



**ADMINISTRATIVE SERVICES AGREEMENT**

**FOR**

**CITY OF MASON**

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## ADMINISTRATIVE SERVICES AGREEMENT

THIS Service Agreement is made and entered into this first date of January, 2004, by and between City of Mason, a corporation duly organized and existing under the laws of the state of Ohio with its principal place of business at (hereinafter referred to as the "Plan Sponsor") and Custom Design Benefits, Inc., a corporation duly organized and existing under the laws of the state of Ohio with its principal place of business at 4373 Harrison Avenue, Cincinnati, Ohio 45211 (hereinafter referred to as the "Claims Administrator").

WHEREAS, the Plan Sponsor is a corporation that sponsors a self-funded employee welfare benefit plan (the "Plan") within the meaning of the Employee Retirement Income Security Act of 1974 (ERISA), as amended; and

WHEREAS, the Plan Sponsor desires to make available a program of health care benefits under the Plan; and

WHEREAS, the Plan Sponsor wishes to contract with an independent third party to perform certain services with respect to the Plan as enumerated below; and

WHEREAS, the Claims Administrator desires to contract with the Plan Sponsor to perform certain services with respect to the Plan as enumerated below; and

THEREFORE, in consideration of the premises and mutual covenants contained herein, the Plan Sponsor and the Claims Administrator enter into this Agreement for administrative services for the Plan.

## ARTICLE I. DEFINITIONS

For the purposes of this Agreement, the following words and phrases have the meanings set forth below, unless the context clearly indicates otherwise and wherever appropriate, the singular shall include the plural and the plural shall include the singular.

- 1.1 **Calendar Year** means January 1st through December 31st of the same year.
- 1.2 **Claim** means a request by a Claimant for payment or reimbursement for Covered Services from the Plan.
- 1.3 **Claimant** means any person or entity submitting expenses for payment or reimbursement from the Plan.
- 1.4 **Claims Payment Account** means an account established by and owned by the Plan Sponsor for payment or reimbursement for Covered Services, which Account shall be an asset of the Plan Sponsor.
- 1.5 **COBRA** means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
- 1.6 **Covered Services** means the care, treatments, services, or supplies described in the Plan Document as eligible for payment or reimbursement from the Plan.
- 1.7 **Employer** means the City of Mason and any successor organization or affiliate of such Employer which assumes the obligations of the Plan and this Agreement.
- 1.8 **ERISA** means the Employee Retirement Income Security Act of 1974, as amended.
- 1.9 **Fee Schedule** means the listing of fees or charges for services provided under this Agreement. This Fee Schedule may be modified from time to time in writing by the mutual agreement of the parties. It is contained in Appendix A and is a part of this Agreement.
- 1.10 **Health Care Providers** means physicians, dentists, hospitals, or other medical practitioners or medical care facilities that are duly licensed and authorized to receive payment or reimbursement for Covered Services provided under the terms of the Plan.
- 1.11 **Plan** means the self-funded employee welfare benefit plan, which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.
- 1.12 **Plan Document** means the instrument or instruments that set forth and govern the duties of the Plan Sponsor and eligibility and benefit provisions of the Plan which provide for the payment or reimbursement of Covered Services.
- 1.13 **Plan Participant** is any person who is properly enrolled and entitled to benefits from the Plan.
- 1.14 **Plan Year** means the period of time specified as such in the Plan Document.
- 1.15 **Summary Plan Description** means the document required to be provided under Sec. 102 of ERISA that describes the terms and conditions under which the Plan operates.

## ARTICLE II. RELATIONSHIP OF PARTIES

- 2.1 The Plan Sponsor delegates to the Claims Administrator only those powers and responsibilities with respect to development, maintenance, and administration of the Plan which are specifically enumerated in this Agreement. Any function not specifically delegated to and assumed by the Claims Administrator pursuant to this Agreement shall remain the sole responsibility of the Plan Sponsor.
- 2.2 The parties enter into this Agreement as independent contractors and not as agents of each other. Neither party shall have any authority to act in any way as the representative of the other, or to bind the other to any third party, except as specifically set forth herein.
- 2.3 The parties acknowledge that
- (a) this is a contract for administrative services only as specifically set forth herein;
  - (b) the Claims Administrator shall not be obligated to disburse more in payment for Claims or other obligations arising under the Plan than the Plan Sponsor shall have made available in the Claims Payment Account; and
  - (c) this Agreement shall not be deemed a contract of insurance under any laws or regulations. The Claims Administrator does not insure, guarantee, or underwrite the liability of the Plan Sponsor under the Plan. The Plan Sponsor has total responsibility for payment of Claims under the Plan and all expenses incidental to the Plan.
- 2.4 Except as specifically set forth herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives and successors; provided, however, neither party may assign this Agreement or any or all of its rights or obligations hereunder (except by operation of law) without the prior written consent of the other, which consent may not be unreasonably withheld.
- 2.5 The Claims Administrator will consult with the Plan Sponsor at least monthly and more often if circumstances dictate through the term of this Agreement.
- 2.6 The work to be performed by the Claims Administrator under this Agreement may, at its discretion and with the prior approval of the Plan Sponsor, be performed directly by it or wholly or in part through a subsidiary or affiliate of the Claims Administrator or under an agreement with an organization, agent, advisor, or other person of its choosing.
- 2.7 The Claims Administrator agrees to be duly licensed as a Third Party Administrator to the extent required under applicable law and agrees to maintain such licensure throughout the term of this Agreement. The Claims Administrator will possess throughout the term of this Agreement, an in-force fidelity bond or other insurance as may be required by state and federal laws for the protection of its clients. Additionally, the Claims Administrator agrees to comply with any state or federal statutes or regulations regarding its operations and to obtain any additional licenses or registrations which may apply in the future.
- 2.8 The Claims Administrator will indemnify, defend, save, and hold the Plan Sponsor harmless from and against any and all claims, suits, actions, liabilities, losses, fines, penalties, damages, and expenses of any kind including, but not limited to, direct, indirect, consequential, or punitive expenses or fees, including court costs and attorney's fees, with respect to the Plan which directly result from or arise out of the dishonest, fraudulent, grossly negligent, or criminal acts of the Claims Administrator or its employees, except for acts taken

at the specific direction of the Plan Sponsor.

- 2.9 The Claims Administrator shall be entitled to rely, without investigation or inquiry, upon any written or oral information or communication of the Plan Sponsor or agents of the Plan Sponsor.
- 2.10 The Plan Sponsor will indemnify, defend, save, and hold the Claims Administrator harmless from and against any and all claims, suits, actions, liabilities, losses, fines, penalties, damages, and expenses of any kind including, but not limited to, direct, indirect, consequential, or punitive damages, expenses or fees, including court costs and attorney's fees, to the extent that such claims, losses, liabilities, damages, and expenses arise out of or are based upon the Plan Sponsor's negligence in the performance of its duties under this Agreement, a release of Claims data by the Claims Administrator to (1) the Plan Sponsor, or (2) if such release is at the request of the Plan Sponsor, to any other entity or person, an interpretation of the Plan or this Agreement, or any other written or oral communication by the Plan Sponsor or any of its authorized representatives upon which the Claims Administrator relies or any breach of this Agreement by the Plan Sponsor, including, but not limited to, failure to fund the Claims Payment Account.

### ARTICLE III. THE CLAIMS ADMINISTRATOR'S RESPONSIBILITIES

The Claims Administrator will provide the following Plan administrative services for the Plan Sponsor:

- 3.1 Maintain Plan records based on eligibility information submitted by the Plan Sponsor as to the dates on which a Plan Participant's coverage commences and terminates.

Maintain Plan records of Plan coverage applicable to each Plan Participant based on information submitted by the Plan Sponsor.

Maintain Plan records regarding payments of Claims, denials of Claims, and Claims pending.

Prepare and distribute annually notices required pursuant to the Women's Health and Cancer Rights Act.

Respond to Claims in accordance with the Plan Claims procedures and applicable ERISA Claims regulations, subject to the following provisions:

The Claims Administrator shall be responsible for the determination of Urgent Care Claims (as defined under the ERISA Claims regulations) only if the Plan Sponsor submits eligibility information on a daily basis under Section 4.1.

The Claims Administrator shall not be responsible for determining Pre-Service Claims (as defined under the ERISA Claims regulations) if the initial decision on such Claim is decided by a third party other than the Claims Administrator. If the Claims Administrator is responsible for responding to such Pre-Service Claims, the person or entity who makes the initial decision must provide the necessary information, including any internal rules, guidelines, protocols or similar criteria, and/or any required explanation of the scientific or clinical judgment upon which a denial is based under a Plan exclusion or limitation for medical necessity or experimental treatments, within two business days after the decision is made and in any case not later than five business days before the notice of adverse determination must be provided to the claimant.

Unless Plan Claims procedures clearly provide to the contrary, a Claim will be denied if the claimant fails to respond within the applicable deadline to a request for additional information.

If a Claim cannot be determined by the Claims Administrator without an interpretation of the Plan terms by the Plan Sponsor, such Claim shall be promptly referred to the Plan Sponsor. Upon receipt of the Plan Sponsor's response, the Claims Administrator shall process payment of the Claim or prepare a notice of adverse determination, as applicable.

If a Claim is denied for any reason, the Claims Administrator will send a written notice of adverse determination setting forth the required information. In addition to other required information, the notice will indicate whether or not an internal rule, guideline or protocol or similar criteria were used in making the determination, and will indicate that a description of the criteria is available upon request at no charge. Similarly, if the adverse determination is based on a medical necessity or experimental treatment or similar limitation, the notice will indicate that an explanation of the scientific or clinical judgment used in making the determination is available upon request at no charge.

If a denied Claim is appealed, the Claims Administrator shall provide a copy of the file upon request to the named fiduciary responsible for deciding the appeal. If it is necessary for the

Claims Administrator to provide additional consultation with respect to the appeal, an additional fee shall apply.

- 3.2 Administer initial enrollment of Plan Participants, including but not limited to, assisting in application completion; distributing enrollment forms and answering inquires; creating and maintaining enrollment records for Plan Participants; distributing identification cards and other Plan materials supplied by the Plan Sponsor to new Plan Participants.
- 3.3 Adjudicate Claims incurred by Plan Participants according to the terms of the Plan Document as construed by the Plan Sponsor. These Claims will be adjudicated in accordance with industry practices and the Claims Administrator will use an industry-recognized method of determining usual, customary, and reasonable charges.

Process with due diligence and according to the terms of the Plan Document as construed by the Plan Sponsor, evidence of good health statements, pre-existing conditions requirements, disability determinations, subrogation, and coordination of benefits situations. Unless otherwise agreed by the parties, the Claims Administrator's duties with respect to subrogation situations shall be limited to informing the Plan Sponsor that subrogation rights may exist.

Decide as to the validity of a Claim or the need for additional information. If additional information is needed, the request will be sent to the appropriate person (with a copy to the Plan Participant) within the time required for similar types of Claims under applicable federal regulations. The request will generally be sent by U.S. Mail, but in the case of Urgent Care Claims (as defined under ERISA regulations) the request may be oral or sent by fax or electronic means.

If a response for additional information is not received within 15 days, a follow-up request will be sent. The request will indicate that no additional requests for information will be sent and the Claim will be denied if the requested information is not remitted within 45 days of the original request. However, if the Claim is an Urgent Care Claim, these rules will not apply, and the Claim will be denied if the requested information is not received within 48 hours.

When all necessary documents and Claim form information have been received and the Claim has been approved, a Claim check or draft will be remitted on the next dispersal date.

- 3.4 Refer any doubtful or disputed Claims to Plan Sponsor for a final decision in accordance with Section 4.2.
- 3.5 Process, issue, and distribute Claims checks or drafts as instructed by the Plan Sponsor to Plan Participants, Health Care Providers, or others as may be applicable.

Claims paid in good faith but in error by the Claims Administrator shall be chargeable to the Claims Payment Account as any other Claim, but the Claims Administrator shall make good faith attempts to recover any overpayments.

Every two weeks, the Claims Administrator will notify the Plan Sponsor of the amount required to be prospectively deposited to the Claims Payment Account to pay the Claims liability as these Claims occur.

- 3.6 Notify Plan Participants in writing through the U. S. Mail of ineligible Claims received, indicating the specific Plan provisions attributable to the declination of the Claims pursuant to the written Claims review and appeal procedure in the Plan. This notification will be made within 10 working days of the date the Claims Administrator receives the complete Claim, including any information received in accordance with Section 3.2 and any Plan interpretations by the Plan Sponsor.



3.7 Subject to privacy considerations respond to Claims inquiries by a Plan Participant, the authorized representative of the estate of a Plan Participant, an authorized member of a Plan Participant's family unit, or an authorized Health Care Provider.

3.8 Maintain information that identifies a Plan Participant in a confidential manner. The Claims Administrator agrees to take all reasonable precautions to prevent disclosure or the use of Claims information for a purpose unrelated to the administration of the Plan.

The Claims Administrator will only release this information for certificate of need reviews; for medical necessity determinations; to set uniform data standards; to update relative values scales; to use in Claims analysis; to further cost containment programs; to verify eligibility; to comply with federal, state or local laws; for coordination of benefits; for subrogation; in response to a civil or criminal action upon issuance of a subpoena; or with the written consent of the Plan Participant or his or her legal representative.

3.9 Prepare a draft Plan Document and Summary Plan Description for review and final approval by Plan Sponsor and the Plan Sponsor's legal counsel.

Upon acceptance by the Plan Sponsor, the Claims Administrator will then furnish copies of the Summary Plan Description sufficient for distribution to all Plan Participants. A separate fee for printing of these documents will be billed. Additional copies and future amendments or modifications may be an additional cost negotiated between the Claims Administrator and the Plan Sponsor.

3.10 Prepare Plan Document amendments. A separate fee will be charged for this service.

3.11 Maintain a Claim file on every Claim reported to it by the Plan Participants. Such files and all Plan-related information shall be made available to the Plan Sponsor for consultation, review, and audit upon reasonable notice and request, during the business day and at the office of the Claims Administrator. Any such audit will be at the sole expense of the Plan Sponsor.

This audit shall be conducted by an auditor mutually acceptable to the Plan Sponsor and the Claims Administrator and will include, but not necessarily be limited to, a review of procedural controls, a review of system controls, a review of Plan provisions, a review of the sampled Claims, and comparison of results to performance standards and statistical models previously agreed to by the Plan Sponsor and the Claims Administrator.

3.12 Capture data for IRS form 5500 filings.

3.13 Administer COBRA continuation coverage to qualified beneficiaries from eligibility information supplied by the Plan Sponsor. This administration will consist of notification to eligible Employees and/or their Dependents following a qualifying event, billing, collection of money, forwarding of premiums to the Plan Sponsor, payment of Claims, ending coverage upon lack of timely payment, or at the end of the COBRA continuation period. A separate fee will be charged for these services.

3.14 Provide the following reports:

(a) Monthly check register

(b) Any other reports as agreed to between the Plan Sponsor and the Claims Administrator.

3.15 Procure excess loss or stop loss (specific and aggregate) insurance proposals and policies for

the Plan Sponsor's consideration and selection, which excess loss or stop loss insurance will be an asset of the Plan Sponsor and not of the Plan.

- 3.16 Notify the excess loss insurance company of any potential large Claims which may become a Claim under the excess loss coverage.

On behalf of the Plan, the Claims Administrator will file in a timely manner any Claims for benefits under the excess loss policies.

Promptly forward to the Plan Sponsor any premium and other notices received from the excess loss insurance company concerning the policy.

- 3.17 Conduct utilization review for the Plan, including precertification of hospital stays, concurrent review of hospital stays, discharge planning, hospital bill audits, large case management, and any other managed care programs as agreed to between the Plan Sponsor and the Claims Administrator. A separate fee will be charged for these services.
- 3.18 Generate and mail certificates of Creditable Coverage to Plan Participants and former Plan Participants from information supplied by the Plan Sponsor. A separate fee will be charged for this service.
- 3.19 Upon termination of this Agreement, all Claim files, reports, magnetic tapes, filings with governmental entities, and plan documentation will be remitted to the Plan Sponsor. Until that time, these records will be maintained at the Claims Administrator's principal administrative office or secure storage facilities for at least seven (7) years following the termination of a Plan Year. At the end of the seven (7) year period or termination of this agreement, if earlier, the Claims Administrator shall notify the Plan Sponsor that these records will be destroyed unless the Plan Sponsor requests, in writing, that all or some of the records be forwarded to the Plan Sponsor.

## ARTICLE IV. THE PLAN SPONSOR'S RESPONSIBILITIES

The Plan Sponsor will:

- 4.1 Maintain current and accurate Plan eligibility and coverage records, verify Plan Participant eligibility and submit this information as determined by Plan Sponsor to the Claims Administrator.

This information shall be provided in a format reasonably acceptable to the Claims Administrator and include the following for each Plan Participant: name and address, Social Security number, date of birth, type of coverage, sex, relationship to employee, changes in coverage, date coverage begins or ends, and any other information necessary to determine eligibility and coverage levels under the Plan.

The Plan Sponsor assumes the responsibility for the erroneous disbursement of benefits by the Claims Administrator in the event of error or neglect on the Plan Sponsor's part of providing eligibility and coverage information to the Claims Administrator, including but not limited to, failure to give timely notification of ineligibility of a former Plan Participant.

- 4.2 Resolve all Plan ambiguities and disputes relating to the Plan eligibility of a Plan Participant, Plan coverage, denial of Claims or decisions regarding appeal or denial of Claims, or any other Plan interpretation questions, within a reasonable time following the request of the Claims Administrator. The determination of a reasonable time shall be decided on a case-by-case basis between the parties, with the understanding that the Claims Administrator must receive a prompt response in order to provide a timely response under the Plan's Claims procedures and the ERISA Claims regulations.

The Claims Administrator will administer and adjudicate Claims in accordance with Article III if the Plan Document and Summary Plan Description are clear and unambiguous as to the validity of the Claims and the Plan Participants' eligibility for coverage under the Plan, but will have no discretionary authority to interpret the Plan or adjudicate Claims. If adjudication of a Claim requires interpretation of ambiguous Plan language, and the Plan Sponsor has not previously indicated to the Claims Administrator the proper interpretation of the language, then the Plan Sponsor will be responsible for resolving the ambiguity or any other dispute.

In any event, the Plan Sponsor's decision as to any Claim (whether or not it involves a Plan ambiguity or other dispute) shall be final and binding.

Designate a person who may be contacted at any time, including non-business hours, to verify eligibility for Urgent Care Claims.

If the Claims Administrator has a responsibility to determine and respond to Pre-Service Claims decided by other parties, the Plan Sponsor will require pursuant to its contracts with such other parties that such other parties must (1) decide Pre-Service Claims not later than five business days before the notice of adverse determination must be provided to the Claimant and (2) cooperate with the Claims Administrator by providing full and timely responses to any request for information reasonably necessary to permit the Claims Administrator to respond to such Claims.

- 4.3 Provide required COBRA notice to Plan Participants upon initial eligibility to participate in the Plan, maintain COBRA eligibility records, submitting this information to the Claims Administrator.
- 4.4 Prospectively fund the Claims Payment Account every two weeks and grant the Claims

Administrator drafting authority.

The Claims Payment Account shall be set up by the Plan Sponsor who shall execute and deliver to the Claims Administrator and a depository selected by the Plan Sponsor, any and all documents necessary to empower the Claims Administrator to act as signatory on such account.

- 4.5 Not require the Claims Administrator, under any circumstances, to issue payment(s) for Claims, excess loss premiums, or any other costs arising out of the subject matter of this Agreement, unless the Plan Sponsor has so authorized and has previously deposited sufficient funds to cover such payment(s).
- 4.6 Provide the Claims Administrator with copies of any and all revisions or changes to the Plan within 10 working days of the effective date of the changes.
- 4.7 Provide and timely distribute all notices and information required to be given to Plan Participants, maintain and operate the Plan in accordance with applicable law, maintain all recordkeeping, and file all forms relative thereto pursuant to any federal, state, or local law, unless this Agreement specifically assigns such duties to the Claims Administrator.
- 4.8 Acknowledge that it is the Plan Sponsor, Plan Administrator, and Named Fiduciary, as these terms are defined in ERISA. As such, Plan Sponsor retains full discretionary control and authority and discretionary responsibility in the operation and administration of the Plan.
- 4.9 Pay any and all taxes, surcharges, licenses, and fees levied, if any, by any local, state, or federal authority in connection with the Plan.
- 4.10 Hold confidential information obtained that is proprietary to the Claims Administrator or information or material not generally known by personnel other than management employees of the Claims Administrator. Such information includes, but is not limited to, reasonable and customary Claims levels, and Claims administration guidelines.
- 4.11 Provide information necessary to submit to the Claims Administrator for timely generation of Certificates of Creditable Coverage to Plan Participants and former Plan Participants.
- 4.12 Warrant and represent that the only entities that participate, or will participate, in the Plan are in the Plan Sponsor's "controlled group of corporations" as that term is used in ERISA.
- 4.13 Pay, in accordance with the Fee Schedule, the Claims Administrator's fees for services rendered under this Agreement. Unless otherwise agreed, the Claims Administrator may withdraw from the Claims Payment Account any fees then due to the Claims Administrator prior to application of the funds in the Claims Payment Account to payment of Claims or any other costs arising out of the Plan or the subject matter of this Agreement. Late charges may be added if payments are not made on a timely basis.
- 4.14 Maintain excess loss insurance with a Best's-rated A or better carrier in the minimum amount set forth on the Fee Schedule.  
  
Promptly notify the Claims Administrator of any termination, expiration, lapse, or modification of this insurance.
- 4.15 Maintain any fidelity bond or other insurance as may be required by state or federal law for the protection of the Plan and Plan Participants.

## ARTICLE V. DURATION OF AGREEMENT

- 5.1 This Agreement shall commence on 01/01/2004 and end on 12/31/2005. This Agreement shall automatically renew each year for an one-year period unless modified or terminated as described below.
- 5.2 At any time during the term of this Agreement, either the Plan Sponsor or the Claims Administrator may amend or change the provisions of this Agreement. These amendments or changes must be agreed upon in advance in writing by both the Plan Sponsor and the Claims Administrator. If any such amendment increases the anticipated Claims experience under the Plan or the Claims Administrator's cost of administering the Plan, the Plan Sponsor agrees to pay any increase in Claims expenses, as well as increases in administrative fees or other costs which the Claims Administrator reasonably expects to incur as a result of such modification.
- 5.3 This Agreement may be terminated by either the Plan Sponsor or the Claims Administrator at any time, either upon giving 90 days advance written notice to the other party unless both parties agree to waive such advance notice, or with no notice, as stated below. At the option of the party initiating the termination, the other party may be permitted a cure period (of a length determined by the party initiating the termination) to cure any default.
- 5.4 The Claims Administrator may, at its option, terminate this Agreement effective immediately upon the occurrence of any one or more of the following events on written notice to the Plan Sponsor:
- (a) The Plan Sponsor fails to prospectively fund the Claims Payment Account;
  - (b) The Plan Sponsor is adjudicated as bankrupt, becomes insolvent, a temporary or permanent receiver is appointed by any court for all or substantially all of the Plan Sponsor's assets, the Plan Sponsor makes a general assignment for the benefit of its creditors, or a voluntary or involuntary petition under any bankruptcy law is filed with respect to the Plan Sponsor and it is not dismissed within forty-five (45) days of such filing;
  - (c) The Plan Sponsor fails to pay administration fees or other fees for the Claims Administrator's services upon presentation for payment and in accordance with the Fee Schedule;
  - (d) The Plan Sponsor engages in any unethical business practice or conducts itself in a manner which in the reasonable judgment of the Claims Administrator is in violation of any federal, state, or other government statute, rule, or regulation;
  - (e) The Plan Sponsor, through its acts, practices, or operations, exposes the Claims Administrator to any existing or potential investigation or litigation; or
  - (f) The Plan Sponsor permits its excess loss insurance to lapse, whether by failure to pay premiums or otherwise.
- 5.5 The Plan Sponsor may, at its option, terminate this Agreement effective immediately upon the occurrence of any one or more of the following events on written notice to the Claims Administrator:
- (a) The Claims Administrator is adjudicated as bankrupt, becomes insolvent, a temporary or permanent receiver is appointed by any court for all or substantially all of the Claims Administrator's assets, the Claims Administrator makes a general

assignment for the benefit of its creditors, or a voluntary or involuntary petition under any bankruptcy law is filed with respect to the Claims Administrator and it is not dismissed within forty-five (45) days of such filing;

- (b) The Claims Administrator engages in any unethical business practice or conducts itself in a manner which in the reasonable judgment of the Plan Sponsor is in violation of any federal, state, or other government statute, rule, or regulation; or
- (c) The Claims Administrator, through its acts, practices or operations, exposes the Plan Sponsor to any existing or potential investigation or litigation.

## ARTICLE VI. MISCELLANEOUS

- 6.1 This Agreement, together with all addenda, exhibits, and appendices supersedes any and all prior representations, conditions, warranties, understandings, proposals, or other agreements between the Plan Sponsor and the Claims Administrator hereto, oral or written, in relation to the services and systems of the Claims Administrator, which are rendered or are to be rendered in connection with its assistance to the Plan Sponsor in the administration of the Plan.
- 6.2 This Agreement, together with the aforesaid addenda, exhibits, and appendices constitutes the entire Administrative Services Agreement of whatsoever kind or nature existing between or among the parties.
- 6.3 The parties hereto, having read and understood this entire Agreement, acknowledge and agree that there are no other representations, conditions, promises, agreements, understandings, or warranties that exist outside this Agreement which have been made by either of the parties hereto, which have induced either party or has led to the execution of this Agreement by either party. Any statements, proposals, representations, conditions, warranties, understandings, or agreements which may have been heretofore made by either of the parties hereto, and which are not expressly contained or incorporated by reference herein, are void and of no effect.
- 6.4 This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument.
- 6.5 Except as provided in Article V. (regarding termination without advance notice), no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto.
- 6.6 In the event any provision of this Agreement is held to be invalid, illegal, or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement, which shall be in full force and effect, enforceable in accordance with its terms.
- 6.7 In the event that either party is unable to perform any of its obligations under this Agreement because of natural disaster, labor unrest, civil disobedience, acts of war (declared or undeclared), or actions or decrees of governmental bodies (any one of these events which is referred to as a "Force Majeure Event"), the party who has been so affected shall immediately notify the other party and shall do everything possible to resume performance.
- Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds ten (10) working days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.
- 6.8 All notices required to be given to either party by this Agreement shall, unless otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested.
- 6.9 This Agreement shall be interpreted and construed in accordance with the laws of the state of Ohio except to the extent superseded by federal law.

6.10 No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement shall be construed as a waiver, alteration, or modification of the Agreement.



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf by their duly authorized representatives' signatures, effective this first day of January, 2004.

**PLAN SPONSOR**

**CLAIMS ADMINISTRATOR**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

PRINTED NAME: Steven Chapel \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: CEO \_\_\_\_\_

FULL LEGAL NAME OF PLAN SPONSOR:

\_\_\_\_\_

AFFILIATES AND/OR SUBSIDIARIES OF PLAN SPONSOR SUBJECT TO THIS AGREEMENT:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_