

# ADMINISTRATIVE SERVICES AGREEMENT (ASA)

This Administrative Services Agreement (Agreement), effective \_\_\_\_\_ is made and entered into by and between **Basic Benefits, LLC dba Basic pacific**, that acts as a third party administrator, and \_\_\_\_\_, (EMPLOYER) the sponsoring employer of one or more employee benefit plans (referred to herein as "employee benefit plans").

## RECITALS

- 1) EMPLOYER has established one or more employee benefit plans/services identified below for the benefit of its employees and their dependents.
- 2) EMPLOYER is the Employee Retirement Income Security Act (ERISA) Plan Administrator of such employee benefit plan (if subject to ERISA), and is the Plan Fiduciary, and has the responsibility for appointing the third-party contract administrator of such employee benefit plan and shall remain responsible for the maintenance and operation of such employee benefit plan.
- 3) Basic pacific is engaged in the business of providing certain third-party contract administration services to sponsoring employers and Plan Administrators of such employee benefit plans.
- 4) EMPLOYER desires to enter into an agreement with BASIC pacific under which Basic pacific will provide certain day-to-day administration services to EMPLOYER with respect to the employee benefit plans identified in this Agreement and Addendums identified below and attached hereto:

Flex Administration

HRA Administration

HSA Administration

## AGREEMENT

In consideration of the mutual covenants contained herein, the parties agree as follows:

- 1) Engagement of Basic pacific: EMPLOYER hereby engages Basic pacific and Basic pacific hereby accepts such engagement by EMPLOYER to perform the third party plan administration services specified in this Agreement and attached Addendums to this Agreement, with respect to the employee benefit plan(s) and consistent with the relevant provisions of the Internal Revenue Code ("Code"), ERISA (if applicable) and the terms of the employee benefit plans included by Addendum herein. EMPLOYER understands and agrees that should new and/or additional regulations, requirements or costs be imposed on EMPLOYER by the relevant provisions of the Internal Revenue Code ("Code"), ERISA (if applicable) or the terms of the employee benefit plans included by Addendum herein, BASIC pacific may modify said services during the term of this Agreement in order to timely comply with such new requirement(s) and/or charge additional fees for such new requirement(s) if required by law or requested by EMPLOYER. BASIC pacific will provide EMPLOYER with prior written notice of any/all additional fees charged for additional services.
- 2) Term of Agreement. This Agreement commences on the above listed effective date and has an initial term of one year from the Effective Date (the "Initial Term"). Thereafter, the Agreement will automatically renew for additional one-year periods (each a "Renewal Term"), unless either Party notifies the other of an intent to not renew the Agreement no later than 30 days prior to the end of the Initial Term or Renewal Term. The Initial Term and the Renewal Terms, if any, are collectively referred to as the "Term", unless discontinued by either party for any of the following reasons:
  - a. As of the last day of the term of the Agreement by either party, in its sole and absolute discretion, giving at least thirty (30) days prior written notice to the other party that the Agreement will not be renewed;
  - b. As of any date upon which EMPLOYER and Basic pacific mutually agree;
  - c. As of the date when EMPLOYER fails to provide the agreed upon funds necessary for the efficient performance of Basic pacific's responsibilities under this Agreement (Notice with a fair and reasonable opportunity to remedy (as defined in 26.B.) will be provided to EMPLOYER prior to termination of this agreement by Basic pacific);
  - d. As of the end of a period of thirty (30) days after written notice of termination for cause has been given by either party to the other, provided that such cause has not been cured within such thirty (30) day period;
  - e. Upon termination in accordance with the Force Majeure paragraph, below; or
  - f. Upon the voluntary or involuntary dissolution of either party.
- 3) Duties Of Basic pacific: Basic pacific shall provide to or on behalf of EMPLOYER the services set forth in the Agreement and Addendum(s) (collectively, the "Services").
- 4) Standards of Performance: Basic pacific will perform all Services diligently and professionally, and at all times, in accordance with the standards and practices of care, skill, and diligence customarily observed by similar firms under similar circumstances. Basic pacific warrants that 1) it has the full right, power, legal capacity and authority to enter into, deliver and fully perform under this Agreement, 2) that its performance hereunder will comply with all applicable laws, rules and regulations governing such Services; and, 3) that it will comply with all applicable privacy laws (if required for the services provided, a separate Business Associate Agreement shall be executed).
- 5) Responsibility of EMPLOYER: EMPLOYER understands and agrees to the following:
  - a. EMPLOYER understands and agrees that Basic pacific's performance under this Agreement shall be delivered so as to comply with the requirements of all applicable laws, including HIPAA, and with the documents governing such services to the extent that such documents are not inconsistent with applicable law. EMPLOYER further understands and agrees that Basic pacific's material may be superseded by changes in the regulations or applicable laws governing the services provided by BASIC pacific. EMPLOYER further understands & agrees that Basic pacific's responsibilities are limited to those services specified in the attached Addendum(s). EMPLOYER understands that it is solely responsible to ensure their organization is in compliance with regulations not specified in their Addendum(s), such as compliance with the HIPAA Privacy regulations.
  - b. In performing its services under this Agreement, Basic pacific must necessarily rely upon EMPLOYER and others to provide Basic pacific with timely, accurate and complete information as requested by BASIC pacific. BASIC pacific shall not be responsible for any losses, damages, claims or liability of any kind, by the failure of EMPLOYER or others to provide such timely, accurate and

complete information to Basic pacific. EMPLOYER is responsible for supervising the timely delivery of data and information requested by Basic pacific.

- c. EMPLOYER shall be responsible for the timely execution and delivery or filing of all documents and forms. Basic pacific shall provide all necessary documents and forms in a timely manner so as to allow Employer to review and timely file such documents and forms. When reviewing any documents or forms prepared by Basic pacific, EMPLOYER shall report any inaccuracies or errors to Basic pacific upon discovery, or as soon as possible thereafter. Although Basic pacific may assist EMPLOYER as requested in the preparation of forms, returns and other documents, the decision to prepare and file such documents, as well as all other decisions relating to compliance with the reporting and disclosure requirements applicable to the employee benefit plan(s) shall be the sole responsibility of EMPLOYER.
  - d. EMPLOYER shall notify Basic pacific of any changes in information previously given or supplied to Basic pacific that will impact Basic pacific's provision of Services under this Agreement, particularly with respect to any change or anticipated change in the employee benefit plan(s) or in the employee census data.
  - e. EMPLOYER is required to meet all reporting, disclosure and employee benefit plan requirements not specifically performed by Basic pacific and identified herein. Failure to comply with all such reporting and disclosure requirements is the sole responsibility of EMPLOYER.
  - f. Except as specifically set forth in this Agreement, Basic pacific shall have no responsibility or liability to any person to fund any employee benefit plan benefits.
  - g. Basic pacific may seek instructions from EMPLOYER on any matter related to the interpretation of any matter pertinent to the benefit plan(s) or services provided by Basic pacific and may await the written instructions from EMPLOYER without incurring any liability under this Agreement whatsoever. If at any time EMPLOYER should fail to give directions to Basic pacific in a timely manner, Basic pacific may act or refrain from acting, and shall be protected in acting or refraining from acting without such directions, as BASIC pacific reasonably deems in good faith to be appropriate and advisable under the circumstances.
- 6) Record Keeping: EMPLOYER and Basic pacific understand and agree to the following:
- a. All original employee benefit plan records and documents shall be maintained by EMPLOYER.
  - b. EMPLOYER understands and agrees that BASIC pacific will retain records for a minimum period of eight (8) years. Records more than eight (8) years old may be destroyed in an appropriate manner. Any records containing protected health information (as defined by HIPAA) shall be maintained in accordance with (1) the terms of the HIPAA privacy and security rules, as well as (2) the BAA entered into between Basic pacific and Employer.
  - c. Upon the termination of this Agreement, Basic pacific will, upon request by EMPLOYER, complete the processing of this Agreement under the terms and conditions that would be applicable if this Agreement were still otherwise in full force and effect through the date of termination. Upon receipt of a directive from EMPLOYER, Basic pacific will provide all information requested and maintained by Basic pacific to ensure the smooth and timely transfer of services to the new administrator. The data will be provided in Basic pacific's standard electronic format. An additional fee of \$150 per hour will be charged if EMPLOYER requests that Basic pacific provide data/materials in a non-standard format, or for assistance gathering information not maintained by Basic pacific. Undisputed fees must be paid to date prior to Basic pacific providing any data or material.
  - d. Basic pacific will promptly make copies of any employee benefit plan records and documents in its possession available to EMPLOYER upon request. Basic pacific shall also permit authorized representatives of EMPLOYER, at reasonable times, to have access to, examine, and make copies of, such records and documents, at EMPLOYER's expense.
  - e. Should copies of employee benefit plan records or documents be requested by any employee, participant, beneficiary, court or governmental agency, Basic pacific will promptly notify EMPLOYER and will make and provide the requested copies.
- 7) Confidential Information: All records, files, documents (including certain information that is known by Basic pacific to be confidential and proprietary to EMPLOYER's general organization, operations and structure) and the like relating to EMPLOYER's employee benefit plan(s), including, without limitation, personal information of employees of the EMPLOYER or participants in the employee benefit plans, with which Basic pacific shall come into contact shall remain the sole property of EMPLOYER and shall not be disclosed to third parties except as authorized in this Agreement, as authorized by the BAA between the Employer and Basic pacific, as otherwise authorized by EMPLOYER in writing, or pursuant to the direction or order of a governmental agency or a court of competent jurisdiction. To the extent permitted, Basic pacific will give EMPLOYER adequate time to contest such direction or order. However, any additional time spent by Basic pacific pertaining to an EMPLOYER that chooses to contest a governmental direction or order shall be billed to the EMPLOYER at the rate of \$150 per hour. Notwithstanding any of the foregoing, any examination or copying of participant records shall be carried out in a manner designed to protect the confidentiality of such information. All written materials constituting or incorporating any such information described herein shall be returned to EMPLOYER upon request.
- 8) No Legal or Tax Services: EMPLOYER recognizes that Basic pacific is not authorized to engage in the practices of law or accounting and that Basic pacific will not provide legal or tax services to EMPLOYER or any other person. EMPLOYER agrees that they are responsible to obtain legal and tax guidance from their counsel when appropriate. Whenever a legal or tax issue arises in the course of the work to be performed under this Agreement, EMPLOYER shall be responsible to obtain such legal or tax guidance as may be necessary to resolve the issue. EMPLOYER shall notify Basic pacific of their decision accordingly and Basic pacific shall be entitled to rely upon direction from EMPLOYER in the performance of its services for EMPLOYER.
- 9) Advice and Recommendations: EMPLOYER understands and agrees that, although Basic pacific may from time to time call to EMPLOYER's attention and make recommendations concerning potential or actual problems that may come to Basic pacific's attention with respect to the operation and administration of EMPLOYER's employee benefit plan(s), such advice and recommendations are a matter of accommodation only and Basic pacific shall have no duty to give such advice, make such recommendations, or otherwise to question any actions or decisions of EMPLOYER, the sponsoring employer, any employee benefit plan fiduciary, or any of their respective agents or employees.
- 10) Not a Fiduciary: EMPLOYER and Basic pacific understand and agree to the following:
- a. EMPLOYER understands and agrees that Basic pacific is not the "Plan Administrator" of any of the employee benefit plan(s) and that Basic pacific is not a fiduciary with respect to any such employee benefit plan. Basic pacific acts in a ministerial capacity only. EMPLOYER will communicate to the sponsoring employer (if different), all employee benefit plan fiduciaries, and participants that Basic pacific does not act as a fiduciary.
  - b. EMPLOYER and each employee benefit plan fiduciary shall retain his, her, it's or their full authority, discretion and responsibility for the operation of the employee benefit plan(s) with respect to which Basic pacific is providing its services under this Agreement. Basic pacific shall be entitled to rely on the EMPLOYER's or other plan fiduciary's decision with respect to any claim for benefits

under any employee benefit plan, and Basic pacific shall perform its services under this Agreement in accordance with such decisions.

c. Unless expressly stated in an amendment to the Agreement, or in a separate agreement, Basic pacific accepts no responsibility for the distribution of summary plan descriptions (SPD's) to employees or dependents.

11) Independent Contractor Status: Neither Basic pacific, nor any party contracting with Basic pacific shall be deemed to be an employee of EMPLOYER. Basic pacific is and shall be an independent contractor with respect to EMPLOYER. The legal relationship of any person performing services for Basic pacific shall be one solely between Basic pacific and such person. Neither party has the right or ability to bind the other party to any agreement with a third party or to incur any obligation or liability on behalf of the other party without the other party's written consent.

12) Indemnity by EMPLOYER:

a. Limitation on Cumulative Liability. The cumulative liability of Client to BASIC Benefits (and BASIC Benefits to Client) for any actual or alleged damages arising out of, based on or relating to this Agreement, whether based upon breach of contract, tort (including negligence), warranty or any other legal theory, shall not exceed the charges paid by Client to BASIC Benefits, except as provided under any Business Associate Agreement or confidential information as described in Section C entered into by the Parties which is incorporated herein by reference.

b. Limitation on Specified Damages. In no event shall either Party be liable for any indirect, special, incidental, consequential, punitive, or exemplary damages (including damages related to delays, loss of data, interruption of service or loss of business or profits or revenue), even if either Party has been advised of the possibility of such damages. In no event shall either Party be liable for any third-party claim.

c. Assertion of Claims. Any claim or cause of action arising out of, based on, or relating to this Agreement not presented to both Parties within six months from the discovery of the claim or cause of action shall be deemed waived. Both Parties shall have the duty to mitigate damages for which the opposite Party may become responsible under this Agreement.

d. Third Party Indemnification. Each Party agrees to indemnify and hold harmless the other party, its officers, employees, and agents from and against third party fines, claims, demands, suits, actions, or costs, including reasonable attorneys' fees of any kind and nature, to the extent they arise by reason of the indemnitor's acts or failures to act as described in this Agreement.

e. Indemnification by Client. Client shall indemnify BASIC Benefits and hold it harmless from and against all loss, liability, damage, expense, attorney's fees, or other obligations resulting from, or arising out of, any act or omission of Client in connection with the Agreement, or claim, demand, or lawsuit in connection with services performed (or not performed) by Client hereunder. In addition, Client shall indemnify BASIC Benefits and hold it harmless from and against any liability, expense, demand, or other obligation resulting from or arising out of any applicable taxes, or similar assessment (federal or state), for which Client is solely liable.

f. Indemnification by BASIC Benefits. BASIC Benefits shall indemnify Client and hold it harmless from and against all loss, liability, damage, expense, attorney's fees, or other obligations resulting from, or arising out of, any act or omission of Basic Benefits in connection with the Agreement

13) Insurance: Basic pacific shall at all times maintain business & liability insurance coverage as well as all coverage required by law for its services, obligations, employment and physical assets. All coverage shall meet or exceed minimum required coverage levels.

14) Amendment: Except as otherwise provided in this Agreement, no waiver or modification of any part of this Agreement shall be valid unless in writing and duly executed by both parties. This Agreement may be amended at any time, in whole or in part, in writing signed by EMPLOYER and Basic pacific that recites specifically that it is an amendment to the terms of this Agreement.

15) Governing Law: The laws of the State of California, without regard to California's conflict of law's provisions, shall govern the construction and interpretation of this Agreement. Both Parties consent to jurisdiction and venue in the state and federal courts in Placer County, California. In any action or suit to enforce any right or remedy in this Agreement or to interpret any provision of this Agreement, the prevailing Party in a final determination shall be entitled to recover its costs, including reasonable attorneys' fees.

16) Audit Rights. The parties agree to cooperate in all reasonable audits. Audit fees shall be payable by the party initiating the audit. Audits shall be conducted using procedures mutually agreed upon by the parties. Results of the audit may be shared with the party being audited at the sole discretion of the party initiating the audit.

17) Non-Assumption of Liabilities. Unless specifically provided in this Agreement and Addendum(s), the parties do not assume the existing or future obligations, liabilities or debts of the other party.

18) Partial Invalidity: The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision of this Agreement.

19) Waiver: Failure to insist upon strict compliance with any provision of this Agreement shall not be deemed to be a waiver of such provision or any other provision. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other provision or of any subsequent breach of such provision.

20) Assignment. This Agreement is binding on the Parties hereto and their respective successors and assigns. Either Party may, or has the power to, assign this Agreement without the prior written consent of the other. Further, BASIC Benefits may assign its rights and obligations under this Agreement without the approval of Client (a) to an entity which acquires all or substantially all of the assets of BASIC Benefits, or (b) to any subsidiary or Affiliate or successor in a merger, acquisition, restructuring or reorganization of BASIC Benefits.

21) Notice: Any notice required or permitted to be given under this Agreement shall be provided in writing and delivered by the most expeditious means available including, but not limited to email, facsimile, overnight courier or certified or registered mail to the addresses set forth below.

Notice to EMPLOYER shall be sent to:

Employer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BASIC Benefits

Headquarters

9246 Portage Industrial Dr.

Portage, MI 49024

22) Enforcement: In the event a dispute should arise regarding the interpretation or enforcement of any of the terms of this Agreement, the parties shall attempt in good faith to resolve informally and promptly any such dispute. The Parties agree that this Agreement shall be governed by and construed and interpreted in accordance with the laws of California without giving effect to any principles of conflicts of law.

- 23) Force Majeure. Except for either Party's obligations as stated in this Agreement, neither Party is responsible for delays or failures in performance resulting from acts or events beyond its reasonable control, including but not limited to, acts of nature, governmental actions, fire, labor difficulties or shortages, civil disturbances, transportation problems, interruptions of power supply or communications or natural disasters, or interruptions of financial markets, provided such Party takes reasonable efforts to minimize the effect of such acts or events.
- 24) Limitations on Actions: Notwithstanding any applicable law that may provide for a longer period of time, no action, regardless of its form, arising out of this Agreement may be brought by either party more than four (4) years after the cause of action has arisen, including if the action involves nonpayment.
- 25) Fees and Charges: Fees and charges specific to an employee benefit plan or service provided by BASIC pacific are stated on the Addendum(s) made part of this Agreement. General fees and charges are as follows:
- a. Document/Service Agreement Modifications – BASIC pacific provides complete documents and service agreements as part of our base service fee. Because BASIC pacific uses a professional document system, all documents generated by the system are maintained by the attorneys of the system provider. As such, BASIC pacific cannot modify document language unless it is intended to be edited within the system. As documents are the property of each EMPLOYER, EMPLOYER is free to modify any document language that it desires. However, BASIC pacific will only support or retain edits that are designed to be permitted within the system. Any changes made by EMPLOYER that are not intended to be edited within the system shall be the sole responsibility of EMPLOYER. In addition, future amendments and restatements generated in the system will not reflect such changes made by EMPLOYER. BASIC pacific will not charge EMPLOYER for up to one hour of time pertaining to documents and document revisions each year. BASIC pacific staff time spent at EMPLOYER's request in excess of one hour per year will be charged to EMPLOYER at the rate of \$75/hour. Should EMPLOYER desire a legal opinion, BASIC pacific will make their consulting ERISA attorney available to EMPLOYER at the hourly rate then charged to BASIC pacific by such attorney.
  - b. All undisputed fees are due and payable within thirty (30) days of the date of the invoice. A late payment penalty may be charged for all undisputed fees not received within sixty (60) days of the invoice date. The penalty will be one- and one-half percent (1.5%) of the undisputed delinquent balance per month or, where a lower rate is prescribed by law, the highest rate thereby permitted. In addition, BASIC pacific retains the right to suspend or terminate services if the delinquent payment is not received by BASIC pacific within ninety (90) days of the invoice date, provided EMPLOYER is given at least thirty (30) days' notice of delinquency. An additional reinstatement fee will apply to reinstate services after suspension or termination due to EMPLOYER's failure to pay undisputed fees by the deadline stated herein.
  - c. Upon termination of services, BASIC pacific reserves the right to suspend all services until all undisputed fees due are received from EMPLOYER. Further, BASIC pacific reserves the right to deduct undisputed outstanding fees from EMPLOYER general assets held by BASIC pacific for the payment of benefits.
  - d. BASIC pacific reserves the right to modify charges for administrative services and assistance effective on the contract renewal date provided EMPLOYER receives 60 days advance notice.
  - e. Upon request by EMPLOYER, BASIC pacific will assist EMPLOYER with issues that existed prior to the commencement of services with BASIC pacific. The additional charge for this service is \$75 per hour.
  - f. Work that must be duplicated or corrected resulting from late or inaccurate information from EMPLOYER (e.g. resend COBRA notices, correct posted FSA contributions, etc.) may be charged at the rate of \$75 per hour.
  - g. EMPLOYER may request that any document or material be mailed via special delivery. EMPLOYER understands and agrees to pay shipping and handling charges incurred by BASIC pacific for all requests for special delivery. Upon request, BASIC pacific will ask EMPLOYER for their shipping number. Alternatively, BASIC pacific will add the charge to a subsequent EMPLOYER invoice.
  - h. BASIC pacific will add an additional fee of \$20 to EMPLOYER's monthly fee invoice for each wire transfer received from EMPLOYER (fees or claim funding). EMPLOYER may avoid this charge by remitting funds by check or ACH.
  - i. If requested by EMPLOYER, BASIC pacific will name EMPLOYER as a "Primary" and/or "Additional" insured on BASIC pacific's General/Business liability policy at no charge. However, should EMPLOYER require BASIC pacific to name EMPLOYER as "Primary and Non-Contributory" insured, EMPLOYER understands and agrees that BASIC pacific will pass through to EMPLOYER (i.e. EMPLOYER will pay) additional charges (if any) charged by BASIC pacific's insurer to name EMPLOYER as "Primary and Non-Contributory".
- 26) Consideration: EMPLOYER understands and agrees that authorizing services to be performed by BASIC pacific or paying fees to BASIC pacific (whether paid directly or by a third-party), constitutes acceptance by EMPLOYER of the terms and conditions of this Agreement (including all Addendums listed herein) even if EMPLOYER has not yet executed and returned this Agreement to BASIC pacific by the first day of the contract period specified herein.
- 27) Entire Agreement: This Agreement (including the Addendums which are a part of this Agreement and the Business Associate Agreement, if applicable) constitutes the entire agreement between BASIC pacific and EMPLOYER as it relates to the provision of administrative services. This Agreement supersedes all prior and contemporaneous agreements, understandings and representations between the parties, whether written or oral.

Each of the undersigned individuals represents and warrants that he or she is expressly and duly authorized by his or her respective entity or agency to execute this Agreement and to legally bind each such entity or agency as set forth in this Agreement.

**In Witness Whereof**, the Parties hereto have caused this Agreement to be executed as of the date first above written.

BASIC Benefits: \_\_\_\_\_ Client: \_\_\_\_\_

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE ADMINISTRATIVE SERVICES AGREEMENT**  
**FLEXIBLE BENEFIT PLAN ADMINISTRATION SERVICES AGREEMENT**

This Addendum to the Administrative Services Agreement is made and entered into by and between **BASIC pacific**, which acts as a third party administrator for the Flexible Benefit Plan administration services (Plan), and **{FullLegalName}**, the sponsoring employer (EMPLOYER).

**TERM**

The term for services provided herein shall commence on {ServiceYearStart} and end on {ServiceYearEnd}. Thereafter, this Agreement shall be continued for successive terms of twelve (12) months each unless terminated in accordance with this Service Agreement.

**GENERAL PROVISIONS**

**BASIC pacific agrees to:**

- 1) Host an initial planning tele-conference to review and explain all aspects/features of the service.
- 2) Provide a master Plan Document, Adoption Agreement, Board Resolution (if requested) and Summary Plan Description (SPD) for the Plan that complies with applicable Code and ERISA requirements. To the extent possible, these documents will be updated as needed by BASIC pacific to maintain the documents in compliance with all applicable Federal law and regulations. While every effort will be made to maintain the documents in compliance with applicable law and regulations, EMPLOYER understands that BASIC pacific does not warrant or guarantee their compliance. EMPLOYER's legal counsel should review the documents to assure the accuracy and appropriateness of all provisions and information.
- 3) Amend and or restate the Plan Document, Adoption Agreement and SPD at EMPLOYER's request effective on any Plan renewal date at no additional cost to EMPLOYER. EMPLOYER agrees to provide BASIC pacific with adequate advance notice of EMPLOYER's intent to amend the Plan (additional charges apply for Plan amendments that do not take effect on the Plan anniversary). BASIC pacific shall provide a Summary of Material Modifications (SMM) or restated SPD to EMPLOYER as required by ERISA. EMPLOYER is responsible to provide the SMM and/or SPD to participants in a timely manner.
- 4) Provide administration forms needed for EMPLOYER to manage the Plan. Forms will be updated as needed.
- 5) Provide unlimited toll-free customer service support for HR/Payroll staff and participants.
- 6) Work directly with Plan participants on all matters pertaining to the reimbursement accounts under the Plans. BASIC pacific's standard claims process includes the following services:
  - a. upon enrollment, BASIC pacific will provide participants with complete Plan information;
  - b. BASIC pacific will accept claims submitted by mail, fax, email, using the online filing system, or debit card (if provided by EMPLOYER);
  - c. BASIC pacific will process claims consistent with guidance under the Code and according to the terms of the Plan Document, and pay claims twice weekly (unless an alternative cycle is approved by BASIC pacific);
  - d. BASIC pacific will pay reimbursements by check or direct deposit (if authorized by the Plan participant);
  - e. BASIC pacific will email a confirmation with each direct deposit reimbursement;
  - f. BASIC pacific will provide periodic statements to each participant during the plan year;
  - g. Participants with a remaining balance will receive a final "reminder" account statement during the run-out period that follows the end of the plan year.
- 7) Provide the following standard reimbursement/funding process for non-debit card claims (unless an alternate process is agreed to by BASIC pacific). BASIC pacific will: (1) process (pay or decline) reimbursements each Wednesday and Friday (except BASIC pacific holidays); (2) include all claims received by noon the previous day; (3) pay claims by check or direct deposit (participant choice); (4) send email notifying EMPLOYER of the total amount paid that day; and, (5) draft (via ACH) the amount paid on the following day from the account designated by EMPLOYER.
- 8) Maintain a full service participant website. Participants can: (1) access a full array of general information about their plan; (2) download forms; (3) communicate with BASIC pacific; (4) review their own personal information; (5) access their own confidential account information, including the status of pending claims; and, (6) enter & record claims.
- 9) Provide periodic correspondence to assist EMPLOYER with plan administration and Internal Revenue Code regulatory issues.
- 10) Provide all banking and accounting functions associated with maintaining a master reimbursement account, including: (1) absorbing the cost to establish and maintain the account; (2) recording deposits (via check or ACH draft initiated by BASIC pacific) and issuing disbursements from the account; (3) mailing reimbursements directly to participants; (4) reissuing checks as necessary; and, (5) reconciling the account.
- 11) Perform at least one complete discrimination testing cycle each plan year (not more than 2) at no additional charge. Prior to testing, BASIC pacific will request information required for testing. BASIC pacific will not perform the testing (or may charge an additional fee) unless EMPLOYER provides the requested information in the format required by BASIC pacific. If BASIC pacific is required to repeat a testing cycle due to incomplete or inaccurate information provided by EMPLOYER, it will count as an additional testing cycle. BASIC pacific will report the results of each test. If a test fails, BASIC pacific will recommend appropriate action (testing is not required for Parking & Transit Plans).
- 12) If required, prepare the Form 5500 on a signature ready basis for Health FSA plans with more than 100 participants on the first day of the plan year (unless directed not to do so by EMPLOYER). This service is limited to preparation of a stand-alone Form 5500 for an "unfunded" Health FSA plan. In accordance with Notice 2002-24 (spring of 2002), employers are not currently required to file a Form 5500 & Schedule F for cafeteria plans under §6039D. Notice 2002-24 did not impact the requirement to file a welfare plan Form 5500 under ERISA.
- 13) If provided, Parking & Transit reimbursements are reimbursed exclusively in "cash" (check or direct deposit). BASIC pacific does not currently offer transit and/or vanpooling reimbursement in the form of "passes" or "vouchers".

**Employer understands and agrees:**

- 1) To provide BASIC pacific with at least one EMPLOYER email address to receive both confidential and day-to-day Plan materials, such as documents, administration forms, and reports. EMPLOYER further agrees to notify BASIC pacific in a timely manner whenever an email or contact person changes. BASIC pacific provides many documents, forms & reports exclusively in an electronic format. Accordingly, the value of the BASIC pacific service is seriously compromised if the EMPLOYER cannot communicate via email. In addition, all written, verbal, or implied performance guarantees and warranties are voided if EMPLOYER cannot communicate via email.

- 2) To maintain Internet access to fully utilize BASIC pacific features and services.
- 3) That by using the BASIC pacific reimbursement account to pay reimbursements, EMPLOYER agrees: (1) that funds held in the BASIC pacific account are, and shall remain, general assets of the EMPLOYER; (2) to pay all funding requests by the date and method required by BASIC pacific; (3) that the BASIC pacific account is maintained for administrative purposes only; (4) that credits earned on the account will be retained by BASIC pacific to help offset bank and accounting charges [Accordingly, all benefits reimbursed from the BASIC pacific bank account are considered “unfunded”]; (5) that BASIC pacific may require additional funds to be deposited on account or that EMPLOYER will be required to establish and maintain a separate account (at EMPLOYER’s expense), should EMPLOYER in any way fail to respond to a BASIC pacific request for funds timely or in the manner required.
- 4) That, if debit cards are provided by EMPLOYER, BASIC pacific is not responsible for losses resulting from participants who use their debit card for unauthorized expenses, should those expenses be unrecoverable. If a participant uses the card for an unauthorized expense or cannot produce valid documentation when requested, BASIC pacific will attempt to recover the payment consistent with the IRS guidance relating to the use of debit cards in a flexible spending account plan. However, EMPLOYER agrees that BASIC pacific is not responsible to make up an amount that is unrecoverable from a participant unless BASIC pacific is at fault for permitting the original charge (e.g. BASIC pacific failed to terminate a card in a timely manner after receiving notification from EMPLOYER).
- 5) That, until BASIC pacific is properly notified by EMPLOYER , BASIC pacific is not responsible for any Plan losses that result from reimbursements being paid for expenses incurred after the date a participant loses his or her eligibility (regardless of whether the participant filed a manual or debit card claim).
- 6) That if EMPLOYER authorizes/requests more than 2 discrimination testing cycles for a plan year, an additional fee of \$75 per hour will be charged. BASIC pacific will provide EMPLOYER with advance notice of additional charges. Discrimination testing does not apply to Parking & Transit Plans.
- 7) That, if applicable, EMPLOYER is solely responsible to determine if transit & vanpooling reimbursements may be reimbursed in “cash”.
- 8) That, if applicable, all terms & conditions described and agreed to herein shall also apply to Parking & Transit Accounts (except those terms and conditions that do not apply by law).

## FLEX ADMINISTRATION FEES

<b>ANNUAL FEE</b>	Charged at the beginning of each service year	{BaseAnnualFLEXFee}
<b>BASE MONTHLY FEE</b>	Per participant fee charged at the beginning of each month	{MonthlyFLEXFeeperParticipant}{if \$PTServiceIndicator == 'Yes'}  {BasePTMonthlyFeeperParticipant} per P&T Participant{/if}
	Minimum Monthly Fee	{MinimumMonthlyFLEXFee}
<b>ADDITIONAL AND/OR OPTIONAL SERVICES</b>		
	Does the Employer offer the 2 ½ month grace period?	{FSAGracePeriod}
	Does the Employer offer the \$500 maximum Health FSA carryover?	{Carryover}
	Does the Employer elect to offer Debit Cards?	{DebitCard}
	Who will pay the fee for additional debit cards?	{DebitCardReplacementResponsibility}
	What is the charge to replace a debit cards?	{DebitCardReplacementFee}
	Include HIPAA Privacy Notice with Welcome Packet?	{HIPAANotice}
	If an employee enrollment meeting is requested, what is the charge?	{OnSiteMeetingFee} {if \$FreeOnSiteMeeting == 'Yes'} <b>One Free On Site Meeting: Yes</b> {/if}
	Health FSA COBRA administration (excludes DOL General Notice){if \$FSACOBRA == 'Yes'}	{FSACOBRA}{if \$FSACOBRA == 'Yes'}  {FSACOBRAFee}{/if}
	What is the charge?{/if}	
	Funding Option Selected:	{FundingOption}
	Who is responsible for preparing Form 5500 for the Health FSA?	{5500Filing}
	Enrollment Method	{EnrollmentType}
	Does the Employer elect to offer Parking Accounts?	{ParkingServiceIndicator}
	Does the Employer elect to offer Transit Accounts?	{TransitServiceIndicator}
	Does the Plan offer a "qualified reservist distribution" under HEART?	{HEART}
	What is the additional one-time fee?	\$50 (included in Annual Fee)
	Additional service time beyond the scope of this agreement	\$75/hour
	Amend and/or restate Plan at Employer's request during the Plan Year <i>No charge for Plan Amendments implemented on the Plan Anniversary</i>	\$75/hour
	Additional fee per wire transfer sent to BASIC pacific <i>For fees or claim funding</i>	\$20 per Wire Transfer
	Fee for "Run-Out" period & plan closing if BASIC pacific is terminated	{FLEXRunOutFee}
	FLEX Administration Fees Paid by Broker	{BrokerPaysFLEXFees}

{/if}{if \$HRAServiceIndicator == 'Yes'}



**ADDENDUM TO THE ADMINISTRATIVE SERVICES AGREEMENT**  
**HEALTH REIMBURSEMENT ARRANGEMENT (HRA) ADMINISTRATION SERVICES AGREEMENT**

This Addendum to the Administrative Services Agreement is made and entered into by and between **BASIC pacific**, which acts as a third party administrator for HRA administration services, and **{FullLegalName}**, the sponsoring employer (EMPLOYER).

**TERM**

The term for services provided herein shall commence on {ServiceYearStart} and end on {ServiceYearEnd}. Thereafter, this Agreement shall be continued for successive Agreement Periods of twelve (12) months each unless terminated in accordance with this Service Agreement.

**SERVICES AND MUTUAL RESPONSIBILITIES**

In consideration for the fees listed, BASIC pacific will provide the following services:

- 1) BASIC pacific will provide administration forms needed for EMPLOYER to manage the Plan. The forms will be updated as needed.
- 2) EMPLOYER understands that health insurance providers often do not permit employers to subsidize out-of-pocket expenses that apply to a deductible, co-insurance and/or co-payments. Should BASIC pacific be providing services herein that include reimbursing participants for health plan co-payments, deductibles, and co-insurance under a health plan, EMPLOYER understands and agrees that EMPLOYER is solely and exclusively responsible to ensure that such reimbursements are permissible (e.g. when necessary, obtain formal approval from the applicable carrier(s)) under the applicable health plan(s). Further, EMPLOYER understands and agrees that BASIC pacific has not, and will not, seek to obtain approval from any carrier for the services provided herein, nor does BASIC pacific in any way warrant, certify, or pledge that such reimbursements are permissible under the EMPLOYER's health plan(s).
- 3) BASIC pacific will provide A Plan Document, Adoption Agreement, Board Resolution (if required) and Summary Plan Description (SPD). These documents will be updated each year to ensure the Plan remains in compliance with the latest Federal regulations. EMPLOYER's legal counsel should review the documents to assure the accuracy and appropriateness of all information. Refer to optional services for information pertaining to customizing document language.
- 4) BASIC pacific will amend and or restate the Plan at EMPLOYER's request at no additional cost if EMPLOYER notifies BASIC pacific of its intent to amend the Plan in a timely manner and implements such changes on a Plan anniversary (BASIC pacific never charges for amendments mandated by Federal or State regulations).
- 5) Up to two (2) hours of assistance with issues pertaining to Plan design.
- 6) Unlimited toll-free customer service support for HR/Payroll staff and participants.
- 7) BASIC pacific will work directly with participating employees. If EMPLOYER elects BASIC pacific's standard reimbursement option, the claims process includes: (1) a claim form and filing instructions included with the participant enrollment materials; (2) provide quarterly statements to participants; (3) receive claims via mail, fax, email, online or debit card (if provided by EMPLOYER); (4) process and pay claims twice weekly; (5) offer participants the option to receive payments by check or direct deposit; (6) provide a summary statement with each reimbursement paid by check; and, (7) email a payment confirmation every time BASIC pacific pays a reimbursement via direct deposit (requires an email address on file).
- 8) BASIC pacific will maintain a full service participant website. Participants can: (1) access a full array of general information about their plan; (2) download forms; (3) communicate with BASIC pacific; (4) review and request to change their personal information; (5) access confidential account information, including the status of pending claims; and, (6) Enter & record claims information.
- 9) The standard bank & accounting arrangement to fund claims is as follows: (1) BASIC pacific will NOT hold EMPLOYER funds on account as a deposit; (2) EMPLOYER will complete a Bank Draft Authorization form granting BASIC pacific the authority to draft claim funds (and fees if EMPLOYER desires); (3) Each reimbursement cycle (each Wednesday and Friday), BASIC pacific will provide EMPLOYER with an email report notifying EMPLOYER of the total amount paid on that day; (4) BASIC pacific will draft (via ACH) an amount equal to the claims paid on the following business day (e.g. BASIC pacific will draft Wednesday claims paid from the EMPLOYER account on Thursday).
- 10) If EMPLOYER elects one of BASIC pacific's standard reimbursement & banking arrangements, BASIC pacific will provide all banking services necessary to facilitate claim processing. Services include: (1) maintain a master reimbursement account; (2) reimburse participants via check, direct deposit or debit card (if offered by the employer); (3) reissue checks to participants at no charge; and, (4) receive employer funds via bank draft initiated by BASIC pacific (i.e. "Pass Through" funding) or via bank draft, check or ACH from EMPLOYER (i.e. "Deposit Replenishment"). BASIC pacific will provide EMPLOYER with a detailed year-end report. In addition, disbursement reports are available on a scheduled basis.
- 11) If EMPLOYER elects one of BASIC pacific's standard reimbursement & banking arrangements, BASIC pacific and EMPLOYER mutually agree to the following: (1) BASIC pacific will maintain a master reimbursement account for administrative purposes only; (2) All charges and expenses associated with the account will be the responsibility of BASIC pacific; (3) credits/interest earned, if any, will be retained by BASIC pacific to help offset bank and accounting charges; (4) principal funds held in the account (if any) shall remain general assets of EMPLOYER at all times. Accordingly, the Plans reimbursed through the account are considered "unfunded"; (5) BASIC pacific may require a reasonable deposit to be held on account should the EMPLOYER elect the "Deposit Replenishment" funding option and/or should any EMPLOYER funds not be honored for any reason, or should BASIC pacific, in its sole discretion, determine that a deposit (or additional deposit) is required to ensure EMPLOYER always retains a positive fund balance; (6) EMPLOYER agrees to promptly fund any reasonable deposit request made by BASIC pacific (unless BASIC pacific has made a mistake); and, (7) BASIC pacific reserves the right to suspend the payment of claims without notice until a deposit is received should EMPLOYER fail to pay a deposit request in a timely manner.
- 12) BASIC pacific will provide periodic correspondence to assist EMPLOYER with plan administration and Internal Revenue Code (IRC) regulatory issues.
- 13) If EMPLOYER elects, BASIC pacific will provide HIPAA Certificates of Creditable Coverage for the HRA.
- 14) BASIC pacific will provide COBRA administration services for the HRA at no additional charge if elected by EMPLOYER. EMPLOYER understands and agrees that if BASIC pacific only provides COBRA services for the HRA, the HRA COBRA service is limited to Qualifying Events only (in general meaning BASIC pacific will not provide the DOL General Notification). In addition, this limited COBRA service does not include actuarial services to establish a "COBRA" premium. EMPLOYER is solely responsible to establish and maintain a COBRA premium. Should EMPLOYER fail to provide BASIC pacific with the COBRA premium in a timely manner, BASIC pacific will establish an alternate COBRA premium (In the first year of the Plan, the rate will be established using the comparative claims experience of similarly situated plans.

In subsequent years, the rate will be established based on the actual claims experience of the Plan). EMPLOYER understands and agrees that the rate established by BASIC pacific is only an estimate and may or may not be considered acceptable if the Plan is audited. EMPLOYER hereby agrees to hold BASIC pacific harmless from any and all direct and indirect cost that may arise from the establishment of the COBRA premium.

- 15) BASIC pacific will offer to perform discrimination testing one time each plan year. The testing will be limited to discrimination testing for a self-funded medical reimbursement plan under Code 105(h). If the Plan is also a Health FSA, BASIC pacific will perform the testing required for a Health FSA plan at no additional charge. Prior to testing, BASIC pacific may request information from EMPLOYER required to properly perform the tests. Should EMPLOYER fail to provide the information in a timely manner, BASIC pacific will perform the test based on the information available. BASIC pacific will report the results of each test. If the HRA fails the discrimination tests, BASIC pacific will recommend corrective action. Extra charges will apply if the time associated with taking corrective action exceeds two hours. The additional charge will be based on BASIC pacific current hourly fee for such services.
- 16) BASIC pacific will prepare the Form 5500 on a signature ready basis for any plan year during which the HRA had more than 100 participants on the first day of the plan year (unless directed not to do so by EMPLOYER). This service is limited to preparation of the Form 5500 for an "unfunded" HRA.
- 17) EMPLOYER understands and agrees that BASIC pacific provides many letters, documents and other critical correspondence exclusively in an electronic format via email. Accordingly EMPLOYER understands and agrees to provide BASIC pacific with one or more email addresses to deliver such documents to EMPLOYER. Employer also agrees to notify BASIC pacific of a new/changed address in a timely manner. EMPLOYER further understands and agrees that if EMPLOYER does not provide BASIC pacific with such email address(es), EMPLOYER will not receive many critical correspondence, which will result in an incomplete service for which EMPLOYER is solely responsible.

#### POTENTIAL ADDITIONAL CHARGES

- 1) If BASIC pacific is required or requested to perform discrimination testing in excess of the testing that is included as part of the base service package, the additional charge will be \$75 per hour. BASIC pacific will notify EMPLOYER prior to assessing additional charges for this service.
- 2) BASIC pacific provides the plan documents and administrative material on a semi-custom basis. Should EMPLOYER request additional customization, EMPLOYER agrees to pay an additional hourly fee of \$75 per hour. BASIC pacific will notify EMPLOYER prior to assessing additional charges for this service.
- 3) EMPLOYER understands that under BASIC pacific's standard banking/reimbursement arrangement, BASIC pacific will draft claim funds from an EMPLOYER account as claims are paid. If EMPLOYER does not permit BASIC pacific to draft funds, BASIC pacific may elect to allow EMPLOYER to fund claims by an alternate method for an additional fee. BASIC pacific will quote the additional fee upon request.

## HRA ADMINISTRATION FEES

<b>ANNUAL FEE</b>	Charged at the beginning of each service year	{\$BaseHRAAnnualFee}
<b>BASE MONTHLY FEE</b>	Charged at the beginning of each month Minimum Monthly Fee: -FIELD-	{\$MonthlyHRAFeeperParticipant} per HRA Participant
<b>ADDITIONAL AND/OR OPTIONAL SERVICES</b>		
	Does the Employer elect to offer Debit Cards?	{\$HRADebitCard}
	Who will pay the fee for additional debit cards?	{\$DebitCardReplacementResponsibility}
	What is the charge to replace a debit card?	{\$DebitCardReplacementFee}
	Include HIPAA Privacy Notice with Welcome Packet?	-FIELD-
	Employee enrollment meetings requested?	{\$On-SiteMeetings}
	What is the charge for meetings?	{\$On-SiteMeetingFee}
	Health FSA COBRA administration? <i>excludes DOL General Notice</i>	-FIELD-
	What is the charge?	-FIELD-
	One Free Meeting?	{\$FreeOn-SiteMeeting}
	HRA COBRA administration? <i>excludes DOL General Notice</i>	-FIELD-
	What is the charge?	-FIELD-
	Funding Option Selected:	{\$FundingOption}
	Who is responsible for preparing Form 5500 for the HRA?	-FIELD-
	Enrollment Method	-FIELD-
	HIPAA Certificates of Credible Coverage for HRA provided? <i>If "Yes", an additional fee of \$0.35 will be added to the "Base Monthly Fee" above</i>	-FIELD-
	How often may participants change their elections?	-FIELD-
	Do election changes take effect on the first day of each month?	-FIELD-
	Does the Plan offer a "qualified reservist distribution" under HEART?	-FIELD-
	What is the additional one-time fee?	-FIELD-
	Additional service time beyond the scope of this agreement	\$75/hour
	Amend and/or restate Plan at Employer's request during the Plan Year <i>No charge for Plan Amendments implemented on the Plan Anniversary</i>	\$75/hour
	Additional fee per wire transfer sent to BASIC pacific (for fees or claim funding)	-FIELD-
	Fee for "Run-Out" period & plan closing if BASIC pacific is terminated	\$20 per Wire Transfer

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Eligibility reporting to CMS required?

{\$HRACMSReporting}

What is the charge?

-FIELD-

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{/if}{if \$POPSERVICEINDICATOR == 'Yes'}

**ADDENDUM TO THE ADMINISTRATIVE SERVICES AGREEMENT  
PREMIUM ONLY PLAN (POP) ADMINISTRATION SERVICES AGREEMENT**

This Addendum to the service agreement is made and entered into by and between **BASIC pacific**, which acts as a third party administrator for Premium Only Plan administration services, and **{FullLegalName}**, the sponsoring employer (EMPLOYER).

**TERM**

The term for services provided herein shall commence on {ServiceYearStart} and end on {ServiceYearEnd}. Thereafter, this Agreement may be continued for successive Agreement Periods of twelve (12) months.

**INCLUDED SERVICES**

In consideration for the fees listed, BASIC pacific will provide the following services:

- BASIC pacific will participate in an initial consultative teleconference to ensure the Plan is set up properly and EMPLOYER understands all aspects of their Plan requirements.
- BASIC pacific will provide all administrative forms needed for EMPLOYER to administer the Plan.
- BASIC pacific will provide a customized Plan Document, Adoption Agreement, Board Resolution (if requested) and Summary Plan Description (SPD). EMPLOYER's legal counsel should review the documents to assure the accuracy and appropriateness of all information.
- BASIC pacific will amend and restate the Plan as directed by EMPLOYER (or if required by law) on any Plan Anniversary. An additional fee of \$75 will be charged for any Plan amendments requested by EMPLOYER during the Plan year. EMPLOYER's legal counsel should review the documents to assure the accuracy and appropriateness of all information.
- BASIC pacific will provide an electronic (soft) enrollment packet included in the base fee.
- BASIC pacific will perform one complete Discrimination Testing cycle each Plan Year. Additional Discrimination Testing may be requested for a fee of \$75 per Testing Cycle.
- BASIC pacific will provide unlimited toll-free assistance to EMPLOYER for all day-to-day Plan issues (unless specifically restricted elsewhere in this agreement); including assistance when employees request a mid-year election change.
- BASIC pacific will provide up to one hour of telephone consultation for assistance pertaining to a discriminatory Plan. Additional time requested by EMPLOYER will be billed at \$75 per hour.

**EMPLOYER EMAIL ADDRESS REQUIRED**

- EMPLOYER understands and agrees that BASIC pacific provides most correspondence and documents exclusively in an electronic format via email. Accordingly EMPLOYER understands and agrees to provide BASIC pacific with one or more email addresses to deliver such documents and correspondence to EMPLOYER. EMPLOYER also agrees to notify BASIC pacific of a new/changed address in a timely manner. EMPLOYER further understands and agrees that if EMPLOYER does not provide BASIC pacific with such email address(es), EMPLOYER will not receive many critical correspondence, which will result in an incomplete service for which EMPLOYER is solely responsible.

**FEE FOR INCLUDED SERVICES**

EMPLOYER shall remit to BASIC pacific a base fee of {if \$BrokerPaysPOPfees == 'Yes'}\*{/if}{AnnualPOPfee} for the plan year. BASIC pacific will invoice EMPLOYER for the annual fee during the month of {POP Renewal Month}. If your Broker pays the POP fees, an \* is designated next to the annual fee. Your Broker reserves the rights to revoke this agreement at any time without prior notice. EMPLOYER understands and agrees that it is responsible for paying all fees not paid by your Broker, regardless of the reason.

{/if}