

FMLASource®

AGREEMENT

This Agreement sets forth the agreed upon terms and conditions surrounding FMLASource, Inc.'s ("FMLASource") delivery of Family and Medical Leave Act ("FMLA") administration and information services ("Services") to all employees of Killeen ISD (hereinafter referred to as "Client") to begin April 1, 2025 ("Commencement Date"). The terms and conditions are as follows:

1. **Term:** Initial term of one (1) year for the delivery of Services to Client. After the expiration of the initial term (March 31, 2026), this Agreement shall automatically renew for one year (1) year periods unless either party shall deliver to the other party written notice of non-renewal not less than sixty (60) days prior to the expiration of the initial term or any renewal term.

In the event that FMLASource fails to perform any material service required to be performed by FMLASource hereunder, and such failure shall not be cured by FMLASource within thirty (30) days following the delivery of written notice by Client to FMLASource setting forth, in detail, the circumstances of such failure of performance, Client shall have the right to terminate this Agreement upon the expiration of such thirty (30) day period.

2. **Fees:**

(A) A price of \$1.27 per employee per month ("pepm") for FMLA services. FMLASource acknowledges and understands that payment of the pepm fee for FMLA services will be made by United of Omaha Life Insurance Company ("United") for the benefit of Client. However, if Client terminates its relationship with United or United ceases paying for the services, Client is required to pay all such fees set forth herein directly to FMLASource. Client represents that as of the Commencement Date it has approximately 6,000 employees. Client agrees to provide FMLASource with quarterly updated employee counts. Fees to be paid to FMLASource hereunder shall be adjusted to reflect the updated employee counts. Payment for services is due on a quarterly basis beginning on the Commencement Date and thereafter on or before each three (3) month anniversary of the Commencement Date. In the event that any payment due FMLASource hereunder is not received by FMLASource when due, a delinquency charge shall be assessed on each installment assessed in default for not less than five days in an amount not to exceed five percent (5%) for each month the installment remains unpaid or the maximum amount allowed by law, in addition to attorney's fees and other costs and expenses incurred by FMLASource to collect any amounts due hereunder. FMLASource reserves the right to amend its fees in the event of any program or administrative changes due to state or federal law.

(B) Travel expenses (associated with, for example, Client requested training or Account Management), as agreed upon in advance by Client and FMLASource, are billed separately and are due days 30 days after receipt of invoice by Client.

3. **Exclusivity:** During the term of this Agreement, Client warrants that FMLASource shall be the exclusive provider of the services under this Agreement to all employees of Client, its affiliates and subsidiaries.

4. **Services:** Services are described on Schedule I attached hereto. Client understands that it is entitled to standard FMLA Services pursuant to the terms and conditions of this Agreement. In the event Client desires to customize services, Client and FMLASource shall mutually agree upon the scope and cost of such customizations. Customizations may include, without limitation, creation of file feeds, software programming, web-site development or process adjustments.

5. **Force Majeure:** No failure, delay or default in performance of any obligation of FMLASource shall constitute an event of default or breach of the Agreement to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of FMLASource, including, but not limited to: action or inaction of governmental, civil or military authority; fire, strike, lockout or other labor dispute; flood, war; terrorism; riot; theft; earthquake and other natural disaster.
6. **Taxes:** All fees quoted and payable under this Agreement exclude taxes. Client will pay or reimburse FMLASource for all applicable sales, services and other taxes (excluding taxes on FMLASource's net income) that may be levied upon the performance of services under this Agreement.
7. **Notices:** Any notice required hereunder will not be effective, unless in writing, signed by an authorized officer of the party delivering such notice, and sent by certified or registered mail or recognized overnight carrier to the signatories below.
8. **Historical Data:** FMLASource will accept historical leave information from Client and apply it to leave entitlement. In addition, FMLASource will take over administration of any existing, ongoing leaves. Client will provide historical leave information in the FMLASource Template, attached as Schedule II. If Client is unable to provide the necessary information in the FMLASource Template, FMLASource will administer such leaves without regard to historical leave information, and, consequently, employees will receive a full refresh of FMLA entitlement.
9. **Amendment:** Any changes, additions, or deletions to this Agreement will not be considered binding or agreed to unless the modifications have been initialed or otherwise approved in writing by the other party.
10. **Facsimile or Scan/Counterparts:** Facsimile or electronically scanned transmission of an executed copy of this Agreement or any amendments hereto shall be accepted as evidence of a party's execution of the Agreement or amendment. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.
11. **Severability:** If and to the extent any provision of this Agreement is held illegal, invalid or unenforceable in whole or in part under applicable law, such provision or such portion thereof will be ineffective as to the jurisdiction in which it is illegal, invalid or unenforceable to the extent of its illegality, invalidity or unenforceability and will be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity or unenforceability of such provision in that jurisdiction will not affect the legality, validity or enforceability of such provision or any other provisions of this Agreement in any other jurisdiction.
12. **Governing Law:** This Agreement shall be interpreted under and governed by the laws of the State of Texas, without regard to its conflict of laws rules.
13. **Clause Headings:** The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the clauses to which they appertain.
14. **Employment Decisions:** Client understands that FMLASource does not provide any legal advice. Client understands that decisions made by FMLASource regarding FMLA eligibility shall not be deemed by Client to be a recommendation, suggestion or determination to take any employment action against an employee. .
15. **Relationship of the Parties:** FMLASource and Client agree that FMLASource is an independent contractor and neither party nor their respective employees or agents shall be deemed to be an employee of the other, nor shall this Agreement be deemed to create a partnership, joint venture, agency relationship or other association between the parties hereto.
16. **Client's Responsibilities with regard to FMLA Services:** In addition to other responsibilities set forth in this Agreement, the Client's duties with regard to the FMLA Services will also include the following:

- (A) Provide demographic, employment and work schedule information on a weekly eligibility feed, including but not limited to employees' worksite state, and employees' hours worked. The Client acknowledges and agrees that FMLASource shall not be liable for any claims or losses resulting from or related to the Client's failure to provide such files or from the Client's provision of incomplete or inaccurate eligibility files.
- (B) Provide accurate and complete Historical Data.
- (C) Upon request, provide complete documentation for any existing leaves that FMLASource will manage.
- (D) Provide copies of the Client's Leave of Absence policies, including amendments or revisions, for FMLASource to fulfill its obligations under this Agreement.
- (E) The Client acknowledges and agrees that in order for FMLASource to manage leaves when the Client is unable to provide required information, information provided by the employee during intake will be deemed accurate unless or until informed differently by the Client.
- (F) Provide FMLASource with five (5) business days prior written notice in the event the Client intends to take an adverse employment action against an employee as a result of or in reliance upon a decision or communication made by FMLASource in connection with the performance of Services under this Agreement.

17. No Third Party Beneficiaries: Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person or entity other than Client and FMLASource any rights, remedies, obligations, or liabilities whatsoever, whether in contract, statute, tort (such as negligence) or otherwise, and no person or entity shall be deemed a third-party beneficiary under or by reason of this Agreement.

18. Insurance: FMLASource shall maintain Professional Liability / Errors & Omissions insurance with \$1,000,000 limit for claims arising out of the provision of professional services by FMLASource under this Agreement. Said coverage shall include Client, any Sub-Clients, and each of their affiliates, parents, subsidiaries, members, officers, directors, agents, and representatives as additional insureds for all claims arising out of FMLASource's "Wrongful Acts," as defined therein, stemming from FMLASource's rendering, or failure to render, professional services.

19. Indemnification: FMLASource agrees to indemnify, defend and hold the Client harmless from any and all liability, loss, damage, fine, penalty or cost (including expenses and reasonable attorney's fees) (collectively "Losses") sustained by the Client on account of a third party claim, to the extent such Losses were caused solely by FMLASource's negligence, gross negligence, willful misconduct, or breach, violation or failure to comply with the express terms and conditions of this Agreement, unless such Losses were the result of or arose out of the Client's breach, violation and/or failure to comply with the express terms and conditions of this Agreement. To the extent permitted by Texas law, the Client agrees to indemnify, defend and hold FMLASource harmless from any and all Losses sustained by FMLASource on account of a third party claim, to the extent such Losses were caused solely by the Client's negligence, gross negligence, willful misconduct or breach violation or failure to comply with the express terms and conditions of this Agreement, incomplete or inaccurate eligibility files(s) or employment-related decisions, unless such Losses were the result of or arose out of FMLASource's breach, violation or failure to comply with the express terms and conditions of this Agreement.

If any portion of any Losses arose from the acts or omissions of the Indemnified Party, the obligation of the Indemnifying Party shall be reduced to the proportionate share of the Losses which are attributable solely to its acts or omissions.

Further, the Client agrees to indemnify and hold FMLASource harmless from any and all Losses sustained by FMLASource on account of a third party claim to the extent i) such Losses are the result of or arises out of FMLASource's performance of Services hereunder that are in accordance with and/or based on the Client's directions, to the extent that such directions differ from the requirements of any and all applicable law, including but not limited to FMLA, state or local leave laws, regulations and authoritative guidance ("Laws"); or (ii) such Losses are related to any historical data provided to FMLASource by the Client.

Notwithstanding anything to the contrary herein, FMLASource shall not be liable for non-performance, errors in Services or delays in the performance of this Agreement caused by (1) the Client's failure to perform its duties hereunder in a timely and accurate manner, (2) by an employee's failure to provide FMLASource with timely and accurate information or (3) caused by an event or circumstance beyond the reasonable control of FMLASource. FMLASource and the Client shall promptly advise each other of commenced legal actions or administrative proceedings involving any matter relating to or arising out of the Services provided under this Agreement which come to the respective attentions of the parties.

20. Limitation of Liability: NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, FMLASOURCE SHALL NOT BE LIABLE, WHETHER UNDER CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY AMOUNTS IN EXCESS OF THE FEES AND CHARGES PAID BY CLIENT HEREUNDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO ANY LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES EVEN IF A PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

21. Entire Agreement: This Agreement, together with the Schedules attached hereto, shall constitute the entire Agreement by and between the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein and, this Agreement shall supersede all prior and contemporaneous communications, representations or agreements, either verbal or written, by and between the parties hereto, all of which are merged herein.

Please sign below to acknowledge each Party's acceptance of these terms.

FMLASource, Inc

Kileen ISD

Signature

Date

Signature

Date

Printed Name

Printed Name

Title

Title

**SCHEDULE I
COVERED SERVICES**

Service Access.

Access to FMLA specialists through a dedicated toll-free number, from 7:30 A.M to 9:30 P.M. (Monday through Friday) CST; and
24/7 access to FMLASource internet site.

FMLA Administration.

Receive leave requests via telephonic, e-mail, regular mail and internet submissions;
Administer FMLA eligibility based on Client's guidelines. Any administrative decisions outside of the guidelines shall be referred to Client for final determination;
Issue conditional approvals, final approvals and denial notifications, all based on Client's procedural guidelines and within State or Federal regulations;
Maintain and update the FMLA eligibility database based on information provided by Client;
Administration of the previous 12 months of leave history if data is provided to FMLASource;
When a claim is filed, FMLASource will notify the employee of Client's FMLA policies;
Verification of eligibility requirements;
Facilitation of the certification process;
Approval and denial correspondence;
Secure tracking and recording of all employee requests and individual leaves;
Complete documentation for each FMLA occurrence;
Coordination of complex cases that combine multiple benefit areas, including STD and LTD;
Program utilization reports detailing employees on leave, frequency of leave, and their qualifying events.

FMLA Information Services.

Respond to Client's questions and provide information to Client's Human Resource staff, Managers, Supervisors and employees; and
Guidance on individual FMLA cases, including without limitation, information on the legal implications of FMLA decisions.

FMLA Standard Customer Reporting.

Employee FMLA absence history for the applicable rolling 12 month period;
Absence cause analysis; and
Absence by duration.