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11  
12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **OAKLAND DIVISION**

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 vs.

18 AMERICAN FINANCIAL BENEFITS  
19 CENTER, a corporation, also d/b/a AFB and AF  
20 STUDENT SERVICES;

21 AMERITECH FINANCIAL, a corporation;

22 FINANCIAL EDUCATION BENEFITS  
23 CENTER, a corporation; and

24 BRANDON DEMOND FRERE, individually  
25 and as an officer of AMERICAN FINANCIAL  
26 BENEFITS CENTER, AMERITECH  
27 FINANCIAL, and FINANCIAL EDUCATION  
28 BENEFITS CENTER,

Defendants.

Case No. 4:18-cv-00806-SBA

Related Case: 4:17-cv-04817-SBA

**DECLARATION OF GILBERT  
VASQUEZ IN SUPPORT OF  
FEDERAL TRADE COMMISSION'S  
MOTION FOR PRELIMINARY  
INJUNCTION**

**DECLARATION OF GILBERT VASQUEZ**

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2  
3 1. My name is Gilbert Vasquez and I serve as General Counsel and Vice President  
4 of Compliance at New Benefits, Ltd. (“NB”), a company headquartered in Dallas, Texas. The  
5 following statements are within my personal knowledge and if called as a witness I could and  
6 would competently testify thereto.

7 2. NB operates as a Discount Medical Plan Organization (“DMPO”). A DMPO is  
8 an entity that, in exchange for fees, dues, charges or other consideration, provides access to a  
9 wide variety of medical, lifestyle and wellness services at a discounted rate. NB provides over 30  
10 health, wellness, personal security, financial, travel, and leisure benefit solutions and services to  
11 customers across the United States. A DMPO contracts with vendors, providers or provider  
12 networks, or other DMPO’s to offer this access.

13 3. NB is licensed, registered, regulated, and/or bonded as a DMPO in 35 states. The  
14 licensing requirements of each state varies, but most require the DMPO applicant satisfy rigorous  
15 standards and background checks for the entity and the individuals acting as management for the  
16 DMPO. DMPO products and services are not insurance.

17 4. Financial Education Benefits Center (“FEBC”) was referred to NB by an attendee  
18 at an industry conference in April 2017. On or about May 25, 2017, FEBC submitted a  
19 Prospective Client Profile (“PCP”) to NB as part of the application process to become a new  
20 client. On August 15, 2017, FEBC and NB executed a marketing agreement to replace an  
21 existing DMPO for future customers of FEBC. Per the PCP, the existing DMPO was an  
22 organization called “Aon Benefit Solution.” Attached as **Exhibit A** is a copy of the marketing  
23 agreement and PCP.

24 5. On the PCP, FEBC stated that its primary purpose was “to promote financial,  
25 mental and lifestyle wellness by providing benefits through a variety of specialty services  
26 designed to help you achieve your life goals. Whether your priority is personal financial  
27 wellness, physical or mental health, or simple everyday saving plans that work, we are here to  
28 exceed your expectations.” FEBC stated its services were not “tailored to a specific

1 demographic, as long as they are an adult and a US citizen.” FEBC did not express why they  
2 were attempting to replace the existing DMPO relationship for future memberships.

3 6. FEBC elected to access to all of the benefits NB provides, and therefore received  
4 wholesale prices for each benefit. Schedule 1 to the marketing agreement details each benefit  
5 along with the wholesale price for each benefit, most of which are billed at a per member, per  
6 month basis.

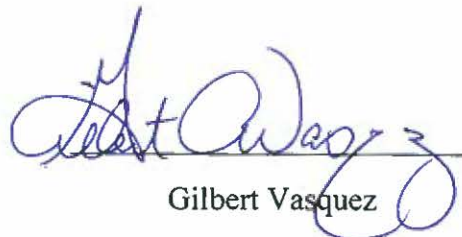
7 7. The registration process for a new member require that FEBC submit to NB new  
8 member information such as name, address, etc., along with the benefits/services associated with  
9 each new member. NB then works with its various third party providers to input the new  
10 member’s credentials and grant access to the specific services associated with each member. NB  
11 then bills FEBC on a per month basis based on the number of members and the services for each  
12 member.

13 8. On the PCP, FEBC projected that it would register 5,500 members within 12  
14 months. As of April 5, 2018, FEBC had enrolled 6 members, who, upon information and belief,  
15 are employees of FEBC. Attached as **Exhibit B** is a document identifying these 6 members.

16 9. On April 2, 2018, FEBC attempted to submit a Utah resident for membership.  
17 This membership was rejected by NB due to the fact FEBC does not hold the requisite Utah  
18 license in order to market NB’s discount benefits in that state. Attached as **Exhibit C** is a copy of  
19 this rejection notice.

20 10. Effective April 5, 2018, the Marketing Agreement between NB and FEBC, along  
21 with the six (employee) members have been terminated.

22  
23 11. I declare under penalty of perjury that the foregoing is true and correct. Executed  
24 on 18 April, 2018, in Texas.

25  
26  
27   
28 Gilbert Vasquez

**Vasquez Exhibit A**



## MARKETING AGREEMENT

THIS MARKETING AGREEMENT (hereinafter referred to as “Agreement”) is made, entered into and effective as of the date set forth below by and between New Benefits, Ltd. whose principal place of business is located at 14240 Proton Road, Dallas, Texas 75244 (hereinafter referred to as “NB”), and FINANCIAL EDUCATION BENEFITS CENTER (hereinafter referred to as “Marketer”) whose principal place of business is located at 2010 Crow Canyon Place Suite 100, San Ramon, CA 94583.

### WITNESSETH

WHEREAS, NB is engaged in the business of the development, design, marketing, sale and distribution of discount medical and lifestyle benefits of either NB’s proprietary networks or third-party vendors for whom NB is an authorized marketer (hereinafter referred to as “Vendor”); and

WHEREAS, Marketer desires to market, promote, sell and/or distribute discount benefit programs offered through NB.

NOW THEREFORE, in consideration of the mutual agreements and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

### 1. NB DUTIES AND RESPONSIBILITIES

As hereinafter set forth, NB agrees to perform the following duties and accepts the following responsibilities:

- (A) Provide products and services for discount benefits (collectively referred to as “Program Benefits”) listed in Schedule 1, attached hereto and incorporated herein by this reference, to Marketer. Program Benefits shall be provided to individuals who are procured by Marketer (“Member(s)”) and pay fees (“Membership Fees”), calculated on a monthly or annual basis, to purchase memberships and take advantage of such Program Benefits (“Memberships”).
- (B) Provide toll-free telephone service for eligible Members to access providers and member service functions (“Membership Services”). Except on holidays, trained member service representatives shall be available to provide Membership Services from 7:00 a.m. to 7:00 p.m. Central Time, Monday through Friday and from 8:00 a.m. to 5:00 p.m. Central Time, Saturday.
- (C) Provide a web site for Members to locate participating providers of Program Benefits.
- (D) Provide Marketer with verbiage for use in the sales, marketing, enrollment, advertising, and membership materials used in connection with marketing of the Program Benefits. Any changes to this verbiage must be approved in writing by NB.
- (E) Provide custom membership kits as defined in Schedule 1 and assist Marketer with the design thereof. Should Marketer request more than two (2) design revisions, the additional revisions will be performed at a cost of one hundred dollars (\$100.00) per hour.
- (F) Reserve the right to add, modify or delete parts/pricing of Program Benefits and other services provided under the terms of this Agreement upon sufficient notice to Marketer and/or Members, as applicable.

- (G) Provide at least sixty (60) days' prior written notice to Marketer of any change related to a Vendor, Program Benefits (unless Vendor ceases operation without notification to NB), or pricing.
- (H) Track usage of Program Benefits and share upon Marketer's request.

## 2. MARKETER DUTIES AND RESPONSIBILITIES

As hereinafter set forth, Marketer, on behalf of its employees, officers, directors, agents, and contractors, understands, acknowledges and agrees to perform the following duties and accepts the following responsibilities:

- (A) Submit all printed literature, radio/television/print media, telemarketing scripts, press releases, web sites, registration materials, membership materials, or similar items (collectively "Marketing Materials") for written approval as to their content, design, format, use of any trade names, trademarks, or service marks of NB or any Vendor under contract with NB. Such approval will not be unreasonably withheld by NB. Marketer shall use only approved marketing, enrollment, and benefit description verbiage when describing or making reference to Program Benefits. Marketer must secure written approval for all reprints when any changes have been made to previously approved Marketing Materials.
- (B) Link Marketer's web site(s) created for the purpose of marketing Program Benefits, if any, exclusively to the links provided by NB.
- (C) Execute a Telemarketing Addendum if Marketer conducts inbound and/or outbound telephone sales to market Program Benefits. Marketer shall provide NB with all telephone numbers, websites and third-party telemarketing call centers to be used for sales prior to conducting calls.
- (D) Train each independent sales representative, affiliate and/or third-party marketing entity ("ISR(s)") recruited by Marketer to sell Program Benefits. Marketer is responsible for ensuring each ISR represents the Program Benefits accurately. Each ISR must execute a Marketing Representative Acknowledgement ("MRA") prior to marketing.
  - (1) Marketer agrees to indemnify, defend and hold NB harmless from any and all loss, claims, demands, damages, suits, liabilities and any costs or expenses, including reasonable attorney's fees, arising from or in any way connected with (i) the failure of the ISR to perform its duties according to the terms of the MRA and/or (ii) any representation made by ISR which is false, misleading or contains any material misstatement or omission of fact.
  - (2) NB reserves the right to refuse contracting with any ISR or Member produced by an ISR, for reasonable cause.
- (E) Shall be responsible for all costs and expenses associated with performing its services pursuant to this Agreement, including Marketing Materials.
- (F) Send all new Member eligibility information to NB in a mutually agreed upon format within ten (10) days of receipt. Marketer agrees to use best efforts to ensure all data supplied for processing is in good condition, correct, complete, and in proper format.
- (G) In the event Marketer collects Membership Fees, Marketer shall remit the Wholesale Net Price as set forth in Schedule I for each Membership under the following terms and conditions:
  - (1) Wholesale Net Price ("Compensation") shall be paid on or before the twentieth (20<sup>th</sup>) day of each month for all Members active on the last day of the previous month.
  - (2) If Marketer fails to remit Compensation in full by 5:00 p.m. Central Time on the last business day of the month, after giving notice (i) NB may elect, without prejudice to any other rights or remedies that it may have, to suspend access to the Membership Services pending remittance of the Compensation. Failure to pay will result in a one hundred dollar (\$100) reactivation fee plus the full amount of the unpaid bill; and (ii) if Compensation is not received by the tenth (10<sup>th</sup>) day of the following month this Agreement and Memberships may be terminated at NB's sole discretion.

Termination of this Agreement does not relieve Marketer or NB of any obligations that survive termination of this Agreement, including the responsibility to pay all monies due.

- (3) Agree to provide a Member refund and proof of such refund to NB within three (3) business days of NB's request.
- (H) Submit a written request to finance@newbenefits.com within ninety (90) days of the invoice date if Marketer believes there is an error on any invoice. Any inquiry regarding an alleged error not submitted to NB within ninety (90) days of the invoice date will be deemed waived by Marketer without any further action. Any correspondence must include Marketer's name, account number, and a full description of the error and/or the transaction in question.
- (I) Forfeit its pro-rata share of the Membership Fees collected to provide a refund to Members. Marketer expressly authorizes NB to deduct any monies due under this paragraph from any compensation that may be due to Marketer.
- (J) Not multilevel market NB's Program Benefits without prior written consent of NB.
- (K) Sell Memberships at a price determined by NB and agreed upon by both parties.
- (L) Pay NB a one-time non-refundable setup fee of three thousand dollars (\$3,000.00) within ten (10) business days following both parties' execution of this Agreement. Failure to pay will result in immediate termination of this Agreement with no further action required. Should Marketer register a minimum of three thousand (3,000) active Members within the first twelve (12) months following the execution of this Agreement, a Request for Credit Form may be submitted and NB will reimburse the setup fee within five (5) business days of receipt of such Form.
- (M) Have a minimum of two hundred and fifty (250) active Members within nine (9) months following the execution of this Agreement. Marketer will be billed an amount equal to one dollar (\$1) multiplied by the difference between its number of Members and 250 each month thereafter until such time as Marketer has two hundred and fifty (250) Members. The shortfall amount will be deducted from Marketer's commission or invoiced in cases of insufficient commission.

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OF

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OF

### 3. NATURE OF RELATIONSHIP

No terms or provisions of this Agreement are intended to create nor shall they be deemed or construed to create any relationship between NB and Marketer other than that of independent entities contracting with each other hereunder solely for the purpose of affecting the terms and provisions of this Agreement. The parties hereto are not and shall not be deemed for any purpose to be joint ventures, partners, or agents of each other. Neither of the parties hereto, their partners, nor any of their respective officers, directors, members, managers, or employees, shall represent themselves as the partner, employee, or agent of the other party, and shall not be deemed or construed to be the partner, employee, or agent of the other party. Both parties agree to adhere to all applicable laws, rules, and/or regulations, including, but not limited to, those pertaining to the solicitation and marketing of the Program Benefits. Neither party is authorized to represent the other party for any purpose, except as specifically provided in this Agreement, without the prior written consent of that party. Further, unless otherwise set forth herein, Marketer is not authorized to make, alter, or discharge contracts, extend the time or method of payment, or waive or retain any money due NB unless previously agreed to in writing.

### 4. RECOGNITION OF VALIDITY OF INTELLECTUAL PROPERTY

The parties hereby agree, and shall at all times recognize, the validity of any and all intellectual property of the other party, including, but not limited to, trademarks, trade names, service marks, icons, RSS feeds and copyrighted materials (sometimes collectively referred to as "Intellectual Property") of such other party and the ownership thereof by such other party and shall not at any time put in issue or contest, either directly or indirectly, the validity and/or ownership of such Intellectual Property. In addition, nothing in this Agreement shall give either party any interest in any Intellectual Property, or in any design of the other party used in connection therewith. It is further

understood and agreed that each party grants to the other party during the term of this Agreement, a terminable right, not coupled with an interest, to use any such Intellectual Property or designs in connection with the license herein granted; such use to be in the manner preapproved by such party and with the result of designating such party as the source of and origin of such services and/or products. Each party agrees to take whatever actions reasonably requested by the other party to protect and perfect such party's interest in the Intellectual Property. This provision shall survive the termination of this Agreement.

### 5. TERM AND TERMINATION

The initial term of this Agreement shall begin on the execution date of this Agreement as set forth below, and shall continue for a period of one year from that date, unless terminated sooner pursuant to the provisions contained in this Agreement. This Agreement shall automatically renew on the same terms and conditions for successive one-year periods, unless terminated in writing, as outlined below. In the event this Agreement is terminated for any reason, and Memberships are deactivated by NB pursuant to the terms below, NB will notify existing Members at Marketer's expense (if any) of pending cancellation. In no event shall memberships be deactivated with less than thirty (30) days' notice to Marketer and the Members. Termination of this Agreement does not relieve either party of the obligation to pay all monies due and owing hereunder. This Agreement may be terminated at any time as follows:

- (A) Without cause by either party upon thirty (30) days' prior written notice to the other party. In the event this Agreement is terminated by NB without cause, existing business and renewals may continue to be serviced as long as Membership Fees are paid to NB when due in accordance with the terms of the Agreement. Commissions owed Marketer will be paid according to the terms of this Agreement.
- (B) With cause by either party. The non-breaching party shall give written notice of any alleged default or breach of the terms of this Agreement, or those contained in any subsequent amendments or schedules, demanding remedy within ten (10) days. If the default or breach is not remedied to the satisfaction of the non-breaching party within ten (10) days, this Agreement can be terminated immediately by written notice to the breaching party. Existing business and renewals may continue to be serviced at the sole discretion of NB as long as Membership Fees are paid when due in accordance with the terms of the Agreement.
- (C) With five (5) days' written notice by NB for misrepresentation by Marketer and/or Marketer's ISR of the Program Benefits in the marketplace. Existing business and renewals may continue to be serviced at the sole discretion of NB as long as Membership Fees are paid when due in accordance with the terms of the Agreement.
- (D) With five (5) days' written notice by NB in the event Marketer conducts inbound and/or outbound telephone sales calls to market the Program Benefits without executing a required Telemarketing Addendum. Existing business and renewals may continue to be serviced at the sole discretion of NB as long as Membership Fees are paid when due in accordance with the terms of the Agreement.
- (E) With ten (10) days' written notice in the event of any impermissible disclosure of Confidential Information in breach of Section 6 of this Agreement. Existing business and renewals may continue to be serviced at the sole discretion of NB as long as Membership Fees are paid when due in accordance with the terms of the Agreement.
- (G) NB may terminate this Agreement immediately or at any time under the following circumstances:
  - (1) If Marketer has any unauthorized Membership(s) (Memberships that have not been submitted to NB and/or have not been paid for by Marketer). Existing business and renewals may continue to be serviced at the sole discretion of NB as long as Membership Fees are paid when due in accordance with the terms of the Agreement.
  - (2) If Marketer, its affiliates, related entities, and/or subsidiaries, or any partner and/or agent acting on behalf of Marketer, engages directly in conduct that violates any law, rule or regulation



including illegal marketing practices. In such event, NB may deactivate Marketer's Members in its sole discretion. If it doesn't, then existing business and renewals may continue to be serviced at the sole discretion of NB as long as Membership Fees are paid when due in accordance with the terms of the Agreement.

- (3) If any law, rule or regulation is enacted or promulgated that prohibits, or is interpreted to prohibit the performance of duties hereunder. Existing business and renewals may continue to be serviced at the sole discretion of NB as long as Membership Fees are paid when due in accordance with the terms of the Agreement.
- (H) Termination for Non-Payment. In the event Marketer fails to remit Compensation to NB as outlined in 2(G)(2)(ii), NB reserves the right to terminate this Agreement immediately and collect Membership Fees directly from the Members. Marketer releases any claims to all amounts including commissions from payments collected by NB under this clause. Termination of this Agreement does not relieve Marketer or NB of the obligation to pay all monies due and owing hereunder.
- (I) Either party may terminate the Agreement immediately if the other party becomes insolvent or is unable to pay its debts or enters into or files (or has filed or commenced against it) a petition, arrangement, application, action or other proceeding seeking relief or protection under the bankruptcy laws of the United States or any similar laws of the United States or any state of the United States. Commissions owed to Marketer will be paid according to the terms of this Agreement.

## 6. CONFIDENTIALITY

The parties each acknowledge and agree that, in the performance of its duties and obligations under this Agreement, it may receive or have disclosed to it Confidential Information of the other party. For the purpose of this Agreement, Confidential Information shall mean any and all information of a confidential or proprietary nature, whether written, oral, computer software (including but not limited to source code), or other medium for storage of information, documents, names of customers/clients/members, software, present and future products, price quotes, proposed commission structures, and policies (including listing thereof and documentation related thereto) disclosed by either party hereto to the other, its employees, officers, directors, agents, or representatives, during the term of this Agreement. The parties acknowledge and agree the Confidential Information is proprietary to, and a valuable trade secret of, the disclosing party, and any disclosure or unauthorized use thereof will cause irreparable harm to the disclosing party. Each party reserves the right to terminate this Agreement at any time by giving written notice to the other party in the event of any impermissible disclosure hereunder.

Accordingly, the parties each agree and undertake:

- (A) to treat Confidential Information in confidence and use it only in connection with this Agreement;
- (B) not to copy, in whole or in part, Confidential Information except insofar as is reasonably necessary for performance of the Agreement and without first obtaining the prior written consent of the disclosing party;
- (C) not to disclose Confidential Information except that such information may be disclosed to the receiving party's directors, officers, and employees to the extent necessary for purposes directly related to the performances of receiving party's duties under this Agreement;
- (D) to return Confidential Information, including all copies and records thereof, at the expiration or earlier termination of this Agreement, provided however, the parties may retain such information as is reasonably necessary for the performance of the parties' respective duties and obligations after expiration of the Agreement;
- (E) not to use Confidential Information to compete or assist any person or entity in competing with the business of the other party or its affiliates;
- (F) not to solicit and/or hire any employee of the other party;

- (G) not to use, sell, disseminate or in any way violate the privacy of the clients'/Members' names which shall become available to each other through the servicing of this relationship; and
- (H) to keep strictly confidential the terms and conditions of this Agreement. Should Marketer divulge pricing information from this Agreement to a third party, NB reserves the right to change the pricing described in any schedules or exhibits at NB's sole discretion.

If the receiving party or anyone to whom it discloses the Confidential Information becomes legally compelled to disclose all or any part of the Confidential Information (by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or other order issued by a court of competent jurisdiction, or by a government agency), the receiving party shall (i) promptly, and prior to compliance with the request, notify the disclosing party of the existence, terms, and circumstances comprising such a request; (ii) consult with the disclosing party on the advisability of taking steps to resist or narrow that request, and to the extent legally permissible, delay such disclosure until the disclosing party has taken all reasonable steps necessary to resist or narrow that request; (iii) if disclosure of the Confidential Information is required, after notifying the disclosing party, furnish only such portion of the Confidential Information as the receiving party is advised by counsel is legally required to be disclosed; and (iv) cooperate with the disclosing party, at the disclosing party's expense, in its efforts to obtain a protective or limiting order or other reliable assurance that confidential treatment will be afforded to that portion of the Confidential Information that is required to be disclosed. Upon termination of this Agreement, all of either party's Confidential Information in any form, including that generated the other party will be returned to such party and an officer or other representative of the other party shall certify same in writing.

Confidential Information does not include (i) any information that, prior to or after the date hereof, was, is or becomes generally or publicly known (other than as a result of unauthorized disclosure by the other party or its representatives), or (ii) any information that was in the possession of the other party prior to disclosure by the other party, or (iii) is disclosed by a court or governmental entity during bona fide legal proceedings.

#### 7. NON-COMPETITION

Marketer agrees during the term of this Agreement, and for a period of one (1) year after the termination of this Agreement (with the exception of NB terminating this Agreement without cause), it shall not directly contract with any Vendors made available to Marketer under the terms of this Agreement or any subsequent Addendum(s). This section does not apply to any Vendor with which Marketer has a contractual relationship prior to the effective date of this Agreement. Additionally, Marketer shall not be precluded from contracting with another Discount Medical Plan Organization (DMPO) or other companies offering services from similar or the same Vendors.

Marketer agrees it shall not utilize NB's Confidential Information, including provider list(s) made available to Marketer by NB under the terms of this Agreement, to solicit and/or contract with any providers for any purpose including the establishment of its own vision, chiropractic, or any other provider network.

NB agrees that it shall not directly solicit any Members to contract with NB directly while they are receiving Program Benefits or for two years thereafter. Provided, however, the parties agree nothing herein shall prevent any other independent marketer(s) contracted with NB from soliciting such Members in the normal course of business of such marketer(s).

#### 8. INDEMNIFICATION

NB AGREES, EXCEPT AS OTHERWISE PROVIDED, TO INDEMNIFY, DEFEND AND HOLD MARKETER HARMLESS FROM ANY AND ALL LOSS, CLAIMS, DEMANDS, DAMAGES, SUITS, LIABILITIES AND ANY COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING FROM OR IN

ANY WAY CONNECTED WITH (I) THE FAILURE OF NB TO PROVIDE THE PROGRAM BENEFITS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT; OR (II) NB'S BREACH AND/OR DEFAULT UNDER THE TERMS OF THIS AGREEMENT; (III) ANY MISREPRESENTATION BY NB IN THIS AGREEMENT; OR (IV) ANY INFORMATION PROVIDED BY NB TO MARKETER, WHICH INFORMATION IS DETERMINED TO BE FALSE OR MISLEADING BY A COURT OF COMPETENT JURISDICTION.

MARKETER AGREES, EXCEPT AS OTHERWISE PROVIDED, TO INDEMNIFY, DEFEND AND HOLD NB HARMLESS FROM ANY AND ALL LOSS, CLAIMS, DEMANDS, DAMAGES, SUITS, LIABILITIES AND ANY COSTS OR EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM OR IN ANY WAY CONNECTED WITH (I) THE SALE OR DISTRIBUTION OF PROGRAM BENEFITS BY MARKETER; (II) MARKETER'S BREACH AND/OR DEFAULT UNDER THE TERMS OF THIS AGREEMENT; OR (III) ANY MISREPRESENTATION BY MARKETER IN THIS AGREEMENT OR INFORMATION PROVIDED BY MARKETER TO NB.

NB AND MARKETER ACKNOWLEDGE THAT THE FOREGOING INDEMNITIES, TOGETHER WITH THIS STATEMENT, COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS. THE PARTIES AGREE AND UNDERSTAND THAT THE INDEMNIFICATION PROVISIONS CONTAINED IN THIS AGREEMENT SURVIVE TERMINATION.

#### **9. LIMITED LIABILITY**

THE PARTIES AGREE THAT THE OTHER PARTY WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES OR COSTS INCURRED AS A RESULT OF LOSS OF TIME, LOSS OF SAVINGS, LOSS OF DATA, LOSS OF PROFITS, OR LOSS OF GOODWILL, WHETHER FORESEEABLE OR UNFORESEEABLE, THAT MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OR COSTS OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

#### **10. ESSENTIAL ELEMENTS**

Marketer's agreements contained in Sections 6, 7, 8, and 9 are central to and are material inducements to NB entering into this Agreement and selling the Program to Marketer, and NB would not enter into this Agreement in the absence of such agreements. Marketer agrees, acknowledges and understands that any breach of the terms of Sections 6, 7, 8 and/or 9 by Marketer would cause irreparable harm to NB. Marketer acknowledges that if it breaches or threatens to breach the Sections referenced in this clause and/or any applicable portion of the Agreement subject to such equitable relief, NB will not have an adequate remedy in money or damages, and that NB shall be entitled, in addition to any other remedies at law or in equity, to specific performance, including without limitation, injunctive relief, without posting a bond and/or any other security for any such breach or threatened breach.

NB's agreements contained in Sections 6, 8 and 9 are central and material to Marketer's entering into this Agreement and selling the Program Benefits, and Marketer would not enter into this Agreement in the absence of such agreements. NB agrees, acknowledges and understands that any breach of the terms of Sections 6, 8 and/or 9 by NB would cause irreparable harm to Marketer. NB acknowledges that if it breaches or threatens to breach the Sections referenced in this clause and/or any applicable portion of the Agreement subject to such equitable relief, Marketer will not have an adequate remedy in money or damages, and that Marketer shall be entitled, in addition

to any other remedies at law or in equity, to specific performance, including without limitation, injunctive relief, without posting a bond and/or any other security for any such breach or threatened breach.

#### **11. PARTIAL INVALIDITY: SEVERABILITY**

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed, so far as is reasonable and possible, as if such invalid, illegal, or unenforceable provision or provisions had never been contained herein or in a manner that is reasonable and reflects the intent of the parties hereto.

#### **12. ASSIGNMENT**

Neither this Agreement nor any of the benefits to accrue hereunder shall be assigned or transferred, either in whole or in part by Marketer or NB, without the prior written consent of the other party, which consent shall not be unreasonably withheld. If either party assigns this Agreement and its rights and obligations hereunder in accordance herewith, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns. Otherwise, such assignment shall be null and void.

#### **13. WAIVERS**

The failure of any party to insist upon the prompt and punctual performance of any terms or conditions in this Agreement, or the failure of any party to exercise any right or remedy under the terms of this Agreement on any one or more occasions shall not constitute a waiver of that or any other term, condition, right, or remedy on that or any subsequent occasion, unless otherwise expressly provided for herein.

#### **14. CONSTRUCTION**

This Agreement shall be interpreted as though it were mutually drafted. The masculine shall be deemed to include the feminine and vice versa, and the singular shall be deemed to include the plural and vice versa. All references to dollar amounts in this Agreement means amounts in currency of the United States of America. In the event of a dispute hereunder, this Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted for or against any party hereto on the grounds such party drafted or caused to be drafted this Agreement or any part hereof, nor shall any presumption or burden of proof or persuasion be implied by virtue of the fact this Agreement may have been prepared by or at the request of a particular party or their counsel.

#### **15. CAPTIONS**

The paragraph captions contained in this Agreement are intended for purposes of convenience or reference only and shall not be considered in construing this instrument.

#### **16. FORCE MAJEURE**

Neither party shall be deemed to be in default of any provisions of this Agreement, or for failure in performance, resulting from acts or events beyond the control of any such party provided that the party claiming force majeure shall give the other party prompt notice of such condition. Such acts shall include, but not be limited to, acts of God, civil or military authority and disturbance, war, strikes, fires, other catastrophes, or other events beyond the parties' reasonable control. Force majeure conditions shall not excuse payment obligations provided services remain current.

#### **17. MISCELLANEOUS SERVICES**

Should Marketer request additional services including, but not limited to, programming, programming changes, commission disbursement restructure, system development, etc., services will be performed at NB's current Time

& Materials (T&M) rates. T&M pricing will be quoted on a case-by-case basis; such quotes shall be reasonable in all respects. No additional services will be performed without the prior written authorization of Marketer and acceptance by NB.

#### **18. DATE SENSITIVE**

In the event either party does not sign this Agreement on or before the last day of September, 2017, it will be deemed null and void.

#### **19. ATTORNEYS' FEES**

In the event of a breach by any party in addition to other rights or remedies that may exist, the non-breaching party will be entitled to recover its reasonable costs and expenses in enforcing this Agreement, including, but not limited to, attorneys' fees.

#### **20. PARTICIPATION**

NB and Marketer and their respective counsel participated in the preparation of this Agreement. In the event of any ambiguity in this Agreement, no presumption shall arise based on the identity of the draftsman of this Agreement.

#### **21. OPPORTUNITY TO CONSULT AN ATTORNEY**

The parties hereto acknowledge and agree they have had an opportunity to review this Agreement and consult with an attorney prior to accepting its terms, and by signing below agrees there was no duress placed upon them and there were no representations made other than those contained in this Agreement.

#### **22. RESPONSIBILITY TO AND RIGHTS OF THIRD PARTIES**

Marketer acknowledges and agrees (a) NB does not practice medicine or any other licensed profession, (b) NB does not control the provision of services to Marketer's members, (c) NB does not control the actions of its Vendors and is not responsible in the event one or more of these Vendors terminate, cease, or modify the service(s) and/or product(s) offered in the Program Benefits, and (d) NB is not responsible for the care and treatment rendered by participating professionals from the respective network in which they are associated; such care and treatment being the sole responsibility of the participating professionals from the respective network in which they are associated. Further, Marketer acknowledges and agrees Members shall be solely financially responsible for paying the contracted discount rate/fee at the point of service.

#### **23. LEGAL COMPLIANCE**

In relation to the subject of this Agreement, each party shall perform its duties in compliance with all applicable laws, ordinances, regulations and other requirements, state or federal, that are now governing or may in the future govern the subject matter of this Agreement. Additionally, each party shall secure and maintain all licenses, registrations and permits by any local, state, federal, or governmental authority required of them in the performance of its obligations under this Agreement. Upon request, each party agrees to supply any documentation to the other party in order to assist in resolving any Member complaint.

#### **24. AUDIT**

The parties agree to allow each other access to, and audit privilege of, proprietary, pertinent and relevant records, document and data in order to validate compliance with the terms and conditions of this Agreement during regular business hours, 9:00 am to 5:00 p.m. Central Time. Upon receipt and acknowledgement of a thirty (30) day prior written notice, either party will reasonably grant such access and audit privileges (all expenses to be paid by the requesting party). The auditing party shall only have access to information that is directly relevant, as determined in the disclosing party's sole discretion, to such compliance.

**25. NOTICES**

All notices required pursuant to this Agreement shall be in writing and shall be sufficiently given and served upon the other party if given personally or by an established express delivery company such as UPS or Federal Express to the following addresses:

**IF TO NB:**

Joel Ray, CEO  
New Benefits, Ltd.  
14240 Proton Road  
Dallas, TX 75244

**IF TO MARKETER:**

Brandon Frere, President & CEO  
Financial Education Benefits Center  
2010 Crow Canyon Place, Suite 100  
San Ramon, CA 94583

All notices, requests and other communications delivered personally will be deemed given upon delivery. All notices, requests and other communications provided by express delivery to the addresses provided in this Section will be deemed given upon deposit with the established express delivery company. Any party from time to time may change its address or other information for purposes of notices to that party by giving notice specifying such change to the other party hereto.

**26. GOVERNING LAW**

This Agreement is made in the County of Dallas, State of Texas, and shall be construed and interpreted in accordance with the laws of the State of Texas. Venue for any disputes is in Dallas, Dallas County, Texas.

**27. ENTIRE AGREEMENT**

This Agreement contains the entire and only Agreement between the parties hereto and supersedes other prior Agreements between the parties whether written or oral. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended, modified or waived except by a written agreement signed by both parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument. A copy of this Agreement containing signatures of all parties hereto shall constitute an original document for all purposes.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

**UNLESS OTHERWISE SPECIFIED HEREIN, THIS AGREEMENT SHALL BE EFFECTIVE UPON THE DATE EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF NEW BENEFITS, LTD.**

**MARKETER**

Signature: Brandon Frere  
Brandon Frere (Aug 15, 2017)  
Name: Brandon Frere  
Title: President & CEO  
Company: Financial Education Benefits Center  
Address: 2010 Crow Canyon Place, Suite 100  
San Ramon, CA 94583  
Phone: [REDACTED]  
Email: brandon@febcp.com  
Fed. Tax ID: 475462389  
Marketer #: [REDACTED] (assigned by NB)

**NEW BENEFITS, LTD.**

Signature: Joel Ray  
Name: Joel Ray  
Title: CEO  
Date: Aug 15, 2017

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**SCHEDULE 1**  
**Benefit Pricing for Financial Education Benefits Center**

**MEDICAL BENEFITS**

- Alternative Medicine
- Chiropractic
- Counseling Services\*
- Dental
- Diabetic Supplies\*\*
- Doctors Online
- Durable Medical Equipment\*\*
- Global Travel Assistance\*
- Health Advocate™ Solutions\*\* (Health Advocacy, Medical Bill Saver™, & NurseLine™)
- Hearing Aids
- Lab Testing
- Long Term Elder Care\*
- MRI & CT Scans
- MyEWellness.com
- Pharmacy
- Retail Health Clinics\*\*\*
- Telehealth\*\* (Teladoc†)
  - With No Consultation Fee
  - With \$15 Consultation Fee
  - With \$45 Consultation Fee
- Telehealth\*\* (MeMD†)
  - With No Consultation Fee
  - With \$10 Consultation Fee
  - With \$45 Consultation Fee
- Telehealth\*\* (MDLive†)
  - With No Consultation Fee
- Telephonic EAP\*\*§
- Vision
- Vitamins\*\*
- Worklife Services\*

**LIFESTYLE BENEFITS**

- BonusDrive Advantage
- Financial Helpline
- Fitness Advantage\*
- ID Sanctuary
  - Enhanced Individual
  - Enhanced Family
  - Enhanced Premium Individual (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)
  - Enhanced Premium Family (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)
- Complete Individual
- Complete Family
- Complete Premium Individual (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)
- Complete Premium Family (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)

**WHOLESALE NET PRICE**



**CONFIDENTIAL** – Marketing  
Agreement Financial Education Benefits  
Center

6/30/2017  
Rev. 6/2017



LifeLock

Standard Premium Individual\*\* (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)

Standard Premium Family \*\* (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)

Advantage Premium Individual \*\* (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)

month Advantage Premium Family\*\* (Includes: Roadside Assistance<sup>†††</sup> & Global Travel Assistance)

Instant Deals\*\*

Legal Services\*

My VIP Savings

Pet Care\*\*

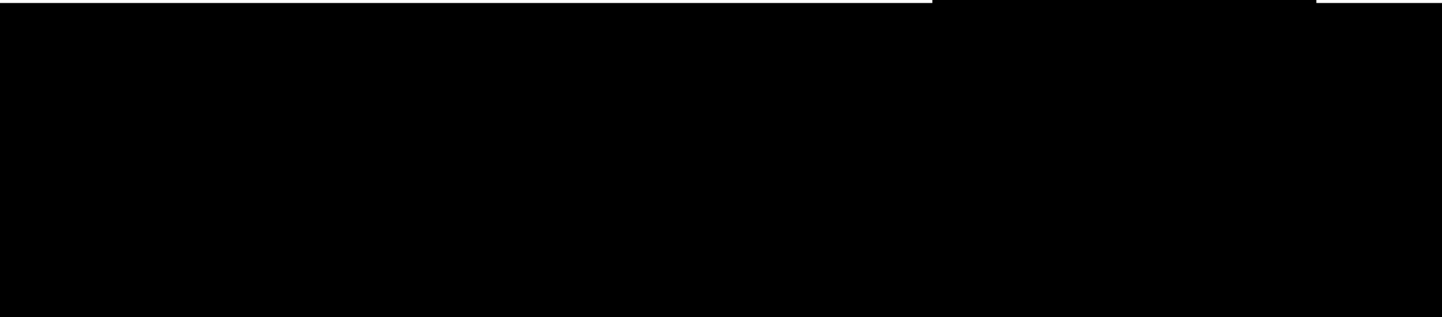
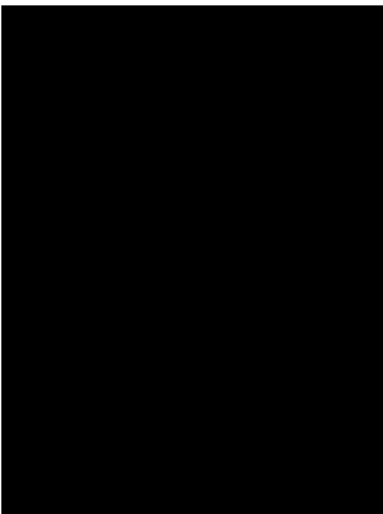
Roadside Assistance\*\*

Small Business Legal Plan\*

Tax Hotline\*

The Expense Tracker

Ticket Monster\*



**Additional Terms:**

- ◆ Member is defined as the card purchaser and legal dependents.
- ◆ All benefits provided to Marketer at No Charge are subject to modification or termination without notice to Marketer.
- ◆ Pricing includes benefit access and customer service. (List billing only available for monthly statements over \$50.00.)
- ◆ Except as provided below, pricing does not include membership kit fulfillment. NB can provide membership fulfillment materials, which include two membership cards, a full-color 5"x8" booklet with a description of benefits, and a listing of the five closest participating providers of each applicable benefit, under the following terms and conditions:
  - **Employer Paid Memberships:** Membership kit fulfillment included at no additional charge.
  - **Voluntary Payroll Deduct Memberships:** Membership kit fulfillment included for an additional thirty-five cents (\$0.35) per member per month.
  - **Voluntary Memberships:** Membership kit fulfillment provided to eligible members for a nonrefundable payment of three dollars and ninety-five cents (\$3.95) per membership kit including postage. Marketer agrees to establish a prepaid fulfillment account by submitting a minimum of five hundred dollars (\$500.00) to NB prior to the registration of Marketer's initial members. Marketer acknowledges it is their responsibility to keep appropriate funds in the prepaid account. NB will not print or mail fulfillment materials unless there are available funds in the prepaid account. Upon receiving written notice, NB agrees to refund any unused portion of the prepaid account to Marketer within two (2) business days. All individual membership kits returned to NB for invalid addresses will be sent to Marketer for re mailing. NB will deduct payment for each requested fulfillment package as set forth herein.
- ◆ Pricing does not include marketing/registration materials.
- ◆ Upon mutual agreement by the parties, NB will provide payment processing for an additional four percent (4%) fee of the gross sale price, which amount will be deducted from any commissions and/or other compensation due Marketer.

### **DISCOUNT PHARMACY PROGRAM**

Marketer is authorized to market a Discount Pharmacy Program through NB's Pharmacy Benefit Processor ("PBP").

NB agrees to pay Marketer a marketing fee of \$1.25 for each eligible pharmacy utilization paid by the PBP to NB. In the event there is no savings to a member on a prescription, the PBP will not pay a marketing fee to NB, thus no marketing fee will be paid to Marketer. Provided monthly utilization payment exceeds one hundred dollars (\$100), Marketer will receive marketing fees within thirty (30) days after the end of the month for the previous month's utilization. For example, utilization fees incurred from June 1<sup>st</sup>-30<sup>th</sup> will be paid to Marketer between July 15<sup>th</sup> and 30<sup>th</sup>. Termination of this Agreement by NB for breach of contract may result in permanent forfeiture of all marketing fees.

Marketer is responsible for all costs associated with designing and printing any marketing and fulfillment materials it desires to use in connection with the Discount Pharmacy Program. Marketer may order a minimum of one thousand (1,000) Pharmacy Card brochures at a cost of seven cents (\$0.07) per brochure, payable by Marketer prior to printing. This price includes a 3.5" x 7" dual panel card stock brochure (full-color front, black-and-white back) with two perforated membership cards and benefit description as well as Marketer's desired logo. Marketer shall have the right to approve the materials prior to printing. Price does not include applicable tax or shipping charges. Alternatively, Marketer's members may print a Pharmacy Card directly from Marketer's website.

#### **Additional Terms:**

- ◆ Marketer is prohibited from charging the member a monthly fee to access the Discount Pharmacy Program.
- ◆ It is understood that any marketing fees paid by NB to Marketer will be made out of monies actually received by NB. If for any reason (whether by the terms of any contract, termination, default, breach, tort, or otherwise) NB shall not actually receive marketing fees from the PBP, then NB shall not be obligated to Marketer for that marketing fee.

### **BONUSDRIVE ADVANTAGE PROGRAM**

- Marketer's Participants may be eligible for a five hundred dollar (\$500.00) rebate\* for each new vehicle\*\* purchase or lease entered into by Participants with Original Equipment Manufacturers ("OEM") identified at <http://bonusdriveadvantage.com/>.
- NB agrees to pay Marketer a commission of two dollars (\$2.00) for each vehicle purchase or lease certified by OEM as eligible for rebate. In the event OEM, for any reason, does not certify\*\*\* the purchase or lease to be eligible for a rebate, then no commission will be paid to Marketer for said purchase or lease.
- Any commission paid by NB to Marketer will be made out of monies received by NB from BonusDrive™.
- OEM reserves the right to refuse a client or Marketer any time at their sole discretion.
- Marketer is prohibited from charging the member a monthly fee to access the BonusDrive Advantage program. This prohibition does not preclude Marketer from including the BonusDrive Advantage program in a package of benefits for which a monthly fee is collected.
- Marketer must provide eligibility information for each Group.
- Member is the head of household and legal dependents.
- The BonusDrive Advantage program can be canceled at any time for any reason.
- Marketer's Participants will not be counted towards Marketer's active member minimum requirement in the Marketing Agreement.

\* The rebate for any purchase or lease using Hyundai Circle program will be one hundred dollars (\$100).

\*\* Eligible vehicles are designated by participating OEMs at <http://bonusdriveadvantage.com/> and are subject to change, without notice, by OEM.

\*\*\* The decision of participating OEMs is final.



## TELEMARKETING ADDENDUM (INBOUND CALLS ONLY)

New Benefits, Ltd. (hereinafter referred to as NB) acknowledges, FINANCIAL EDUCATION BENEFITS CENTER, \_\_ [insert full legal name] (hereinafter referred to as Marketer) intends to market the Program Benefits described in Schedule 1 of the Marketing Agreement entered into by the parties hereof on \_\_\_\_\_, 2017 (the "Agreement") through the use of inbound telephone sales.

Marketer agrees to the following terms and conditions related to such marketing techniques:

**1. Telemarketing.**

Telemarketing means any plan, program, or campaign that is conducted to induce the purchase of goods or services, or a charitable contribution, by use of one or more telephones. For the purposes of this Addendum, Telemarketing includes conducting business through the use of inbound only calls.

**2. Legal Compliance.**

Marketer agrees that its call procedures are in compliance with the requirements of The Telephone Consumer Protection Act (47 U.S.C. § 227), as amended. Marketer agrees it is responsible for complying with time limit requirements established by applicable state and federal Do Not Call registries pertaining to permitted calls to a consumer.

Marketer further agrees to maintain legal compliance with any and all applicable rules, regulations, statutes or other requirements related to call recording for the states in which Marketer markets.

**3. Call Center Compliance.**

Marketer agrees to require each call center operated by or contracted with Marketer for the marketing, promotion, sale or distribution of the Program Benefits to execute a Marketing Representative Acknowledgement (MRA), together with a copy of this Telemarketing Addendum and agree to the terms and conditions herein.

**4. Approved Scripts.**

Marketer agrees to submit to NB for approval a Closing Script to be read to members at the end of every sales call. Further, Marketer will submit to NB for approval all "talking points" used by Marketer when discussing the Program with a member. Marketer agrees, on behalf of itself and its agents, to adhere to the telemarketing scripts as approved in writing by NB and agrees it shall not make any deviations from the approved scripts.

**5. Ongoing Call Monitoring.**

Marketer agrees to submit to NB all telephone numbers used by Marketer or call center(s) for marketing of the Program. NB reserves the right to conduct Secret Shopper Calls wherein NB places calls to Marketer's telephone numbers in order to verify Marketer's compliance with requirements related to the Program, in addition to those set forth herein. NB shall maintain the confidentiality of such telephone calls and only discuss with Marketer's management.

Marketer agrees NB, has the right to request any representative in Marketer's call center receive additional training regarding the telemarketing of NB's Program Benefits or be removed from telemarketing NB's Program Benefits. Failure to comply with NB's request shall result in the immediate termination of the Agreement and forfeiture of any compensation due Marketer under the Agreement.

**6. On-site Monitoring.**

NB reserves the right to visit Marketer's call center(s) in order to listen to and monitor live sales calls to determine marketer's adherence to NB's guidelines and all applicable rules, regulations, statutes or other requirements related to telemarketing. NB may visit Marketer's call center(s) at any time for any reason, but no more than twice a year, including but not limited to, the following:

- (a) If NB receives three (3) or more member complaints within a thirty (30) day period; or,
- (b) Should NB have concerns with Marketer's telemarketing practices based upon NB's Secret Shopper Calls

Any expenses incurred by NB related to any on-site visit(s), including airfare, hotel and meals, shall be at Marketer's expense, but shall be capped at \$500 per year unless the parties agree to another amount. NB shall make every effort not to interrupt or disturb normal business operations during its on-site visits, if any.

**7. Outbound Calls.**

In the event Marketer, at any time during the Term or any Renewal Term of the Agreement, conducts outbound calls, other than in response to requests for a return telephone call or outside of marketing, not contemplated by the terms of this Addendum, Marketer acknowledges and agrees this Addendum shall become void and Marketer shall be required to execute NB's standard Telemarketing Addendum. Failure to execute NB's standard Telemarketing Addendum as required shall result in the immediate termination of the Agreement and forfeiture of any compensation due Marketer under the Agreement thereafter, but not commissions previously earned thereunder.

In the event of such termination, existing Memberships will continue to be serviced, upon the mutual agreement of the parties, so long as Membership Fees are received and compensation/commissions are paid as otherwise set forth in the Agreement. If either party notifies the other party in writing existing Memberships are to be terminated, notification thereof to Members, and refunds due as a result thereof, if any, shall be handled as set forth in the Agreement.

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In the event both parties do not sign this Addendum on or before the last day of August, 2017, it will be deemed null and void.

UNLESS OTHERWISE SPECIFIED HEREIN, THIS ADDENDUM SHALL BE EFFECTIVE UPON THE DATE EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF NEW BENEFITS, LTD.

**Agreed by Marketer:**

Signature: Brandon Frere  
Brandon Frere (Aug 15, 2017)  
Name: Brandon Frere  
Title: President & CEO

**Agreed by New Benefits, Ltd.:**

Signature: Joel Ray  
Name: Joel Ray  
Title: CEO

Date: Aug 15, 2017

**Agreed by Call Center:**

Name of Entity: Financial Education Benefits Center  
Address: 2010 Crow Canyon Place, Suite 100  
City: San Ramon  
State: CA  
Zip Code: 94583  
Telephone: 800-953-1388

Signature: Brandon Frere  
Brandon Frere (Aug 15, 2017)  
Name: Brandon Frere  
Title: President & CEO

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## Exhibit 1 Prospective Client Profile

New Benefits is committed to protecting its business and the business of its Marketers by ensuring compliance with the regulations and licensing requirements of the discount benefit industry. In this effort to maintain the highest standards, New Benefits requires completion of this profile. Your information will be kept confidential and used for internal purposes to learn more about your company and help provide an effective roadmap for the sales process. **Please return completed profile together with your corporate filing documentation to**

### Company Information

Legal Entity Name (as it will appear on the contract including Inc., LLC, LLP, etc.)

Financial Education Benefits Center

DBA Name (if applicable) Please provide legal documentation of DBA.

Contract Signatory Name Brandon Frere Title President/CEO

Email Address brandon@febcp.com

Phone Number [REDACTED] Fax Number \_\_\_\_\_

Physical Address 2010 Crow Canyon Place Ste. 100 Mailing Address (if different) \_\_\_\_\_

San Ramon, CA 94583

Tax ID 475462389

Website URL(s) www.febcp.com

Implementation Contact (if different than above) Tom Knickerbocker

Phone [REDACTED] Email tom@febcp.com

Are you working with a specific New Benefits sales representative?  Yes  No

If yes, who? [REDACTED]

How did you learn about New Benefits?

- Internet
- Trade Publication
- Trade Show
- Competitor
- NB Client (Please Specify) \_\_\_\_\_
- Other (Please Specify) Referral

**Information About Your Business**

Type of Business Organization

- Sole Proprietor       Corporation       Partnership       Non-profit Organization       LLC
- S-Corporation       Trust       Other (Please Specify) \_\_\_\_\_

State of Corporate Filing California

Date of Formation 11/2/2015

Better Business Bureau (BBB) Rating A

Names of Affiliates: (Any company involved in the sale and/or solicitation of benefits/services whether or not they're under your control)

None

Is your company or any of its subsidiaries, affiliates, or officers currently involved in any arbitration, litigation, or any state or federal investigation(s)? If yes, please explain.

None

Has your company or any of its subsidiaries, affiliates, or officers ever filed bankruptcy or had a lien filed against it or themselves? If yes, please explain.

None

Has your company previously contracted with another Discount Medical Plan Organization (DMPO) for the same or similar benefits?  No  Yes If yes, what company? Aon Benefit Solutions

Will members be transferred to New Benefits?  No  Yes If yes, how many? \_\_\_\_\_

What is your projected enrollment volume over the next 12 months? 5500

**Marketing Information**

What is your primary business?

At The Financial Education Benefits Center we strive to promote financial, mental and lifestyle wellness by providing benefits through a variety of specialty services designed to help you achieve your life goals. Whether your priority is personal financial wellness, physical or mental health, or simple everyday saving plans that work, we are here to exceed your expectations.

Describe how you currently market/distribute your product/services.

Our main, and most successful, method of marketing is direct mail. Potential leads receive our letters in the mail and call into our inbound sales line. This accounts for the majority of our business.

Who is your target audience?

The services offered at FEBC aren't tailored to a specific demographic, as long as they are an adult and a US citizen

In what states are you currently marketing? AL,AK,AZ,AR,CA,DC,FL,IA,IN,KY,LA,MD,MI,MO,MT,NE,NJ,NM,NV,NY,OK,PA,SD,TN,TX,UT,VA

In what states do you intend to market our products and services? Same as above

Will benefits be offered voluntary or non-voluntary? Voluntary

Will discount benefits be bundled with any insured or indemnity products?  Yes  No

If yes, how so?

N/A

What is your intended method(s) of distribution for the discount benefits?

- Direct Mail       Field Sales Force       Complimentary/Value Add
- Internet       Multilevel Marketing       Other (Please Specify) \_\_\_\_\_
- Worksite Marketing (employee benefits): Number of clients \_\_\_\_\_ Avg. size of group \_\_\_\_\_
- Telemarketing (\*NOTE: If you have selected Telemarketing, please provide further detail.)
  - Inbound    Outbound    Internal    External (Name of call center \_\_\_\_\_)



Is there anything else we should consider while evaluating your business?

By signing below, I Brandon Frere warrant and represent  
that the information included herein is true and accurate.

Brandon Frere  
Signature of Applicant

Digitally signed by Brandon Frere  
Date: 2017.05.25 17:47:01 -07'00'

5/25/2017  
Date

Please return completed profile together with your corporate filing documentation to  
\_\_\_\_\_



### ADDENDUM 1

ADDENDUM to the MARKETING AGREEMENT (hereinafter referred to as “Agreement”) entered into as of August 15, 2017, by and between New Benefits, Ltd. whose principal place of business is located at 14240 Proton Road, Dallas, Texas 75244 (hereinafter referred to as “NB”), and FINANCIAL EDUCATION BENEFITS CENTER, its affiliates, related entities, and subsidiaries, (hereinafter referred to as “Marketer”) whose principal place of business is located at 2010 Crow Canyon Place, Suite 100, San Ramon, California 94583.

This Addendum serves add benefit pricing and terms on Schedule 1 of the Agreement. All other terms and conditions of the original Agreement shall continue to apply.

### SCHEDULE 1 Benefit Pricing for Financial Education Benefits Center

#### LifeLock Pricing

<b>Standalone</b>	<b><u>Retail Rate*</u> per member per month</b>	<b><u>Wholesale Rate</u> per member per month</b>
Standard Individual		
Standard Family		
Advantage Individual		
Advantage Family		
<b>Package**</b> <small>**Must be purchased with at least two other paid benefits.</small>	<b><u>Retail Rate*</u> per member per month</b>	<b><u>Wholesale Rate</u> per member per month</b>
Standard Individual**		
Standard Family**		
Advantage Individual**		
Advantage Family**		

\* benefit must be sold at this retail rate

#### Additional Terms:

- ◆ Member is defined as the card purchaser and legal dependents.
- ◆ Pricing includes benefit access and customer service. (List billing only available for monthly statements over \$50.00.)
- ◆ Pricing does not include membership kit fulfillment and marketing/registration materials.
- ◆ Marketer is responsible for submitting an up-to-date List Bill agreement to NB any time a package and/or Membership Fee changes for a group. In the event Marketer fails to submit an up-to-date List Bill agreement, Marketer will be responsible for the difference should the group dispute the change in fees. Any such shortfall will be collected from Marketer under NB's right of offset.

In the event both parties do not sign this Addendum on or before the last day of November, 2017, it will be deemed null and void.

UNLESS OTHERWISE SPECIFIED HEREIN, THIS ADDENDUM SHALL BE EFFECTIVE UPON THE DATE EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF NEW BENEFITS, LTD.

MARKETER

Signature: Brandon Frere  
Brandon Frere (Oct 4, 2017)  
Name: Brandon Frere  
Title: President/CEO  
Marketer #: XXXXXXXXXX

NEW BENEFITS, LTD.

Signature: Joel Ray  
Name: Joel Ray  
Title: CEO

Date: Oct 4, 2017

*A copy of this Agreement containing signatures of all the parties hereto shall constitute an original document for all purposes.*

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**



## ADDENDUM 2

ADDENDUM to the MARKETING AGREEMENT (hereinafter referred to as "Agreement") entered into as of August 25, 2017, by and between New Benefits, Ltd. whose principal place of business is located at 14240 Proton Road, Dallas, Texas 75244 (hereinafter referred to as "NB"), and FINANCIAL EDUCATION BENEFITS CENTER, its affiliates, related entities, and subsidiaries, (hereinafter referred to as "Marketer") whose principal place of business is located at 2010 Crow Canyon Place, SUite 100, San Ramon, California 94583.

**This Addendum serves to delete Section 27 in its entirety and replace with the following Section 27. This Addendum also serves to delete the BonusDrive Advantage benefit pricing and terms on Schedule 1 of the Agreement. All other terms and conditions of the original Agreement shall continue to apply.**

### 27. ENTIRE AGREEMENT

This Agreement contains the entire and only Agreement between the parties hereto and supersedes other prior Agreements between the parties whether written or oral. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended, modified or waived except by a written agreement signed by both parties. Changes related to Vendors, Program Benefits or pricing are subject to the notice requirements set forth in Section 1 and do not require a written agreement signed by both parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument. A copy of this Agreement containing signatures of all parties hereto shall constitute an original document for all purposes.

**In the event both parties do not sign this Addendum on or before the last day of April, 2018, it will be deemed null and void, and may affect the status of your Agreement.**

**UNLESS OTHERWISE SPECIFIED HEREIN, THIS ADDENDUM SHALL BE EFFECTIVE UPON THE DATE EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF NEW BENEFITS, LTD.**

#### MARKETER

Signature: Brandon Frere  
Brandon Frere (Apr 2, 2018)  
Name: Brandon Frere  
Title: President/CEO  
Marketer #: [REDACTED]  
Email: brandon@febcp.com

#### NEW BENEFITS, LTD.

Signature: Joel Ray  
Name: Joel Ray  
Title: CEO  
Date: Apr 2, 2018



February 19, 2018

Dear Mr. Frere,

New Benefits' (NB) agreement with BonusDrive (the vendor) requires each marketer submit a "Marketing Plan" for approval before beginning any marketing or promotional efforts of the benefit. The Marketing Plan must include for each potential client: the name of the potential client; date of contact; number of eligible lives; copy of the marketing materials distributed to the potential client; date of distribution; method of distribution; how often each year the eligible lives will receive marketing materials; and, number of eligible lives who actually received materials.

Due to the strict Marketing Plan requirements recently enacted by the vendor, NB is terminating the BonusDrive benefit with marketers not actively promoting it. NB's records indicate you have not included BonusDrive in any package made available to your customers. As such, enclosed is an Addendum to your Marketing Agreement deleting BonusDrive from Schedule 1.

Should you have any additional questions, please contact your NB account executive.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert Vasquez". The signature is fluid and cursive.

Gilbert A. Vasquez, Esq.  
General Counsel and VP of Compliance

# **Vasquez Exhibit B**

FEBC Members as of April 9, 2018

████████	DELILAH CASTRO	████████	████████	FL	████████	-WD-WB-VI-QT-PJ-PE-IM-HA-D1-CV-AW-2E-
████████	JESSICA SCHMIDT	████████	████████	PA	████████	-WD-WB-VI-QT-PJ-PE-IM-HA-D1-CV-AW-2E-
████████	LISA SHEWCHUK	████████	████████	FL	████████	-PT-I4-FA-
████████	HOMER M CAMPBELL	████████	████████	TX	████████	-WD-WB-VI-T3-SU-QT-PJ-PE-IM-HA-D1-CV-AW-7A-2E-
████████	MARTIN ROWINSKI	████████	████████	CA	████████	-WD-WB-VI-V-U-QT-PJ-PE-IM-HA-EP-D1-CV-AW-8A-2E-
████████	THOMAS KNICKERBOCKER	████████	████████	CA	████████	-WD-WB-VI-V-U-QT-PJ-PE-IM-HA-EP-D1-CV-AW-8A-2E-

# **Vasquez Exhibit C**



From: eligibility@newbenefits.com  
To: Martin Rowinski  
Cc: eligibility@newbenefits.com; Jennifer Crane  
Subject: FEBC - Member could not be processed.  
Date: Monday, April 02, 2018 1:39:02 PM  
Importance: High

Good Afternoon,

The following member could not be processed because the group is not currently compliant in the state of UT.

Utah requires that all marketers register with the Commissioner of Insurance in Utah prior to marketing/selling in that state.

A license issued to a Health Discount Program Marketer is valid for one year and expires every December 31st. The registration form may be found at <https://insurance.utah.gov/licensee/insurers/hdp> (select Marketer Application in middle of page). This does NOT apply to Rx only programs. There is an initial application fee of \$300.00 and a yearly renewal fee of \$450.00.

Also, the same member was submitted three times.

Member of group not compliant in specified state.	FEBC	A	C4	SCOTT	BELNAP	RIVERTON	UT
Member of group not compliant in specified state.	FEBC	A	C3	SCOTT	BELNAP	RIVERTON	UT
Member of group not compliant in specified state.	FEBC	A	C3	SCOTT	BELNAP	RIVERTON	UT

The system has finished processing the Disk File: MANAGEMEMBERS\PROCESSED\MANAGEMEMBERS\_20180402\_152801 TXT

Start Date: 04/02/2018  
Start Time: 15:32:25

End Date: 04/02/2018  
End Time: 15:32:50

Processing Results:  
Number of Records processed: 3  
Number of Duplicate Members: 0  
Number of Processing Errors: 0  
Number of Processing Warnings: 0  
Number of Compliance Errors: 3  
Number of Members Set for Termination: 0

Compliance Error File: MANAGEMEMBERS\ERROR\COMPDISK20180402\_01 CSV

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Group id: FEBC

Number of members Added: 0  
Number of members Deactivated: 0  
Number of members Renewed: 0  
Number of members ReActivated: 0  
Number of members Modified: 0  
Number of members not Changed: 0

Number of Fulfillments produced: 0

Number of Dependents processed: 0  
Number of Spouses processed: 0  
Number of Active Members: 6

Thanks,

 **Jaime Keils**  
Account Coordinator  
800.800.8304 x1651 

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