

## ADMINISTRATION MANAGEMENT SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is made by and between Unum Life Insurance Company of America (hereinafter "Unum") and City of Clearwater (hereinafter "Customer"). This Agreement establishes the terms on which Unum will provide the administrative services specified herein. Customer submission to Unum, by electronic data feed or by call-in, of employee demographic data necessary for the performance of such services constitutes agreement with the terms and conditions of this Agreement.

WHEREAS, Customer is providing Group Life and Long Term Disability coverage to eligible employees through Unum's Group policy number 97478 and summary of benefits number 97477 (the "Policies") ; and

WHEREAS, Customer desires to secure administrative assistance with respect to certain of its obligations relating to the administration of the Policies; and

WHEREAS, Unum is willing to perform such services in conjunction with the administration of the Plan(s) on behalf of Customer;

NOW THEREFORE, in consideration of mutual promises and obligations contained herein, the parties agree as follows:

1. **Effective Date; Duration and Renewal; Nonrenewal.** This Agreement shall have an initial term from January 1, 2014 to January 1 2015 unless terminated earlier pursuant to its terms. Thereafter, on January 1 of each calendar year, this Agreement shall automatically self-renew for successive terms of one (1) year each unless, at least thirty (30) days in advance of such January 1 renewal date, one party gives the other party written notice of its intent not to renew this Agreement or unless terminated sooner pursuant to its terms.

2. **Scope of Services and Responsibilities of the Parties.**

(a) Unum's Responsibilities. Unum shall perform the particular administrative functions and services relating to the Plan(s), as described in the Service Schedule(s), attached hereto and made a part hereof, all in accordance with the terms and conditions of this Agreement. The services Unum has agreed to provide to Customer include:

Portability and Conversion Administrative Services

(b) Customer's Responsibilities. Customer shall retain full responsibility for the functions described in the Service Schedule(s). In addition, Customer shall perform all other functions it may be obligated to perform by operation of law or contract in connection with the administration of the Plan(s), including any obligations it may have under the Employee Retirement Income Security Act of 1974 ("ERISA") to the extent ERISA applies to the Plan(s). Customer shall remain fully obligated and liable for the obligations described herein notwithstanding any actual or apparent delegation of authority or obligations to, or administrative services Customer has purchased from any third party or service provider.

(c) Delay. Unum shall not be responsible for any failure or delay in the performance of administrative functions or services described herein which arise out of or relate to a failure or delay by Customer or any of its designated intermediary(ies) or service providers.

3. **Fees and Charges.** Customer agrees to pay for Unum's services under this Agreement pursuant to the following:

- (a) Compensation for services performed by Unum pursuant to this Agreement is a component of the premium rate charged by Unum under the Policies (and any amendment(s) thereto) and any renewal thereof.
- (b) Unum shall have the right to change the component(s) of the premium rate allocated to the services it provides pursuant to this Agreement as provided under the terms of the Policies (and any amendment(s) thereto).
- (c) Notwithstanding subparagraph (b) above, if Customer imposes additional duties or obligations on Unum, Unum may impose additional charges for such additional services as outlined in Section 4 ("Additional Services") below. Any such additional duties or obligations, along with any corresponding charges, must be clearly documented and agreed to by both parties.
- (d) Customer, as an entity of government, is subject to the appropriation of funds by its legislative body in the amount sufficient to allow continuation of its performance in accordance with the terms and conditions of this contract for each and every fiscal year following the fiscal year in which this contract shall remain in effect. Upon notice that sufficient funds are not available in the subsequent fiscal years, the City shall therefore be released of all terms and other conditions.

4. **Additional Services.**

- (a) Both parties recognize that, from time to time, Customer may request that Unum perform additional services relating to the Plan(s), which services are not specifically contemplated by the Service Schedule(s) to this Agreement. Prior to providing any such additional services, the parties shall agree in writing on the nature and scope of such services as well as the fees and charges payable to Unum for performance of such additional services. All reasonable and customary out-of-pocket expenses associated with the performance of the additional services are separate and will be billed at cost. Additional maintenance, if any, associated with such additional services will be charged separately.
- (b) Unum shall bill Customer on a monthly basis for service fees or costs attributable to additional services performed during the preceding month pursuant to this Section. Customer shall pay Unum the amount billed in accordance with the Florida Prompt Payment Act. If Unum does not receive such payment consistent with the terms of such Act, this Agreement may be automatically terminated as provided in Section 12 ("Termination") below.

5. **Authority and Agency Relationship.**

- (a) Unum, in performing its obligations under this Agreement, is acting only as agent of Customer. Nothing in this Agreement is intended to nor shall be construed to create an employment relationship, a partnership, or joint venture between Unum and Customer. The parties hereby acknowledge the status of Unum as independent contractor with respect to Customer.
- (b) Neither Unum nor Customer shall have any power or authority to act for or on behalf of the other, except as herein expressly granted; and no other or greater power or authority

shall be implied by the grant or denial of power or authority specifically mentioned herein.

## 6. Confidentiality.

(a) Generally. Unum and Customer each will hold the other party's Confidential Information (as defined below) in confidence and will safeguard it as provided herein. The party receiving Confidential Information will not, directly or indirectly, report, publish, distribute, disclose, or otherwise disseminate the Confidential Information, or any portion thereof, to any non-affiliated third party, and will not use the Confidential Information, or any portion thereof, for the benefit of itself or any non-affiliated third party, or for any purpose, except only as necessary to perform its duties and exercise its rights pursuant to this Agreement, or as expressly authorized in writing by the party who owns such Confidential Information. Unum may use Confidential Information concerning individuals and their dependents for its own data compilations and reports, including without limitation statistical reports, cost containment analyses and other studies provided that any such use shall not identify any individual or dependent.

(b) Definition. "Confidential Information" shall mean: (a) information regarding a party's, or such party's affiliates', financial condition, information systems, business operations, plans and strategies, customers and prospective customers, and marketing and distribution plans, methods and techniques; (b) information that is marked "confidential," "proprietary" or in like words, or that is summarized in writing as being confidential prior to or promptly after disclosure to the other party; and (c) any and all personal, nonpublic information of Customer employees and/or their dependents which Customer may provide Unum or which Unum may obtain as a result of performing services under this Agreement; and (d) without limitation or further identification, (i) proprietary or trade secret information relating to the discloser's technology, products, benchmarks, marketing, business policies, practices, or authorized individuals, (ii) information obtained by the discloser from third-parties to whom the discloser is obligated to maintain confidentiality, or (iii) information regulated by state or federal law concerning disclosure or use.

Information is not considered Confidential Information if it (a) is or becomes generally available to the public other than as a result of disclosure by the recipient; (b) was available to or already known by the recipient, to the best of the recipient's knowledge, on a non-confidential basis prior to its receipt from the party claiming confidentiality; (c) is developed by the recipient independently of any information or data acquired from the party claiming confidentiality; (d) is disclosed pursuant to a court order or the requirement of any government authority; or (e) becomes available to the recipient, to the best of the recipient's knowledge, on a non-confidential basis independently of the party claiming confidentiality.

(c) Privacy of Insurance Information. To the extent either party discloses nonpublic personal information about any individual to the other party, the parties agree that neither party will disclose or use the information other than to carry out the purposes for which the information was originally disclosed. In addition, the parties agree to comply with all federal and/or state laws and regulations applicable to the disclosure of nonpublic personal information.

(d) Confidentiality and Public Records. In addition to all other contract requirements as provided by law, Unum agrees to comply with public records law specifically to:

(1) Keep and maintain public records that ordinarily and necessarily would be required by Customer in order to perform the service being provided by Unum hereunder.

(2) Provide the public with access to public records on the same terms and conditions that Customer would provide the records and at a cost that does not

exceed the cost provided for in Chapter 119, Florida Statutes, as may be amended from time to time, or as otherwise provided by law.

- (3) Ensure that the public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
  - (4) Meet all requirements for retaining public records and transfer to Customer, at no cost, all public records in possession of Unum upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to Customer in a format that is compatible with the information technology systems of Customer
7. **Ownership.** Unum owns the whole or parts of any electronic services provided under this Agreement. Nothing in this Agreement shall transfer to Customer or otherwise affect such ownership and title to the electronic services and any software or manuals associated therewith, and any copy thereof, remains in Unum. Services materials, utilities, benchmarks and diagnostics (not included in this Agreement) and associated media used by Unum personnel or Unum's authorized representatives shall remain the exclusive property of Unum. Customer acknowledges that all Work Product (as defined below) is and shall from the time of creation and thereafter be the sole and exclusive property of Unum, as the case may be. For the purposes of this Section, "Work Product" means all inventions, improvements, works of authorship, and other work product of any kind that Unum and its employees may make, conceive, develop or reduce to practice, in the course of performing services under this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret, or other legal protection.
8. **Entire Agreement.** This Agreement, together with any schedules, exhibits or attachments hereto, constitutes the entire understanding of the parties relating to the duties undertaken by the parties herein and supersedes any and all prior or contemporaneous agreement, understanding, negotiation, warranty or representation between the parties in connection with the subject matter of this Agreement.
9. **Modification of Agreement.** Except for modifications or amendments otherwise permitted by this Agreement, no modification of or amendment to this Agreement shall be valid unless executed in writing and signed by an authorized representative of each party.
10. **Material Change.** In the event that material changes in any applicable federal, state, or local laws or regulations relating to the Plan(s), or the duties performed under this Agreement, would have a material effect upon a party's performance under this Agreement, the party may change its procedure to comply with the applicable federal, state, or local laws or regulations and notify the other party of the change in procedure and any related adjustment of fees or charges.
11. **Indemnification.** Unum agrees to indemnify and hold Customer harmless from any and all liability, loss, damage, fine, penalty or cost (including expenses and reasonable attorneys fees) sustained by Customer which is the result of or arises out of the negligence of Unum or its employees occurring in connection with this Agreement, unless such liability, loss, damage, fine, penalty or cost is the result of or arises out of the wrongful conduct or fault of Customer or an action taken by Unum at the direction of Customer. Customer agrees to indemnify and hold Unum harmless from any and all liability, loss, damage, fine, penalty or cost (including expenses and reasonable attorneys fees) sustained by Unum which is the result of or arises out of conduct or activities of Customer or its employees occurring in connection with this Agreement or the Plan(s), unless such liability, loss, damage, fine, penalty or cost is the result of or arises out of the wrongful conduct or fault of Unum or its employees.

Notwithstanding the foregoing, this section and all other provisions of this Agreement relating to indemnity and insurance are not intended to, and shall not be construed to, waive Customer's sovereign immunity, the provisions and the limitations set forth in Section 768.28, Fla. Stat., as amended from time to time, or a consent to be sued by third parties

**12. Termination.** The parties may not terminate this Agreement except as follows:

- (a) Customer's Right to Terminate. Customer may terminate this Agreement for any reason upon thirty (30) days prior written notice to Unum.
- (b) Unum's Right to Terminate. Unum may terminate this Agreement for any reason upon thirty (30) days prior written notice to Customer.
- (c) Termination for Material Breach. Either party will have the right to terminate this Agreement for breach of any material term or condition of this Agreement and failure to cure such breach within ten (10) days after written notice.
- (d) Automatic Termination.
  - (1) Termination, cancellation or expiration of the Policies will result in the automatic and concurrent termination of this Agreement.
  - (2) If any portion of the service fees due under this Agreement are not paid within the time period indicated in Section 3 ("Fees and Charges") or Section 4 ("Additional Services") this Agreement may be automatically terminated without notice from Unum at the end of the applicable period for payment of such service fees.
- (e) Obligations Upon Termination.
  - (1) In the event of termination, Unum shall immediately cease to provide the services it is otherwise obligated to provide under this Agreement.
  - (2) Except to the extent Customer is required by law to retain such documentation, Customer will immediately return or destroy all information and documentation it has obtained from Unum in connection with this Agreement, including but not limited to Confidential Information, as directed by Unum and, if requested by Unum, will certify in writing as to compliance with the terms of this Section. Customer will cause any of its agents to also comply with the provisions of this Section.
  - (3) If Customer requests that any records, data or information be copied or transferred upon termination, Customer shall be responsible for all costs associated with copying or transferring such records, data or information. Customer shall also be responsible for the costs associated with the compilation of data that cannot be provided in Unum's then standard reporting format.
- (f) Provisions Surviving Termination. Termination of this Agreement shall not discharge any obligations owed by Unum or Customer under Section 6 ("Confidentiality"), Section 7 ("Ownership") and Section 11 ("Indemnification"), nor shall it discharge Customer's obligation to pay Unum any amounts due on termination.

**13. Laws Governing Contract.** This Agreement is governed by, and construed in accordance with, the laws of the State of Florida.

14. **Notice.** Any notices required or provided for by the terms of this Agreement shall be in writing and shall be sent by regular United States mail or overnight courier to the addresses below:

If to Customer:

**City of Clearwater**  
100 South Myrtle Avenue  
Clearwater FL 33756  
Attn: Allen DelPrete

If to Unum:

Unum Life Insurance Company of America  
2211 Congress Street  
Portland, Maine 04122  
Attention: Rob Hecker, Vice President, National Client Group Services

Each party shall have the right, at any time, to change its respective address for notice purposes. If a party elects to change its address, it must provide at least fifteen (15) days written notice of its intent to change addresses, and it must simultaneously provide the new address to which subsequent notices should be sent.

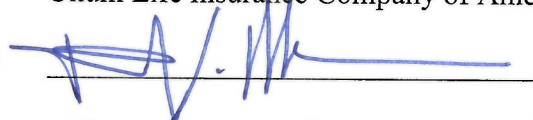
15. **Waiver.** Forbearance or waiver of a breach of any provision of this Agreement shall not be construed as nor constitute a waiver of any subsequent breach of such provision, nor shall it be construed as or constitute a waiver of breach of any other provision of this Agreement.
16. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof and, to that extent, the provisions of this Agreement shall be severable.
17. **Force Majeure.** Except for the obligation to make payments, nonperformance of either party shall be excused to the extent the performance is rendered impossible by strike, fire, flood, terrorism or acts of terror, governmental acts or orders or restrictions, or any other reason where failure to perform is beyond the reasonable control of and is not caused by the negligence of the non-performing party.
18. **Third Parties.** This Agreement is entered into solely between, and may be enforced only by, Customer and Unum. This Agreement shall not nor be deemed to create any rights in third parties, including but not limited to insureds or participants in the Plan(s), or to create any obligations of Unum or Employer to any such third parties.
19. **Headings and Captions.** The headings and captions appearing herein are for convenience only and are not intended to and shall not affect the substantive provisions of this Agreement.
20. **Counterparts.** This Agreement may be executed in multiple identical counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute the same and whole instrument.

IN WITNESS WHEREOF, the City of Clearwater and Unum have executed this Agreement with an effective date of January 1, 2014, by the undersigned:

Signed:

Unum Life Insurance Company of America

By:

  
Rob Hecker VP - NCG Services


Countersigned:

CITY OF CLEARWATER, FLORIDA



George N. Cretekos  
Mayor

By:


  
William B. Horne II  
City Manager

Approved as to form:



Leslie K. Dougall-Sides  
Assistant City Attorney

Attest:



Rosemarie Call  
City Clerk



**Service Schedule**  
**Portability and Conversion Administrative Services**

Unum's Responsibilities

In accordance with all the terms and provisions of the Agreement, the parties agree that Unum shall perform the following administrative services and functions on behalf of Customer:

1. **Fulfillment of Portability and Conversion Application.** Deliver personalized Portability and/or Conversion application packages to only those employees determined by Customer as having terminated employment from Customer and who may be eligible for Portability and/or Conversion in accordance with the terms of the Policies. These applications will be mailed to the employee's home address which will be provided to Unum by Customer using a mutually agreed upon file transfer protocol. This service coordination and management shall further consist of the following components:
  - (a) Set up file transfer processes and procedures and test for systems compatibility and alignment.
  - (b) Review personalized employee communication materials (e.g., Portability/Conversion package).
  - (c) Provide a toll free number with trained resources to support employees' Portability and/or Conversion inquiries.

Unum has no obligations with respect to and no application packages will be delivered to employees for whom Customer has not provided complete information or with respect to employees who do not meet their obligation to initiate the mailing of any materials. Further, Unum has no obligations with respect to any employees whose employment termination occurred 90 days or more from the date information is received from Customer.

2. **Customer Service.** Unum shall provide a designated Service Team, which will be available from 8:00 a.m. until 5:00 p.m. Eastern via a toll-free telephone line to respond to employee inquiries. The Service Team shall also maintain a voice mailbox for calls received when all representatives are busy and for calls received before and/or after the aforementioned hours.

Customer Responsibilities

In accordance with all the terms and provisions of the Agreement, the parties agree that Customer shall perform all the usual and ordinary functions, and meet all of its obligations in connection with the administration of the Plan(s), including but not limited to those functions and obligations required by state and/or federal law (including, as applicable, ERISA). Without limiting the generality of the foregoing, Customer remains fully obligated to provide any required Portability and Conversion notification to any individual who may be eligible but who is not communicated to Unum and Unum will have no liability or obligation (except as may be provided under the Policies ) with respect to such individuals.



### General Responsibilities

In accordance with the provisions of this Schedule, the parties shall have the following responsibilities with respect to the administration of the Plan(s).

<b>Administration</b>	<b>Unum</b>	<b>Customer</b>
<b>Customer Service</b>		
<ul style="list-style-type: none"><li>• Provide toll-free line for Customer employees' inquiries on Portability and/or Conversion application</li></ul>	■	
<ul style="list-style-type: none"><li>• Mail personalized application packages to employees' home addresses as determined by Customer.</li></ul>	■	
<ul style="list-style-type: none"><li>• Participate in meetings (as requested) with Customer human resource representatives</li></ul>	■	
<b>Portability/Conversion Application Processing</b>		
<ul style="list-style-type: none"><li>• Process Port/Convert applications</li></ul>	■	
<ul style="list-style-type: none"><li>• Bill applicants directly at their home addresses in accordance with Unum's standard Portability and Conversion billing processes</li></ul>	■	
<ul style="list-style-type: none"><li>• Provide eligible individuals with adequate notification of their rights and obligations with respect to Portability and/or Conversion in a manner deemed appropriate by Customer</li></ul>		■
<ul style="list-style-type: none"><li>• Provide bi-weekly file with all information necessary for Unum to provide Portability and/or Conversion administrative services</li></ul>		■