

ONLINE ENROLLMENT SERVICE AGREEMENT

This Online Enrollment Service Agreement (this "Agreement") is made and entered into as of the date of execution by both parties by and between **Explain My Benefits, LLC**, a Florida limited liability company ("**EMB**"), and **Suwannee County School Board** ("**End User**"). EMB and End User may be referred to individually as a "**Party**" or collectively as the "**Parties**."

RECITALS:

WHEREAS, End User is the Plan Sponsor of one or more group employee benefit plans (collectively, the "**Benefit Plans**");

WHEREAS, EMB is in the business of designing, building, operating, licensing and maintaining online employee benefits enrollment and employee benefits administration tools utilizing Auto-Bene™ and eElect™ services and provides employee benefits related consulting services.

WHEREAS, End User, in addition to retaining EMB for Enrollment and Consulting services related to the Benefit Plans, wishes to obtain from EMB access to the use of the Web-Based Applications as hereinafter defined;

AGREEMENTS:

In consideration of the foregoing recitals and the mutual promises set forth herein and for other good and valuable consideration, the Parties agree as follows:

1. WEB BASED SERVICES.

1.1 Subject to the terms and conditions of this Agreement, EMB shall provide End User the services as set forth in the Appendix A attached hereto and made a part hereof (collectively, the "**Services**").

2. SCOPE OF SERVICES.

2.1 During the term of this Agreement, EMB will make the Web Based Services described in Appendix A (collectively, the "**Web-Based Services**") available to the End User through the web-based applications listed in Appendix A (collectively, the "**Web-Based Applications**"). The End User agrees that EMB or its licensors may implement enhancements or modifications to the Web Based Applications from time to time.

2.2 EMB shall cooperate and coordinate with End User to obtain from End User the information necessary to enable the use of the Web-Based Applications by End User and the participants in the Benefit Plan in accordance with this Agreement. End User shall cooperate and coordinate with End User to provide timely, accurate and complete enrollment and related information in an acceptable format so as to enable EMB to provide the Web-Based Services to End User. End User shall be solely responsible for the timeliness and accuracy of the information provided to EMB. End User acknowledges and agrees that its failure to timely provide accurate and complete information may result in lapses of coverage, inaccurate enrollments and other adverse outcomes and that End User shall be solely responsible for any such outcomes.

2.3 The Web Based Services will consist of the following services, all or in part, to the extent set forth in Appendix A of this Agreement.

- A. Internet enrollment setup and inquiries or transactions processed through eElect™ software and the Auto-Bene™ database.

- B. Report the results of such interactions to End User in a mutually agreeable manner.
- C. Integrate with Payroll.
- D. Integrate with Insurance Carriers.

The scope of Web Based Services may not be modified without the prior written consent of both Parties.

2.4 End User understands that any and all applications or software used in providing the Web-Based Services (including but not limited to the Web-Based Applications), together with any enhancements or modifications thereto implemented for End User under this Agreement and any underlying intellectual property and proprietary rights (including but not limited to patent rights and copyrights), are the exclusive property of EMB or its licensors. Except as necessary or appropriate to provide the Services to End User under this Agreement, EMB shall not and shall cause its respective employees, agents, representatives and subcontractors, not to disclose nor use the confidential information of End User in any manner (including without limitation, End User's name, logos, trademarks or service marks) without the prior written consent of End User. Information of End User shall not be considered "confidential information" for purposes of the foregoing provision unless either (i) End User conspicuously identifies it as confidential information at the time of transmission to EMB or promptly thereafter, or (ii) the information is of a nature that EMB should, in light of the nature of the information, reasonably understand that it is confidential information (e.g. employee census information, protected health information or the like).

2.5 End User agrees to observe confidentiality with regard to all aspects of EMB products, including, but without limitation: Auto-Bene™/eElect™/DataWizard III™, and will not attempt to download, decompile, disassemble or reverse engineer Auto-Bene™/eElect™/DataWizard III™, or any of its components.

2.6 End User acknowledges this Agreement conveys no title to or ownership of any EMB products, including but without limitation: Auto-Bene™/eElect™/DataWizard III™, its source code, listing(s) and procedure(s) or any part or executable derivative of Auto-Bene™/eElect™/DataWizard III™, all of which are and will remain the sole property of EMB.

2.7 The End User acknowledges that Auto-Bene™/eElect™/DataWizard III™ and any data interfaces developed, are valuable intellectual property containing trade secrets and proprietary information developed by EMB, and End User agrees it will not modify or attempt to modify Auto-Bene™/eElect™/DataWizard III™, in any manner.

3. TERM AND TERMINATION.

3.1 Term. The term of this Agreement shall begin on the date first written above and shall continue for 1 year from the benefit effective date of May 1st 2018. Thereafter, it shall automatically renew for subsequent one-year terms unless either party notifies the other in writing at least sixty (60) days in advance of the expiration of the then current term of its intent not to renew.

3.2 Termination by End User. In the event of a material breach of this Agreement by EMB, End User shall provide written notice to EMB describing in reasonable detail the nature of the breach. If EMB fails to cure such breach within the thirty (30) day period following such written notice, End User may terminate this Agreement upon written notice to EMB.

3.3 **Termination by EMB.** In the event End User shall be in breach or default of any of the terms, conditions or covenants of this Agreement, including, without limitation, End User's failure to pay when due the Fees set forth in Appendix A, and such breach or default shall continue for a period of ten (10) days after the date of EMB's written notice to End User, then in addition to any other rights or remedies it may have, EMB shall have the immediate right, in its sole discretion, to either (A) temporarily suspend or discontinue providing Web Based Services to End User and suspend End User's access to the Web-Based Applications, in which event this Agreement shall continue in full force and effect until terminated by EMB; or (B) terminate this Agreement. The suspension, discontinuance or termination of Web Based Services and access to the Web-Based Applications by EMB in accordance with this Section 3.3 shall not be deemed to be a breach by EMB of its obligations under this Agreement in the foregoing circumstances, nor shall it relieve End User of its obligations to pay the amounts due hereunder as and when they become due.

3.4 **Effect of Termination.** Except as otherwise expressly set forth in Appendix A, termination of this Agreement shall not relieve End User of its obligation to pay all Fees that have accrued prior to the date of termination or are otherwise owed by End User under this Agreement, as amended by all Amendments. The Parties' rights and obligations under Sections 4, 5, and 6 shall survive termination of this Agreement. Upon termination EMB shall return the data files containing the End User's census information to End User in either a CSV or Excel format that can be accessed easily by the End User. However, in no event will EMB be required to provide any proprietary information or software to the End User.

4. FEES; PAYMENT TERMS.

4.1 **Fees.** End User shall pay to EMB the fees in the amounts and in accordance with the payment schedule set forth in each Appendix A for the Services defined in this Agreement and Appendix A (as such fees also may be evidenced by EMB's invoices to End User) (collectively, the "Fees").

4.2 **Late Payments.** All payments of the Fees made after the due date thereof shall be subject to a monthly finance charge at the rate of one and one-half percent (1.5%) per month or the maximum amount allowed by law, whichever is less, commencing upon the date such payment was due and continuing until the amount due is paid in full. In addition, failure of End User to pay in full any Fees within the time period set forth in Appendix A or any relevant Amendment, shall be deemed a material breach of this Agreement by End User for purposes of Section 3.3. In the event End User fails to pay any amounts due and payable hereunder in full when due and payable, EMB shall be entitled to recover from End User all costs and expenses incurred by EMB in connection with any such collection efforts including, but not limited to, legal costs, attorneys' fees, court costs, and collection agency fees.

5. DISCLAIMER; LIMITATION OF LIABILITY.

5.1 **Disclaimer.** End User acknowledges and agrees that, except as expressly set forth in Appendix A (i) End User's use of the Services is at its own risk; (ii) the Web Based Services are provided on an "AS IS", "AS AVAILABLE" basis without any warranties of any kind, whether express or implied; (iii) EMB does not warrant that the Services will meet End User's requirements, that the Web Based Services will operate in the combinations which End User may select for use, or that the operation of the Web Based Services will be uninterrupted.

5.2 **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY IN CONNECTION WITH ANY MATTER ARISING OUT OF OR RELATING TO

THIS AGREEMENT OR THE OPERATION OR USE OF THE WEB-BASED SERVICES, WEB-BASED APPLICATIONS AND/OR THE OTHER SERVICES PROVIDED HEREUNDER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF USE, REVENUE OR PROFITS OR LOSS OF DATA OR DIMIUNION IN VALUE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. End User acknowledges and agrees that the Web-Based Services are dependent upon End User providing timely, accurate and complete enrollment and related information and documentation to EMB. Accordingly, EMB shall have no liability for any untimely, inaccurate or incomplete information provided by End User, its agents or employees or any consequences thereof, including but not limited to lapses in insurance coverage, inaccuracy in enrollment information, and/or failed enrollments. EMB shall have no liability arising out of or relating to this Agreement for any damages arising from the interruption or failure of telecommunications or digital transmission links, internet slowdowns or failures, accuracy of the data on the End User's systems, performance or non-performance of any third party software, tools or products or their impact on the End User's systems, failure to realize savings or other benefits, damage to equipment, and claims against End User by any third party, even if EMB has been advised of the possibility of such damages; or (ii) claims made as subject of a legal proceeding against EMB more than one (1) year after such cause of action first accrued. Notwithstanding any other provision of the Agreement, EMB's liability under this Agreement whether under contract law, tort law or otherwise shall not be greater than one hundred percent (100%) of the amount actually received by EMB during the immediately preceding twelve (12) months pursuant to the terms of this Agreement in respect of the particular services performed by EMB from which such liability arose.

5.3 Exclusive Remedies. For breach of the warranties, if any, contained in Appendix A, End User's exclusive remedy, and EMB's entire liability, shall be the correction of errors or conditions that cause such breach of the warranty.

6. MISCELLANEOUS

6.1 Authority. Each individual signing this Agreement on behalf of a corporation, limited liability company, partnership or other entity represents that he or she has the necessary authority to execute this Agreement on behalf of such an entity and that all necessary entity action has been taken approving the execution of this Agreement.

6.2 Waiver. The failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not affect any subsequent breach or the right to require performance or to claim a subsequent breach.

6.3 Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent that such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including without limitation the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake or natural disasters, or catastrophes; (c) war, invasion, hostilities, terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes, blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergencies; or (h) interruptions in or shortages of electrical power or telecommunications equipment. The Impacted Party shall use commercially reasonable efforts to end the failure or delay to mitigate the effects of the Force Majeure Event and shall resume the

performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of sixty (60) days following the Force Majeure Event, either Party may terminate this Agreement upon ten (10) days prior written notice.

6.3 **Governing Law.** This Agreement shall be governed in all respects by and construed in accordance with the laws of the State of FL, without regard to principles or conflicts of law.

6.4 **Notices.** All notices and other communications required hereunder shall be made in writing and shall be deemed to have been duly given and effective: (i) on the date of delivery, if delivered personally; (ii) on the earlier of the fourth (4th) day after mailing or the date of the return receipt acknowledgment, if mailed, postage prepaid, by certified or registered mail, return receipt requested; (iii) on the following day if sent by nationally recognized overnight courier service such as Federal Express; or (iv) on the date of transmission, if sent by facsimile, e-mail or other similar communications equipment; to the respective parties at the following addresses, or at such other addresses as the parties shall designate by written notice to the other:

If to EMB: Address: Explain My Benefits, LLC
2461 W State Route 426 STE 2021
Oviedo, FL 32765
Attention: David Howes
Telephone: 321-296-8060 ext. 130
Email: David@explainmybenefits.com
Fax: 866-212-2847

If to End User: Address: Suwannee County School Board
1729 Walker Avenue, SW, Suite 200
Live Oak, Florida 32064
Attention: Ted L. Roush
Telephone: 386-647-4600
Email: ted.roush@suwannee.k12.fl.us

6.5 **Validity.** If any part of this Agreement is found to be invalid or unenforceable, then that part of this Agreement shall not affect the validity or enforceability of the remainder of this Agreement in any way unless the invalidity significantly affects the ability of either party to perform as contemplated under this Agreement.

6.6 **Assignment.** This Agreement shall be binding upon and shall inure to the benefit of EMB and End User and their respective successors and permitted assigns. EMB may assign this Agreement to any successor to all or substantially all of its assets, whether by asset purchase, equity purchase, merger, corporate reorganization or similar transaction, provided that the assignee agrees in writing to assume the obligations of EMB hereunder. Except as provided in the immediately preceding sentence, this Agreement may not be assigned by a Party without the other Party's prior written consent.

6.7 **Entire Agreement.** This Agreement and Appendix A comprise the entire agreement between the parties with respect to the subject matter hereof and may not be modified or amended except

by written instrument signed by authorized representatives of the parties. In the event of a conflict between the terms of this Agreement and the terms of Appendix A, the terms of the Agreement shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

EMB

David D. Howes

Signature

David D. Howes

Printed Name

Title: President

Date: 4/6/18

End User

Ted L. Roush

Signature

Ted L. Roush
Printed Name

Title: Superintendent of Schools

Date: MAR 27 2018

Jerry Taylor

Signature

Jerry Taylor
Printed Name

Title: Board Chairman

Date: MAR 27 2018

"Approved as to Form and Sufficiency
BY Glenn D. Monroe for
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

Appendix A

Online Enrollment Service Agreement

Date: 9/6/18

SERVICES TO BE PROVIDED

Design Customized Online Enrollment Site

Based upon information provided by End User, EMB will develop a customized Benefit Communication site and an Online Enrollment Website for End User's employees to make their elections during Open Enrollment, beginning in **March/April 2018** for benefits to become effective on **May 1st 2018**. After such time, the site shall function as a life event change module for employees to change their elections, administration to terminate employees and new hires to enroll in benefits.

Import Existing Employee Information

EMB will develop an import process, based on a mutually agreeable file format, to move data into the Online Enrollment system so that employees may make their elections online. After the conclusion of the Open Enrollment, the system will continue to accept additional new hire information in the same or substantially the same format so that employees hired after the Open Enrollment will be able to use the system to elect their benefits.

Information to be included in initial import (complete breakdown to be reviewed)

- Basic Employee Information (name, SSN, hire date, salary, DOB, gender)
- Employee Elections – for health, dental, life, LTD, supplemental insurance, FSA etc.
- Address Information
- Dependent Information

To the Extent Possible, Create Data Feed Format(s) Suitable for Sending Files To Client's System(s), Payroll System(s) and Insurance/Benefit Provider(s)

EMB will work with End User to design a suitable import file specification for any internal systems such as HRIS or Payroll. The file(s) will be made available at the end of the Open Enrollment, and subsequent files will be made available on a weekly basis in time for payroll to be processed as needed. The file will contain current election information for employees and their dependents that have enrolled since the previous weekly file process.

Provide Access to Auto-Bene™ and eElect™ Web Sites for End User, Client and Employees

EMB will work with End User and Client and train them on the system – specifically the AutoBene™ Administration functions - to monitor employee elections, and make approvals to enrollments, download periodic updates to import into HRIS/Payroll system, and upload new hire employee information.

Below are the included fees under this Agreement for Web Based Services

Fees

Setup/Configuration Fees – offset by offering of worksite VB

Data Feed Fees – offset by offering of worksite VB

Per Employee Per Month Fee – \$2.25 PEPM (Due Quarterly – starts on 1st of the Enrollment month) –

Annual Renewal Maintenance Fee – up to \$3,000 (Pending scope of services of system changes at Re-enrollment 2018 and beyond)

- Full positive enrollment where all employees make active benefit decisions on EMB Enroll. This will be accomplished through a combination of self-service, face to face and call center enrollment with professional EMB Benefit Counselors to be coordinated with the End User
- Fees are based on offering of 2 or more worksite Voluntary Benefits. These VB products will be marketed and researched thru Gallagher Benefit Services and EMB to be selected by End User
- The reduced fees listed above will be offset by insurance carrier contributions and Gallagher Benefit Services in order that EMB services are cost neutral to Suwannee County Schools.


The foregoing Fees shall be nonrefundable; provided, however, that upon termination for material breach by EMB in accordance with this Agreement, the Per Employee Per Month Fees shall be prorated through the last day of the month during which such termination occurs, with EMB retaining (or End User paying concurrently with such termination, as applicable) the Per Employee Per Month Fees through the end of such month and the excess of the Per Employee Per Month Fees actually paid over such prorated amount shall be refunded to End User (or shall not be payable to the extent such amounts were not prepaid prior to such termination).

IN WITNESS WHEREOF, the Parties hereto have executed this Online Enrollment Work Order as of the day and year first above written.

EMB

End User


Signature


Signature

David D Hance
Printed Name

Ted L. Roush
Printed Name

Title: President

Title: Superintendent of Schools

Date: 4/6/18

Date: MAR 27 2018


Signature

Jerry Taylor
Printed Name

Title: Board Chairman

Date: MAR 27 2018

"Approved as to Form and Sufficiency
BY Glenn D. Hance for
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"