

BRIGHTER FINANCIAL CAPITAL MANAGEMENT, LLC

ERISA INVESTMENT ADVISOR SERVICES

On this date _____, by and between Brighter Financial Capital Management, LLC (“BFCM”) and _____ (“Plan Sponsor”, “Responsible Plan Fiduciary” and/or “Client”) for _____ (“Plan”)

ERISA PLAN SERVICES – BFCM provides service to qualified retirement plans including 401(k) plans, 403(b) plans, pension and profit sharing plans, cash balance plans, and deferred compensation plans. BFCM offers fiduciary and non-fiduciary services to Plan Sponsors as described in this agreement and to comply with impartial conduct standards of:

- Charging no more than reasonable compensation for services provided; and
- Making no misleading statements regarding investments, compensation and conflicts of interest.

Limited Scope 3(21) Fiduciary. BFCM may act as a limited scope 3(21) fiduciary that can advise, help and assist Plan Sponsors with their investment decisions. The Plan Sponsor is still ultimately responsible for the decisions made in their plan, though using BFCM can help the Plan Sponsor delegate liability by following a diligent process.

3(38) Investment Manager. ABC may act as an ERISA 3(38) Investment Manager in which it has discretionary management and control of a given retirement plan’s assets. ABC would then become solely responsible and liable for the selection, monitoring and replacement of the plan’s investment options.

(A) 3(21) Fiduciary Duties of BFCM

BFCM hereby accepts appointment as the Investment Advisor to the Plan and agrees to perform the following services to Client, the Plan and the Plan participants:

1. Fiduciary Services are:

- ☐ Provide non-discretionary investment advice to the Client about asset classes and investment alternatives available for the Plan in accordance with the Plan’s investment policies and objectives. Client will make the final decision regarding the initial selection, retention, removal and addition of investment options. BFCM acknowledges that it is a fiduciary as defined in ERISA section 3 (21) (A) (ii).
- ☐ Assist the Client in the development of an investment policy statement (“IPS”). The IPS establishes the investment policies and objectives for the Plan. Client shall have the ultimate responsibility and authority to establish such policies and objectives and to adopt and amend the IPS.
- ☐ Provide non-discretionary investment advice to the Plan Sponsor with respect to the selection of a qualified default investment alternative for participants who are automatically enrolled in the Plan or who have otherwise failed to make investment elections. The Client retains the sole responsibility to provide all notices to the Plan participants required under ERISA Section 404(c) (5) and 404(a)-5.
- ☐ Assist in monitoring investment options by preparing periodic investment reports that document investment performance, consistency of fund management and conformance to the guidelines set forth in the IPS and make recommendations to maintain, remove or replace investment options.

- ☐ Meet with Client on a periodic basis to discuss the reports and the investment recommendations.
- ☐ Other: _____

2. Non-fiduciary Services are:

- ☐ Assist in the education of Plan participants about general investment information and the investment alternatives available to them under the Plan. Client understands BFCM's assistance in education of the Plan participants shall be consistent with and within the scope of the Department of Labor's definition of investment education (Department of Labor Interpretive Bulletin 96-1). As such, BFCM is not providing fiduciary advice as defined by ERISA 3(21)A(ii) to the Plan participants. BFCM will not provide investment advice concerning the prudence of any investment option or combination of investment options for a particular participant or beneficiary under the Plan.
- ☐ Assist in the group enrollment meetings designed to increase retirement plan participation among the employees and investment and financial understanding by the employees.
- ☐ Other: _____

BFCM may provide these services or, alternatively, may arrange for the Plan's other providers to offer these services, as agreed upon between BFCM and Client.

3. BFCM has no responsibility to provide services related to the following types of assets ("Excluded Assets"):

- a. Employer securities;
- b. Real estate (except for real estate funds or publicly traded REITs);
- c. Stock brokerage accounts or mutual fund windows;
- d. Participant loans;
- e. Non-publicly traded partnership interests;
- f. Other non-publicly traded securities or property (other than collective trusts and similar vehicles); or
- g. Other hard-to-value or illiquid securities or property.

Excluded Assets will not be included in calculation of Fees paid to BFCM under this Agreement.

B) 3(38) Duties of ABC

ABC hereby accepts appointment as the Investment Adviser to the Plan and agrees to perform the following services to Client (check all that apply), the Plan and the Plan participants:

1. Fiduciary Services are:

- ☐ ABC has discretionary authority and will make the final decision regarding the initial selection, retention, removal and addition of investment options in accordance with the Plan's investment policies and objectives.
- ☐ Assist the Client with the selection of a broad range of investment options consistent with ERISA Section 404(c) and the regulations thereunder.
- ☐ Assist the Client in the development of an investment policy statement ("IPS"). The IPS establishes the investment policies and objectives for the Plan.

- ☐ Provide discretionary investment advice to the Plan Sponsor with respect to the selection of a qualified default investment options for participants who are automatically enrolled in the Plan or who have otherwise failed to make investment elections. The Client retains the sole responsibility to provide all notices to the Plan participants required under ERISA Section 404(c) (5).

☐ Other: _____

2. Non-fiduciary Services are:

- ☐ Assist in the education of Plan participants about general investment information and the investment options available to them under the Plan. Client understands ABC's assistance in education of the Plan participants shall be consistent with and within the scope of the Department of Labor's definition of investment education (Department of Labor Interpretive Bulletin 96-1). As such, ABC is not providing fiduciary advice as define by ERISA to the Plan participants. ABC will not provide investment advice concerning the prudence of any investment option or combination of investment options for a particular participant or beneficiary under the Plan.

- ☐ Assist in the group enrollment meetings designed to increase retirement plan participation among the employees and investment and financial understanding by the employees.

☐ Other: _____

ABC may provide these services or, alternatively, may arrange for the Plan's other providers to offer these services, as agreed upon between ABC and Client.

3. ABC has no responsibility to provide services related to the following types of assets ("Excluded Assets"):

- a. Employer securities;
- b. Real estate (except for real estate funds or publicly traded REITs);
- c. Stock brokerage accounts or mutual fund windows;
- d. Participant loans;
- e. Non-publicly traded partnership interests;
- f. Other non-publicly traded securities or property (other than collective trusts and similar vehicles); or
- g. Other hard-to-value or illiquid securities or property.

Excluded Assets will **not** be included in calculation of Fees paid to ABC under this Agreement.

(C) Duties of Client

Client acknowledges:

- 1. The Plan is a ☐ participant-directed ☐ trustee directed plan and the Plan Sponsor has the authority to designate investment alternatives under the Plan.
- 2. Has the authority to enter into this Agreement with BFCM to assist in these and related duties.

(D) Representations of BFCM

- 1. BFCM is a Registered Investment Advisor under the laws of the Securities and Exchange Commission.
- 2. In performing the Fiduciary Services, BFCM is acting as a fiduciary of the Plan under the Employee Retirement Income Security Act ("ERISA") for purposes of providing non-discretionary and/or discretionary investment advice.

3. BFCM will perform the Fiduciary Services as described above in accordance with the prudent man set forth in ERISA Section 404(a)(1)(B).
4. BFCM will perform the Non-Fiduciary Services as described above and shall not be liable for any liabilities and claims arising thereunder unless directly caused by BFCM's intentional misconduct or gross negligence. BFCM shall not be relieved of any liability imposed by the Investment Advisors Act of 1940 or any applicable state laws that cannot be waived. Federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith and, therefore, nothing in this agreement shall in any way constitute a waiver or limitation of any rights that the Client may have under federal and state securities laws.
5. BFCM will disclose, to the extent required by ERISA Regulation Section 2550.408b-2(c), to Client any change to the information in this Agreement required to be disclosed by BFCM under ERISA Regulation Section 2550.408b-2(c)(1)(iv) as soon as practicable, but no later than sixty (60) days from the date on which BFCM is informed of the change (unless such disclosure is precluded due to extraordinary circumstances beyond BFCM's control, in which case the information will be disclosed as soon as practicable).
6. In accordance with ERISA Regulation Section 2550.408b-2(c)(1)(iv)(A), BFCM will disclose within thirty (30) days following receipt of a written request of the responsible plan fiduciary or Plan Administrator (unless such disclosure is precluded due to extraordinary circumstances beyond BFCM's control, in which case the information will be disclosed as soon as practicable) all information related to this Agreement and any compensation or fees received in connection with this Agreement that is required for the Plan to comply with the reporting and disclosure requirements of Title I of ERISA and the regulations, forms and schedules issued thereunder.
7. If BFCM makes an unintentional error or omission in disclosing the information required under ERISA Regulation Section 2550.408b-2(c)(1)(iv) or (vi), BFCM will disclose to Client the corrected information as soon as practicable, but no later than thirty (30) days from the date on which BFCM learns of such error or omission.

(E) Representations and Acknowledgements of the Client

1. The Client is the Responsible Plan Fiduciary for the control and/or management of the Plan assets, and for the selection and monitoring of service providers for the Plan, in accordance with the requirements of ERISA. BFCM is entitled to rely upon this statement until notified in writing to the contrary.
2. The Plan Sponsor shall ensure the employer maintains the appropriate ERISA bonding for the Plan, required pursuant to ERISA Section 412 and its underlying regulations at 29 C.F.R § 258 or other applicable state and/or federal laws and to include within the coverage of the bond BFCM and the respective personnel of BFCM as may be required by law.
3. The execution of this Agreement and the performance thereof is within the scope of authority authorized by the governing instrument of the Plan and applicable law. The signatory on behalf of Client represents that (i) the execution of the Agreement is authorized, (ii) the signatory has authority to execute the Agreement on behalf of the Plan, and (iii) it will provide supporting documentation as may be reasonably required by BFCM.
4. Upon request, Client shall deliver to BFCM copies of the Plan documents, including any and all amendments thereto, and shall provide BFCM with copies of any subsequent amendments or restatements of those documents.

5. The Plan and related Trust permit payment of fees out of the Plan assets. Client has determined the fees charged by BFCM are reasonable and, if paid out of Plan assets, is a proper obligation of the Plan.
6. It is the intention of the Client not to bear any of the cost of operating the Plan, but at the Client's own discretion, it may decide to do so. When rendering Fiduciary Services, BFCM is hereby directed to recommend investment alternatives that will pay, directly or indirectly, amounts to or on behalf of the Plan to cover all or most of the expenses of the Plan, unless (1) it is otherwise specifically directed by the Client or (2) it is clearly imprudent to do so.
7. In performing the Non-Fiduciary Services, BFCM is not acting as a fiduciary of the Plan as defined by ERISA.
8. In performing both Fiduciary and Non-Fiduciary Services, BFCM does not act as, nor has BFCM agreed to assume the duties of, a trustee or the Plan Administrator, as defined in ERISA, and BFCM has no discretion to interpret the Plan documents, to determine eligibility or participation under the Plan, or to take any other action with respect to the management, administration or any other aspect of the Plan.
9. BFCM does not provide legal or tax advice.
10. BFCM (i) may perform other services for other Clients, (ii) may charge a different fee for other Clients, and that BFCM (iii) may give advice and take action that is different for each Client even where retirement plans are similar.
11. BFCM may rely upon all information provided to BFCM, whether financial or otherwise, from reputable third parties or by the Client, Client's representatives or third-party service providers to the Client or the Plan without independent verification. Client agrees to promptly notify BFCM in writing of any material change in the financials and other information provided to BFCM and to promptly provide any such additional information as may be reasonably requested by BFCM.
12. BFCM will not be responsible for voting or recommending how to vote proxies of the securities held by the Plan or its Trust. The Client will be responsible for voting proxies for the investments held by the Plan or its Trust.

(F) Fees

The compensation of BFCM for the services under this Agreement is described in Schedule A. The Plan is obligated to pay the fees, however the Plan Sponsor may elect to pay the fees. BFCM does not reasonably expect to receive any additional compensation, directly or indirectly, for its services under this Agreement. If additional compensation is received, BFCM will disclose this compensation, the services rendered, and the payer of compensation. BFCM will offset the compensation against the fees agreed upon under this Agreement. BFCM will not be compensated based on the basis of a share of capital gains or capital appreciation of the assets in the Account.

(G) Duration and Termination

This Agreement shall become effective on the date written above. This agreement may be terminated, at any time, by either party, by written notice to the other party. Clients will be responsible for investment advisory fees up to and including the effective date of termination. Such termination will not, however, affect the liabilities or obligations of the parties arising from transactions initiated prior to the termination, and such liabilities and obligations shall survive any expiration or termination of this Agreement. Upon the effective date of the termination, BFCM will have no further obligation under this Agreement to act or advise the Client with respect to Services under this Agreement.

No assignment of this Agreement by BFCM shall be effective without the prior consent of Client. Client may cancel within five (5) business days of signing this agreement with no obligation and without penalty.

(H) Confidentiality

BFCM agrees that all information concerning financial affairs of Client shall be treated as confidential and will be disclosed to third parties as presented in BFCM's Privacy Policy. Exceptions may be made as required by law.

(I) Market Conditions

Client acknowledges that BFCM's past performance and advice regarding Client's Account cannot guarantee future results. **Client investments can appreciate or depreciate.** BFCM does not guarantee or warranty that services offered will result in profit. Investments are subject to various market, political, currency, economic, and business risks, and may not always be profitable; and further that BFCM does not and cannot guarantee financial or investment results.

(J) Notices

All notices and other communications contemplated by this Agreement shall be deemed duly given if it is transmitted to BFCM at:

1984 Isaac Newton Sq. W
Suite 203
Reston, VA 20190

And to Plan Sponsor at the address appearing below, or at such other address or addresses that shall be specified, in each case, in a written notice similarly given.

(K) Governing Law

The validity of this Agreement and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State in which the Client resides, except to the extent preempted by ERISA.

(L) Brochure and Privacy Notice

Client acknowledges receipt of the Privacy Policy, Form CRS and Form ADV Part 2A & 2B of BFCM. If Form ADV Part 2A & 2B was not delivered to the Client at least 48 hours prior to the Client entering into any written advisory contract with BFCM, then the Client has the right to terminate the contract without penalty within five (5) business days after entering into the contract. For the purposes of this provision, a contract is considered entered into when all parties to the contract have signed the contract, otherwise signified their acceptance, any other provisions of this contract notwithstanding.

Client Initials

Date

Client Initials

Date

Client chooses to have the following delivered via electronic communication via the following Email Address: _____

- ☐ Annual Delivery of Privacy Policy
- ☐ Annual Delivery of Form ADV Part 2

☐ Other: _____

Email Address Certification. You certify that the Email Address you provided above is a functioning Email Address; owned and maintained by you or your agent on your behalf, and that all electronic communications of reports sent to the Email Address shall be accessible by you. You agree to notify us in writing, of any change in the Email Address.

(M) Entire Agreement and Amendment

This Agreement (including the Schedule listed below) contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior written agreements and understandings with respect hereto. This Agreement may only be amended or modified, and the terms hereof may only be waived, by a writing signed by all parties hereto or in the case of a waiver, by the party entitled to the benefit of the terms being waived.

This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors, survivors, administrators and assigns.

If any one or more of the provisions of this Agreement shall, for any reason, be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be enforced as if such illegal or invalid provision had not been contained herein.

This document constitutes an agreement between the parties and under ERISA. The parties have caused this Agreement to be executed by their duly authorized officers. This Agreement shall not be binding on BFCM until accepted in writing, as indicated by its signature below.

SCHEDULE A: Fees

1. Client elects and authorizes to have fees paid as follows:
 - a. Billed direct to Client: ☐
 - b. Deducted from Plan Assets: ☐
 - c. Fees are billed as follows on the Included Assets: (Please select one from each row)
☐ Quarterly ☐ Monthly
☐ Advance ☐ Arrears
2. Client authorizes the Plan recordkeeper (or other custodian of the Plan assets) to remit the fees directly to BFCM from the Plan assets; however, if the Client desires, it may pay the fees directly.
3. The annual fee for services shall be calculated as follows:
☐ Annual fee of _____ % per year.
4. The annual fees are based on the market value of the Included Assets and will not exceed 1%. The annual fee is negotiable and will be charged as a percentage of the Included Assets. Fees are charged, as noted above, based on the assets as calculated by the custodian or record keeper of the Included Assets (without adjustments for anticipated withdrawals by Plan participants or other anticipated or scheduled transfers or distribution of assets). If the services to be provided start any time other than the first day of a billing cycle, the fee will be prorated based on the number of days remaining in the billing cycle. If this Agreement is terminated prior to the end of the billing cycle, BFCM shall be entitled to a prorated fee based on the number of days during the fee period services were provided or Client will be due a prorated refund of fees for days services were not provided in the billing cycle.

Brighter Financial Capital Management, LLC

By: _____ Date: _____

Title: _____

Plan Sponsor* _____

By: _____ Date: _____

Name: _____

Title: _____

*The Plan Sponsor is signing this Agreement both as the employer that sponsors the Plan and as the fiduciary responsible for selecting the Plan investments and engaging its service providers.