



**CLIENT SERVICE AGREEMENT**

THIS SERVICE AGREEMENT (“Agreement”) is between PrimePay, LLC (“Company”) and the employer listed below (“Client”). This Agreement governs the administrative services the Client has chosen to engage with PrimePay, LLC. By selecting the service(s) below and signing this Agreement, I am stating that I have read and understand the nature of the services selected below and the fees for them, that I have read and understand the full Agreement and agree to all of its terms and conditions, and that I have the authority to sign this Agreement on behalf of Client and its sponsored group health plan(s) (“Plan(s)”). By signing this document the parties agree to the terms and conditions in this Service Agreement and intend for this page to serve as the signature page for the Agreement.

The services will have an inception date of \_\_\_\_\_ 20\_\_ (“Effective Date”).

✓	Solution Name	Standard Fee	Monthly Min.	Set Up Fee	Renewal Fee
<b>COBRA Solution</b>					
	Premium COBRA				
	Standard COBRA				
	Optional Service: \$ 2.50/Notice to mail Initial Rights Notices to current participants				
	Optional Service: \$15.00/Carrier/Month to remit collected COBRA premiums to insurance carriers				
<b>Pre-Tax Reimbursement Solution</b>					
	FSA Administration	PEPM			
	HRA Administration	PEPM			
	HSA Administration	PEPM			
	Optional Service: \$ 1.50/PIN to mail PIN Mailer to participants				
	Optional Service: \$150.00/Non-English Summary of Benefits & Coverage drafted				
	Parking/Transit	PEPM			
<b>Premium Only Plan Solution</b>					
	Premium Only Plan	Monthly Fee		Annual Fee	
<b>HR Advisory Solution</b>					
	HR Advisory	Monthly Fee			
<b>Company Contact Information</b>			<b>Client Contact Information</b>		
PrimePay, LLC Attn: Benefit Services – New Business 1487 Dunwoody Drive West Chester, PA 19380			Company Name		
			FEIN		
			Street		
			City, State, Zip		
<b>Benefit Service Contact Information</b>			<b>Authorized Representative</b>		
Phone: (877) 972-6272 Fax: (877) 632-9372 Email: flexsalessupport@primepay.com			Name:		
			Phone:		
			Email:		
<William J. Pellicano> <i>Authorized Signature</i> CEO					
PrimePay Acceptance	Title	Date	<i>Authorized Signature</i>	Title	Date



**SCHEDULE A – BANKING AUTHORIZATION**

As part of our efforts to lessen administrative costs, PrimePay has implemented paperless processing in our accounting functions. \_\_\_\_\_, (Client), hereby authorizes PrimePay, LLC (PrimePay) to initiate debit and/or credit entries to the bank account provided below, and Client authorizes the financial institution to process such entries. PrimePay is authorized to debit payment of all sums owed between Client and PrimePay. Client acknowledges that transactions may take twenty four (24) to forty eighty (48) hours to settle. Client has authority to agree to and to authorize such transactions, and represents that the bank account is a valid and legitimate account for the handling of such transactions, and the authorization granted herein will remain in effect until PrimePay receives written notice from Client revoking it.

Financial Institution	Account Number	Routing Number	Starting Check Number
Authorized By			
Name	Title	Signature	Date

**A VOIDED CHECK MUST BE ATTACHED. PLEASE DO NOT ATTACH DEPOSIT SLIPS**

**Please indicate purpose for this account (select all which apply):**

- COBRA Solution:** Client also authorizes PrimePay to ACH transfer (credit) the COBRA Premiums collected on behalf of Client to the bank account monthly.
- Premium Only Plan Solution**
- HR Advisory**
- Pre-Tax Reimbursement Solution** (FSA, HRA, HSA, Transit and Parking): The Debit Cards (if applicable) and Manual Reimbursement Claims will be drawn from the above account, and Client designates the above bank account as the account out of which PrimePay is directed and authorized to pay Plan claims. For account verification, a \$1.00 pre-note will be processed against the above account.

Authorized Check Signers must sign 3 separate times with a black felt tip pen if possible; otherwise use black ink. Leave enough space between them so they do not overlap. Do not draw a line under the signatures. For additional signers, attach an additional page.

Signer #1: Signature 1	Signer #2: Signature 1
Signer #1: Signature 2	Signer #2: Signature 2
Signer #1: Signature 3	Signer #2: Signature 3



**SCHEDULE B – THIRD PARTY BILLING AGREEMENT**

Client has made arrangements with Payer to assume responsibility for service fees as outlined in the “Client Service Agreement.” The purpose of this Third Party Billing Agreement (“Billing Agreement”) is to establish terms and conditions with respect to payment of such charges.

This is an arrangement between the Client and the Payer. It is not an agreement between Client and PrimePay LLC, and Client agrees to comply with all other conditions and obligations as outlined in the Service Agreement. The Client is ultimately responsible for payment of services. Furthermore, payment of services does not imply disclosure of confidential information, and Client must authorize PrimePay to disclose any confidential information to the Payer.

Payer agrees to assume full responsibility for payment directly to PrimePay LLC for services provided under the Service Agreement. Client acknowledges such assumption by Payer, and Payer agrees to promptly notify PrimePay LLC if the arrangement between Client and Payer described in this Agreement is terminated. Payer acknowledges its continuing responsibility for payment of all such charges incurred prior to the date notice of such termination is received by PrimePay LLC.

If PrimePay LLC is notified by Payer of termination of the arrangement described in this Agreement, PrimePay LLC will continue to provide administration service to Client through the Term stated in the Service Agreement, and Client will be responsible for payment of all applicable charges.

If Payer fails to make any payment under this Agreement when due, PrimePay LLC may notify Payer and Client that it is terminating the arrangement described in this Agreement, and discontinue providing service to the Client unless Client acknowledges and accepts responsibility for payment of all charges for its receipt of such Information thereafter.

<b>Client Name</b>		<b>Payer Company Name</b>	
		<b>Payer FEIN</b>	
<b>Company Address</b>		<b>Payer Billing Address</b>	
<b>Accepted By</b>	<b>On this Date</b>	<b>Accepted By</b>	<b>On this Date</b>
<b>Print Name</b>	<b>Title</b>	<b>Print Name</b>	<b>Title</b>
<b>Phone Number</b>	<b>Email Address</b>	<b>Phone Number</b>	<b>Email Address</b>

**SCHEDULE C – INCLUDED COBRA SERVICES**

Service	Standard Solution	Premium Solution	Optional Service
Provide a real-time client portal that establishes employee and qualified beneficiary records, stores COBRA compliance actions, tracks key COBRA-related dates, electronically archives COBRA notices, and offers a full range of COBRA administration reports.	✓	✓	N/A
Furnish via first-class mail PrimePay COBRA Welcome Packets to currently enrolled COBRA participants and QBs in their 60-day election period at the time of service transition.	✓	✓	N/A
Furnish via first-class mail Initial Rights Notice, HIPAA Special Enrollment Notice and Women’s Health and Cancer Rights Enrollment Notice (WHCRA) to newly enrolled participants.	✓	✓	N/A
Furnish via first-class mail Initial Rights Notices to all current enrolled participants at implementation.	Not included	Not included	✓
Process weekly COBRA files in PrimePay COBRA’s standard format.	✓	✓	N/A
Furnish via first-class mail Specific Rights Notices (e.g., COBRA Election Notices) and HIPAA Certificates to Qualified Beneficiaries and their covered dependents.	✓	✓	N/A
Furnish via first-class mail Notices of Unavailability of COBRA Coverage to Qualified Beneficiaries and covered dependents.	✓	✓	N/A
Furnish via first-class mail Enrollment Confirmation Notices, Premium Coupons, Late Payment Notices, Insignificant Partial Payment Notices, Significant Partial Payment Notices, Termination Notices, Conversion Notices, Change of Address Notices, Plan Change Notices, Rate Change Notices, Disability Confirmation Notices, Disability Denial Notices, Medicare	✓	✓	N/A
Maintain Proof of Mail records for all required COBRA notices.	✓	✓	N/A
Track Maximum Coverage Period, First Day of COBRA/Last Day of COBRA, COBRA Enrollment Period, Initial Payment Grace Period, and Subsequent Payment Grace Period for all Qualified	✓	✓	N/A
Collect and process COBRA Election forms.	✓	✓	N/A
Provide a real-time participant portal for on-line enrollment, payment processing and account viewing.	✓	✓	N/A
Collect and process COBRA payments (checks, money orders, Visa®/MasterCard®, one-time ACH or recurring ACH).	✓	✓	N/A
Collect and process Disability Extension Requests and Second Qualifying Events.	✓	✓	N/A
Collect and process Benefit Change Requests from qualified beneficiaries.	✓	✓	N/A
Notify carrier(s) of COBRA elections, changes and terminations by EDI, online portal, email or fax.	Not included	✓	N/A
Remit collected COBRA premiums monthly to client.	✓	✓	N/A
Remit collected COBRA premiums monthly to carrier(s).	Not included	Not included	✓
Provide email and toll-free phone support for Qualified Beneficiaries.	✓	✓	N/A
Provide dedicated client support.	✓	✓	N/A
Support clients through the annual Open Enrollment period by assisting with mailing lists, updating client’s portal with new plans and rates, notifying COBRA population of new rates, issuing new Payment Coupons, and collecting and processing Annual Enrollment Forms.	✓	✓	N/A
Manage the annual Open Enrollment period for COBRA population, including preparing a COBRA Open Enrollment Form, collecting additional communications to explain benefit plan changes, determining if any required annual notices should be distributed, printing and mailing Open Enrollment packets, collecting and processing Open Enrollment Forms, providing QBs confirmation of election changes, issuing new Payment Coupons, and notifying the carrier	Not included	✓	N/A
Access to PrimePay’s HRAdvisory Service, our comprehensive online HR and Benefits resource center PLUS direct access to certified HR and Benefits experts.	Not included	✓	N/A

## Master Service Agreement

- 1) Service Fee. Client shall pay Company in accordance with the initial fees and charges set forth on Page 1 of this Agreement. Client acknowledges and agrees that PrimePay may adjust its fees periodically, and PrimePay agrees to provide advance written or electronic notice of any such changes. Company shall invoice Client monthly for such fees and charges and Client shall pay all amounts due under such invoice within thirty (30) days of receipt of such monthly invoice. If any invoiced amounts are not paid when due, a late charge of 1.5% per month or the highest late charge allowed by law, whichever is less, shall apply to such unpaid amounts from the due date until paid in full.
- 2) Additional Services. If, following the Effective Date as set forth in the Recitals to this Agreement on page 1 above, Client requests Company to provide any services in addition to the services set forth in this Agreement then Client shall notify Company and Company shall prepare a revised Page 1 amending this Agreement so as to reflect the additional services, any related changes in the obligations of the parties and the corresponding change (if any) to Client's applicable fees and payment obligations. The provision of additional services will be subject to Company's then available resources and pre-existing commitments, and there is no implied obligation under this Agreement to provide additional services. Company shall provide such additional services as of the first day of the first calendar month following the execution of the amendment adding such additional services, unless otherwise specified in the amendment.
- 3) Term and Termination.
  - a) This Agreement shall commence on the Effective Date and shall continue for an Initial Term of one year. Following the Initial Term, this Agreement shall automatically renew for successive additional terms of one year each (each a "Renewal Term") unless either party gives written notice of termination to the other party at least thirty (30) days prior to the Renewal Term.
  - b) Either party may terminate this Agreement by giving written notice thirty (30) days in advance to the other party. A \$75 termination fee may be billed if the agreement is terminated in the first ninety (90) days.
  - c) Upon the termination of this Agreement, Client shall pay all amounts due and outstanding within twenty (20) calendar days following such expiration or termination.
  - d) Client agrees that it shall have no right to withhold any payment due as a set-off against claims against Company and waives any such claim as a defense to termination by Company.
  - e) Notwithstanding any provision to the contrary, Company may terminate this Agreement and Service hereunder without penalty or liability upon thirty (30) days' written notice if in Company's sole discretion regulatory or legal developments or other factors beyond the reasonable control of Company render its performance hereunder impracticable or impossible.
- 4) Rights and Obligations after Expiration or Termination.
  - a) Upon termination of this Agreement, Company shall have no further obligation to provide any Services listed in this Agreement to Client or its users.
    - b) Prior to the termination of this Agreement, Client shall extract all required information from the Company's web-based administration system(s) utilizing any and all standard reports. Company shall have the right to inactivate the System and all user access at any time following the termination of this Agreement.
- 5) Limitation of Liability; No Warranty. IN NO EVENT WILL COMPANY BE LIABLE FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE AMOUNT OF FEES ACTUALLY PAID BY CLIENT TO COMPANY FOR THE LAST TWELVE (12) MONTHS FOR WHICH THIS AGREEMENT IS IN EFFECT. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 5, IN NO EVENT WILL COMPANY BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, AND/OR CONSEQUENTIAL DAMAGES HOWSOEVER INCURRED OR DESIGNATED, OR ANY LOSS OF PROFITS, EVEN IF COMPANY WAS INFORMED OF THE POSSIBILITY OF SUCH LOSS. ALL SERVICES ARE PROVIDED BY COMPANY "AS IS" AND WITHOUT WARRANTY, EXCEPT THAT COMPANY WARRANTS THAT THE SYSTEM DOES NOT INFRINGE THE COPYRIGHTS OR PATENT RIGHTS OF ANY THIRD PARTY.
- 6) Indemnification.
  - a) Client shall indemnify, defend and hold Company and its affiliates, and their respective investors, officers, directors, employees, agents, licensors, successors, and assigns (both parties and such additional persons are referred to as "Indemnified Parties") harmless from and against any and all costs, expenses, damages or losses, including, without limitation, reasonable attorney's fees (collectively "Losses") arising out of, relating to, in connection with or resulting from, any claim, demand, charge, action, cause of action or proceeding (collectively "Claims") that arise out of, relate to, are connected with or result from any actual or alleged act or omission of Client that is in any way related to this Agreement.
  - b) Company shall indemnify, defend and hold Client and its Indemnified Parties harmless against any Losses to the extent arising out of Company's breach of any representation or warranty, or as a result of Company's negligence in the performance of its duties as set forth in this Agreement.
  - c) Should any liability related to excise taxes be imposed on Client by the Internal Revenue Service as a result of any COBRA violation directly caused by the failure of Company to timely and properly perform any of the services that Company is obligated to provide under this Agreement, Client shall immediately notify Company and prior to indemnification under Section 6.b. above Company shall in its sole discretion have the right to challenge such assessment or liability, or to seek a waiver, abatement or offset (as appropriate) from the Internal Revenue Service with respect to all or any portion of such excise taxes, and Client shall fully cooperate with Company in such regard as a condition precedent to Client's right to any indemnity under Section 6.b. Client, and not Company, shall have responsibility with respect to any liability for excise taxes and applicable penalties or interest in cases where liability arises out of Client's act or failure to act in accordance with any

applicable law or this Agreement. Company shall not be responsible for any damages to Client arising out of the unauthorized, dishonest, fraudulent, or criminal acts of Client, its employees, directors, officers, guests, or trespassers, whether acting alone or in collusion with others.

- d) In cases in which indemnification is sought, the Indemnified Party shall promptly notify the other party of any matters in respect of which the foregoing indemnity may apply and of which the Indemnified Party has knowledge, and give the other party the opportunity to control the response thereto and the defense thereof; provided however, that the Indemnified Party shall have the right to participate in any legal proceeding to contest and defend a claim for indemnification involving a third party and to be represented by its own attorneys, all at the Indemnified Party's cost and expense.
- 7) Confidential Information.
- a) Both during and after the Term of this Agreement, Client shall hold for Company's benefit and shall not use or disclose to any third party any trade secrets, or confidential information, knowledge, or data relating to the subject of this Agreement or the System or related materials relating to the Company's operations or business, including, without limitation, pricing proposals or pricing agreements. This restriction will not apply to disclosure to Client's legal, tax or financial advisors provided those advisors are notified of this provision and agree to this confidentiality provision.
  - b) Both during and after the Term of this Agreement, Company will hold any Client or user data in accordance with Company's privacy policy as published on [www.primepay.com](http://www.primepay.com), and Company will exercise the same prudent level of care it would exercise with respect to its own employee and user data, but no less than a reasonable standard of care, in maintaining the privacy, security and availability of such data.
- 8) Ownership Rights in Materials. All products, forms, procedures and other materials (the "Materials") utilized or made available by Company to Client in connection with any service performed under this Agreement are the sole property of Company and/or its licensors, and Client shall not acquire any right, title or interest in the Materials by use thereof in accordance with this Agreement. Client shall not license, market, copy, modify, sell or transfer any of the Materials, in whole or in part. Client acknowledges and recognizes that any breach of this section would result in irreparable harm to Company, and, accordingly, agrees that in addition to and not in lieu of all remedies available to Company by reason of such breach (at law or equity), Company shall be entitled to equitable relief (including, without limitation, specific performance and injunctive relief) to enjoin the occurrence or continuation of such breach. Upon Company's request, Client shall promptly return all Materials to Company following the termination of this Agreement.
- 9) Ownership of Systems and Software. Company and/or its partners, licensors and vendors shall be the sole and exclusive owner of all right, title and interest (including, without limitation, all intellectual property rights) in and to the System and all software utilized by Company to perform the Services. Client shall not, and shall not permit any third party to, (i) modify, copy or otherwise reproduce the systems or software, (ii) remove,

destroy or omit any copyright notices, legends, labels and other notices of proprietary interests appearing in or on any of the software, or (iii) attempt to decompile or reverse engineer the software. Except for the right to use the System as expressly specified in this Agreement, nothing in this Agreement shall be deemed to grant to Client, by implication, estoppel or otherwise, license rights, ownership rights or any other intellectual property rights in any software, literary works, other works of authorship, specifications, designs, and analyses, programs, documentation, reports, and similar work product owned by or provided through Company.

- 10) Relationship of Parties. Client and Company acknowledge and agree that Company is retained under this Agreement to assist Client, the Plan(s) and/or the plan administrator of the Plan(s) with their obligations to comply with regulations pertaining to their Plan(s), including but not limited to ERISA, HIPAA, COBRA, the Internal Revenue Code. These obligations are Client's obligations and not Company's obligations and that Company is not a fiduciary under ERISA. The parties further acknowledge that Company is an independent contractor and not a joint venturer with or partner, agent or employee of Client, the Plan(s) or the plan administrator of the Plan(s). Nothing contained in this Agreement shall be deemed to permit either party to conduct business in the name of or on account of the other party, or to act on behalf of or bind the other party in any manner whatsoever, except for the taking of actions by Company on behalf of Client, the Plan(s) or the plan administrator of the Plan(s) in the fulfillment of Company's specific duties under this Agreement.
- 11) Reliance by Company. Company shall be fully protected in relying upon representations by Client set forth in this Agreement and communications made by or on behalf of Client in effecting its duties under this Agreement. Client represents that the signatory to this Agreement is authorized to enter into such Agreement on behalf of Client, the Plan(s) administrator(s) and/or the Plan(s).
- 12) Force Majeure. Company shall not be liable for failures or delays in performance which are caused by natural disasters, strikes, war, utility outages, communication outages, or any other circumstances which could not have been reasonably foreseen and avoided by commercially reasonable action, or are beyond the reasonable control of Company. Company shall be excused from performance under this Agreement for the duration of the effects of such circumstances.
- 13) Entire Agreement, Amendments and Modifications. This Agreement represents the entire agreement between the parties with respect of the subject matter hereto, and there are no oral or other written agreements or understandings between the parties affecting this Agreement, or related to the services to be provided by Company or duties undertaken by Client under this Agreement. This Agreement supersedes all previous agreements between the parties relating to administrative services as identified on page 1. This Agreement may be amended only by a written agreement executed by Client and Company. Client may not assign this Agreement without the express written consent of Company.
- 14) No Third Party Beneficiaries. The parties do not intend to provide any rights to third parties under this Agreement.
- 15) Governing Law and Jurisdiction. This Agreement shall be governed by and construed under the laws of the State of

Delaware, except to the extent preempted by ERISA. If any provision of the agreement is held to be invalid by any court of competent jurisdiction, such finding shall not invalidate the remainder of the Agreement. With respect to any claim arising out of this Agreement, (i) each party irrevocably submits to the exclusive jurisdiction of the courts of the State of Delaware, or the United States District Court, located in New Castle County, Delaware, and (ii) each party irrevocably waives any objection which it may have at any time to the venue of any suit, action or proceeding arising out of or relating to this Agreement brought in any such court and irrevocably waives any claim such suit, action or proceeding is brought in an inconvenient forum and further irrevocably waives the right to object, with respect to such claim, suit, action or proceeding brought in any such court, that such court does not have jurisdiction over such party. Notwithstanding the foregoing, Company may bring suit for non-payment of fees in any court of competent jurisdiction.

### COBRA SOLUTION

- 16) Duties of Company. Commencing on the Effective Date as set forth above in the recitals of this Agreement, Company shall provide the following services with respect to the Plan(s):
- a) Provide notification containing the information required to be included in the COBRA initial notification to all benefit eligible employees of Client and dependents under the Plan(s) and whose names and addresses are furnished by Client using either the Company's web-based COBRA administration system or an electronic file in a format approved by Company.
  - b) Advise employees and other qualified beneficiaries of their rights to elect and receive COBRA continuation coverage under the Plan(s), after Client has notified Company of the occurrence of one of the qualifying events set forth in Section 21 below with respect to such individual. Company shall notify covered employees in writing by first class U.S. mail.
  - c) Provide to the employee or other qualified beneficiary who is not entitled to COBRA coverage a "notice of unavailability" that includes an explanation of why the employee or other qualified beneficiary cannot elect COBRA coverage.
  - d) Maintain proof of mailing for all required COBRA notices.
  - e) Receive and process election responses.
  - f) Electronically archive completed COBRA election forms.
  - g) Collect valid and timely premiums (including administrative charges) from or on behalf of individuals who elect to continue coverage under the Plan(s) ("continuants"). Company shall administer the Initial Grace Period and Subsequent Grace Period as required by the current COBRA statute, unless Client advises in writing that a longer period applies under the Plan(s). Following the Initial Grace Period, all subsequent COBRA premiums shall be due on the first day of the month. Company shall consider payment received as of the U.S. Postal Service postmark date or the express delivery date, regardless of when actual payment is received. Company shall provide Electronic Payment Processing services through the web-based COBRA administration system. Company may charge continuants a reasonable convenience fee for credit/debit or ACH payment processing in order to offset Company's incurred costs to accept such payments.
  - h) Forward the amount of the paid premiums, less the administrative charges, to Client on a monthly basis via ACH transfer and provide report detailing remitted premium amounts by continuant and plan. Company shall take all commercially reasonable action to remit paid premiums within 10 business days after the end of each month. Company may remit premiums directly to an insurance carrier for an additional fee.
  - i) Provide a real-time client portal (the "System") that establishes employee and qualified beneficiary records, stores COBRA compliance actions, tracks key COBRA-related dates and payment history, electronically archives COBRA notices, and offers COBRA administration reports. Company shall also provide a real-time continuant portal for on-line enrollment, payment processing and account viewing. In the event of interruption of Website access, Company's sole obligation and liability shall be to restore service as soon as reasonably possible. Company represents that the System and Company's internal processes shall utilize commercially reasonable measures and systems to assure the privacy, security and availability of Client's data. Company makes no other warranties, express or implied, with respect to the Website and the availability of the Website.
  - j) Furnish to continuants via first-class mail Enrollment Confirmation Notices, Premium Coupons, Late Payment Notices, Insignificant Partial Payment Notices, Significant Partial Payment Notices, Change of Address Notices, Plan Change Notices, Rate Change Notices, Disability Confirmation Notices, Disability Denial Notices, Medicare Notices, and Returned Check Notices. Upon the provision of notice to Company of grounds for termination of COBRA coverage, Company shall provide the continuant with a notice of termination of COBRA coverage. Company shall take all commercially reasonable action to mail the notices within seven (7) business days of receiving notice of grounds for termination of coverage. If the Plan(s) offer an option of conversion to an individual health insurance policy when COBRA coverage under the Plan(s) is exhausted, and if the Client has provided Company with proper and complete information regarding the existence and terms of such conversion option, Company shall provide the continuant with a notice of his or her conversion rights under the Plan(s). Such notice shall be provided in writing by first class U.S. mail within one hundred eighty (180) days prior to the end of the maximum COBRA coverage period. Company shall not be responsible for notifying the employee or other qualified beneficiary of any conversion right outside of COBRA coverage. Company will maintain Proof of Mail records for all notices required under COBRA statutes.
  - k) Provide a toll-free phone number for continuant support. Customer Service Representatives shall be available during PrimePay's normal business hours (8 am to 5 pm Eastern Time, Monday through Friday, excluding PrimePay observed holidays) to assist continuants and dependents (or their authorized representatives) with services provided by PrimePay under this agreement.
  - l) Company shall comply with all applicable federal, state and local laws with respect to the services expressly agreed to be performed on behalf of Client.

- m) Company responsibilities include only the services expressly set forth herein and shall not include any other notices or certificates.
  - n) In addition to the fees and charges set forth on Page 1, Company shall charge and retain the 2% administrative charge paid by each continuant under the Plan(s) as compensation for the handling of premium payments or shall charge and retain any greater administration charge allowed by law, whichever is higher. Company may adjust its pricing from time to time and shall give Client thirty (30) days advance notice of any such changes.
- 17) Duties of Client. Commencing on the Effective Date as set forth above in the Recitals to this Agreement, Client accepts the following responsibilities with respect to the Plan(s):
- a) Provide Company with all such information required, as Company determines in its sole discretion, to fulfill its obligations under this Agreement in a timely and efficient manner.
  - b) **Client shall be exclusively responsible for the accuracy, completeness and timeliness of the information provided to Company. Client understands and agrees that Company has no duty or responsibility to review, verify or otherwise inquire into any data provided to Company by Client.** Client shall be responsible for examining all results and status reports produced by the Company and posted on the System, including premium calculations, reports and letters, and Client shall notify Company of any discrepancies between said results and Client records as soon as reasonably possible and not later than five (5) business days after Client becomes aware of such discrepancy. Client shall be responsible for all damages that result or could have been avoided had Client timely reviewed its reports and advised the appropriate parties of any discrepancies, and Company shall have no responsibility or liability in connection with any discrepancies not timely reported by Client.
  - c) Client shall follow security procedures that are reasonably sufficient to assure all login and password information is kept secure and that all document transmissions are authorized and all data is protected from unauthorized access. Client shall be responsible for all activity occurring under Client's user accounts. Client shall be responsible, and shall keep, all user passwords used to access Company's System confidential and secure. Client shall prohibit all of its users from impersonating another user, providing false user information or passwords, or otherwise attempting to gain unauthorized access to the System.
- 18) Client shall be responsible for all facilities, hardware and software necessary to access and use the System, consisting of:
- a) CPU Pentium III – 500 MHz or higher.
  - b) Memory 256 MB RAM or higher.
  - c) DSL/Cable Internet connection or higher.
  - d) Internet Explorer 7.0 or higher with cookies and JavaScript enabled.
  - e) Adobe Acrobat reader standard version 7.0 or higher.
- 19) Client shall not utilize the System to resell or otherwise provide COBRA administration services to any other business entity.
- 20) Client shall designate the determination period and the applicable premium rates to be charged for COBRA continuation coverage. Client or their authorized agent shall notify Company in writing at least 30 days in advance of the applicable billing period of any changes to the premium rates or any addition, termination or modification of the Plan. In the event that Client or their authorized agent notifies Company of premium increase and/or plan changes less than 5 days prior to the applicable billing period, Company may implement new premiums and/or changes with the next billing period which falls after the required 30-day notice period, and Client will be responsible for any premium increase which should have been paid by the continuant. Should Client or their authorized agent notify Company of a premium decrease less than 30 days prior to the applicable billing period, Company shall process the premium adjustment as of the effective date and credit continuant payment overages towards future billing periods.
- 21) Client shall advise Company of any of the following events that will result in a loss of coverage under one of Client's Plan(s) ("qualifying events"):
- a) For a covered employee: termination of employment (including for reasons of gross misconduct) or reduction in hours of employment.
  - b) For spouses or dependent children of a covered employee: the covered employee's termination of employment (for reasons other than gross misconduct) or reduction in hours of employment; (b) death of a covered employee/retiree; (c) divorce or legal separation from a covered employee; (d) covered employee/retiree becoming entitled to benefits under Title XVIII of Social Security Act (Medicare); or (e) covered dependent child ceasing to meet dependent eligibility requirements under the terms of the Plan.
  - c) For retirees, their spouses and dependent children: the filing of a petition in bankruptcy by, or with respect to, Client.
  - d) Any other qualifying event resulting in a covered employee and/or dependent becoming qualified to continue coverage under the provisions of COBRA, as the law may be amended or interpreted from time to time.
- 22) Client shall provide Company notice of qualifying events described in Section 21 above via the System, in Company's standard Qualifying Event file layout, or in such other form as is agreed to in writing between parties within 14 days of the qualifying event date. Client shall be solely responsible for determining when a qualifying event has occurred and when an employee has been terminated for gross misconduct.
- 23) Client shall be responsible for providing Company with the appropriate last known address for the individual(s) who experienced the qualifying event.
- 24) Client shall notify the Company as soon as possible, but in no event later than five (5) business days after becoming aware, that any qualified beneficiary was disabled (as defined by the Social Security Act) at the time of the qualifying event, has become disabled within sixty (60) days of a qualifying event or of having been disabled, or is no longer disabled.
- 25) Client shall notify and advise Company of qualified beneficiaries who, at the time of a qualifying event, have been deemed incompetent and provide Company with the name and address of such individual's legal guardian.
- 26) Client shall notify the Company as soon as possible, but in no event later than five (5) business days after becoming aware of a determination of Trade Adjustment Assistance for any qualified



beneficiary by either the United States Department of Labor or a state agency.

- 27) Client represents that the Plan(s) will be maintained during the term of this Agreement in accordance the Internal Revenue Code and other applicable Federal and state law. Client, the Plan's administrator and/or the Plan(s) (and their agents or assigns), and not Company, shall be responsible for the determination, review and payment of claims for benefits under the Plan(s) and all appeals under ERISA and other applicable law, including, without limitation, with respect to claims, benefits and eligibility determinations under the Plan(s).
- 28) Client agrees that Company may share information provided pursuant to this Agreement with Client's insurance broker or representative, unless Client provides Company written instructions to the contrary.

### PRE-TAX REIMBURSEMENT SOLUTION

- 29) Duties of Company. Commencing on the Effective Date as set forth above in the recitals of this Agreement, Company shall provide the following services with respect to the Plan(s):
- a) Subject to the supervision of the Client, the Company will administer the Plan(s) in accordance to the policies, interpretations, rules, practices and procedures set forth in the Plan Document(s), including any amendments. All of the provisions of the Plan, including provisions governing indemnification of liability, are hereby incorporated by reference. If applicable, Company will administer any grace period, rollover period and/or run out period(s) as defined in the Plan Documents(s), subject to ongoing payment of service fees.
  - b) Provide a Client Portal (the "System") that establishes employee and covered dependent records, stores enrollment actions, tracks key administrative dates, reimbursement history, and offers administrative reports.
  - c) Company shall also provide a Participant Portal for on-line claim submission and account viewing.
  - d) In the event of interruption of Website access, Company's sole obligation and liability shall be to restore service as soon as reasonably possible. Company represents that the System and Company's internal processes shall utilize commercially reasonable measures and systems to assure the privacy, security and availability of Client's data. Company makes no other warranties, express or implied, with respect to the Website and the availability of the Website
  - e) Provide Client prescribed enrollment options, including EDI file exchange, Online Enrollment Tools and paper Enrollment Form.
  - f) Process Participant Enrollment and Change Forms submitted in the prescribed manner.
  - g) Process electronic files received from your medical carrier(s) and/or payroll data processor and/or HRIS vendor in a format and method specified by the Company.
  - h) Provide a toll-free phone number for participant support. Customer Service Representatives shall be available during PrimePay's normal business hours (8 am to 5 pm Eastern Time, Monday through Friday, excluding PrimePay observed holidays) to assist participants and dependents (or their authorized representatives) with services provided by PrimePay under this agreement.

- i) Monitor of benefit accounts and plan deferral limits.
  - j) Process claims for plan benefits submitted by participants.
  - k) Issue reimbursements to participants or their designated provider by check, direct deposit, or debit card payment.
  - l) Preparation of a Plan Document, Summary Plan Description, Employee Enrollment Forms, Summary of Benefits and Coverage (if required) and Summary Annual Reports.
- 30) Duties of Client. Commencing on the Effective Date as set forth above in the Recitals to this Agreement, Client accepts the following responsibilities with respect to the Plan(s):
- a) Client serves as Plan Administrator and Fiduciary as described under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code, and maintains authority to establish, waive, alter, or modify any of the Plan's terms and conditions. Client exercises all discretion, control and authority over the available benefits. Client will establish eligibility requirements in order for employees to participate in the Plan, and these eligibility requirements must be consistent with its Plan Document.
  - b) As Plan Fiduciary, Client ensures the Plan documents identified in 29(l) in are appropriately completed, are in compliance with applicable laws and regulations, and are adopted timely.
  - c) Client distributes to participants any required documents such Plan Documents, Summary Plan Description, Summary of Benefits and Coverage, and any other documentation related to the Plan on a timely basis.
  - d) Client determines who is eligible to participate in the Plan and provides Company accurate and complete enrollment information in a reasonable manner determined by Company.
  - e) Client provides Company with accurate and timely changes in participant enrollment and eligibility in the prescribed manner. Changes may include, but are not limited to, participant eligibility status, election changes, leaves of absence and terminations.
  - f) Client ensures that any electronic files provided by their medical carrier(s), payroll data processor, HRIS system and/or HRIS vendor are timely, accurate and complete files in the Company's prescribed electronic file format. Client is responsible for correcting all errors in any electronic file provided to Company. Company does not audit electronic data files.
  - g) Client shall reimburse all monies required to cover participants under the Plan. Any Client bank changes must be provided in writing to Company.
  - h) Client, as Fiduciary, reviews and decides any appeal for plan benefits submitted by participants.
  - i) The Client provides Company any requested, additional information necessary to provide administrative services to the Plan in a timely manner.
  - j) Client pays all administrative fees identified on page 1 on a monthly or annual basis.
  - k) Client is responsible for banking fees incurred for administration of its Pre-Tax Reimbursement Plans. This includes, but is not limited to, standard monthly banking fees, stop payment fees, returned check fees, and returned direct deposit fees.

- l) Client must comply with all applicable laws, including but not limited to HIPAA, COBRA, and ERISA, with respect to your Plan and make any required filings with the appropriate governmental agencies, including the Department of Labor and the Internal Revenue Service.
  - m) Client shall not utilize the System to resell or otherwise provide administration services to any other business entity.
- 31) ACH Authorization Release. The Client hereby authorizes Alegeus Technologies, LLC, MBI Benefits, Inc., or MBI Benefits, Inc.'s agent, to initiate ACH (Automated Clearing House) transfer entries.
- 32) Direct Deposit of Claim Reimbursements.
- a) Client hereby requests and authorizes Company to implement, on Client's behalf, direct deposit services which will enable claim reimbursements for Client's Plan Participants and Dependent to be automatically debited (withdrawn) from the account designated by the Client out of which Plan claims are to be paid (the "Designated Account") and deposited in the bank account designated by Plan Participants. Direct deposits will be initiated by the EFT processor with which Company has established a relationship for processing automated EFT transactions and will be subject to National Automated Clearing hours Association (NACHA) Rules, the terms, conditions and time limits of Company's EFT processor, and the terms of the Client's Plan.
  - b) Employer understand that its Plan participants are responsible for providing to Company timely and accurate claim information necessary for Company to transmit direct deposit information containing ACH transactions to its designated EFT processor. Client is responsible for maintaining sufficient funds in the Designated Account in accordance with a time table which Client in its reasonable discretion shall establish, not to exceed five (5) business days prior to the planned check date for the claim payment. Company will not be responsible or liable for actual deposit amounts or for interest, expenses or additional claimed damages of any kind.
  - c) If during the course of providing direct deposit services to Client, Company notifies Client that an electronic debit of Client's Designated Account has been returned to Company's ACH processor by reason of insufficient funds in Client's Designated Account (NSF), Client hereby agrees to wire funds to cover the NSF within 24 hours in accordance with the wire transfer instructions supplied by Company. In the event such NSF is not cured by Client upon thirty (30) days written notice (including electronic mail), Client agrees to grant Company (and any subrogee of Company) a security interest in Client's assets and receivables, which Company may file and record. Provided however that the foregoing security interest shall not apply to those assets and receivables which are held in trust for or on behalf of Client's owned Client or other third parties, or which contain confidential or privileged information, or which contact other information the disclosure of which would be a violation of Client's Rules of Professional Conduct or any applicable law restricting such disclosure to their parties.
  - d) Client's authorization includes the authority to correct errors, subject to NACHA Rules, and the requirements and time limits of Company's EFT processor. In the event of error, Client or participant, as the case may be, must notify Company by telephone within two (2) days of the date on which the claim information was provided to Company, and confirm this notice by written email or by prepaid First Class Mail within 24 hours thereafter. After receipt of such timely notice, Company agrees to re-transmit the corrected direct deposit information.
- 33) Termination. Within 20 days after termination or expiration of this agreement, the Client shall return to Company all materials, brochures, computer programs, customer and vendor data bases, and any other documents regarding the Company's programs and systems and any copies thereof. In addition, Client shall refrain from any further direct or indirect use of Company's marks, systems, publications, manuals, brochures, documents, computer databases in connection with the marketing, use, implementation, license, sale or distribution of any program or system that enables Clients to offer employee benefits on a pre-tax basis. Finally, the termination of this agreement shall not affect the duty of the Client not to infringe on Company's trademarks and copyrights and not to disclose and keep confidential all said confidential information supplied to the Client by Company.

#### HR ADVISORY SOLUTION

- 34) HR Advisory Services are provided month to month on a subscription basis. Client has unlimited HR Web access to the online HR and Benefits resource center, and Client may receive up to 4 hours of HR Live assistance per month.
- 35) Certified HR and Benefits professionals are available during normal business hours (Monday through Friday, 9 AM to 8 PM Eastern Time, excluding major holidays).
- 36) Clients are advised that the advice given through the Services is necessarily of a general nature and should not be construed as specific legal or tax advice. These services do not include any drafting or review of specific documents or advice as to how to resolve particular employee relation issues. Clients are urged to seek the appropriate professional advisor for such assistance.
- 37) Company makes no warranty or representation of any kind, express or implied, with respect to the Services. Company's sole obligation is to provide access to the Services as provided above and under no circumstances will Company be liable to Client or any of Client's employees for any direct, indirect, incidental, consequential or exemplary damages of any kind.
- 38) Company may adjust the pricing of any of its services and will provide a 30-day advance notice to Client in advance of the implementation of such new pricing.
- 39) HR Advisory Services may be terminated at any time upon written notice by Client or by Company. Termination will take effect at the beginning of the following calendar month.

This Business Associate Agreement ("Agreement") is made and entered into as of \_\_\_\_\_ 20\_\_\_\_, by and between PrimeFlex Administrative Services, LLC, a Pennsylvania limited liability company (PrimeFlex"), and , ("Company") for and on behalf of its (referred to individually and if applicable, collectively if PrimeFlex is to provide services to more than one plan sponsored by the Company, as the "Plan"). The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") requires the Plan to provide the Company with this Business Associate Agreement and Privacy Notice.

**RECITALS**

The Plan, through the Company as its fiduciary and Plan sponsor, has delegated certain administrative services to PrimeFlex in an Application and Service Agreement (the "Main Agreement"); and PrimeFlex provides administrative services to employers and their health plans covered under 45 Code of Federal Regulations (CFR) 164.104 and the regulations codified at 45 CFR Parts 160 and 164 (the "HIPAA Security and Privacy Rule") promulgated under the Health Insurance Portability and Accountability Act of 1996, ("HIPAA"). Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), called the "Health Information Technology for Economic and Clinical Health" ("HITECH") Act, provides modifications to the HIPAA Security and Privacy Rule. All references to "HIPAA" and the "HIPAA Security and Privacy Rule" in this agreement are deemed to include all amendments to such law and such rule contained in the HITECH Act and any accompanying regulations, and any other subsequent amendments or regulations as may be enacted or adopted in the future.

As a result of services to be provided under the Main Agreement, PrimeFlex is a business associate of the Plan under HIPAA, and Company and/or its employees and participants may provide to PrimeFlex individually identifiable health information on behalf of the Plan as defined in HIPAA ("Protected Health Information" or "PHI") in order for PrimeFlex to provide such services.

The Plan is required by HIPAA privacy regulations to maintain the privacy of certain health information about Plan participants that is created or received in administering the Plan ("PHI," as defined below). This Agreement describes how the Plan may use and disclose PHI. This Agreement applies only to the PHI used by or disclosed to PrimeFlex for purposes of medical expense reimbursements under the Plan. Plan participants should receive a different privacy notice from the insurer that provides group health insurance coverage for Company employees. In addition, this Agreement does not apply to health information that Company may have in its employment records, such as sick leave documentation, or to doctors, hospitals or other health care providers, who may have different policies or notices regarding Plan participant health information.

NOW, THEREFORE, PrimeFlex and Company, in consideration of the Parties' continuing obligations under the Main Agreement, compliance with the HIPAA Security and Privacy Rule, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, agree to the provisions of this Agreement in order to address the requirements of the HIPAA Security and Privacy Rule and to protect the interests of both Parties.

**AGREEMENT**

**I. DEFINITIONS**

- a. Except as otherwise defined below, all capitalized terms in this Section shall have the definitions set forth in the HIPAA Security and Privacy Rule. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Security and Privacy Rule, as amended, the HIPAA Security and Privacy Rule shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Security and Privacy Rule, but are nonetheless permitted by the HIPAA Security and Privacy Rule, the provisions of this Agreement shall control.
- b. The term "Protected Health Information" or "PHI" means any information created or received by a health care provider, health plan, employer or health care clearinghouse that relates to the past, present or future physical or mental health or condition of a specific individual, or to the provision of health care, or payment for such health care, if that information identifies a specific individual or may reasonably be used to identify such individual. PHI includes without limitation "Electronic Protected Health Information" as defined below.
- c. The term "Electronic Protected Health Information" means PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.
- d. PrimeFlex acknowledges and agrees that all Protected Health Information that is created or received by Company and disclosed or made available in any form to PrimeFlex, including paper record, oral communication, audio recording, and electronic display by Company or its operating units to PrimeFlex or is created or received by PrimeFlex on Company's behalf shall be subject to this Agreement.

**II. CONFIDENTIALITY AND SECURITY REQUIREMENTS**

- a. PrimeFlex agrees:
  - (i) to use or disclose any Protected Health Information solely: (1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship, or (2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom Company is required to disclose such information or as otherwise permitted under this Agreement, the Main Agreement (if consistent with this Agreement and the HIPAA Security and Privacy Rule), or the HIPAA Security and Privacy Rule, and (3) as would be permitted by the HIPAA Security and Privacy Rule if such

- use or disclosure were made by Company. All such uses and disclosures shall be subject to the limits set forth in 45 CFR §164.514 regarding limited data sets and 45 CFR §164.502(b) regarding the minimum necessary requirements;
- (ii) at termination of this Agreement, the Main Agreement or any similar documentation of the business relationship of the Parties, whichever occurs first, if feasible, PrimeFlex will return or destroy all PHI received from or created or received by PrimeFlex on behalf of Company that PrimeFlex still maintains in any form and retain no copies of such information, or if such return or destruction is not feasible, PrimeFlex will extend the protections of this Agreement to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the information not feasible;
  - (iii) to ensure that its agents, including a subcontractor, to whom it provides PHI received from or created by PrimeFlex on behalf of Company, agrees to the same restrictions and conditions that apply to PrimeFlex with respect to such information, and agrees to implement reasonable and appropriate safeguards to protect any of such information which is Electronic Protected Health Information. In addition, PrimeFlex agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause PrimeFlex to breach the terms of this Agreement;
  - (iv) PrimeFlex shall, following the discovery of a breach of unsecured PHI, as defined in the HITECH Act or accompanying regulations, notify the Company of such breach pursuant to the terms of 45 CFR §164.410 and cooperate in the Company's breach analysis procedures, including risk assessment, if requested. A breach shall be treated as discovered by PrimeFlex as of the first day on which such breach is known to PrimeFlex or, by exercising reasonable diligence, would have been known to PrimeFlex. PrimeFlex will provide such notification to Company without unreasonable delay and in no event later than sixty (60) calendar days after discovery of the breach. Such notification will contain the elements required in 45 CFR § 164.410; and
  - (v) PrimeFlex will, pursuant to the HITECH Act and its implementing regulations, comply with all additional applicable requirements of the Privacy Rule, including those contained in 45 CFR §§164.502(e) and 164.504(e)(1)(ii), at such time as the requirements are applicable to PrimeFlex. PrimeFlex will not directly or indirectly receive remuneration in exchange for any PHI, subject to the exceptions contained in the HITECH Act, without a valid authorization from the applicable individual. PrimeFlex will not engage in any communication which might be deemed to be "marketing" under the HITECH Act. In addition, PrimeFlex will, pursuant to the HITECH Act and its implementing regulations, comply with all applicable requirements of the Security Rule, contained in 45 CFR §§164.308, 164.310, 164.312 and 164.316, at such time as the requirements are applicable to PrimeFlex. To the extent PrimeFlex is to carry out any of Company's obligations under Subpart E of 45 CFR Part 164, PrimeFlex will comply with the requirements of Subpart E that apply to the Company in the performance of those obligations. PrimeFlex will make its internal practices, books and records available to the Secretary of Health and Human Services as may be required under applicable law for purposes of determining compliance with the HIPAA Rules.
- b. PrimeFlex will not use or disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by the Company itself, except for the specific uses and disclosures set forth below:
- (i) if necessary, for the proper management and administration of PrimeFlex or to carry out the legal responsibilities of PrimeFlex, whether under the Main Agreement or otherwise, provided that as to any such disclosure, the following requirements are met:
    - (A) the disclosure is required by law; or
    - (B) PrimeFlex obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies PrimeFlex of any instances of which it is aware in which the confidentiality of the information has been breached;
  - (ii) for data aggregation services, if to be provided by PrimeFlex for the health care operations of Company pursuant to any agreements between the Parties evidencing their business relationship. For purposes of this Agreement, data aggregation services means the combining of Protected Health Information by PrimeFlex with the protected health information received by PrimeFlex in its capacity as a business associate of another Company, to permit data analyses that relate to the health care operations of the respective covered entities.
- c. PrimeFlex will implement appropriate safeguards to prevent use or disclosure of PHI other than as permitted in this Agreement. PrimeFlex will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Company as required by the HIPAA Security and Privacy Rule.
- d. The Secretary of Health and Human Services shall have the right to audit PrimeFlex's records and practices related to use and disclosure of Protected Health Information to ensure Company's compliance with the terms of the HIPAA Security and Privacy Rule.
- e. PrimeFlex shall report to Company any use or disclosure of Protected Health Information which is not in compliance with the terms of this Agreement of which it becomes aware. PrimeFlex shall report to Company any Security Incident of which it becomes aware. For purposes of this Agreement, "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. In addition, PrimeFlex agrees to mitigate, to the extent practicable, any harmful effect that is known to PrimeFlex of a use or disclosure of PHI by PrimeFlex in violation of the requirements of this Agreement.

### **III. AVAILABILITY OF PHI**



- a. PrimeFlex agrees to comply with any requests for restrictions on certain disclosures of PHI pursuant to Section 164.522 of the HIPAA Security and Privacy Rule to which Company has agreed and of which PrimeFlex is notified in writing by Company. PrimeFlex agrees to make available PHI to the extent and in the manner required by Section 164.524 of the HIPAA Security and Privacy Rule. If PrimeFlex maintains PHI electronically, it agrees to make such PHI electronically available to the applicable individual in a designated record set. PrimeFlex agrees to make PHI available for amendment and incorporate any amendments to PHI in accordance with the requirements of Section 164.526 of the HIPAA Security and Privacy Rule. In addition, PrimeFlex agrees to make PHI available for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Security and Privacy Rule and Section 13405(c)(3) of the HITECH Act. PrimeFlex and Company shall cooperate in providing any accounting required on a timely basis.

**IV. TERMINATION**

- a. The term of this Agreement shall be effective as of the date of execution by the Company below, and shall remain in effect until the Main Agreement is terminated for any reason and PrimeFlex ceases to perform any services for Company, or on the date Company terminates this Agreement for cause as provided below, whichever occurs sooner. Notwithstanding anything in this Agreement to the contrary, Company shall have the right to terminate this Agreement and the Main Agreement immediately if Company determines that PrimeFlex has violated any material term of this Agreement. If Company reasonably believes that PrimeFlex will violate a material term of this Agreement and, where practicable, Company gives written notice to PrimeFlex of such belief within a reasonable time after forming such belief, and PrimeFlex fails to provide adequate written assurances to Company that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then Company shall have the right to terminate this Agreement and the Main Agreement immediately.

**V. MISCELLANEOUS**

- a. Except as expressly stated herein or in the HIPAA Security and Privacy Rule, the Parties to this Agreement do not intend to create any rights in any third parties. The obligations of PrimeFlex under Section II shall survive the expiration, termination, or cancellation of this Agreement, the Main Agreement and/or the business relationship of the Parties, and shall continue to bind PrimeFlex, its agents, employees, contractors, successors, and assigns as set forth herein.
- b. This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. This Agreement will be governed by the laws of the Commonwealth of Pennsylvania and applicable Federal law (and if a conflict should exist, the Federal law shall govern). No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
- c. The Parties agree that, in the event that any documentation of the arrangement pursuant to which PrimeFlex provides services to Company contains provisions relating to the use or disclosure of PHI which are more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. The provisions of this Agreement are intended to establish the minimum requirements regarding PrimeFlex's use and disclosure of PHI.
- d. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Security and Privacy Rule, including any then-current requirements of the HITECH Act or its regulations, such Party shall notify the other Party in writing. For a period of up to thirty days, the Parties shall consult and address in good faith such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, after such thirty-day period, the Agreement fails to comply with the HIPAA Security and Privacy Rule, including the HITECH Act, then either Party has the right to terminate upon written notice to the other Party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.	
<b>PrimeFlex Administrative Services, LLC</b>	<b>Company (for and on behalf of Plan)</b>
By: William J. Pellicano, CEO <i>&lt;Authorized Signature&gt;</i>	Signature of Authorized Representative
	Date
	Title
	Print Name
	Company Name