

ADMINISTRATIVE SERVICES AGREEMENT (ASA)

This Administrative Services Agreement (Agreement), effective June 9, 2020 is made and entered into by and between **Basic Benefits, LLC dba Basic pacific**, that acts as a third party administrator, and **COUNTY OF NEVADA**, (EMPLOYER) the sponsoring employer of one or more employee benefit plans (referred to herein as "employee benefit plans").

RECITALS

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

☐ Flex Administration

☐ HRA Administration

☐ HSA Administration

AGREEMENT

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

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

any documents or forms prepared by Basic pacific, EMPLOYER shall report any inaccuracies or errors to Basic pacific upon discovery, or as soon as possible thereafter. Although Basic pacific may assist EMPLOYER as requested in the preparation of forms, returns and other documents, the decision to prepare and file such documents, as well as all other decisions relating to compliance with the reporting and disclosure requirements applicable to the employee benefit plan(s) shall be the sole responsibility of EMPLOYER.

- d. EMPLOYER shall notify Basic pacific of any changes in information previously given or supplied to Basic pacific that will impact Basic pacific's provision of Services under this Agreement, particularly with respect to any change or anticipated change in the employee benefit plan(s) or in the employee census data.
 - e. EMPLOYER is required to meet all reporting, disclosure and employee benefit plan requirements not specifically performed by Basic pacific and identified herein. Failure to comply with all such reporting and disclosure requirements is the sole responsibility of EMPLOYER.
 - f. Except as specifically set forth in this Agreement, Basic pacific shall have no responsibility or liability to any person to fund any employee benefit plan benefits.
 - g. Basic pacific may seek instructions from EMPLOYER on any matter related to the interpretation of any matter pertinent to the benefit plan(s) or services provided by Basic pacific and may await the written instructions from EMPLOYER without incurring any liability under this Agreement whatsoever. If at any time EMPLOYER should fail to give directions to Basic pacific in a timely manner, Basic pacific may act or refrain from acting, and shall be protected in acting or refraining from acting without such directions, as BASIC pacific reasonably deems in good faith to be appropriate and advisable under the circumstances.
- 6) Record Keeping: EMPLOYER and Basic pacific understand and agree to the following:
- a. All original employee benefit plan records and documents shall be maintained by EMPLOYER.
 - b. EMPLOYER understands and agrees that BASIC pacific will retain records for a minimum period of eight (8) years. Records more than eight (8) years old may be destroyed in an appropriate manner. Any records containing protected health information (as defined by HIPAA) shall be maintained in accordance with (1) the terms of the HIPAA privacy and security rules, as well as (2) the BAA entered into between Basic pacific and Employer.
 - c. Upon the termination of this Agreement, Basic pacific will, upon request by EMPLOYER, complete the processing of this Agreement under the terms and conditions that would be applicable if this Agreement were still otherwise in full force and effect through the date of termination. Upon receipt of a directive from EMPLOYER, Basic pacific will provide all information requested and maintained by Basic pacific to ensure the smooth and timely transfer of services to the new administrator. The data will be provided in Basic pacific's standard electronic format. An additional fee of \$150 per hour will be charged if EMPLOYER requests that Basic pacific provide data/materials in a non-standard format, or for assistance gathering information not maintained by Basic pacific. Undisputed fees must be paid to date prior to Basic pacific providing any data or material.
 - d. Basic pacific will promptly make copies of any employee benefit plan records and documents in its possession available to EMPLOYER upon request. Basic pacific shall also permit authorized representatives of EMPLOYER, at reasonable times, to have access to, examine, and make copies of, such records and documents, at EMPLOYER's expense.
 - e. Should copies of employee benefit plan records or documents be requested by any employee, participant, beneficiary, court or governmental agency, Basic pacific will promptly notify EMPLOYER and will make and provide the requested copies.
- 7) Confidential Information: All records, files, documents (including certain information that is known by Basic pacific to be confidential and proprietary to EMPLOYER's general organization, operations and structure) and the like relating to EMPLOYER's employee benefit plan(s), including, without limitation, personal information of employees of the EMPLOYER or participants in the employee benefit plans, with which Basic pacific shall come into contact shall remain the sole property of EMPLOYER and shall not be disclosed to third parties except as authorized in this Agreement, as authorized by the BAA between the Employer and Basic pacific, as otherwise authorized by EMPLOYER in writing, or pursuant to the direction or order of a governmental agency or a court of competent jurisdiction. To the extent permitted, Basic pacific will give EMPLOYER adequate time to contest such direction or order. However, any additional time spent by Basic pacific pertaining to an EMPLOYER that chooses to contest a governmental direction or order shall be billed to the EMPLOYER at the rate of \$150 per hour. Notwithstanding any of the foregoing, any examination or copying of participant records shall be carried out in a manner designed to protect the confidentiality of such information. All written materials constituting or incorporating any such information described herein shall be returned to EMPLOYER upon request.
- 8) No Legal or Tax Services: EMPLOYER recognizes that Basic pacific is not authorized to engage in the practices of law or accounting and that Basic pacific will not provide legal or tax services to EMPLOYER or any other person. EMPLOYER agrees that they are responsible to obtain legal and tax guidance from their counsel when appropriate. Whenever a legal or tax issue arises in the course of the work to be performed under this Agreement, EMPLOYER shall be responsible to obtain such legal or tax guidance as may be necessary to resolve the issue. EMPLOYER shall notify Basic pacific of their decision accordingly and Basic pacific shall be entitled to rely upon direction from EMPLOYER in the performance of its services for EMPLOYER.
- 9) Advice and Recommendations: EMPLOYER understands and agrees that, although Basic pacific may from time to time call to EMPLOYER's attention and make recommendations concerning potential or actual problems that may come to Basic pacific's attention with respect to the operation and administration of EMPLOYER's employee benefit plan(s), such advice and recommendations are a matter of accommodation only and Basic pacific shall have no duty to give such advice, make such recommendations, or otherwise to question any actions or decisions of EMPLOYER, the sponsoring employer, any employee benefit plan fiduciary, or any of their respective agents or employees.
- 10) Not a Fiduciary: EMPLOYER and Basic pacific understand and agree to the following:
- a. EMPLOYER understands and agrees that Basic pacific is not the "Plan Administrator" of any of the employee benefit plan(s) and that Basic pacific is not a fiduciary with respect to any such employee benefit plan. Basic pacific acts in a ministerial capacity only. EMPLOYER will communicate to the sponsoring employer (if different), all employee benefit plan fiduciaries, and participants that Basic pacific does not act as a fiduciary.
 - b. EMPLOYER and each employee benefit plan fiduciary shall retain his, her, it's or their full authority, discretion and responsibility for the operation of the employee benefit plan(s) with respect to which Basic pacific is providing its services under this Agreement. Basic pacific shall be entitled to rely on the EMPLOYER's or other plan fiduciary's decision with respect to any claim for benefits under any employee benefit plan, and Basic pacific shall perform its services under this Agreement in accordance with such decisions.
 - c. Unless expressly stated in an amendment to the Agreement, or in a separate agreement, Basic pacific accepts no responsibility for the distribution of summary plan descriptions (SPD's) to employees or dependents.
- 11) Independent Contractor Status: Neither Basic pacific, nor any party contracting with Basic pacific shall be deemed to be an employee of EMPLOYER. Basic pacific is and shall be an independent contractor with respect to EMPLOYER. The legal relationship of any person performing services for Basic pacific shall be one solely between Basic pacific and such person. Neither party has the right or ability to bind the other party to any agreement with a third party or to incur any obligation or liability on behalf of the other party without the other party's written consent.
- 12) Indemnity by EMPLOYER:

- a. Limitation on Cumulative Liability. The cumulative liability of Client to BASIC Benefits (and BASIC Benefits to Client) for any actual or alleged damages arising out of, based on or relating to this Agreement, whether based upon breach of contract, tort (including negligence), warranty or any other legal theory, shall not exceed the amount of aggregate general liability coverage set forth below, except as provided under any Business Associate Agreement or confidential information as described in Section C entered into by the Parties which is incorporated herein by reference.
 - b. Limitation on Specified Damages. In no event shall either Party be liable for any indirect, special, incidental, consequential, punitive, or exemplary damages (including damages related to delays, loss of data, interruption of service or loss of business or profits or revenue), even if either Party has been advised of the possibility of such damages. In no event shall either Party be liable for any third-party claim.
 - c. Assertion of Claims. Any claim or cause of action arising out of, based on, or relating to this Agreement not presented to both Parties within six months from the discovery of the claim or cause of action shall be deemed waived. Both Parties shall have the duty to mitigate damages for which the opposite Party may become responsible under this Agreement.
 - d. Third Party Indemnification. Each Party agrees to indemnify and hold harmless the other party, its officers, employees, and agents from and against third party fines, claims, demands, suits, actions, or costs, including reasonable attorneys' fees of any kind and nature, to the extent they arise by reason of the indemnitor's acts or failures to act as described in this Agreement.
 - e. Indemnification by Client. Client shall indemnify BASIC Benefits and hold it harmless from and against all loss, liability, damage, expense, attorney's fees, or other obligations resulting from, or arising out of, any act or omission of Client in connection with the Agreement, or claim, demand, or lawsuit in connection with services performed (or not performed) by Client hereunder. In addition, Client shall indemnify BASIC Benefits and hold it harmless from and against any liability, expense, demand, or other obligation resulting from or arising out of any applicable taxes, or similar assessment (federal or state), for which Client is solely liable.
 - f. Indemnification by BASIC Benefits. BASIC Benefits shall indemnify Client and hold it harmless from and against all loss, liability, damage, expense, attorney's fees, or other obligations resulting from, or arising out of, any act or omission of Basic Benefits in connection with the Agreement.
- 13) Insurance: Basic Benefits shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Basic Benefits, its agents, representatives, or employees. Coverage shall be at least as broad as:
- a. Commercial General Liability (CGL) Insurance Services Office Form CG 00 01 covering CGI on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
 - b. Automobile Liability Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) with limit no less than \$1,000,000 per accident for bodily injury and property damage.
 - c. Worker's compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
 - d. Professional Liability Insurance with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
 - e. Cyber Liability insurance, with limits not less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is
 - f. If Basic Benefits maintains broader coverage and/or higher limits than the minimums shown above, the Employer requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimums limits of insurance and coverage shall be available to the Employer.
 - g. The Employer, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Basic Benefits including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Basic Benefit's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
 - h. Subject to Section 12a Limitation on Cumulative Liability above,
 - i. Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the Employer.
 - j. Self-insured retentions must be declared to and approved by the Employer. The Employer may require Basic Benefits to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses with the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Employer.
 - k. Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Employer.
 - l. Basic Benefits shall furnish the employer with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Employer before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive Basic Benefits' obligation to provide them. The Employer reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
 - m. Basic Benefits shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Basic Benefits shall ensure that Employer is an additional insured on insurance required from subcontractors.
- 14) Amendment: Except as otherwise provided in this Agreement, no waiver or modification of any part of this Agreement shall be valid unless in writing and duly executed by both parties. This Agreement may be amended at any time, in whole or in part, in writing signed by EMPLOYER and Basic Benefits that recites specifically that it is an amendment to the terms of this Agreement.
- 15) Governing Law: The laws of the State of California, without regard to California's conflict of law's provisions, shall govern the construction and interpretation of this Agreement. Both Parties consent to jurisdiction and venue in the state and federal courts in Placer County, California. In any action or suit to enforce any right or remedy in this Agreement or to interpret any provision of this Agreement, the prevailing Party in a final determination shall be entitled to recover its costs, including reasonable attorneys' fees.
- 16) Audit Rights. The parties agree to cooperate in all reasonable audits. Audit fees shall be payable by the party initiating the audit. Audits shall be conducted using procedures mutually agreed upon by the parties. Results of the audit may be shared with the party being audited at the sole discretion of the party initiating the audit.
- 17) Non-Assumption of Liabilities. Unless specifically provided in this Agreement and Addendum(s), the parties do not assume the existing or future obligations, liabilities or debts of the other party.
- 18) Partial Invalidity: The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision of this Agreement.

- 19) Waiver: Failure to insist upon strict compliance with any provision of this Agreement shall not be deemed to be a waiver of such provision or any other provision. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other provision or of any subsequent breach of such provision.
- 20) Assignment: This Agreement is binding on the Parties hereto and their respective successors and assigns. Either Party may, or has the power to, assign this Agreement without the prior written consent of the other but with 30 days-notice of an intent to assign. Further, BASIC Benefits may assign its rights and obligations under this Agreement without the approval of Client or notice to Client (a) to an entity which acquires all or substantially all of the assets of BASIC Benefits, or (b) to any subsidiary or Affiliate or successor in a merger, acquisition, restructuring or reorganization of BASIC Benefits.
- 21) Notice: Any notice required or permitted to be given under this Agreement shall be provided in writing and delivered by the most expeditious means available including, but not limited to email, facsimile, overnight courier or certified or registered mail to the addresses set forth below.

Notice to EMPLOYER shall be sent to:

Employer:

County of Nevada

950 Maidu Avenue

Nevada City, California 95959

BASIC Benefits

Headquarters

9246 Portage Industrial Dr.

Portage, MI 49024

- 22) Enforcement: In the event a dispute should arise regarding the interpretation or enforcement of any of the terms of this Agreement, the parties shall attempt in good faith to resolve informally and promptly any such dispute. The Parties agree that this Agreement shall be governed by and construed and interpreted in accordance with the laws of California without giving effect to any principles of conflicts of law.
- 23) Force Majeure: Except for either Party's obligations as stated in this Agreement, neither Party is responsible for delays or failures in performance resulting from acts or events beyond its reasonable control, including but not limited to, acts of nature, governmental actions, fire, labor difficulties or shortages, civil disturbances, transportation problems, interruptions of power supply or communications or natural disasters, or interruptions of financial markets, provided such Party takes reasonable efforts to minimize the effect of such acts or events.
- 24) Limitations on Actions: Notwithstanding any applicable law that may provide for a longer period of time, no action, regardless of its form, arising out of this Agreement may be brought by either party more than two (2) years after the cause of action has arisen, including if the action involves nonpayment.
- 25) Fees and Charges: Fees and charges specific to an employee benefit plan or service provided by BASIC pacific are stated on the Addendum(s) made part of this Agreement. General fees and charges are as follows:
- Document/Service Agreement Modifications – BASIC pacific provides complete documents and service agreements as part of our base service fee. Because BASIC pacific uses a professional document system, all documents generated by the system are maintained by the attorneys of the system provider. As such, BASIC pacific cannot modify document language unless it is intended to be edited within the system. As documents are the property of each EMPLOYER, EMPLOYER is free to modify any document language that is desired. However, BASIC pacific will only support or retain edits that are designed to be permitted within the system. Any changes made by EMPLOYER that are not intended to be edited within the system shall be the sole responsibility of EMPLOYER. In addition, future amendments and restatements generated in the system will not reflect such changes made by EMPLOYER. BASIC pacific will not charge EMPLOYER for up to one hour of time pertaining to documents and document revisions each year. BASIC pacific staff time spent at EMPLOYER's request in excess of one hour per year will be charged to EMPLOYER at the rate of \$75/hour. Should EMPLOYER desire a legal opinion, BASIC pacific will make their consulting ERISA attorney available to EMPLOYER at the hourly rate then charged to BASIC pacific by such attorney.
 - All undisputed fees are due and payable within thirty (30) days of the date of the invoice. A late payment penalty may be charged for all undisputed fees not received within sixty (60) days of the invoice date. The penalty will be one- and one-half percent (1.5%) of the undisputed delinquent balance per month or, where a lower rate is prescribed by law, the highest rate thereby permitted. In addition, BASIC pacific retains the right to suspend or terminate services if the delinquent payment is not received by BASIC pacific within ninety (90) days of the invoice date, provided EMPLOYER is given at least thirty (30) days' notice of delinquency. An additional reinstatement fee will apply to reinstate services after suspension or termination due to EMPLOYER's failure to pay undisputed fees by the deadline stated herein.
 - Upon termination of services, BASIC pacific reserves the right to suspend all services until all undisputed fees due are received from EMPLOYER. Further, BASIC pacific reserves the right to deduct undisputed outstanding fees from EMPLOYER general assets held by BASIC pacific for the payment of benefits.
 - BASIC pacific reserves the right to modify charges for administrative services and assistance effective on the contract renewal date provided EMPLOYER receives 60 days advance notice.
 - Upon request by EMPLOYER, BASIC pacific will assist EMPLOYER with issues that existed prior to the commencement of services with BASIC pacific. The additional charge for this service is \$75 per hour.
 - Work that must be duplicated or corrected resulting from late or inaccurate information from EMPLOYER (e.g. resend COBRA notices, correct posted FSA contributions, etc.) may be charged at the rate of \$75 per hour.
 - EMPLOYER may request that any document or material be mailed via special delivery. EMPLOYER understands and agrees to pay shipping and handling charges incurred by BASIC pacific for all requests for special delivery. Upon request, BASIC pacific will ask EMPLOYER for their shipping number. Alternatively, BASIC pacific will add the charge to a subsequent EMPLOYER invoice.
 - BASIC pacific will add an additional fee of \$20 to EMPLOYER's monthly fee invoice for each wire transfer received from EMPLOYER (fees or claim funding). EMPLOYER may avoid this charge by remitting funds by check or ACH.
 - If requested by EMPLOYER, BASIC pacific will name EMPLOYER as a "Primary" and/or "Additional" insured on BASIC pacific's General/Business liability policy at no charge. However, should EMPLOYER require BASIC pacific to name EMPLOYER as "Primary and Non-Contributory" insured, EMPLOYER understands and agrees that BASIC pacific will pass through to EMPLOYER (i.e. EMPLOYER will pay) additional charges (if any) charged by BASIC pacific's insurer to name EMPLOYER as "Primary and Non-Contributory".
- 26) Consideration: EMPLOYER understands and agrees that authorizing services to be performed by BASIC pacific or paying fees to BASIC pacific (whether paid directly or by a third-party), constitutes acceptance by EMPLOYER of the terms and conditions of this Agreement (including all Addendums listed herein) even if EMPLOYER has not yet executed and returned this Agreement to BASIC pacific by the first day of the contract period specified herein.

27) Entire Agreement: This Agreement (including the Addendums which are a part of this Agreement and the Business Associate Agreement, if applicable) constitutes the entire agreement between BASIC pacific and EMPLOYER as it relates to the provision of administrative services. This Agreement supersedes all prior and contemporaneous agreements, understandings and representations between the parties, whether written or oral.

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

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

BASIC Benefits:

Client: County of Nevada _____

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ADDENDUM TO THE ADMINISTRATIVE SERVICES AGREEMENT

FLEXIBLE BENEFIT PLAN ADMINISTRATION SERVICES AGREEMENT

This Addendum to the Administrative Services Agreement is made and entered into by and between **Basic Benefits, LLC dba Basic pacific**, which acts as a third-party administrator for the Flexible Benefit Plan administration services (Plan), and Nevada County, the sponsoring employer (EMPLOYER).

TERM

This Agreement commences on June 9, 2020 ("Effective Date") and has an initial term of one year from the Effective Date (the "Initial Term"). Thereafter, the Agreement will automatically renew for additional one-year periods (each a "Renewal Term"), unless either Party notifies the other of an intent to not renew the Agreement no later than 30 days prior to the end of the Initial Term or Renewal Term. The Initial Term and the Renewal Terms, if any, are collectively referred to as the "Term."

GENERAL PROVISIONS

Basic pacific agrees to:

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

Employer understands and agrees:

- 1) To provide Basic pacific with at least one EMPLOYER email address to receive both confidential and day-to-day Plan materials, such as documents, administration forms, and reports. EMPLOYER further agrees to notify Basic pacific in a timely manner whenever an email or contact person changes. Basic pacific provides many documents, forms & reports exclusively in an electronic format. Accordingly, the value of the Basic pacific service is

seriously compromised if the EMPLOYER cannot communicate via email. In addition, all written, verbal, or implied performance guarantees, and warranties are voided if EMPLOYER cannot communicate via email.

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

Pricing - Appendix I

Setup Fee	\$0.00
Annual Fee	\$0.00
Monthly Flex Administration Fee*	\$3.50 per participant (\$50.00 Monthly Minimum)**
Monthly Commuter Benefit Administration Fee*	\$ N/A per participant (\$ N/A Monthly Minimum)
(*No monthly charge for Run Out or Grace Period for active clients)	

Billing cycles vary from monthly, quarterly or annually depending on annual fees

**** Fee paid through Building Blocks for Business as long as they remain a client**

Optional Services below (additional fees apply if selected):

- BASIC Benefits has the right to apply additional fees for any service outside the scope of its contracted services
- Employee meetings are available the first plan year via online webinar at no cost, based on scheduling availability***
- \$1.50 per enrollment or a \$25 minimum if Employer chooses to submit paper/non-electronic enrollments, or electronic not in BASIC's format***
- Enrollment booklets may be purchased in one bulk mailing for \$0.95 per booklet + \$50 shipping fee (electronic communications included in standard service) ***
- When BASIC holds Client funds for settlement (BASIC Bank Account & TPA Settlement Account), there is a \$50 per month fee/conditions apply***
- Summary Plan Descriptions (SPDs) may be purchased in one bulk mailing for \$1.50 per booklet + \$50 shipping fee (electronic communications included in standard service) ***
- Special Payment Processing - \$25-\$50/month, includes not issuing reimbursements directly to employees and not allowing direct deposit to employee bank accounts. ***
- Positive Pay Fee will be \$250 per month with processing Monday through Friday***
- Replacement Debit Card fees:
 - Lost debit card is \$5, charged to the participant's account when possible
 - Replacement due to a reporting error is \$5
- Any ACH Return or Check Nonsufficient Funds is \$50 fee per incident***
- Amend and/or restate Plan at Employer's request during the Plan Year: \$75/hour. ***
- Additional fee per wire transfer sent to Basic pacific: \$20 per wire transfer***
- FSA Runout Fees (termination groups) 60% of normal monthly administration fee (\$100 minimum)
Note: \$100 total runout minimum applies to the total runout period (regardless of number of months)
Note: 60% of the normal monthly cost x the number of months in the runout period***

EDI (Electronic Data Interchange) and Payroll Posting Files & Expectations:

Employer Responsibilities:

- A. Solely responsible for the accuracy of all data submitted to BASIC Benefits. Review BASIC Benefits' reports to ensure data has been received and processed accurately. BASIC Benefits will work with the Employer and their vendor to assist with resolving issues. ***
- B. Provide missing required data (if applicable) and understand files will not be processed until such data is provided by Employer; for example, payroll data that is required FSA employee terminations. ***
- C. Until the data exchange goes live between BASIC Benefits and Employee Navigator, continue to submit ongoing data changes to BASIC Benefits through BASIC Benefits' typical mechanisms (online forms) in a timely manner. ***

EDI Pricing:

A. Setup Fees:

- a. If BASIC spends more than 20 hours to establish the file(s) for a line of service, BASIC will charge \$115/hour for time spent over 20 hours. This fee is in addition to the setup fee. ***
- b. If the Client moves to a new Vendor requiring EDI files to be setup again, the setup fee is charged again for the new Vendor. ***

B. Monthly Fees (if applicable): Monthly fees will be assessed on a case by case basis for each line of service (likely between \$50 and \$250 per month) for EDI files with the following issues:

- a. Files not provided in BASIC's format***
- b. Required data is missing/not provided***
- c. Data fields with incorrect values that do not match BASIC's administration systems***
- d. Data is inaccurate or conflicting data is provided***
- e. Files transmitted in a non-standard manner***
- f. Other reasons as determined by BASIC***

***As the writing of the Agreement these fees are not applicable and will not be charged so long as the client stays with Building Blocks. If the client chooses to leave that relationship, they would be responsible to notify BASIC, at which time the Parties will agree to meet in good faith to discuss whether an amendment to the contract is necessary to address any new fees that may apply for these services.

EMPLOYER TO INITIAL WITH ACCEPTANCE OF FEES HERE _____

ADDENDUM TO THE ADMINISTRATIVE SERVICES AGREEMENT

HRA BENEFIT PLAN ADMINISTRATION SERVICES AGREEMENT

This Addendum to the Administrative Services Agreement is made and entered into by and between **Basic Benefits, LLC dba Basic pacific**, which acts as a third-party administrator for the HRA Benefit Plan administration services (Plan), and Nevada County, the sponsoring employer (EMPLOYER).

TERM

This Agreement commences on June 9, 2020 ("Effective Date") and has an initial term of one year from the Effective Date (the "Initial Term"). Thereafter, the Agreement will automatically renew for additional one-year periods (each a "Renewal Term"), unless either Party notifies the other of an intent to not renew the Agreement no later than 30 days prior to the end of the Initial Term or Renewal Term. The Initial Term and the Renewal Terms, if any, are collectively referred to as the "Term."

SERVICES AND MUTUAL RESPONSIBILITIES

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

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

acceptable if the Plan is audited. EMPLOYER hereby agrees to hold BASIC pacific harmless from any and all direct and indirect cost that may arise from the establishment of the COBRA premium.

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

POTENTIAL ADDITIONAL CHARGES

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

Pricing - Appendix I

HRA ADMINISTRATION FEES

Annual Fee	\$0.00
Charged at the beginning of each service year	
Base Monthly Fee	\$3.50per participant (\$50.00 Monthly Minimum)
Charged at the beginning of each service month	

Optional Services below (additional fees apply if selected):

- BASIC pacific has the right to apply additional fees for any service outside the scope of its contracted services
- Upon Availability: Employee meetings are available via online webinar at no cost. Onsite meetings are available for an additional fee.***
- HIPAA Certificates of Credible Coverage for HRA can be provided for an additional \$0.35 per participant per month***
- Replacement Debit Card fees:
 - Lost debit card is \$5, Charged to the participant's account when possible
 - Replacement due to a reporting error is \$5
- Any ACH Return or Check Nonsufficient Funds is \$50 fee per incident***
- \$20 per Wire Transfer Fee***
- Employers who term with BASIC will pay normal month fees for claims run-out period***

EDI (Electronic Data Interchange) Files & Expectations:

Employer Responsibilities:

- A. Solely responsible for the accuracy of all data submitted to BASIC Benefits. Review BASIC Benefits' reports to ensure data has been received and processed accurately, BASIC Benefits will work with the Employer and their vendor to assist with resolving issues. ***
- B. Provide missing required date (if applicable) and understand files will not be processed until such data is provided by Employer; for example, Level of coverage or effective date. ***
- C. Until the data exchange goes live between BASIC Benefits and Employee navigator, continue to submit ongoing data changes to BASIC Benefits through BASIC Benefits' typical mechanisms (online forms) in a timely manner. ***

Fees:

- A. There typically is not a set-up fee. If BASIC Benefits spends more than 20 hours to establish the file(s) for a line of service, BASIC Benefits will charge \$115/hour for time spent over 20 hours. ***
- B. Monthly Fees (if applicable): Monthly fees will be assessed on a case by case basis for each line of service (likely between \$50 and \$250 per month) for EDI files with the following issues:
 - a. Files not provided in BASIC Benefits' format***
 - b. Required data is missing/not provided***
 - c. Data is inaccurate or conflicting data is provided***
 - d. Files transmitted in a non-standard manner***
 - e. Other reasons as determined by BASIC Benefits***

***As the writing of the Agreement these fees are not applicable and will not be charged so long as the client stays with Building Blocks. If the client chooses to leave that relationship, they would be responsible to notify BASIC, at which time the Parties will agree to meet in good faith to discuss whether an amendment to the contract is necessary to address any new fees that may apply for these services.

EMPLOYER TO INITIAL WITH ACCEPTANCE OF FEES HERE_____

COBRA ADMINISTRATION SERVICE AGREEMENT

This Administration Service Agreement (Agreement) is made and entered into by and between County of Nevada ("Employer") and BASIC Benefits, LLC ("BASIC Benefits"), a Delaware company.

WHEREAS, the EMPLOYER has established one or more employee welfare benefit plans (hereafter referred to collectively as the "Plan") for the benefit of its eligible employees, spouses and dependents; and,

WHEREAS, the EMPLOYER is the Plan Sponsor and Plan Fiduciary for the Plan and, as such, has determined that it is required to comply with the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"); and,

WHEREAS, the EMPLOYER may appoint a third-party contract administrator to assist with COBRA for the Plan, and shall remain responsible for the maintenance and operation of the Plan; and,

WHEREAS, BASIC Benefits is in the business of providing third-party COBRA administration services to Plan Sponsors of such Plans; and,

WHEREAS, the EMPLOYER desires to enter into an agreement under which BASIC Benefits will perform specified administration services to EMPLOYER with respect to the Plan in accordance with this Agreement;

NOW THEREFORE, in consideration of the mutual agreements and covenants herein and other good and valuable consideration, the EMPLOYER and BASIC Benefits hereby agree as follows:

TERM

The term for services provided herein shall be effective as of June 9, 2020, and renews for additional one-year periods (each a "Renewal Term"), unless either Party notifies the other of an intent to not renew the Agreement no later than 60 days prior to the end of the Initial Term or Renewal Term, or the Agreement is terminated earlier pursuant to section 2 (Term of Agreement) of the Administrative Services Agreement or pursuant to the Termination provision immediately below.

TERMINATION

For each subsequent year, this Agreement shall automatically renew, unless discontinued for any of the following reasons:

- As of the first day of any calendar month after sixty (60) days written notice is provided by either party.
- As of any date upon which EMPLOYER and BASIC Benefits mutually agree in writing;
- As of the end of a period of thirty (30) days after formal notice of termination for cause has been given by either party to the other, provided that such cause has not been cured within such thirty (30) day period;
- Upon termination in accordance with the Force Majeure paragraph below; or,
- Upon the voluntary or involuntary dissolution of either party.
- Upon the termination of this Agreement, BASIC Benefits will, upon request by EMPLOYER, complete the processing of this Agreement under the terms and conditions that would be applicable if this Agreement were still otherwise in full force and effect through the date of termination. Upon receipt of a directive from EMPLOYER, BASIC Benefits will provide EMPLOYER, or an entity designated by EMPLOYER all information requested and maintained by BASIC Benefits to ensure the smooth and timely transfer of services to a new administrator. The data will be provided in the electronic format requested by EMPLOYER. All information, claims, requests, and elections submitted by QBs to BASIC Benefits after the date of termination will be redirected to EMPLOYER or an entity designated by EMPLOYER.

DUTIES OF BASIC

- BASIC Benefits will promptly make employee benefit plan records and documents in its possession available to EMPLOYER upon request.
- Should copies of employee benefit plan records or documents be requested by any QB, court or governmental agency, BASIC Benefits will promptly notify EMPLOYER and will provide the requested material in a timely manner.
- BASIC Benefits will perform all Services diligently and professionally, and at all times, in accordance with the standards and practices of care, skill, and diligence customarily observed by similar firms under similar circumstances. BASIC Benefits warrants that 1) it has the full right, power, legal capacity and authority to enter into, deliver and fully perform under this Agreement, 2) that its performance hereunder will comply with all applicable laws, rules and regulations governing such services; and, 3) that it will comply with all applicable privacy laws as defined in the Business Associate Agreement executed by the parties.
- Assist EMPLOYER in fulfilling those duties and responsibilities required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as amended, the regulations promulgated there under by the Department of Labor (DOL regulations) and the Department of the Treasury, the American Recovery and Reinvestment Act of 2009, and all other administrative law, guidance and applicable decisional law under and/or impacting COBRA (collectively, "Applicable Law") with regard to the employee benefit plans communicated to BASIC Benefits.
- BASIC Benefits will furnish all required notifications, including, but not limited to, the General Notice of COBRA Continuation Coverage Rights ("General Notice"), the COBRA Continuation Coverage Election Notice ("Qualifying Event Notice") and a notice of early termination that are consistent with the DOL model notices. It will furnish such notices in the time and manner prescribed by Applicable Law and the benefit plan documents.
- BASIC Benefits will make every reasonable effort to mail the DOL Initial (General) Notice and Qualifying Event Notice within three business days following receipt.
- BASIC Benefits guarantees all notices will be mailed within the timelines required by Applicable Law.
- BASIC Benefits will mail all COBRA notices required by Applicable Law USPS First Class to the address provided by EMPLOYER. A "hard" copy of the postage-prepaid envelope will be maintained for a period of not less than six (6) months. Thereafter, BASIC Benefits will maintain a copy of the envelope in .pdf format for a period of not less than seven (7) years. All other records will be maintained in electronic format for a period of not less than seven (7) years.
- BASIC Benefits will provide all State required COBRA notices.
- BASIC Benefits will notify carriers (or the EMPLOYER if requested) of all COBRA enrollments, terminations and changes of coverage in the manner instructed within three business days of receipt. For COBRA enrollments, "receipt" means all required paperwork is properly completed and the initial premium is received. BASIC Benefits will notify QBs as soon as administratively possible if their required paperwork is incomplete. This service does not guarantee that the carrier(s) will reinstate, terminate or change the coverage as directed by BASIC Benefits.
- BASIC Benefits will provide each Qualified Beneficiary ("QB") who elects COBRA with payment coupons. New coupons will be provided whenever there is a change of coverage or premiums. EMPLOYER understands and agrees that payment coupons are a value-added service and are not required to be provided. As will be stated in the Qualifying Event Notice, QBs will remain fully responsible to pay their COBRA premiums on a timely basis

even if they have not received payment coupons.

- BASIC Benefits will provide QBs with the following options to pay COBRA premiums after initial enrollment: (1) check; (2) ongoing ACH bank draft; (3) electronic/virtual check (additional charges apply); or, (4) credit card (additional charges apply). The EMPLOYER may pay COBRA premiums on behalf of a QB under a severance agreement.
- If a QB underpays their COBRA premium by an "insignificant amount", BASIC Benefits will issue a notice giving them 30 days to make up the underpayment. EMPLOYER understands and agrees to BASIC Benefits' definition of "insignificant amount", which is the lesser of \$50 or 10% of the premium due.
- BASIC Benefits will maintain all banking requirements necessary to receive and distribute COBRA premiums in a timely manner.
- BASIC Benefits will provide 24/7/365 EMPLOYER access to a full-service web portal. The portal will provide detailed, real-time plan and QB information, including last payment made and next payment due detail. EMPLOYER may run real-time management reports for all information needed, including: (a) election notifications mailed; (b) DOL "General" notices mailed; (c) all active and terminated QBs; (d) all QBs within their original election period; and, (e) all other notices mailed to QBs.
- BASIC Benefits will provide 24/7/365 QB access to a full-service web portal. The portal will provide detailed, real-time plan and payment information, including last payment made and next payment due detail. The QB will be able to pay their premium online if desired.
- BASIC Benefits will provide 24/7/365 broker access to a full-service web portal. The portal will provide detailed, real-time plan and QB information, including last payment made and next payment due detail. Broker may run real-time management reports for all information needed.
- On or about the 10th of each month, BASIC Benefits will remit premiums for the previous month to EMPLOYER.
- BASIC Benefits will provide unlimited toll-free customer service for employers and QBs.
- If requested by EMPLOYER (and approved by BASIC Benefits), BASIC Benefits will pay COBRA premiums directly to the appropriate carrier. This service is only available if the following conditions apply: (1) The carriers must provide a separate bill & account number for COBRA participants; (2) The carriers must permit bills to be adjusted; (3) the carrier must accept payment and eligibility data up to 60 days in arrears; and (4) the carriers must accept BASIC Benefits' reporting forms. If desired by the EMPLOYER (and approved by BASIC Benefits), the additional fee will be charged each month for each carrier bill. In addition, a one-time hourly fee of \$75 will be charged if the EMPLOYER requests BASIC Benefits' assistance with carrier bills that are not in existence at the time this service commences.
- BASIC Benefits will mail, assist QBs and process "open-enrollment" elections for QBs provided EMPLOYER provides BASIC Benefits with a "mail-ready" enrollment packet in a timely manner. Additional charges apply for packets that exceed 30 pages (60 sides).
- BASIC Benefits will assist EMPLOYER with an audit, whether initiated by a governmental agency or internally by EMPLOYER. There is no charge to provide standard management reports that can be generated directly from the administration system. BASIC Benefits will not charge EMPLOYER for the first 30 minutes of staff time required to provide EMPLOYER with additional information requested, including but not limited to: researching EMPLOYER records maintained outside the administration system, providing copies of checks, attending meetings on behalf of EMPLOYER and/or creating custom reports. Time in excess of 30 minutes will be billed at the rate of \$75 per hour. BASIC Benefits will honor the terms of this section for as long as records are maintained.
- BASIC Benefits shall permit authorized representatives of EMPLOYER, at reasonable times, to have access to, examine, and make copies of, such records and documents, at EMPLOYER's expense.
- BASIC Benefits agrees that it shall amend and update any material that has been superseded by changes in the

regulations or applicable laws governing the services provided under this Agreement.

DUTIES OF EMPLOYER

- EMPLOYER agrees to provide all carrier information necessary for BASIC Benefits to perform its duties under this Agreement, including but not limited to the plan name, plan number, renewal date, and eligibility contact information (including faxnumber).
- EMPLOYER agrees to report plan and eligibility information/changes in a timely manner.
- EMPLOYER agrees to provide accurate and complete information. Electronic information must be provided in the format required by BASIC Benefits. The charge to modify/correct/complete/customize/redesign electronic enrollment and eligibility data because it is not provided in the required format will be \$150 per hour. However, BASIC Benefits will notify EMPLOYER that the electronic enrollment and eligibility data was not provided in the required format and allow EMPLOYER to make any modifications or corrections beforehand.
- EMPLOYER agrees to reconcile carrier and BASIC Benefits records monthly to ensure carrier eligibility records are maintained accurately at all times. This means the EMPLOYER must compare carrier and BASIC Benefits records monthly to ensure they: (a) are not paying premiums to the carrier for coverage that has been terminated; (b) are paying carriers for coverage that has been elected and paid for by a QB; and, (c) are paying the correct premium. EMPLOYER is responsible for any premiums due as a result of EMPLOYER'S failure to maintain accurate and timely records. EMPLOYER understands and agrees that even if BASIC Benefits fails to notify carriers properly, any liability, premiums, penalties, and other charges incurred as a result of EMPLOYER'S failure to review and report discrepancies in a timely manner is and shall remain the sole responsibility of EMPLOYER. This EMPLOYER liability only applies if EMPLOYER pays COBRA premiums to the carrier. If BASIC Benefits pays the carriers, then BASIC Benefits accepts full financial responsibility to maintain eligibility with the carriers.
- EMPLOYER agrees to generate and review management reports monthly and report all inaccuracies and discrepancies immediately. EMPLOYER'S monthly responsibilities include:
(1) ensure that all required DOL General Notices were mailed; and, (2) ensure that all Qualifying Event Notices were mailed.
- If HIPAA requires that covered individuals (employee, spouse and dependent) receive a Certification of Creditable Coverage when there is a loss of coverage, regardless of the reason, the EMPLOYER may opt for BASIC Benefits' optional HIPAA Certification service. EMPLOYER agrees the service is limited to Certificates mailed when coverage is lost as a result of a COBRA qualifying event and upon termination of COBRA coverage for any reason. BASIC Benefits shall not be responsible to issue HIPAA Certifications under any other circumstances.
- EMPLOYER agrees to notify BASIC Benefits immediately upon an employee or spouse first becoming covered under one or more COBRA qualified health plans. EMPLOYER agrees that whenever possible, BASIC Benefits must be notified prior to coverage taking effect but never more than 14 days after coverage takes effect.
- EMPLOYER agrees to notify BASIC Benefits upon the occurrence of a COBRA "qualifying event" (as defined under Applicable Law) that results in a loss of coverage for an employee, spouse or dependent. EMPLOYER understands and agrees that it is legally responsible to notify BASIC Benefits of all COBRA Qualifying Events no later than 30 days after the event date.
- EMPLOYER agrees that all material generated by BASIC Benefits will be provided exclusively in English.
- EMPLOYER agrees to pay the charge for all special delivery requests. If requested, EMPLOYER must provide special delivery billing/payment information. BASIC Benefits will not ship special delivery without the EMPLOYER'S payment information.

- EMPLOYER agrees to maintain an approved email address on file with BASIC Benefits at all times.
- EMPLOYER agrees to notify BASIC Benefits at least 30 days in advance of adding, dropping or changing any health plan subject to COBRA, or, if less, immediately upon EMPLOYER receiving the information from the carrier(s). A "change" includes, but is not limited to, a change of premium. If the EMPLOYER fails to notify BASIC Benefits timely, EMPLOYER understands that they may be required to absorb the cost/additional cost of the premium for any period during which the COBRA participant did not receive timely advance notification.
- In performing its services under this Agreement, BASIC Benefits must rely upon EMPLOYER to provide timely, accurate and complete information. BASIC Benefits shall not be responsible for any losses, damages, claims or liability of any kind, caused by the failure of EMPLOYER to provide timely, accurate and complete information.
- Except as specifically set forth in this Agreement, BASIC Benefits shall have no responsibility or liability to any person to fund any Plan benefits or pay any Plan premiums.
- BASIC Benefits may seek instructions from EMPLOYER on any matter related to the interpretation pertinent to the Plan or services provided and may await formal instructions from EMPLOYER without incurring any liability under this Agreement whatsoever. If at any time EMPLOYER should fail to provide timely direction when requested, BASIC Benefits may act or refrain from acting, and shall be protected in acting or refraining from acting without such directions, as BASIC Benefits reasonably deems in good faith to be appropriate and advisable under the circumstances.
- EMPLOYER understands and agrees that should new and/or additional requirements that impact this service be imposed upon EMPLOYER by any Applicable Law or by the Plan, BASIC Benefits may modify this Agreement accordingly and may charge additional fees, if warranted. BASIC Benefits will provide EMPLOYER with written notice at least sixty (60) days prior should additional fees be required. Unless required by law, EMPLOYER will have the option to decline BASIC Benefits' offer to comply with such new/additional requirements, which may necessarily result in termination of services on a date mutually agreed upon by EMPLOYER and BASIC Benefits.

ADDITIONAL TERMS

- Confidential Information: All records, files, documents (including certain information that is known by BASIC Benefits to be confidential and proprietary to EMPLOYER's general organization, operations and structure) and the like relating to EMPLOYER's Plan, including, without limitation, personal information of employees of the EMPLOYER or participants in the employee benefit plans, with which BASIC Benefits shall come into contact shall remain the sole property of EMPLOYER and shall not be disclosed to third parties except as authorized in this Agreement, as authorized by the BAA between the Employer and BASIC Benefits, as otherwise authorized by EMPLOYER in writing, or pursuant to the direction or order of a governmental agency or a court of competent jurisdiction. To the extent permitted, BASIC Benefits will give EMPLOYER adequate time to contest such direction or order. However, any additional time spent by BASIC Benefits pertaining to an EMPLOYER that chooses to contest a governmental direction or order shall be billed to the EMPLOYER at the rate of \$150 per hour. Notwithstanding any of the foregoing, any examination or copying of participant records shall be carried out in a manner designed to protect the confidentiality of such information. All written materials constituting or incorporating any such information described herein shall be returned to EMPLOYER upon request.
- No Legal or Tax Services: EMPLOYER recognizes that BASIC Benefits is not authorized to engage in the practices of law or accounting and will not provide legal or tax services to EMPLOYER or any other person. EMPLOYER agrees that they are responsible to obtain legal and tax guidance from their counsel when appropriate. Whenever a legal or tax issue arises in the course of the work to be performed under this Agreement, EMPLOYER shall be responsible to obtain such legal or tax guidance as may be necessary to resolve the issue. EMPLOYER shall notify BASIC Benefits of their decision and BASIC Benefits shall be entitled to rely upon direction from EMPLOYER in the performance of its services.

- Advice and Recommendations: EMPLOYER understands and agrees that, although BASIC Benefits may from time to time call to EMPLOYER's attention and make recommendations concerning potential or actual problems that may come to BASIC Benefits' attention with respect to the operation and administration of EMPLOYER'S employee benefit plan(s), such advice and recommendations are a matter of accommodation only and BASIC Benefits shall have no duty to give such advice, make such recommendations, or otherwise to question any actions or decisions of EMPLOYER, any employee benefit plan fiduciary, or any of their respective agents or employees.
- Not a Fiduciary: EMPLOYER and BASIC Benefits understand and agree to the following:
 - A. EMPLOYER understands and agrees that BASIC Benefits is not the "Plan Administrator" of the Plan and that BASIC Benefits is not a fiduciary with respect to such Plan. BASIC Benefits acts in a ministerial capacity only.
 - B. EMPLOYER and each Plan fiduciary shall retain their full authority, discretion and responsibility for the operation of the Plan with respect to which BASIC Benefits is providing its services under this Agreement. BASIC Benefits shall be entitled to rely on the EMPLOYER's or other Plan fiduciary's decision with respect to any claim for benefits under the Plan, and BASIC Benefits shall perform its services under this Agreement in accordance with such decisions.
 - C. Unless expressly stated in this Agreement, or in a separate agreement, BASIC Benefits accepts no responsibility for the distribution of summary plan descriptions (SPDs) to QBs other than those provided as part of the annual open enrollment packet.
- Independent Contractor Status: Neither BASIC Benefits, nor any party contracting with BASIC Benefits shall be deemed to be an employee of EMPLOYER. BASIC Benefits is and shall be an independent contractor with respect to EMPLOYER. The legal relationship of any person performing services for BASIC Benefits shall be one solely between BASIC Benefits and such person. Neither party has the right or ability to bind the other party to any agreement with a third party or to incur any obligation or liability on behalf of the other party without the other party's written consent.
- Indemnity by EMPLOYER: EMPLOYER agrees to indemnify, defend and hold BASIC Benefits, its partners, directors, officers, employees, affiliates and successors harmless from any claim, damage, loss, demand, benefit, payment, tax, costs, charges, penalties and reasonable legal expenses (collectively, "Losses") resulting directly or indirectly from EMPLOYER's breach of its obligations under this Agreement or as a result of EMPLOYER's negligence or willful misconduct in performing its duties and responsibilities under this Agreement except to the extent such Losses result directly or indirectly from BASIC Benefits' breach of its obligations under this Agreement or from BASIC Benefits' negligence or willful misconduct in performing its duties and responsibilities under this Agreement.
- Indemnity by BASIC Benefits: BASIC Benefits agrees to indemnify, defend and hold EMPLOYER, its partners, directors, officers, employees, affiliates and successors harmless from any claim, damage, loss, demand, benefit, payment, tax, costs, charges, penalties and reasonable legal expenses (collectively, "Losses") resulting directly or indirectly from BASIC Benefits' breach of its obligations under this Agreement or as a result of BASIC Benefits' negligence or willful misconduct in performing its duties and responsibilities under this Agreement except to the extent such Losses result directly or indirectly from EMPLOYER's breach of its obligations under this Agreement or from EMPLOYER's negligence or willful misconduct in performing its duties and responsibilities under this Agreement.
- 1) Insurance: Basic Benefits shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Basic Benefits, its agents, representatives, or employees. Coverage shall be at least as broad as:

- a. Commercial General Liability (CGL) Insurance Services Office Form CG 00 01 covering CGI on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
 - b. Automobile Liability Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) with limit no less than \$1,000,000 per accident for bodily injury and property damage.
 - c. Worker's compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
 - d. Professional Liability Insurance with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
 - e. Cyber Liability insurance, with limits not less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is
 - f. If Basic Benefits maintains broader coverage and/or higher limits than the minimums shown above, the Employer requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimums limits of insurance and coverage shall be available to the Employer.
 - g. The Employer, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Basic Benefits including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Basic Benefit's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
 - h. Subject to Section 12a Limitation on Cumulative Liability above, for any claims related to this contract, Basic Benefits' insurance coverage shall be primary insurance with primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Employer, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Employer, its officers, officials, employees, or volunteers shall be excess of Basic Benefits' insurance and shall not contribute with it.
 - i. Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the Employer.
 - j. Self-insured retentions must be declared to and approved by the Employer. The Employer may require Basic Benefits to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses with the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Employer.
 - k. Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Employer.
 - l. Basic Benefits shall furnish the employer with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Employer before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive Basic Benefits' obligation to provide them. The Employer reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
 - m. Basic Benefits shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Basic Benefits shall ensure that Employer is an additional insured on insurance required from subcontractors.
- Amendment: Except as otherwise provided in this Agreement, no waiver or modification of any part of this Agreement shall be valid unless in writing and duly executed by both parties. This Agreement may be amended at any time, in whole or in part, in writing signed by EMPLOYER and BASIC Benefits that recites specifically that it is an amendment to the terms of this Agreement.
 - Governing Law: The laws of the State of California, without regard to California's conflict of laws provisions, shall govern the construction and interpretation of this Agreement. In any action or suit to enforce any right or remedy in this Agreement or to interpret any provision of this Agreement, the prevailing Party in a final determination shall be entitled to recover its costs, including reasonable attorneys' fees.
 - Audit Rights. The parties agree to cooperate in all reasonable audits. Audit fees shall be payable by the party initiating the audit. Audits shall be conducted using procedures mutually agreed upon by the parties. Results of the audit may be shared with the party being audited at the sole discretion of the party initiating the audit.
 - Non-Assumption of Liabilities. Unless specifically provided in this Agreement and Addendum(s), the parties do

not assume the existing or future obligations, liabilities or debts of the other party.

- Partial Invalidity: The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision of this Agreement.
- Waiver: Failure to insist upon strict compliance with any provision of this Agreement shall not be deemed to be a waiver of such provision or any other provision. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other provision or of any subsequent breach of such provision.
- Assignment: This Agreement is binding on the Parties hereto and their respective successors and assigns. Either Party may, or has the power to, assign this Agreement without the prior written consent of the other but with 30 days notice of an intent to assign. Further, BASIC Benefits may assign its rights and obligations under this Agreement without the approval of Client or notice to Client (a) to an entity which acquires all or substantially all of the assets of BASIC Benefits, or (b) to any subsidiary or Affiliate or successor in a merger, acquisition, restructuring or reorganization of BASIC Benefits.
- Notice: Any notice required or permitted to be given under this Agreement shall be provided in writing and delivered by the most expeditious means available including, but not limited to email, facsimile, overnight courier or certified or registered mail to the addresses set forth below.

Notice to EMPLOYER shall be sent to:

County of Nevada
950 Maidu Avenue

Nevada City, CA 95959

Notice to BASIC Benefits shall be sent to:

BASIC Benefits
3001 Lava Ridge Ct Ste 160

Roseville, CA 95661

- Enforcement: In the event a dispute should arise regarding the interpretation or enforcement of any of the terms of this Agreement, the parties shall attempt in good faith to resolve informally and promptly any such dispute.
- Force Majeure: In the event that either party is unable to perform any of its obligations under this Agreement because of an occurrence beyond the control and without the fault or negligence of the party affected and which by exercise or reasonable diligence such party is unable to prevent or provide against. (e.g., natural disaster, actions or decrees of governmental bodies, etc.) (Force Majeure Event), the affected party shall immediately give notice to the other party and shall resume performance within a reasonable time after the cause of such failure has been removed. Upon receipt of such notice, all of the other party's obligations under this Agreement, the performance of which is dependent upon the performance of the obligation that has been delayed by the Force Majeure Event, shall be suspended. If the period of nonperformance by the affected party exceeds thirty (30) days from the receipt of notice of the Force Majeure Event by the other party, the other party may terminate this Agreement immediately upon written notice to the affected party.
- Limitations on Actions: Notwithstanding any applicable law that may provide for a longer period of time, no action, regardless of its form and including if the action involves nonpayment, arising out of this Agreement may be brought by either party more than two (2) years after the party first becomes aware of the facts upon which a cause of action arises.
- Additional Fees and Charges: Fees and charges specific to an employee benefit plan or service provided by BASIC Benefits are stated in Exhibit 2 made part of this Agreement. General fees and charges are as follows:
 - A. Broker may pay the base monthly fee for COBRA services on the EMPLOYER'S behalf. The agreement to pay the fees is between the EMPLOYER and Broker. Should Broker, at any time and for any reason, not pay the fees when due, the EMPLOYER understands and agrees to pay such fees, in accordance

with the terms of this Agreement, upon receipt of an invoice from BASIC Benefits.

- B. All undisputed fees are due and payable within thirty (30) days of the date of the invoice. A late payment penalty may be charged for all undisputed fees not received within sixty (60) days of the invoice date. The penalty will be one and one-half percent (1.5%) of the undisputed delinquent balance per month or, where a lower rate is prescribed by law, the highest rate thereby permitted. In addition, BASIC Benefits retains the right to suspend or terminate services if the delinquent payment is not received within ninety (90) days of the invoice date, provided the designated individual at EMPLOYER is given at least thirty (30) days' written notice of delinquency. An additional reinstatement fee will apply to reinstate services after suspension or termination due to EMPLOYER's failure to pay undisputed fees by the deadline stated herein.
 - C. Upon termination of services, BASIC Benefits reserves the right to suspend all services until all undisputed fees due are received from EMPLOYER.
 - D. BASIC Benefits reserves the right to modify charges for administrative services and assistance effective on the contract renewal date provided EMPLOYER receives 120 days advance written notice.
 - E. Upon request by EMPLOYER, BASIC Benefits will assist EMPLOYER with issues that existed prior to the commencement of services with BASIC Benefits. The additional charge for this service is \$75 per hour.
 - F. Work that must be duplicated or corrected resulting from late or inaccurate information from EMPLOYER (e.g. resend COBRA notices, etc.) may be charged at the rate of \$75 per hour or the blanket per piece mailing fee, whichever is greater.
 - G. BASIC Benefits will charge EMPLOYER \$20 for each wire transfer received from EMPLOYER. There is no charge if the EMPLOYER sends an ACH payment to BASIC Benefits.
- Entire Agreement: This Agreement as amended from time to time, constitute the entire agreement between BASIC Benefits and EMPLOYER as it relates to the provision of administrative services. This Agreement supersedes all prior and contemporaneous agreements, understandings and representations between the parties, whether written or oral.
 - Signatures. This Agreement may be executed in separate counterparts, and by facsimile or electronically, each of which when so executed and delivered shall be a legally-binding original and all such counterparts shall together constitute one and the same instrument, binding on all parties, notwithstanding that each of the parties may have signed different counterparts. The parties agree that delivery of an executed counterpart signature hereof by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

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

IN WITNESS WHEREOF, the duly-authorized officers of the Parties hereto have executed this Agreement below.

BASIC Benefits

Employer: County of Nevada

Signature: _____ Signature: _____

Print Name: _____ Print Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

BASIC Benefits, LLC

9246 Portage Industrial Dr.

Portage, MI 49024

FEE SCHEDULE

<u>\$ waived</u>	First Year Setup Fee
<u>\$ waived</u>	Renewal Fee
<u>\$ 0.00*</u>	Per Insured Per Month *\$225.00 Monthly Fee
<u>\$ 2.00 each</u>	DOL General Notice (Initial Notices) to Benefitted Employees <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Fees:

\$ 6.00 per event "Mass Layoff" Fee – additional charge if employer lays off or terminates 15% or more employee during a 30-day period

2% Administration Fee (Charged on full premium, incl. severance): **Retained by BASIC Benefits**

Possible Fee Variances:

BASIC Benefits has the right to apply additional fees for any service outside the scope of its contracted services. BASIC Benefits will notify the employer in advance of any additional fees being assessed.

Open Enrollment Processing:

Unless otherwise contracted, Employer sends Open Enrollment information to COBRA participants and notifies insurance carriers of any changes that COBRA participants have made. Employer notifies BASIC of open enrollment changes.

Premium Open Enrollment Service - \$15 per packet/\$60 minimum: BASIC Benefits will assist the Employer to send materials to COBRA participants. Includes up to 11 pages printed 22 sides) per packet, standard mailing costs, assisting plan participants with forms and distributing completed forms as necessary. Please see open enrollment addendum for additional details.

As the writing of the Agreement these fees are not applicable and will not be charged so long as the client stays with Building Blocks. If the client chooses to leave that relationship, they would be responsible to notify BASIC, at which time the Parties will agree to meet in good faith to discuss whether an amendment to the contract is necessary to address any new fees that may apply for these services.

THE EMPLOYER TO INITIAL WITH ACCEPTANCE OF FEES HERE

SUMMARY OF COBRA PROCEDURES WITH COBRA ADDS/TERMS

Introduction

BASIC pacific's COBRA administration ensures COBRA compliance for your company. However, there are certain steps the Employer is required to take under COBRA:

1. Ensure that health plan coverage is accurate for all COBRA participants.
2. Notify BASIC pacific of any discrepancies in the monthly summary reports (available on BASIC pacific's secure web portal).
3. Notify BASIC pacific of insurance renewal rates and addition/changes of COBRA qualified benefits.
4. Provide carrier contact information for each plan for coverage reinstatements and terminations for COBRA participants. ***BASIC pacific can reinstate coverage with the carriers via email, fax or carrier website. Please note that BASIC pacific cannot complete carrier enrollment forms for the COBRA participants for reinstatement.***

Once notified, BASIC pacific sends notices to the employees for the initial notification (COBRA General Rights Notice) for new additions to the health plan and the notification (COBRA Specific Rights Notice) for qualifying events (loss of health insurance coverage). Qualifying events include:

- Termination of employment (voluntary or involuntary),
- Reduction of work hours,
- Retirement
- Loss of Eligibility
- Reduction in Force
- Employee's death,
- Divorce or legal separation,
- Loss of dependent status, and
- Medicare entitlement (provided this event causes an involuntary loss of coverage).

Please note: Employers should notify BASIC pacific of qualifying events within 30 days of the event.

These and other important COBRA administrative procedures are discussed in further detail below.

COBRA General Rights Notice

When an employee enrolls in a health plan, a notice must be mailed within **90 days** of the benefit start date. Employer will notify BASIC pacific of new employee enrollment on the group health plans (using BASIC pacific's secure web portal or approved reporting method), and BASIC pacific will process the COBRA General Rights Notice initial notifications. These notifications will be mailed to the employee's home address and this information will be available on BASIC pacific's secure web portal.

COBRA Specific Rights Notice

A COBRA Specific Rights Notice is required for all qualifying events listed above. The notice must be mailed within **44 days** of the loss of coverage. The Employer will notify BASIC pacific within **30 days** of the loss of coverage (using BASIC pacific's secure web portal or approved reporting method).

BASIC pacific will process the COBRA Specific Right Notice. The following information will be sent to the employee: COBRA Specific Rights Notice Letter and COBRA Continuation Coverage Election Form. The letter will be mailed to the employee's home address, addressed to the employee and any covered dependents via USPS First Class. BASIC pacific retains a copy of the postage pre-paid envelope as "proof" or mailing.

COBRA Summary and Election Process

Qualified Beneficiaries (COBRA-eligible individuals) have **60 days** to elect (to return a signed election form to BASIC pacific). The **60 days** starts from the date the Qualifying Event letter is mailed, or the loss of coverage date, whichever is later.

BASIC pacific requires receipt of the COBRA Continuation Coverage Election Form (including carrier required forms, if any) AND full payment of the initial premium prior to enrolling a COBRA participant in COBRA.

In most cases, BASIC pacific will also notify the carriers of the election.

BASIC pacific will provide the following information to the carrier(s):

- ***Name of the COBRA Participant and Social Security Number***
- ***COBRA Qualifying Event Date***
- ***COBRA Start Date***
- ***Applicable carrier group numbers, suffix numbers and plan codes***

Employer ensures the COBRA participant is added onto their health insurance on the carrier billing statements.

Finally, BASIC pacific will send an Enrollment Confirmation Letter and Premium Payment Coupons to the qualified beneficiaries for their use in remitting monthly premium payments.

Premium Collections

Once the COBRA election is made, the payment timeframe begins. The COBRA participant has **45 days** to make the account current (i.e., to pay through the current month, and with all past due premiums also paid).

Ongoing payments are due the first day of the month, with a **30 day** grace period (based on postmark date). COBRA participants will make their monthly premium payment to BASIC pacific. If the COBRA participant underpays a premium by an “insignificant amount”, we will notify the COBRA participant, who then has 30 days to make up the shortfall. This notice states that payment in full is due within **30 days** of the date of the notice.

BASIC pacific will reimburse the Employer for all premium payments after the end of each month. BASIC pacific retains the 2% administration fee on all COBRA premiums, including severance paid by Employer.

Termination of COBRA

BASIC pacific will notify Employer and insurance carriers if any COBRA terminations occur. This could be for non-payment of monthly COBRA premiums, voluntary termination, or end of COBRA time frame. The termination information will be available on BASIC pacific’s secure web portal.

BASIC pacific will send a letter to the qualified beneficiary notifying him/her of the termination of the beneficiary’s COBRA coverage.

BASIC pacific will terminate coverage with insurance carriers of the plans through which the COBRA participant was covered.

Employer ensures the COBRA participant is removed from their health insurance on the carrier billing statements.

Insurance Renewal Rates

BASIC pacific will advise the Employer **30 days** prior to the insurance plan rate changes. It is the responsibility of the Employer to provide BASIC pacific with the new rates and notify of changes in health plan carriers.

It is imperative that BASIC pacific receives the new rate information. If the rates are not received, this will delay the daily processing of all COBRA Specific Rights Notices, Plan Change Notices and posting of monthly premium payments.

Ongoing COBRA Administration Service

BASIC pacific sends payment coupons to COBRA participants, posts payments to the accounts, and notifies the Employer on monthly reports. BASIC pacific will notify the COBRA participants of rate renewal changes by sending a Plan Change Notice along with additional payment coupons.

BASIC pacific reimburses the Employer after the end of each month. Comprehensive management reports are available on the secure web portal.

Open Enrollment

Employer notifies BASIC pacific of open enrollment changes to ensure the COBRA participants are billed for the correct plans and rates. BASIC pacific offers various service levels to assist Employers with their open enrollment responsibility.

Subject to COBRA Annual Determination

The Employer must notify BASIC pacific if they are no longer subject to COBRA. This is determined each January based on the number of full-time equivalents employed in the prior calendar year. Employers that are subject to COBRA are: non-church entity that employed twenty (20) or more full-time (and/or full-time equivalent) employees on more than fifty percent (50%) of the Employer's business days during the preceding calendar year.

If an Employer is no longer subject to COBRA with active COBRA participants, these participants will continue COBRA coverage through the end of their COBRA coverage time periods.



BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement, is entered into as of June 9, 2020, by and between County of Nevada Health Plan (the "Plan" or "Covered Entity"); and BASIC Benefits, LLC ("Business Associate").

WITNESSETH:

WHEREAS, the Covered Entity previously has entered into a Master Services Agreement (the "MSA") with the Business Associate, whereby the Business Associate has agreed to provide certain services to the Plan;

WHEREAS, to provide such services to the Plan, the Business Associate must have access to certain protected health information ("Protected Health Information" or "PHI"), as defined in the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Standards") set forth by the U.S. Department of Health and Human Services ("HHS") pursuant to the Health Insurance Portability and Accountability Act of 1996, ("HIPAA") and amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), part of the American Recovery and Reinvestment Act of 2009 ("ARRA"), the Genetic Information Nondiscrimination Act of 2008 ("GINA"), and the final regulations to such Acts promulgated in January 2013;

WHEREAS, to comply with the requirements of the Privacy Standards, the Covered Entity must enter into this Business Associate Agreement with the Business Associate.

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

I. Definitions

The following terms used in this Business Associate Agreement ("BAA") shall have the same meaning as those terms in the Privacy Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Secretary, Subcontractor, and Use. If other terms are used, but not otherwise defined under this BAA, such terms shall then have the same meaning as those terms in the Privacy Rule.

(a) **Business Associate**. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR § 160.103.

(b) **Covered Entity**. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR § 160.103.

(c) **Electronic Protected Health Information**. “Electronic Protected Health Information” shall have the same meaning as the term “electronic protected health information” in 45 CFR §160.103.

(d) **Electronic Transactions Rule**. “Electronic Transactions Rule” shall mean the final regulations issued by HHS concerning standard transactions and code sets under 45 CFR Parts 160 and 162.

(e) **Genetic Information**. “Genetic Information” shall have the same meaning as the term “genetic information” in 45 CFR §160.103.

(f) **HIPAA Rules**. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

(g) **Individual**. “Individual” shall have the same meaning as the term “individual” in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

(h) **Privacy Rule**. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.

(i) **Protected Health Information (PHI)**. “Protected Health Information (PHI)” shall have the same meaning as the term “protected health information” in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of a Covered Entity pursuant to the MSA.

(j) **Required By Law**. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR §164.103.

(k) **Secretary**. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.

(l) **Security Incident**. “Security Incident” shall have the same meaning as the term “security incident” in 45 CFR §164.304.

(m) **Security Rule**. “Security Rule” shall mean the Security Standards and Implementation Specifications at 45 CFR Part 160 and Part 164, subpart C.

(n) **Standards for Electronic Transactions Rule**. “Standards for Electronic Transactions Rule” means the final regulations issued by HHS concerning standard transactions and code sets under the Administration Simplification provisions of HIPAA, 45 CFR Part 160 and Part 162.

(o) **Subcontractor.** “Subcontractor” shall have the same meaning as the term “subcontractor” in 45 CFR §160.103.

(p) **Transaction.** “Transaction” shall have the meaning given the term “transaction” in 45 CFR §160.103

(q) **Unsecured Protected Health Information.** “Unsecured Protected Health Information” shall have the meaning given the term “unsecured protected health information” in 45 CFR §164.402.

II. Safeguarding Privacy and Security of Protected Health Information

(a) ***Permitted Uses and Disclosures.*** The Business Associate is permitted to use and disclose Protected Health Information that it creates or receives on the Covered Entity’s behalf or receives from the Covered Entity (or another business associate of the Covered Entity) and to request Protected Health Information on the Covered Entity’s behalf (collectively, “Covered Entity’s Protected Health Information”) only:

(i) **Functions and Activities on the Covered Entity’s Behalf.** To perform those services referred to in the MSA.

(ii) **Business Associate’s Operations.** For the Business Associate’s proper management and administration or to carry out the Business Associate’s legal responsibilities, provided that, with respect to disclosure of the Covered Entity’s Protected Health Information, either:

(A) The disclosure is Required by Law; or

(B) The Business Associate obtains reasonable assurance from any person or entity to which the Business Associate will disclose the Covered Entity’s Protected Health Information that the person or entity will:

(1) Hold the Covered Entity’s Protected Health Information in confidence and use or further disclose the Covered Entity’s Protected Health Information only for the purpose for which the Business Associate disclosed the Covered Entity’s Protected Health Information to the person or entity or as Required by Law; and

(2) Promptly notify the Business Associate (who will in turn notify the Covered Entity in accordance with the breach notification provisions) of any instance of which the person or entity becomes aware in which the confidentiality of the Covered Entity’s Protected Health Information was breached.

(C) To de-identify the information in accordance with 45 CFR § 164.514(a) – (c) as necessary to perform those services required under the MSA.

(iii) Minimum Necessary. The Business Associate will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of the Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that the Business Associate will not be obligated to comply with this minimum-necessary limitation if neither the Business Associate nor the Covered Entity is required to limit its use, disclosure or request to the minimum necessary. The Business Associate and the Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the HITECH Act.

(b) Prohibition on Unauthorized Use or Disclosure. The Business Associate will neither use nor disclose the Covered Entity's Protected Health Information, except as permitted or required by this BAA or in writing by the Covered Entity or as Required by Law. This BAA does not authorize the Business Associate to use or disclose the Covered Entity's Protected Health Information in a manner that will violate Subpart E of 45 CFR Part 164 if done by the Covered Entity.

(c) Information Safeguards.

(i) Privacy of the Covered Entity's Protected Health Information. The Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of the Covered Entity's Protected Health Information. The safeguards must reasonably protect the Covered Entity's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made to a use or disclosure otherwise permitted by this BAA.

(ii) Security of the Covered Entity's Electronic Protected Health Information. The Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that the Business Associate creates, receives, maintains, or transmits on the Covered Entity's behalf as required by the Security Rule. The Business Associate will comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information, to prevent use or disclosure of protected health information other than as provided for by this BAA.

(iii) No Transfer of PHI Outside United States. Business Associate will not transfer Protected Health Information outside the United States without the prior written consent of the Covered Entity. In this context, a "transfer" outside the United States occurs if Business Associate's workforce members, agents, or subcontractors physically located outside the United States are able to access, use, or disclose Protected Health Information.

(iv) Policies and Procedures. The Business Associate shall maintain written policies and procedures, conduct a risk analysis, and train and discipline its workforce.

(d) *Subcontractors and Agents.* In accordance with 45 CFR § 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, the Business Associate will ensure that any of its Subcontractors and agents that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.

(e) *Prohibition on Sale of Records.* As of the effective date specified by HHS in final regulations to be issued on this topic, the Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual unless the Covered Entity or Business Associate obtained from the individual, in accordance with 45 CFR §164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that individual, except as otherwise allowed under the HITECH Act.

(f) *Prohibition on Use or Disclosure of Genetic Information.* Business Associate shall not use or disclose Genetic Information for underwriting purposes in violation of the HIPAA rules.

(g) *Penalties for Noncompliance.* The Business Associate acknowledges that it is subject to civil and criminal enforcement for failure to comply with the privacy rule and security rule under the HIPAA Rules, as amended by the HITECH Act.

III. Compliance with Electronic Transactions Rule

If the Business Associate conducts in whole or part Transactions on behalf of the Covered Entity for which HHS has established standards, the Business Associate will comply, and will require any Subcontractor or agent it involves with the conduct of such Transactions to comply, with each applicable requirement of the Electronic Transactions Rule. The Business Associate shall also comply with the National Provider Identifier requirements, if and to the extent applicable.

IV. Obligations of the Covered Entity

The Covered Entity shall notify the Business Associate of:

(a) Any limitation(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information;

(b) Any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information; and

(c) Any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

V. Permissible Requests by the Covered Entity

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

VI. Individual Rights

(a) Access. The Business Associate will, within twenty-five (25) calendar days following the Covered Entity's request, make available to the Covered Entity or, at the Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies of the Covered Entity's Protected Health Information about the individual that is in the Business Associate's custody or control, so that the Covered Entity may meet its access obligations under 45 CFR §164.524. Effective as of the date specified by HHS, if the Protected Health Information is held electronically in a designated record set in the Business Associate's custody or control, The Business Associate will provide an electronic copy in the form and format specified by the Covered Entity if it is readily producible in such format; if it is not readily producible in such format, the Business Associate will work with the Covered Entity to determine an alternative form and format as specified by the Covered Entity to meet its electronic access obligations under 45 CFR §164.524.

(b) Amendment. The Business Associate will, upon receipt of written notice from the Covered Entity, promptly amend or permit the Covered Entity access to amend any portion of the Covered Entity's Protected Health Information in a designated record set as directed or agreed to by the Covered Entity, so that the Covered Entity may meet its amendment obligations under 45 CFR §164.526.

(c) Disclosure Accounting. The Business Associate will maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy the Covered Entity's obligations under 45 CFR §164.528.

(i) Disclosures Subject to Accounting. The Business Associate will record the information specified below ("Disclosure Information") for each disclosure of the Covered Entity's Protected Health Information, not excepted from disclosure accounting as specified below, that the Business Associate makes to the Covered Entity or to a third party.

(ii) Disclosures Not Subject to Accounting. The Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of the Covered Entity's Protected Health Information if the Covered Entity need not account for such disclosures under the HIPAA Rules.

(iii) Disclosure Information. With respect to any disclosure by the Business Associate of the Covered Entity's Protected Health Information that is not excepted from disclosure accounting under the HIPAA Rules, the Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

(A) **Disclosure Information Generally.** Except for repetitive disclosures of the Covered Entity's Protected Health Information as specified below, the Disclosure Information that the Business Associate must record for each accountable disclosure is (1) the disclosure date, (2) the name and (if known) address of the entity to which the Business Associate made the disclosure, (3) a brief description of the Covered Entity's Protected Health Information disclosed, and (4) a brief statement of the purpose of the disclosure.

(B) **Disclosure Information for Repetitive Disclosures.** For repetitive disclosures of the Covered Entity's Protected Health Information that the Business Associate makes for a single purpose to the same person or entity (including the Covered Entity), the Disclosure Information that the Business Associate must record is either the Disclosure Information specified above for each accountable disclosure, or (1) the Disclosure Information specified above for the first of the repetitive accountable disclosures; (2) the frequency, periodicity, or number of the repetitive accountable disclosures; and (3) the date of the last of the repetitive accountable disclosures.

(iii) Availability of Disclosure Information. The Business Associate will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates (3 years for disclosures related to an Electronic Health Record, starting with the date specified by HHS). The Business Associate will make the Disclosure Information available to the Covered Entity within twenty-five (25) calendar days following the Covered Entity's request for such Disclosure Information to comply with an individual's request for disclosure accounting. Effective as of the date specified by HHS, with respect to disclosures related to an Electronic Health Record, the Business Associate shall provide the accounting directly to an individual making such a disclosure request, if a direct response is requested by the individual. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

(d) Restriction Agreements and Confidential Communications. The Covered Entity shall notify the Business Associate of any limitations in the notice of privacy practices of Covered Entity under 45 CFR §164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information. The Business Associate will comply with any agreement that the Covered Entity makes that either: (i) restricts use or disclosure of the Covered Entity's Protected Health Information pursuant to 45 CFR §164.522(a); or (ii) requires confidential communication about the Covered Entity's Protected Health Information pursuant to 45 CFR §164.522(b), provided that the Covered Entity notifies the Business Associate

in writing of the restriction or confidential communication obligations that the Business Associate must follow. The Covered Entity will promptly notify the Business Associate in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct the Business Associate whether any of the Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement. Effective February 17, 2010 (or such other date specified as the effective date by HHS), the Business Associate will comply with any restriction request if: (i) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (ii) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out-of-pocket in full.

VII. Breaches and Security Incidents

(a) *Reporting.*

(i) Impermissible Use or Disclosure. The Business Associate will report to Covered Entity any use or disclosure of Protected Health Information not permitted by this BAA not more than twenty-five (25) calendar days after Business Associate becomes aware of such non-permitted use or disclosure.

(ii) Privacy or Security Breach. The Business Associate will report to the Covered Entity any use or disclosure of the Covered Entity's Protected Health Information not permitted by this BAA of which it becomes aware, including breaches of Unsecured Protected Health Information as required by 45 CFR 164.410, and any Security Incident of which it becomes aware. The Business Associate will make the report to the Covered Entity's Privacy Official not more than twenty-five (25) calendar days after the Business Associate becomes aware of such non-permitted use or disclosure. If a delay is requested by a law-enforcement official in accordance with 45 CFR §164.412, the Business Associate may delay notifying the Covered Entity for the applicable time period. The Business Associate's report will at least:

(A) Identify the nature of the Breach or other non-permitted use or disclosure, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of the Breach;

(B) Identify the Covered Entity's Protected Health Information that was subject to the non-permitted use or disclosure or Breach (such as whether full name, social security number, date of birth, home address, account number or other information were involved) on an individual basis;

(C) Identify who made the non-permitted use or disclosure and who received the non-permitted use or disclosure;

(D) Identify what corrective or investigational action the Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects and to protect against any further Breaches;

(E) Identify what steps the individuals who were subject to a Breach should take to protect themselves; and

(F) Provide such other information, including a written report and risk assessment under 45 CFR §164.402, as the Covered Entity may reasonably request.

(iii) Security Incidents. The Business Associate will report to The Covered Entity any Security Incident of which the Business Associate becomes aware. The Business Associate will make this report once per month, except if any such Security Incident resulted in a disclosure not permitted by this BAA or Breach of Unsecured Protected Health Information, Business Associate will make the report in accordance with the provisions set forth above.

(b) Mitigation. The Business Associate shall mitigate, to the extent practicable, any harmful effect known to the Business Associate resulting from a use or disclosure in violation of this BAA.

VIII. Term and Termination

(a) Term. The term of this BAA shall be effective as of the date specified below and shall terminate when all Protected Health Information provided by the Covered Entity to the Business Associate or created or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity upon termination of the MSA.

(b) Right to Terminate for Cause. The Covered Entity may terminate the MSA if it determines, in its sole discretion, that the Business Associate has breached a material term of this BAA, and upon written notice to the Business Associate of the breach, the Business Associate fails to cure the breach within thirty (30) calendar days after receipt of the notice. Any such termination will be effective immediately or at such other date specified in the Covered Entity's notice of termination.

(c) Treatment of Protected Health Information on Termination.

(i) Return or Destruction of Covered Entity's Protected Health Information as Feasible. Upon termination or other conclusion of service provided under the MSA, the Business Associate will, at Covered Entity's election, return to the Covered Entity or destroy all of the Covered Entity's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived there from that allow identification of any individual who is a subject of the Covered Entity's Protected Health Information. This provision shall apply to Protected Health Information that is in the possession of Subcontractors or agents of the Business Associate. Further, the Business Associate shall require any such Subcontractor or agent to certify to the Business Associate that it

returned to the Business Associate (so that the Business Associate may return it to the Covered Entity) or destroyed all such information which could be returned or destroyed. The Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) calendar days following the effective date of the termination or other conclusion of the MSA.

(ii) Procedure When Return or Destruction Is Not Feasible. The Business Associate will identify any of the Covered Entity's Protected Health Information, including any that the Business Associate has disclosed to Subcontractors or agents as permitted under this BAA, that cannot feasibly be returned to the Covered Entity or destroyed and explain why return or destruction is infeasible. The Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. The Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) calendar days following the effective date of the termination or other conclusion of the MSA.

(iii) Continuing Privacy and Security Obligation. The Business Associate's obligation to protect the privacy and safeguard the security of the Covered Entity's Protected Health Information as specified in this BAA will be continuous and survive termination or other conclusion of this BAA and the MSA.

IX. Miscellaneous Provisions

(a) Definitions. All terms that are used but not otherwise defined in this BAA shall have the meaning specified under HIPAA, including its statute, regulations and other official government guidance.

(b) Inspection of Internal Practices, Books, and Records. The Business Associate will make its internal practices, books, and records relating to its use and disclosure of the Covered Entity's Protected Health Information available to the Covered Entity and to HHS to determine compliance with the HIPAA Rules.

(c) Amendment to Agreement. This BAA may be amended only by a written instrument signed by the parties. In case of a change in applicable law, the parties agree to negotiate in good faith to adopt such amendments as are necessary to comply with the change in law.

(d) No Third-Party Beneficiaries. Nothing in this BAA shall be construed as creating any rights or benefits to any third parties.

(e) Regulatory References. A reference in this BAA to a section in the Privacy Rule means the section as in effect or as amended.

(f) Survival. The respective rights and obligations under this BAA shall survive the termination of the MSA

(g) Interpretation. Any ambiguity in this BAA shall be resolved to permit the Covered Entity to comply with the HIPAA Rules.

(h) Notices. All notices hereunder shall be in writing and delivered by hand, by certified mail, return receipt requested or by overnight delivery. Notices shall be directed to the parties at their respective addresses set forth in the first paragraph of this BAA or below their signature, as appropriate, or at such other addresses as the parties may from time to time designate in writing.

(i) Entire Agreement; Modification. This BAA represents the entire agreement between the Business Associate and the Covered Entity relating to the subject matter hereof. No provision of this BAA may be modified, except in writing, signed by the parties.

(j) Indemnification. Each Party agrees to indemnify, defend and hold harmless each other Party, its affiliates and each of their respective directors, officers, employees, agents or assigns from and against any and all actions, causes of actions, claims, suits and demands whatever, and from all damages, liabilities, costs, charges, debts and expenses whatever (including reasonable attorneys' fees and expenses related to any litigation or other defense of any claims), which may be asserted or for which they may now or hereafter become subject arising in connection with (i) any misrepresentation, breach of warranty or non-fulfillment of any undertaking on the part of the Party to the MSA or this BAA; and (ii) any claims, demands, awards, judgments, actions, and proceedings made by any person or organization arising out of any way connected with the Party's performance.

(k) Assistance in Litigation or Administrative Proceedings. The Business Associate shall make itself, and any subcontractors, employees or agents assisting the Business Associate in the performance of its obligations under this BAA, available to the Covered Entity, at no cost to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers, or employees based upon a claimed violation of HIPAA, the HIPAA regulations, or other laws relating to security and privacy, except where the Business Associate or its subcontractors, employees, or agents are named as an adverse party.

(l) Binding Effect. This BAA shall be binding upon the parties hereto and their successors and assigns. For purposes of this BAA, a signed copy delivered by facsimile or electronically shall be treated by the parties as an original of this BAA and shall be given the same force and effect.

(m) Governing Law, Jurisdiction, and Venue. This BAA shall be governed by the law of Michigan except to the extent preempted by federal law.

(n) Severability. The invalidity or unenforceability of any provisions of this BAA shall not affect the validity or enforceability of any other provision of this BAA, which shall remain in full force and effect.

(o) Construction and Interpretation. The section headings contained in this BAA are for reference purposes only and shall not in any way affect the meaning or interpretation of this BAA. This BAA has been negotiated by the parties at arm's-length and each of them has had an opportunity to modify the language of this BAA. Accordingly, the BAA shall be treated as having been drafted equally by the parties and the language shall be construed as a whole and according to its fair meaning. Any presumption or principle that the language is to be construed against any party shall not apply. This BAA may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(p) Electronic Signature. An electronic signature captured within a software system will result in a legally binding contract under applicable state law.

In Witness Whereof, the parties hereto have caused this BAA to be executed as of the date first above written.

BUSINESS ASSOCIATE:

COVERED ENTITY:

BASIC Benefits LLC

Employer:

County of Nevada

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____