



WESTERN RESERVE
ADMINISTRATIVE
SERVICES, INC.

ADMINISTRATIVE SERVICES AGREEMENT MONTHLY CAP

This Administrative Services Agreement (“Agreement”) is made by and between _____ (Employer) and Western Reserve Administrative Services, Inc., an Ohio corporation, (Administrator) for the purpose of establishing the terms and conditions under which Administrator agrees to provide administrative services with respect to the Employer’s portion of the deductible and coinsurance of Central Reserve Life Insurance Company (Insurance Company) monthly cap alternative under the Partnership Option of the Professional Multi-Option Plan (“Plan”), which is underwritten by the Central Reserve Life Insurance Company (Insurance Company).

Section 1. Claims Administration

1.1 Administrator shall perform the administrative duties, on Employer’s behalf, related to the payment of medical claims submitted by Employer’s employees and covered dependents who are covered by the Plan, and which are payable pursuant to the terms of the Plan.

Such duties shall include the following:

- (a) Establish a checking account which shall serve as a depository for the funds Administrator will use to pay medical claims for benefits which are payable pursuant to the terms of the Plan (Claims Paying Account);
- (b) Pay medical claims for covered charges on behalf of the employer pursuant to the shared portion of the plan described in paragraph 1.2 below. Administrator administers on a policy year basis.

If the employer terminates this Agreement other than at policy year end, the Employer shall be liable for claims incurred prior to the termination date, up to the Employer’s annual maximum claims liability amount for that policy year.

- (c) Coordinate with Insurance Company with respect to that portion of the medical claims which are payable by Insurance Company pursuant to the terms of the Plan;
- (d) Submit to Employer a monthly accounting which shall provide a fund reconciliation of claims paid out of the shared portion of the Plan (Monthly Financial Statement), subject to Employers acceptance of the requirements of Section 1.4 hereof;
- (e) Submit to Employer an annual report with information sufficient for the employer to complete such federal and state reports as may be required (e.g., Form 5500 – Employer Annual Report), subject to Employers acceptance of the requirements of Section 1.4 hereof; and
- (f) Indemnify Employer, its agents, successors and assigns and hold them harmless against any and all loss, damage, costs and expenses, including attorneys’ fees, arising from or connected in any way with a claim, suit, demand, allegation or other similar charge asserted against Employer, its agents, successors or assigns arising out of the dishonest, fraudulent, or criminal acts of Administrator, its employees, and agents.

1.2 Employer shall:

- (a) Subject to the terms of this Agreement, Employer shall be required to make a monthly deposit into the Claims Paying Account. The initial deposit into the Claims Paying Account shall be \$_____. Thereafter, within ten (10) calendar days of the date of the Monthly Financial Statement, Employer shall deposit into the Claims Paying Account one twelfth (1/12) of Employer’s annual maximum claims liability amount plus any additional amounts for prior year’s claims, any claim paid outside of aggregate, and/or any employer-funded prescription claims. The amount to be deposited monthly shall be based on current enrollment; therefore, the amount of the monthly deposit is subject to change, at any time, based on the addition or deletion of employees/dependents.

Any remaining balance of deposits, calculated on a policy year basis, not needed to pay employer’s claims by the end of the policy year may, at the Employer’s selection, be held by the Administrator and applied to the next policy year’s claims accumulation fund or, after a period of six (6) months, refunded directly to the Employer.

- (b) Deposit into the Claims Paying Account such additional amounts as directed by Administrator within ten (10) days of either written or oral notification.
- (c) Retain the ultimate responsibility for the shared portions of the claims, including, but not limited to, all benefits payable, expenses and costs, which are or have been incurred pursuant to the terms of the Plan or Agreement;

- (d) Indemnify Administrator, its employees, agents, successors, and assigns and hold them harmless against any and all loss, damage, costs and expense, including attorneys' fees, arising from or connected in any way with a claim, suit, demand, allegation or other similar charge asserted against Administrator, its employees, agents, successors or assigns, arising out of or connected in any way with Agreement, including, but not limited to, an action due to fraud, dishonesty or to recover benefits pursuant to the Plan; and
- (e) Reimburse Administrator for claim investigation expenses in excess of the usual amount associated with the processing and investigation of routine claims but only if Administrator has first obtained Employer's approval prior to initiating the investigation.

1.3 Employer and Administrator hereby acknowledge and agree that the following terms and conditions apply to Agreement:

- (a) Administrator does not assume any liability or responsibility for funding the Plan, or any liability or responsibility for any losses to the Plan which Administrator has not specifically assumed pursuant to the terms of the Agreement;
- (b) Administrator is not a fiduciary or a co-fiduciary of Employer or the Plan, and Administrator shall not perform any fiduciary duties, as defined by the Employees Retirement Income Security Act ("ERISA"), or other such similar act or statute. All reporting and/or disclosure requirements with respect to the Plan, which may be required by ERISA or other such similar act or statute, are the sole responsibility of Employer;
- (c) Administrator makes no representation to Employer concerning the federal, state or local tax status or the legal status of the Plan; Employer hereby acknowledges that, in the event it has such questions, Employer will consult with its legal, tax and/or accounting advisors;
- (d) The persons covered by the Plan shall include only those full-time employees and their eligible dependents who are insured pursuant to the terms of the Plan ("Insured Persons"); and
- (e) Both the Plan and Agreement must be in force in order to properly fulfill the obligations and duties contemplated by the Plan and Agreement; therefore, it is expressly agreed that if Plan is terminated for any reason, this agreement may be terminated.

1.4 Employer and Administrator acknowledge certain state and federal laws governing the use and disclosure of nonpublic Personal Health Information (PHI) as such will disclosed to Administrator.

Administrator agrees that it will comply with all applicable requirements described in Exhibit A attached hereto and made a part hereof.

Section 2. Authority to Administer Claims

Employer hereby authorizes Administrator to perform the administrative duties necessary to the performance of Agreement.

Such duties include, but are not limited to:

Calculating all medical claims for the Plan in strict accordance with the provisions, limitations, and exclusions of the Plan. Such provisions, limitations, and exclusions include (i) a strict adherence to the eligibility requirements and effective dates of coverage, which shall be identical in every respect and shall coincide with the terms of the Plan; and (ii) that an Insured Person or health care provider shall not be reimbursed for any expense which would not have been a Covered Charge as defined pursuant to the terms of the Plan.

Section 3. Termination

3.1 Agreement may be terminated:

- (a) on the date the Plan terminates for any reason;
- (b) by Administrator, in the event the balance of the Claims Payment Account is insufficient to meet the obligations of the Plan or if Administrator, in its sole discretion, determines that Employer is not fulfilling its obligations pursuant to the terms of Agreement;
- (c) upon fifteen (15) days written notice by Employer, in the event that Administrator fails to perform the duties as described herein; or
- (d) by notice of intent to terminate as set forth in Section 6 herein.

3.2 Upon termination of Agreement for any reason, (a) all expenses pending or outstanding against Employer and (b) the amount of claims paid during the present or prior policy year in excess of deposits received and less than the Employer's maximum liability amount shall survive termination and be the sole responsibility of Employer.

3.3 Upon termination of this Agreement for any reason, any remaining balance of deposits in the Claims Paying Account may be held by the Administrator for a period of twelve (12) months to be used to pay any remaining medical claims for benefits which are payable pursuant to the terms of the Plan. At the end of this twelve (12) month period any remaining balance of deposits will be refunded directly to the Employer.

Section 4. Claims Administration Fee

- 4.1 For services rendered by Administrator, Employer agrees to pay Administrator on the first day of each month during the term of Agreement, an amount determined by multiplying the number of Employees by \$_____.
- 4.2 Administrator shall give Employer written notice of its intent to adjust fees as set forth herein at least thirty (30) days prior to adjustment.

Section 5. Employer Right to Audit

Employer shall have the right to audit records maintained by Administrator relating to Employer’s shared portion of the Plan upon five (5) days’ advance notice to Administrator. The time and manner of the audit shall be during normal business hours and by mutual consent of the parties and subject to all applicable legal restrictions.

Section 6. Term of Agreement

The initial term of this Agreement shall be for twelve (12) months commencing on the _____ day of _____, 20___. The Agreement shall then automatically renew for successive one policy term unless terminated pursuant to the terms of Section 3 herein or unless written notice of intent to cancel is given by the other party at least sixty (60) days prior to the end of the term.

Section 7. Notice

Written notice required to be given pursuant to the terms of Agreement shall be sent by certified mail to the other party at the address stated herein.

Section 8. Waiver

A waiver of a breach of any of the terms or conditions hereof shall not be construed as a waiver of any subsequent breach. Any consent to delay in the performance of any obligation shall be applicable only to the particular transaction to which it relates, and it shall not be applicable to any other obligation or transaction. Delay in the enforcement of any remedy in the event of breach of any term or condition hereof, or in the exercise by either party of any right hereunder, shall not be construed as a waiver.

Section 9. Controlling Law

The validity, interpretation, and performance of Agreement shall be controlled and construed under the laws of the State of Ohio.

Section 10. Entire Agreement

Agreement contains the entire agreement between Employer and Administrator with respect to the subject matter stated herein.

IN WITNESS WHEREOF, the parties hereto, having been duly authorized to do so, have caused Agreement to be executed as of the date indicated by their respective signatures.

APPROVED AND AGREED:

EMPLOYER:_____

BY:_____ DATE:_____

TITLE:_____

STREET ADDRESS:_____

CITY:_____ STATE:_____ ZIP CODE:_____

WESTERN RESERVE ADMINISTRATIVE SERVICES, INC.

BY:_____ DATE:_____

TITLE:_____

EXHIBIT A PRIVACY

WHEREAS, state and federal laws applicable to Administrator and Employer have been enacted governing the use and disclosure of Nonpublic Personal Health Information and Protected Health Information; and

WHEREAS, Administrator wishes to comply with such law, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as amended

WHEREAS, IN FURTHERANCE OF THE FOREGOING, Administrator and Employer desire to memorialize their agreement regarding the use and disclosure of Health Information (as defined below) of individuals.

NOW, THEREFORE, Administrator and Employer hereby agree as follows:

I. Definitions.

For purposes of this Acknowledgment, the following definitions apply:

- A. "Health Information" for purposes of HIPAA means any information, whether oral or recorded, in any form or medium that:
 - 1. is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
 - 2. 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.
- B. "Individually Identifiable Health Information" for purposes of HIPAA means Health Information, including demographic information collected from an individual, and that:
 - 1. is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 - 2. 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
 - (a) that identifies the individual; or
 - (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- C. "Nonpublic Personal Health Information" means Health Information:
 - 1. that identifies an individual who is the subject of the information; or
 - 2. with respect to which there is a reasonable basis to believe that the information could be used to identify an individual.
- D. "Protected Health Information" means Individually Identifiable Health Information that is:
 - 1. transmitted by electronic media,
 - 2. maintained in any medium deemed to be electronic media in HIPAA, or
 - 3. transmitted or maintained in any other form of medium.

II. Agreements Related to HIPAA.

In performing its duties and obligations under that certain contract between Administrator and Employer (the "Contract"), Administrator shall have access to or create Protected Health Information within the meaning of HIPAA and the regulations entitled, "Standards for the Privacy of Individually Identifiable Health Information" (the "Privacy Rule"). As such, Administrator is a "Business Associate" of Employer within the meaning of the Privacy Rule. Accordingly, Administrator hereby agrees that it shall:

- A. Not use or further disclose Protected Health Information other than as permitted or required by the Contract or as otherwise required by law.
- B. Use appropriate safeguards to prevent unauthorized uses or disclosures of Protected Health Information.
- C. Mitigate, to the extent practicable, any harmful effect known to Administrator of a use or disclosure of Protected Health Information by Administrator in violation of the requirements of this Agreement.
- D. Ensure that any agents of Administrator, including, but not limited to, contractors and subcontractors, to whom Administrator provides Protected Health Information created or received by Administrator on behalf of Employer, agree to the same restrictions and conditions that apply to Employer with respect to such information.

- E. Timely respond to any requests received by Administrator from individuals seeking access to or copies of Protected Health Information received or created by Administrator on behalf of Employer.
- F. Timely respond to any requests from individuals seeking to amend Protected Health Information maintained by or on behalf of Employer.
- G. Timely respond to individuals seeking an accounting of disclosures of Protected Health Information.
- H. Make its internal practices, books, and records relating to the use and disclosure of Protected Health Information created or received by Administrator on behalf of Employer, available to the Secretary of the Department of Health and Human Services (the "Secretary") for purposes of determining Administrator's compliance with HIPAA and the privacy regulations thereunder.
- I. At termination or expiration of the Contract, if feasible, return or destroy all Protected Health Information created or received by Administrator on behalf of Employer, that Administrator still maintains in any form, and retain no copies of such information; or, if such return or destruction is not feasible, Administrator shall extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

III. Termination.

Employer may immediately terminate the Contract and any other contracts between Administrator and Employer if it determines that Administrator has violated any material requirements of applicable state or federal law or this Agreement. Alternatively, at the discretion of Employer, Employer may grant to Administrator a reasonable time in which to cure any such violations to the reasonable satisfaction of Employer. The duties and obligations of Administrator under this Agreement shall continue in effect notwithstanding any such termination.

IV. Miscellaneous.

- A. Notices. Any notices to be provided hereunder shall be delivered in writing or electronically as follows:

If to Administrator:

If to Employer:

Privacy Site Official
17800 Royalton Road
Cleveland, OH, 44136

- B. Amendment. The parties agree to amend this Exhibit as necessary for the Parties to comply with any future amendments or clarifications to HIPAA.

