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## San Joaquin County

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May 28, 2010

Board of Supervisors  
County Administration Building  
Stockton, CA 95202

Dear Board Members:

### **Establishment of a Post-Employment Health Benefit Plan and Trust**

#### **Recommendation:**

It is recommended that the Board of Supervisors:

- 1) Establish the County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust for post-employment health care funding effective July 1, 2010;
- 2) Adopt the attached Resolution appointing Reliance Trust Company to act as Trustee for the Plan;
- 3) Authorize the Director of Human Resources to execute the necessary documents to establish the Plan and Trust (documents on file with the Clerk of the Board); and
- 4) Authorize the Director of Human Resources to amend any documents that are administrative in nature and do not have a negative financial impact on the County or the plan participants.

#### **Reason for Recommendation:**

The County negotiated a post-employment health benefit contribution with the majority of the employee organizations during the last round of contract negotiations in 2006 and 2007. Similar to represented employees, the post-employment health benefit contribution was also provided to unrepresented employees as part of the applicable resolution for the various unrepresented units. The funding has been provided by the County based on the provisions of each unit's Memorandum of Understanding (MOU) or Resolution. Pending the establishment of a health trust and

reimbursement plan and in accordance with the provisions of the various MOU's and resolutions, funds have been placed in an account with the County Treasury and have been invested in the County's investment pool. When the Plan is established, funds will be deposited with Hartford to create individual participant accounts.

The post-employment health savings plan will consist of individual participant accounts held in trust and claims processing for reimbursement of eligible expenses. Hartford Life Insurance Company, the County's Deferred Compensation Plan provider, has an established program to provide the recordkeeping and administrative services for post-employment health plans. Contributions will be reported by the County to Hartford and Hartford will create individual accounts for each reported participant. The participants will receive a quarterly statement of their account from the Hartford. The funds will be self-directed by the participant into a variety of investment options. Initially funds will be placed in the Hartford General (Declared Rate) Account, which participants can redirect to other investment choices through the Internet or by mail or phone.

Funds can only be used for post-employment health insurance premiums and other qualified medical expenses under the Internal Revenue Service Code Section 213(d). Earnings on the funds and withdrawals from the account are tax free, which enhances the benefits to the employee. Once a participant is no longer employed with the County they may submit reimbursement claims to the Plan's Third Party Administrator, who directs the Hartford to make payment to the participant, if the claim is approved.

Initially, the Plan will be established for the benefit of eligible unrepresented employees and eligible employees of the Probation Officers, Registered Nurses, and Correctional Officers bargaining units. As other bargaining units who have negotiated this benefit advise the County that they would like to participate in the Plan, accumulated contributions for their eligible members will be deposited with Hartford. Until such time, contributions will remain in the County Treasury. The Director of Human Resources will execute any Plan amendments necessary to incorporate other bargaining units that wish to join the Plan after the initial plan set-up.

Consistent with the most recent MOUs and Resolutions, it is recommended that the Board adopt the County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust and authorize the establishment of a Voluntary Employees' Beneficiary Association (VEBA) Trust to provide an administrative vehicle for post-employment health care funding.

**Fiscal Impact:**

There is no fiscal impact to establishing the County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust.

**Actions to be Taken Upon Approval:**

The Director of Human Resources will execute the necessary documents to create the Plan. Hartford will establish individual accounts for eligible participants. Informational meetings will be held with eligible employees.

Very truly yours,



Cynthia M. Clays  
Director of Human Resources

CMC:sl:bt

cc: County Administrator  
Auditor-Controller  
County Counsel  
Labor Relations  
Hartford Life Insurance Company  
Clerk of the Board for Agenda 6/8/10

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF  
SAN JOAQUIN, STATE OF CALIFORNIA

R-10-\_\_\_\_\_

RESOLUTION ESTABLISHING THE COUNTY OF SAN JOAQUIN, CA  
RETIREE HEALTH REIMBURSEMENT PLAN AND TRUST

-oOo-

WHEREAS, health care costs for retirees have been rising over the last decade, and health insurance premiums and out-of-pocket expenses can be a critical post-employment funding issue for employees; and

WHEREAS, the County negotiated a post-employment health benefit to assist represented and unrepresented employees with planning and paying for their retiree health care costs; and

WHEREAS, the County wishes to establish a Plan and Trust to hold the assets and income of the Plan and to provide a mechanism for reimbursing Plan Participants for eligible health care costs.

NOW, THEREFORE, BE IT RESOLVED that the County hereby adopts the County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust effective July 1, 2010.

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust for the exclusive benefit of Plan Participants and their eligible spouses and dependents. Reliance Trust Company is hereby appointed as Trustee of the Plan.

BE IT FURTHER RESOLVED that the Director of Human Resources is authorized to execute the necessary documents to establish the Plan and Trust, and is further authorized to amend any documents that are administrative in

nature and do not have a negative financial impact on the County or the Plan Participants.

PASSED AND ADOPTED this 8<sup>th</sup> day of June, 2010, by the following vote of the Board of Supervisors, to wit:

AYES:

NOES:

ABSENT:

ATTEST: LOIS M. SAHYOUN  
Clerk of the Board of Supervisors  
County of San Joaquin  
State of California

\_\_\_\_\_  
CARLOS VILLAPUDUA, Chairman  
Board of Supervisors  
County of San Joaquin  
State of California

By \_\_\_\_\_  
Deputy Clerk

**EBSC, INC.**  
**HEALTH REIMBURSEMENT ARRANGEMENT**  
**BASIC PLAN AND TRUST DOCUMENT**  
**ADOPTION AGREEMENT**

This is the Adoption Agreement referred to in the EBSC, Inc. Health Reimbursement Arrangement Basic Plan and Trust Document Plan Number 002 ("Basic Document"). The Adoption Agreement plus the Basic Document constitute the Plan with respect to that Adopting Employer.

**Important:** Once completed and signed, this document becomes part of the official documentation.  
**Please complete this Adoption Agreement carefully.**

The Adopting Employer hereby makes the following representations and selections:

**ADOPTING EMPLOYER INFORMATION:**

Employer Name: County of San Joaquin, CA  
Address: 44 N. San Joaquin Street, Room 330  
City, State Zip: Stockton, CA 95202  
Phone/Fax Number: Telephone: 209-468-3270; Fax: 209-468-0508  
Contact Person: Name: Cynthia M. Clays  
Company: County of San Joaquin, CA  
Address: 44 N. San Joaquin Street, Room 330  
City, State Zip: Stockton, CA 95202  
Telephone/Fax: Telephone: 209-468-3270; Fax: 209-468-0508  
Email Address: cclays@sjgov.org  
Type of Business Entity: County  
(city, county, school district, other)  
State Operating Business: CA  
EIN: 94-6000531  
Fiscal Year: July 1 through June 30

**EMPLOYEES AND/OR PARTICIPANTS:**

There were more than fifty (50) Employees in the last twelve months?  Yes  No  
There were more than twenty (20) Employees in the last calendar year?  Yes  No

Check the one that applies (*check only one box*):

- The Plan benefits active Employees only.  
 The Plan benefits terminated Employees only.  
 The Plan benefits both active Employees and terminated Employees.

**MISCELLANEOUS**

Name of Plan and Trust: County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust  
Addendum(s) Attached:  Yes  No  
Joint Powers Agreement Attached:  Yes  No

**ARTICLE I: INTRODUCTION**

Effective Date means: July 1, 2010  
(month, day, year)  
Original Effective Date: July 1, 2010  
(month, day, year)  
Restatement Date (*date Adoption Agreement is effective*): N/A  
(month, day, year)

**ARTICLE II: DEFINITIONS**

2.1 Adopting Employer means: County of San Joaquin, CA

2.5 Claims Administrator means:  
 EBSC, Inc.  
 Other (Describe): \_\_\_\_\_

2.8 Dependent means:  
 As provided in the Basic Document.  
 Other (Describe): \_\_\_\_\_

**Note:** Dependent cannot be defined more broadly than "dependent" for purposes of Section 105 of the Code.

If the definition is different for Participants once they terminate employment, complete again:  
 N/A – definition does not change.  
 As provided in the Basic Document.  
 Other (Describe): \_\_\_\_\_

2.13 Entry Date means:  
 Date Employee becomes eligible to participate.  
 Other (Describe): \_\_\_\_\_

2.15 Health Care Expense means:  
 As provided in the Basic Document.  
 An expense which but for the deductible under a specified group medical coverage sponsored by the Adopting Employer, would have been paid by that group medical coverage.  
Specified group medical coverage: \_\_\_\_\_  
 Other (Describe): \_\_\_\_\_

**Note:** Health Care Expense cannot be defined more broadly than the description in IRS Revenue Ruling 2002-41 and IRS Notice 2002-45.

If the definition is different for Participants once they terminate employment, complete again:  
 N/A – definition does not change.  
 As provided in the Basic Document.  
 An expense which but for the deductible under a specified group medical coverage sponsored by the Adopting Employer, would have been paid by that group medical coverage.  
Specified group medical coverage: \_\_\_\_\_  
 Other (Describe): \_\_\_\_\_

2.22 Plan Name: County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust

2.24 Plan Year: July 1 through June 30  
(month, day through month, day)  
The initial "short" Plan Year: \_\_\_\_\_  
(month, day through month, day)

2.27 Spouse means:  
 As provided in the Basic Document.  
 Other (Describe): \_\_\_\_\_

**Note:** Must be more restrictive than Code.



If the definition is different for Participants once they terminate employment, complete again:

- N/A – definition does not change.
- As provided in the Basic Document.
- Other (*Describe*): \_\_\_\_\_

2.29 Trustee means: Reliance Trust Company

**ARTICLE IV: ELIGIBILITY AND PARTICIPATION OF EMPLOYEES**

4.1 Eligibility requirements are as follows (check and complete only those that apply):

- Age (*Describe*): \_\_\_\_\_
- Length of Service (*Describe*): \_\_\_\_\_
- Employment Classification (e.g., union, part-time, full-time) (*Describe*): \_\_\_\_\_  
**See Attached Addendums providing a description of eligible Employee Classifications**
- Coverage under a specified group medical (*Describe*): \_\_\_\_\_
- Coverage sponsored by the Adopting Employer (*Describe*): \_\_\_\_\_
- Other (*Describe*): \_\_\_\_\_

**ARTICLE V: BENEFITS UNDER THE PLAN**

5.2 Claims time period:

- As provided in the Basic Document.
- Other (*Describe*): \_\_\_\_\_

5.4 Timing of Reimbursement:

- As provided in the Basic Document.
- Other (*Describe*): \_\_\_\_\_

5.5 Maximum Reimbursement:

- As provided in the Basic Document.
- Other (*Describe*): \_\_\_\_\_

5.8 Use of forfeitures:

- As provided in the Basic Document.
- Shall be contributed to the Health Care Accounts of the other participants of the Plan on a per capita basis
- Other (*Describe*): \_\_\_\_\_

**Note:** Under no circumstances will the amounts revert to the Adopting Employer.

5.10 Which plan pays first:

- As provided in the Basic Document.
- This Plan
- Other (*Describe*): \_\_\_\_\_

**Note:** The choice of which plan pays first cannot be left to the Participant.

Other Limitations, if any:

\_\_\_\_\_

**ARTICLE VI: CONTRIBUTIONS**

6.1 Employer Contribution amount, timing, restrictions (*check all that apply*):

Fixed dollar amount \$ \_\_\_\_\_

Per pay period

Per month

Per quarter

Per year

Paid monthly only and only accessible to the extent the Participant has an account balance; or

Paid monthly (or, if needed sooner to pay an eligible expense, paid at the time the claim is made)

**Note:** If you choose the second option above, the Employer will be required to "advance" payment to Participants, without discrimination, and will not be able to seek reimbursement for amounts advanced if a Participant terminates employment prior to the end of the Plan Year in which the sums are earned.

Other (*Describe*): \_\_\_\_\_

Restrictions, if any (*Describe*): \_\_\_\_\_

Fixed formula (*Describe*): \_\_\_\_\_

Per pay period

Per month

Per quarter

Per year

Paid monthly only and only accessible to the extent the Participant has an account balance; or

Paid monthly (or, if needed sooner to pay an eligible expense, paid at the time the claim is made)

**Note:** If you choose the second option above, the Employer will be required to "advance" payment to Participants, without discrimination, and will not be able to seek reimbursement for amounts advanced if a Participant terminates employment prior to the end of the Plan Year in which the sums are earned.

Other (*Describe*): **See Attached Addendums for descriptions on contributions to be provided. Each Addendum will be signed and dated by appropriate representatives before being recognized as effective.**

Restrictions, if any (*Describe*): \_\_\_\_\_

Contribution of Accumulated Paid Time Off, Vacation, or Sick Leave Upon Termination of Employment (*Describe*): \_\_\_\_\_

Availability for reimbursement of HC Account balance:

- As provided in the Basic Document (available as contributions are made to the Trust).
- the balance of the Account at the time the claim is submitted; or
- The Amount of the Employer contribution available for the Plan Year.

**Note:** If you choose the second option above, the Employer will be required to "advance" payment to Participants, without discrimination, and will not be able to seek reimbursement for amounts advanced if a Participant terminates employment prior to the end of the Plan Year in which the sums are earned.

- Upon termination of employment.
- In the event a Participant terminates employment after the age of 62 or age 55 with 10 years of service, the Account Balance shall not be subject to forfeiture, but shall be eligible for spend down until the Account is spent down to zero (\$0.00) dollars.
- Other (Describe) Upon termination of employment for any reason at any age, the Account Balance shall not be subject to forfeiture, until the death of the participant the his/her spouse and/or dependents, but shall be eligible for spend down until the Account is spent down to zero (\$0.00) Dollars. In the event of the death of the participant and his/her spouse/dependents prior to the Account being spent down to zero (\$0.00) Dollars, the remaining balance shall be subject to forfeiture pursuant to Section 5.8 hereof.

#### ARTICLE VII: CLAIMS DETERMINATIONS AND REVIEW OF DENIED CLAIMS

7.1 Alternative Claims and Review Procedures:

- As provided in the Basic Document.
- Other (Describe): \_\_\_\_\_

#### ARTICLE IX: PLAN ADMINISTRATION

9.7 Reasonable fees of Claims Administrator shall be paid as follows:

- As provided in the Basic Document.
- Charged to the Plan and paid from the general assets of the Adopting Employer.
- Other (Describe): As provided in the Service Agreement signed by the Claims Administrator and the Employer

#### ARTICLE XII: DUTIES AND POWERS OF TRUSTEE

12.1 Indicate whether the Trustee is a Directed Trustee under the Plan

- Yes
- No

12.5 Reasonable fees of Trustee shall be paid as follows:

- As provided in the Basic Document.
- Charged to the Plan and paid from the general assets of the Adopting Employer.
- Other (Describe): As provided in the Service Agreement signed by Hartford and the Employer

12.6 Investment direction:

- As provided in the Basic Document.
- Participant directed.
- Other (Describe): \_\_\_\_\_

**ARTICLE XIV: GENERAL PROVISIONS**

14.7 Governing law – State of:

As provided in the Basic Document.

**CA**

*(list only one state)*

**ACKNOWLEDGEMENTS**

1. Pursuant to Section 2.9(a), any collectively bargained Employees participating in this Plan participate because the collective bargaining agreement provides for coverage under this Plan.
2. This Plan has been duly adopted or authorized to be adopted by the Adopting Employer’s Managing Body.
3. This Plan is a “covered entity” for purposes of the Privacy Rules and Security Rules under the Health Insurance Portability and Accountability Act (HIPAA).
4. The Adoption Agreement may be signed in multiple parts – including a separate Trust Agreement signed by the Trustee and the Adopting Employer, in place of the Trust provisions contained herein and in the Plan Document.

**ADOPTING EMPLOYER:** County of San Joaquin, CA

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

By: \_\_\_\_\_  
**Cynthia M. Clays**

Its: Director of Human Resources

**TRUSTEE:** The provisions of the Trust are contained under a separate Trust Agreement signed by the Trustee and the Adopting Employer – the Trust provisions contained in the underlying document shall not be effective; the provisions of the separate Trust Agreement are incorporated herein by reference.

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

By: \_\_\_\_\_

Its: \_\_\_\_\_

## County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust

### Exhibit 1 – Adoption Agreement

#### Article IV: Eligibility and Participation of Employees

##### 4.1 Eligibility Requirements

The following groups of full-time employees of the County of San Joaquin are eligible to participate in the Plan:

All unrepresented regular, classified Civil Service Employees who:

- 1) have at least 10 years of full-time service with the County of San Joaquin; and
- 2) contribute to the San Joaquin County Employees Retirement Association (except for employees with 30 or more years of service); and
- 3) are subject to a Resolution that provides for participation in the Plan.

All regular, classified Exempt Employees who:

- 1) have at least 10 years of full-time service with the County of San Joaquin; and
- 2) are subject to a Resolution that provides for participation in the Plan.

All represented regular, classified Civil Service Employees who:

- 1) have at least 10 years of full-time service with the County of San Joaquin; and
- 2) contribute to the San Joaquin County Employees Retirement Association (except for employees with 30 or more years of service); and
- 3) Are subject to a Memorandum of Understanding that provides for participation in the Plan.

Employees in the groups specified above are Eligible Employees under the Plan. An individual's status as an Employee shall be determined by the Employer in its

sole discretion, and such determination shall be conclusive and binding on all persons.

If an Employee is in a group of Employees which is designated above by the Employer as eligible to participate in the Plan and subsequently transfers to a group that is not designated as eligible, then such Employee shall not be eligible for any contributions under the Plan on and after the effective date of such transfer. The Employee's Account (if any) shall continue to be maintained under the Plan, and he/she will become eligible to receive Benefits under the Plan in accordance with the rules governing Eligible Employees.

## Article VI: Contributions

### 6.1 Employer Contribution amount and timing

The employer will contribute on behalf of each Participant who is an Eligible Employee a specific dollar amount. An eligible Employee must be on payroll with the Employer as of the last day of the last pay period of each fiscal year in order to receive a contribution for each year in which a contribution is required.

Such Contribution amount, frequency and timing of Contributions may be established through "meet and confer" with Employee representatives or by Memorandum of Understanding or Resolution adopted by the Board of Supervisors, and different amounts may be established for members of different bargaining units and for unrepresented Employees. Provisions as to Contribution amount, timing, and frequency of Contributions approved by the County of San Joaquin shall automatically become a part of this Plan.

#### **Nondiscrimination:**

If the Plan fails to meet the nondiscrimination requirements of Code Section 105(h), the Employer is authorized (but not required) to take actions necessary or appropriate to eliminate (retroactively and/or prospectively) any such discrimination.

**EBSC, INC.**  
**HEALTH REIMBURSEMENT ARRANGEMENT**  
**BASIC PLAN AND TRUST DOCUMENT**  
**PLAN NUMBER 002**

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## **ARTICLE I. INTRODUCTION**

- 1.1 **Establishment.** An executed Adoption Agreement plus this Basic Plan and Trust Document constitute the "Plan" for an Adopting Employer. The Effective Date of the Plan is set forth in the Adoption Agreement.
- 1.2 **Purpose.** The purpose of the Plan is to provide certain Employees with an opportunity to receive reimbursement for certain Health Care Expenses as provided in this Plan. It is the intention of the Adopting Employer that the benefits payable under this Plan be eligible for exclusion from the gross income of Participants as provided by Sections 105(b) and 106 of the Code. In addition, it is the intention of the Adopting Employer that the Plan qualify as a Health Reimbursement Arrangement ("HRA") under IRS Revenue Ruling 2002-41 (June 26, 2002) and IRS Notice 2002-45 (June 26, 2002).

The purposes of the Trust are (1) to provide a source of funds to pay benefits under the Plan, and (2) to permit Trust assets to be invested and such earnings be not taxable under Section 501(c)(9) of the Code.

- 1.3 **HIPAA Privacy and Security Rules.** This Plan is a "covered entity" for purposes of the Privacy Rules and Security Rules as described in Article VIII.
- 1.4 **Not ERISA Plan.** This Plan is not an employee welfare benefit plan for purposes of ERISA.

## ARTICLE II. DEFINITIONS

The following words and phrases are used in this Plan and shall have the meanings set forth in this Article unless a different meaning is clearly required by the context or is defined within an Article.

- 2.1 **Adopting Employer** means the entity that adopts this Plan by completing and executing an Adoption Agreement, which may include a joint powers agreement.
- 2.2 **Adoption Agreement** means the separate agreement completed, or portions thereof, and executed by an Adopting Employer setting forth the Adopting Employer's selection of options under the Plan. In the event of a conflict in the provisions of this Document and the Adoption Agreement, the terms of the Adoption Agreement shall override the terms of this Document and the terms of the Adoption Agreement shall prevail as the governing terms of the Plan.
- 2.3 **Authorized Representative** means, for the claims and appeal procedures, the person entitled to act on behalf of the claimant with respect to a benefit claim or appeal. In order for the Plan to recognize a person as an Authorized Representative, written notification to that effect signed by the claimant and notarized must be received by the Plan. An assignment for purposes of payment is *not* designation of an "Authorized Representative."
- 2.4 **Basic Plan and Trust Document** means this document, which together with an executed Adoption Agreement constitutes the Plan for an Adopting Employer.
- 2.5 **Claims Administrator** means, unless specifically noted otherwise in the Adoption Agreement, EBSC, Inc. If for any reason there is no entity so identified or the contractual relationship ends, the Adopting Employer shall act as the Claims Administrator.
- 2.6 **Code** means the Internal Revenue Code of 1986, as amended from time to time.
- 2.7 **Covered Individual** means a Participant, Dependent of a Participant and the Spouse of a Participant, and any other person appropriately covered under the Plan.
- 2.8 **Dependent** means, unless specifically noted in the Adoption Agreement, a person who is a dependent for purposes of Section 152 of the Code determined without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof.
- 2.9 **Employee** means any person employed by the Adopting Employer on or after the Effective Date, except that it shall not include a self-employed individual as described in Section 401(c) of the Code. All employees who are treated as employed by a single employer under Subsections (b), (c) or (m) of Section 414 of the Code are treated as employed by a single employer for purposes of this Plan.

Employee does not include the following:

- (a) Any employee included within a unit of employees covered by a collective bargaining unit unless such agreement expressly provides, whether specifically or generally, for coverage of the employee under this Plan;
- (b) Any employee who is a nonresident alien and receives no earned income from the Adopting Employer from sources within the United States; and

(c) Any employee who is a leased employee as defined in Section 414(n)(2) of the Code.

- 2.10 **EBSC, Inc.** means Employee Benefits of St. Cloud, Inc.
- 2.11 **ERISA** means the Employee Retirement Income Security Act of 1974 and regulations thereunder, as amended from time to time. Plans sponsored by public sector entities are not subject to ERISA.
- 2.12 **Employer Contribution** means a nonelective contribution made by the Adopting Employer on behalf of each Participant in the Plan. The Employer Contribution is an amount that has not been actually or constructively received by the Participant, and it is made available to the Participant exclusively for reimbursement under the Plan.
- 2.13 **Entry Date** means the date as of which an Employee becomes a Participant in this Plan as set forth in the Adoption Agreement.
- 2.14 **ePHI** means PHI maintained or transmitted in electronic media, including, but not limited to, electronic storage media (i.e., hard drives, digital memory medium) and transmission media used to exchange information in electronic storage (i.e., internet, extranet, and other networks). PHI transmitted via facsimile and telephone is not considered to be transmissions via electronic media.
- 2.15 **HC Account** means "health care account" and is the record keeping account established by the Plan for each Participant.
- 2.16 **Health Care Expense** means, unless otherwise specifically noted in the Adoption Agreement, an expense incurred by a Covered Individual for medical care to the maximum extent permitted by law, but only to the extent that the Covered Individual incurring the expense is not reimbursed for the expense through another source, including other insurance or other accident or health plan. Notwithstanding the foregoing, if the Adopting Employer sponsors a cafeteria plan, Health Care Expense shall not include premiums that may be paid on a pre-tax basis in accordance with the terms of such cafeteria plan, which may include premiums for major medical coverage provided by the Employer and premiums for coverage under an insurance contract, health maintenance organization agreement, or other benefit agreement providing coverage issued on a non-group, individual basis.
- A Health Care Expense shall include medical care as defined in Section 213(d) of the Code as modified to the extent required by law. To the extent Health Care Expense is defined in the Adoption Agreement to include premiums for qualified long-term care insurance, the amount of such premium that will qualify as a Health Care Expense shall be limited to the portion that constitutes "eligible long-term care premiums" as defined in Section 213(d)(10) of the Code.
- A Health Care Expense is incurred at the time the medical care or service which gave rise to the expense is furnished.
- 2.17 **HIPAA** means the Health Insurance Portability and Accountability Act of 1996 and regulations thereunder, as amended from time to time.
- 2.18 **Health Reimbursement Arrangement ("HRA")** means an employer funded medical reimbursement program within the meaning of IRS Revenue Ruling 2002-41 (June 26, 2002) and IRS Notice 2002-45 (June 26, 2002).

- 2.19 **Highly Compensated Individual** means an individual who is (1) one of the five (5) highest paid officers, (2) a shareholder who owns more than 10 percent in value of the stock of the employer, or (3) among the highest paid twenty-five percent (25%) of all Employees, except (1) Employees who have not completed 3 years of service, (2) Employees who have not attained age twenty-five (25), (3) part-time or seasonal Employees, (4) Employees not included in the plan who are included under a collective bargaining agreement, and (5) Employees who are nonresident aliens and who receive no earned income from a source within the United States.
- 2.20 **Managing Body** means the person or persons with authority to make decisions for the Adopting Employer.
- 2.21 **Participant** means an Employee who has become and not ceased to be a Participant pursuant to Article IV. In addition, Participant includes persons "deemed" to be Participants under specific provision of this Plan.
- 2.22 **PHI** means health information that:
- (a) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse;
  - (b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
  - (c) either identifies the individual or reasonably could be used to identify the individual.
- PHI includes ePHI.
- 2.23 **Plan** means the Adopting Employer's plan as may be amended from time to time. It consists of a completed Adoption Agreement plus the Basic Plan and Trust Document. The name of the Plan is set forth in the Adoption Agreement.
- 2.24 **Plan Administrator** means the entity, person or persons responsible for the Plan's administration as determined under Section 8.1.
- 2.25 **Plan Year** means the twelve (12) month period beginning and ending as indicated in the Adoption Agreement. The initial Plan Year may be a "short" Plan Year beginning and ending as indicated in the Adoption Agreement. The records of the Plan will be kept based upon the Plan Year.
- 2.26 **Privacy Rules** means the *Standards and Privacy of Individually Identifiable Health Information* at 45 C.F.R. part 160 and part 164 at subparts A and E.
- 2.27 **Security Incident** means "security incident" as defined in 45 C.F.R. Section 164.304, which generally defines "security incident" to include attempted or successful unauthorized access, use, disclosure, modification, or destruction of ePHI.
- 2.28 **Security Rules** means the *Security Standards and Implementation Specifications* at 45 CFR Part 160 and Part 164, subpart C.
- 2.29 **Sponsor** means the Adopting Employer.

- 2.30 **Spouse** means, unless specifically noted in the Adoption Agreement, an individual who is legally married to a Participant (and who is treated as a spouse under the Code).
- 2.31 **Trust** means a trust described under Section 501(c)(9) of the Code for the purpose of accepting and holding Employer Contributions, and limited to other contributions made under the Plan.
- 2.32 **Trustee** means the individual and/or entity identified in the Adoption Agreement.

**ARTICLE III.  
ADOPTING EMPLOYER**

- 3.1 **Adoption of Plan.** An eligible employer may adopt the Plan by resolution duly adopted by its Managing Body, as represented and warranted in the Adoption Agreement, and upon execution of an Adoption Agreement.
- 3.2 **Cessation of Employer Participation.** An Adopting Employer may cease to be an Adopting Employer in accordance with Article IX.
- 3.3 **Recordkeeping and Reporting.** An Adopting Employer shall furnish, or arrange for the furnishing, to the Claims Administrator the information with respect to each Covered Individual necessary to enable the Claims Administrator to maintain records sufficient to determine the benefits due to or which may become due and to prepare and provide any reports required by law.

**ARTICLE IV.  
ELIGIBILITY AND PARTICIPATION OF EMPLOYEES**

- 4.1 **Eligibility Requirements.** Each Employee shall be eligible to participate in this Plan upon meeting the eligibility requirements set forth in the Adoption Agreement.
- 4.2 **Participant Status.** An Employee who has met the eligibility requirements described in Section 4.1 shall be a Participant as of the Employee's Entry Date.
- 4.3 **Conditions of Participation.** As a condition of participation and receipt of benefits under this Plan, the Participant agrees to:
- (a) Observe all Plan rules and regulations;
  - (b) Consent to inquiries by the Claims Administrator and Plan Administrator with respect to any provider of services involved in a claim under this Plan;
  - (c) Submit to the Plan Administrator all reports, bills, and other information required by the Plan or which the Claims Administrator and Plan Administrator may reasonably require; and
  - (d) Cooperate with all reasonable requests of the Claims Administrator and Plan Administrator that may be necessary for the proper administration of the Plan.

Failure to do so relieves the Plan, Plan Administrator, Claims Administrator and Sponsor of any obligations under this Plan with respect to that Participant and any others claiming entitlement to benefits under this Plan through that Participant.

- 4.4 **Termination of Contributions.** A Participant shall cease to be eligible to receive contributions under this Plan at midnight of the following dates:
- (a) The date of the death of the Participant;
  - (b) The date of termination of the Participant's employment with the Adopting Employer;
  - (c) The date of the Participant's failure to meet the eligibility requirements of Section 4.1, as may be amended from time to time in accordance with Article X; or
  - (d) The date of termination of the Plan in accordance with Article X.

Termination of contributions under this Plan shall not prevent a Participant from receiving continuation coverage required by applicable law.

4.5 **Termination of Participation.** A Participant automatically ceases to be a Participant (i.e., access to the HC Account terminates) at midnight of the earliest of the following dates:

- (a) The date of the death of the Participant;
- (b) The date the balance of the Participant's HC Account reaches zero, if no further contributions will be made to said account under Article X; or
- (c) The date of termination of the Plan in accordance with Article X.

Termination of participation in this Plan shall not prevent a former Participant from receiving continuation coverage required by applicable law.

4.6 **Deemed Participants.** For certain purposes, persons that were not Employees are deemed to be Participants as required by law.



**ARTICLE V.  
BENEFITS UNDER THE PLAN**

- 5.1 **Health Care ("HC") Account.** The HC Account will be credited with the Employer Contribution. A Participant's HC Account will be decreased from time to time in the amount of payments made to the Participant for Health Care Expenses.
- 5.2 **Claims for Reimbursement.** Claims for reimbursement under this Plan shall be made by completing a claim form and submitting such form to the Claims Administrator of this Plan. The Claims Administrator is entitled to rely on the information provided on the claim form in processing claims under this Plan. Unless otherwise specifically noted in the Adoption Agreement, a claim must be submitted for payment within 365 days from the date it is incurred. Where circumstances beyond the Participant's control prevent submission within the described time frame, notice of a claim with an explanation of the circumstances may be accepted by the Claims Administrator as a timely filing. Claims shall be determined in accordance with Article VII.
- 5.3 **Incurred Expenses.** To be reimbursable, the Participant must have incurred a Health Care Expense after his/her Entry Date. An expense is "incurred" when the Participant is provided with the care giving rise to the Health Care Expense, not when the service is billed or paid. Reimbursement shall not be made for future projected expenses.
- 5.4 **Timing of Reimbursement.** Unless specifically provided otherwise in the Adoption Agreement, a Participant shall be reimbursed at least (a) once per month, or (b) when the total reimbursement for Health Care Expenses first equals or exceeds \$50.00.
- 5.5 **Maximum Reimbursement.** Unless specifically provided otherwise in the Adoption Agreement, the maximum reimbursement a Participant may receive at any time shall be the amount of the Participant's HC Account balance at the time the reimbursement request is processed. Except as limited by the preceding sentence, there is no maximum reimbursement amount a Participant may receive during a Plan Year. The maximum reimbursement requirements apply to the Participant, Spouse, and Dependents on an aggregate basis, not an individual basis. If a Participant's claim is for an amount that is more than the Participant's current HC Account balance, the excess, unreimbursed part of the claim will be carried into the subsequent month(s), to be paid as the balance of the Participant's HC Account becomes adequate. Notwithstanding the foregoing, the excess, unreimbursed portion of a claim will not be carried over into the subsequent month(s) if: (a) the claim has been pending at least eighteen (18) months; or (b) no further contributions will be made to the Participant's HC Account under Article VI.
- 5.6 **Participant's Death.** In the event a Participant dies having incurred a Health Care Expense which would have been reimbursable out of the Participant's HC Account had the Participant not died and a person or the Participant's estate has paid for or assumed liability for the expense, reimbursement may be made to that person or the estate for that payment or assumption.
- 5.7 **Nondiscrimination.** This Plan is intended to be nondiscriminatory and to meet the requirements under applicable sections of the Code. If the Plan Administrator determines before or during any Plan Year, that the Plan may fail to satisfy any nondiscrimination requirement imposed by the Code or any limitation on benefits provided to Highly Compensated Individuals, the Plan Administrator shall take such action as the Plan Administrator deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirements or limitation. Such action may include recharacterizing the HC Account or HC Accounts as "restricted" to insurance premium reimbursement.

5.8 **HC Account Forfeitures.** Unless specifically provided otherwise in the Adoption Agreement, any amount remaining in a Participant's HC Account shall be forfeited following the later to occur of:

- (a) The termination of Participant's participation in the Plan,
- (b) The termination of any continuation coverage provided by the Plan under applicable law, or
- (c) The termination of any coverage provided by the Plan in lieu of continuation coverage required by applicable law.

The Plan Administrator may use such forfeited amounts to defray the reasonable administrative costs of the Plan or for any other purpose permitted by law. Any amounts remaining after payment of fees will be divided among participants eligible to receive an allocation of the forfeitures on a per capita basis. However, under no circumstances will the amounts revert to the Adopting Employer.

5.9 **Medical Support Orders.** Notwithstanding any provision of this Plan, to the contrary this Plan shall recognize medical child support orders as required under applicable state law. Participants involved in a divorce or child custody matter should be directed to have their legal counsel contact the Claims Administrator.

5.10 **Coordination with Cafeteria Plan.** To the extent the Adopting Employer also sponsors a cafeteria plan within the meaning of Section 125 of the Code, and a Covered Individual incurs expenses eligible for reimbursement under both programs, unless specifically provided otherwise in the Adoption Agreement, the cafeteria plan will pay first. However, the choice cannot be left to the Participant.

5.11 **Further Limitations on Benefits.**

- (a) This Plan does not cover expenses incurred for any loss caused by or resulting from injury or disease for which benefits are payable under any worker's compensation law or other employer, union, association or governmental sponsored group insurance plan;
- (b) This Plan does not cover expenses incurred for any loss caused by or resulting from injury or disease for which benefits are received by the Participant, the Participant's Spouse or the Participant's Dependent under any health and accident insurance policy or program, whether or not premiums are paid by the Adopting Employer or by the Participant, the Participant's Spouse or the Participant's Dependent child.
- (c) Amounts reimbursed under a dependent care assistance program described in Section 129 of the Code shall not be reimbursed under this Plan.
- (d) Other limitations, if any, as set forth in the Adoption Agreement.

## **ARTICLE VI. CONTRIBUTIONS**

- 6.1 **Employer Contributions.** The Adopting Employer shall make a fixed contribution per Participant as set forth in the Adoption Agreement. The amount of the Employer Contribution, and any restrictions on the use thereof, shall be identified in the Adoption Agreement and communicated to the Participants. The amount of the Employer Contribution may change from year to year as announced by the Adopting Employer prior to the Plan Year start and reflected in the Adoption Agreement. Unless specifically provided otherwise in the Adoption Agreement, the Employer Contribution shall be available for reimbursement as soon as received by the Trustee and placed in the Trust.
- 6.2 **No Employee Contributions.** Except for contributions required for continuation coverage as described in Section 5.10, no contributions other than Employer Contributions are required nor will they be accepted.
- 6.3 **Trust.** All contributions shall be held in the Trust.

**ARTICLE VII.  
CLAIMS DETERMINATIONS AND REVIEW OF DENIED CLAIM**

Unless otherwise specifically noted in the Adoption Agreement, the following procedures apply:

**7.1 Initial Claim Determination.**

- (a) **Time Frame for Decision.** The decision maker must determine the claim within thirty (30) days of receipt of the claim.
- (b) **Extension of Time.** If the decision maker is not able to determine the claim within this time period due to matters beyond its control, the decision maker may take an additional period of up to fifteen (15) days to determine the claim. If this additional time will be needed, the decision maker must notify the claimant or the claimant's Authorized Representative prior to the expiration of the initial thirty (30) day time period for determining the claim. This extension is only available once.

**Notification:** The notification of the need for the extension must include a description of the "matters beyond the Plan's control" that justify the extension and the date by which a decision is expected.

- (c) **Incomplete Claims.** There is no special rule if a claim is incomplete. Incomplete claims can be addressed through the extension of time described above. If the reason for the extension is the failure to provide necessary information and the claimant is appropriately notified, the decision maker's period of time to make a decision is "tolled."

**Tolling:** The period of time in which the decision maker must determine a claim is suspended from the date upon which notification of the missing necessary information is sent until the date upon which the claimant responds.

**Notification:** For this purpose, notification can be made orally to the claimant or the health care professional, unless the claimant requests written notice.

The notification will include a time frame in which the necessary information must be provided. Once the necessary information has been provided, the decision maker must decide the claim within the extension described above. If the requested information is not provided within the time specified, the claim may be decided without that information.

## 7.2 Decision.

- (a) **Notification of Decision.** Written (or electronic) notification of the decision maker's determination must be provided to the claimant or the claimant's Authorized Representative. Such notification must be provided only where the decision is adverse.

**"Adverse"** means:

- A denial, reduction, or termination of, or
- A failure to provide or make payment (in whole or in part) for a benefit.

- (b) **Adverse Decision.** For adverse claim determinations, the notification shall reflect at least the following:

- state the specific reason(s) for determination;
- reference specific Plan provision(s) upon which the determination is based;
- describe additional material or information necessary to complete the claim and why such information is necessary;
- describe Plan procedures and time limits for appeal of the determination, and the right to obtain information about those procedures and the right to sue in federal court; and
- disclose any internal rule, guidelines, protocol or similar criterion relied on in making the adverse determination (or state that such information will be provided free of charge upon request); and
- where the decision involves scientific or clinical judgment, disclose either (1) an explanation of the scientific or clinical judgment applying the terms of the Plan to claimant's medical circumstances, or (2) a statement that such explanation will be provided at no charge upon request.

Notice of the adverse determination may be provided in written or electronic form. Electronic notices will be provided in a form that complies with applicable legal requirements.

- (c) **Not Adverse Decision.** For claim determinations that are not adverse, notice will be provided that informs the claimant or the claimant's Authorized Representative the claim has been accepted.

## 7.3 Access to Relevant Documents.

In order (1) to evaluate whether to request review of an adverse determination, and (2) if review is requested, to prepare for such review, the claimant or the claimant's Authorized Representative will have access to all relevant documents.

**Relevant:** A document, record or other information is "relevant" if it was relied upon in making the determination, or was submitted to the Plan, considered by the Plan, or generated in the course of making the benefit determination without regard to whether it was relied upon.

#### 7.4 Appeal a Denied Claim.

If a claim is denied, in whole or part, the claimant or the claimant's Authorized Representative may request the denied claim be reviewed.

- (a) **Requesting Review.** The claimant or the claimant's Authorized Representative has a period of one hundred eighty (180) days to appeal the claim determination. The appeal request must be in writing and should be sent to the address specified in the notification of adverse decision described above.
- (b) **Submission & Consideration of Comments.** The claimant or the claimant's Authorized Representative will have the opportunity to submit documents, written comments, or other information in support of the appeal. The review of the adverse benefit determinations will take into account all new information, whether or not presented or available at the initial determination. No deference will be afforded to the initial determination.
- (c) **Consultation with Independent Medical Expert.** In the case of a claim denied on the grounds of a medical judgment, a health professional with appropriate training and experience will be consulted. The health care professional who is consulted on appeal will not be the individual who was consulted, if any, during the initial determination or a subordinate of that individual.

<p><b>Disclosure:</b> If the advice of a medical or vocational expert was obtained by the Plan in connection with the claim denial, the names of each such expert shall be provided, regardless of whether the advice was relied upon.</p>
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- (d) **Time Frame for Decision.** If claimant or the claimant's Authorized Representative requests a review of a denied claim within the time frame described above, the decision maker shall review of claim and make a determination no later than sixty (60) days from the date the review request was received.
- (e) **Decision.** The review of the appeal will be conducted by the Plan Administrator. It will be made by a person different from the person who made the initial determination and such person will not be a subordinate of the original decision maker. The information in the administrative record shall be reviewed. Additional information submitted shall be considered. The decision shall be based upon that information plus the terms of the Plan and past interpretations of the same and similar Plan provisions. The decision maker may rely upon protocols, guidelines, or other criterion.
- (f) **Notification of Decision.** Written (or electronic) notification of the decision maker's determination must be provided to the claimant or the claimant's Authorized Representative. Such notification must be provided whether the decision is adverse or not adverse.

**"Adverse"** means:

- A denial, reduction, or termination of, or
- A failure to provide or make payment (in whole or in part) for a benefit.

(g) **Adverse Decision.** For adverse appeal determinations, the notification shall reflect at least the following:

- state the specific reason(s) for determination;
- reference specific Plan provision(s) upon which the determination is based;
- describe Plan procedures and time limits for appeal of the determination, and the right to obtain information about those procedures and the right to sue in federal court;
- disclose any internal rules, guidelines, protocol or similar criterion relied on in making the adverse determination (or state that such information will be provided free of charge upon request);
- a statement indicating entitlement to receive upon request, and without charge, reasonable access to or copies of all documents, records or other information relevant to the determination; and
- where the decision involves scientific or clinical judgment, disclose either (1) an explanation of the scientific or clinical judgment applying the terms of the Plan to claimant's medical circumstances, or (2) a statement that such explanation will be provided at no charge upon request.

Notice of the adverse determination may be provided in written or electronic form. Electronic notices will be provided in a form that complies with applicable legal requirements.

(h) **Not Adverse Decision.** For appeal determinations that are not adverse, notice will be provided that informs the claimant or the claimant's Authorized Representative the decision has been reversed, and the claim accepted.

## **ARTICLE VIII. HIPAA PRIVACY AND SECURITY PROVISIONS**

The Privacy Rules and Security Rules under HIPAA apply to this Plan. For purposes of this Section, "Plan Sponsor" refers to the Adopting Employer as the Plan Sponsor and as the entity capable of acting on behalf of the covered entity, the Plan.

**8.1 Use and Disclosure of PHI.** The Plan will use PHI to the extent of and in accordance with the uses and disclosures permitted by HIPAA. Specifically, the Plan will use and disclose PHI for purposes related to health care treatment, payment for health care and health care operations. The Plan will also use and disclose PHI as permitted by authorization of the subject of PHI.

(a) **Payment** includes activities undertaken by the Plan to obtain premiums or determine or fulfill its responsibility for coverage and provision of Plan benefits that relate to an individual to whom health care is provided. These activities include, but are not limited to, the following:

- (1) Determination of eligibility, coverage and cost sharing amounts (for example, cost of a benefit, plan maximums and co-payments as determined for an individual's claim);
- (2) Coordination of benefits;
- (3) Adjudication of health benefits claims (including appeals and other payment disputes);
- (4) Subrogation of health benefit claims;
- (5) Establishing employee contributions;
- (6) Risk adjusting amounts due based on enrollee health status and demographic characteristics;
- (7) Billing, collection activities and related health care data processing;
- (8) Claims management and related health care data processing, including auditing payments, investigating and resolving payment disputes and responding to participant inquiries about payments;
- (9) Obtaining payment under a contract for reinsurance (including stop-loss and excess of loss insurance);
- (10) Medical necessity reviews or reviews of appropriateness of care or justification of charges;
- (11) Utilization review, including pre-certification, preauthorization, concurrent review and retrospective review;
- (12) Disclosure to consumer reporting agencies related to the collection of premiums or reimbursement (the following PHI may be disclosed for payment purposes: name and address, date of birth, Social Security number, payment history, account number and name and address of provider and/or health Plan; and



(13) Reimbursement to the Plan.

(b) **Health care operations** include, but are not limited to, the following activities:

- (1) Quality assessment;
- (2) Population-based activities relating to improving health or reduction health care costs, protocol development, case management and care coordination, disease management, contacting health care providers and patients with information about treatment alternatives and related functions;
- (3) Rating provider and Plan performance, including accreditation, certification, licensing or credentialing activities;
- (4) Underwriting, premium rating and other activities relating to the creation , renewal or replacement of a contract of health insurance or health benefits, and ceding, securing or placing a contract for reinsurance of risk relating to health care claims (including stop-loss insurance and excess of loss insurance);
- (5) Conducting or arranging for medical review, legal services and auditing function, including fraud and abuse detection and compliance programs;
- (6) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the Plan, including formulary development and administration, development or improvement of payment methods or coverage policies;
- (7) Business management and general administration activities of the Plan, including, but not limited to:
  - a. Management activities relating to the implementation of and compliance with HIPAA's administrative simplification requirements;
  - b. Customer service, including data analyses for policyholders;
- (8) Resolution of internal grievances;
- (9) Due diligence in connection with the sale or transfer of assets to a potential successor in interest, if the potential successor in interest is a covered entity under HIPAA or following completion of the sale or transfer, will become a covered entity.

8.2 **Plan Sponsor's Obligations under Privacy Rule.** Under HIPAA, The Plan may not disclose PHI to the Plan Sponsor (as defined in the Privacy Rules under HIPAA) unless the Plan Sponsor agrees to certain conditions. As the Plan Sponsor, the Adopting Employer agrees to the following conditions, thereby allowing the Plan to disclose PHI to the Adopting Employer. The Adopting Employer will:

- (a) Not use or further disclose PHI other than as permitted or required by the Plan document or as required by law;

- (b) Ensure that any agents, including a subcontractor, to whom the Plan provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such PHI;
- (c) Not use or disclose PHI for employment related actions and decision unless authorized by an individual;
- (d) Not use or disclose PHI in connection with any other benefit or employee benefit plan of the Plan Sponsor unless authorized by an individual;
- (e) Report to the Plan any PHI use or disclosure, that is inconsistent with the uses or disclosures provided for, of which it becomes aware;
- (f) Make available to an individual for inspection and copying PHI about the individual as allowed by and in accordance with HIPAA;
- (g) Make PHI available for amendment and incorporate any amendments to PHI in accordance with HIPAA;
- (h) Make available the information required to provide an accounting of disclosures;
- (i) Make internal practices, books and records relating to the use and disclosure of PHI received from Plan available to the HHS Secretary for the purposes of determining the Plan's compliance with HIPAA; and,
- (j) If feasible, return or destroy all PHI received for the Plan that the Plan Sponsor still maintains in any form, and retain no copies of such PHI when no longer needed for the purpose for which disclosure was made (or if return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction infeasible).

**8.3 Plan Sponsor's Obligations under Security Rules.** If the Plan Sponsor creates, receives, maintains, or transmits ePHI, the Plan Sponsor will:

- (a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI;
- (b) Ensure that any agents, including subcontractors, to whom the Plan Sponsor provides ePHI or to whom ePHI is provided on behalf of Plan Sponsor implement reasonable and appropriate security measures to protect the ePHI;
- (c) Report to the Plan any Security Incident of which it becomes aware; and
- (d) Implement reasonable and appropriate security measures to ensure that only those persons identified in Section 8.4 have access to ePHI and that such access is limited to the purposes identified in Section 8.5.

8.4 **Adequate separation between the Plan and the Plan Sponsor must be maintained.** In accordance with HIPAA, only the following employees or classes of employees may be given access to PHI:

- (1) The benefit manager; and,
- (2) Staff designated by the benefits manager.

The Plan Sponsor shall identify, by name, these persons in writing to the Claims Administrator.

8.5 **Limitation of PHI Access and Disclosure.** The persons described in Section 8.4 above may only have access to and use and disclose PHI for Plan administration functions that the Plan Sponsor performs for the Plan.

8.6 **Noncompliance Issues.** If the person described in Section 8.4 above does not comply with this Plan document, the Plan Sponsor shall provide a mechanism for resolving issues of noncompliance, including, but not limited to, disciplinary sanctions.

**ARTICLE IX.  
PLAN ADMINISTRATION**

**9.1 Plan Administrator.**

- (a) The Plan Administrator shall be responsible for the general supervision of the Plan and therefore shall have authority to control and manage the operation and administration of the Plan. The Plan Administrator shall perform any and all acts necessary or appropriate for the proper management and administration of the Plan.
- (b) The Adopting Employer shall be the Plan Administrator unless its Managing Body designates a person or persons other than the Adopting Employer to be the Plan Administrator. The Adopting Employer shall also be the Plan Administrator if the person or persons so designated cease to be the Plan Administrator.
- (c) The Plan Administrator may designate an individual or entity to act on its behalf with respect to certain powers, duties, and/or responsibilities regarding the operation and administration of this Plan. Unless reflected in the Adoption Agreement otherwise, EBSC, Inc. is the Claims Administrator.

**9.2 Agent for Service of Legal Process.** The agent for service of legal process for the Plan is the Plan Administrator.

**9.3 Allocation of Responsibility for Administration.** The Plan Administrator shall have the sole responsibility for the administration of this Plan as is specifically described in this Plan. The designated representatives of the Plan Administrator shall have only those specific powers, duties, responsibilities, and obligations as are specifically given to them under this Plan. The Plan Administrator warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. It is intended under this Plan that the Plan Administrator shall be responsible for the proper exercise of its own powers, duties, responsibilities, and obligations under this Plan and shall not be responsible for any act or failure to act of another Employee of the Adopting Employer. Neither the Plan Administrator (including any designee), nor the Adopting Employer makes any guarantee to any Participant in any manner for any loss or other event because of the Participant's participation in this Plan.

**9.4 Rules and Decisions.** Except as otherwise specifically provided in the Plan, the Plan Administrator may adopt such rules and procedures as it deems necessary, desirable, or appropriate. All rules and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished by a Participant, the Adopting Employer, or legal counsel, or other entity acting on behalf of the Adopting Employer or Plan Administrator.

**9.5 Records and Reports.** The Plan Administrator shall be responsible for complying with all reporting, filing and disclosure requirements for the Plan.

**9.6 Authorization of Benefit Payments.** The Plan Administrator (or the Claims Administrator as its designee) shall issue directions to the Trustee concerning all benefits which are to be paid from the Trust, pursuant to the provisions of the Plan, and warrants that all such directions are in accordance with the Plan.

- 9.7 **Compensation and Expenses.** The Claims Administrator shall be entitled to reasonable fees for its services hereunder, as provided in the Administrative Services Agreement. Unless specifically provided otherwise in the Adoption Agreement, such fees and any expenses incurred by the Claims Administrator in connection with the Plan (including expenses and fees of persons hired or employed by them) shall be charged to the Plan and paid from the Trust. Also, unless specifically provided otherwise in the Adoption Agreement, the Trust shall be the sole source of payment to the Claims Administrator.
- 9.8 **Other Powers and Duties of the Administrator.** The Plan Administrator shall also have such other duties and powers as may be necessary to discharge its duties under the Plan including but not limited to the following:
- (a) Discretion to construe and interpret the Plan in a non-discriminatory manner, to decide all questions of eligibility and to determine all questions arising in the administration and application of the Plan;
  - (b) To receive from the Adopting Employer and from Participants such information as shall be necessary for the proper administration of the Plan;
  - (c) To furnish the Adopting Employer, upon request, such annual reports with respect to the administration of the Plan as are reasonable and appropriate; and
  - (d) To appoint individuals to assist in the administration of the Plan and any other agents the Plan Administrator deems advisable including legal and actuarial counsel. The Plan Administrator shall not have the power to add to, subtract from, or modify any of the terms of the Plan, to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for a benefit under this Plan.

**ARTICLE X.**  
**PLAN AMENDMENT AND TERMINATION**

- 10.1 **Plan Amendment by Adopting Employer.** The Adopting Employer reserves the right to amend, alter, or wholly revise this Basic Plan and Trust Document or the Adoption Agreement, prospectively or retrospectively, at any time by the action of its Managing Body, and the interest of each Participant is subject to the powers so reserved. The Adopting Employer expressly may amend, alter or wholly revise this Basic Plan and Trust Document or the Adoption Agreement if it determines it necessary or desirable, with or without retroactive effect, to comply with the law. Such changes shall not affect any right to benefits that accrued prior to such amendments. Such amendment shall be made in writing and shall be delivered promptly to the Claims Administrator, Plan Administrator, and Trustee.

Notwithstanding the above, no amendment may be made that would increase substantially the duties or liabilities of the Trustee without its written consent or that would divert any part of the Trust assets to any use or purpose other than for the exclusive benefit of the Participants and other individuals entitled to benefits under the Plan; provided, however, that any such amendment may be made that may be or become necessary in order that the Trust qualifies under the provisions of Section 501(c)(9) of the Code, as amended, or in order that all provisions of the Trust will conform to all valid requirements of applicable federal and state laws.

- 10.2 **Adopting Employer's Right to Terminate Plan.** Although the Adopting Employer expects the Plan and Trust to be maintained for an indefinite time, the Adopting Employer reserves the right to terminate the Plan and/or any portion thereof at any time. In the event of the dissolution, merger, consolidation, or reorganization of the Adopting Employer, the Plan shall terminate unless the Plan is continued by a successor to the Adopting Employer in accordance with the resolution of such successor's Managing Body. Such termination shall not affect any right to benefits that accrued prior to such termination. Such action shall be made in writing and shall be delivered promptly to the Claims Administrator, Plan Administrator, and Trustee.

**ARTICLE XII.  
DUTIES AND POWERS OF TRUSTEE**

- 12.1 **General Responsibility.** (If elected in the Adoption Agreement that the Trustee shall be a directed Trustee, then the Trustee's discretionary duties hereunder shall be exercised by the Plan Administrator). The general responsibilities of the Trustee shall be as follows:
- (a) Except as expressly provided otherwise herein, the Trustee shall have exclusive authority and discretion to manage and control the assets of the Plan held in the Trust.
  - (b) The Trustee shall hold, administer, invest and reinvest, and disburse the Trust assets in accordance with the powers and subject to the restrictions stated herein. (Or if elected in the Adoption Agreement: The duties of the Trustee hereunder are as a directed trustee and the Trustee shall act solely in accordance with the instructions of the Plan Administrator. Nothing in this Agreement is intended to give the Trustee any discretionary responsibility, authority or control with respect to the management or administration of the Plan or the management of the assets of the Plan. Further, the Trustee is not a party to the Plan and has no duties or responsibilities other than those that may be expressly contained in this Agreement and applicable law. In any case in which a provision of this Agreement conflicts with any provision in the Plan, this Agreement shall control.)
  - (c) The Trustee shall disburse monies and other properties from the Trust on direction of the Plan Administrator (the Claims Administrator or its designee under the Plan), pursuant to the provisions of the Plan to the payee or payees at the time or times specified by the Plan Administrator in directions to the Trustee. Such directions shall be in writing and shall be signed by the person or persons thereto authorized by the Plan Administrator. Except as otherwise provided under applicable law, the Trustee shall be under no liability for any distribution made by it pursuant to such directions and shall be under no duty to make inquiry as to whether any distribution made by it pursuant to any such direction is made pursuant to the provisions of the Plan. The receipt of the payee shall constitute a full acquittance to the Trustee.
- 12.2 **Exercise of Trustee's Duties.** The Trustee shall discharge its duties hereunder solely in the best interest of the Participants and other persons entitled to benefits under the Plan, and (a) for the exclusive purpose of (1) providing benefits to Participants and other persons entitled to benefits under the Plan; and (2) defraying reasonable expenses of administering the Trust and the Plan; and (b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a fiduciary capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
- 12.3 **General Powers.** With respect to the Trust assets and subject only to the limitations expressly provided in this Basic Plan and Trust Document, the Trustee shall have the following powers, rights and duties in addition to those vested in them elsewhere in this Basic Plan and Trust Document or by law:
- (a) To receive and hold all contributions paid to it; provided, however, that the Trustee shall have no duty to require any contributions to be paid to it, or to determine that the contributions received by it comply with the Plan or with any resolution of the governing body of the Plan Administrator or any resolution of the governing body of any Adopting Employer; and, further provided that the Trustee shall have no responsibility with respect to the operation or administration of the Plan;

- (b) To manage, operate, sell, contract to sell, grant options with respect to, convey, exchange, partition, transfer, abandon, improve, repair, insure, lease for any term (although commencing in the future or extending beyond the term of this Basic Plan and Trust Document) and otherwise deal with all property, real or personal, in such manner, for such considerations, and on such terms and conditions as the Trustee shall decide;
- (c) To retain in cash (pending investment, reinvestment or payment of benefits) any reasonable portion of the Trust assets and to deposit cash in any depository selected by it, provided such deposits bear a reasonable rate of interest;
- (d) To compromise, contest, arbitrate, settle or abandon claims and demands (exclusive of claims and demands arising under the Plan);
- (e) To begin, maintain or defend any litigation necessary in connection with the investment, reinvestment or administration of the Trust;
- (f) To have all rights of an individual owner, including the power to give proxies, to vote stocks, to join in or oppose (alone or jointly with others) voting trusts, mergers, consolidations, foreclosures, reorganizations, recapitalizations or liquidations, and to exercise or sell stock subscription or conversion rights;
- (g) To hold securities or other property in the name of the Trustee or its nominee, or nominees, or in such other form as it determines best, with or without disclosing the trust relationship, provided the records of the Trustee shall indicate the actual ownership of such securities or other property;
- (h) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery thereof until final adjudication is made by a court of competent jurisdiction;
- (i) To pay any tax, charge or assessment attributable to any benefit which, in the Trustee's opinion, it shall or may be required to pay out of such benefit; and to require before making any payment such release or other document from any taxing authority and such indemnity from the intended payee as the Trustee shall deem necessary for its protection;
- (j) To employ agents, attorneys, investment counsel, accountants or other persons (who also may be employed by or represent the Plan Administrator and/or an Employer) for such purposes as the Trustee considers desirable and appropriate;
- (k) To furnish the Plan Administrator or the Adopting Employer with such information in the Trustee's possession as those entities may need for tax or other purposes; and
- (l) To perform any and all other acts in the judgment of the Trustee necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust assets.

12.4 **Investments.** Except as otherwise expressly provided herein and subject to Section 12.6, the Trustee shall have exclusive authority and discretion to invest and reinvest the principal and income of the Trust in real or personal property of any kind and shall do so with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a fiduciary capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Trustee shall diversify the investments of the Trust so as to



minimize the risk of large losses, unless under the circumstances they are clearly prudent not to do so. No investment shall be made which would involve a prohibited transaction under the applicable law. The Trustee shall comply with any applicable laws of any state proscribing or limiting the investment of trust funds by corporate or individual Trustees in or to certain kinds, types, or classes of investments or limiting the value or proportion of the trust assets that may be invested in any one property or kind, type, or class of investment. Investments and reinvestments shall be subject to the above standard, and without limiting the generality of the foregoing, shall also be subject to the following:

- (a) Investments shall be as consistent as reasonably possible with any funding policy communicated to the Trustee in writing by the Plan Administrator. The Trustee may rely on the most recent such communication received by it without further inquiry or verification.
- (b) The Trustee may invest and reinvest principal and income of the Trust savings accounts or savings certificates, short term investments (including commingled short term investment funds) in common, preferred, and other stocks of any corporation; voting trust certificates; interests in investment trusts, including, without limiting the generality thereof, participations issued by an investment company as defined in the Investment Company Act of 1940, as from time to time amended; bonds, notes, and debentures, secured or unsecured; mortgages on real or personal property; conditional sales contracts; and real estate and leases; provided that no investment shall be made in the real property or the stocks, bonds, notes or other obligations of an Adopting Employer or any of its subsidiaries unless there shall first have been obtained an opinion of counsel for the Adopting Employer, or a ruling from the Internal Revenue Service that such investment will not jeopardize the tax exempt status of the Trust under Section 501(c)(9) of the Code, as the same may be amended from time to time, to be terminated.
- (c) The Trustee may invest and reinvest the principal and income of the Trust through any common or collective trust fund or pooled investment fund maintained by the Trustee for the collective investment of funds held by it in a fiduciary capacity. The provisions of the document governing any such common or collective trust fund as it may be amended from time to time shall govern any investment therein and are hereby made a part of this Basic Plan and Trust Document.

12.5 **Compensation and Expenses.** The Trustee shall be entitled to reasonable fees for its services hereunder, as provided in the Adoption Agreement. Unless specifically provided otherwise in the Adoption Agreement, such fees and any expenses incurred by the Trustee in connection with the Trust held hereunder (including expenses and fees of persons employed by them) shall be charged to the Trust. Also, unless specifically provided otherwise in the Adoption Agreement, the Trust shall be the sole source of payment to the Trustee.

12.6 **Directed Investments.** If indicated in the Adoption Agreement, Participants shall be responsible for directing the investment of their HC Account balances. The following requirements apply to directed investments:

- (a) The Trustee shall select the list of available investments taking into consideration the characteristics of the Plan and persons covered under the Plan.
- (b) The Trustee shall establish direction procedures based upon the types of investments available. Such procedures shall include instructions regarding making and changing investments and allocations of HC Account assets among investments.
- (c) The earnings/losses of the directed investments are allocated only to that particular Participant's HC Account.

12.7 **Investment in Mutual Fund Sponsored by the Trustee.** To the extent the Trustee is authorized to exercise investment discretion pursuant to this Basic Plan and Trust Document, the Trustee is authorized to invest in shares of beneficial interest in one or more investment portfolios (the "Portfolios"), each of which is or shall be established and organized as a diversified company under the Investment Company Act of 1940 and with respect to which the Trustee or affiliates of the Trustee act as custodian or investment advisor. The Plan Administrator represents that it has received (a) a prospectus describing each of the available Portfolios, (b) full and written disclosure of investment advisory and any other fees payable by the Plan Administrator by the Trust and by the Portfolios, and (c) a statement as to the reasons why the Trustee considers purchases of shares of beneficial interest in one or more Portfolios to be appropriate for the Trust. Subject to the limitation of the following sentence, the Plan Administrator hereby approves the Trustee's purchase and sale, in its sole discretion, of shares of beneficial interest in one or more of the Portfolios on behalf of the Trust. This approval is limited to the advisory and other fees paid by the Portfolio in relation to the fees charged to or paid by the Trust and does not relate to any other aspect of the investment of the assets of the Trust in the Portfolios. The Trustee acknowledges that it must notify the Plan Administrator of any change in the rates of these charges with respect to the assets of the Trust invested in the Portfolios.

12.8 **Records and Accounts of the Trustee.** The Trustee shall maintain accurate and detailed records and accounts of all transactions hereunder. Within thirty (30) days following the close of each calendar quarter, or following the close of such other reporting period as may be agreed upon by the Trustee and the Plan Administrator, the Trustee shall file with the Plan Administrator a written account setting forth the balance in the Trust at the beginning of the period, current contributions during the period, distributions from the Trust and the balance in the Trust assets at the end of the period. The Trustee shall also file a written account listing the property held in the Trust as of the close of each period. All such records and accounts shall be open to inspection at all reasonable times by any person designated by the Plan Administrator or Adopting Employer.

12.9 **Annual Report.** As soon as practicable following the close of each fiscal year of the Trust and following the effective date of the removal or resignation of any Trustee, the Trustee shall file with the Plan Administrator a written report (unless the report is waived by the Plan Administrator) setting forth all transactions with respect to the Trust during such fiscal year or during the period from the close of the last fiscal year to the date of such removal or resignation and listing the assets of the Trust and the market value thereof as of the close of the period covered by such report.

12.10 **Approval of Reports.** Upon the receipt by the Trustee of the Plan Administrator's written approval of any such written account or report, or upon the lapse of ninety (90) days after the Plan Administrator's receipt of each written account or report, said written account or report shall be deemed to be approved by it except as to matters, if any, covered by written objections theretofore delivered to the Trustee by the Plan Administrator regarding which the Trustee has not given an explanation or made adjustments satisfactory to it. The Trustee, to the extent

permitted by law, shall be released and discharged as to all items, matters, and things set forth in such written account or report other than the matters covered in such written objections as provided herein. The Trustee, nevertheless, shall have the right to have its accounts approved by judicial proceedings if they so elect, in which event the Trustee and the Plan Administrator shall be the only necessary parties. Further, in the event that the Plan Administrator duly delivers to the Trustee written objections to any matters set forth in any such written account or report and said objections are not explained or adjusted to the satisfaction of the Plan Administrator, each shall likewise have the right to have the Trustee's accounts reviewed by judicial proceedings if they so elect, in which event the Trustee and the Plan Administrator shall be the only necessary parties.

- 12.11 **Decisions of Trustee.** If there should be more than one Trustee, in case of disagreement among the Trustees, the decision of a majority of them shall determine the issue and the act of a majority of them shall be the act of the Trustees.

**ARTICLE XIII.  
CHANGES IN TRUSTEE**

- 13.1 **Resignation.** A Trustee may resign at any time by giving thirty (30) days advance written notice to the Plan Administrator.
- 13.2 **Removal and Appointment of Successor Trustee.** The Plan Administrator may remove a Trustee by giving thirty (30) days advance written notice to the Trustee, subject to providing the removed Trustee with a copy of the successor Trustee's acceptance of the trusteeship. The Plan Administrator shall appoint a successor Trustee. If no successor is appointed, or for any period during which there is no appointed Trustee, the Plan Administrator shall serve as the Trustee.
- 13.3 **Duties of Resigning or Removed Trustee and of Successor Trustee.** If the Trustee resigns or is removed, that Trustee shall promptly transfer and deliver the assets of the Trust to the successor Trustee, after reserving such reasonable amount as the Trustee shall deem necessary to provide for the Trustee's fees, expenses, and any sums chargeable against the Trust for which the Trustee may be liable. Within one hundred twenty (120) days, the resigned or removed Trustee shall furnish to the Plan Administrator and the successor Trustee an account of the administration of the Trust from the date of its last account (unless the account is waived by the Plan Administrator). Each successor Trustee shall succeed to the title to the Trust vested in the Trustee's predecessor without the signing or filing of any further instrument, but any resigning or removed Trustee shall execute all documents and do all acts necessary to vest title to any successor Trustee. Each successor shall have all the powers, rights and duties conferred by this Trust Agreement as if originally named Trustee. No successor Trustee shall be personally liable for any act or failure to act of a predecessor Trustee.
- 13.4 **Waiver of Written Notice.** Any written notice requirement required under this Article XII may be waived by mutual agreement of the Trustee and the Plan Administrator.

**ARTICLE XIV.  
GENERAL PROVISIONS**

- 14.1 **No Reversion to the Plan Administrator or Adopting Employer.** No part of the corpus or income of the Trust shall revert to an Adopting Employer or be used for or diverted to, purposes other than the exclusive benefit of Participants and other persons entitled to benefits under the Plan. Should the Trust terminate, any assets remaining shall be used for a purpose consistent with the Plan and as permitted by law.
- 14.2 **Persons Dealing with the Trust.** No person dealing with the Trust shall be required to see to the application of any money paid or property delivered to the Trustee, or to determine whether or not the Trust is acting pursuant to any authority granted to them under the Basic Plan and Trust Document.
- 14.3 **Non-Alienation of Benefits.** Benefits payable under this Plan shall not be subject to anticipation, alienation, sale, transfer, execution, or levy of any kind either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of the Participant, prior to actually being received by the person entitled to the benefit under the terms of the Plan, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable under the Plan shall be void. The Trustee, Adopting Employer, Plan Administrator and/or Claims Administrator shall not in any manner be made liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits under the Plan.
- 14.4 **Action by Employer.** Whenever the Adopting Employer, under the terms of this Plan, is permitted or required to do or perform any act or matter or thing, it shall be done and performed by the Managing Body of the Adopting Employer or such representatives of the Adopting Employer as the Managing Body may designate.
- 14.5 **Indemnification of the Trustees.** Unless prohibited or specifically required otherwise by applicable law, the Adopting Employer hereby agrees to indemnify the Trustee for and to hold it harmless against any and all liabilities, losses, costs or expenses (including legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against the Trustee at any time by reason of the Trustee's service under this Basic Plan and Trust Document provided that the Trustee did not act dishonestly or in willful or negligent violation of the law or any applicable regulation under which such liability, loss, cost or expense arose.
- 14.6 **No Guarantee of Tax Consequences.** Notwithstanding any provision in this Plan to the contrary, this Plan makes no commitment or guarantee that any amounts paid to or on behalf of a Participant under this Plan will be excludable from the Participant's gross income for federal or state income tax purposes. It shall be the obligation of each Participant to determine whether each payment is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Plan Administrator if the Participant has reason to believe that any such payment is not so excludable.
- 14.7 **Governing Law.** Unless otherwise specified in the Adoption Agreement, this Plan shall be construed and enforced according to the laws of Minnesota except to the extent preempted by federal law.

14.8 **Family and Medical Leave Act of 1993 ("FMLA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with FMLA, to the extent the Adopting Employer is subject to such law.

14.9 **Newborns' and Mothers' Health Protection Act ("NMHPA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with NMHPA. Federal law requires the following statement be included in the Plan document, verbatim:

Under federal law, group health plans and health insurance issuers offering group health insurance generally may not restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery, or less than 96 hours following a cesarean section. However, the plan or issuer may pay for a shorter stay if the attending physician (e.g., your physician, nurse, or midwife, or a physician assistant), after consultation with the mother, discharges the mother or newborn earlier. Also, under federal law, plans and issuers may not set the level of benefits or out-of-pocket costs so that any later portion of the 48-hour (or 96-hour) stay is treated in a manner less favorable to the mother or newborn than any earlier portion of the stay. In addition, a plan or issuer may not, under federal law, require that a physician or other health care provider obtain authorization for prescribing a length of stay of up to 48 hours (or 96 hours). However, to use certain providers or facilities, or to reduce your out-of-pocket costs, you may be required to obtain precertification. For information on pre-certification, contact your Plan Administrator.

14.10 **Women's Health and Cancer Rights Act of 1998 ("WHCRA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with WHCRA.

14.11 **Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with USERRA, and the Plan Administrator shall, within the parameters of the law, establish uniform policies by which to provide such continuation coverage required by USERRA.

14.12 **Plan Not a Contract of Employment.** The Plan is not an employment agreement and does not assure the continued employment of any Employee or Participant for any period of time. Nothing contained in the Plan shall interfere with the Adopting Employer's right to discharge an Employee or Participant at any time; regardless of the effect, such discharge may have upon the individual as a Participant in this Plan.

14.13 **Medicare Secondary Payer.** The Plan shall comply with the Medicare secondary payer rules found in 42 U.S.C. § 1395y. The Plan shall pay benefits primary to Medicare if: (a) the Participant is employed by the Adopting Employer and is actually covered by Medicare by reason of obtaining the age of 65; (b) at the time the claim is made the Adopting Employer employs 100 or more employees, the Participant is employed by the Adopting Employer, and the Participant is actually covered by Medicare by reason of disability; and (c) the Participant is entitled to Medicare by reason of end stage renal disease and the claim is made during the twelve (12) month period beginning in the first month in which such Participant is entitled to benefits under Medicare (regardless of whether he/she applies for such benefits). In all other cases, the Plan shall pay benefits secondary to Medicare.

14.14 **Medicare Part D.** The Plan shall cooperate with Medicare Part D prescription drug plans (and Covered Individuals who are enrolled in such plans) with respect to coordination of benefits between the Plan and the Medicare Part D plan, including the provision of information to the

Medicare Part D plan (or the Covered Individuals) regarding the benefits provided under the Plan for costs covered by the Medicare Part D plan. Covered Individuals enrolled in Medicare Part D plans shall cooperate with the Plan so that the Plan may perform its obligations under this subsection.

- 14.15 **Certificates of Creditable Coverage.** When coverage terminates, or upon request by a Covered Individual during coverage or within two (2) years of termination of coverage under this Plan, Covered Individuals will be provided with a certification of creditable coverage by the Plan Administrator (or its designee). A request for a certification of creditable coverage should be directed to the Plan Administrator. Upon request, the Plan Administrator (or its designee) will issue the certification of creditable coverage as soon as reasonably possible.

## ARTICLE XV. CONTINUATION COVERAGE

**Note:** Adopting Employers with less than twenty (20) Employees are not subject to COBRA.

15.1 **Generally.** The Plan is a group health plan that, unless the Adopting Employer is not subject to COBRA, is subject to the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), as amended. If COBRA is applicable, COBRA procedures shall be established and followed consistent with applicable law

15.2 **Notification Procedures.** The Plan requires the notifications described below with respect to continuation coverage under COBRA:

(a) **Notice of qualifying event.** Under the law, a Covered Individual (or a representative acting on behalf of the Covered Individual) has the responsibility to inform the Plan of a divorce, legal separation, or a child losing dependent status under the Plan (the "qualifying event") within sixty (60) days of the latest of: (i) the date of the qualifying event; (ii) the date coverage would be lost because of the qualifying event; or (iii) the date on which the Covered Individual was informed of the responsibility to provide notice and the procedures for doing so. The notification must be provided in writing and be mailed to the Plan. Oral notification, including notification by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notifications are not acceptable. The notification must be postmarked no later than the last day of the sixty (60) day notice period described above. The notification must:

- (1) state the name of the Plan;
- (2) state the name and address of the employee or former employee who is or was covered under the Plan;
- (3) state the name(s) and address(es) of all Covered Individuals who lost coverage due to the qualifying event;
- (4) include a detailed description of the event;
- (5) identify the effective date of the event; and
- (6) be accompanied by any documentation providing proof of the event (i.e., the divorce decree).

If no notification is received within the required time period, no continuation coverage will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the Covered Individuals, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no continuation coverage will be provided.

(b) **Notice of second qualifying event.** A Covered Individual (or a representative acting on behalf of the Covered Individual) must notify the Plan of the death of the employee, divorce or separation from the employee, or a dependent child's ceasing to be eligible for coverage as a dependent under the Plan, if that event occurs within the eighteen (18) month continuation period (or an extension of that period for disability or for pre-termination Medicare entitlement). The notification must be provided within sixty (60) days after such a second qualifying event occurs in order to be entitled to an extension of the continuation period. The notification must be provided in writing and be mailed to



the Plan. Oral notification, including notice by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notifications are not acceptable. The notification must be postmarked no later than the last day of the sixty (60) day notice period described above. The notification must:

- (1) state the name of the Plan;
- (2) state the name and address of the employee or former employee who is or was covered under the Plan;
- (3) state the name(s) and address(es) of all Covered Individuals who lost coverage due to the initial qualifying event and who are receiving COBRA coverage at the time of the notice;
- (4) identify the nature and date of the initial qualifying event that entitled the Covered Individuals to COBRA coverage;
- (5) include a detailed description of the event;
- (6) identify the effective date of the event; and
- (7) be accompanied by any documentation providing proof of the event (i.e., the divorce decree).

If no notification is received within the required time period, no extension of the continuation period will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the Covered Individuals, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no extension of the continuation period will be provided.

- (c) **Notice of disability.** A Covered Individual (or a representative acting on behalf of the Covered Individual) must notify the Plan when a Covered Individual has been determined to be disabled under the Social Security Act within sixty (60) days of the latest of: (i) the date of the disability determination; (ii) the date of the qualifying event; (iii) the date coverage would be lost because of the qualifying event; or (iv) the date on which the Covered Individual was informed of the responsibility to provide notice and the procedures for doing so. Notwithstanding the foregoing, notification must be provided before the end of the first eighteen (18) months of continuation coverage. The notification must be provided in writing and be mailed to the Plan. Oral notification, including notice by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notices are not acceptable. The notification must be postmarked no later than the last day of the sixty (60) day notice period described above. The notification must:

- (1) state the name of the Plan;
- (2) state the name and address of the employee or former employee who is or was covered under the Plan;
- (3) state the name(s) and address(es) of all Covered Individuals who lost coverage due to the initial qualifying event and who are receiving COBRA coverage at the time of the notice;
- (4) identify the nature and date of the initial qualifying event that entitled the qualified beneficiaries to COBRA coverage;
- (5) state the name of the disabled Covered Individual;
- (6) identify the date upon which the disabled Covered Individual became disabled;
- (7) identify the date upon which the Social Security Administration made its determination of disability; and
- (8) include a copy of the determination of the Social Security Administration.

If no notification is received within the required time period, no extension of the continuation period will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the Covered Individuals, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no extension of the continuation period will be provided.

If such person has been determined under the Social Security Act to no longer be disabled, the person must notify the Plan of that determination within thirty (30) days of the later of: (i) the date of such determination; or (ii) the date on which the Covered Individual was informed of the responsibility to provide notice and the procedures for doing so. The notification must be in writing and be mailed to the Plan. Regardless of when the notification is provided, continuation coverage will terminate retroactively on the first day of the month that begins thirty (30) days after the date of the determination, or the end of the initial coverage period, if later. If the notification is not provided within the required time, the Plan reserve the right to seek reimbursement of any benefits provided by the Plan between the date coverage terminates and the date the notification is provided.

- (d) **Notice of Coverage Under Another Group Health Plan or Medicare.** A Covered Individual must notify the Plan immediately if any Covered Individuals receiving continuation coverage actually become covered by another group health plan or Medicare. Regardless of when such notification is provided, coverage will terminate retroactively to the date of the coverage under the other group health plan or Medicare. If, for whatever reason, a Covered Individual on continuation coverage receives any benefits under the Plan after coverage is to cease under the foregoing rule, the Plan reserve the right to seek reimbursement from such Covered Individual.

- 15.3 **Alternative in Lieu of COBRA Continuation.** Following termination of employment, a Covered Individual (and the Covered Individual's Spouse and Dependents) will be allowed to spend down the balance of their HC Account if they choose to continue to access their HC Account in lieu of COBRA continuation coverage. If the Covered Individual chooses to spend down their HC Account, the Covered Individual (and their Spouse and Dependents) may generally continue to submit claims for Health Care Expenses until the earliest of (i) the fifth (5<sup>th</sup>) anniversary of the date of the Participant's termination of employment, or (ii) the account balance reaches zero.

Upon the death of a Covered Individual, the Covered Individual's surviving Spouse and Dependents will be allowed to spend down the balance of the Covered Individual's HC Account if they choose to continue to access the Covered Individual's HC Account in lieu of COBRA continuation coverage. If they choose to spend down the Covered Individual's HC Account, the Covered Individual's surviving Spouse and Dependents may generally continue to submit claims for Health Care Expenses until the account balance reaches zero.

The Plan Administrator also reserves the right to offer other alternatives to COBRA to the extent not precluded by applicable law.

**SUMMARY DESCRIPTION  
OF THE  
COUNTY OF SAN JOAQUIN, CALIFORNIA  
RETIREE HEALTH REIMBURSEMENT PLAN AND TRUST**

*Effective: July 1, 2010*

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**ARTICLE I.  
INTRODUCTION**

Your Employer, County of San Joaquin, California (the "Employer"), is pleased to sponsor an employee benefit program known as the County of San Joaquin, California Retiree Health Reimbursement Plan (the "Plan") for certain eligible employees.

This summary description describes the basic features of the Plan, how it operates, and how you can get the maximum advantage from it. It is only a summary of the key parts of the Plan, and a brief description of your rights as a participant. To make maximum use of this Plan, be sure to proceed through this booklet carefully, so that you can make informed decisions that are right for you.

If there is a conflict between the underlying Plan and this summary description, the intention is for the Plan documents to govern.

If you have any unanswered questions after reading the summary, please contact:

EBSC  
940 Industrial Drive South, Suite 111  
Sauk Rapids, MN 56379-1235  
Phone number: 800-682-3826

**ARTICLE II.  
GENERAL INFORMATION ABOUT THE PLAN**

**2.1 What is the purpose of the Plan?**

The purpose of the Plan is to provide certain Employees with an opportunity to receive reimbursement for premiums for medical, dental, vision, and long-term care insurance; COBRA premiums; Medicare Part D and Part B insurance premiums; out-of-pocket expenses to the extent eligible after termination of employment. It is the intention of the Employer that the benefits payable under this Plan be eligible for exclusion from the gross income of Participants as provided by Sections 105(b) and 106 of the Code.

**2.2 When did the Plan take effect?**

The Plan became effective July 1, 2010. It operates on a Plan Year running from July 1 through June 30.

**2.3 Who can participate in the Plan?**

In order to participate in this Plan, a person must be a full-time employee in one of the following classifications of employees:

**All unrepresented regular, classified Civil Service Employees who:**

- (1) have at least 10 years of full-time service with the County of San Joaquin; and
- (2) contribute to the San Joaquin Employees Retirement Association (except for employees with 30 or more years of service); and
- (3) are subject to a Resolution that provides for participation in the Plan.

**All regular, classified Exempt Employees who:**

- (1) have at least 10 years of full-time service with the County of San Joaquin;
- (2) are subject to a Resolution that provides for participation in the Plan.

**All represented regular, classified Civil Service Employees who:**

- (1) have at least 10 years of full-time service with the County of San Joaquin; and
- (2) contribute to the County of San Joaquin Employees Retirement Association (except for employees with 30 or more years of service); and
- (3) are subject to a Memorandum of Understanding that provides for participation in the Plan.

Employees in the groups specified above are Eligible Employees under the Plan. An individual's status as an Eligible Employee shall be determined by the Employer in its sole discretion, and such determination shall be conclusive and binding on all persons.

If an Employee is in a group of Employees which is designated above by the Employer as eligible to participate in the Plan and subsequently transfers to a group that is not designated as eligible, then such Employee shall not be eligible for any contributions under the Plan on and after the effective date of such transfer. The Employee's Account (if any) shall continue to be maintained under the Plan, and he/she will become eligible to receive Benefits under the Plan in accordance with the rules governing Eligible Employees.

These employees are called Eligible Employees. Those Eligible Employees who actually participate in the Plan are called "Participants."

**"Employee"** means a common-law employee of the Employer who is on the Employer's W-2 payroll, except that the term "Employee" does not include any common-law employee who is a leased employee (including but not limited to an individual defined in Code § 414(n)), or any common-law employee who is an individual classified by the Employer as a contract worker, independent contractor, temporary employee or casual employee, whether or not any such person is on the Employer's W-2 payroll. The term "Employee" also does not include any individual who performs services for the Employer, but who is paid by a temporary or other employment agency such as "Kelly," "Manpower," etc., or any employee covered under a collective bargaining agreement unless the collective bargaining agreement so provides. The term "Employee" includes "former employees" for the limited purpose of allowing continued eligibility for benefits hereunder.

#### **2.4 How do I enroll?**

Once you become eligible to participate, you will automatically be enrolled in the Plan and become a Participant. You do not need to complete any special enrollment form to enroll in this Plan. Participation begins first day of the month following completion of eligibility requirements.

#### **2.5 How long will I be able to participate in the Plan?**

There are two aspects of participation in the Plan – the receipt of contributions and access to your Health Care ("HC") Account to receive reimbursement of eligible Health Care Expenses.

**Contributions.** Contributions on your behalf cease upon the earliest of the following: (1) the date of your death; (2) the date of termination of your employment with the Employer; (3) the date of your failure to meet the eligibility requirements described in Section 2.3 other than the requirement that you be an employee of the Employer; or (4) the date of termination of the Plan.

**Access.** Access to your HC Account for purposes of reimbursing eligible Health Care Expenses cease upon the earliest of the following: (1) the date of your death without an eligible Dependent or Spouse; or (2) the date the balance of your HC Account reaches zero.

**Please note:** Termination of contributions or access to your HC Account does not prevent you or others covered through you from receiving continuation coverage required by applicable law. In addition, termination of access to your HC Account is subject to the spend down access described in Section 5.2.

#### **2.6 How long will the Plan remain in effect?**

Although the Employer expects to maintain the Plan indefinitely, it has the right to amend or terminate the program in whole or in part at any time. It is also possible that future changes in state or federal tax laws may require that the Plan be amended or terminated accordingly. You will be informed if changes are made to the Plan.

#### **2.7 How does reimbursement under this Plan affect my tax deductions?**

You should realize that any medical expense for which you are reimbursed under this Plan cannot be claimed as a medical expense deduction on your income tax return.

**ARTICLE III.  
HEALTH CARE ACCOUNT**

**3.1 What is my Health Care Account?**

A Health Care Account ("HC Account") will be established in your name to keep a record of the benefits under this Plan to which you are entitled. Your Employer will contribute a specified amount into your HC Account on a periodic basis.

Following your termination of employment with the Employer, you may receive reimbursement for eligible Health Care Expenses up to the amount of the balance in your HC Account at the time a reimbursement request is processed. Any balance remaining in your HC Account at the end of the Plan Year will be carried over to future Plan Years for the sole purpose of reimbursing you for your eligible Health Care Expenses. The full amount in your HC Account will remain available to you when you terminate employment with the Employer. However, no further Employer contributions will be made following your termination of employment with the Employer.

**3.2 What is an "eligible" Health Care Expense?**

Only eligible Health Care Expenses may be reimbursed under this Plan. Eligible Health Care Expenses are premiums for medical, dental, vision, and long-term care insurance; COBRA premiums; Medicare Part D and Part B insurance premiums; out-of-pocket expenses to the extent eligible under Code section 213(d). Please review the attached sheet entitled "Eligible Health Care Expenses" for further examples of included expenses. Furthermore, to be an eligible Health Care Expense, the expense:

- (a) must be "incurred" while you are eligible to receive a reimbursement from the Plan; and
- (b) must be "incurred" for yourself, your Spouse or your Dependents.

An expense is "**incurred**" when the service that gives rise to the expense has been provided, not when you are billed or when you pay the expense.

"**Spouse**" means an individual who is legally married to you and who is treated as your spouse under the Internal Revenue Code.

"**Dependent**" means a dependent for purposes of Section 105 of the Internal Revenue Code. Generally, "dependent" includes a qualifying child and certain other relatives. A qualifying child is a child who: (a) is your child (son, daughter, stepson, or stepdaughter), brother, sister, stepbrother, or stepsister, or a descendant of any such person; (b) has the same principal place of abode as you for at least one-half of the relevant year; (c) will not attain age 19 (or age 24 if a full time student) during the relevant year or is permanently and totally disabled; and (d) did not provide over half of his/her own support during the relevant year. The other relatives that may be "dependents" for purposes of the Plan are individuals who: (a) are your child (or a descendant of a child), brother, sister, stepbrother, or stepsister, parent (or a parent's ancestor), stepparent, brother or sister's son or daughter, parent's brother or sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law or, if not such a relative, an individual who has the same principal place of abode as you and is a member of your household; (b) generally have received more than one-half of their support from you during the relevant year; and (c) are not a qualifying child of you or someone else.

**3.3 How do I receive my benefits under the Plan?**

When you incur an expense that is eligible for reimbursement, you must submit a claim to the Claims Administrator on an administrative form that will be supplied to you. The form will typically require:

- (a) the amount, date and nature of the expense,



- (b) the name of the person or entity to which the expense was paid,
- (c) your statement that the expense has not been reimbursed or is not reimbursable through any other source, and
- (d) such other information as the Claims Administrator may require.

You may also be required to submit copies of bills or receipts from the provider(s) to support your claim.

As of 20th of the month, you will be given the opportunity to complete a claim form for expenses that are eligible for payment. Generally, you will be able to receive reimbursement as of the 25th of the month for all sums of money deposited in your HC Account, provided you have submitted a completed claim form and any required documentation. Reimbursements are paid by separate check or ACH direct deposit.

In order to be eligible for payment, you must submit a claim within twelve months of the date on which the expense was incurred.

**"Claims Administrator"** means EBSC. The address for claims submission is: 940 Industrial Drive South, Suite 111, Sauk Rapids, MN 56379-1235. The phone number is 800-682-3826.

### **3.4 What if my claim exceeds the balance of my HC Account?**

The maximum reimbursement you may receive at any time is the amount of your HC Account balance at the time the reimbursement request is processed. The maximum reimbursement requirements apply to you, your Spouse, and your Dependents on an aggregate basis, not an individual basis. If your claim is for an amount that is more than your current HC Account balance, the claim will be reimbursed up to the balance in your HC Account.

### **3.5 What happens if my claim for benefits is denied?**

In most cases, within thirty (30) days after a claim for benefits is filed, the claim will either be paid or the Claims Administrator will notify you of the claim denial. If the Claims Administrator denies the claim, you will be provided with the following information in writing:

- (a) The specific reasons for the denial;
- (b) The specific reference to the Plan provisions on which the denial is based;
- (c) A description of any additional material or information necessary for you to complete your claim and an explanation of why such material or information is necessary; and
- (d) Appropriate information as to the steps to be taken if you wish to appeal the Claims Administrator's determination, including your right to submit written comments and have them considered.

Within one hundred eighty (180) days after you receive notice that your claim has been denied, you or your representative may file a written request with the Claims Administrator appealing the denial and requesting review of it. You or your representative are entitled to review the pertinent documents and may also submit issues and comments in writing to be considered as part of the review.

**"Authorized Representative"** means a person entitled to act on your behalf and recognized by the Plan Administrator. In order to be recognized by the Plan Administrator, the person must have a completed "Authorized Representative Form" on file with the Claims Administrator.

The Plan Administrator will review and decide your appeal within a reasonable time not longer than sixty (60) days after it is submitted and will notify you of its decision in writing. The individual who decides your appeal will not be the same individual who decided your initial claim denial and will not be that individual's subordinate. The Plan Administrator may secure independent medical or other advice and require such other evidence as it deems necessary to decide your appeal, except that any medical expert consulted in

connection with your appeal will be different from any expert consulted in connection with your initial claim. (The identity of a medical expert consulted in connection with your appeal will be provided.) If the decision on appeal affirms the initial denial of your claim, you will be furnished with a notice of adverse benefit determination on review setting forth:

- (e) the specific reason(s) for the denial;
- (f) the specific Plan provision(s) on which the decision is based; and
- (g) a statement of your right to review (on request and at no charge) relevant documents and other information.

### **3.6 What if I am subject to a medical child support order?**

Notwithstanding any provision of the Plan to the contrary, the Plan shall recognize *Qualified* Medical Child Support Orders ("QMCSOs"), effective on and after August 10, 1993. To be recognized, specific procedures must be followed. If you are involved in a divorce or child custody matter, you or your legal counsel should contact the Plan Administrator.

Notwithstanding any provision of the Plan to the contrary, the Plan shall recognize medical child support orders regarding the provision of medical coverage for a child to the extent required by law.

### **3.7 What happens to my HC Account if I die?**

If there is a balance in your HC Account at the time of your death, your spouse and dependents *may* be able to continue to access these funds until the earlier of: (a) the date on which the balance is exhausted, or (b) the date the last remaining Spouse or Dependent dies. Access to your HC Account is only available in the event such access is offered and selected as an alternative to any continuation coverage that may otherwise be available.

### **3.8 In what situations will the balance of my HC Account be forfeited?**

Amounts attributed to your HC Account shall be forfeited only upon your death without any dependent or spouse. Forfeited amounts shall be contributed to the HC Accounts of the other participants of the Plan on a per capita basis.

<b>Note:</b> Forfeited funds do not revert to the Employer.
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**ARTICLE IV.  
INVESTMENTS**

**4.1 What happens to the funds before I take them out?**

All assets of the Plan will be held in a trust by the Trustee. The Trustee will administer the trust in accordance with the Plan.

**"Trustee"** means Reliance Trust Company.

Once the Employer makes a contribution to the Plan on your behalf, that contribution is allocated to your HC Account and invested by you. Information regarding the investment options and the procedures for selecting and changing your investments will be provided to you by the Trustee.

**Caution:** Earnings are not guaranteed. You may experience losses.

**4.2 Are the earnings taxable?**

No. The earnings accumulate on a tax-free basis. When the HC Account balance is accessed for reimbursement of a claim, there is no distinction between contribution dollars and earnings.

**ARTICLE V.  
CONTINUATION COVERAGE**

A Participant, and any others who are covered through that Participant, *may* be entitled to elect to continue coverage under the Plan in accordance with the Consolidated Omnibus Reconciliation Act of 1985, as amended ("COBRA"), or the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended ("USERRA"), as described below.

**5.1 What are my continuation rights under COBRA?**

The Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") as it applies to State governmental entities through the Public Health Services Act ("PHSA") requires most employers with twenty (20) or more employees to offer employees and their families (spouse and/or dependent children) the opportunity to pay for a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where health coverage under employer sponsored group health plan(s) would otherwise end. There is no requirement that a person be insurable to elect continuation coverage. However, a person who continues coverage may have to pay all of the premiums for the continuation coverage.

This notice is intended to inform persons covered under the Plan, in summary fashion, of their rights and obligations under the continuation coverage provision of the law. It is intended that no greater rights be provided than those required by this law. It does not fully describe your continuation coverage rights. The Plan Administrator has developed additional policies regarding the provision of continuation coverage under the Plan. For additional information about your rights and obligations under the Plan and under federal law, you should contact the Plan Administrator.

This notice covers only this Plan.

**Each person covered under the Plan should read this notice carefully.**

**Qualifying Events.** Upon the commencement of a "qualifying event" each person that loses coverage may have rights as a "qualified beneficiary."

**Qualifying event.** A qualifying event is the occurrence of an enumerated event (described below) that results in a loss of coverage under the terms of the group health plan.

**Qualifying beneficiary.** A qualified beneficiary is the employee, employee's spouse and/or employee's dependent children who on the day before the qualifying event was covered under the group health plan. A spouse whose coverage was reduced or terminated in anticipation of divorce is also a qualified beneficiary. In addition, a child born to or placed for adoption with a qualified beneficiary *who was the employee* is a qualified beneficiary if he or she was covered under the group health plan on the day before the qualifying event. Furthermore, an individual for whom the employee must provide coverage under the group health plan pursuant to a medical child support order is a qualified beneficiary.

**Employee Loss.** If covered by any of the group health plans described above, the employee has the right to elect continuation coverage if he or she loses coverage under such plan due to termination of employment (other than for gross misconduct) or a reduction in hours of employment.

**Spouse's Loss.** If covered by any of the group health plans described above, a spouse has the right to elect continuation coverage if he or she loses coverage under such plan due to any of the following:

- the employee's termination of employment (other than for gross misconduct) or a reduction in hours of employment;
- the employee's death; or

- divorce or legal separation from the employee.

**Please Note:** If an employee eliminates coverage for his or her spouse from coverage in anticipation of a divorce or legal separation, and a divorce or legal separation later occurs, then the later divorce or legal separation will be considered a qualifying event even though the ex-spouse lost coverage earlier.

**Dependent Child's Loss.** If covered by any of the group health plans described above, a dependent child has the right to elect continuation coverage if he or she loses coverage under such plan due to any of the following:

- the employee's termination of employment (other than for gross misconduct) or a reduction in hours of employment;
- the employee's death;
- divorce or legal separation of the employee and the child's other parent; or
- the child ceasing to be a "dependent child" under the terms of the plan.

**Responsibility to Notify.** In certain circumstances, you are required to provide notification to the Plan in order to protect your rights under COBRA.

**Notice of Qualifying Event.** Under the law, the employee or a family member (or a representative acting on behalf of the employee or a family member) has the responsibility to inform the COBRA Administrator of a divorce, legal separation, or a child losing dependent status under the plan within sixty (60) days of the latest of: (1) the date of the qualifying event; (2) the date coverage would be lost because of the qualifying event; or (3) the date on which the qualified beneficiary was informed of the responsibility to provide the notice and the procedures for doing so. The notification must be provided in writing and be mailed to the Plan Administrator at the address identified below. Oral notice by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notices are not acceptable. Your notification must be postmarked no later than the last of the sixty (60) day notice period described above. The notification must:

- (a) state the name of the Plan;
- (b) state the name and address of the employee or former employee who is or was covered under the Plan;
- (c) state the name(s) and address(es) of all qualified beneficiaries who lost coverage due to the qualifying event;
- (d) include a detailed description of the event;
- (e) identify the effective date of the event; and
- (f) be accompanied by any documentation providing proof of the event (i.e., the divorce decree).

If no notification is received within the required time period, no continuation coverage will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the qualified beneficiaries, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no continuation coverage will be provided.

You must, if the Plan Administrator requests it, provide documentation of the date of the qualifying event that is satisfactory to the Plan Administrator, so that the Plan Administrator can determine if you gave timely notice of the qualifying event and were consequently entitled to elect COBRA. If you are unable to provide satisfactory evidence within thirty (30) days after a written or oral request from the Plan Administrator, the COBRA coverage may be terminated (retroactively if necessary) as of the date that COBRA

coverage would have started. The Plan will require repayment to the Plan of all benefits paid after the termination date. Any COBRA coverage in effect for the individual who reported the qualifying event to the Plan also may be terminated.

Notice of Second Qualifying Event. In addition, the employee or a family member (or a representative acting on behalf of the employee or family member) must notify the Plan of the death of the employee, divorce or separation from the employee, or a dependent child's ceasing to be eligible for coverage as a dependent under the Plan, if that event occurs within the eighteen (18) month continuation period (or an extension of that period for disability or for pre-termination Medicare entitlement). The notification must be provided within sixty (60) days after such a second qualifying event occurs in order to be entitled to an extension of the continuation period. The notification must be provided in writing and be mailed to the Plan Administrator at the address identified below. Oral notice, including notice by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notices are not acceptable. Your notification must be postmarked no later than the last day of the sixty (60) day notice period described above.

The notification must:

- (1) state the name of the Plan;
- (2) state the name and address of the employee or former employee who is or was covered under the Plan;
- (3) state the name(s) and address(es) of all qualified beneficiaries who lost coverage due to the initial qualifying event and who are receiving COBRA coverage at the time of the notice;
- (4) identify the nature and date of the initial qualifying event that enabled the qualified beneficiaries to become subject to COBRA coverage;
- (5) include a detailed description of the second event;
- (6) identify the effective date of the second event; and
- (7) be accompanied by any documentation providing proof of the event (i.e., the divorce decree).

If no notification is received within the required time period, no extension of the continuation period will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the qualified beneficiaries, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no extension of the continuation period will be provided.

You must, if the Plan Administrator requests it, provide documentation of the date of the qualifying event that is satisfactory to the Plan Administrator, so that the Plan Administrator can determine if you gave timely notice of the qualifying event and were consequently entitled to elect COBRA. If you are unable to provide satisfactory evidence within thirty (30) days after a written or oral request from the Plan Administrator, the COBRA coverage may be terminated (retroactively if necessary) as of the date that COBRA coverage would have started. The Plan will require repayment to the Plan of all benefits paid after the termination date. Any COBRA coverage in effect for the individual who reported the qualifying event to the Plan also may be terminated.

Notice of Disability. Also, an employee or a family member (or a representative acting on behalf of the employee or a family member) must notify the Plan Administrator when a qualified beneficiary has been determined to be disabled under the Social Security Act within sixty (60) days of the latest of: (1) the date of the disability determination; (2) the date of the qualifying event; (3) the date coverage would be lost because of the qualifying event; or (4) the date on which the qualified beneficiary was informed of the responsibility to provide the notice and the procedures for doing so. (Notwithstanding the foregoing, the notice must be provided before the end of the first eighteen (18) months of continuation coverage.) The notification must be provided in writing and be mailed to the Plan Administrator at the address identified below. Oral notice, including notice by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notifications are not acceptable. Your notification must be postmarked no later than the last day of the sixty (60) day notice period described above. The notification must:

- (i) state the name of the Plan;
- (ii) state the name and address of the employee or former employee who is or was covered under the Plan;
- (iii) state the name(s) and address(es) of all qualified beneficiaries who lost coverage due to the initial qualifying event and who are receiving COBRA coverage at the time of the notice;
- (iv) identify the nature and date of the initial qualifying event that enabled the qualified beneficiaries to become subject to COBRA coverage;
- (v) state the name of the disabled qualified beneficiary;
- (vi) identify the date upon which the disabled qualified beneficiary became disabled;
- (vii) identify the date upon which the Social Security Administration made its determination of disability; and
- (viii) include a copy of the determination of the Social Security Administration.

If no notification is received within the required time period, no extension of the continuation period will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the qualified beneficiaries, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided with thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no extension of the continuation period will be provided.

If such person has been determined under the Social Security Act to no longer be disabled, the person must notify the COBRA Administrator of that determination within thirty (30) days of the later of: (1) the date of such determination; or (2) the date on which the qualified beneficiary was informed of the responsibility to provide the notice and the procedures for doing so. The notice must be in writing and be mailed to the COBRA Administrator at the address identified below. Regardless of when the notification is provided, continuation coverage will terminate retroactively on the first day of the month that begins thirty (30) days after the date of the determination, or the end of the initial coverage period, if later. If you do not provide the notification within the required time, the Plan reserves the right to seek reimbursement of any benefits provided by the Plan between the date coverage terminates and the date the notification is provided.

**Failure to provide timely notification of a qualifying event ends the right to COBRA continuation coverage.**

**Election Rights.** When a qualifying event occurs, or when the COBRA Administrator is notified that a qualifying event has occurred in the case of those events in which the employee has an obligation to provide notice, the COBRA Administrator must notify the qualified beneficiaries of the right to elect continuation coverage. Because the Employer and the Plan Administrator are the same entity, the COBRA Administrator has forty-four (44) days to provide the option to elect COBRA coverage. Under the law, qualified beneficiaries have at least sixty (60) days to elect continuation coverage measured from the later of (1) the date coverage would be lost because of a qualified event, or (2) the date a notice of election rights is provided. An election is considered "made" on the date sent. If continuation coverage is elected within this period, the coverage is retroactive to the date coverage would otherwise have been lost. If continuation coverage is not elected within this period, coverage under the Plan ends.

Each qualified beneficiary has an independent right to elect continuation coverage. Employees and spouses (if the spouse is a qualified beneficiary) may elect continuation coverage on behalf of all qualified beneficiaries and parents may elect continuation coverage on behalf of their children. Furthermore, other third persons can elect continuation coverage on behalf of a qualified beneficiary.

**Please Note:** Qualified beneficiaries who are entitled to elect COBRA may do so even if they are covered by Medicare effective on or before the date on which COBRA is elected. However, as discussed in more detail below, a qualified beneficiary's COBRA coverage will terminate automatically if he or she first becomes covered by Medicare effective after the date on which COBRA is elected.

**Duration.** The law requires that qualified beneficiaries generally be allowed to maintain continuation coverage as follows:

**Eighteen (18) Months.** If the qualifying event is the employee's termination of employment (other than for gross misconduct) or a reduction in hours of employment, the continuation period is eighteen (18) months measured from the date of the qualifying event.

**Disability Extension.** For qualified beneficiaries receiving continuation coverage because of the employee's termination or reduction in hours, the continuation period may be extended eleven (11) months, for a total maximum of twenty-nine (29) months where a qualified beneficiary receives a determination under the Social Security Act that at the time of the employee's termination of employment or reduction of hours, or within sixty (60) days of the start of the eighteen (18) month continuation period, the qualified beneficiary was disabled. The extension is available to all qualified beneficiaries in the family group.

**Pre-Qualifying Event Medicare Extension.** The eighteen (18) month continuation period may be extended if the employee became entitled to (actually covered under) Medicare prior to the employee's termination of employment (other than for gross misconduct) or a reduction in hours. Qualified beneficiaries other than the employee are entitled to the greater of (1) eighteen (18) months measured from the qualifying event, or (2) thirty-six (36) months measured from the date of the employee's Medicare entitlement.

**Thirty-Six (36) Months.** For qualifying events other than termination of employment (other than for gross misconduct) or a reduction in hours, the continuation period is thirty-six (36) months measured from the date of the qualifying event.

**Second Qualifying Events.** If during the initial eighteen (18) month continuation period (or during an extension of that period for disability or for pre-termination Medicare entitlement) a second qualifying event occurs (e.g., divorce or legal separation, death of employee, loss of dependent status) that would have caused the qualified beneficiary to lose coverage under the Plan had the first qualifying event not occurred, the continuation period for the particular qualified beneficiaries affected by the second qualifying event may be extended to thirty-six (36) months.

Under no circumstances may the total continuation period be greater than thirty-six (36) months from the date of the original qualifying event that triggered the continuation coverage.

**Type of Coverage.** Initially, the coverage will be the same coverage as immediately preceding the qualifying event. Thereafter, coverage must be identical to the coverage provided to similarly situated employees or family members that have not experienced a qualifying event. In addition, special enrollment rights under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") will apply to those who have elected COBRA.

**Cost.** A person electing continuation coverage may have to pay all or part of the cost of continuation coverage. You will receive additional information regarding the cost requirements following the occurrence of a qualifying event. The amount charged cannot exceed 102% of the cost to the plan of providing the coverage. The amount may be increased to 150% for the months after the eighteenth (18<sup>th</sup>) month of continuation coverage when the additional months are due to a disability under the Social Security Act. Payment is generally due monthly. Payment is considered "made" on the date sent.

**Pre-Mature Ending.** The law provides that continuation coverage shall automatically end for any of the following reasons:

- the Employer no longer provides group health coverage to any of its employees;
- the premium for continuation coverage is not paid on time (including any applicable grace period);
- with respect to disability extension coverage, a final determination that the qualified beneficiary is no longer disabled; or



**Please note:** This cuts short the coverage for all qualified beneficiaries with extended coverage.

- termination for cause under the generally applicable terms of the group health plan (e.g., submission of fraudulent benefit claims).

**Insurability.** A qualified beneficiary does not have to demonstrate insurability to elect continuation period.

**Trade Act of 2002.** Pursuant to the Trade Act of 2002, certain employees and former employees who are receiving trade adjustment assistance ("TAA") may be eligible for a special second COBRA election and a tax credit for premiums paid for continuation coverage. TAA is generally available to those employees who have lost their jobs or suffered a reduction in hours because of import competition and shifts in production to other countries. If you are potentially eligible for these rights under the Trade Act, you will receive additional information regarding it at the time of your qualifying event.

**Address Changes:** Important information is distributed by mail. In order to protect your family's rights, if a qualified beneficiary's address changes, the qualified beneficiary or someone on its behalf should notify the Plan Administrator immediately.

**More Information:** The Employer has hired a third party to administer COBRA. All questions, notices, and other communications regarding COBRA and the Plan should be directed to:

EBSC  
940 Industrial Drive South, Suite 111  
Sauk Rapids, MN 56379

For more information about your rights under COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa). (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

## 5.2 What if I just want to spend down my account?

Following termination of employment, the Plan allows you to spend down the balance of your HC Account if you choose to continue to access your HC Account in lieu of COBRA continuation coverage. If you choose to spend down your HC Account, you may generally continue to submit claims for eligible Health Care Expenses until the account reaches a zero (\$0.00) Dollar balance.

Upon your death, your surviving Spouse and Dependents will be allowed to spend down the balance of your HC Account if they choose to continue to access your HC Account in lieu of COBRA continuation coverage. If they choose to spend down your HC Account, your surviving Spouse and Dependents may generally continue to submit claims for eligible Health Care Expenses until the account balance reaches zero. (See Section 3.7 regarding other situations in which such access may terminate.)

## 5.3 What are my continuation rights under USERRA?

USERRA requires all employers to offer employees and their families (spouse and/or dependent children) the opportunity to pay for a temporary extension of health coverage (called "U-continuation coverage") at group rates where health coverage under employer-sponsored group health plan(s) would otherwise end because of the employee's service in the uniformed services.

This notice is intended to inform persons covered under a group health plan, in summary fashion, of their rights and obligations under the continuation coverage provision of USERRA. It is intended that no greater rights be provided than those required by this law. It does not fully describe your U-continuation

coverage rights. For additional information about your rights and obligations under the Plan and under federal law, you should contact the USERRA Administrator.

This notice covers this Plan only.

**Each person covered under the Plan(s) should read this notice carefully.**

**Service Leave Event.** If covered by any of the group health plans described above, the employee has the right to elect U-continuation coverage for him/herself and his/her dependents if they lose coverage under such plan due to an absence from employment for service in the uniformed services (a "service leave").

**Service in the Uniformed Services.** Service in the uniformed services generally means the voluntary or involuntary performance of duties in the uniformed services. The uniformed services include the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty for training, or full-time National Guard duty, the corps of the Public Health Service, and the National Disaster Medical System when providing services as an intermittent disaster response appointee following federal activation or attending authorized training in support of its mission.

**Election Rights.** You have sixty (60) days to elect U-continuation coverage, measured from the date your absence from employment for the purpose of performing service begins. An election is considered "made" on the date sent. If U-continuation coverage is elected within this period, the coverage is retroactive to the date coverage would otherwise have been lost. If U-continuation coverage is not elected within this period, coverage under the Plan ends. However, if the no election is made in a situation in which you are not required (in accordance with USERRA) to provide advance notice of your service (e.g., because such notice was impossible, unreasonable, or precluded by service necessity), your coverage will be reinstated on a retroactive basis upon your election to continue coverage (regardless of when it is received) and payment of all unpaid amounts due.

**Note:** Your dependents with coverage under the Plan(s) do not have an independent right to elect U-continuation coverage. Their coverage may be continued only if you elect U-continuation coverage.

**Duration.** The law requires that you generally be allowed to maintain U-continuation coverage for a twenty-four (24) month period beginning on the date of your absence from employment for the purpose of performing service begins.

**Type of Coverage.** Initially, the coverage will be the same coverage as immediately preceding your service leave. Thereafter, coverage will be the same as the coverage provided to similarly situated employees or family members that are not on service leave.

**Cost.** A person electing U-continuation coverage may have to pay all or part of the cost of U-continuation coverage. If you perform service in the uniformed services for fewer than thirty-one (31) days, you will pay the same amount for the coverage that you normally pay. If your service exceeds thirty (30) days, the amount charged cannot exceed 102% of the cost to the plan of providing the coverage.

Payment is generally due monthly on the first day of the month. Payment is considered "made" on the date sent. You will be given a grace period of within which to make the payment. The length of the grace period will be thirty days (30).

**Termination of the Continue Coverage.** The U-continuation coverage may be terminated for any of the following reasons:

- the Employer no longer provides group health coverage to any of its employees;
- the premium for U-continuation coverage is not paid on time (including the grace period);

- your failure to return from service or apply for a position of employment as required under USERRA; or
- termination for cause under the generally applicable terms of the group health plan (e.g., submission of fraudulent benefit claims).

**More Information:** The Employer has hired a third party to administer USERRA responsibilities. All questions, notices, and other communications regarding USERRA and the Plan should be directed to:

EBSC  
940 Industrial Drive South, Suite 111  
Sauk Rapids, MN 56379

For more information about your rights under COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa). (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

**ARTICLE VI.  
FAMILY AND MEDICAL LEAVE ACT OF 1993**

**6.1 Family and Medical Leave Act of 1993 ("FMLA")**

The Family and Medical Leave Act of 1993 ("FMLA") imposes certain obligations on employers with fifty (50) or more employees. This Plan (including the component plans) shall be administered in a manner consistent with the FMLA and the Employer's FMLA Policy required thereunder. If your Employer is subject to FMLA, then you should be provided with a complete explanation of FMLA rights and responsibilities.

## ADMINISTRATIVE INFORMATION

Plan Name:	County of San Joaquin, CA Retiree Health Reimbursement Plan
Plan Type:	Section 105 Accident & Health Plan
Plan Number:	520

### Employer & Plan Administrator:

Name:	County of San Joaquin, California
Address:	44 N. San Joaquin Street, Room 330
City, State Zip:	Stockton, CA 95202
Phone Number:	Telephone: 209-468-3270; Fax: 209-468-0508
EIN:	94-6000531
Contact Person:	Cynthia M. Clays, Director of Human Resources

### Agent for Service of Legal Process:

Name:	County of San Joaquin, California
Address:	44 N. San Joaquin Street, Room 330
City, State Zip:	Stockton, CA 95202
Phone/Fax Number:	Telephone: 209-468-3270; Fax: 209-468-0508

### Claims Administrator:

Name:	EBSC
Address:	940 Industrial Drive South, Suite 111
City, State Zip:	Sauk Rapids, MN 56379-1235
Phone Number:	320-251-0034
Fax Number:	320-257-8127

### Trustees:

Name:	Reliance Trust Company
Address:	1100 Abernathy Road Northpark Building 500, Suite 400
City, State Zip:	Atlanta, GA 30328
Phone Number:	404-266-0663

**EXHIBIT A**  
**Eligible Health Care Expenses**

---

**Attention: This list of Eligible Expenses is applicable to and for use with only the County of San Joaquin, California Retiree Medical Expense and Insurance Premium Reimbursement Plan.**

Medical and dental expenses that qualify as expenses for medical care under IRS rules generally qualify as eligible expenses for reimbursement under a Health Reimbursement Arrangement. Those may take the form of co-pays, deductibles, and medical expenses not covered by other insurance. Often expenses that qualify for deductions under IRS rules are eligible expenses, but in some instances expenses that are deductible will not be reimbursable and expenses that are not deductible will be reimbursable.

Some specific examples are identified below. The following is not an exhaustive list and there may be other expenses that are eligible if they satisfy the IRS rules.

---

**Dental & Orthodontic Care**

*Allowable expenses:*

- Dental Treatment
- Artificial teeth/Dentures
- Braces, orthodontic devices

*Expenses specifically disallowed by the IRS or courts:*

- Teeth whitening
- Toothbrushes and toothpaste, even if special type is recommended by dentist

**Therapy Treatments**

*Allowable expenses:*

- X-ray treatments
- Treatment for alcoholism or drug dependency
- Legal sterilization
- Acupuncture
- Vaccinations
- Physical therapy (as a medical treatment)
- Fee to use swimming pool for exercises prescribed by physician to alleviate specific medical condition such as rheumatoid arthritis
- Speech therapy
- Smoking cessation programs and prescribed drugs to alleviate nicotine withdrawal

*Expenses specifically disallowed by the IRS or courts:*

- Physical treatments unrelated to a specific health problem (e.g., massage for general well being)
- Any illegal treatment
- Cosmetic Surgery
- Treatment for baldness (unless it is for a specific medical condition and not for cosmetic purposes)

**Fees/Services**

*Allowable expenses:*

- Physician's fees and hospital services
- Nursing services for care of a specific medical ailment
- Cost of a nurse's room and board if paid by the taxpayer where nurse's services qualify
- The Social Security tax paid with respect to wages of a nurse where nurse's services qualify
- Services of chiropractors
- Christian Science practitioner fees
- Diagnostic tests

*Expenses specifically disallowed by the IRS or courts:*

- Payments to domestic help, companion, babysitter, chauffeur, etc. who primarily render services of a non-medical nature
- Nursemaids or practical nurses who render general care for healthy infants
- Fees for exercise, athletic, or health club membership when there is no specific health reason for needing membership
- Marriage counseling provided by clergyman

**Hearing Expenses**

*Allowable expenses:*

- Hearing aids and hearing aid battery
- Special telephone equipment

**Medicine and Drugs**

*Allowable expenses:*

- Medicine and drugs that require a prescription
- Insulin
- Over the counter medicine and drugs when used to alleviate or treat personal injuries or sickness

*Expenses specifically disallowed by the IRS or courts:*

- Medicine and drugs for personal, general health, or cosmetic purposes
- Dietary supplements if for general health

(including Antacids, antihistamines, aspirin/pain relievers, bandages, cold medicines, acne medicine, etc.)

### **Medical Equipment**

#### *Allowable expenses:*

- Blood Sugar test kits
- Wheelchair or autoeette (cost of operating/maintaining)
- Crutches (purchased or rented)
- Special mattress & plywood boards prescribed to alleviate arthritis
- Oxygen equipment and oxygen used to relieve breathing problems that result from a medical condition
- Artificial limbs
- Support hose (if medically necessary)
- Wigs (where necessary to mental health of individual who loses hair because of disease)
- Excess cost of orthopedic shoes over cost of ordinary shoes

#### *Expenses specifically disallowed by the IRS or courts:*

- Wigs, when not medically necessary for mental health
- Vacuum cleaner purchased by an individual with dust allergy
- Mechanical exercise device not specifically prescribed by physician

### **Physicals**

#### *Allowable expenses:*

- Physicals and other well visits
- Immunizations

#### *Expenses specifically disallowed by the IRS or courts:*

- Physicals for employment purposes

### **Vision Care**

#### *Allowable expenses:*

- Optometrist's or ophthalmologist's fees
- Eyeglasses and prescription sunglasses
- Insurance for replacement or lost or damaged contact lenses
- Contact lens and contact lens solutions
- Laser eye surgery

### **Assistance for the Handicapped**

#### *Allowable expenses:*

- Cost of guide for a blind person
- Cost of note-taker for a deaf child in school
- Cost of Braille books and magazines in excess of cost of regular editions
- Seeing eye dog (cost of buying, training and maintaining)
- Household visual alert system for deaf person
- Excess costs of specifically equipping automobile for handicapped person over cost of ordinary automobile; device for lifting handicapped person into automobile
- Special devices, such as tape recorder and typewriter, for a blind person

### **Psychiatric Care**

#### *Allowable expenses:*

- Services of psychotherapists, psychiatrists and psychologists

#### *Expenses specifically disallowed by the IRS or courts:*

- Psychoanalysis undertaken to satisfy curriculum requirements of a student

## **Miscellaneous Charges**

### *Allowable expenses:*

- X-rays
- Expenses of services connected with donating an organ
- Medically prescribed diet
- The cost of a medically prescribed weight loss program
- Breast reconstructive surgery following mastectomy as part of treatment for cancer
- Contraceptives
- Fertility Treatments
- Medical records charges

### *Expenses specifically disallowed by the IRS or courts:*

- Expenses of divorce when doctor or psychiatrist recommends divorce
- Cost of toiletries, cosmetics, and sundry items (e.g., soap, toothbrushes)
- Cost of special foods taken as a substitute for regular diet, when the special diet is not medically necessary or taxpayer cannot show cost in excess of cost of a normal diet
- Maternity clothes
- Diaper service
- Distilled water purchased to avoid drinking fluoridated County water supply
- Installation of power steering in automobile
- Pajamas purchased to wear in hospital
- Mobile telephone used for personal calls as well as calls to physician
- Union dues for sick benefits for members
- Contributions to state disability funds
- Auto insurance providing medical coverage for all persons injured in or by the taxpayer's automobile, where amounts allocable to taxpayer and dependent is not stated separately
- Long-term care services
- Funeral expenses

## **Insurance**

### *Allowable expenses:*

- Health insurance premiums (including individual and non-employer sponsored coverage and including continuation premiums)
- Long term care insurance premiums

### *Expenses specifically disallowed by the IRS or courts:*

- Premiums paid on a pre-tax basis through an employer's flex plan



**TRUST AGREEMENT**  
**FOR**  
**COUNTY OF SAN JOAQUIN, CA**  
**RETIREE HEALTH REIMBURSEMENT PLAN AND TRUST**

**Reliance Trust Company**  
**Trustee**  
**1100 Abernathy Road**  
**500 Northpark Building, Suite 400**  
**Atlanta, GA 30328**  
**404-266-0663**

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## TRUST AGREEMENT

**THIS TRUST AGREEMENT** (this "Agreement") is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2010 by and between County of San Joaquin, CA, a governmental entity (the "Employer") and Reliance Trust Company (the "Trustee").

### WITNESSETH:

**WHEREAS**, the Employer is exempt from federal income tax under the Internal Revenue Code of 1986 as a state or territory of the United States, or any political subdivision, municipality or agency thereof, or an agency of such political subdivision or municipality (including any corporation owned or controlled by any state or territory of the United States or by any political subdivision, municipality, or agency); and

**WHEREAS**, the Employer provides a post-retirement welfare benefit plan that provides for reimbursement of expenses incurred by a participant, his spouse and dependents, and/or beneficiaries for medical, dental, vision benefits or insurance, and/or long-term care insurance and other similar benefits, as specified in the County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust (the "Plan"); and

**WHEREAS**, the Employer desires for the Trustee to accept funds that shall from time to time be paid over to the Trustee in accordance with the Plan, together with the earnings and profits thereon, if any, and to hold the funds in trust (the "Trust") and to make disbursements from the Trust in accordance with the provisions of this Agreement; and

**WHEREAS**, the Employer desires to appoint the Trustee as a directed trustee to hold and administer the assets of the Plan in accordance with this Agreement; and

**WHEREAS**, the Trustee has agreed to serve as directed trustee of the trust established under this Agreement;

**WHEREAS**, the Employer intends that the Trust hereby established, together with the Plan, shall constitute a voluntary employees' beneficiary association under Internal Revenue Code Section 501(c)(9);

**NOW, THEREFORE**, the Employer and the Trustee hereby mutually covenant and agree as follows:

## ARTICLE I DEFINITIONS

The following words and phrases, when used herein with an initial capital letter, shall have the meanings set forth below unless a different meaning plainly is required by the context. Any reference to a section number shall refer to a section of this Agreement unless otherwise specified

- 1.1 **Administrator** means the person, committee or entity appointed by the Employer or as specified in the Plan to serve as plan administrator of the Plan. Unless the Employer notifies the Trustee in writing of the appointment of an Administrator, the Employer shall be deemed to be the Administrator.
- 1.2 **Beneficiary** means any person designated under the terms of the Plan to receive benefits payable upon the death of a Participant.
- 1.3 **Code** means the Internal Revenue Code of 1986, as amended.
- 1.4 **Custodian** means Reliance Trust Company, which shall also serve as custodian for the Trust Fund. To the extent any assets are held by any custodian other than Reliance Trust, such party shall also be considered a Custodian for the Trust.
- 1.5 **Employer** means County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust and its successors that adopt the Plan.
- 1.6 **Investment Committee** means the person, committee or entity appointed in accordance with the terms of the Plan to make and effect investment decisions under the Plan and Trust. Unless the Employer notifies the Trustee in writing of the appointment of an Investment Committee, the Administrator shall be deemed to be the Investment Committee.
- 1.7 **Investment Fund** means any of the separate funds established by the Investment Committee for the investment of Plan assets.
- 1.8 **Investment Manager** means any person, corporation or other organization or association appointed by the Investment Committee pursuant to the terms of Section 4.3 to manage, acquire or dispose of the assets of an Investment Fund.
- 1.9 **Participant** means an employee or former employee of the Employer.
- 1.10 **Plan** means County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust as such Plan may be amended from time to time.
- 1.11 **Recordkeeper** means Hartford Insurance Company, the Plan's duly appointed recordkeeper and any of their respective agents or assigns, including processing agents.
- 1.12 **Trust** means the trust established by this Agreement.
- 1.13 **Trust Fund** means the total amount of cash and other property held from time to time under this Agreement.
- 1.14 **Trustee** means Reliance Trust Company.

## ARTICLE II ESTABLISHMENT OF THE TRUST

- 2.1 **Trust Established**. The Employer hereby establishes with the Trustee, as a funding medium for the Plan, a Trust consisting of the Trust Fund and such earnings, profits, increments, additions and appreciation thereto and thereon as may accrue from time to time.
- 2.2 **Limit of Employer's Interest**.
  - (a) **Impossibility of Diversion**. It shall be impossible at any time for any part of the Trust to be used for or diverted to purposes other than for the exclusive benefit of the employees, their dependents and beneficiaries

covered under the Plan, except that the payment of taxes and administration expenses may be made from Trust funds as hereinafter provided.

- (b) **Return of Contributions.** Upon the request of the Employer, a contribution may be returned under the following circumstances: (1) the Trust, or any amendment thereof, does not qualify under Internal Revenue Code Section 501(c)(9) and the contribution is returned within one year after the Trust is found not to so qualify; or (2) the contribution was made due to a mistake of fact and the contribution is returned within one year of the mistaken payment.

2.3 **Trustee's Conditional Acceptance.** The Trustee accepts the Trust hereby created and agrees to perform the duties hereby required of the Trustee, subject, however, to the following conditions:

- (a) **Directed Trustee.** The parties expressly acknowledge and agree that the Trustee is a directed trustee. In the management and control of the Trust Fund, the Trustee shall be subject to the direction of the Employer, the Administrator, and Investment Committee and Participants in the Plan and, to the extent applicable under the terms of this Agreement, the directions of Investment Managers. The Trustee shall not make any investment review of, consider the propriety of holding or selling, or vote any assets held in the Trust Fund. The Trustee shall have no responsibility to review or make recommendations regarding investments made at the direction of the Employer, Administrator, Investment Committee, Participant or an Investment Manager. The Employer, the Administrator, Investment Manager and Investment Committee shall not issue any directions to the Trustee that are in violation of the terms of the Plan or this Agreement. The Participant may exercise direction to the Trustee only through the Recordkeeper.
- (b) **Compensation.** The Trustee shall be entitled to compensation for its services under this Agreement at such rates as from time to time the Trustee and the Employer shall agree in writing.

The Trustee shall retain for its own account, as additional compensation under this Agreement, earnings (i.e., "float") on amounts received from the Trust Fund before such amounts are invested pursuant to the Agreement and on amounts held pending distribution.

- i. **Contributions and Purchases:** The timing of cash investment is dependent upon the Recordkeeper and their reconciliation of funds received into the trust. If Trustee receives payroll contributions by performing an ACH (Automated Clearing House) debit to Employer's bank account, this cash will generally be invested within 24 hours. If funds are sent to Trustee via wire, ACH or check, the investment of these funds will generally occur within 36 hours of receipt. Employer may review the service contract with the Recordkeeper to identify specific standards concerning the timing of investment purchases. Trustee will earn Fed Funds income on money received from the date of deposit at Trustee until the date the monies are wired in payment of investment purchases in the account, or settlement date. Employer may monitor and compute the amount of income earned by Trustee by reviewing the date of deposit (as reported on the account statements) versus the settlement date of the purchase(s).
- ii. **Distributions and Sales:** Generally, Trustee will wire funds within 24 hours of the funds becoming available as a result of sale settlements. In the case of participant distribution checks or other trust checks, the Trustee earns income from the date cash is made available in the trust account until the date a check is cashed. Trustee will generally issue checks within 48 hours of receipt of both cash and complete payment instructions. Employer may compute the amount of interest income Trustee earns on cash awaiting distribution. By reviewing the trust account and participant distribution activity, i.e., date cash received or made available for distribution, date wired out of the trust or otherwise the date each participant check was cashed times the per-diem Fed Funds rate.
- iii. **Rate:** The Fed Funds target rate is published in the Wall Street Journal.

**ARTICLE III  
DUTIES OF TRUSTEE**

3.1 **Duties.** It shall be the duty of the Trustee hereunder:

- (a) **Receipt of Contributions.** To receive any contributions paid to it under this Agreement in cash or in other property acceptable to the Trustee. The Trustee shall not be responsible for the calculation or collection of any Contribution required to be paid by the Employer to the Trustee under the Plan, but shall be responsible only for property actually received by it pursuant to this Agreement;
- (b) **Management of Funds.** In accordance with directions received under the terms of this Agreement, to hold, invest, reinvest, manage and administer (except as otherwise provided herein) all contributions so received, together with the income therefrom and any other increment thereon, for the exclusive benefit of Participants and their Beneficiaries in accordance with the terms of this Agreement;
- (c) **Payments.** The Administrator hereby delegates its authority to direct payments under the Plan to the Recordkeeper. The Trustee shall be fully protected in relying upon the directions received from the Recordkeeper. The Administrator hereby indemnifies Trustee from any loss, claim, damage or liability, including legal expenses, that may arise in connection with Trustee's acting upon such direction. The Administrator shall provide written notice to Trustee to revoke such delegation to Recordkeeper. Notwithstanding the foregoing delegation of authority, the Administrator retains the right to separately direct the Trustee with respect to any payment from the Trust Fund, and Trustee shall be fully protected in relying upon such directions.
- (d) **Records.** To keep such accounts and records and make such reports and disclosures as shall be required under this Agreement;
- (e) **Authorized Acts.** To take any action directed by the Employer, the Investment Committee, the Administrator, the Recordkeeper, or the authorized designee of any of them. The Trustee may rely on any such direction without question and shall not be liable for any failure to act pending receipt of any such direction;

**ARTICLE IV**  
**INVESTMENT OF TRUST ASSETS**

**4.1 General Investment Power/Investment Funds.**

- (a) **Authority of Investment Committee.** Except as provided in Sections 4.2 and 4.3, the Investment Committee shall have all authority and responsibility for the management, disposition and investment of the Trust Fund, and the Trustee shall comply with directions of the Investment Committee. The Investment Committee shall not issue any directions that are in violation of the terms of the Plan or this Agreement.
- (b) **Investment Funds.** The Trust may be divided into one or more separate Investment Funds, the number, makeup and description of which shall be determined from time to time by the Investment Committee. The Trustee shall implement, terminate, value, transfer to and from and allocate the gains, losses and expenses among the Investment Funds in accordance with the proper directions of the Investment Committee, the Administrator, the Recordkeeper, or their delegates, and, to the extent applicable under the terms of this Agreement, the directions of Investment Managers.
- (c) **Funding Policy.** The Investment Committee shall have responsibility for selecting or establishing and carrying out a funding policy and method, consistent with the objectives of the Plan. The Trustee shall not be responsible for the proper diversification of the Trust Fund, for the prudence of any investment of Trust assets, or for compliance with statutory limitations on the amount of investment in securities of or other property leased to the Employer or its affiliates, nor shall the Trustee be responsible for assuring that any such investments meet the requirements of State law.

**4.2 Participant Direction of Investments.** To the extent provided for under the Plan, each Participant and Beneficiary shall have investment authority over his or her account under the Plan and may direct the investment and reinvestment of assets among the Investment Funds. The Administrator or its designee (which may be the Recordkeeper) shall communicate such directions to the Trustee under procedures established by the Trustee and the Administrator, and the Trustee shall follow and carry out such directions. If a Participant or Beneficiary who has investment authority under the terms of the Plan fails to provide such directions, the Investment Committee shall direct the investment of the Participant's or Beneficiary's account under the Plan among the Investment Funds. The Trustee shall not be liable for any loss that results from a Participant or Beneficiary's exercise of investment control.

**4.3 Investment Managers.**

- (a) **Appointment.** The Investment Committee may, but shall not be required to, appoint one or more Investment Managers to manage the assets of all or any one or more of the Investment Funds. Each such Investment Manager shall be either (i) registered as an investment adviser under the Investment Advisers Act of 1940; (ii) a bank, as defined in such Act; or (iii) an insurance company qualified to perform the services of Investment Manager under the laws of more than one state. The Investment Committee shall obtain from any Investment Manager so appointed by it a written statement acknowledging (i) that such Investment Manager is or on the effective date of its appointment will become a fiduciary with respect to the Trust assets under its management; (ii) certifying that such Investment Manager has the power to manage, acquire or dispose of Trust assets in the manner contemplated by the contract or other written instrument by which its appointment is or will be effected; and (iii) certifying that it is either an investment adviser, a bank or an insurance company which is qualified to be appointed as an Investment Manager under this Agreement.
- (b) **Contractual Arrangement.** The Investment Committee shall enter into a written contract or agreement with each such Investment Manager in connection with its appointment as such, and such contract shall be subject to such terms and conditions and shall grant to the Investment Manager such authority and responsibilities in the management of the applicable Investment Fund assets as the Investment Committee deems appropriate under the circumstances. Without limiting the generality of the foregoing, such contract may establish investment objectives for the assets of the Investment Fund(s) under the management of the Investment Manager and may limit the types of assets that may be acquired or held by such Investment Fund(s).



- (c) **Trustee's Duties.** With respect to each Investment Fund the management of which has been delegated to an Investment Manager, the Trustee shall follow and carry out the instructions of the appointed Investment Manager with respect to the acquisition, disposition and reinvestment of assets of such Investment Fund, including instructions relating to the exercise of all ownership rights in such assets, and the Trustee shall not be under any obligation to invest or otherwise manage any assets allocated to such Investment Fund.
- (d) **Failure to Direct.** In the event that an appointed Investment Manager shall fail to direct the Trustee with respect to investment of all or any portion of the cash held in an Investment Fund under its management, the Trustee shall invest such cash only when and as directed by the Investment Committee.
- (e) **Termination of Appointment.** Upon the termination of the appointment of an Investment Manager, the Investment Committee shall (i) appoint a successor Investment Manager with respect to the Investment Fund(s) formerly under the management of the terminated Investment Manager, (ii) direct the Trustee to merge or combine such Investment Fund(s) with other Investment Fund(s) or Trust assets, or (iii) direct the Trustee to invest the assets of such Investment Fund as the Investment Committee deems appropriate in accordance with the existing funding policy.

#### 4.4 **Manner and Effect of Directions.**

- (a) **Delegation of Authority to Custodian.** The Trustee is authorized and directed to serve as the Custodian with the authority and responsibility for receiving and carrying out the directions of the Participants, Beneficiaries, Employer, Administrator, the Investment Committee, any Investment Manager or their designees. With respect to any assets held by a party other than Trustee, the Trustee is authorized and directed to delegate to the Custodian the authority and responsibility for receiving and carrying out the directions of the Participants, Beneficiaries, Employer, Administrator, the Investment Committee, any Investment Manager or their designees. The Trustee is authorized and directed to enter into such agreements with another Custodian as are deemed necessary or appropriate to effect such delegation. The Employer represents that all directions given by it in any capacity under this Agreement, whether to the Trustee or the Custodian, shall comply with the terms of the Plan, this Agreement and other applicable law.
- (b) **Manner of Direction.** Any direction, request or approval of the Employer, Participants, Beneficiaries, the Administrator, the Investment Committee, any Investment Manager or any other party to whom authority to give such directions, requests or approvals is delegated under the powers conferred under this Agreement (including, without limitation, the Recordkeeper and its designees) shall be provided to the Trustee or the Custodian in writing, by automated telephone response system, electronic data transmission (including internet communications) or such other means as is acceptable to the Trustee or the Custodian, as applicable.
- (c) **Liability for Authorized Acts.** The Trustee shall incur no liability to anyone for any action that it or the Custodian as its delegate takes pursuant to a direction, request or approval given by the Employer, Participants, Beneficiaries, the Investment Committee, any Investment Manager, the Administrator or by any other party (including, without limitation, the Recordkeeper and any of its agents) to whom authority to give such directions, requests or approvals is delegated under the powers conferred upon the Employer, Participants, the Investment Committee, the Administrator or such other party under this Agreement.

- 4.5 **Authorization of Designee(s).** The Administrator and the Investment Committee may each appoint one or more designees to act on their behalf. If a designee (or designees) is appointed, the appropriate committee shall furnish the Trustee with written documentation of the appointment and a specimen signature of each designee. The Trustee shall be entitled to rely upon such documentation until the Trustee is otherwise notified in writing.

**ARTICLE V  
POWERS OF TRUSTEE**

- 5.1 **General Authority.** In accordance with the directions of the Investment Committee, Participants and Beneficiaries and any Investment Managers as provided in Article IV, the Trustee shall receive, hold, manage, convert, sell, exchange, invest, reinvest, disburse and otherwise deal with the assets of the Trust, including contributions to the Trust and the income and profits therefrom, without distinction between principal and income and in the manner and for the uses and purposes set forth in the Plan and as hereinafter provided.
- 5.2 **Specific Powers.** In the management of the Trust, the Trustee shall have the following powers in addition to the powers customarily vested in trustees by law and in no way in derogation thereof; provided, all such powers shall be exercised only upon and in accordance with the directions of the Participants, the Investment Committee, the Administrator and, to the extent applicable, any duly appointed Investment Managers:
- (a) **Purchase of Property.** With any cash at any time held by it, to purchase or subscribe for any authorized investment (as defined in Section 5.3) and to retain the same in trust;
  - (b) **Disposition of Property.** To sell, exchange, transfer or otherwise dispose of any property at any time held by it;
  - (c) **Retention of Cash.** To hold cash without interest in administrative accounts for contribution and distribution processing in such amounts as may be reasonable and necessary for the proper operation of the Plan and the Trust;
  - (d) **Exercise of Owner's Rights.** The Employer acknowledges and agrees that the Trustee shall not have the right or power to vote proxies appurtenant to securities that the Trustee holds. The Employer acknowledges and agrees that Trustee shall not make any review of, or consider the propriety of, holding or selling any assets held in the Trust Fund in response to any tender offer, conversion privilege, rights offering, merger, exchange, public offering and/or any proxy action for any of such assets. The Employer agrees not to issue any directions to the Trustee relating to any corporate event, proxy votes or holding or selling assets held in the Trust Fund that are contrary to or in violation of the terms of the Plan document or this Agreement or that are prohibited by the Internal Revenue Code of 1986. The Employer acknowledges and agrees that as to all such matters that the Employer hereby designates the Investment Committee, a fiduciary, who will (a) vote proxies and decide whether or not to hold or sell assets in the Trust Fund in response to a tender offer or other proxy action or corporate event for any such assets, or (b) direct the Trustee to do so.
  - (e) **Registration of Investments.** To cause any stock, bond, other security or other property held as part of the Trust to be registered in its own name or in the name of one or more of its nominees; provided, the books and records of the Trustee shall at all times show that all such investments are part of the Trust;
  - (f) **Borrowing.** To the extent permitted by the Plan and at the direction of the Investment Committee, to borrow or raise money for the purposes of the Trust in such amounts, and upon such terms and conditions, as determined by the Investment Committee; and, for any sum so borrowed, to issue its promissory note as Trustee and to secure the repayment thereof by pledging all or any part of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency or propriety of any such borrowing;
  - (g) **Purchase of Contracts.** To apply for, purchase, hold, transfer, surrender and exercise all incidents of ownership of any life insurance or annuity contract (but not a contract for a life annuity unless the Plan provides for the distribution of benefits in such form);
  - (h) **Execution of Instruments.** To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments, which may be necessary or appropriate to carry out the powers herein granted;
  - (i) **Settlement of Claims and Debts.** To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, to commence or defend suits or legal or administrative proceedings and to represent the Trust in all suits and legal and administrative proceedings;

- (j) **Employment of Agents, Advisers and Counsel.** To employ suitable agents, actuaries, accountants, investment advisers, brokers and counsel, and to pay their reasonable expenses and compensation. Counsel may be counsel to the Employer, and such counsel's advice may be sought on any legal matter including the interpretation of this Agreement and the Plan. The Trustee shall be fully protected in acting on advice of counsel to the Employer, if such counsel is acting on behalf of the Employer; and
- (k) **Power to do any Necessary Act.** To do all acts which it may deem necessary or proper and to exercise any and all powers of the Trustee under the Plan and this Agreement upon such terms and conditions as it may deem in the best interests of the Trust.

5.3 **Authorized Investments.**

- (a) **General Definition.** "Authorized investment" as used in this Article V shall mean bonds, debentures, notes or other evidences of indebtedness; stocks (regardless of class) or other evidences of ownership, in any corporation, mutual investment fund, investment company, association or business trust, annuity contracts (other than life annuity contracts), funding agreements, guaranteed income contracts; and savings accounts and certificates and interest-bearing deposits in any depository institution (including the Trustee of any affiliate of the Trustee. "Authorized investments" shall not be limited to that class of investments which are defined as legal investments for trust funds under the laws of the state in which the Employer has its principal place of business or of any other jurisdiction.
- (b) **Responsibility for Compliance.** The responsibility for determining whether any investment of Trust assets complies with the terms of this Agreement and applicable law shall lie solely with the Employer, and the Trustee shall have no responsibility to ascertain whether any investment made at the direction of the Employer, an Investment Manager, the Investment Committee or other authorized person complies with the terms of this Agreement or applicable law.

**ARTICLE VI  
ADMINISTRATION**

**6.1 Accounting by Trustee.**

- (a) **Books and Records.** The Recordkeeper generally shall be responsible for keeping accurate and detailed records of all investments, receipts and disbursements and other transactions hereunder, including such specific records as shall be required by law and such additional records as may be agreed upon in writing between the Administrator or the Investment Committee and the Trustee. All books and records relating thereto shall be open to inspection and audit at all reasonable times by any person or persons designated by the Administrator, the Employer, or the Investment Committee. The Trustee shall promptly provide copies of such books or records to any persons designated by the Administrator.
- (b) **Accounting.** Following the close of each Plan year of the Plan, or more frequently as the Trustee and the Administrator may agree, and after the effective date of the removal or resignation of the Trustee, the Trustee shall file with the Administrator and the Investment Committee (and/or their authorized designees) a written statement, setting forth all investments, receipts, disbursements and other transactions, effected by it during such year or during the period beginning as of the close of the last preceding year to the date of such removal or resignation. The Trustee shall deliver such statement in a timely manner to permit the preparation of Participant statements or to provide for the orderly replacement of the Trustee, as the case may be. Except as may be required by statute or by regulations published by federal government agencies with respect to reporting and disclosure, as may be required pursuant to the terms of the Plan or this Agreement or as reasonably may be requested by the Administrator, the Employer or the Investment Committee, no person shall have the right to demand or to be entitled to any further or different accounting by the Trustee.
- (c) **Release.** Except with respect to alleged breaches of fiduciary duties, upon the expiration of 90 days from the date of filing such annual or other statement, the Trustee shall forever be released and discharged from any liability or accountability to anyone as respects the propriety of its acts or transactions shown in such account, except with respect to any acts or transactions as to which the Administrator or Investment Committee, within such 90-day period, shall file with the Trustee its written disapproval. In the event such a disapproval is filed, and unless the matter is compromised by agreement between the Trustee and the Administrator or the Investment Committee, the Trustee shall file its statement covering the period from the date of the last annual statement to which no objection was made in any court of competent jurisdiction for audit or adjudication. With respect to alleged breaches of fiduciary duties, the Trustee shall be entitled to rely on any applicable statute of limitations.
- (d) **Valuations.** The Trustee shall deliver to the Administrator and the Investment Committees (and their authorized designees) such information as may be required or requested to permit the Trust Fund to be valued at such other times as the Administrator or Investment Committee shall deem appropriate. Employer shall designate a party, other than Trustee, to be responsible for valuations of assets held by Custodian other than Trustee and any assets held by the Plan for which prices are not readily available on a nationally recognized securities exchange.
- (e) **Reliance on Recordkeeper.** The Trustee shall be entitled to rely on the Recordkeeper and any Custodian, other than Trustee, for the maintenance and provision of all records (including Participant loan records) specified in this Section 6.1.

- 6.2 Expenses.** The expenses incurred by the Trustee in the performance of its duties hereunder, including fees for legal services, rendered to the Trustee, compensation of the Trustee and all other proper charges and disbursements of the Trustee, including all personal property taxes, income taxes and other taxes of any and all kinds whatsoever, that may be levied or assessed under existing or future laws upon or in respect of the Trust or any money, property or security forming a part of the Trust Fund, shall be paid by the Trustee from the Trust Fund, and the same shall constitute a charge upon the Trust Fund, unless the Employer pays the same or any part thereof. To the extent the Employer pays any expenses that are properly payable from the Trust Fund, the Trustee shall reimburse the Employer from the Trust Fund if requested to do so by the Employer.

Notwithstanding the forgoing, the Parties acknowledge that Trustee's annual fee for Directed Trustee services shall be invoiced and paid by the Recordkeeper.

**ARTICLE VII**  
**REMOVAL AND RESIGNATION OF TRUSTEE; SUCCESSOR TRUSTEE**

- 7.1 **Removal and Resignation.** The Employer may remove the Trustee at any time upon 60 days' written notice delivered to the Trustee. The Trustee may resign at any time upon 60 days' written notice delivered to the Employer.
- 7.2 **Final Accounting.** In any such case, the Employer shall notify the Trustee of the appointment of a successor trustee, and the Trustee shall convey and deliver to such successor trustee all of the assets of the Trust Fund. Within 90 days after any such removal or resignation of the Trustee, the Trustee shall make a final accounting to the Employer, the Administrator and the Investment Committee as of the effective date of such removal or resignation pursuant to the terms of Section 6.1.

**ARTICLE VIII  
AMENDMENT OF TRUST; TERMINATION OF PLAN**

8.1 **Amendment of Trust.**

- (a) **Right to Amend.** The Employer and the Trustee may by written agreement amend this Agreement at any time or from time to time, and any such amendment by its terms may be retroactive.
- (b) **Exclusive Benefit.** Notwithstanding the foregoing, no amendment shall be made which would authorize or permit any assets of the Trust Fund, other than such assets as are required to pay taxes and administration expenses, to be used for or diverted to purposes other than the exclusive benefit of Participants or Beneficiaries.

- 8.2 **Termination of Plan.** The Trust shall continue for such time as may be necessary to accomplish the purposes for which it was created and shall terminate only upon the complete distribution of the Trust. The Trust may be terminated as of any date (and shall in fact terminate upon the complete distribution of the funds of this Trust on such date or thereafter) by the Employer by notice to the Trustee, which notice shall specify the date as of which the Trust shall terminate. Upon termination of the Trust, provided that the Trustee has not received instructions to the contrary from the Employer, the Trustee shall liquidate the Trust and, after paying the reasonable expenses of the Trust, including expenses involved in the termination, distribute the balance thereof according to the written directions of the Employer for the provision of benefits similar to those provided under the Plan for the benefit of employees and their dependents and beneficiaries covered thereunder; provided, however, that the Trustee shall not be required to make any distribution until the Trustee is reasonably satisfied that adequate provision has been made for the payment of all taxes, if any, which may be due and owing by the Plan and the Trust; and provided, further, that in no event shall any distribution be made by the Trustee until the Trustee is reasonably satisfied that the distribution will not be contrary to the applicable provisions of the Plan dealing with termination of the Plan and the Trust. In no event shall the Trustee make any distribution of the remaining balance to the Employer.

**ARTICLE IX  
MISCELLANEOUS**

- 9.1 **Nonalienation of Benefits.** Neither the benefits payable from the Trust Fund nor any interest in any of the assets of the Trust Fund shall be subject in any manner to the claim of any creditor of a Participant, or Beneficiary or to any legal process by any creditor of such Participant, or Beneficiary; and neither a Participant nor any or Beneficiary shall have any right to alienate, commute, anticipate or assign any right to benefits payable from or any interest in the Trust, except as provided in the Plan.
- 9.2 **Exclusive Benefit.** Except as otherwise provided in the Plan and this Agreement, no part of the Trust hereunder shall be used for or diverted to any purpose other than for the exclusive benefit of Participants and Beneficiaries or the payment of expenses as herein provided.
- 9.3 **Effect of Plan.** The Trustee is not a party to the Plan, and in no event shall the terms of the Plan, either expressly or by implication, be deemed to impose upon the Trustee any power or responsibility other than as set forth in this Agreement. In the event of any conflict between the provisions of the Plan and this Agreement, this Agreement shall be deemed to be incorporated into and be a part of the Plan, and the terms of this Agreement shall control over any inconsistent terms of the Plan. The Trustee shall not be a named fiduciary under the Plan and shall not have the authority to interpret the Plan.
- 9.4 **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto with regard to the subject matter hereof, and there are no other agreements or understandings between the parties relating to the subject matter hereof other than those set forth or provided for herein.
- 9.5 **Approval of the Employer.** The Employer, the Administrator and the Investment Committee shall have the right, on behalf of all individuals at any time having any interest in the Trust, to approve any action taken or omitted by the Trustee.
- 9.6 **Notices.** Notices, directions and other communications provided in writing shall be mailed to the parties at the following addresses:
- |                          |  |
|--------------------------|--|
| If to the Employer:      | Cynthia M. Clays, Director of Human Resources<br>County of San Joaquin, CA<br>44 N. San Joaquin Street, Room 330<br>Stockton, CA 95202<br>Telephone: 209-468-3270; Fax: 209-468-0508<br>cclays@sjgov.org |
| If to the Administrator: | Lynette A. Golly<br>EBSC<br>940 Industrial Drive South, Suite 111<br>Sauk Rapids, MN 56379<br>Telephone: 320-251-0034; Fax: 320-251-0340<br>LGolly@EBSC-online.org                                       |
| If to the Trustee:       | Reliance Trust Company<br>P.O. Box 28166<br>Atlanta, Georgia 30358<br>Attn: Sharon Ennis, SVP<br>Telephone: 404-965-7238<br>sennis@relico.com  |
- 9.7 **Liability for Predecessor or Successor.** No successor trustee hereunder in any way shall be liable or responsible for any actions or omissions of any prior trustee in the administration of the Trust or the assets comprising the Trust prior to the date such successor trustee assumes its obligations hereunder, nor shall any prior trustee in any way be liable or responsible for any actions or omissions of any successor trustee.
- 9.8 **Liability for Acts of Others.** The Trustee shall not be liable for the acts or omissions of the Employer, the Recordkeeper, any Custodian other than Trustee, the Administrator, the Investment Committee or any Investment

Manager except with respect to any acts or omissions of any such party in which the Trustee participates knowingly or which the Trustee knowingly undertakes to conceal, and which the Trustee knows constitutes a breach of fiduciary responsibility of such party.

- 9.9 **Indemnification.** In the event that the Trustee incurs any liability loss, claim, suit or expense (including without limitation reasonable attorneys' fees and expenses) in connection with or arising out of its provisions of services under this Agreement or its status as Trustee hereunder, then the Employer shall indemnify and hold the Trustee harmless from and against such liability, loss, claim, suit or expense, except to the extent such liability, loss, claim, suit or expense arises directly from a breach by the Trustee of responsibilities specifically allocated to it by the terms of that Agreement. The Trustee shall hold the Employer harmless against any loss, claim, suit or expense (including reasonable attorneys' fees and expenses) as a result of a breach by the Trustee of any service covered by this Agreement.

The Trustee shall not be liable for any loss that results from a Participant's or Beneficiary's exercise of investment control over the assets in his or her account under the Plan. In the event that any Participant or Beneficiary sustains investment losses in his or her account under the Plan, the Employer shall indemnify the Trustee against any liability, loss, claim, suit or expense, including attorney fees, that may result from such loss, except to the extent such liability, loss, claim, suit or expense arises (a) from a breach by the Trustee of its specific responsibilities, as Trustee, in accordance with the terms of the Agreement or (b) from the Trustee's failure to perform any of its duties under this Agreement due to its own negligence or reckless conduct.

The indemnification provided by this section shall survive the termination of this Agreement.


- 9.10 **Controlling Law.** This Agreement shall be construed according to the laws of the State of Georgia.
- 9.11 **Effective Date.** This Agreement shall be effective on and after July 1, 2010.
- 9.12 **Execution in Counterpart.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Employer and the Trustee have caused this Agreement to be signed by their duly authorized officers or representatives as of the day first written above.

EMPLOYER:  
County of San Joaquin, CA

\_\_\_\_\_  
By: Cynthia M. Clays  
Title: Director of Human Resources

RELIANCE TRUST COMPANY:

  
\_\_\_\_\_  
By: Sheila Williams  
Title: Assistant Vice President



Plan Sponsor Submission Information (Part A)  
**HART** (Healthcare Account Reimbursement Trust)  
 VEBA



**To be completed by the Plan Sponsor**

The undersigned employer, as Plan Sponsor, has established the program and requests Hartford Life Insurance Company to provide services as of the Implementation Date.

**1. Sponsor Information:**

Employer's Legal Name:	County of San Joaquin, CA			Hartford Group Number:	
Street Address:	44 N. San Joaquin Street, Room 330			City:	Stockton
State:	CA	Zip:	95202	E-Mail Address:	cclays@sjgov.org
Telephone:	209-468-3270	Ext:		Fax:	209-468-0508
				Employer ID:	94-6000531
HART Registered Group Variable Funding Agreement All states except: MN, NY, NC, ND, OR, PA, TX, WA, WI				Check if applicable: <input checked="" type="checkbox"/> This plan is a governmental plan not subject to ERISA.	
Plan Type	Is the Plan:			VEBA-501(c)(9)	
VEBA -501(c)(9)	Full Service (Part B & C Required)				
State of domicile of contract holder:				CA	
Plan Sponsor Contact:		Cynthia M. Clays, Director of Human Resources			
Plan Name:		County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust			
Anticipated First Year Premium:	\$50,000.00		Anticipated Takeover sum	\$0.00	
Number of Participants:	3		Number of Eligible Employees:	50	Contract Effective Date: July 1, 2010
<input checked="" type="checkbox"/> Exclusive Carrier			<input type="checkbox"/> Take Over		
<input type="checkbox"/> Multiple Carriers			<input type="checkbox"/> Add on		

**2. Copies of Correspondence should be sent to:**

Name:	Cynthia M. Clays			Title:	Director of Human Resources
Street Address (if different from above):	Same			City:	
State:		Zip:		Telephone Number:	
				E-Mail Address:	Same

**3. Payroll Contact:**

Name:	Cynthia M. Clays			Title:	Director of Human Resources
Name of Payroll Provider (if applicable):	Same				
Street Address (if different from above):				City:	Same

State:		Zip:		Telephone Number:		E-Mail Address:	Same
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## Contract Owner/Trustee Information

As Plan Sponsor, a Board Resolution Naming the following as Trustee is attached:

### Trustee Name #1:

Name:	Reliance Trust				Title:	Trustee
Street Address:	P.O. Box 28166			City:	Atlanta	
State:	GA	Zip:	30358	E-Mail Address:	sennis@relico.com	
Contact Name:	Sharon Ennis, SVP			State of domicile of trustee:	Georgia	

### Trustee Name #2:

Name:					Title:	
Street Address:				City:		
State:		Zip:		E-Mail Address:		
Contact Name:				State of domicile of trustee:		

## Third Party Administrator Information and Compensation

You must complete this section for the third party administrator (sometimes called a "TPA" or a "Pension Administrator" in this document) that provides claim administration services to your Plan.

### Pension Administrator Firm:

Firm Name:	EBSC, a division of July Business Services, Inc				Telephone Number:	320.251.0034
Street Address:	940 Industrial Drive South, Suite 111			City:	Sauk Rapids	
State:	MN	Zip:	56379	E-Mail Address:	AGolly@ <del>EBSCOnline.org</del> JulyServices.com	
Contact Name:	Amanda Golly			Title:	General Operations Manager	

## Asset Based Charges in the Separate Account

The group variable funding agreement contains an asset based charge in the Separate Account that is called a Program and Administrative Expense Charge.

0 % For all Investment Options

**Unitized Pricing Option** (Asset based charges are reflected in the unit value/price)  
The Separate Account Fee is assessed on **all** investment options (except the General Account) is:

**NAV Pricing Option** Asset based charges are not reflected in the unit value/price but are deducted quarterly on a pro rata basis from all investment options (except the General Account) is:

## Contingent Deferred Sales Charge Schedule (CDSC)

<u>Participant Account Years</u>	<u>Charge</u>
During the First Contract Year	5%
During the Second Contract Year	4%
During the Third Contract Year	3%
During the Fourth Contract Year	2%
During the Fifth Contract Year	1%
During the Sixth Contract Year and after	0%

**No Contingent Deferred Sales Charge (CDSC) will apply**

<b>Administrative Service Level Charges</b>	<b>Amount</b>
<b>Annual Maintenance Fee</b> – paid quarterly by participants with assets invested in the Plan.	<b><u>\$0</u></b>

I have reviewed the Group Variable Funding Agreement and the Administrative Services Agreement (Part C) which includes a full description of all program related fees. I direct the fees listed to be deducted automatically from participant accounts. (For more information on fee billing, including any late charges, please see the Group Variable Funding Agreement and the Administrative Services Agreement (Part C)).

## **Additional Compensation Paid by Hartford Life to the TPAs**

The TPA that you propose to use to administer your Claims processing will be provided with cash and non-cash compensation in return for certain administrative, sales support and retention services. We want you to know that the sale of the proposed group variable funding agreement to the Plan will result in your TPA receiving compensation from Hartford Life as follows:

- We will make a one-time per Plan payment to Select TPAs in the amount of \$250 per plan, for all plans that are established with Hartford Life. In addition to this one-time payment, we will also make an annual payment of \$10 per participant.
- Travel and Expenses for Conferences and Other Benefits: Hartford Life provides various benefits and incentives to TPAs. These benefits and incentives include participation in various affinity programs, payment for or towards educational programs and conferences, including payment for the travel expenses, meals, lodging and entertainment of TPAs invited to attend such programs and conferences, and waiver of certain fees and charges for employee retirement benefit plans sponsored by TPAs where such plans are invested in a Hartford Life contract.
- Sales Commissions: If your TPA is a licensed and appointed agent of Hartford Life, your TPA may receive sales commissions for selling our investment products. If your TPA is also your insurance agent or is a registered representative of the broker-dealer that is offering you this Hartford Life contract, the commissions that would be paid on your approval of the sale of the contract are reflected below in the Commission Information section of this document.

## **Your Acknowledgement**

By signing the Acknowledgement section below, you acknowledge that you understand that:

- The Plan's TPA may receive compensation on the proposed group variable funding agreement from Hartford Life for administrative, sales support and retention services to Hartford Life, and may also receive certain non-cash benefits in the form of travel and expense payments for conferences, and other benefits, as described in this Section. In the event such compensation is paid to your TPA, it will not alter the pricing for the proposed Contract. Such compensation does not include any compensation that you choose to pay your Plan's TPA for services rendered by the TPA to your Plan.
- The Plan's annual maintenance fee and/or participant fees for services from Hartford Life may be reduced or waived if the Plan's TPA is an eligible TPA.

## General (Declared Rate) Account Information:

### General (Declared Rate) Account

**Declared Rate of Interest:** We credit interest on Contributions made to the General Account at a rate we declare for any period of time that we determine. We may change the declared interest rate from time to time at our discretion.

**Guaranteed Rate of Interest:** We guarantee a minimum rate of interest. The declared interest rate will not be less than the minimum guaranteed rate of interest.

**Surrenders and Transfers:** We generally process Surrenders and transfers from the General Account option within a reasonable period of time after we receive a Surrender request at our Administrative Office. However, under certain conditions, transfers from the General Account option may be limited or deferred. Surrenders may be subject to a contingent deferred sales charge or a market value adjustment and may be deferred.

<b>Minimum Guaranteed Rate:</b>	3%
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<b>Declared Rate</b>	3%	<b>Guaranteed through</b>	June 30, 2011
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#### For Home Office Use Only:

**Contract Discontinuance Term (Plan Level – select one)**

Market Value Adjustment – Standard 0.75% strip formula

Standard 5 year book value spread for cases less than \$10 Million

## Investment Selection - Variable Investment Options

Variable investment choices are available through a Hartford Life Insurance Company separate account. The General (Declared Rate) Account under the Contract is part of Hartford Life Insurance Company's General Account.

Inv. Option Code	Investment Options – Share Class	Investment Options (Max. 44)
<b>International/Global</b>		
V5	Alliance Bernstein International Value - A	X
XV	The Hartford Global Research Fund - A	X
AE	The Hartford International Opportunities Fund - A	X
<b>Small Cap</b>		
VN	The Hartford Small Cap Growth Fund - A	X
AB	The Hartford Small Company Fund - A	X
RL	Lord Abbett Small-Cap Blend - A	X
<b>Mid Cap</b>		
B6	Goldman Sachs Mid Cap Value Fund - A	X
<b>Large Cap</b>		
9L	Calvert Social Investment Equity - A	X
N2	Hotchkis and Wiley Large Cap Value Fund - A	X
AC	The Hartford Capital Appreciation Fund - A	X
AJ	The Hartford Dividend and Growth Fund - A	X
AT	The Hartford Growth Fund - A	X
QX	The Hartford Growth Opportunities Fund - A	X
8U	Van Kampen Comstock - A	X
R5	Victory Diversified Stock - A	X
<b>Asset Allocation/Balanced</b>		
JL	LifePath 2040 Portfolio - R	X
JK	LifePath 2030 Portfolio - R	X
JJ	LifePath 2020 Portfolio - R	X
JM	LifePath Retirement Portfolio - R	X
AK	The Hartford Advisors Fund - A	X
8W	Van Kampen Equity and Income - A	X
<b>Bond</b>		
BL	PIMCO Total Return - A	X

### Investment of Forfeitures

Unless elected otherwise, forfeitures, if any and any amount held unallocated from time to time under the plan as a result of corrective action taken to maintain the plan's qualified tax status will be invested in the General (Declared Rate) Account.

*(Unless and complete if applicable. The investment option you choose must be selected in Part A):*

The Hartford General Account

Investment Option



**Transferred Asset Default Investment Election** - As Plan Sponsor, I authorize and direct Hartford Life to apply the Default Investment Election indicated below to transferred assets for a participant if the participant has no investment election information on file with Hartford Life at the time the transferred assets are received or for transferred assets from an existing investment option if amounts are received from an option I have failed to list above. The Default Investment Election is as follows (*indicate the Investment Option from among those you selected in the Investment Selection section above*):

**Hartford Code**                      **Investment Option Name**

\_\_\_\_\_                      N/A\_\_\_\_\_

I understand and agree that Participants must be notified of the manner in which Transferred Assets are to be invested both before and immediately after the final reconciliation, that no investment transfers or benefit payments of any kind may be made prior to the final reconciliation, and of the Participants' rights, if any, to direct the investment of their Accounts after such final reconciliation. I further understand that I may request, and Hartford Life may agree, to communicate this information to Participants on behalf of the Plan Sponsor. In the alternative, Hartford Life may make available to the Plan Sponsor sample communications for this purpose.

**Existing Provider Information (takeover plans only)**

<b>Current Recordkeeper:</b>	<b>Contact Name:</b>	<b>Telephone Number:</b>



**Commission Information**

I understand that the sales person identified is a licensed agent of Hartford Life Insurance Company. I further understand that the agent's sales agreement with Hartford does not limit the agent's ability to recommend insurance contracts issued by other insurance companies. If I have indicated that the Plan is an ERISA plan, I understand that ERISA Prohibited Transaction Exemption **84-24** requires that a disclosure statement be provided to the plan sponsor detailing the amount of commissions that would be paid relative to the sale of this retirement program. I understand that if the application for the proposed Group Variable Funding Agreement is accepted, projected sales commissions for the first year and each succeeding year will be paid in accordance with the following schedule. The application cannot be processed unless the agent's Broker Dealer Firm, if any, is approved with Hartford Life.

**Agent Information:**

Are there multiple representatives servicing this account?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Staff Only	<input type="checkbox"/> Staff & Agent	<input type="checkbox"/> Agent Only	<input type="checkbox"/> Other
Regional Office Information:		Field/Regional Office:	
Manager:	Manager Code:		

Producer Name:	Producer Tax ID:	Phone:
Writing Agent:	Broker/Rep ID:	
Override Agent:	E-Mail:	
Percentage of Commissions, if more than one producer:	%	
Agency:		
Broker Dealer Firm, if applicable:	Broker Dealer Tax ID:	

Second Producer Name:	Producer Tax ID:	Phone:
Writing Agent:	Broker/Rep ID:	
Override Agent:	E-Mail:	
Percentage of Commissions, if more than one producer:	%	
Agency:		
Broker Dealer Firm, if applicable:	Broker Dealer Tax ID:	

Third Producer Name:	Producer Tax ID:	Phone:
Writing Agent:	Broker/Rep ID:	
Override Agent:	E-Mail:	
Percentage of Commissions, if more than one producer:	%	
Agency:		
Broker Dealer Firm, if applicable:	Broker Dealer Tax ID:	

Attach a copy of agent information if more than three agents servicing the plan.

## Commission Schedule

____%	Of premium based on purchase payments applicable to all assets under the contract in the first year.
____%	Of premium based on the funds transferred from a previous carrier on behalf of participants enrolling and electing to transfer their funds to Hartford Life.
____%	Of all renewal contributions years _____ and beyond.
____%	On average assets (paid quarterly).
____%	Other

Hartford Life compensates producers for the sale and service of our products. In most cases, producers are paid a commission, which may be fixed or based on a percentage of deposits or average net assets (or aged assets) of the Contracts attributable to a particular producer. The level of commission payable for the sale and service of our products is determined by Hartford Life and the producer at the time of the sale. This determination may have an effect on the level of fees and charges under the Contracts.

In addition, producers may be eligible for various forms of incentive compensation, including cash and non-cash awards. Incentive compensation is based upon a variety of factors that may include the level of average net assets (or aged assets) invested in the Contracts, retention and growth of assets, overall profitability, or other performance measures.

### Additional Compensation

Subject to NASD regulations, Hartford Life and its affiliates pay significant additional compensation to some broker dealers and other financial intermediaries ("Financial Intermediaries") (who may or may not be affiliated), in connection with the promotion, sale and distribution of the Agreement. Additional Compensation is generally based on average net assets (or on aged assets) of the Agreements attributable to a particular Financial Intermediary; on sales of the Agreements attributable to a particular Financial Intermediary and/or on reimbursement of sales expenses. Additional Compensation may take the form of, among other things: Sponsorship of due diligence meetings to educate Financial Intermediaries about the Agreements, the underlying funds and other products and services; payments for providing training and information relating to our Programs, the underlying funds and other products and services; expenses allowances and reimbursements; override payments and bonuses; and/or personnel educational or training; marketing support fees (or allowances) for providing assistance in promoting the sale of the Agreement. Consistent with NASD Rules, we may also provide cash and non-cash compensation in the form of: occasional meals and entertainment; occasional tickets to sporting events; nominal gifts; sponsorship of sales contests and/or promotions in which participants receive prizes such as travel awards and merchandise; sponsorship of training and educational events; and/or due diligence meetings. We want you to know that additional compensation creates a potential conflict of interest in the form of an additional financial incentive for a Financial Intermediary to recommend the selection of our Agreement over other agreements.

## **Fees and Payments Received by Hartford Life Insurance Company (“Hartford Life”) from the Fund Families:**

We want you to know that Hartford Life receives substantial fees and payments with respect to the underlying funds that are offered as variable investment options to your Plan through the Group Variable Funding Agreement. We consider these fees and payments, among a number of other factors, when deciding to include a fund to the menu of funds that we offer through the Contract. These fees and payments are received by Hartford Life under agreements between Hartford Life and the principal underwriters, transfer agents, investment advisers and/or other entities related to the funds in amounts up to 0.93% of assets invested in a fund. These fees and payments may include asset based sales compensation and service fees under distribution and/or servicing plans adopted by funds pursuant to Rule 12b-1 under the Investment Company Act of 1940. They may also include administrative service fees and additional payments and compensation sometimes referred to as “revenue sharing” payments. Hartford Life receives these fees and payments for its own account and expects to make a profit on the amount of the fees and payments that exceed Hartford Life’s own expenses, including our expenses of paying compensation to broker-dealers, financial institutions and other persons for selling the Contracts.

We also want you to understand that not all fund families pay the same amount of fees and compensation to us and not all funds pay according to the same formula. Because of this, the amount of the fees and payments received by Hartford Life varies by fund and Hartford Life may receive greater or less fees and payments depending on which variable investment options your Plan selects.

For Example:

As one of its selected investment options in its Group Variable Funding Agreement, the Any Company Retirement Plan maintains an average balance of \$100,000 in an investment option investing in shares of a hypothetical mutual fund during the year. If the fund’s principal underwriter pays Hartford Life a Rule 12b-1 fee at a rate of 0.50% of assets annually, and the fund’s transfer agent pays Hartford Life an administrative service fee at a rate of 0.25% of assets annually, Hartford Life would receive \$500 in 12b-1 fees and \$250 in administrative service fees, for a total of \$750 for that year due to the Plan’s investment in the fund.

If the Plan maintained an average balance of \$100,000 in an investment option investing in a different fund during the year where that fund’s principal underwriter pays Hartford Life a Rule 12b-1 fee at a rate of 0.25% of assets annually, and the fund’s transfer agent pays Hartford Life an administrative services fee at a rate of \$12 per Plan participant account invested in the investment option investing in the fund, and there are 20 participants with an account balance invested in that investment option, Hartford Life would receive \$250 in 12b-1 fees and \$240 in administrative service fees, for a total of \$490 for that year due to the Plan’s investment in the fund.

You should also know that the principal underwriters of certain funds have chosen to offer for sale, and Hartford Life has selected, fund share classes with asset based sales charges and/or service fees that may or may not be higher than other available share classes of the same fund. As a result of any higher asset based fees and charges paid by investors in such share classes, the amount of fees and payments that might otherwise need to be paid by such fund principal underwriters or their affiliates to Hartford Life would decrease.

Some of the variable investment options available in the Group Variable Funding Agreement invest in funds that are part of our own affiliated family of funds. In addition to any fees and payments Hartford Life may receive with respect to those funds, one or more of our affiliates receives compensation from the funds, including among other things a management fee and 12b-1 fees from the funds.

For information on which underlying funds pay Hartford Life such fees and at what level, please call 1-800-874-2502, Option 4. Written information will be provided upon request.

## **Hartford Life's Sub-Account Transfer Policy**

Under this policy, each contract participant is allowed to submit a total of 20 Sub-Account transfer requests each calendar year for the participant account by any of the following methods: Calling the Retirement Plan Service Center, voice response unit or internet. Once these 20 Sub-Account transfers have been requested, transfer requests by telephone, voice response unit, via the internet or sent by same day mail or courier service will not be accepted. The participant may submit any additional Sub-Account requests only in writing by the U.S. Mail or overnight delivery service. Transfers as a result of dollar cost averaging or automatic rebalancing programs (if applicable) do not count towards the 20 transfer limit. We may make changes to this policy at any time.

By signing below, Plan Sponsor acknowledges that the underlying investment options are not intended as vehicles for short-term trading. Excessive transfer activity may interfere with portfolio management and may have an adverse effect on all shareholders. The underlying Funds may implement their own policies designed to restrict excessive trading.

For additional information regarding Hartford Life's Sub-Account Transfer Policy, please visit our website at <http://retire.hartfordlife.com>.

## Internet Access

Hartford Online offers information and service applications to assist you with your plan administration activities. Please review the following information and identify the employee(s) whom you would provide access to the following features:

- **Plan Only** – Allows the user access to Plan level information, e.g., participant count, total Plan assets.
- **Plan and Participant** – Allows the user access to Plan and Participant information and reports.
- **File Submit** – Allows the user access to submit contribution and loan allocation data files via the Internet.
- **E-Remittance** – Allows the user to enter and submit contribution and loan allocation data via the Internet.
- **E-Payment** – Allows the user to debit the Employer's bank account and submit payments for contributions or loan repayments via the Internet.

I authorize the following employee(s) access to Hartford Online information and service applications described above to the extent so indicated (check to indicate access).

Name	Social Security Number	Plan Only	Plan & Participant	File Submit	e-Remittance	e-Payment
Cynthia M. Clays		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sandra Leiting		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Amanda M. Golly		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Lynette A. Golly		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

## Contribution and Participant Data Remittance

Data Remittance Method (Check one):

Investment File Submission\*  Internet E-Remittance

\*Must be in a format acceptable to Hartford Life.

Remittance Frequency (Check one):

Annual (1)  Semi-Annual (2)  Quarterly (4)  Monthly (12) OTHER - SEE  
 Semi-monthly (24)  Bi-weekly (26)  Weekly (52) ADOPTION AGREEMENT

Payment Remittance Method (Check one):  E-Payment  Wire

## Statements:

Employer requests Consolidated Statements for Plan and Participants:  Yes  No

**Requires Home Office Approval**

## Enrollment Data

The Plan Sponsor hereby elects to utilize the internet enrollment service (e-enroll).

(Note: In certain circumstances, the service may not be available to a Plan)


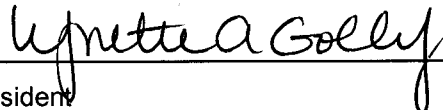
Hartford receives enrollment/participant census and investment election data via Hartford's electronic enrollment services. Unless you instruct otherwise, you, as Plan Sponsor, and the Plan participants may access Hartford's internet based and telephone based (Voice Response Unit) electronic enrollment services. For enrollment via the Voice Response Unit, you must provide Hartford with employee census information. Note that Hartford reserves the right to charge a fee to process enrollment data provided via paper or other medium.

I understand that e-enroll is subject further to the provisions of Section 3.4 of the Administrative Services Agreement (Part C). I further understand that a personal identification number is not required and that access to e-enroll is available to any individual who enters the Group Number assigned to my plan by Hartford Life. Since there is no unique personal identification number, I understand that it is possible that enrollment requests could be made by individuals other than employees employed by the Plan Sponsor. I acknowledge and agree that Hartford Life is not responsible for and does not make determinations as to whether an employee is eligible to participate in the Plan, nor when contributions are to begin under the Plan.

### Signing Authority

The following individuals are authorized to instruct Hartford Life with respect to the establishment and maintenance of participant accounts. The Plan Sponsor further authorizes and directs Hartford Life to accept such instructions. In the event any individual is removed or replaced, Hartford Life shall be promptly notified. Additional authorized signatures may be submitted at a later date.

Name:	Cynthia M. Clays	Name:	
Signature:		Signature:	
Title:	Director of Human Resources	Title:	
Organization*:	County of San Joaquin, CA	Organization*:	

Name:	Amanda M. Golly	Name:	Lynette A. Golly
Signature:		Signature:	
Title:	General Operations Manager	Title:	President
Organization*:	EBSC	Organization*:	EBSC

\*(if other than the Employer)

As an authorized Plan fiduciary, I authorize and direct Hartford Life Insurance Company to process distribution requests it receives from the Pension Administration Firm by withdrawing the required amount(s) from the Contract and paying such amount(s) directly to a participant or indirectly to the TPA for payment to the participant, provided that (i) the distribution qualifies as a "Benefit" payments as defined by the terms of the Contract, and (ii) the request is in good order (as defined by the Contract). I certify that the Pension Administration Firm listed in Section 5 is authorized by the Plan to initiate Benefit payments from the Contract to or on behalf of Plan participants. This authorization does not apply to any distribution requests that are not Benefit payments. Notwithstanding anything to the contrary contained in the Administrative Services Agreement, the Pension Administration Firm will obtain and retain all authorizations, signatures, agreements, disclosures, schedules, consents and/or elections required by applicable law or regulation (collectively, "Required Documents"). I understand that the Pension Administration Firm will not provide Hartford Life or its designee with the original or copies of the Required Documents and that Hartford Life will have no duty to request or review the Required Documents. I acknowledge that the Pension Administration Firm's ability to initiate Benefit payments is governed by the terms and conditions of an agreement between Hartford Life and the Pension Administration Firm. The Pension Administration Firm must execute the agreement in order to initiate Benefit payments via Hartford Life.

I understand and agree that the actions Hartford Life takes with respect to Benefit distribution requests are exclusively non-discretionary and ministerial and that no fiduciary responsibility is hereby conferred upon or assumed by Hartford Life under this authorization or under the Contract. I certify, on behalf of the Plan, that the Plan shall hold Hartford Life, its affiliates and parent companies, harmless from, and shall defend it against, any and all claims, lawsuits and damages that may arise out of Hartford Life's acting on this authorization and direction. I understand that any dispute between the Plan and the Pension Administration Firm identified above shall be resolved solely by the Plan Sponsor and the Pension Administration Firm, and that the Plan shall have sole responsibility to review and/or monitor Plan distributions.

I represent that the form and method of processing Benefit payments (as indicated above) are authorized under the terms of the Plan. **This authorization and direction shall continue until a written revocation is received by Hartford Life.** I understand that the Plan shall have sole responsibility to timely notify Hartford Life in writing of any revocation of this direction and authorization.

### Acknowledgement

I have received materials describing the actual or estimated charges, fees, discounts, penalties or adjustments which may be applied in connection with the funding agreement.

I represent that I am authorized to sign these forms on behalf of the Plan and I acknowledge that I have read and understand the information described or referred to previously. I further understand that the Plan's investment decision regarding the agreement is based solely on the printed disclosure material provided by Hartford Life.

I understand that Hartford Life is not responsible for the selection or supervision of any service providers that the Plan has engaged, or may engage from time to time (e.g., Investment Managers, Investment Advisors, Third Party Administrators or Consultants). In the event an agent of Hartford Life is also a service provider to the Plan or undertakes a fiduciary role with respect to the Plan, I understand that such agent is not acting on behalf of Hartford Life or its affiliates when providing those services or when acting in a fiduciary capacity. I further understand that any compensation for such services is the responsibility of the Plan.

As the Plan Sponsor, I certify that I have read and understand the information and options described in this document. My signature below signifies acceptance of the terms described in this document and approval of the proposed transaction on behalf of the Plan.

<b>Name:</b>	Cynthia M. Clays	<b>Signature:</b>		<b>Date:</b>	
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### For Hartford Life Use Only:

Field Office
Field Office Representative

Plan Information (Part B)

**HART** (Healthcare Account Reimbursement Trust )  
**VEBA**



**To be signed by Plan Sponsor**

Submit to Home Office/Attention of: Retirement Plans Group - SDC-1

Plan Information			
Legal Plan Name:	<b>County of San Joaquin, CA Retiree Health Reimbursement Plan and Trust</b>	Hartford Group Number:	
Original Effective Date of Plan:	<b>July 1, 2010</b>	Plan Year:	<b>July 1 through June 30</b>
Limitation Year:	<b>July 1 through June 30</b>	Indicate date employee deferrals may begin:	<b>July 1, 2010</b>
Employer Tax Year:	<b>July 1 through June 30</b>		

**Employer Contributions**

**Is Vesting Applicable?**  
 No  
 Yes (please select vesting schedule and forfeiture options)

**Vesting Schedule:**  
 Full and immediate vesting  
 25% per year: 100% after 4 years  
 3 year cliff vesting  
 5 year cliff vesting  
 20% per year: 100% after 5 years  
 20% after 2 years; plus 20% per year; 100% after 6 years  
 20% after 3 years; plus 20% per year; 100% after 7 years  
 Other

**Forfeiture:**  
 Not applicable. Employer Supplemental contributions are fully vested.  
 Used to reduce employer contributions  
 Used to offset plan expenses ((excess used to reduce employer contributions in the plan year the forfeitures arises)  
 Allocated to participants in the in the ratio of their compensation bears to the total compensation of all participants for such plan year.





**AUTHORIZATION AND DIRECTION TO RELIANCE TRUST COMPANY**

**TO SIGN HART PLAN**

**Administrative Services Agreement**

Pursuant to the executed Trust Agreement between Reliance Trust Company and the Plan named below, please accept this as instruction and authorization to sign, as Trustee, the HART PLAN Administrative Services Agreement for administration and custody of assets of the plan(s) named below:

***Retirement Plan Name:***

**COUNTY OF SAN JOAQUIN, CA RETIREE HEALTH REIMBURSEMENT PLAN AND TRUST**

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I certify that I am authorized to provide this direction to Reliance Trust Company on behalf of the Plan. I further certify that all Sections of the Agreement and any amendments have been completed and are approved. On behalf of the Plan Sponsor, I hereby indemnify Reliance Trust and any of its associates from any liability, cost, damage or expense incurred in connection with its signature completion of the Agreement, as is so directed in this letter of Authorization. I acknowledge that Reliance Trust Company has no decision making authority relative to the offering of the Plan's investments nor has it made any review of this option as a prudent investment on behalf of the Plan or any of its Participants, nor will it do so.

Signed: \_\_\_\_\_

Print Name: **Cynthia M. Clays, Director of Human Resources**

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



**POST-RETIREMENT HEALTH REIMBURSEMENT PLAN  
ADMINISTRATIVE SERVICES AGREEMENT**  
(not for public use)  
COUNTY OF SAN JOAQUIN, CA

Thank you for retaining Employee Benefits of St. Cloud, Inc., a division of July Business Services, Inc. ("JBS") to perform services for your Post Employment Health Reimbursement Plan. We look forward to working with you and will do our best to provide service for your Fringe Benefit Plan in a prompt and efficient manner.

This summarizes the work we are to perform, outlines our fees and billing procedures, and notifies you of your responsibilities. Please read it carefully, and call us with any questions you may have. If you do not have any questions, please sign and return the enclosed copy to our office.

The engagement will renew on the first day of each succeeding plan year, unless either of us gives the other notice of termination of this engagement within 15 days of the end of any plan year. You will receive notice of any increases in the cost of administration services prior to the last day of each plan year. In the event the increases are not received by you by the 15th day immediately preceding the first day of a succeeding plan year, you will have 15 days after the receipt of the increases to give notice of the cancellation of our services.

**1. WHAT JBS WILL DO:**

**Annual Compliance** - The information we will request annually from you is the annual employee census data, updated information about your company. Following the receipt of complete information from you, JBS will do the following:

- apply the eligibility requirements of the Plan to the employee census information to determine which employees are eligible to participate in the separate component parts of the Plan;
- submit request for claims to Hartford Life for the payment of participant reimbursements;
- perform any required testing to show that the Plan complies with the following Internal Revenue Code sections 105, and 106, as applicable;
- make recommendations to you as needed on ways to comply with these Code sections;

Because you have retained us to do full administration on your Plan, JBS will perform the following additional services:

- calculate benefit and contribution amounts and audit the contribution levels made to the plan, as indicated on the monthly reporting you provide to us;
- determine the amount to be distributed for requested claims reimbursements; and
- prepare benefit and/or account statements for the participants.

**Additional Services** - In addition to the above, you can request JBS to:

- prepare IRS Reports and attachments as required. You will be responsible for following our instructions to sign and timely file these forms with the appropriate government agency;
- consult on plan design issues;
- run preliminary tests on your plan more often than once per year;
- if needed, assist you in securing an audit of the Plan from an independent CPA.

**Plan Documentation** - JBS will review the following documentation for the Plan and you will be notified of the cost and degree of the required changes as required by the IRS (if applicable):

- Plan Documents (if you have a VEBA Trust, you will be responsible for the payment of any IRS user fee(s) to obtain a determination letter on the qualification of the Trust)
- Summary Plan Description - Plan Highlights

- Initial COBRA Notification and Notice of Privacy Practices (if we are retained to perform COBRA and HIPAA administration)
- Enrollment Forms
- Claim Forms
- Medicare D Creditable Coverage Certificates and government reporting

## 2. WHAT YOU AGREE TO DO

It is impossible for us to provide services to you without your cooperation. Therefore, you are responsible for the following:

- **Timeliness and Accuracy of Data** – We must receive complete, accurate, and timely information. We will rely exclusively on information provided by you or your advisors, whether oral or in writing, and will have no responsibility to verify independently the accuracy of that information. We assume no responsibility to acquire information other than to request it from you, and will not be liable for any errors or omissions made because of incomplete or incorrect information that you furnish to us. In the event inaccurate or incomplete materials require that we repeat any compliance work already completed, you will be charged an additional fee.
- **Filing Government Reports** – We will prepare certain government reports on your behalf. You will be responsible for the timely filing of these reports with the appropriate agency.
- **Notification of Contacts by Government Agencies** - You will notify JBS of any plan audits, investigations, or examinations by any governmental agency including, without limitation, the Internal Revenue Service or U.S. Department of Labor. If additional services are needed in connection with any such audit, investigation, or examination, JBS will provide those services and bill separately for those services under our Fee Schedule.
- **Qualified Medical Child Support Order (“QMCSO”) Determination** – Unless you otherwise request us to assist in the determination, you will be responsible for the determination of whether court orders comply with the QMCSO requirements of the Code. In the event you have possession of any QMCSO requiring the separation of any assets of the Plan, you must inform JBS of the required separation.
- **Other Plans and Companies** - The Plan's operation and tax qualification is affected by other plans sponsored by the Company (whether currently active or terminated, and whether or not we administer them). Other companies owned by the Sponsoring Company or by the owners of the Company may also affect the Plan. You are responsible for informing us of other plans or companies, and of notifying us when there is a change to this information or for the tax filing status of the Company (e.g., a change from S corporation to C corporation status or vice versa).

## 3. BILLING PROCEDURES AND COLLECTIONS

- **Statements, Late Charges, Stopping of Work** – The Trust, through the Trustee, will be billed on an ongoing basis for work performed by JBS. Statements are due upon receipt, and become delinquent and subject to late charges if payment is not received by our office within 10 days. If payment is past due in excess of 10 days, we reserve the right to stop all work until your account is brought current. In addition, balances not paid within 10 days of the invoice date will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. JBS is not responsible for any late tax filings or penalties, fines, taxes, or other charges that may be assessed. If we do not receive the data provided by the Sponsor electronically in the format requested, we reserve the right to assess an additional processing fee.
- **Collection Costs, Arbitration, and Governing Law** - In the event of a dispute arising from this Agreement, you and we agree to submit to resolution by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Such arbitration shall be binding and final. This agreement is made, or to be performed in the State of Minnesota, and shall be interpreted, construed, and enforced in accordance with the substantive law of the State of Minnesota.

- **Costs and Expenses** - In addition to the fees quoted in the attached Fee Schedule, you are responsible for payment of any out-of-pocket expenses we may incur on your behalf, such as messenger service fees, overnight delivery fees, IRS user fees, and travel expenses.

**4. ENTIRE AGREEMENT**

This Service Agreement (along with the Sold Case Paperwork provided by Hartford) contains the entire agreement between you and JBS with respect to your Plan. This agreement may be modified only by mutual written consent between you and JBS. We will commence work under this agreement upon receipt of a signed copy of this Service Agreement. If you have questions regarding this letter, please call 800-682-3826.

**5. ACCEPTANCE**

The items and conditions of this Service Agreement are agreed to and accepted by an Authorized Plan Representative on behalf of the Plan and by the Employer:

Dated: \_\_\_\_\_

Dated: 5/20/2010

**County of San Joaquin, CA  
Sponsor of the  
County of San Joaquin CA  
Retiree Health Reimbursement Plan and Trust**

**Employee Benefits of St. Cloud, Inc.  
a Division of July Business Services, Inc.**

By: \_\_\_\_\_

By: *Kyrette A Golly*



**SERVICE AGREEMENT**  
FEE PAYMENT AUTHORIZATION FORM

Plan: **COUNTY OF SAN JOAQUIN, CA**  
**Post Employment Health Reimbursement Plan**

Company: **COUNTY OF SAN JOAQUIN, CA**

Pursuant to the attached "Fringe Benefit Plan Administration Services" Agreement, Employee Benefits of St. Cloud, Inc., a division of July Business Services, Inc. (JBS) has been engaged by the "Plan" to provide Fringe Benefit Plan administration and compliance services. The specific services are outlined in the "Fringe Benefit Plan Administration Services" Agreement. The purpose of this agreement is for the Plan and Company to acknowledge the fees associated with the compliance services provided by JBS and to authorize JBS to deduct fees for these services directly from participant accounts (either by design, or in the event of non-payment by the Company).

- Fees** - For the performance of these services, JBS will charge the following fees:
  - **Plan Implementation Fee (Document and Set-up)** **\$250\*\***
  - **Administrative Fees – Per Participant** **\$10 Annually\*\***
  - **Claims Adjudication** **.10% of assets\*\***

\*\*To be paid by The Hartford

- Payment of Fees** - Fees will be paid as follows (please choose how you would like us to invoice your fees) – If Hartford pays the fees – Hartford will pay directly, without invoice:

<input type="checkbox"/> <b>Bill Client</b>	<input type="checkbox"/> <b>Take Directly from Participants' Accounts</b>
<input type="checkbox"/> All Participants	<input type="checkbox"/> All Participants
<input type="checkbox"/> Active Participants Only	<input type="checkbox"/> Active Participants Only

The amounts taken from the participant's accounts will be done with the accounts set up with The Hartford. If for any reason our fees cannot be deducted from participant accounts, the undersigned acknowledges that the "Plan" and the "Company" are still liable for payment.

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Unless otherwise negotiated, I will authorize JBS to receive information via an electronic transaction from The Hartford for either required contributions to the plan and/or reimbursement to participants from the plan.

- Additional Services** – see the attached schedule – initial items that are applicable. These will be fees that will be billable to the County should it elect to have JBS provide these services.

By: \_\_\_\_\_

Print Name: **Cynthia M. Clays**  
 Title: **Director of Human Resources**  
 Address: **44 N. Joaquin Street**  
**Room 330**  
**Stockton, CA 95202**  
 Phone: **209-468-3270**  
 Fax: **209-468-0508**

\_\_\_\_\_ Date

## ADDITIONAL SERVICE REQUEST

- |                          |   |   |
|--------------------------|---|---|
| <input type="checkbox"/> | <b>Direct expenses</b> (postage, travel, other direct costs incurred at client's request) | <b>Reimbursable at cost</b>   |
| <input type="checkbox"/> | <b>Additional processing or rework</b><br>(Due to errors in data from client)             | <b>Additional fee of 50% of original fee billed</b>                               |
| <input type="checkbox"/> | <b>Hourly Consultation Fee</b>  | <b>\$125/hr</b>   |
| <input type="checkbox"/> | <b>COBRA Administration</b>   |   |
|                          | • Setup Fee (Each Benefit)  | \$100.00  |
|                          | • Monthly Base Fee  | \$50.00   |
|                          | • Continuation Packet   | \$15.00/Package   |
|                          | • Monthly COBRA Administration Fee  | \$7.00/participant/month  |
| <input type="checkbox"/> | <b>Full Set of HIPAA Compliance Forms</b><br><i>Includes:</i>                             | <b>\$250.00</b>   |
|                          | • Business Associate Agreement  |   |
|                          | • Privacy Officer Documentation   |   |
|                          | • Authorization Form  |   |
|                          | • Authorized Representative Form  |   |
|                          | • Certification of Continued Coverage   |   |
| <input type="checkbox"/> | <b>HIPAA Credited Coverage Certificate</b>  | <b>\$5.00 per certificate</b>   |
| <input type="checkbox"/> | <b>Medicare D Notices (annual requirement)</b>  | <b>\$250</b>  |
| <input type="checkbox"/> | <b>990 Annual IRS Government Reporting Form</b>   | <b>\$650</b>  |
| <input type="checkbox"/> | <b>Enrollment Meetings</b>  | <b>\$500 plus Expenses</b><br>Enrollment Kits Provided Electronically by Hartford |



**POST-RETIREMENT HEALTH REIMBURSEMENT PLAN  
ADMINISTRATIVE SERVICES AGREEMENT**  
(not for public use)  
COUNTY OF SAN JOAQUIN, CA

Thank you for retaining Employee Benefits of St. Cloud, Inc., a division of July Business Services, Inc. ("JBS") to perform services for your Post Employment Health Reimbursement Plan. We look forward to working with you and will do our best to provide service for your Fringe Benefit Plan in a prompt and efficient manner.

This summarizes the work we are to perform, outlines our fees and billing procedures, and notifies you of your responsibilities. Please read it carefully, and call us with any questions you may have. If you do not have any questions, please sign and return the enclosed copy to our office.

The engagement will renew on the first day of each succeeding plan year, unless either of us gives the other notice of termination of this engagement within 15 days of the end of any plan year. You will receive notice of any increases in the cost of administration services prior to the last day of each plan year. In the event the increases are not received by you by the 15th day immediately preceding the first day of a succeeding plan year, you will have 15 days after the receipt of the increases to give notice of the cancellation of our services.

**1. WHAT JBS WILL DO:**

**Annual Compliance** - The information we will request annually from you is the annual employee census data, updated information about your company. Following the receipt of complete information from you, JBS will do the following:

- apply the eligibility requirements of the Plan to the employee census information to determine which employees are eligible to participate in the separate component parts of the Plan;
- submit request for claims to Hartford Life for the payment of participant reimbursements;
- perform any required testing to show that the Plan complies with the following Internal Revenue Code sections 105, and 106, as applicable;
- make recommendations to you as needed on ways to comply with these Code sections;

Because you have retained us to do full administration on your Plan, JBS will perform the following additional services:

- calculate benefit and contribution amounts and audit the contribution levels made to the plan, as indicated on the monthly reporting you provide to us;
- determine the amount to be distributed for requested claims reimbursements; and
- prepare benefit and/or account statements for the participants.

**Additional Services** - In addition to the above, you can request JBS to:

- prepare IRS Reports and attachments as required. You will be responsible for following our instructions to sign and timely file these forms with the appropriate government agency;
- consult on plan design issues;
- run preliminary tests on your plan more often than once per year;
- if needed, assist you in securing an audit of the Plan from an independent CPA.

**Plan Documentation** - JBS will review the following documentation for the Plan and you will be notified of the cost and degree of the required changes as required by the IRS (if applicable):

- Plan Documents (if you have a VEBA Trust, you will be responsible for the payment of any IRS user fee(s) to obtain a determination letter on the qualification of the Trust)
- Summary Plan Description - Plan Highlights



- Initial COBRA Notification and Notice of Privacy Practices (if we are retained to perform COBRA and HIPAA administration)
- Enrollment Forms
- Claim Forms
- Medicare D Creditable Coverage Certificates and government reporting

## 2. WHAT YOU AGREE TO DO

It is impossible for us to provide services to you without your cooperation. Therefore, you are responsible for the following:

- **Timeliness and Accuracy of Data** – We must receive complete, accurate, and timely information. We will rely exclusively on information provided by you or your advisors, whether oral or in writing, and will have no responsibility to verify independently the accuracy of that information. We assume no responsibility to acquire information other than to request it from you, and will not be liable for any errors or omissions made because of incomplete or incorrect information that you furnish to us. In the event inaccurate or incomplete materials require that we repeat any compliance work already completed, you will be charged an additional fee.
- **Filing Government Reports** – We will prepare certain government reports on your behalf. You will be responsible for the timely filing of these reports with the appropriate agency.
- **Notification of Contacts by Government Agencies** - You will notify JBS of any plan audits, investigations, or examinations by any governmental agency including, without limitation, the Internal Revenue Service or U.S. Department of Labor. If additional services are needed in connection with any such audit, investigation, or examination, JBS will provide those services and bill separately for those services under our Fee Schedule.
- **Qualified Medical Child Support Order (“QMCSO”) Determination** – Unless you otherwise request us to assist in the determination, you will be responsible for the determination of whether court orders comply with the QMCSO requirements of the Code. In the event you have possession of any QMCSO requiring the separation of any assets of the Plan, you must inform JBS of the required separation.
- **Other Plans and Companies** - The Plan's operation and tax qualification is affected by other plans sponsored by the Company (whether currently active or terminated, and whether or not we administer them). Other companies owned by the Sponsoring Company or by the owners of the Company may also affect the Plan. You are responsible for informing us of other plans or companies, and of notifying us when there is a change to this information or for the tax filing status of the Company (e.g., a change from S corporation to C corporation status or vice versa).

## 3. BILLING PROCEDURES AND COLLECTIONS

- **Statements, Late Charges, Stopping of Work** – The Trust, through the Trustee, will be billed on an ongoing basis for work performed by JBS. Statements are due upon receipt, and become delinquent and subject to late charges if payment is not received by our office within 10 days. If payment is past due in excess of 10 days, we reserve the right to stop all work until your account is brought current. In addition, balances not paid within 10 days of the invoice date will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. JBS is not responsible for any late tax filings or penalties, fines, taxes, or other charges that may be assessed. If we do not receive the data provided by the Sponsor electronically in the format requested, we reserve the right to assess an additional processing fee.
- **Collection Costs, Arbitration, and Governing Law** - In the event of a dispute arising from this Agreement, you and we agree to submit to resolution by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Such arbitration shall be binding and final. This agreement is made, or to be performed in the State of Minnesota, and shall be interpreted, construed, and enforced in accordance with the substantive law of the State of Minnesota.

- **Costs and Expenses** - In addition to the fees quoted in the attached Fee Schedule, you are responsible for payment of any out-of-pocket expenses we may incur on your behalf, such as messenger service fees, overnight delivery fees, IRS user fees, and travel expenses.

**4. ENTIRE AGREEMENT**

This Service Agreement (along with the Sold Case Paperwork provided by Hartford) contains the entire agreement between you and JBS with respect to your Plan. This agreement may be modified only by mutual written consent between you and JBS. We will commence work under this agreement upon receipt of a signed copy of this Service Agreement. If you have questions regarding this letter, please call 800-682-3826.

**5. ACCEPTANCE**

The items and conditions of this Service Agreement are agreed to and accepted by an Authorized Plan Representative on behalf of the Plan and by the Employer:

Dated: \_\_\_\_\_

Dated: 5/20/2010

**County of San Joaquin, CA  
Sponsor of the  
County of San Joaquin CA  
Retiree Health Reimbursement Plan and Trust**

**Employee Benefits of St. Cloud, Inc.  
a Division of July Business Services, Inc.**

By: \_\_\_\_\_

By: *Upreti A Golly*



**SERVICE AGREEMENT**  
FEE PAYMENT AUTHORIZATION FORM

Plan: **COUNTY OF SAN JOAQUIN, CA**  
**Post Employment Health Reimbursement Plan**

Company: **COUNTY OF SAN JOAQUIN, CA**

Pursuant to the attached "Fringe Benefit Plan Administration Services" Agreement, Employee Benefits of St. Cloud, Inc., a division of July Business Services, Inc. (JBS) has been engaged by the "Plan" to provide Fringe Benefit Plan administration and compliance services. The specific services are outlined in the "Fringe Benefit Plan Administration Services" Agreement. The purpose of this agreement is for the Plan and Company to acknowledge the fees associated with the compliance services provided by JBS and to authorize JBS to deduct fees for these services directly from participant accounts (either by design, or in the event of non-payment by the Company).

1. **Fees** - For the performance of these services, JBS will charge the following fees:
- **Plan Implementation Fee (Document and Set-up)** **\$250\*\***
  - **Administrative Fees – Per Participant** **\$10 Annually\*\***
  - **Claims Adjudication** **.10% of assets\*\***
- \*\*To be paid by The Hartford

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|                          | <ul style="list-style-type: none"> <li>• Setup Fee (Each Benefit)</li> <li>• Monthly Base Fee</li> <li>• Continuation Packet</li> <li>• Monthly COBRA Administration Fee</li> </ul>  | <ul style="list-style-type: none"> <li><b>\$100.00</b></li> <li><b>\$50.00</b></li> <li><b>\$15.00/Package</b></li> <li><b>\$7.00/participant/month</b></li> </ul> |
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|                          | <i>Includes:</i>   |  |
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|                          |  | Enrollment Kits Provided Electronically by Hartford  |