

**Association Health Plan
Employer Participation Agreement
(Exhibit D)**

This Agreement entered into between the Wisconsin State Chamber Wholesale & Retail Trade Association and the Employer Member is effective _____, 20____.

Section 1: Defined Terms

“AHP” means the health plan established by the Association for the benefit of participating Employer Members and their dependents, as determined by the terms of the AHP, which is intended to qualify under section 3(5) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) as a single employer plan.

“Association” means the Association, which has Employer Members in the same trade, industry or line of business or a specified geographic location that is the sponsor of the AHP.

“By-Laws” means the By-Laws of the Association.

“Coverage Classification” means the type of coverage elected by AHP Participants and tier (e.g., single, single plus one, or family).

“Dependents” refers to spouses, children and other dependents as defined under the Internal Revenue Code of Eligible Employees, who have the right to enroll in coverage under the terms of the AHP.

“Eligible Employees” refers to employees of Employer Members, who are actively at work, work a minimum of thirty (30) hours per week, and have the right to enroll in coverage under the terms of the AHP.

“Employer Member” means a member of the Association in good standing, and an employer of one or more non-spouse employees that is found to be eligible to be enrolled in the AHP. An Employer Member is no longer eligible to participate in the AHP if it: (1) does not comply with the terms and conditions of this Employer Participation Agreement; (2) fails to make required Payments when due (or within the Grace Period) as stated herein; or (3) is no longer eligible due to operation of law.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and regulations promulgated thereunder.

“Group Policy” means the group insurance policy issued by the Issuer to the AHP.

“IRC” means the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

“Issuer” means the insurance company that has issued the Group Policy and that will provide and administer group health plan benefits on a fully-insured basis with respect to Participants and Beneficiaries of Employer Members.

“Management Fee” means the amount payable by the Employer Member to the Association for services provided in connection with the establishment and maintenance of the AHP.

“Participant Contribution” refers to amounts withheld from employee paychecks to pay the cost of the Required Contribution.

“Participants and Beneficiaries” are Eligible Employees and their Dependents who are enrolled in the AHP.

“Participation Agreement” means this document which sets forth certain rights and responsibilities of Employer Members.

“Payment Amount or Payment” means amounts required to be paid by the Employer Member under this Participation Agreement, and includes the Required Contribution, Service Fee and Management Fee.

“Qualified Beneficiary” means a Participant or Beneficiary who qualifies for continuation coverage under state or federal law.

“Required Contribution” is the payment required of the Employer Member under this Participation Agreement to secure coverage for Participants and Beneficiaries under the terms and conditions of the AHP.

“Service Fee Agreement” An agreement between a Service Provider and the AHP or the Service Provider and the Employer Member, where Service Provider agrees to provide administrative services to the ERISA group health plan, for a specific Service Fee Rate.

“Service Fee” The Service Fee is a payment to a Service Provider to provide administrative services to the ERISA group health plan.

“Service Fee Rate” The basis for the monthly calculation of the Service Fee, expressed either as a percentage of the total Required Contribution (“Percent of Premium”), or a dollar amount per enrolled employee per month (“Per Employee Per Month”).

“Service Fee Schedule” A table that indicates the Service Fee Rate to be paid for an Employer Member based on the number of enrolled employees of that Employer Member at the time of initial enrollment in the AHP, or other such time as determined by United.

“Service Provider” means any consultant, broker, or person acting on behalf of the AHP and/or the Employer Member who provides administrative services to the ERISA group health plan under a Service Agreement.

“SPD” is short for Summary Plan Description which is the primary document for describing the benefits provided under the AHP to Participants and Beneficiaries.

“Trust” means the Trust established pursuant to the Trust Agreement for the [insert name of Trust].

“Trust Fund” means all assets held by the Trust in accordance with the terms of the Trust, including but not limited to the Service and Access Fee but excluding the Required Contribution.

“Working Owner” means a sole proprietor or self-employed individual who works at least 20 hours per week (80 hours per month) and can demonstrate earnings in an amount that at least equals the Working Owner’s (and any dependents) cost of coverage.

“We,” “Us,” and “Our” means the Association and the AHP.

“You” or “Your” means the Employer Member that has accepted this AHP Participation Agreement by executing same.

Section 2: Plan Adoption and Activation

By signing this Participation Agreement, Employer Member hereby adopts the terms of the AHP and agrees to be bound by the By-Laws and other rules of the Association and AHP, as amended from time to time. Employer Member has the right to request a copy of these agreements from Association at any time. Employer Member will be entitled to offer the AHP Group Policy to its Eligible Employees and their Dependents. Employer Member will enjoy all the rights and privileges associated therewith, and will be charged with all of the responsibilities that such participation entails as set forth in this Participation Agreement and the AHP, including but not limited to any requirements regarding participation, and billing and payment of the Payment Amount.

Employer Member acknowledges that AHP will designate a Service Provider; however, Employer Member may substitute its own Service Provider, subject to the approval of AHP. AHP will establish a set Service Fee Rate or Service Fee Schedule to be paid by the Employer Member and to be received by Service Provider.

Section 3: Required Contributions; Management Fee (Payment Amount)

You are required to pay the monthly Required Contribution, in the time and manner set forth below, on behalf of Your Participants and Beneficiaries as part of your Payment Amount, which will be calculated based on the number of Participants and Beneficiaries that are shown in the Issuer’s enrollment records at the time of calculation.

The Issuer may make retroactive adjustments for any additions or terminations of Participants or Beneficiaries or changes in coverage that are not reflected in Our records at the time the Issuer calculates the Required Contribution. Adjustments will not be made for changes occurring more than sixty (60) days prior to the date We received notification of the change from You.

You must notify Us in writing within thirty-one (31) days of the effective date of any enrollment, termination or other changes. You must also notify Us in writing each month of any change in the Coverage Classification for any Participant.

We reserve the right to change the schedule of Required Contribution amounts at any time if such amount was determined based on a material misrepresentation that resulted in the rates being different than they would have been without such material

misrepresentation. If this happens, We may change the Required Contributions retroactive to the effective date of this Participation Agreement. We reserve the right to change the schedule of Required Contributions, after a thirty-one (31) day prior written notice on the first anniversary of the Effective Date of this Participation Agreement specified in the application or on any monthly due date thereafter, or on any date the provisions of this Participation Agreement are amended.

Management Fee. Each Payment invoice that You receive from the Issuer will include any applicable Management Fee. It is important that you pay the Management Fee solely out of your company's general assets, i.e., the funds that belong to your business and not funds attributable to Participant Contributions. No Participant Contributions can be used to fund the Management Fee. Your participation in the AHP means that You agree to this requirement. The Management Fee collected from you and other Employer Members will be distributed by the Issuer directly to the Association for services provided by the Association in connection with the establishment and maintenance of the AHP. Payment of the Management Fee will be due at the same time as the Required Contribution and the Service Fee.

Payment of the Required Contribution and Management Fee. The Required Contribution, Service Fee and Management Fee together are referred to as the Payment Amount or Payment under this Participation Agreement. Your Payment Amount must be paid in advance by You on a monthly basis. The first Payment is due and payable on or before the effective date of coverage. Subsequent Payments are due and payable no later than the first day of each payment period as specified in the Issuer's invoice while this Participation Agreement is in force. Participant Contributions may be used to fund the Required Contribution.

A charge for late payments will be assessed for any Payment not received within 10 calendar days following the due date. A service charge will be assessed for any insufficient funds check or other form of payment that is rejected by a financial institution. All Payments must be accompanied by documentation that states the names of the Participant(s) for whom Payment is being made. In the event of a delinquency, You may be charged attorneys' fees and any other costs related to the collection of the Payment Amount.

Grace Period. A grace period of 31 days will be granted for any Payment not received by the due date. During the grace period, Your Participants' coverage under the AHP will continue in force but will not extend beyond the termination of this Participation Agreement. You are liable for the Payment Amount during the grace period. If We receive written notice from You to terminate the coverage during the grace period, We will adjust the Payment Amount so that it applies only to the number of days coverage was in force during the grace period. Coverage terminates as described in the Termination of Coverage section of this Participation Agreement if the grace period expires and the Payment Amount remains unpaid.

Section 4: Eligibility and Enrollment

Employer Participation Certification Form. You are required to complete and separately execute the attached Employer Participation Certification Form before You are eligible to obtain coverage for your Eligible Employees through the AHP. In addition, You will be required to complete a group application provided by the Issuer before your Eligible Employees will be eligible for coverage. Finally, You agree that, during the term of this Participation Agreement, you will remain a member in good standing with the Association.

Application Form(s). The Association may, in its discretion, require that Your Eligible Employees complete an application form prior to enrollment in the AHP. You will be informed if this requirement applies to Your employees. When it does apply, Your Eligible Employees will not be allowed to enroll for coverage in the AHP without completing the application.

Minimum Participation and Contribution Rules. Minimum participation and contribution rules that apply to the AHP can be found in Section 9. Those rules are in addition to the eligibility provisions in the AHP's SPD in the *When Coverage Begins* section of Your *Certificate of Coverage*. You agree to comply with any requirements imposed by Us regarding participation and contribution rules.

Initial Enrollment Period. Eligible Employees may enroll for coverage under the AHP during an initial enrollment period of 31 days immediately preceding the Effective Date of this Participation Agreement.

Open Enrollment Period. An Open Enrollment Period of at least 31 days but no more than 45 days must be provided annually during which Eligible Employees may enroll for coverage under the AHP.

Special Enrollment. The AHP also provides for special enrollment opportunities upon the occurrence of certain events. Refer to Your SPD to learn more about these special enrollment opportunities.

Section 5: Your Obligations to Disclose Information About Benefits and Services

ERISA requires that a group health plan's covered benefits and limitations, as well as the rights and responsibilities of Participants and Beneficiaries, be explained in the SPD. By signing this Participation Agreement, You agree to distribute the SPD to Your Participants within 90 days of when they become covered under the Plan; and within 30 days of a written request from a Participant or Beneficiary or their authorized representative as required by U.S. Department of Labor regulations. Because AHP benefits are fully insured, the SPD will "wrap-around" or be attached to a Certificate of Coverage and Schedule of Benefits, as well as any riders and amendments, issued by the Issuer.

When SPDs are changed to modify the benefits provided under the AHP, changes must be disclosed to AHP participants. When this happens, the Issuer may either issue a new SPD to You or a Summary of Material Modifications ("SMM") which is a description of the change that must be furnished to AHP participants. You agree to distribute the new SPD or SMM to Your Participants on receipt from the Issuer. You will also be required to furnish an updated SPD (which will be provided to you by the Issuer) at least once every five years if there have been any material changes during that period of time. You must distribute Your updated SPD or SMM in the same manner as the SPD explained above and consistent with U.S. DOL regulations. You agree to indemnify Us, the AHP, the Issuer and their employees, agents, directors, officers and assigns (collectively, the "Indemnitees") and to hold each of them harmless from any and all liabilities, claims, penalties, tax assessments or other obligations which may arise, directly or indirectly, from Your failure to comply with Your obligations as set forth in this Section 5.

Section 6: AHP

Amendment or Termination of the Association and AHP. You acknowledge that only the Association and its delegates, in its and/or their discretion, is/are empowered to amend the AHP. However, the AHP may be amended retroactively only to the extent permitted by law. All amendments will be in writing signed by the Board of Directors (or other persons with governing authority) of the association. You further acknowledge that the Association has the right to terminate the AHP at any time. This Participation Agreement will automatically terminate if the AHP is terminated.

Operation of Association and AHP. By signing this Participation Agreement, You agree to be bound by the By-Laws and other rules of the Association. You also agree to comply with all reasonable requirements of the Association for the efficient and lawful operation and administration of the AHP. Without limitation, You agree, upon the reasonable request of the Association, the Issuer or its or their designee to provide, on a timely basis, all notices, communications and other materials respecting the AHP to Participants, and to provide to the Association or Issuer, as applicable, on a timely basis, all requested information concerning the Plan, including enrollment and eligibility information.

Section 7: Termination of Coverage

Conditions for Termination of Coverage Under This Participation Agreement. This AHP Participation Agreement and all benefits covered by the AHP under this Participation Agreement shall automatically terminate with respect to Participants and Beneficiaries on the earliest of the dates specified below:

- i. On the last day of the grace period if Your Payment Amount remains unpaid. You remain liable for the Payment for the period of time the Participation Agreement remained in force during the grace period.
- ii. On the date We specify, after 31 days written notice to You, that this Participation Agreement shall be terminated with respect to Your coverage due to Your violation of its participation and contribution rules.
- iii. On the date We specify, after 31 days written notice to You, that this Participation Agreement shall be terminated with respect to Your coverage due to Your failure to comply with the By-Laws or other documents under which the AHP is operated.
- iv. On the date We specify, in written notice to You, that this Participation Agreement shall be terminated because You provided Us with false information affecting this Participation Agreement or the provision of coverage under this Participation Agreement. In this case, We have the right to rescind this Participation Agreement back to the effective date. Any unearned premium will be refunded.
- v. On the date specified by You, after at least thirty-one (31) days prior written notice to Us, that Your coverage under the Participation Agreement shall be terminated.
- vi. On the date We specify, in written notice to You, as a result of You no longer being a member in good standing of the Association.

Payment and Reimbursement Upon Termination. Upon any termination of coverage under the Plan, You are and will remain liable to Us and the Issuer for the payment of any and all Payment Amounts that are unpaid at the time of termination, including a pro rata portion of the Payment Amount for any period this Participation Agreement was in force during the grace period preceding the termination.

Section 8: Employer Member Representations and Acknowledgements

Member in Good Standing. Employer Member is a member in good standing with the Association.

Review of this Participation Agreement. Employer Member has read this Participation Agreement and agrees to be bound by its terms.

Review of Plan Document. Employer Member has received and read a copy of the AHP's SPD, agrees to be bound by its terms, and understands that compliance with its terms is a prerequisite to the provision of coverage and services to the Participants.

Section 9: General Provisions

Entire Agreement/Amendments and Alterations. Except as expressly provided herein, this document contains the entire agreement between the parties and supersedes any prior discussions, negotiations, representations or agreements among them respecting the subject matter. Except as may be otherwise provided in this Participation Agreement, amendments to this Participation Agreement are effective on the date We specify. No change will be made to this Participation Agreement unless made by a written Amendment that is signed by both parties.

Records; Audits. You must furnish Us with all information which We may reasonably require with regard to any matters pertaining to this Participation Agreement. We may at any reasonable time inspect: (1) All documents furnished to You by any individual in connection with coverage under the AHP; (2) Your payroll (for purposes of confirming eligibility to participate in the AHP); (3) If you are a Working Owner, income tax information showing amounts earned through self-employment in the current or prior year and/or records showing the number of hours You worked during the current or prior year; and (4) Any other records pertinent to the AHP coverage provided pursuant to this Participation Agreement.

The parties agree that all personal information including information and records with respect to benefits under the AHP will be treated as confidential by both parties. Notwithstanding the foregoing, we have the right to release any and all records concerning health care services which are necessary to implement and administer the terms of the AHP, including records necessary for appropriate medical review and quality assessment, or as We are required by law or regulation.

Severability. The intention of the parties to this Participation Agreement is to comply fully with all laws and public policies, and this Participation Agreement will be construed consistent with all laws and public policies to the extent possible. If, and to the extent that any court of competent jurisdiction is unable to so construe part or all of any provision of this Participation Agreement, and holds that part or all of that provision to be invalid, such invalidity will not affect the balance of that provision or the remaining provisions of this Participation Agreement, which will remain in full force and effect.

Continuation Coverage. Participants may elect to continue coverage under the AHP (at their own expense) under certain circumstances that would ordinarily end AHP coverage. The rules and procedures governing these rights to continuation of coverage are set forth in the AHP.

System Access. The term "systems" as used in this provision means systems that the AHP has made available, or arranged with the Issuer to make available, to Employer Members to facilitate the transfer of information in connection with this coverage.

The AHP and its service provider(s) grant Employer Members the nonexclusive, nontransferable right to access and use the functionalities contained within the systems, under the terms set forth in this AHP Participation Agreement. Employer Members agree that all rights, title and interest in the systems and all rights in patents, copyrights, trademarks and trade secrets encompassed in the systems will remain property of the AHP and/or the Issuer. Employer Member will obtain, and be responsible for maintaining, at its own expense, the hardware, software and Internet browser requirements We provide to the Employer Member. The Employer Member is responsible for obtaining an internet service provider or other access to the Internet.

The Employer Member will not: (1) access systems or use, copy, reproduce, modify, or excerpt any of the systems documentation provided by Us in order to access or utilize systems, for purposes other than as expressly permitted under this Participation Agreement, (2) share, transfer or lease its right to access and use systems, to any other person or entity which is not a party to this Participation Agreement.

The Employer Member will comply with Our security procedures to protect the system, its functionalities, and data accessed through systems from any unauthorized access or damage (including damage caused by computer viruses). The Employer Member will notify Us immediately if any breach of the security procedures, such as unauthorized use, is suspected.

The Issuer reserves the right to terminate the Employer Member's system access: (1) On the date the Employer Member fails to accept the hardware, software and browser requirements provided by Us, or (2) immediately on the date We reasonably determine that the Employer Member has breached, or allowed a breach of, any applicable provision of this Participation Agreement. Upon termination of this Participation Agreement, the Employer Member agrees to cease all use of Our systems, and We will deactivate the Employer Member's identification numbers and passwords and access to the system.

Association's Status. The Association will not be deemed or construed to be the common law employer of Plan Participants and is not responsible for fulfilling any duties of an employer other than those in connection with the AHP. The Association does not agree to assume any of Your obligations. No statements, representations, or communications by the Association should be construed as legal, medical or tax advice and should not be relied upon as such.

AHP Minimum Participation Requirement. The minimum participation requirement is 50% of Eligible Employees, excluding valid waivers, which must be enrolled for coverage under this Participation Agreement. For this purpose, a waiver is valid when it is for group or individual coverage that provides major medical coverage.

AHP Minimum Contribution Requirement. You must maintain a minimum contribution level of 50% of the Premium for single only coverage.

Applicable Law/Venue. This AHP Agreement shall be governed by applicable federal law and, to the extent not governed by federal law, the laws of the state where the AHP administrator is located, without regard to conflict of law provisions. The parties also agree that any litigation shall be conducted in courts of law (State or Federal) located in such state.

Assignment. This Participation Agreement will not be assigned by either party without the prior written consent of the other party. The provisions of this Participation Agreement are for the sole and exclusive benefit of the parties hereto and no third party beneficiary is intended or will be entitled to rely hereon.

Headings. Headings and numbers in this Participation Agreement are included for convenience of reference only. If there is any conflict between any of the numbers and headings and the text of this Participation Agreement, the text will control.

Non-Alienation. None of the benefits, payments, proceeds or claims of any Employer Member or of a Participant or beneficiary be subject to any claim, attachment, or garnishment of any creditor, nor will any Participant or beneficiary of an Employer Member have any right to alienate, anticipate, commute, pledge, encumber, or assign any of the benefits or payments which are expected to be received under the AHP, and any attempt to accomplish the same will be void.

Notice. Any notice, order, instruction, objection, or action will be in writing and signed by an authorized representative. The notice will be deemed given when:

- a. delivered personally to that party; or
- b. deposited in the United States mail, certified and first-class postage prepaid, addressed to that party at, or delivered to, the address specified below. Said address will constitute the last address of record for said party unless the address has been changed by similar written notice to the other party. Notice also may be provided electronically provided both parties have agreed, in writing, to accept and receive electronic notices.
 - (i) If to AHP: 501 E Washington Avenue Madison, WI 53704

(ii) If to Employer Member:

Non-Waiver. No failure by either party to insist upon strict compliance with any term of this Participation Agreement, enforce any rights, or seek any remedy upon any default of the other party will affect, or constitute a waiver of, the other party's right to insist upon such strict compliance, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default; nor will any custom or practice of the parties at variance with any provision of this Participation Agreement affect, or constitute a waiver of, either party's right to demand strict compliance with all provisions of this Participation Agreement.

Indemnification. Employer Member acknowledges that the Association offers the AHP solely for the convenience and benefit of the Employer Members and the Participants and as a service to them, and has no obligation or liability to provide or fund benefits under the AHP. Employer Member acknowledges that the terms and conditions of the AHP may change from time to time, and that there is no guarantee that rates, terms and conditions will remain the same. Any such changes in terms and conditions of the AHP shall be subject to the notice and approval provisions provided herein. Accordingly, Employer Member agrees that it will make no claim against Association or other association members, their directors, officers, employees and agents with respect to such benefits and that it shall indemnify and hold harmless Association and other association members, their directors, officers, employees, and agents, from any and all liability, loss, damage, claims, penalties or assessments, and all costs, such as legal fees, associated therewith, which may arise, directly or indirectly, from offering of or involvement with the AHP.

You will be deemed to have accepted the terms of this AHP Employer Participation Agreement by making Your initial Payment and the acceptance of coverage for Eligible Employees and their Dependents. You agree that an electronic signature may be used, and that the party signing electronically intends to do so.

Employer Member

By: _____

Print Name: _____

Title: _____

Date: _____

COBRA Addendum to the Employer Participation Agreement

Employer Member acknowledges that the Association Health Plan (AHP) providing its employees with group health plan coverage may be subject to the continuation of coverage provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA).

Employer Member agrees that it will promptly notify the COBRA administrator of any COBRA qualifying event that will cause a covered employee, dependent or child to lose health coverage.

In the event that Employer Member fails to provide notice to the COBRA administrator, it agrees to indemnify and hold the AHP harmless against any and all losses, liabilities, penalties, fines, costs, damages, and attorney fees, including the costs of litigation, that may result from a failure to provide of a qualifying event to the COBRA Administrator.

Any provision of this COBRA Addendum which, on its effective date, is in conflict with the requirements of state or federal statutes or regulations (of the jurisdiction in which the AHP is administered) is deemed to be amended to conform to the minimum requirements of those statutes and regulations.

Employer Member

By: _____

Print Name: _____

Title: _____

Effective Date: _____

Information about COBRA, including a list of qualifying events, can be found at the link below:

<https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/cobra-continuation-health-coverage-consumer.pdf>