Empower's information systems (including operating systems, infrastructure, business applications, off-the-shelf products, services and user-developed

applications) adheres to the information security standards set forth in Empower's Information Security Policies.

**13.3 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.

**13.4 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.

#### **14. Information Security Breach Management.**

**14.1 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.

**14.2 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 Data Security 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.

#### **15. Plan Sponsor Assessment Rights.**

**15.1 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.)

**15.2 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.

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

**EXHIBIT 2:  
PROCEDURES FOR COMPLYING WITH FUND COMPANY MARKET TIMING AND EXCESSIVE  
TRADING**

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This Exhibit 2 shall apply to any Recordkeeping Services Schedule under the Master 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 reports 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.

01/2022

## EXHIBIT 3: PRIVACY NOTICE

## PRIVACY NOTICE

REV 5/2022



<b>FACTS</b>	What does Empower Retirement, LLC (Empower) do with your personal information?
<b>WHY?</b>	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share and protect your personal information. Please read this notice carefully to understand what we do.
<b>WHAT?</b>	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>• Social Security number and account balances.</li> <li>• Retirement assets and transaction history.</li> <li>• Employment information and income.</li> </ul> <p>When you are no longer our customer, we continue to share your information as described in this notice.</p>
<b>HOW?</b>	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information, the reasons Empower chooses to share and whether you can limit this sharing.

REASONS WE CAN SHARE YOUR PERSONAL INFORMATION	DOES EMPOWER SHARE?	CAN YOU LIMIT THIS SHARING?
<b>For our everyday business purposes</b> — such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you	Yes	No
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness	No	We don't share
<b>For nonaffiliates to market to you</b>	No	We don't share

<b>QUESTIONS?</b>	Call toll-free at 855-756-4738 or go to <a href="https://empower.com/privacy">empower.com/privacy</a>
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<b>WHO WE ARE</b>	
<b>Who is providing this notice?</b>	Empower and its affiliates. A list of companies is provided at the end of this notice.
<b>WHAT WE DO</b>	
<b>How does Empower protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include physical, technical and procedural safeguards, such as building and system security and personnel training.
<b>How does Empower collect my personal information?</b>	<p>We collect your personal information, for example, when you:</p> <ul style="list-style-type: none"> <li>• Provide account information or apply for a loan.</li> <li>• Enter into an investment advisory contract or seek advice about your investments.</li> <li>• Tell us about your investment or retirement portfolio.</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates or other companies.</p>
<b>Why can't I limit all sharing?</b>	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> <li>• Sharing for affiliates' everyday business purposes — information about your creditworthiness.</li> <li>• Affiliates from using your information to market to you.</li> <li>• Sharing for nonaffiliates to market to you.</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing.</p>
<b>DEFINITIONS</b>	
<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• <i>Our affiliates include companies with the Empower, Great-West Life &amp; Annuity or Great-West names, as listed below, and other financial companies such as Advised Assets Group, LLC and GWLA.</i></li> </ul>
<b>Nonaffiliates</b>	<p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• <i>Empower does not share with nonaffiliates so they can market to you.</i></li> </ul>
<b>Joint marketing</b>	<p>A formal agreement between nonaffiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> <li>• <i>Empower doesn't jointly market.</i></li> </ul>
<b>WHO IS PROVIDING THIS NOTICE?</b>	
<p>Empower Retirement, LLC; Great-West Life &amp; Annuity Insurance Company; The Great-West Life Assurance Company (U.S. operations); Great-West Life &amp; Annuity Insurance Company of New York; Great-West Financial Retirement Plan Services, LLC; Advised Assets Group, LLC; GWFS Equities, Inc.; The Canada Life Assurance Company (U.S. operations); Great-West Life &amp; Annuity Insurance Company of South Carolina; Great-West Capital Management, LLC; Great-West Funds, Inc.; Great-West Trust Company, LLC; Prudential Retirement Insurance and Annuity Company; Prudential Bank &amp; Trust, FSB; Global Portfolio Strategies, Inc.; TBG Insurance Services Corporation; MC Insurance Agency Services, LLC; Mullin TBG Insurance Agency Services, LLC; and COMOSA REIT Corp.</p>	

GEN-FLY-WF-1831220-0622



**EXHIBIT 4: BUSINESS CONTINUITY PLAN NOTICE****BUSINESS CONTINUITY PLAN NOTICE**

Empower Financial Services, Inc. ("Empower"), a subsidiary of Empower Annuity Insurance Company of America and affiliate of Empower Life & Annuity Insurance Company of New York\* and Empower Retirement, LLC, maintains a comprehensive business continuity plan designed to respond reasonably and effectively to events that lead to significant business disruption, such as natural disasters, power outages, or other events of varying scope. This plan defines critical functions and systems, alternate work locations, vital books and records, and staff resources, and provides for the continuation of business operations with minimal impact, depending on the severity and scope of the disruption. The plan is reviewed and tested no less than once annually to ensure that the information in the plan is kept current and that documented recovery and continuity strategies adequately support its business operations. Of utmost importance to the plan is the ability for customers to maintain access to securities accounts and assets in those accounts.

In the event that one of the contact centers or back office operation facilities becomes unavailable for any reason, calls would be re-routed to one of the firm's alternative contact center or operations facilities.

In the event of a significant business disruption to the primary office and/or data center, access to customer accounts will be provided via the Company's Web site and voice response system, operated from an alternative data center. Customer service will continue to be provided by re-routing telephone calls to a contact center located in one or more alternative sites located outside of the region. Secure work from home solutions are available for all staff.

While no contingency plan can eliminate the risk of business interruption, or prevent temporary delays with account access, the firm's continuity plan is intended to mitigate all reasonable risk and resume critical business operations within 24 hours or the next business day, whichever is later.

\* Record keeping and administrative services are provided by Empower Retirement, LLC, and in New York, Empower Life & Annuity Insurance Company of New York, or one of its subsidiaries or affiliates. Securities offered in your account may be offered through another broker/dealer firm other than Empower Financial Services, Inc., a wholly owned subsidiary of Empower Annuity Insurance Company of America. Please contact your investment provider for more information if needed.

This disclosure is subject to modification at any time. The most current version of this disclosure can be found on the the Company's website or can be obtained by requesting a written copy by mail.

BCP – Empower Customer Notice (Ed. August 2022)

**SCHEDULE A-1:  
RECORDKEEPING SERVICES & FEE SCHEDULE**

for the

**LIST OF PLANS**

1. **City of Stockton 457(b) Deferred Compensation Plan (“457(b) Plan”)**  
**Group Account Number: 772929-01;**
2. **City of Stockton 457 Deferred Compensation OBRA Plan (“457(b) Plan”)**  
**Group Account Number: 772932-01;**
3. **City of Stockton 401(a) Plan (“401(a) Plan”) Group Account Number: 772933-01**

**1. GENERAL**

This Recordkeeping Services Schedule (“**Schedule**”) is a separate agreement between the parties hereto and incorporates the terms and conditions of the MSA (“**Agreement**”) between Empower Retirement, LLC and Plan Sponsor. All references to “Empower” in this Schedule are deemed to be references to Empower or the Empower Affiliate, as the case may be, that enters into this Schedule. Capitalized terms used but not defined herein shall have the meanings given to them in the Agreement. Any conflict between this Schedule and the terms of the Agreement shall be resolved in favor of the Agreement, unless this Schedule specifically states that its provision will prevail.

**2. SCHEDULE TERM**

**2.1.** The Effective Date of this Schedule is July 1, 2023 (“**Schedule Effective Date**”), or such later date as it has been signed by both Plan Sponsor and Empower. The term of this Schedule is for a period of three (3) years with the option to exercise two (2) additional one (1) year renewal periods unless terminated in accordance with Section 11 [Term & Termination] of the Agreement. The termination of this Schedule shall also operate as a termination of all Schedules to the Agreement.

**2.2.** Upon termination, Plan Sponsor Directs Empower to deduct any and all outstanding expenses and fees owed to Empower from the Plan’s trust on the termination date, unless paid by the Plan Sponsor. Plan Sponsor agrees to amend the Plan, if necessary, to provide for the payment of expenses from the Plan consistent with the foregoing. Upon termination of this Schedule, Empower will cease to provide the Services herein. Plan Sponsor acknowledges that after the termination of this Schedule, Plan Sponsor will be responsible for performing all actions required to be taken with respect to the Plan including, but not limited to: processing of contributions, loans and distributions, and the distribution of forms to Participants. On and after the actual date of termination of this Schedule, Empower shall have no further obligations hereunder except as set forth in Section 12 [Transition Assistance Services].

**3 NATURE OF EMPOWER’S SERVICES**

**3.1 Services.** Empower will provide the Services set forth in this Schedule or as further described in the Exhibits attached hereto. Empower will perform the Services in accordance with the Performance Standards Exhibit as attached hereto.

**3.2 Fiduciary Status.** Except with respect to any Services for which Empower has specifically agreed to act as a fiduciary under this Schedule, Plan Sponsor acknowledges that (i) Empower acts as a non-discretionary service provider Directed by the Plan Sponsor or other Plan fiduciary and, as authorized by the Plan Sponsor, by Participants; and (ii) performance of the Services do not involve the exercise of any discretion in the administration or management of the Plan that would cause Empower to be a fiduciary or a Plan Administrator as defined under the Code, ERISA, the Investment Advisors Act of 1940, or state law, as applicable. The Plan Sponsor has appointed a Plan Administrator that has discretionary authority for the administration and management of the Plan. The parties agree that Empower will not perform a Service that could cause it to have discretionary authority or responsibility for the administration or management of the Plan or disposition of Plan assets. Empower shall not render, or have any authority or responsibility to render, investment advice for a fee or other compensation, direct or indirect, with respect to any Plan assets, except as specifically provided for under this Agreement.

#### **4 PLAN SPONSOR RESPONSIBILITIES**

Plan Sponsor acknowledges that Empower cannot effectively perform the Services without Plan Sponsor's cooperation. Accordingly, Plan Sponsor acknowledges and agrees that it will fulfill the following duties and obligations:

**4.1 Provision of Information.** Plan Sponsor or its designee, including any third parties retained by or on behalf of the Plan or Plan Sponsor, will provide all information necessary for Empower to perform the Services in a manner and format that does not require manual intervention or manipulation by Empower. Plan Sponsor acknowledges and agrees that Empower shall not bear any responsibility for any penalties or other costs incurred as a result of Plan Sponsor's failure to provide such information in a timely manner. Plan Sponsor further acknowledges and agrees that Empower may charge an additional fee if any necessary information is not provided on a timely basis, or in an electronic format usable by Empower without any manual intervention or manipulation. Plan Sponsor agrees that Empower shall be entitled to fully rely upon the accuracy and completeness of information Plan Sponsor submits and that Empower shall have no duty or responsibility to verify such information. If, as a result of incorrect or incomplete information furnished by Plan Sponsor, it becomes necessary to repeat any calculation or service, complete any new forms or revise any completed forms, Empower reserves the right to charge an additional fee. Each party agrees to bear its own transmission costs and is solely responsible for its own acts and omissions relating to transmitting, receiving, storing and handling documents and information, including the maintenance of all equipment, software and testing necessary to effectively, reliably and securely send and receive such documents and information.

**4.2 Remitting Contributions and Allocation Instructions.** Plan Sponsor agrees that it is solely responsible for collecting and remitting all initial and recurring contributions and loan repayments to Empower electronically via Empower's plan sponsor website, or another mutually agreed-upon manner within the time prescribed by applicable law. Plan Sponsor acknowledges that Empower is not responsible for monitoring the amount and/or timeliness of such contributions and loan repayments.

**4.3 Plan Document Responsibilities.** Plan Sponsor has the responsibility to ensure that the Plan documents are accurate and complete, to interpret Plan terms and to review the Plan document services provided by Empower, if any. Plan Sponsor is responsible to ensure that the Plan is being operated in accordance with its terms. Plan Sponsor shall provide Empower with a signed copy of the Plan document and all amendments to the Plan document within thirty (30) days after such document and/or amendment is adopted.

**4.4 Investment Options.** Plan Sponsor is responsible for the selection of all Investment Options based on Plan Sponsor's independent evaluation, or that of its registered investment advisor, consultant, broker or other agent, as applicable. Plan Sponsor must notify Empower in writing of the Investment Options including benchmarks, if applicable, intended to be serviced by Empower and such Investment Option services including benchmarks, if applicable, are only provided as agreed upon by Empower and may be subject to certain limitations or conditions. Plan Sponsor acknowledges that Empower or its Affiliates may receive fees from mutual fund families or other Investment Option Sponsors or their Affiliates for providing certain administrative or other services thereto ("**Fund Service Fees**") in connection with the Plan. Plan Sponsor may request additional information regarding such fees at any time. If the provider of an Investment Option causes an Investment Option to become unavailable to the Plan, Empower will notify Plan Sponsor as soon as practicable after the Investment Option Sponsor notifies Empower.

**4.5 Plan Sponsor Acknowledgment of Market Timing Procedures.** Plan Sponsor acknowledges that the SEC requires mutual fund companies to establish procedures to prevent market timing and excessive trading. Plan Sponsor acknowledges receipt of, and agrees to adhere to, the terms and conditions of the Procedures for Complying with Fund Company Market Timing and Excessive Trading Policy attached as an Exhibit to the Agreement, as amended from time to time.

**4.6 Payment of Plan Expenses.** Plan Sponsor may Direct Empower in writing to deduct Plan expenses from the Plan to the extent Plan Sponsor has determined that deduction is specifically allowed by the Plan document and applicable law, and to remit to the party designated by the Plan Sponsor.

**4.7 Plan Sponsor Direction to Perform the Services.** In performing the Services, Empower is acting at the Direction of the Plan Sponsor or other fiduciary of the Plan by following the procedures set forth in a plan administration guide or similar procedural document provided by Empower to the Plan Sponsor, including by posting such procedural documents to the Plan Sponsor website. To the extent the procedures do not fully address a specific issue, the Plan Sponsor agrees to provide Direction in a manner reasonably requested by Empower, and Empower may rely upon any such Direction by a person that Empower reasonably believes to be authorized to act on behalf of the Plan Sponsor or other fiduciary. Plan Sponsor specifically intends that Empower will have no discretionary authority with respect to following such Direction.

#### **4.8 Electronic Delivery**

**4.8.1** Empower will deliver plan-related documents to Participants under the Agreement in an electronic manner as described below.

**4.8.1.1** 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 or by Plan Sponsor. If Empower is not provided with an email address, notices will be delivered to the Participant via regular mail.

**4.8.1.2** Empower will send an initial notification of default electronic delivery via regular mail to each Participant at least 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.

**4.8.1.3** 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 mail to the Participant until such time as Empower is provided another email address for the Participant.

**4.8.1.4** 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 mail at any time.

**4.9 Review of Reports.** Plan Sponsor is responsible for reviewing and monitoring reports made available by Empower (whether provided electronically, by posting on an Empower website, or otherwise) regarding Plan activity, transactions and investments to verify that the transactions indicated in the reports properly reflect the Direction provided by the Plan Sponsor. Empower's performance of its obligations under this Agreement shall be presumed to be accurate unless Plan Sponsor provides Empower with proper notice of discrepancies.

#### **4.10 Error Correction.**

**4.10.1 Transactional Errors.** If Empower does not accurately process contribution, distribution, or investment instructions provided in good order by a Participant or the Plan Sponsor (e.g., investment allocation of Plan contributions, investment exchanges or transfers, or timely processing of a Plan distribution) and the issue is timely brought to Empower's attention, 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. Any such correction under this section 4.10.1 shall be subject to applicable law.

**4.10.2 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).

**4.10.3 Trading Errors.** If Empower does not accurately process a trade with the mutual fund company as Directed by the Plan Sponsor or as instructed by a Participant, then Empower will correct the share position at the mutual fund company as if the error had not occurred. In the event there are

multiple funds or related errors in one or more funds involved, Empower will net gains and losses across all funds 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.

**4.10.4** The parties acknowledge and agree that Empower will have no liability for an error caused by acts or omissions of the Plan Sponsor, Participants or any other third party other than Empower’s Affiliates, agents, vendors and suppliers.

**4.10.5 Duty to Mitigate.** The parties acknowledge and agree that the Plan Sponsor, the Plan Administrator 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 Option).

**4.10.6 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 Option 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 Option positions in the course of correcting the account. Empower will net any Investment Option pricing differences as part of the correction process. If a correction is made at Empower’s expense, Empower, not the Plan or Participant, will incur any transactional loss and Empower will retain any transactional gain.

**4.11 Account Protection.** Empower, Plan Sponsor or the Participant will promptly notify the other parties if it discovers an unauthorized activity 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 Section 5.1 [Mutual Obligation to Protect Data] of the Agreement, 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).

## **5 PLAN INVESTMENT OPTIONS & FEES**

### **5.1 Selection of Investment Options**

**5.1.1** The parties agree that the purchase and sale of securities for the Plan, except for employer stock and unaffiliated self-directed brokerage, will be effected through Empower Financial Services, Inc., a broker/dealer affiliate of Empower.

**5.1.2** In addition to the sole responsibility for the selection of the Investment Options to be made available under the Plan, Plan Sponsor will also Direct Empower to designate one of the Investment Options available to be the default investment, in which any contribution or other amount credited under the Plan for which neither the Participant nor the Plan Sponsor has provided Empower with investment directions in good order will be invested (“**Default Investment Fund**”). Plan Sponsor may designate a Default Investment Fund(s) for Participant contributions and also designate a second Default Investment Fund for employer contributions.

**5.1.3** Plan Sponsor Directs Empower and its Affiliates, as applicable, to cause all dividends, capital gain distributions, interest or other earnings paid by an Investment Option under the Plan to be reinvested in such Investment Option unless Directed otherwise by the Plan Sponsor and agreed to by Empower.

**5.2 Information Regarding Investment Options.** Plan Sponsor Directs Empower to obtain, or cause its designee to obtain, all necessary information (including but not limited to valuation, performance, prospectuses, and other investment information) regarding any Investment Option available under the Plan from any third parties representing such Investment Options (“Investment Option Sponsor(s)”). Plan Sponsor acknowledges that prospectuses for the Investment Options, as applicable, will be made available electronically through one or more websites maintained by Empower or its Affiliates. In the event an Investment Option Sponsor does not provide all necessary information and Empower agrees, Plan Sponsor will arrange to provide Empower or its designee, or cause Empower or its designee to be provided, the necessary information regarding said Investment Option. In no event will Empower be responsible for the accuracy of any such information provided to Empower or its designee regarding any Investment Option, and Empower or its designee will have no duty or obligation to question, confirm or independently verify any such information.

### **5.3 Investment Option Changes.**

**5.3.1** Plan Sponsor may replace the Investment Options at any time, subject to applicable notice requirements. Plan Sponsor will notify Empower in writing of any changes to such Investment Options or the Default Investment Fund(s), and the parties will agree upon a process for the transfer of assets and investment elections, if applicable, from prior Investment Options to new Investment Options.

**5.3.2** If any Investment Option is terminated by the Investment Option Sponsor, and Plan Sponsor wishes to replace the terminated option, Plan Sponsor agrees to replace the terminated option with an available fund from any fund company that currently has, or will enter into, a trading agreement with Empower.

## **6 RECORDKEEPING AND ADMINISTRATION SERVICES & FEES**

**6.1 Basic Plan Administration Fee.** Commencing July 1, 2023, Empower will be entitled to the following annual administration fee (“**Basic Plan Administration Fee**”). This fee is used, in whole or in part, for administrative services provided by Empower as described in this Schedule. In addition, some or all of the fee (or any other compensation, revenue, asset or source of funding available to Empower, in Empower’s sole discretion) may be used by Empower to make payments to the Plan under a Plan Expense Account or similar arrangement, if applicable, between the Plan Sponsor and Empower. All Services set forth in this Schedule are included in the Basic Plan Administration Fee unless an additional fee is otherwise

noted herein. In the event that the Plan Sponsor requests different or additional Services, the parties shall meet to discuss relevant Empower capabilities and any additional fees that may apply.

The Basic Plan Administration Fee is 0.015% (1.5 basis points) per year.

The Basic Plan Administration Fee will be payable on a monthly basis, based on the average daily balance of Plan assets during the assessment period.

In addition, Empower and/or one or more of its Affiliates may receive Fund Service Fees in connection with the Plan.

## **6.2 Revenue Credit Arrangement.**

**6.2.1** Empower and Plan Sponsor agree that Empower will pay to the Plan, on a monthly basis, the Revenue Credits amount as described below. Revenue Credits shall be determined by multiplying the Plan's average daily balance in each of the Plan's Investment Options for the month by the annual rate (prorated for the month) of Fund Service Fees paid to Empower by the Investment Option or its Affiliates as reflected in the Plan's fee disclosure report (a copy of the Plan's most recent fee disclosure report is available on Empower's Plan Sponsor website) ("**Revenue Credits**"). Plan Sponsor Directs Empower to allocate any Revenue Credits to Participant accounts proportionately based on the average daily balance of such accounts in the Investment Option during the month and to invest such amounts based on the Participant's investment elections with respect to future contributions or, if none, the applicable Plan default fund. Revenue Credits shall be determined and allocated to the Participant accounts within 45 days after the end of the month. In the event that the Agreement is terminated, Empower will determine and allocate Revenue Credits to the Plan in advance of the Plan's scheduled termination date based on an estimate of the Plan's average daily balance in each of the Plan's Investment Options.

**6.2.2** The Revenue Credit under this arrangement is funded from Empower's general assets and is being made available as a reduction in the compensation that Empower would otherwise earn in connection with the services it provides to the Plan. No specific funds will be set aside in an account or fund for the Plan's benefit or otherwise segregated for purposes of funding this arrangement, and the Plan has no right, title or interest in any Revenue Credits prior to the time that the Revenue Credit is paid to the Plan. No interest will be earned by the Plan or paid on Revenue Credits that are accrued. The Plan Sponsor understands that the Investment Options are held in omnibus accounts and that the amount of service fees received by Empower in relation to Plan assets from the Investment Options may differ from the amount of Revenue Credits due to differences in calculation methods between the Investment Options and Empower. Plan Sponsor represents that it has reviewed this arrangement and the allocation method with its legal and tax advisors and has determined that the arrangement is consistent with the terms of the Plan and with its fiduciary obligations and will not result in a violation of the Code or any other applicable law. Plan Sponsor acknowledges and agrees that Empower shall not be considered a fiduciary and shall not have or exercise any discretion, with respect to its offering or administration of this arrangement. Plan Sponsor acknowledges that the amount of the Revenue Credit may vary with changes in the Plan's Investment Options or if the amounts paid to Empower by the Plan's Investment Options change.

## **6.3 Enrollment**

**6.3.1 Enrollment.** Based on information provided by the Plan Sponsor or its designee, Empower will enroll Participants in the Plan in a manner mutually agreed upon by the parties.

**6.3.2 Online Enrollment.** If applicable, Plan Sponsor Directs Empower to allow online enrollment. Once the Payroll Data Interchange (“PDI”) file is transmitted, Plan Sponsor Directs Empower to communicate details of the enrollment process to eligible Participants allowing enrollment in the Plan through the website or the voice response unit (“VRU”).

**6.3.3 Automatic Enrollment.** If applicable, Plan Sponsor Directs Empower to implement automatic enrollment and automatic deferral increase services as mutually agreed upon.

**6.4 Deferral Processing.** If Plan Sponsor provides Empower at implementation with an electronic employee data feed of all the Participant deferral amounts/percentages or full PDI file, Plan Sponsor hereby Directs and authorizes Empower to allow Participants to update their deferral elections via the website and VRU. Empower will forward updated deferral information to Plan Sponsor according to the schedule elected by Plan Sponsor.

**6.5 Vesting Services.** Plan Sponsor will provide Empower with up-to-date full-service vesting information electronically and ongoing Participant information as needed for the purpose of performing vesting services. Plan Sponsor Directs Empower to:(i) maintain each Participant’s vesting percentage on Empower’s recordkeeping system; (ii) calculate and process withdrawals and/or loans according to the vested percentage; and (iii) display the Participant’s vested account balance on the quarterly statements.

**6.6 Establishment of Participant Accounts.** Empower shall establish and maintain an account for each Participant. Each account record shall consist of the Participant’s name, social security number, address, date of birth, telephone number and such other information as may be required from time to time for administration of the Plan. Empower will maintain an accounting of the contributions and earnings in separate accounts. Amounts distributed from Roth accounts will be made and tax reported pursuant to the applicable provisions of the Agreement.

#### **6.7 Beneficiary Recordkeeping**

**6.7.1 Beneficiary Designations.** Plan Sponsor affirms that the Plan’s administrative procedures allow web-initiated beneficiary designations. Plan Sponsor Directs and authorizes Empower to accept, maintain and file, without Plan Sponsor’s further approval, beneficiary designations received by Empower in good order and in a manner acceptable to Empower. In the event Empower has not received a beneficiary designation deemed to be in good order or in the event of a conflict, Plan Sponsor will determine the appropriate beneficiary designation.

**6.8 Receipt and Investment of Contributions.** Empower will credit contributions for allocation to Participant accounts in accordance with Direction from the Plan Sponsor and as set forth below. Empower will allocate or otherwise apply forfeitures under the Plan accounts, if any, as Directed by the 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 Plan Sponsor.

**6.8.1 Timing Requirements for Contributions Funded via ACH, Check or Wire.** Contributions received by Empower in good order prior to the close of any Business Day will be processed effective that Business Day, at that Business Day’s net asset / unit values. Contributions

not received by Empower prior to the close of Business Day will be processed effective the next Business Day.

**6.9 Monitoring the Deferral Limits** Unless otherwise Directed, Empower will monitor Participants' total deferrals under the Plan for the calendar year and provide warning messages for payroll contributions processed within the Plan Service Center (PSC). However, it is the Plan Sponsor's responsibility to ensure that the applicable limit(s) for the Plan are not exceeded. Any distributions requested by the Plan Sponsor to correct excess deferrals will be appropriately tax reported.

**6.9.1** For the 457(b) Plan(s): Empower will provide assistance to Participants in calculating special catch-up contributions. Plan Sponsor acknowledges that Participants are fully responsible for the accuracy of these calculations.

**6.10 Investment Transfers of Existing Assets.** Empower or its designee will process investment transfers or exchanges, as applicable, received in good order subject to any conditions and/or limitations imposed by the available Investment Options under the Plan or Investment Option Sponsors. Empower will pass to the Plan trustee or custodian, as applicable, Directions to execute or record as appropriate the corresponding transactions involving the assets of the Plan's trust. Requests for Participant-initiated transfers between Investment Options will be processed if the request is received by Empower in good order prior to market close on a Business Day. Any transfer request not received by Empower during a Business Day will be processed the next Business Day, or such earlier time as may be required in order to comply with applicable law.

**6.11 Distributions.**

**6.11.1** Empower will make payments to Participants pursuant to a Participant's request and Plan Sponsor's Direction received in good order and will debit Participant accounts accordingly.

**6.11.2** Except for those certain distributions described in Section 8 [Signatureless Services] of this Schedule, Plan Sponsor agrees to provide a signature authorization for certain distribution requests, including but not limited to distributions, alternate payee distributions and beneficiary distributions. Empower reserves the right to charge an additional fee for services related to other distributions outside the ordinary course of plan administration.

**6.12 Tax Withholding and Reporting of Distributions.**

**6.12.1 Responsibility for Withholding and Reporting.** Plan Sponsor appoints Empower or its designee as its agent to perform income tax withholding and reporting for all distributions Empower processes and to collect and remit state documentary stamp or similar taxes on all loans Empower processes, to the extent applicable. Plan Sponsor agrees to provide all information needed by Empower to perform these services. Empower or its designee shall deposit the income tax withheld with the Internal Revenue Service ("IRS") and other appropriate governmental entities, as applicable, on or before the applicable due dates for such remittances. Empower will complete necessary tax reporting forms for distributions it processes, file the tax reporting forms with the IRS or other governmental authority, as applicable, and send copies to the distributee. Distributions to a person subject to reporting and withholding rules that differ from those applicable to United States residents will be subject to withholding applicable to non-resident aliens unless otherwise Directed by the Plan Sponsor.

**6.12.2 Withholding and Reporting for Plan Sponsor Initiated Distributions and Rollovers.** With respect to Plan Sponsor-initiated distributions or rollovers from the Plan, Plan Sponsor Directs Empower to rely upon the information on Empower's recordkeeping system for purposes of tax reporting and withholding, and to treat payees with U.S. addresses as U.S. persons and payees with foreign addresses as foreign persons. Plan Sponsor certifies that such information is accurate and compliant with the Foreign Account Tax Compliance Act ("FATCA") and the Code, and that required documentation supporting such information has been collected by Plan Sponsor.

For each benefit disbursement the following administration fee will apply and will be assessed to the Participant:

\$0.00 for each benefit disbursement.

**6.13 Code Section 402(f) Notice.** Empower shall provide Participants with the IRS model notice, as amended from time to time, pursuant to Code Section 402(f).

**6.14 Uncashed Checks.** With respect to any checks issued from Plan assets during the term of the Agreement, 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.

**6.15 Missing Participant Administrative Services.** Plan Sponsor is solely responsible for identifying and locating missing Participants. Upon request by Plan Sponsor, Empower will provide reports or other information to the Plan Sponsor with respect to Participants with undeliverable addresses as reflected in Empower's records. Also at Plan Sponsor's request, Empower will provide a description of administrative services and associated fees, as updated from time to time, to assist the Plan Sponsor with identifying and locating missing Participants and reissuing benefit payments to Participants. The administrative services may include performing Participant address searches using a commercial locator service, updating Participant address records and attempting to contact Participants using certified U.S. mail. Plan Sponsor may select such services and agree to the associated fees via a separate letter of direction.

**6.16 Distribution Education Services.** Empower or its Affiliates will make retirement 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.

## 7 SIGNATURELESS RECORDKEEPING SERVICES

**7.1 General Requirements.** This Section 7 [Signatureless Recordkeeping Services] describes certain services under which Empower will process Participant requests without obtaining Plan Sponsor signature or other further approval. In doing so, Empower will not exercise any fiduciary authority or make any discretionary determinations. Rather, this Section 7 [Signatureless Recordkeeping Services] will act as

Direction by Plan Sponsor for Empower to process all Participant requests that meet the stated criteria. In order to receive the signatureless services detailed in this Section 7 [Signatureless Recordkeeping Services] Plan Sponsor must utilize the Plan Service Center (“PSC”) and must provide all necessary information in a PDI file. Plan Sponsor must also provide any additional information or Direction as required by, and in a form acceptable to, Empower. In addition, in most cases, Empower must be the sole recordkeeper for the Plan. If at any time Plan Sponsor does not meet these general requirements, or does not meet the specific requirements of any service described in this Section 7 [Signatureless Recordkeeping Services], Empower shall not be responsible to continue to provide such service.

**7.1.1 Participant Rollover Contributions.** Plan Sponsor Directs Empower to process Participant rollover contributions received in good order pursuant to the Participant’s instruction in accordance with procedures provided by Empower to the Plan Sponsor and without the Plan Sponsor’s further approval. In the event that a Participant does not elect Investment Options on the incoming direct rollover form but otherwise completes the form, Plan Sponsor further Directs Empower to invest the money according to the Participant’s on-going investment elections, and if none are elected, then in the Default Investment Option under the Plan at the time the incoming rollover is received. Separate accounts within the Participant’s account will be maintained for such rollovers.

**7.1.2 Signatureless Distributions Due to Severance from Employment for Reasons Other than Death or Disability.** Plan Sponsor Directs Empower to process, without Plan Sponsor’s further approval, Participant requests for distribution due to severance of employment for any reason other than death or disability, provided such requests are received in good order and in a manner acceptable to Empower. In order to receive this service, Plan Sponsor must also utilize Empower’s vesting tracking service, if the Plan has a vesting schedule. If Plan Sponsor has not provided a Participant’s termination date or other required information, Plan Sponsor Directs Empower to notify Plan Sponsor to obtain missing information before processing the distribution. For spousal consent purposes, Plan Sponsor Directs Empower to rely on the marital status specified by the Participant in the request form, or as stored on Empower’s recordkeeping system, as applicable.

For each benefit disbursement the following administration fee will apply and will be assessed to the Participant:

\$0.00 for each benefit disbursement.

**7.1.3 Signatureless In-Service Distributions at Age 59½.** Plan Sponsor Directs Empower to process, without Plan Sponsor’s further approval, Participant requests for age 59 ½ in-service distributions, provided such requests are received in good order and in a manner acceptable to Empower. Plan Sponsor represents that the Plan allows Participants to take in-service distributions at age 59 ½ and will provide Empower with information concerning the sources eligible for such distributions. In order to receive this service, Plan Sponsor must also utilize Empower’s vesting tracking service, if the Plan has a vesting schedule. If Plan Sponsor has not provided a Participant’s birth date, or if there is a discrepancy between the birth date on the system and the birth date on the request form submitted by the Participant, Plan Sponsor Directs Empower to reject the request pending further information.



For each benefit disbursement the following administration fee will apply and will be assessed to the Participant:

\$0.00 for each benefit disbursement.

**7.1.4 Voluntary In-Service De Minimis Distributions for 457(b) Plans.** Plan Sponsor Directs Empower to process, without Plan Sponsor's further approval, Participant-initiated De Minimis distribution requests received in good order and in a manner acceptable to Empower.

**7.1.5 Automated Mandatory Distributions (De Minimis).** Plan Sponsor Directs Empower to automate mandatory distributions of small account balances, as elected by Plan Sponsor in good order and in accordance with procedures provided by Empower.

For each benefit disbursement the following administration fee will apply and will be assessed to the Participant:

\$0.00 for each benefit disbursement.

**7.1.6 Required Minimum Distributions (RMDs).** The Plan Sponsor Directs Empower to provide a notice to Participants who, based on the Plan records reflected on Empower's recordkeeping platform, are RMD eligible. The Plan Sponsor may download an RMD report via the PSC to verify the accuracy of Participant data and to confirm whether a Participant has already met the Plan's RMD rules for the applicable tax year. If the Participant does not timely provide an election for the RMD as described in the notice, the Plan Sponsor acknowledges and agrees that it must provide timely Direction to Empower with respect to processing any RMD payments prior to the regulatory deadline. Empower will process RMDs upon receipt of a Participant or Plan Sponsor request in good order.

**7.1.7 Signatureless Distributions Due to Unforeseeable Emergencies.** Plan Sponsor Directs and authorizes Empower to process, without Plan Sponsor's further approval, all Participant requests, received in good order and in a manner acceptable to Empower, for distributions due to unforeseeable emergency resulting in a severe financial hardship to the Participant that cannot be alleviated by any other means available to the Participant. Empower shall only process such requests if they meet the safe harbor definition set forth in the Treasury Regulations, as described below. Plan Sponsor further Directs Empower to rely on any and all representations made by a Participant in a request. The following situations shall qualify for a distribution under this section:

**7.1.7.1** An illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined in Code §152, and for taxable years beginning on or after January 1, 2005, without regard to Code §152(b)(1), (b)(2) and (d)(1)(B));

**7.1.7.2** Loss of the Participant's property due to casualty;

**7.1.7.3** The following extraordinary and unforeseeable circumstances, if they arise as a result of events beyond the control of the Participant: (a) the imminent foreclosure of or eviction from the Participant'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 Code §152, and for taxable years beginning on or after January 1, 2005, without regard to Code §152(b)(1), (b)(2) and (d)(1)(B)) of Participant; (d) except in extraordinary circumstances, the following are examples of situations that shall NOT qualify for a distribution under this section: (i) purchase of real estate; (ii) payment of college tuition; (iii) unpaid rent or mortgage payments, except in the event of imminent foreclosure or eviction; (iv) unpaid utility bills; (v) loan repayments; (vi) personal bankruptcy (except when resulting directly and solely from illness, casualty loss or other similar extraordinary and unforeseeable circumstances beyond the Participant's control); (vii) payment of taxes, interest or penalties; or (viii) marital separation or divorce.

**7.1.7.4** Plan Sponsor will make determinations with respect to any unforeseeable emergency distribution request that does not clearly fall within the guidelines set forth above. In the event of any changes to applicable law, including safe harbor defined in the Treasury Regulations, Empower may revise this Direction from time to time and without further notice to Plan Sponsor. This Direction shall remain in effect until revoked by either party. In order to receive this service, Plan Sponsor must also utilize Empower's beneficiary recordkeeping and deferral recordkeeping services.

**7.1.7.5** For each Participant receiving an unforeseeable emergency distribution, Plan Sponsor Directs Empower to notify Plan Sponsor to suspend elective deferrals for the period required by the Plan, if any. Empower is Directed to deny any request where the unforeseeable emergency event occurred prior to the Schedule Effective Date, or more than one year prior to the date the request is received. Empower may contact Plan Sponsor for Direction when unusual situations arise. For each request that is denied or that cannot be processed due to its failure to satisfy an unforeseeable emergency event, Plan Sponsor Directs Empower to notify the Participant to contact Plan Sponsor if the Participant wishes to appeal the determination.

**Unforeseeable Emergency Approval**

For each unforeseeable emergency distribution approval the following administration fee will apply:

\$0.00 for each unforeseeable emergency approval.

**Distribution Withdrawal Fee**

For each disbursement the following administration fee will apply and will be assessed to the Participant:

\$0.00 for each disbursement.

**7.1.8 QDRO Review and Determination Services and Fees.**

**7.1.8.1 Review:** Plan Sponsor Directs and authorizes Empower to handle QDRO correspondence to and from involved parties and attorneys, including phone, email and other written communication. Plan Sponsor Directs Empower to distribute QDRO Procedures and Model QDRO to involved parties and attorneys. Plan Sponsor Directs Empower to place benefit holds as soon as administratively feasible pursuant to the Plan's adopted QDRO procedures. Plan Sponsor Directs Empower to acknowledge receipt of a DRO and review the terms of the DRO to determine whether the order meets the requirements of applicable federal law and satisfies the requirements contained in the Plan's adopted QDRO Procedures. After review of a DRO, Plan Sponsor Directs Empower to prepare and distribute

approval, pre-approval or denial letters to the involved parties and attorneys. Plan Sponsor Directs Empower to maintain QDRO records during the term of service, including Pre-Approval, Approval and/or rejection letter(s).

**7.1.8.2 Determination:** Plan Sponsor Directs Empower to process the QDRO, without Plan Sponsor's further approval, by establishing a separate account for the alternate payee or making a lump sum distribution to the alternate payee. Plan Sponsor further Directs Empower to process, without Plan Sponsor's further approval, all requests, received in good order and in a manner acceptable to Empower, for distributions from alternate payee accounts established before or after the Effective Date. Plan Sponsor Directs Empower to calculate any alternate payee's QDRO amount based solely on the Participant's account records on Empower's recordkeeping system. Plan Sponsor further Directs Empower to process, without the Plan Sponsor's further approval, distribution requests received in good order and in a manner acceptable to Empower, with respect to alternate payee accounts established before the Effective Date pursuant to QDROs previously processed by Empower. The Plan Sponsor Directs Empower to calculate any alternate payee's QDRO amount based solely on the Participant's account records on Empower's recordkeeping system.

**7.1.8.3** If the alternate payee's awarded share exceeds the value of the Participant's core investment account(s) under the Plan, Empower shall notify the Participant in writing to liquidate and transfer the necessary remaining sum from the SDB into the core investment options, to enable the processing of the QDRO. If the Participant fails to transfer the necessary amount within fifteen (15) Business Days of the date of the notification, and if the necessary amount is available in the SDB money market, Plan Sponsor Directs Empower to transfer such amount into the Default Investment Option. If there are insufficient available funds in the SDB money market, Plan Sponsor Directs Empower to notify the SDB provider to liquidate all of the Participant's SDB investments and to transfer the entire amount into the Default Investment Option.

**7.1.8.4 QDRO Fees.** For each qualified and processed QDRO, the Participant's portion of the fee will be deducted from the Participant's account balance, and the alternate payee's portion of the fee will be deducted from the alternate payee's account or from the lump sum distribution, as applicable. Empower will charge the following fee of:

To cover the cost of reviewing a DRO, Empower will deduct from the Participant's and/or the alternate payee's account balance a one-time QDRO review and determination fee equal to \$300.00.

**7.1.9 Signatureless Loan Processing for 457(b) Plan Only (excludes OBRA).** If loans are available under the Plan, Plan Sponsor agrees that all loans shall be account reduction loans repaid by payroll deduction or ACH and shall be consistent with the loan policy and the procedures established by Empower from time to time. Plan Sponsor Directs Empower to process, without further Plan Sponsor approval, Participant loan requests submitted through a form acceptable to Empower or through the website. Principal residence loan requests must be submitted on a paper form with supporting documentation. In order to receive this service, Plan Sponsor must also utilize Empower's vesting tracking service, if the Plan has a vesting schedule. If the Plan requires spousal consent for loans, the request must be submitted on a paper form.

**7.1.9.1 Loan Administration Fee.** The following fees will apply to all Participant loans:

\$0.00 loan origination fee will be deducted from the amount of each loan processed.  
 \$0.00 annual loan maintenance fee per loan.

**7.2 Additional Service Fees.**

Service	Current Fee/Rate
<b>Express Delivery Fees.</b> Empower will assess an additional fee to the Participant upon a Participant's request for express delivery.	\$40.00 per disbursement
<b>ACH Special Handling Fee.</b> Empower will assess an ACH special handling fee to the Participant upon a Participant's request for a disbursement via ACH.	\$15.00 per disbursement
<b>Reprocessing Fee.</b> If Plan Sponsor provides incorrect or incomplete information or provides data in an unusable electronic or hard copy paper format, Empower will assess a fee to the Plan Sponsor to reprocess or put the data into a useable format. (Submission of data in a hard copy format will be considered a request to provide this service; this includes submission of Participant account takeover data).	\$150.00 per hour or as reasonably determined by Empower
<b>Periodic Payments Fees.</b> Empower will assess periodic payments fees to the Participant.	\$0.00 per installment distribution set-up \$0.00 annual maintenance fee  Periodic payment fees do not apply to installments for Required Minimum Distributions (RMDs) allowed under the Plan.
<b>Additional Plan Work.</b> Empower may, at its discretion, provide additional plan work at the Plan Sponsor's request, which will be charged to the Plan Sponsor at Empower's then current hourly rate or as quoted based on the additional plan work requested.	\$150.00 per hour

\*Additional Service Fees reflect current rates as of the effective date of this Agreement and may be adjusted from time to time to reflect cost increases.

**7.3 Payment of Fees.** All fees not paid by Participants must be paid within thirty (30) days of Empower's invoice to the Plan Sponsor unless another arrangement has been pre-approved by Empower in writing. In the event any charges or fees reasonably and properly chargeable under the terms of the Agreement, including this Schedule or other applicable documents signed by the Plan Sponsor remain unpaid sixty (60) days after the date billed, Plan Sponsor Directs Empower to deduct such expense charges from the Plan and Plan Sponsor affirms that the Plan document specifically allows such deduction from the Plan. To the extent that the forfeiture or other Plan accounts would not pay Plan expenses under the Plan document or the Plan accounts are insufficient, Plan Sponsor Directs Empower to allocate such fees to the Participant accounts, and to the investment choices in which the Participant accounts are invested, on a

pro rata basis using Participant account and investment option balance ratios as of the date of deduction. Plan Sponsor agrees to amend the Plan, if necessary, to provide for the payment of expenses from Plan assets consistent with the foregoing.

**7.4 Fee Guarantee.** Empower's fees shall remain in effect for three (3) years from the Schedule Effective Date ("Guarantee Period"). Notwithstanding anything to the contrary, Empower reserves the right to adjust fees at any time upon written notice to Plan Sponsor in the event that: (i) Plan Sponsor elects to utilize different or additional services; (ii) Plan Sponsor changes any Investment Options utilized by the Plan that provide service fees or other compensation to Empower, if applicable; (iii) there is an employer-initiated event such as a plan merger, corporate acquisition or layoff resulting in a material decrease in Empower's revenue or requiring Empower to perform additional services; (iv) legislative, regulatory or US postal rate changes impact the Services; or (v) there is a material change in the service fees received by Empower from any Investment Options utilized by the Plan, if applicable. Empower may adjust fees at any time after the Guarantee Period expires upon written notice to the Plan Sponsor.

## **8 ACCESS TO RECORDKEEPING SYSTEM & SERVICE REPRESENTATIVES**

**8.1 Automated Voice Response System.** Participants will have access to an automated voice response system via a domestic toll-free number and international toll number to inquire or make account changes from a touch-tone telephone. Inquiry services available from the automated voice response system will utilize share prices, unit values and account balances that are as of the last calculated unit value/share price. The automated voice response system will be available 24 hours a day, 7 days a week, except for routine maintenance of the system which, when necessary, will generally take place on Sunday between the hours of 2:01 am and 2:01 pm Eastern Time. However, the system may also be limited or unavailable during periods of peak demand, market volatility, systems upgrades, or maintenance, or for other reasons.

**8.2 Participant Service Representatives.** Participant service representatives will be available via a domestic toll-free number and international toll number to Empower to answer Participant questions and process applicable transactions each Business Day between the hours of 5:00 am and 7:00 pm Pacific Time, and on Saturdays between 6:00am and 2:30pm Pacific Time.

**8.3 Plan Sponsor Access to Recordkeeping System.** Plan Sponsor may interface with Empower's recordkeeping system online via Empower's Plan Sponsor website to inquire or make changes while administering the Plan. Upon request, Empower representatives will be made available to assist and train employees of Plan Sponsor in properly accessing and processing transactions on the Empower's Plan Sponsor website. Empower's Plan Sponsor website will be available consistent with the availability of the automated VRU.

### **8.4 Participant Website**

**8.4.1 Website Use.** Empower will, as part of the Services, host, maintain and make certain information available to Plan Sponsor and Participants on a website or websites (the "**Website Services**"). Plan Sponsor will not use or permit any use of the Website Services (i) in any unlawful or illegal manner; (ii) in any way that could impair the Website Services or any other party's use thereof; or (iii) to distribute, sell, resell, license or transfer any of Plan Sponsor's rights to access or use the Website Services or make the Website Services available to any third party. Any user credentials, including user identification

and passwords, established by Plan Sponsor and its delegates or any Participant (each a “User ID”) is issued to a specific user and may not be shared or used by any individual other than that user. Plan Sponsor will be responsible for the compliance by its users with the applicable terms of this section. Empower may terminate the User ID, or portions thereof, for any user involved in a breach of this section. Plan Sponsor acknowledges that transmissions through the internet are inherently unsecure, that virus protection software, firewalls and other security measures are not foolproof, and that the Website Services and their content are not invulnerable to fraud or hacking. In addition, Plan Sponsor acknowledges that Empower shall from time to time perform scheduled or emergency repairs, maintenance, and disaster recovery testing on the websites, and that such activity, or other circumstances beyond Empower’s reasonable control, may cause the Website Services to be unavailable or delayed. Plan Sponsor agrees that Empower shall not be liable for any such delays or downtime in the Website Services, or for any virus or malicious access to the Website Services by third parties, provided that Empower has implemented and maintained security features with respect to the Website Services that are consistent with the Agreement and commercially reasonable industry standards.

**8.4.2 Access to Participant Website.** Participants will have access to a mobile responsive website to inquire or make certain account changes via the internet. 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 Agreement, as related to privacy and data security.

**8.4.3 Website Availability.** The website will be available 24 hours a day, 7 days a week, except for routine maintenance of the system which, when necessary, will generally take place on Sunday between the hours of 2:01 am and 2:01 pm Eastern Time. However, the system may also be limited or unavailable during periods of peak demand, market volatility, systems upgrades, or maintenance, or for other reasons.

**8.4.4 Enhancements.** 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 the 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).

## 9 PARTICIPANT COMMUNICATION AND EDUCATION

**9.1 Participant Education.** Empower will provide support for employee enrollment and education meetings, and will provide employee education and communications materials, including education and planning tools through the internet:

**9.1.1** Empower will provide educational or enrollment meetings as Directed by Plan Sponsor for a fee of \$500 per day.

**9.2 Communication Materials.** Empower will provide Participant educational and communication materials regarding financial investing and retirement options. These materials may include, but are not limited to, newsletters, brochures, and other materials as mutually agreed upon.

**9.3 Group Presentations.** Empower representatives will conduct group presentations at which some or all of the following will be communicated: (i) summary of the key provisions of the Plan; (ii)

summary of authorized Investment Options; (iii) discussion of Services including VRU inquiry, retirement planning, and investment seminars; and (iv) instructions on how to sign up for the Plan.

**9.4 Individual Counseling Sessions.** Upon request, Empower representatives will conduct prescheduled individual counseling sessions, utilizing a Participant paycheck analysis, an asset allocation model and retirement counseling services, as Directed by Plan Sponsor.

**9.5 Plan Sponsor Committee Meetings.** Upon request, an Empower representative will attend periodic Plan Sponsor committee meetings and will be prepared to provide information regarding the Plan and its activities.

**9.6 Communications and Education Plan Meetings.** Empower will prepare a communications and education plan for review by Plan Sponsor. Such Plan will be finalized in a mutually agreeable manner.

**9.7 Financial Wellness.** Empower will provide employee plan and investment education and communications materials, including education and planning tools.

**9.7.1 Empower Participant Experience.** With certain exceptions, Empower provides Participants with an estimated hypothetical monthly retirement income and goal based on a number of factors including the Participant's Plan assets, Plan contribution rates and compensation data on the Participant website.

**9.7.2 Health Cost Estimator.** With certain exceptions, Empower will provide Participants access to Empower's Health Cost Estimator (as defined below) on the Participant website. Health Cost Estimator provides Participants with estimated monthly health care expenses based on retirement age and certain personal health condition information provided to Empower by Participants ("**Health Cost Estimator**"). All health care costs and projections are provided by an unrelated third party vendor. Plan Sponsor agrees that the Health Insurance Portability and Accountability Act of 1996 does not apply to any personal health condition information provided to Empower by Participants. Plan Sponsor also acknowledges that such health condition information is owned by the Participant and not the Plan Sponsor and that Empower will not disclose any health condition information provided to Empower by Participants to Plan Sponsor without the Participant's consent. Empower agrees that, except as provided in the preceding sentence, it will otherwise treat such health condition information as Personal Data in accordance with Section 4 [Confidentiality] of the Agreement. Plan Sponsor further agrees not to use any information it obtains through Health Cost Estimator other than for Plan purposes, contribution rates and compensation data.

**9.7.3 Personalized Participant Communications.** Except as otherwise agreed by the parties, Empower will send certain action-oriented Participant education communications according to a Participant's behavior, preferences, and information. Messaging will include: (i) information about the tools and services available in the Plan and what actions a Participant may take to build individual savings, and will address topics such as enrollment, beneficiary designation, contribution increases, asset allocation, catch-up contributions and more; (ii) general financial topics that a Participant may find helpful while striving to reach financial and savings goals, and will include budgeting, debt management, investing basics, emergency funds, National Retirement Security Week and more; (iii) the opportunity to view additional options available that may provide a Participant with a more comprehensive savings strategy, and will include information about healthcare savings accounts, estate planning, college saving and more. A

Participant must have an email address on file with Empower in order to receive such communications via email. The Participant can opt out of receiving these emails at any time as required by applicable law.

**9.7.4 Financial Wellness Services.** Empower's financial wellness program provides Participants with tools and services to review overall financial wellness including tools that allow Participants to complete a personalized online assessment, the output of which provides the user with ideas on the next steps they can take to address financial concerns they identified when completing the assessment and educational resources to learn more about financial topics of interest, including a learning center with educational content on certain financial wellness topics. Empower or its affiliates may make retirement education consultants available to Participants to provide financial wellness consultations and may contact Participants to offer financial wellness consultations. Consultations involve topics such as (but not limited to): budgeting, saving, student debt, debt prioritization, life insurance, managing investments and consolidating assets. Empower's financial wellness tools, services and consultations may include information on financial products and services made available by Empower or third-party providers. Participants may pay fees if they choose certain products. Empower may receive fees and other payments from the products selected by Participants. More information on the applicable financial wellness products and the fees and payments that may be received by Empower is available upon request.

**9.7.5 Participant Fiduciary Services** Empower 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.

## 10 REPORTING SERVICES

**10.1 Participant Reporting.** Empower will provide Participants a confirmation for transactions involving investment allocations, investment transfers, contribution rates, change of address, rollover contributions, and rebalance activity. Empower will also make available to each Participant account information on at least a quarterly basis, including beginning and ending balances, all contributions and transactions processed, interest credited or change in value, fees and withdrawals deducted, transfers processed and performance data on Investment Options held by the Plan to the extent such data is provided by the Investment Option Sponsor, personal rate of return on investments, account balance translated into an estimated monthly income amount, and balance in the SDB, as applicable. Participants' statements shall be distributed in accordance with Section 4.8 [Electronic Delivery] of this Schedule. Statements will be available within fifteen (15) Business Days after receipt of final information in good order from third party sources.

**10.2 Plan Sponsor Reporting.** Empower will provide an Employer Plan Summary Report to Plan Sponsor, summarizing Plan-level assets and Participant account balances, within thirty (30) Business Days after each calendar quarter end ("**Employer Plan Summary Report**"). The following Plan information will be addressed in the Employer Plan Summary Report: (i) summary of Plan transactions and assets; (ii) summary of contributions processed; (iii) withdrawals; (iv) annuities purchased, if applicable; (v) periodic payments; (vi) Investment Option grand totals – summarizes both dollars and units/shares and Plan activity;



(vii) Investment Option totals by money type – summarizes both dollars and units/shares and money type activity; (viii) Participant summary – a report of account activity for each Participant.

### 10.3 Additional Optional Services and Fees

<b>No Plan Document Services Provided by Empower</b>	Plan Sponsor acknowledges that Empower has not been retained to provide any Plan document services. Plan Sponsor acknowledges its responsibility to draft, amend and maintain the Plan document(s) or to retain a third party to provide such services.
<b>Plan Document Services</b>	If the Plan Sponsor is using a plan document offered by Empower, Empower will provide the Plan document including an applicable adoption agreement for execution, and any Plan document amendments that may be required due to change in applicable law, prior to the date required.
<b>Fees for Plan Document Services</b>	If applicable, preparation of Empower sample plan document, including amendments:  No additional fee.
<b>Annual Plan Review</b>	Plan Sponsor will receive an annual Plan review including the following information: (i) review of enrollment efforts; (ii) asset allocation information, contributions, distributions (Investment Options and fixed/variable split); (iii) voice response usage and enhancements; (iv) benefit payments; (v) direct online system access – current services and available services; (vi) legislative updates.
<b>Regulatory Updates</b>	Empower will periodically make information available to Plan Sponsor concerning federal legislative activity of which Empower is aware that 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.

## 11 TRANSITION ASSISTANCE SERVICES

**11.1 Transition Services.** Empower agrees to support the transition of recordkeeping and administrative services (“**Transition Services**”) to a successor service provider subject to the terms and conditions of the Agreement. Empower shall provide the following Transition Services prior to the Service End Date (as defined below) of the Agreement.

**11.2 Planning.** Participate in conference calls and in-person meetings, as needed, with Plan Sponsor and the successor service provider 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. In the event Plan Sponsor requests that the Project Manager or other deconversion team member 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.

**11.3 Data Layouts.** Provide the successor service provider 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.

**11.4 Plan Materials.** Upon termination, Empower shall provide the successor service provider 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.

**11.5 "Test" Data Transfer Files.** Provide the successor service provider 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.

**11.6 "Refresher" Data Transfer Files.** Provide the successor service provider 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.

**11.7 "Live" Data Transfer Files.** Provide the successor service provider with one (1) full live data transfer file to the successor service provider 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.

**11.8 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.

**11.9 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 twenty-five (25) hours.

**11.10 Final Participant Valuation.** Send to the successor service provider, 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.

**11.11 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 service provider at Plan Sponsor's Direction.

**11.12 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, 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, 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.

**11.13 Fees Related to Transition Services.** In the event Plan Sponsor requests Empower to provide additional or extraordinary Transition Services (beyond those described in items 12.1 through 12.12 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 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.

**11.14 Transition Services after Service End Date.** In addition to the foregoing, Empower agrees to provide the following Transition Services for ninety days following the Agreement's termination effective date ("**Service End Date**").

**11.14.1** Provide up to 20 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 20 hours.

**11.14.2** To the extent information and/or reporting is readily available from Empower's systems, Empower agrees to provide to the successor service provider 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 QDRO related information); (g) Participant Statements; (h) Duplicate Forms 1099-R; (i) Provide QDRO 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.

**[Signature Page Follows]**

By signing this Recordkeeping Services Schedule, the parties certify that they agree to be bound by its terms and it's to be executed by their respective duly authorized officers as of the Schedule Effective Date.

**Empower Retirement, LLC**



\_\_\_\_\_  
Signature

Daniel A. Morrison

\_\_\_\_\_  
Printed Name

Senior Vice President, Government Markets

\_\_\_\_\_  
Title

May 5, 2023

\_\_\_\_\_  
Date Signed

**Plan Sponsor: City of Stockton**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

**EXHIBIT A-2:  
APPROVED QDRO PROCEDURES AND MODEL FORM**

For the

1. **City of Stockton 457(b) Deferred Compensation Plan (“457(b) Plan”)**  
**Group Account Number: 772929-01;**
2. **City of Stockton 457 Deferred Compensation OBRA Plan (“457(b) Plan”)**  
**Group Account Number: 772932-01;**
3. **City of Stockton 401(a) Plan (“401(a) Plan”) Group Account Number: 772933-01**

1. **INTRODUCTION.** Empower Retirement has arranged for QDRO Consultants to review domestic relations orders (DROs) related to the Plan, and to determine whether they are qualified domestic relations orders (QDROs). The Plan is a defined contribution plan that provides a Participant with a benefit equal to the vested portion of the Participant’s account balance.

1.1. These QDRO Procedures help Plan Participants and other interested parties prepare QDROs more effectively and efficiently. Among other things, these QDRO Procedures explain:

- Who to contact for relevant information or Plan documents;
- The required information that must be in a DRO;
- The important information that should be in a DRO, and how the DRO will be interpreted if such information is not included;
- Model or sample language to assist the parties in preparing a DRO;
- Where to send a draft or Executed DRO for review;
- How the Alternate Payee’s interests will be protected during the DRO review process, including any time or other limits on the review period;
- The opportunity to revise a rejected DRO;
- Who the Alternate Payee should contact to begin benefit payments; and
- What happens when the Participant or Alternate Payee dies.

2. **CONTACT INFORMATION.** If you have questions or requests related to the review or determination of a QDRO, please contact QDRO Consultants at:

QDRO Consultants  
[www.qdros.com/contact](http://www.qdros.com/contact)

If you need a Participant’s benefit statement, Plan documents (such as a summary plan description), or if you have other questions or requests related to the Plan or a Participant, please contact the Plan Recordkeeper at:

Empower Retirement  
P.O. Box 173764  
Denver, CO 80217-3764  
Phone: 1-800-338-4015  
Fax: 1-866-633-5212

### 3. DEFINITIONS TO QDRO EXHIBIT

**Alternate Payee:** An Alternate Payee is a Participant's spouse, former spouse, child, or other dependent who is assigned Plan benefits in a DRO.

**Approval Letter:** A letter to the interested parties that indicates QDRO Consultants has approved an Executed DRO and explains how the Plan Administrator will administer the QDRO's terms and provisions.

**Domestic Relations Order (DRO):** Generally, a DRO is a court order, or an order issued by another authorized state agency, that (1) is made pursuant to a state domestic relations law, and (2) provides for payment of child support, alimony, or marital property rights to an Alternate Payee.

**Empower Retirement:** Empower Retirement is a retirement plan recordkeeping financial holding company based in Greenwood Village, Colorado, United States.

**ERISA:** ERISA is the acronym for the Employee Retirement Income Security Act of 1974, as amended, which governs most retirement and pension plans.

**Executed DRO:** A DRO that is signed and file stamped by the appropriate state court, or signed and dated by the relevant state agency, including a copy of such DRO.

**Participant:** An individual who has a benefit in the Plan.

**Plan:** The defined contribution plan identified in these QDRO Procedures.

**Plan Administrator:** The person(s) or entity designated by the Plan's sponsor to have primary authority and responsibility to administer the Plan's terms and provisions.

**Pre-Approval Letter:** A letter to the interested parties that indicates QDRO Consultants has approved a draft DRO that would be a QDRO if it were an Executed DRO.

**QDRO Consultants:** QDRO Consultants Co., LLC ("QC"), was hired by Empower Retirement to review DROs to determine whether DROs are qualified pursuant to the Plan's QDRO procedures, and to send relevant notices to the interested parties.

**Qualified Domestic Relations Order (QDRO):** A QDRO is a DRO that (1) requires the Plan Administrator to assign or transfer some or all of a Participant's Plan benefits to an Alternate Payee, (2) contains the information required by ERISA Section 206(d)(3)(C), (3) does not violate the restrictions in ERISA Section 206(d)(3)(D), and (4) satisfies the other requirements contained in these QDRO Procedures. Also, a DRO is not a QDRO until QC has determined, consistent with the Plan Administrator's instructions, that the DRO is qualified.

### 4. QDRO CONTENTS.

Generally, a DRO must contain certain "required information" to be a QDRO, and should include certain other "important information." The subsections below discuss these categories of information in more detail.

Model QDRO Language, which addresses all required issues, can be provided to assist you in preparing the DRO.

#### 4.1. REQUIRED INFORMATION

Generally, QC will reject a DRO that does not contain the required information listed below, or includes instructions that are not clear. However, if a DRO does not contain a party's last known mailing address,

social security number, and/or date of birth, and if QC otherwise receives the missing information, QDRO Consultants will review the DRO as if it contains the missing information. Also, if a DRO contains a retirement plan name that is not the Plan's exact legal name, as identified below, and if it is clear that the plan referenced in the DRO is intended to be the Plan, QC will review the DRO as if it contains the Plan's legal name.

**Names and Addresses:** The DRO must include the names and last known mailing addresses of the Participant and Alternate Payee.

**Social Security Numbers:** The DRO must include the social security numbers of the Participant and Alternate Payee. For privacy reasons, you may provide these in a separate document.

**Dates of Birth:** The DRO must include the dates of birth for the Participant and Alternate Payee. For privacy reasons, you may provide these in a separate document.

**The Plan's Legal Name:** The DRO must identify the Plan by its legal name:

**State Domestic Relations Law:** The DRO must state that it is made pursuant to a state domestic relations law.

**Child Support / Alimony / Marital Property Rights:** The DRO must indicate that it provides child support, spousal support, and/or marital property rights to the Alternate Payee.

**Alternate Payee's Benefits:** The DRO must clearly state the portion of the Participant's Plan benefits that is assigned to the Alternate Payee, either as a lump-sum dollar amount OR a percentage of the Participant's account balance, and must include the date as of which the assignment is effective ("Assignment Date").

The current recordkeeper cannot obtain account balance information or calculate investment gains/losses on any Participant accounts for periods prior to the restriction date as determined by Empower Retirement, LLC, which is **July 1, 2023** ("Restriction Date"). Therefore, the DRO must not contain an Assignment Date that is prior to the Restriction Date.

**Payment Date:** The DRO must include language that permits the Alternate Payee to elect to begin receiving his/her benefits as soon as administratively possible after the date that QC determines that the DRO is a QDRO or, if later, at the earliest date permitted under the Plan.

**Payment Period:** The DRO must include language that the Alternate Payee shall receive his/her benefits in a single lump-sum payment, or in any other form of payment that the Plan permits.

#### 4.2. IMPORTANT INFORMATION / DEFAULT PROVISIONS

The DRO should also address the following issues. If it does not QC will review the DRO as if it includes the default provision identified below for that issue.

**Investment Gains/Losses:** The DRO should specify whether the Alternate Payee's share of the Participant's benefits will be credited with investment earnings (which include both gains and losses) from the Assignment Date to the date that the Plan Administrator establishes and funds a separate account for the Alternate Payee ("Segregation Date").

If the DRO is silent on this matter, the Plan Administrator will credit investment earnings to the Alternate Payee from the Assignment Date to the Segregation Date.

The Plan Administrator will always credit investment earnings to the Alternate Payee's account from the Segregation Date to the date the Alternate Payee receives payment of his/her benefits.

**Allocation to Alternate Payee from Participant's Accounts:** The DRO should state how the Alternate Payee's assigned benefits shall be allocated from all of the Participant's vested sub-accounts and/or investment funds (excluding any Plan loan) as of the Segregation Date. If the DRO is silent on this matter, the Plan Administrator will administer the QDRO as if it included a provision to allocate the Alternate Payee's assigned benefits on a pro rata basis from all of the Participant's vested sub-accounts and/or investment funds (excluding any Plan loan) as of the Segregation Date.

**Initial Investment of Alternate Payee's Benefits:** The DRO should state how the Alternate Payee's benefits shall be initially invested. If the DRO is silent on this matter, the Plan Administrator will administer the QDRO as if it included a provision for the Alternate Payee's benefits to be initially invested in the same funds and in the same proportion as the Participant's account. The DRO should also state that the Alternate Payee may then elect any investment option that the Plan offers.

**Participant Loans:** If the DRO assigns a percentage of the Participant's account balance to the Alternate Payee, the DRO should specify whether the Participant's Plan loans, if any, will be included or excluded in the Participant's account balance when calculating the Alternate Payee's share of the Participant's benefits. The examples below show that including Plan loan value will increase the amount assigned to the Alternate Payee.

**Example – 50% assignment / Excluding loan balance**

Participant's Total Account Balance	\$100,000
Participant's Outstanding Loan Balance	\$20,000
Participant's Account Balance Excluding Loans (\$100,000 - \$20,000)	\$80,000
50% Assignment to Alternate Payee (0.5 x \$80,000)	\$40,000

**Example – 50% assignment / Including loan balance**

Participant's Total Account Balance	\$100,000
Participant's Outstanding Loan Balance	\$20,000
Participant's Account Balance Including Loans (loan is not subtracted)	\$100,000
50% Assignment to Alternate Payee (0.5 x \$100,000)	\$50,000

Please note that even if a portion of the Participant's Plan loan value is transferred to the Alternate Payee, no portion of the actual Plan loan (i.e., the obligation to pay it back) may be transferred to the Alternate Payee. The Participant will have to pay back the entire loan.

If the DRO is silent on this matter, the Plan Administrator will administer the QDRO as if it specified that the Participant's Plan loans will be excluded from the Participant's account balance for this purpose.

**Alternate Payee's Death:** The DRO should specify that, if the Alternate Payee dies before receiving payment of his/her entire benefit, the Plan shall pay any remaining benefits to the Alternate Payee's beneficiary. If the DRO is silent on this matter, the Plan Administrator will administer the DRO as if it included this default provision.

**Participant's Death:** The DRO should specify that the Participant's death shall not affect the Alternate Payee's right to his/her benefits as provided in the QDRO. If the DRO is silent on this matter, the Plan Administrator will administer the DRO as if it included this default provision.



**QDRO Review and Determination Fee:** To cover the cost of reviewing a DRO, the Plan Administrator will deduct from the Participant's and/or the Alternate Payee's account balance a one-time QDRO review and determination fee equal to \$300. This fee applies even if QC does not approve the DRO.

The DRO should specify, from among the following options, how the fee should be allocated between the Participant's and/or the Alternate Payee's account balance:

- Divided equally between the Participant and the Alternate Payee;
- Charged entirely to the Participant; or
- Charged entirely to the Alternate Payee.

If the DRO is silent on this matter, the Plan Administrator will administer the DRO as if it specified that the fee be divided equally between the Participant and Alternate Payee.

Regardless of how the DRO directs the fee to be allocated, when you first submit a DRO (regardless of whether it is a draft or Executed DRO) to QC, the Plan Administrator will deduct the entire fee from the Participant's account balance. If QC approves the DRO, the Plan Administrator will reduce the amount of benefits assigned to the Alternate Payee by the portion of the fee, if any, that is allocated to the Alternate Payee.

## 5. DRO REVIEW PROCESS

When you have prepared a DRO and you would like the Plan to enforce it, you must submit the DRO to QC for review. To ensure timely receipt, DROs should be securely submitted at <https://qdros.com/submit>. Please see the "CONTACT INFORMATION" section above for QC's contact information. Consistent with these QDRO Procedures and as directed by the Plan Administrator, QC will determine whether an Executed DRO qualifies as a QDRO, or whether a draft DRO would qualify if it were executed.

The Plan Administrator will typically place a "hold" on the Participant's Plan benefit during the period of the review to protect benefits that may be assigned to the Alternate Payee, as described in the "BENEFIT HOLD / RESTRICTION" section below.

**5.1. Review of Draft DROs:** The Plan Administrator will enforce only an Executed DRO that qualifies as a QDRO. However, you may choose to submit a draft DRO to QC for review before having it executed. Addressing potential issues in the DRO before having it executed reduces the likelihood that you will need to submit multiple revised drafts to the court.

**5.2. DRO is Rejected.** If QC rejects a DRO, QC will promptly notify the Participant, Alternate Payee, and their attorneys and/or representatives in writing, including the specific reason(s) why the DRO failed to qualify.

**5.2.1. Revise a Rejected DRO:** Generally, interested parties will have an opportunity to revise a rejected DRO and to resubmit it to QC for another review and determination. However, there is a maximum period the Plan Administrator will "hold" a Participant's benefit during the DRO review process, as described in the "BENEFIT HOLD / RESTRICTION" section below.

**5.3. DRO is Approved.** If QC determines that a DRO is a QDRO, QC will promptly send a Pre-Approval Letter (for a draft DRO) or an Approval Letter (for an Executed DRO) to the Participant, Alternate Payee, and their attorneys and/or representatives.

## 6. BENEFIT HOLD / RESTRICTION

The Plan Administrator will place a "hold" on the Participant's Plan benefit during the DRO review process, as well as upon certain other triggering events. The hold will protect benefits that may be

assigned to an Alternate Payee by preventing the Participant from receiving any benefit payments from the Plan.

### 6.1. Placing a Benefit Hold

QC will direct the Plan's recordkeeper to place a hold on a Participant's Plan benefit as soon as administratively feasible after receiving any of the following:

- Draft DRO;
- Executed DRO;
- Other court order that attempts to place a hold on, or assign part of, a Participant's Plan benefit (e.g., temporary restraining order, income withholding order, etc.);
- Joinder or other similar court document that attempts to join the Plan as a party to a domestic relations proceeding;
- Letter of adverse interest or other written notice from a potential Alternate Payee, or his/her attorney, that the Alternate Payee has an interest in the Participant's Plan benefit; or
- Plan Administrator's written direction to place a hold.

Divorce Decree – QC will direct the recordkeeper to place a hold if it receives a divorce decree or similar court order.

Please Note – Simply requesting a copy of the Plan's QDRO Procedures or Model QDRO is not sufficient to place a hold on a Participant's Plan benefit.

Generally, a benefit hold will continue until it is removed by a subsequent action, as described in the subsection below.

### 6.2. Removing a Benefit Hold

The requirements to remove a benefit hold may be different depending on the reason the hold was placed. Each paragraph in this subsection lists, in bold type, a document that can cause a hold to be placed, followed by the method(s) to remove a hold placed pursuant to that document.

**6.2.1. Draft DRO / Letter of Adverse Interest:** If a benefit hold was placed due to receiving a draft DRO, or a letter of adverse interest or similar written notice, QC will direct the Plan's recordkeeper to remove the hold upon receiving any of the following:

- Executed DRO (at which time an Executed DRO benefit hold will commence);
- Subsequent court order to remove the hold, or that clearly indicates the Alternate Payee has no interest in the Participant's Plan benefit;
- Plan Administrator's written direction to remove the hold; or
- Notarized letter from the Alternate Payee, or letter from his/her attorney, that requests the removal of the hold, and that names the Plan and the Participant.

**6.2.2. Executed DRO:** If a benefit hold was placed due to receiving an Executed DRO, QC will direct the Plan's recordkeeper to remove the hold (1) if it approves the DRO, or (2) upon receiving any of the following:

- Subsequent Executed DRO that vacates or revises the prior Executed DRO (at which time a new Executed DRO benefit hold will commence);
- Subsequent court order that terminates the Alternate Payee's right to the Participant's Plan benefit, including an order to vacate the Executed DRO; or
- Plan Administrator's written direction to remove the hold.

**6.2.3. Other Court Order / Joinder:** If a benefit hold was placed due to receiving a court order, other than a DRO, or a joinder or other similar court document, QC will direct the Plan's recordkeeper to remove the hold upon receiving any of the following:

- Executed DRO (at which time an Executed DRO benefit hold will commence);
- Subsequent court order to remove the hold, that vacates the court order or joinder that caused the hold, or that clearly indicates the Alternate Payee has no interest in the Participant's Plan benefit; or
- Plan Administrator's written direction to remove the hold.

**6.2.4. Plan Administrator's Written Direction:** If a benefit hold was placed due to receiving the Plan Administrator's written direction, QC will direct the Plan's recordkeeper to remove the hold only upon receiving the Plan Administrator's subsequent written direction to remove the hold.

## 7. EFFECT OF REMOVING HOLD / SUBSEQUENT DRO

**Approved DRO Before Hold Removal:** If QC approves an Executed DRO before a benefit hold is removed, the Alternate Payee will receive payments from the Plan pursuant to the QDRO.

**No Approval Before Hold Removal:** If QC does not approve an Executed DRO before a benefit hold is removed, the Participant will be permitted to elect to receive a distribution if he/she is otherwise eligible.

**Approved DRO After Hold Removal:** If QC approves an Executed DRO after a hold is removed, the QDRO will be applied on a prospective basis only.

## 8. MISCELLANEOUS

### 8.1. Fair Split of Participant's Benefits

QC will not answer questions regarding whether a QDRO has fairly or equitably divided the Participant's benefits among the Participant and Alternate Payee. Instead, QC's role is limited to the technical requirements of DRO review and QDRO determination. It is the responsibility of the parties and/or their attorneys to determine what is fair and equitable, and to negotiate the QDRO's substantive provisions.

### 8.2. Incorrect Payments

The Plan Administrator has the right to require the Participant and/or the Alternate Payee to return to the Plan any overpayment. An overpayment is any Plan payment (or portion of a payment) to a party that was not required by the Plan or a QDRO. If the overpayment should have been paid to the other party, the Plan will recover the overpayment from the overpaid party and, in turn, will pay that amount to the other party.

### 8.3. QDROs Issued After Death

A DRO will not fail to qualify as a QDRO solely because it was submitted to the Plan Administrator after the death of the Participant or Alternate Payee. For example, if an attorney submits a draft DRO to be preapproved and the Participant or Alternate Payee dies before the DRO is signed by the court, the Plan Administrator would honor an Executed DRO submitted after the Participant's or Alternate Payee's death if it otherwise would qualify as a QDRO.

### 8.4. Begin Alternate Payee's Benefit Payments

If QC approves a DRO, and if the Alternate Payee is eligible to begin receiving his/her assigned benefits, the Alternate Payee must contact Empower Retirement at 1-800-338-4015 to obtain the appropriate payment forms and instructions. The Alternate Payee should allow sufficient time

subsequent to approval of the DRO for the Plan Recordkeeper to calculate and segregate the Alternate Payee's assigned benefit, before contacting Empower Retirement.

#### **8.5. Federal Taxes**

The Internal Revenue Code provides that an Alternate Payee, who is the Participant's spouse or former spouse, is responsible for all federal taxes on Plan distributions to the Alternate Payee. On the other hand, for distributions to an Alternate Payee who is the Participant's child or other dependent, the Participant is responsible for all such federal taxes. A QDRO may not change these rules of federal taxation and, as a result, a DRO does not need to identify which party is responsible. If a DRO does address federal taxes, QC will not reject the DRO even if it is inconsistent with federal tax law. However, the Plan Administrator will report distributions as required by law, regardless of any conflicting provisions in the QDRO.

**QDRO MODEL FORM**

<b>[NAME OF PARTY]</b>	)	
Petitioner,	)	Case No. _____
	)	Qualified Domestic Relations Order
and	)	
	)	
<b>[NAME OF PARTY]</b>	)	
Respondent.	)	

This domestic relations order ("Order") is intended to be a qualified domestic relations order ("QDRO"), as defined in Section 206(d)(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and in Section 414(p) of the Internal Revenue Code of 1986, as amended ("Code").

**1. Plan Name:** This Order applies to the [ \_\_\_\_\_ ] (**Plan**), as well as to any successor plan to the Plan.

**2. Participant Information:** The name, last known address, social security number, and birth date of the Plan "Participant" is:

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Social Security Number: See [Personal Information Addendum Form](#)  
 Birth Date: [See Personal Information Addendum Form](#)

\*For security purposes, QDRO Consultants strongly encourages parties and/or their counsel to use the [Personal Information Addendum Form](#).

**Participant's Attorney Information:**

Attorney's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**3. Alternate Payee Information:** The name, last known address, social security number and birth date of the "Alternate Payee" is:

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Social Security Number: See [Personal Information Addendum Form](#)  
 Birth Date: [See Personal Information Addendum Form](#)

\*For security purposes, QDRO Consultants strongly encourages parties and/or their counsel to use the [Personal Information Addendum Form](#).

**Alternate Payee's Attorney Information:**

Attorney's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

The Alternate Payee shall have the duty to notify the Plan Administrator in writing of any changes in his/her mailing address subsequent to the entry of this Order.

**4. State Domestic Relations Law:** This Order is entered pursuant to the authority granted in the applicable domestic relations laws of the State of \_\_\_\_\_.

**5. Marital Property Rights, Spousal Support, and/or Child Support:** This Order relates to the provision of [marital property rights] [spousal support] [child support] to the Alternate Payee.

**6. Benefit Assignment:** This Order assigns to the Alternate Payee [\_\_\_\_% OR \$\_\_\_\_\_] (but in no event more than 100%) of the Participant's vested account balance in the Plan as of the Assignment Date (or the closest valuation date thereto) ("Assignment Date"). The "**Assignment Date**" is \_\_\_\_\_  
\_\_\_\_\_\*

*\* In this blank enter the date of divorce, separation, or other appropriate or agreed upon date. Delete this instruction after filling in the blank.*

Any outstanding Participant loan in the Plan shall not be included in the Participant's vested account balance for purposes of determining the amount to be assigned to the Alternate Payee, and no portion of any such loan shall be assigned to the Alternate Payee. If the Participant's account balance consists of different sub-accounts and/or is invested in different investment fund options, the benefit assignment to the Alternate Payee shall be allocated on a pro rata basis from such vested sub-accounts and/or investment fund options. The assigned benefit shall be adjusted for gains and/or losses from the Assignment Date through the date that the Plan segregates the Alternate Payee's assigned benefit from the Participant's account balance.

**7. QDRO Review and Determination Fee:** A QDRO review and determination fee will be assessed against the Participant's account balance upon initial review of the DRO. However, once the final QDRO has been approved, the Plan Administrator will reduce the Alternate Payee's assigned share of the benefits by 50% of the fee.

**8. Alternate Payee's Separate Account:** Upon determining that this Order is a QDRO, the Plan shall segregate the Alternate Payee's assigned benefit into a separate account in the Alternate Payee's name. The Alternate Payee's account shall be invested in the same options and in the same proportions as the assigned benefits were invested prior to being assigned to the Alternate Payee.

**9. Time and Form of Payment:** The Alternate Payee may elect to receive a distribution from the Alternate Payee's account as soon as administratively feasible following the date this Order is approved as a QDRO or, if later, at the earliest date permitted under the Plan or in Code Section 414(p). The Alternate Payee may elect to receive a distribution from the Alternate Payee's account in any form available to participants and alternate payees generally under the Plan's provisions other than, if applicable, a joint and survivor annuity with respect to the Alternate Payee and a subsequent spouse. The Alternate Payee shall provide the Plan with any information and forms required to facilitate payment of the Alternate Payee's account.

**10. Participant's Death:** The Participant's death shall have no impact on the Alternate Payee's right to the Plan benefits assigned in this Order.

**11. Alternate Payee's Death:** If the Alternate Payee dies prior to complete distribution of the Alternate Payee's Plan benefits, the Alternate Payee's remaining Plan benefits shall be distributed to the Alternate Payee's designated beneficiary(ies) or, in the absence of such designation, pursuant to the Plan's default beneficiary provisions.

**12. Impermissible Benefits:** Nothing contained in this Order shall be construed to require the Plan (a) to provide any type or form of benefit, or any option, not otherwise provided under the Plan, (b) to provide

increased benefits determined on the basis of actuarial value, or (c) to pay benefits to the Alternate Payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO.

**13. QDRO Determination and Notice:** The Participant, Alternate Payee, and/or their representatives shall promptly deliver a copy of this Order to the Plan. As provided in ERISA Section 206(d) and in Code Section 414(p), the Plan shall determine whether the Order is a QDRO and shall provide written notice of such determination to the Participant, Alternate Payee, and, if applicable, their representatives.

**14. QDRO Administration and Interpretation:** Because this Order is intended to be a QDRO, the Order shall be administered and interpreted consistently with ERISA, the Code, and the Plan’s terms and procedures.

**15. Court’s Jurisdiction:** The Court shall retain jurisdiction over this Order, including to amend the Order if necessary to conform it to the original intent of the parties and/or to establish or maintain its status as a QDRO.

**16. Overpayments:** If the Participant receives Plan benefits that are assigned to the Alternate Payee in this Order, or if the Alternate Payee receives Plan benefits that are not assigned to the Alternate Payee in this Order, then the relevant party shall promptly return such overpayment to the Plan.

**17. Participant’s Actions:** The Participant shall not take any action, or refrain from taking any reasonable action, that can circumvent the intent of this Order, or that can diminish the Alternate Payee’s rights provided in this Order.

**18. Delivery of Order:** Upon entry of this DRO, any of the parties shall immediately deliver a copy of this DRO to QDRO Consultants. The parties should securely submit a DRO at <https://qdros.com/submit>.

**IT IS HEREBY ORDERED:**

Executed on: \_\_\_\_\_

\_\_\_\_\_  
Judge

**EXHIBIT A-3:  
PERFORMANCE STANDARDS  
for the  
457(b) Plan and the 401(a) Plan  
(Not Applicable to the 457(b) OBRA Plan)**

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 quarter exceed 10% of Empower's quarterly Basic Plan Administration Fee determined as of the beginning of each calendar quarter based upon the average daily balance of Plan assets during the calendar quarter. For illustrative purposes, the calculation for quarterly revenue placed at risk would be:  $[(A*B) *C]$ , in which

"A" is the quarterly Basic Plan Administration Fee for the Plans set forth above on this Exhibit; and

"B" is the average daily balance of Plan assets during the 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 10%.



Plan Sponsor & Participant Service	Minimum Service Standard	Performance Measurement	Fees at Risk
Participant Contact Center Hours of Availability	Retirement Representatives available 99% of time during regular hours of service (8 a.m. to 10 p.m. EST, Monday through Friday and Saturdays between 9:00 a.m. and 5:30 p.m. EST) 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 Agreement Report	0.25% of quarterly plan fees for each 0.1% below the 99% benchmark with maximum fee reduction of 1%
IVR / internet Availability	99% of the time IVR/internet available excluding regularly scheduled maintenance	Metric provided as part of the quarterly Empower Service Level Agreement Report	1% of quarterly fees
Plan Reporting for Plan Sponsor	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 Agreement Report	1% of quarterly fees
Distribution of Form 1099R	Delivered prior to January 31 of each calendar year, excluding corrected 1099Rs	Metric provided as part of the quarterly Empower Service Level Agreement Report	1% of quarterly fees
Participant Statement Mailing / Availability	DC Plan statements mailed and made available electronically, if applicable, fifteen (15) Business Days after quarter-end.  TRS Statements, if selected by the Plan Sponsor, mailed and made available electronically, if applicable, twenty (20) Business Days after quarter-end.  Twenty (20) Business Days allowed for first statement coming out of implementation of new services.	Metric provided as part of the quarterly Empower Client Service Agreement Report	1% of quarterly fees
Disbursements	99% of participant disbursement requests processed 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 (+3 days applies for all transactions including company stock)	Metric provided as part of the quarterly Empower Service Level Agreement Report	1% of quarterly fees

Plan Sponsor & Participant Service	Minimum Service Standard	Performance Measurement	Fees at Risk
Contribution and Loan Repayment Processing	Contribution and loan repayment processing completed within two (2) Business Days following confirmation of totals by the Plan Sponsor (i.e. file that is in good order). Posting of contributions to Participant accounts occurs two (2) Business Days following the ACH funding release.	Metric provided on the quarterly Empower Service Level Agreement Report	1% of quarterly fees
Investment Transfers	99% of investment transfers processed same Business Day if participant direction received in good order by Empower by 4 p.m. EST, early close time of investment, or close of market due to shortened hours associated with early market close or holiday eves (excluding investment transfers involving company stock)	Executed as part of automated processes. Accuracy will be consistent with minimum service standard unless otherwise disclosed.  Reported as part of the quarterly Empower Service Level Agreement Report.	1% of quarterly fees
Timeliness of ADP/ACP testing (Defined Contribution Plans only)	Within agreed upon timeframe to meet regulatory guidelines contingent upon timely receipt of complete and accurate data from Plan Sponsor or third parties	Measured against time frame committed to during annual compliance meeting	1% of quarterly fees
Timeliness of Form 5500 Audit Package Preparation	Delivered by deadline mutually agreed to in the annual expectations meeting / call; contingent upon timely receipt of complete and accurate data from Plan Sponsor or third parties	Evaluation based on agreed upon deliverable date	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 the Agreement or delayed or defective performance of such service arising out of any Force Majeure Event as described and in accordance with Section 12.7 of the Agreement. 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.

**SCHEDULE B:  
INVESTMENT ADVISORY & MANAGEMENT SERVICES SCHEDULE**

**LIST OF PLANS**

- 1. City of Stockton 457(b) Deferred Compensation Plan (“457(b) Plan”)  
Group Account Number: 772929-01;**
- 2. City of Stockton 401(a) Plan (“401(a) Plan”) Group Account Number: 772933-01**

This Investment Advisory and Management Services Schedule (“**Schedule**”) is entered into by the parties pursuant to the Master Services Agreement between Empower and Plan Sponsor dated July 1, 2023 (the “**Agreement**”). This Schedule shall be entered into between Empower Advisory Group, LLC, an Affiliate of Empower (hereinafter referred to as “**Adviser**”) and Plan Sponsor effective as of July 1, 2023 (“**Schedule Effective Date**”). This Schedule hereby incorporates by reference, and each party agrees to be bound by, the terms of the Agreement. As such, this Schedule forms a separate and independent Investment Advisory and Management Services agreement for the Plan. Capitalized terms used but not defined herein shall have the meanings given to them in the Agreement. In the event of a conflict between the terms of the Agreement and this Schedule, this Schedule shall supersede and control, but only with regard to the Services (defined below) rendered by Adviser with respect to the employee benefit plan(s) sponsored by Plan Sponsor. For the avoidance of doubt, the terms of this Schedule will not govern nor have any applicability to other relationships or services between Empower, or any other Empower Affiliate, and Plan Sponsor.

Plan Sponsor is engaging Adviser pursuant to this Schedule to provide investment advisory and analytic Services to certain Participants in the Plan(s) (defined below) for which Empower provides recordkeeping, administrative and other Services for Plan Sponsor as set forth in the Agreement. Plan Sponsor maintains the Plan, and on behalf of itself, as Plan Sponsor, and on behalf of the Plan Administrator of the Plan, has the authority to appoint agents and service providers for the Plan. Plan Sponsor understands that Adviser has selected Morningstar Investment Management, LLC (“**Subadviser**”) to serve as an independent financial expert pursuant to Department of Labor Advisory Opinion 2001-09A (and any modifications or amendments thereto), to perform investment services including advisory Services and discretionary Managed Account Services, as further described in this Schedule. In consideration of these covenants, mutual representations and agreements contained herein, Adviser and Plan Sponsor agree as follows:

**1. DEFINITIONS**

“**Advisers Act**” shall mean the Investment Advisers Act of 1940, 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 this Schedule.

**“Online Advice Participant”** shall mean a Participant 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 this Schedule.

**“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 this Schedule.

**“Participant”** shall mean an eligible participant, beneficiary or alternate payee who is eligible for the Services.

**“Plan”** shall mean the employee benefit plan or plans or other compensation programs or arrangements maintained by Plan Sponsor as listed in this Schedule (as the same may be amended in writing by the parties from time to time). If more than one Plan is covered by this Schedule, any references herein to the Plan shall mean each of the Plans, unless the context requires otherwise.

**“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.

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

**“Schedule”** means this Investment Advisory and Management Services Schedule, including any exhibits (**“Exhibits”**) attached hereto as of the Schedule Effective Date or hereafter as mutually agreed to in writing by the parties.

**“Services”** shall mean the specific services with respect to the Plan covered by this Schedule (including the Exhibits attached hereto).

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

## **2. SERVICES PROVIDED BY ADVISER**

**2.1** This Schedule sets forth the terms and conditions pursuant to which Adviser agrees to provide Services with respect to the Plan. The terms and conditions of this Schedule are incorporated by reference into each Exhibit attached hereto, 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 Schedule or any Exhibit 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 transactions 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 Schedule to Subadviser, as described in Adviser's Form ADV Brochure.

**2.4** Adviser has authorized Empower Financial Services, Inc. ("**EFISI**"), 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 EAG'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 EAG'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 Schedule 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.

**2.6** Empower's current Privacy Notice is provided as a part of this Schedule but shall not lessen any of Empower's obligations regarding Personal Data hereunder.

### **3. RESPONSIBILITIES OF PLAN SPONSOR**

**3.1** Plan Sponsor 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 Schedule, including but not limited to, timely and reasonable notification of employer-initiated events, the information, materials, Directions or other data referenced in any Schedule, 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 agrees to provide or to assist Adviser in obtaining all Participant data that is necessary to perform its duties under this Schedule, 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 Schedule 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 Schedule 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 individual terminates or otherwise un-enrolls from the Managed Account Service, such individual'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 individual or Plan Sponsor is responsible for any subsequent 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 Schedule, Plan Sponsor appoints Adviser as an investment adviser or investment manager, as applicable. As an investment manager, Plan Sponsor Directs 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 effect investment transactions and that investment transactions will be effected 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 the supplemental 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 of this Schedule, nothing contained herein shall be deemed to Direct 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 Schedule 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, or Direction 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 Direction. Adviser shall have no duty to inquire or to question the accuracy or completeness of any data or Direction 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 Schedule 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 Schedule. 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 Exhibit B-1 attached hereto. 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 as 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 Directs 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 B-1 attached hereto.

**4.3** Adviser may provide additional services pursuant to 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. PRIVACY**

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 it receives Personal Data which constitutes “personally identifiable financial information,” within the meaning of Data Protection Laws. Adviser has adopted a Privacy Notice, which will apply to Personal Data, that may be amended from time to time.

## **6. FIDUCIARY INDEMNIFICATION**

In addition to the Liability & Indemnification provision set forth in Section 9 of the Agreement, Adviser shall also indemnify the Plan Sponsor from Damages to the extent resulting from Adviser’s breach of its fiduciary duties under ERISA with respect to the Services as described in this Schedule.

## **7. TERM & TERMINATION**

**7.1 Term.** Either party may terminate this Schedule with ninety (90) days written notice to the other party of its intent to terminate unless terminated in accordance with the applicable provisions of Section 7.2 of this Schedule.

**7.2 Termination.** This Schedule shall terminate automatically in the following circumstances:

- 7.2.1** Either party notifies the other of that it has determined in good faith that the Schedule is not consistent with its fiduciary duties under ERISA or applicable federal or state law; or
- 7.2.2** The Agreement or the Recordkeeping Services Schedule between Plan Sponsor and Empower terminates or expires; or
- 7.2.3** The agreement between Adviser and Subadviser terminates or expires and Adviser is unable to contract with a suitable replacement to serve as a Subadviser.

**7.3 Effect of Termination.** As of the effective date of the termination of this Schedule, 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. 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 Schedule 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.

## **8. AGENTS**

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 Schedule at any time in accordance with Section 7. 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 a Subadviser under Department of Labor Advisory Opinion 2001-09A (and any modifications or amendments thereto), to the extent applicable to the Services.

## 9. NOTICES

All formal notices required by this Schedule 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 successor)  
VP, Participant Advisory Services  
Empower Advisory Group, LLC  
8515 East Orchard Road  
Greenwood Village, CO 80111

**with a copy to:**

Empower Advisory Group, LLC  
8515 East Orchard Road  
Greenwood Village, CO 80111  
Attn: General Counsel

**[Signature page follows]**

By signing this Schedule, the parties certify that it's to be to be executed by their respective duly authorized officers as of the Schedule Effective Date.

By signing this Schedule, Plan Sponsor acknowledges receipt of the discretionary and non-discretionary investment advisory fees disclosed in this Schedule, and the parties certify they have read and understood it, they agree to be bound by its terms, and they have the authority to sign it. 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. This Schedule is not binding on either party until signed by both parties.

**EMPOWER ADVISORY GROUP, LLC**

**Plan Sponsor: City of Stockton**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Ken Verzella  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

Vice President, Participant Advisory Services  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**EXHIBIT B-1:  
DISCRETIONARY INVESTMENT ADVISORY AND NON-DISCRETIONARY SERVICES**

The parties agree that the Services under this Schedule 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, and initiation of investment transactions, subject to the terms and conditions of the Schedule and this Exhibit, 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 telephone call 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** Unless otherwise agreed to by the parties, Adviser will construct portfolios using the Plan's core Investment Options ("**Core Investment Options**"), which are those Investment Options selected for use in the Plan by Plan Sponsor that provide investment choices under the following asset categories: Fixed Income/Cash, Bond, Large Cap, Small/Mid Cap, and International.

**2.1.3** Core Investment Options do not include any employer stock alternatives or self-directed brokerage option alternatives. Unless the Plan Sponsor restricts Adviser from selling employer stock held in an account managed by Adviser, Adviser will liquidate employer stock held in an account that Adviser manages. The Plan must select and at all times maintain Core Investment Options that cover the broad asset categories in order to utilize the Managed Account Service and the Online Advice Service. Managed Account Participants may further customize their portfolio by providing additional information 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.

**2.1.4** A Managed Account Participant may cancel his or her participation in the Managed Account Service by calling Adviser's representative or through the website. Upon a Managed Account Participant terminating participation in the Managed Account Service, the Managed Account Participant is

solely responsible for the investment of his or her Plan account.

**2.1.5** While this Schedule assumes that enrollments of Participants will be performed primarily on an “opt-in” basis such that Participants must voluntarily enroll in the Services described herein, the Plan Sponsor may also desire that Adviser’s Services be implemented for a selected group of Participants on an “opt-out” basis, pursuant to Plan Sponsor’s Direction to Adviser. These opt-out events may occur at the time when the Plan begins receiving recordkeeping services from Empower, or on some other occasional or periodic basis. This Section 2 will refer to the group of Participants designated for opt-out enrollment as “**Enrolling Participants.**”

**2.1.5.1** 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 enrolled 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]
- \_\_\_\_\_ Other [describe eligible population]

**2.1.6** Adviser or Empower will notify Enrolling Participants of their automatic enrollment into the Managed Account Service at least two times. At least one enrollment notification will take place in advance of the automatic enrollment to give Enrolling Participants adequate opportunity to assess whether to opt-out of the enrollment process. Each Enrolling Participant actually enrolled in the Managed Account Service will be sent materials confirming Managed Account Service enrollment by Adviser shortly after enrollment processing.

**2.1.7** Enrolling Participants may elect not to participate in the Managed Account Service through the methods described in enrollment notifications provided to Participants, such as by calling Adviser to opt-out, or by declining enrollment through Adviser’s internet interface. Additionally, if a Participant has made a financial or investment election on their account after enrollment notification, but prior to the automatic enrollment process into the Managed Account Service, the Participant will not be enrolled.

**2.1.8** In the event that Enrolling Participants are automatically enrolled when the applicable Plan converts onto the recordkeeping platform provided by Empower, Enrolling Participants’ accounts will become actively managed by the Managed Account Service shortly after assets are transferred from the prior recordkeeper. For the short period between asset transfer from the prior recordkeeper until Adviser can assume active management of the account, Enrolling Participants’ accounts will be invested in similar investments as were held at the prior recordkeeper, pursuant to mapping Directions received by the Plan Sponsor. Once conversion to the recordkeeping platform is complete, Enrolling Participants may cancel their enrollment in the Managed Account Service at any time by completing the cancellation form available online or by calling Adviser at the Plan’s existing toll or toll-free customer service number.

**2.1.9** In the event the Plan Sponsor Directs Adviser to enroll Participants on an opt-out basis after the initial transition of the Plan to the Empower recordkeeping platform, Adviser may offer a free period for the Managed Account Service, under which no Managed Account Service fees will be assessed to Enrolling Participants within sixty (60) days following enrollment date.

**2.1.10 Data requirements for Enrolling Participants.**

**2.1.10.1** Subject to the information below, if Adviser does not have required indicative data for an Enrolling Participant, the Enrolling Participant will not be enrolled into the Managed Account Service.

**2.1.10.2** Plan Sponsor may provide Adviser with default data for use in processing enrollments for Enrolling Participants, and in advising Participant accounts. If Plan Sponsor provides Direction to use default data, such as income assumptions, Plan Sponsor agrees that use of such default data is consistent with Adviser's execution of its fiduciary responsibility in providing investment advice to Participants.

**2.1.10.3** Gender Assumption. If gender information is missing on any Participant, Plan Sponsor Directs Adviser to default gender assumption to female, unless Plan Sponsor otherwise Directs Adviser, for purposes of processing Managed Account Service enrollment.

**2.1.10.4** Date of Birth. If a Participant's date of birth is beyond the mortality tables used by the independent financial expert, or the Participant's date of birth provided to Adviser is invalid, the Participant will not be eligible to be enrolled into the Service.

**2.2 Online Advice Service.** Adviser shall provide access to the Online Advice Service 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 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.** 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** Communication and ongoing maintenance includes monitoring the use of Services, forms, web site, and group meetings.

**3.2.2** As part of a Participant's enrollment in the Managed Account Service, the Participant will receive the Managed Account Service welcome kit shortly after enrollment. The Participant

will receive an annual kit shortly after their birthday. Each kit provides the participant an update on their account and reaching their retirement goals. Standard materials may include a discussion of Services in enrollment/education materials, print/email communications specific to the Services, on the website, and/or in personalized Participant materials. Additional or custom Participant communications materials may be used by Adviser and may be paid for by Adviser, Empower or the Plan Sponsor. Such additional or custom communications may include targeted marketing techniques based upon participant demographical and/or account data (including but not limited to age, income, deferral rates, current investment elections) to identify Participants who may benefit from participation in the Managed Account Service.

#### 4. ADVISORY AND PORTFOLIO MANAGEMENT SERVICES FEES

<b>Managed Accounts per Participant Annual Fee</b>	
<i>Account Balance</i>	<i>Managed Account Annual Fee</i>
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 %

For example, if a Participant's account balance subject to the Managed Account Service is \$50,000, the fee is **0.45%** of the account balance. If the account balance subject to the Managed Account service is \$500,000, the first \$100,000 will be subject to a fee of **0.45%**, the next \$150,000 will be subject to a fee of **0.35%**, the next \$150,000 will be subject to a fee of **0.25%**, and amounts over \$400,000 will be subject to a fee of **0.15%**.

#### 5. ADDITION OF NEW PLANS

Tax-deferred plans not listed at the top of this Schedule B 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.

#### 6. LIMITATIONS AND INVESTMENT OPTION CHANGES

Services will have limited capabilities for purposes of enrollment, rebalancing or reforecasting for up to ten (10) business days following changes to the investment option lineup. Other functionality will be available during this time. Adviser and Subadviser need to conduct a new analysis of the available Investment Option array to accommodate these changes. This analysis will take approximately 10 business days, during which time, Online Investment Advice, and the Managed Account Service will not be available for Participant use. Once the analysis is complete, Online Investment Advice and the Managed Account Service will once again be available.

**EXHIBIT B-2:  
EAG ADV BROCHURE**

**Item 1 – Cover Page**

**EMPOWER ADVISORY GROUP LLC (EAG)  
Formerly known as ADVISED ASSETS GROUP, LLC**

**Disclosure Brochure for:**

**Online Advice &  
Managed Account Service**

8515 East Orchard Road  
Greenwood Village, CO 80111

Telephone: 855-756-4738

August 1, 2022

This Brochure provides information about the qualifications and business practices of Empower Advisory Group, LLC (EAG). Specifically, this Brochure provides information on the advisory services provided by EAG and sub-advised by Morningstar Investment Management, LLC (Morningstar Investment Management). If you have any questions about the contents of this Brochure, please contact us at 855-756-4738. The information in this Brochure has not been approved or verified by the Securities and Exchange Commission (SEC) or by any state securities authority.

EAG is a registered investment adviser under the Investment Advisers Act of 1940 (Advisers Act). Registration of EAG does not imply any level of skill or training. Additional information about EAG is available on the SEC website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov) or on EAG's website at [www.empower.com/eag](http://www.empower.com/eag).

**Item 2 – Material Changes**

This section of the Brochure highlights and discusses any changes that were made since the Adviser’s last annual update. The Brochure has been updated to reflect the rebranding changes of the Adviser and its affiliates that became effective on August 1, 2022.

Additional information about EAG is also available via the SEC’s web site [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The SEC’s web site also provides information about any person affiliated with EAG who is registered, or are required to be registered, as an investment adviser representative with EAG.



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**Item 4 – Advisory Business****Description of Advisory Firm**

EAG is a registered investment adviser under the Advisers Act since 2000. It submits notice filings with state securities divisions in all 50 states, the District of Columbia, Guam, US Virgin Islands, and Puerto Rico. EAG offers investment management and advisory services primarily to plan sponsors of employer-sponsored retirement plans such as 401(a), 401(k), 403(b) and 457 plans, including government entities and their participants, and to all account holders of the Empower Premier IRA and Empower Managed Portfolio accounts. EAG also offers investment management services to retail brokerage account holders. EAG does not choose the investments offered in employer-sponsored retirement plans. EAG serviced plans receive recordkeeping services through Empower Retirement, LLC (Empower), the recordkeeping entity affiliated with EAG. More information about EAG's services, including an applicable brochure, can be obtained by contacting EAG at the number provided on the cover page of this Brochure or by visiting EAG's website at [www.empower.com/eag](http://www.empower.com/eag). EAG's principal place of business is Greenwood Village, CO.

EAG is a wholly owned subsidiary of Empower Annuity Insurance Company of America (EAIC), an insurance company domiciled in the State of Colorado. EAIC is a direct, wholly owned subsidiary of Empower Holdings, Inc. (EHI), a Delaware holding company. EHI is a direct wholly owned subsidiary of Great-West Lifeco U.S. LLC. (Lifeco U.S.) and an indirect wholly owned subsidiary of Great-West Lifeco Inc. (Lifeco), a Canadian holding company. Lifeco is a subsidiary of Power Financial Corporation (Power Financial), a Canadian holding company with substantial interests in the financial services industry. Power Corporation of Canada (Power Corporation), a Canadian holding and management company, has voting control of Power Financial. The Desmarais Family Residuary Trust has voting control of Power Corporation, through a group of private holding companies that it controls.

**Types of Services**

EAG provides a range of direct account holder-level and participant-level investment services as well as services provided indirectly through private-label arrangements with institutional partners (the Services). The Services include Online Investment Guidance (OIG), Online Advice (OA), and the Managed Account service (MA Service) or My Total Retirement (MTR). Other services that may be available to clients include Spend-Down Advice, Financial Planning Service and Retirement Income Projection Tools and Services. EAG provides its Services through a proprietary, computer-based software program that is developed and maintained by Morningstar Investment Management.

In addition, EAG provides sub-advisory and technology services to outside adviser firms through a service called Advisor Managed Accounts (AMA). This service enables the AMA firms to offer their own investment advisory and management services within retirement plans serviced by Empower. The total sub-advised assets as of December 31, 2021, for this service totaled \$1,929,645,216.

**There is no guarantee provided by any party that participation in any of the advisory services will result in a profit.**

**Morningstar Investment Management LLC**

Morningstar Investment Management is a registered investment adviser wholly owned by Morningstar, Inc. and is not affiliated with EAG or any company that is affiliated with EAG. Morningstar Investment Management is located in Chicago, Illinois. A copy of its Form ADV Part 2A brochure may be obtained at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). Morningstar Investment Management serves as an independent financial expert (IFE) in accordance with the Department of Labor *SunAmerica* Advisory Opinion 2001-09A, dated December 14, 2001 (the *SunAmerica* Opinion). Morningstar Investment Management uses its proprietary methodology to evaluate the available investment options in a retirement plan and to develop an individualized investment strategy for plan participants and account holders. The plan, plan sponsor or plan fiduciary must select and continuously maintain investment options that cover broad asset categories. The investment options selected for the plan generally consist of a broad range of asset classes. More information is provided under Item 10 – Other Financial Industry Affiliations. Item 8, Methods of Analysis and Investment Strategies and Risk of Loss discusses the general risks of investing. The risks associated

with the investment options can vary significantly with each particular investment category and the relative risks of categories may change. Accordingly, EAG may make changes from time to time regarding the availability of certain investment options. The fees, risks, responsibilities of plan sponsor/plan provider/participant and limitations for each of these services are discussed in greater detail below. Fees and expenses are also explained in the respective prospectus, which accompanies each investment option, as applicable.

Certain EAG's Services rely on Morningstar Investment Management's proprietary methodology, which is based on a review of available quantitative data to analyze and screen the investment options within a plan. Morningstar Investment Management also applies qualitative analysis by investment professionals, such as evaluations of investment managers, portfolios, and individual investments. The primary sources of information used by Morningstar Investment Management are the extensive databases and methodologies of Morningstar Investment Management and/or its affiliates, and interviews with investment managers. Other sources include financial publications, annual reports, prospectuses, press releases, and SEC filings. Morningstar Investment Management combines this information with other factors — including actuarial data, stock market exposure, probability analysis, and mean-variance optimization — into its proprietary software program to analyze a complex set of market data and variables. The result is an advanced model capable of providing investment recommendations and projections of different outcomes. Using this model, Morningstar Investment Management develops an investment strategy tailored to your investment goals.

#### **1. Online Investment Guidance**

EAG's OIG service developed by Morningstar Investment Management provides participants in participating plans with access to sophisticated but easy-to-use online account planning, advisory, and analytical tools that assist the participant in selecting their own asset classes and building a diversified portfolio. Using OIG, participants are provided with general asset allocation information based on the investment options that are available within the participant's plan. In addition, with OIG, a participant can receive an objective savings rate recommendation that may assist in achieving his/her retirement goals. OIG does not provide fund-specific recommendations. The services provided under Online Investment Guidance do not constitute investment advice under the Investment Advisers Act of 1940.

#### **2. Online Advice**

OA is based on the software program developed by Morningstar Investment Management. It provides the participant with retirement goal forecasting advice and fund-specific asset allocation recommendations tailored to the specific participant's financial situation and retirement goals. OA is tailored for individuals who wish to manage their own retirement account with the assistance of the service tools and investment advice.

OA provides participants with a retirement goal forecast through various assumptions and hypothetical financial and economic scenarios. These scenarios are based on factors such as historic returns, market volatility, cross-correlations, calculated risk premiums, interest rate fluctuations, inflation, and market conditions; all of which have limitations. The participants can interact with OA to see how changes in their decisions about their savings, expected retirement age, level of investment risk and retirement income goal may affect the system's forecast. Participants who enroll in OA are responsible for determining the portfolio allocation that is best suited for their needs and investment strategy.

The investment recommendations provided by OA are limited to the available investment options within the participant's specific retirement plan. OA does not make any recommendations about investing in any individual stocks or other asset classes, including employer stock that may be an investment option under the participant's retirement plan.

#### **Participant Responsibilities**

Participants are responsible for making their investment decisions and may implement OA recommendations either online or by phone. Participants are also solely responsible for reviewing and updating the information they input

in the OA service with respect to the completeness, accuracy, and timeliness of the information. Participants should review their retirement accounts periodically to monitor changes in the market and the value of their investments. A failure by an individual to review and update their account information through OA may materially affect the content and value of the service.

**Limitations on the Online Investment Guidance and the Online Advice Services**

The recommendations provided through OA and the information provided through OIG are estimates based on the responses and information provided by the participants. Neither EAG nor Morningstar Investment Management make any guarantees or warranties, express or implied, as to the accuracy, timeliness, or completeness of such information. The OIG and OA services are also subject to the general market and financial conditions existing at the time of use.

The retirement goal forecast and investment recommendations provided by OA and the information provided through OIG are not a guarantee of future results, nor are they a guarantee that a participant will achieve their retirement goals. OA and OIG should only be used by participants as a tool in their retirement planning and not as a substitute for their own informed judgment. Neither EAG nor Morningstar Investment Management has an obligation to update any information for a specific individual or to proactively contact the individual to obtain updated information. A failure by an individual to review and update account information through OA and OIG may materially affect the content and value of services received from EAG.

**3. Managed Account Service**

EAG offers a discretionary managed account service (Managed Account, MA service or MTR). This is a professional and flexible asset management program based on data resulting from the methodologies and proprietary software program developed and employed by Morningstar Investment Management. In the MA service, EAG has discretionary authority over the allocation of available investment options, without prior participant approval of each transaction. All ongoing investment transfers and investment direction changes are implemented for individuals enrolled in the MA service.

The MA service designs a specific asset allocation portfolio for the participant that reflects the individual's retirement goals, life stages, specified risk constraint and overall financial situation. The MA service considers plan assets and other assets and investments not included within the plan if provided by the participant.

On a periodic basis, individual accounts in the MA service are re-forecasted, which may include rebalancing and reallocating the individual's asset allocation portfolio. This is done to maintain alignment with the allocation percentages determined by Morningstar Investment Management through various assumptions and hypothetical financial and economic scenarios. Such scenarios are based on different factors such as historic returns, market volatility, cross-correlations, calculated risk premiums, interest rate fluctuations, inflation, market conditions, and the personal financial circumstances of the participant. Participants receive an account update and forecast statement annually and can update their personal information at any time by calling EAG at their plan's toll-free customer service number, or by visiting the appropriate website. Some plan providers may offer a guaranteed lifetime benefit withdrawal option to plan participants who are approaching retirement or are in retirement. If the plan provider offers this service and if the participant meets the retirement criteria established by the plan provider or plan sponsor, the investment strategy may include a suggested amount that can be withdrawn while maintaining income throughout retirement. It may also include information about allocating a portion of the managed account balance for the purchase of an annuity or other guaranteed income product.

**Limitations on the Managed Accounts Service**

When participants enroll in the MA service, they must transfer and allocate their entire retirement account balance to the Managed Account. For participants, there is an exception of employer stock and employer directed monies. Partial management of participants' account where they are invested in other investment options (such as individual stocks or other asset classes outside of the available investment options) while also participating in the MA service

is not an available alternative. Participant balances in any of these investment options must be liquidated, subject to plan and/or investment provider restrictions, or the participant cannot be enrolled in the MA service. For participants, certain outside non-advisable assets may be permitted while also participating in the MA service. However, the participant's entire advisable account balance must be allocated to the MA service.

Once enrolled in the MA service, participants delegate certain account management functions to EAG including functionality for fund-to-fund transfers, change fund allocations, the dollar cost averaging tool and/or the rebalancer tool. However, individuals in the MA service retain full inquiry access to their accounts and may still request approval for loans or take a distribution withdrawal, if permissible. Participants may un-enroll at any time from the MA service. Once they do so, the participants resume full responsibility for the investment management of their accounts. An individual may un-enroll online or by contacting an EAG investment adviser representative.

#### **4. Spend-Down Advice**

Participants who are enrolled in any of EAG's Services discussed above are also provided with an additional feature of Spend-Down Advice which includes retirement planning tools. The Spend-Down Advice illustrates how long the desired income may last in retirement and determines how much spendable income the participant may be able to sustain throughout their retirement. The Spend-Down Advice provides both the amount and sources of income available throughout their retirement. The services provided under Spend-Down Advice provide projections of spendable income and do not constitute investment advice under the Investment Advisers Act of 1940.

#### **5. Retirement Income Projection Tools and Services**

EAG may offer online tools and services for participants to convert projected or actual retirement savings into estimated monthly retirement income. This interactive retirement planning service consists of various retirement income projection tools. These tools are informational in nature, do not reflect actual investment results, and are not guarantees of future results. These tools do not constitute investment advice under the Investment Advisers Act of 1940.

#### **Enrollment in EAG's Services**

Plan providers and plan sponsors select the Service(s) (i.e., OA, OIG, and/or the MA service) that are made available to plan participants and how participants can authorize the Service(s). Participants must agree to the terms of a user agreement (Terms of Service). Terms may be amended by EAG from time to time, to allow continued use of any of the Services. As part of a participant's enrollment in the MA service, the participant receives a MA Welcome Kit shortly after enrollment. The participant additionally receives an Annual Kit, each year. Each kit provides the participant an update on their account and information on reaching their retirement goals.

In certain instances, Plan Sponsors may authorize EAG to enroll participants automatically in the MA service based on information provided to EAG by the Plan Sponsors. In such instances, current participants in the Plan receive the Terms of Service and are given a defined period of time in which to cancel or opt-out of the MA service without incurring an advisory fee (the Free Period or Promotional Period). Participants' automatic enrollment in the Service by the Plan Sponsors is based upon personal financial information provided by the Plan Sponsor, including date of birth, salary, gender, and state of residence. Participants may review this information online or by contacting an EAG investment adviser representative. Participants are solely responsible for reviewing the personal financial information they or their Plan Sponsor provide, and for notifying EAG of any changes or updates. Participants who are eligible for their employer-sponsored retirement plan or that otherwise elect to opt-in after the Free Look or Promotional Period concludes, may not be eligible for a waiver of advisory fees that is otherwise available in the Free Look or Promotional Period.

The advice and recommendations provided through the Services are based on the responses or other information provided by or about the participant by the Plan Sponsor and/or the participant. Neither EAG nor Morningstar Investment Management make any guarantees or warranties, express or implied, as to the accuracy, timeliness, or

completeness of such information. The Services are also subject to the general market and financial conditions existing at the time of usage. The retirement goal forecast and investment advice recommendations are not a guarantee of future results and are not a guarantee that a particular person will achieve their retirement goals.

#### **Termination of Services**

Participants may cancel their participation in OA or the MA service at any time. Participants utilizing OA must complete their cancellation online. Participants utilizing the MA service may cancel online or by calling an EAG investment adviser representative at the toll-free customer service number.

After cancellation of the:

1. OA service, the individual will no longer have access to the online investment recommendations. Because EAG does not effect changes to the participant's/account holder's asset allocation and account balances, the individual's balances will not be affected **unless and until** the individual affirmatively changes their asset allocation and balance after the cancellation of OA.
2. MA service, the participant will have the ability to make allocation and investment option changes to their account, usually one to two business days following cancellation. Accordingly, the participant's asset allocation will remain the same as established in the MA service **unless and until** the participant affirmatively changes his/her asset allocation after cancellation of the MA service.

#### **Participant Information**

The use and storage of any information is provided at the individual's sole risk and responsibility. Such information includes, without limitation, an individual's personal and non-public information, account number, password, identification, portfolio information, account balances and any other information available on an individual's personal computer. The individual is responsible for providing and maintaining the communications equipment (including personal computers and modems) and telephone or other services required for accessing and using electronic or automated services, and for all communications service fees and charges incurred by the individual in accessing these services. EAG shall not bear any responsibility for either errors or failures caused by the malfunction of any computer, communication systems, any computer viruses, and related problems that may be associated with the use of the Services.

#### **Assets Under Management**

With respect to the services provided by EAG, as of December 31, 2021:

Discretionary investment management among all services:	\$75,081,939,787
Non-discretionary investment advisory services among all services in the amount of:	\$7,994,058,511
Total discretionary and non-discretionary investment management and advisory services in the amount of:	\$83,075,998,298

#### **Item 5 – Fees and Compensation**

For employer-sponsored retirement plans, fees are subject to negotiation by the plan sponsor which may include plan-level pricing credits depending on the various option(s) selected by the plan for its participants. In some instances, if agreed to by the plan, the plan sponsors or recordkeeper may pay EAG's fees on behalf of plan participants. EAG reserves the right to offer discounted fees or other promotional pricing or to waive fees for any particular period of time subject to proper notification and disclosure.

1. Online Investment Guidance Service Fees  
There is no fee for participants using OIG.
2. Online Advice Service Fees  
There is no fee for participants using OA.
3. Managed Account Service Fees

Participants may be charged a fee for the MA service based on the Terms of Service with the participant and/or the plan sponsor's agreement with EAG. EAG may offer plans tiered pricing schedules based on the enrollment method the plan uses for offering or enrolling its participants in the MA service. Such options include, but are not limited to, pricing schedules based on the plan sponsor's selection of an opt-out versus opt-in enrollment methodology. Applicable pricing schedules for each of the options are made available to the plan sponsors, which they may use to select the option for their employer-sponsored retirement plan.

Pursuant to the Terms of Service and/or the plan sponsor's agreement with EAG, the fee for the MA service is based upon a percentage of assets managed. The applicable fee for the Managed Account service varies. It is fully disclosed to participants prior to or at the time of enrollment within the enrollment disclosure materials. In addition, the fee is disclosed to participants in the Terms of Service when the participant enrolls in the MA service. The maximum annualized fee that may be charged to a participant is 0.65% of the participant's account balance.

The advisory fee is debited from the participant's account following each applicable billing period. If a participant cancels enrollment in the MA service at any time within a given billing period, pursuant to the participant's Terms of Service and/or the plan sponsor's agreement with EAG, the participant's fee is based upon a percentage of assets managed during the billing period. The fee will be debited from the participant's account or paid by the plan sponsor according to EAG's agreement and procedures. If the plan sponsor terminates its service agreement with the plan's recordkeeping service provider, the participant's advisory fee is debited as of such date of termination or paid by the plan sponsor according to EAG's agreement and procedures.

4. Retirement Income Projection Tools and Services  
EAG does not charge a fee to plan sponsors or participants for the retirement income projection tools and services.
5. Other Fees and Expenses  
In addition to any previously negotiated and disclosed recordkeeper fees, commission payments and other administrative servicing fees and expenses for each plan, EAG may pay cash compensation or referral fees to unaffiliated firms for soliciting and referring plan sponsors and their participants to enroll in EAG's MA service.

Accounts invested in mutual funds, separate accounts, collective investment alternatives and other investments may be subject to other investment fees. Fees such as fund operating expenses or redemption fees may be imposed at the investment company level. Information about the fees imposed by specific investment choices is available in the fund prospectuses or offering memoranda for the securities. EAG may allocate member assets to funds or investment alternatives with these fees or costs. All securities transactions that occur as a result of the services provided by EAG as described in this Brochure are executed by Empower Financial Services, Inc., (EFSI) for which it may receive compensation in the form of 12b-1 fees or other compensation from mutual fund companies or from the other investments that may be available as program investment options.

A participant will pay advisory fees to EAG for the MA service and indirectly to ECM if Empower Funds are included in the retirement plan investment options. The fees paid to ECM for management of the Great-West Funds are included in the fund share price.

**Item 6 – Performance-Based Fees and Side –by Side Management**

EAG does not charge any performance-based or side-by side management fees.

**Item 7 –Types of Clients**

EAG provides investment advice to participants in their retirement plans for which Empower provides recordkeeping services. Members typically must be considered residents of the United States, the U.S. Virgin Islands, Guam, or Puerto Rico. The plan sponsor may apply additional restrictions for participation due to plan or regulatory requirements.

**Item 8 – Methods of Analysis and Investment Strategies and Risk of Loss**

The Services described in this Brochure are based on the proprietary asset allocation and retirement income projection methodologies developed by Morningstar Investment Management. The development of investment advice by Morningstar Investment Management involves the investment methodologies across the products and services described herein. Morningstar Investment Management or its affiliates focus on specific investment areas such as capital market assumptions and a valuation-driven approach to asset allocation.

**Analysis Methods**

In providing advisory services, Morningstar Investment Management reviews available quantitative data to analyze and screen the investment options within a plan. The portfolios are typically constrained to a set of investment options defined by our client, which may include their affiliated investment products. The analysis will include quantitative analytics and fundamental research on the investment options available. Morningstar Investment Management draws on Morningstar's comprehensive database of fund and security analytics.

Once the available data is identified, Morningstar Investment Management processes the data using a series of optimization routines. These optimization routines serve as a blueprint for how the asset classes are combined to help achieve an optimal portfolio for a given level of risk. The model portfolios include both equity and non-equity asset classes that are chosen to represent a broad range of investment categories available in a plan sponsor's retirement plan menu. The asset allocation process requires that there be significant benefit (generally through increased diversification) to adding the asset class to the model portfolios. In addition, investment options within the investment/plan menus must provide significant exposure to the desired asset class in order to be selected. The asset classes that are ultimately used will depend on the available investment options that are considered for the construction of the fund-level model portfolios. In other words, Morningstar Investment Management will only recommend asset classes that can be fulfilled by an investment option or combination of investment options within the plan.

**Investment Strategy**

If accumulating for retirement, the investment strategy is generally based on information such as retirement account balances, expected retirement age, savings rate and other preferences provided by the individual. If you have already retired, and if the plan provider offers a guaranteed lifetime withdrawal benefit program, the investment strategy is based upon account balances, additional cash flows, and life expectancy. This retirement strategy may include some or all of the following:

- Retirement Income Goal (accumulation phase): The retirement income goal is the projected amount of money after tax that will be needed by the individual throughout retirement. This calculation can be based on current income, adjusted to reflect the estimated dollar value at retirement age. Typically, a good starting place is 75% of salary (although some plan providers may request a different rate, e.g., 80% of gross pay), and then the Services project the after-tax value of that amount at retirement age to determine



a retirement income goal. The individual has an option to change this projected retirement income amount.

- **Income Outlook (accumulation phase):** The income outlook is a projection of the annual income that the individual may receive during retirement. This is based on an annualized view of the accumulated investment wealth, combined with social security benefits and any pension or other income provided to EAG.
- **Total Retirement Income (in-retirement phase):** If your plan provider or plan sponsor offers the in-retirement services, total retirement income is the projected amount of money, that one can expect to receive on an annual basis in order to maintain income throughout retirement.
- **IMPORTANT:** When Morningstar Investment Management determines the income projections described above, these projections are based on hypothetical performance data and do not represent actual or guaranteed results. Your projections may vary over time with each additional use of the service.

#### **Risk Strategy**

Morningstar Investment Management determines a risk strategy based on several factors, such as current age and time until retirement, gender, salary, total current wealth, deferral rate, and retirement goals. If the individual can purchase an annuity and has retired or is approaching retirement, the risk strategy also considers longevity and liquidity needs. The risk level corresponds to an asset mix, or the combination of mutual funds, commingled funds, separate accounts, exchange-traded funds, and cash alternatives, which will serve as the basis for the recommendations of specific funds appropriate for the individual.

#### **Estimated Tax**

Morningstar Investment Management estimates federal, state income, and capital gains taxes based on marginal tax rate calculations. These calculations are used when Morningstar Investment Management conducts income simulations. Tax data is updated annually based on the United States Internal Revenue Code (IRC) and similar state tax data. Morningstar Investment Management uses income data for the individual and their spouse/partner to estimate federal and state tax exposure. The tax exposure is appropriately reduced for pre-tax deferrals, tax-deferred capital gains, and yield and distribution of Roth proceeds. Based on the information that the individual provides, Morningstar Investment Management provides an estimate of the tax exposure but may not include all tax considerations. Please consult a tax adviser for a complete understanding of your tax situation.

#### **General Risks of Investing**

Investing in securities involves risk of loss that clients should be prepared to bear. **Neither EAG nor Morningstar Investment Management or their affiliates guarantees that the recommendations will result in achieving the retirement income goal. Neither EAG nor Morningstar Investment Management or their affiliates can guarantee that negative returns can or will be avoided in any of the recommendations. An investment's future performance may differ substantially from its historical performance and as a result, may incur a loss. Past performance is no guarantee of future results. Additionally, the plan provider may make changes from time to time with respect to the investment options available in the plan.**

You should carefully consider the benefits of a well-balanced and diversified investment portfolio. Market or other economic conditions that cause one category of assets to perform very well often cause another asset category to perform below average. Diversification does not guarantee investment returns and does not eliminate the risk of loss.

Below are some of the common factors that can produce a loss in a client's account and/or in a specific investment product or asset category:

- **Market Risk:** Stock and bond markets are volatile and can decline significantly in response to adverse issuer, political, regulatory, market, or economic developments in the U.S. and in other countries. Market risk may affect a single company, a sector of the economy, a country or geopolitical region, or the market as a whole. Market risk may impact stock and or bond markets in unanticipated and different ways.
- **Business Risk:** These risks are associated with a particular industry or a particular company within an industry.
- **Capitalization Risk:** Small-cap and mid-cap companies may be hindered due to limited resources or less diverse products or services. Their stocks have historically been more volatile than the stocks of larger, more established companies.
- **Category or Style Risk:** During various periods of time, one category or style may underperform or outperform other categories and styles.
- **Credit Risk:** The risk that the issuer of a security may be unable to make interest payments and/or repay principal when due. A downgrade to an issuer's credit rating or a perceived change in an issuer's financial strength may affect a security's value and impact the performance of the issue – along with any mutual fund or exchange-traded fund which holds it.
- **Interest Rate Risk:** The market value of a debt security is affected significantly by changes in interest rates. When interest rates rise the security's market value declines. When interest rates decline, market values rise. The longer bond maturity results in the greater the risk and the higher yield. Conversely, the shorter bond maturity results in the lower risk and the lower yield.
- **Inflation Risk:** When any type of inflation is present, purchasing power may be eroding at the rate of inflation.
- **Reinvestment Risk:** The risk that future proceeds from investments may have to be reinvested at a potentially lower rate of return (i.e., interest rate). This relates primarily to fixed income securities.
- **Exchange-traded funds:** Exchange-traded funds present market and liquidity risks, because they are listed on a public securities exchange and are purchased and sold via the exchange at the listed price. The price will vary based on current market conditions and may deviate from the net asset value of the exchange-traded fund's underlying portfolio. There may also be an inactive market for certain funds, and/or losses from trading in secondary markets.
- **Target Date Funds:** Generally, the asset allocation of each target date fund will change on an annual basis with the asset allocation becoming more conservative as the fund nears the target retirement date. The target date is the approximate date when investors plan to start withdrawing their money. The principal value of the fund(s) in a plan's lineup is not guaranteed at any time, including at the time of target date and/or withdrawal.
- **An investment in a money market fund is not insured or guaranteed by the FDIC or any other government agency.** Although some money market funds such as U.S. Government money market funds strive to preserve the value of the investment at \$1.00 per share, it is possible to lose money by investing in a money market fund. Additionally, other money market funds may operate under new rules and regulations permitting them to have a floating value per share. A floating value may be more or less than \$1.00 per share depending on market conditions and impose liquidity/redemption fees for large or frequent withdrawals.

For more complete information about any of the mutual funds or investment product available within the retirement plan, please contact your retirement plan service provider.

#### **Risks Associated with Particular Types of Securities**

Neither EAG nor its sub-advisers recommend a particular type of security. The plan sponsor or its agent is responsible for determining the retirement plan's menu of investment options. It is the participant's responsibility

for reading all disclosure and related materials, including prospectuses, statements of additional information and other similar material.

**Item 9 – Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of EAG or the integrity of EAG's management. EAG has no legal or disciplinary event to report relative to this Item.

**Item 10 – Other Financial Industry Activities and Affiliations**

EAG is not a registered broker-dealer. However, due to the organizational structure of EAG's parent company, EAIC, certain registered representatives of EFSI are also supervised persons of EAG and are required to comply with EAG policies and procedures when acting in that capacity. EAG and its management persons are not registered as a futures commission merchant, commodity pool operator, a commodity trading advisor, or an associated person of the foregoing entities.

**Recordkeeping and Administrative Services Company**

*Empower Retirement, LLC (Empower)* is a comprehensive administrative and recordkeeping services provider for financial institutions and employers, which include educational, advisory, enrollment, and communication services for employer-sponsored defined contribution plans and associated defined benefit plans under Internal Revenue Code Section 401(a), 401(k), 403(b), 408, and 457.

**Other Financial Industry Affiliations**

EAG has arrangements that are material to its advisory business or its clients/participants with the related entities shown below. These related entities may receive certain fees that are unrelated to EAG's fees for its Services.

**Insurance Companies**

*Empower Annuity Insurance Company of America (EAIC)* is an insurance company domiciled in the State of Colorado. EAG is a wholly owned direct subsidiary of EAIC. EAIC, pursuant to various agreements, may provide investment products, recordkeeping, and other administrative services through its affiliates.

*Empower Life & Annuity Insurance Company of New York (ELAINY)* is an insurance company domiciled in the State of New York. EAG is an affiliate of ELAINY through common ownership where EAIC is the sole owner of both EAG and ELAINY. ELAINY, pursuant to various agreements, may provide investment products and administrative services through its affiliate, Empower, to retirement plans for which EAG may also provide its services.

**Broker-Dealer**

*Empower Financial Services, Inc. (EFSI)*, an affiliate of EAG, is a registered limited broker-dealer and wholly owned subsidiary of EAIC. EFSI may provide wholesaling, direct sales, enrollment and/or communication services to retirement plans and their participants for which EAG may also provide its services. All transactions which occur as a result of participation in the Service are executed by EFSI. EFSI may receive compensation in the form of 12b-1 fees or other compensation from the mutual fund companies or from the other investments that may be available as investment options.

**Trust Company**

*Empower Trust Company, LLC (ETC)* is a trust company and affiliate of EAG. ETC is a wholly owned subsidiary of EAIC. ETC is chartered under the laws of the State of Colorado. ETC may provide discretionary or directed trustee and/or custodial services for EAG's clients. ETC also serves as the trustee for certain collective investment trusts, which may be available as investment options, and is the custodian of all Empower Premier IRA accounts.

**Investment Company**

*Empower Funds, Inc. (EFI)* is an investment company affiliated with EAG. It is registered under the Investment Company Act of 1940. Empower Funds may provide investment products to retirement plans and IRAs for which EAG may also provide its services. Empower Funds is managed by Empower Capital Management, LLC as discussed below. Shares of Empower Funds may be available for purchase by retirement plans advised by EAG or to account holders of the Empower Premier IRA.

**Investment Advisers**

Empower Capital Management, LLC (ECM), an affiliate of EAG, is an investment adviser for Empower Funds and is registered under the Investment Advisers Act of 1940. It is a wholly owned subsidiary of EAIC. EAG provides managed account, guidance, and advice services to participants in certain defined contribution plans. It also provides services to account holders of the Empower Premier IRA which may have as investment options certain portfolios of Empower Funds managed by ECM.

*Putnam Investment Management, LLC* is a registered investment adviser (*PIM*). EAG is under common control with PIM and is an affiliate of PIM. Shares of Putnam retail mutual funds may be available for purchase by retirement plans or by the Empower Premier IRA holders. PIM serves as a sub-adviser to certain funds in the Empower Core Strategies lineup

*Irish Life Investment Managers Limited* – a Dublin, Ireland based, SEC registered investment adviser. ILIM is part of the Great-West Lifeco, Inc. (GWL) group of companies; GWL has operations in Canada, the United States, Europe, and Asia through ownership of companies including EAIC and PIM. EAG is wholly owned subsidiary of EAIC. EAIC is an indirect wholly owned subsidiary of GWL which controls ILIM. ILIM manages the index series of Empower Funds.

*Personal Capital Advisors Corporation (Personal Capital)*, an affiliate of EAG, is wholly owned by Personal Capital Corporation, which is wholly owned by Empower Holdings, LLC, a wholly owned subsidiary of EAIC. Personal Capital is an investment adviser registered under the Investment Advisers Act of 1940 and provides discretionary investment management services and financial planning services to various clients.

**Branding**

The affiliated companies of EAG, ECM, EFSI, EAIC, ELAINY, Empower Funds, Empower Holdings, LLC, Empower Retirement, LLC, and ETC operate under the multiple brands of Empower, Empower Retirement and Empower Institutional depending upon the products, services and retirement markets involved. These brands do not materially affect the internal structure of EAG or EAG's corporate ownership.

**Conflicts of Interest**

The investment options available in a plan are generally established by the plan sponsor/client through which our services are delivered. In some cases, the plan investment options may include, or be comprised solely of, affiliated investment options of the institutional client or of EAG. EAG does not receive compensation from its parent company or any of its affiliates as a result of these allocations. EAG has a relationship with Morningstar Investment Management wherein Morningstar Investment Management acts as sub-adviser for the advisory services. EAG has entered into an agreement with Morningstar Investment Management under which, EAG receives advisory services fees for providing services to retirement plan clients.

EAG mitigates these conflicts of interest related to affiliated investment options by utilizing Morningstar Investment Management as sub-adviser who remains independent from EAG and its related persons with respect to their methods of analysis and investment strategies. Morningstar Investment Management's methodology also controls the investment allocations and recommendations. A client/account holder will pay advisory fees to EAG for MAS, and indirectly to ECM, if Empower Funds are included in the retirement plan investment options. The fees paid to ECM for management of the Empower Funds are included in the fund share price.

Conflicts relating to fund recommendations: The Services operate by recommending or allocating a user's assets to funds available within a plan. The funds available for EAG's recommendations within a plan are generally established by the plan sponsor/client through which the Services are delivered, rather than by EAG. In some cases, the investment options may include or be comprised solely of investment options sponsored by EAG's affiliates. In other cases, the investment options may make third party payments described below. When this occurs, EAG's affiliates may receive additional compensation as a result of EAG's recommendations or allocations. These forms of additional affiliate compensation are:

- *Proprietary investment funds.* EAG's affiliates offer proprietary investment funds, and EAG may recommend or allocate your assets to our affiliates' proprietary investment funds, including proprietary mutual funds and collective investment trusts. These proprietary investment funds generate additional investment management fees to EAG's family of companies. This is because EAG's affiliates provide investment management services to the proprietary fund for services like administering, managing, and supervising these funds. For example, a plan participant using the Services will pay advisory fees to EAG and indirectly to ECM if Empower Funds are included in the retirement plan investment options, and EAG recommends an allocation to a Empower Funds product. The fees paid to ECM for management of the Empower Funds are included in the fund share price.
- *Proprietary insurance products.* EAG's parent company, EAIC, offers proprietary insurance products for investment. EAG may recommend or allocate your assets to different types of EAIC insurance products and funding agreements. The majority of EAIC insurance products are annuity contracts that are structured either as a general account product or as a separate account product. If you invest in a general account product, which is an insurance product backed by the general account of an insurance company, EAG's affiliates generate revenue by retaining spread (which is the difference between actual earnings on contracts offered by the insurer), and the crediting rate declared and guaranteed by the insurer through the contract. EAG's affiliates may also receive different types of fee income if you invest in the general account or separate account products, and other third-party payments associated with investments held in the separate account.
- *Third Party Payments.* EAG's affiliates may receive payments from other firms, non-proprietary investment funds or products, or providers, such as revenue sharing payments, in connection with the investments made pursuant to our recommendation or investment management.

Conflicts related to increased use and promotion of the Services.

- *Increased advisory fee income.* EAG's representatives may recommend that you use the Services. If you enroll in certain Services, EAG will earn additional compensation.
- *Increased affiliate fee income.* When you use the Services, EAG may recommend you increase contributions or utilize other savings or investment strategies. EAG's affiliates provide a bundle of recordkeeping, trust, custody, brokerage, investment, and other related services to retirement plans. If you pay for these related services through an arrangement where our affiliates charge a direct fee, EAG's affiliates may receive additional fees for these services. These additional fees result from EAG's recommendations because you may contribute, invest, or transact in more assets with EAG's family of companies.
- *Representative Compensation.* EAG has authorized EFSI, an affiliate of EAG, and its licensed agents and registered representatives who are Empower employees (collectively referred to as Agents) to solicit, refer and market EAG's services. In addition to their salary, Agents may earn bonus compensation based upon engaging plan sponsors to offer EAG's services. Other Agents and EAG representatives may be indirectly compensated through bonus compensation, in addition to their salary, for communication, education and/or assisting participants to enroll in EAG's Services. Compensation paid to Agents or EAG representatives does not increase the fees paid by the plan, plan sponsor or participants. The incentive compensation an EAG representative receives depends on position type, but generally is calculated based on Empower and/or EAIC profitability and the achievement of individual performance goals that may include factors unrelated to an account holder's adoption of investment products or services offered through Empower.

- Agents and EAG representatives' individual performance goals and their related incentive compensation is based on a combination of factors including the number and quality of customer engagements during the measurement period and the amount of customer assets retained as result of the engagements. The rate of incentive compensation considers the total amount of retained or accumulated assets, compared with the monthly asset goal, as determined by EAG on a periodic basis. The asset goal is generally set on an annual basis and may differ by product or account type. Additional factors include certain qualitative factors, such as leadership, teamwork, client experience, quality and efficiency of client interactions, and adherence to corporate policies and regulatory standards.

EAG's affiliates may receive payments from other firms, non-proprietary investment funds or products, or providers, such as revenue sharing payments, in connection with the investments made pursuant to our recommendation or investment management.

#### **Other Business Activities**

Certain senior managers and officers of EAG may also serve as executive officers of EAG's parent company, EAIC and other affiliates of EAG.

#### **Item 11 – Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

##### **EAG's Code of Ethics**

EAG has adopted a written Code of Ethics (the Code) in compliance with Rule 204A-1 of the Investment Advisers Act of 1940 (Advisers Act). The Code sets forth standards of business conduct expected of advisory personnel. It requires certain of EAG's advisory personnel to report their personal securities holdings and transactions in accordance with the Advisers Act. EAG's advisory personnel are required to comply with the Code. A copy of the Code will be provided to current or prospective clients upon request. The Code includes provisions related to:

- Fiduciary responsibility to clients;
- Compliance with federal securities laws;
- Protection and safeguarding of confidential information;
- Giving and receiving gifts, gratuities, and entertainment;
- Political contributions;
- Reporting and monitoring personal securities transactions;
- Avoiding and disclosing conflicts of interest; and
- Reporting violations of the Code.

##### **Personal Trading**

The Code requires pre-clearance of certain securities transactions. Officers, managers, and certain employees of EAG (collectively, Access Persons) may trade for their own personal accounts in securities which are recommended to and/or purchased for EAG's advisory clients. However, because the Code would permit Access Persons to invest in the same securities as clients in some circumstances, there is a possibility that employees could benefit from market activity by a client in a security held by an Access Person. As a result, trading is continually monitored in accordance with the Code and federal securities laws. The Code is intended to ensure that the personal securities transactions and the outside business activities of EAG's Access Persons do not interfere with making decisions in the best interest of advisory clients.

##### **Principal Trading**

EAG has adopted a policy and practice not to engage in any principal transactions. EAG holds no investments for its own accounts which could be bought from, or sold to, an advisory client. In the event of any change in EAG's policy, any such change must be approved by management. Any principal transactions would be permitted only after meeting the review and approval requirements described under the anti-fraud section of the Advisers Act.

**Participation or Interest in Client Transactions***Affiliate EFSI effects Securities Transactions for Advisory Clients*

Registered representatives of EFSI may provide wholesaling, direct sales, enrollment, and/or communication services to retirement plans and their participants for which EAG may also provide its services. In return, EFSI may receive fees from either the plan or the investment provider (fund families). All securities transactions which occur as a result of EAG's services, as described in this Brochure, are executed by EFSI. EFSI may receive compensation in the form of 12b-1 fees or other compensation from mutual fund companies or from the other investments that may be available as plan investment options. In all instances, EAG's affiliation with these entities is disclosed. Allocations in the investment options are solely determined and based on Morningstar Investment Management's software and not determinations made by EAG. The compensation paid by EAG to Morningstar Investment Management for Morningstar Investment Management's proprietary software advice program does not vary based on the allocations made or recommended by Morningstar Investment Management. Because Morningstar Investment Management is unaffiliated with EAG and EFSI, EAG does not believe there is a conflict of interest.

**Affiliate EAIC or ELAINY Proprietary Investments**

Investment options into which participant or account holder assets may be allocated, pursuant to the OA or the MA services may be through a fixed and variable deferred annuity issued by EAIC or ELAINY. Because Morningstar Investment Management is unaffiliated with EAG, EAIC, ELAINY and their affiliates, EAG does not believe there is a conflict of interest. However, in all instances, EAG's affiliation with EAIC and/or EAIC's affiliates, as applicable, will be disclosed.

**Item 12 – Brokerage Practices****Brokerage Selection; Best Execution**

For retirement plans, the plan sponsor or its agent selects the broker-dealer used by the retirement plan and determines the reasonableness of the compensation. EAG does not select or recommend broker-dealers for stock transactions or self-directed brokerage accounts and does not determine the reasonableness of broker-dealer's compensation. Transactions recommended by Morningstar Investment Management for the Service are processed by EAG's affiliated recordkeeper, Empower, and generally executed through EFSI.

**Soft Dollar Practices**

As a matter of policy, EAG does not utilize research or other products or services from third parties in connection with client securities transactions on a soft-dollar commission basis.

**Directed Brokerage**

The plan sponsor may elect to offer brokerage services to participants in the retirement plan. EAG does not participate in such decisions and does not provide recommended portfolios or investment recommendations on assets held in a brokerage account under the retirement plan.

**Trade Aggregation**

EAG does not bunch orders or engage in block trades to execute equity orders for clients. Client accounts are generally held in trust per regulatory requirements. Further, most trades are mutual funds where trade aggregation does provide any additional client benefits.

**Item 13 – Review of Accounts**

At least annually, EAG personnel review the methodologies used by Morningstar Investment Management to power the OIG, OA, and MA services to ensure that they are consistent with investment advisory best practices, current technology, applicable law, and the terms of the agreement between EAG and Morningstar Investment Management.

Neither EAG nor Morningstar Investment Management review the personal financial information of participants as provided by the participants or the Plan Sponsor and do not assume responsibility for any incomplete or erroneous

information. Such information, which includes date of birth, salary, gender and/or state of residence, must be reviewed periodically by the participant and/or the Plan Sponsor who in turn are responsible for notifying EAG of any changes, errors, or omissions to such information.

EAG conducts the following review of its clients' accounts:

**Online Investment Guidance**

EAG does not conduct any review or other oversight for participants enrolled in this service.

**Online Advice**

EAG does not conduct review of its participant's accounts in respect to investment oversight, monitoring, or rebalancing. Participants receive from EAG's investment recommendations based on the investment options provided in their specific retirement plan. **It is the responsibility of OA clients to review and update their accounts to adjust for changes in the investments they own and to determine whether the recommendations are suitable for their particular investment needs. OA clients should also review and update their accounts if significant changes occur in their personal circumstances.**

**Managed Account Service**

Under the MA service, participant assets in the investment options are monitored, rebalanced, and reallocated on a periodic basis by EAG, based on Morningstar Investment Management's software program. On an annual basis, based on the individual's birth date, those enrolled in the MA service will receive an Annual Kit containing an account update and forecast statement. Morningstar Investment Management updates the capital market assumptions underlying their methodology used to construct the asset classes, at least annually, then makes changes to the portfolio allocations, as necessary. The portfolios are also monitored on a regular basis on current portfolio allocations and adjustments are made as necessary.

**Reporting to Clients**

Participants enrolled in the MA service receive a MA Welcome Kit shortly after enrollment and an account update at least annually. Participants enrolled in OA can review their accounts and generate their own reports at any time. Individuals are encouraged to update significant changes to their personal information via the appropriate toll-free customer service number. In addition, all individuals receiving Services are provided quarterly account statements generated by the plan's recordkeeper.

**Item 14 – Client Referrals and Other Compensation**

EAG has authorized EFSI, an affiliate of EAG, and its licensed agents and registered representatives who are Empower employees (collectively referred to as Agents) to solicit, refer and market EAG's services. EAG does not pay any compensation directly to EFSI or its Agents for the solicitation activities performed by EFSI and its Agents. The Agents receive compensation in the form of a salary and a variable bonus paid by Empower. No commissions are paid to Agents for the Services by EAG or EFSI.

Agents may earn bonus compensation based upon engaging plan sponsors to offer EAG's services. Other Agents and EAG representatives may be indirectly compensated through bonus compensation, in addition to their salary, for communication, education and/or assisting participants to enroll in EAG's Services. The incentive compensation an EAG representative receives depends on position type, but generally is calculated based on Empower Retirement and/or EAC profitability and the achievement of individual performance goals that may include factors unrelated to an account holder's adoption of investment products or services offered through Empower Retirement.

Agents and EAG representatives' individual performance goals and their related incentive compensation is based on a combination of factors including the number and quality of customer engagements during the measurement period and the amount of customer assets retained as result of the engagements. The rate of incentive compensation considers the total amount of retained or accumulated assets, compared with the monthly asset goal, as determined by EAG on a periodic basis. The asset goal is generally set on an annual basis and may differ by product or account type. Additional factors may include certain qualitative factors, such as leadership, teamwork,



client experience, quality and efficiency of client interactions, and adherence to corporate policies and regulatory standards. **Compensation paid to Agents or EAG representatives does not increase the fees paid by the plan, plan sponsor or Members.**

**Item 15 – Custody**

EAG does not maintain actual custody of its clients' cash, bank accounts, or securities. Pursuant to Rule 206(4)-2 of the Advisers Act as amended, EAG is deemed to have constructive custody with respect to certain client funds and securities. This is because an affiliated party is the custodian and directed or discretionary trustee of certain retirement plan accounts. In addition to annual audits, these accounts, are subject to surprise custody verifications by an independent public accountant each year, as required by Rule 206(4)-2. If applicable, EAG's clients receive periodic account statements (at least quarterly) from their custodian and should carefully review these statements. Certain clients may have assets held by unaffiliated custodians.

**Item 16 – Investment Discretion**

EAG provides discretionary investment management services for those plan participants who enroll and participate in the MA service; EAG does not offer or engage in discretionary investment services for either OIG or OA.

The MA service is a professional, flexible asset management program that utilizes data from the methodologies and proprietary software program developed and employed by its IFE, Morningstar Investment Management. To provide the MA service to plan participants, EAG retains discretionary authority over the allocation of available investment options without requiring prior approval of each transaction. All ongoing investment transfers and investment direction changes are implemented for plan participants enrolled in the Managed Account service.

**Item 17 – Voting Client Securities**

EAG does not assume the responsibility to provide assistance or vote proxies or other issuer communications regarding your Account, or to exercise voting or other decision-making authority regarding proxies or other issuer communications. Correspondence regarding the matters described in this section will be handled in connection with the Plan's policies and service provider arrangements.

EAG, as a registered investment adviser, and as a matter of practice, does not accept authority to vote client securities in connection with any of the services described in this Brochure. Correspondence regarding the matters described in this section will be handled in connection with the Plan's policies and service provider arrangements.

**Item 18**

**Financial Information**

As previously discussed, under certain circumstances EAG has discretionary authority over certain client funds and securities. Accordingly, EAG is required to disclose information about its financial condition that is reasonably likely to impair its ability to meet contractual commitments to its clients. EAG has no financial commitment that impairs its ability to meet contractual commitments to its clients, nor has EAG been the subject of a bankruptcy proceeding. Further, EAG does not require or solicit prepayment of fees in excess of \$1,200 per client more than six months in advance.

