

Administration and Trust Agreement
Between
TPA Systems Inc. (herein referred to as "TPAS")
and

_____ (herein referred to as "Employer")

Whereas the Employer desires to establish one or more employee benefit plans pursuant to relevant sections of the Internal Revenue Code (IRC); whereas the Employer desires to contract with an independent administrator to provide assistance with the implementation and administration of said plans; whereas the Employer and TPAS have agreed that TPAS shall provide said services to the Employer; whereas TPAS and the Employer desire to express the terms of their agreement in writing; now TPAS and the Employer enter into this agreement.

1. **Funds paid by Employer to TPAS:** All funds paid to TPAS by Employer shall be classified as either Administrative Fees or Claims Funds. Administrative Fees shall be defined as any fees charged by TPAS to the Employer that are not eligible to be paid to a beneficiary as defined by either: a) a benefit plan Adoption Agreement provided by TPAS to the Employer, or b) this agreement. Claims Funds shall be defined as any funds collected by TPAS which must be paid to a beneficiary as defined by either: a) a benefit plan Adoption Agreement provided by TPAS to the Employer, or b) this agreement.

2. **Rules for payments to beneficiaries:** Beneficiaries shall be specified within the terms of a formal Adoption Agreement provided by TPAS to the Employer. TPAS and the Employer agree that the terms of an Adoption Agreement sold by TPAS to the Employer shall govern the payment of benefits under this agreement, even if the Adoption Agreement is not correctly or formally adopted by the Employer.

3. **Administrative Fees:** To compensate TPAS for its services, TPAS shall collect Administrative Fees from the Employer. These fees may include, but are not necessarily limited to, Adoption Agreement preparation/provision fees, periodic Adoption Agreement maintenance fees, plan set-up fees, ongoing administration fees, and fees charged to a beneficiary for the handling of a claim. The amounts charged by TPAS for Administrative Fees may be changed by TPAS at any time, provided that TPAS notifies the Employer of any change in ongoing Administration Fees or fees charged to a beneficiary for the handling of a claim at least thirty days in advance. Administration Fees shall be regarded as separate from Claims Funds, and shall not be subject to any of the trust provisions expressed in this agreement that pertain to Claims Funds.

4. **Co-mingling of Claims Funds:** The Employer agrees that all Claims Funds collected by TPAS may be co-mingled with the Claims Funds collected by TPAS from other TPAS customers into one or more bank accounts. The Employer and TPAS agree that TPAS shall only deposit collected Claims Funds into a bank account maintained by a bank chartered by either the state of Texas or the United States of America.

5. **Claims Funding:** All Claims Funding shall be held and managed in trust by TPAS. The Employer shall be the trust grantor; TPAS shall be the trustee of said trust; the trust assets shall be the Claims Funds; the primary beneficiaries shall be the employees of the Employer that are participating and/or covered by the benefit plans, and the secondary beneficiary shall be the Employer.

6. **Trust administration:** TPAS shall have the exclusive right to determine the methods, procedures, formulas, and frequency of any and all transactions necessary to collect Claims Funds from the Employer. TPAS shall first pay benefits to primary beneficiaries of the trust according to the terms of the Adoption Agreement, and shall secondarily refund unused benefits to the Employer. TPAS and the Employer agree that TPAS may refund unused Claims Funds to Employer in any fashion in which TPAS and the Employer mutually agree.

7. **Payments to beneficiaries:** TPAS represents that it will honor and pay legitimate, allowable, and timely claims to plan beneficiaries according to the terms of the Adoption Agreement governing the Employer's benefit plan within fifteen business days of receipt.

8. **Advancement of benefits to beneficiaries:** TPAS may, at its sole discretion, advance benefit payments to primary beneficiaries against Claims Funds that have not been remitted by the Employer to TPAS. Employer and TPAS agree that this practice may be suspended by TPAS at the sole discretion of TPAS at any time, with or without notice to the Employer.

9. **Default on advanced benefits:** The Employer agrees that TPAS shall be entitled to recover any benefit payments paid by TPAS to primary beneficiaries in advance of receipt of Claims Funds from the Employer. Should the Employer attain a Claims Fund deficit, TPAS may notify the Employer of its default status either electronically or in writing. If so notified, the Employer shall cure any deficit within fifteen days of receipt of such notice. If the Claims Fund deficit is not cured by the Employer within fifteen days of receipt or electronic transmission by TPAS, TPAS may institute any legal action necessary to collect the deficit, in addition to any and all collection, legal and court costs incurred by TPAS during the collection process.

10. **NACHA rules to govern:** TPAS represents that it will execute all funding transactions according to NACHA (National Automated Clearing House Association) rules and pursuant to the respective Adoption Agreements provided by TPAS to the Employer, in addition to any pertinent guidelines contained within the IRC.

11. **Modification:** This agreement may be modified by TPAS as needed after its effective date, provided that TPAS notifies the Employer of any modifications at least thirty days in advance.

12. **Termination:** Either party may terminate this agreement by presenting thirty days written notice to the other party. The Employer agrees that any refund of any excess Claims Funds that the Employer may be entitled to shall be delayed for a period equal to the additional time period specified within the Adoption Agreement for claims filing by beneficiaries who have been terminated from the plan, plus an additional period of fifteen days.

13. **Hold Harmless:** The Employer stipulates that his obligation to provide plan benefits pursuant to the plan's Adoption Agreement may survive the termination of this agreement, and warrants that TPAS will be held harmless from any liability that may arise from the Employer's failure to satisfy any of its obligations under the benefit plan described in the Adoption Agreement sold to the Employer by TPAS that are incurred after this agreement has been terminated.

14. **Severability:** In the event that any term or provision of this agreement shall be held by a court to be illegal or unenforceable, all other terms and conditions of this agreement shall remain in full force and effect.

15. **Force Majeure:** Employer agrees that TPAS shall not be liable for failure to perform its obligations hereunder due to acts of God, fire, flood, hurricane, or other catastrophes.

16. **Entire Agreement:** The terms and conditions contained in this agreement shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede and cancel any prior oral or written agreements, proposals, or understandings.

Executed in _____, Texas this _____ day of _____, _____ .
(day) (month) (year)

for TPA Systems Inc.: _____ for Employer _____
signature and title signature and title