ADMINISTRATIVE SERVICES AGREEMENT
GROUP NO. XXXXX

This Agreement is made and entered into as of this 1st day of _____, 2017 ("Effective Date") by and between (Group Name) _____ (hereinafter referred to as "Employer") and Allied Benefit Systems, Inc. (hereinafter referred to as "TPA"). The purpose of this Agreement is to detail the responsibilities and obligations of the parties with respect to the Employer's program of providing medical and/or other benefits for employees and their dependents (hereinafter referred to as "Benefit Plan").

Therefore, for and in consideration of the mutual covenants contained herein and for other valuable consideration, it is agreed as follows:

1. RESPONSIBILITIES OF THE EMPLOYER

a. Furnish the TPA with a written detailed description of the Benefit Plan.
b. Determine the claims administration procedures and practices to be followed, which are not self-evident from the Benefit Plan.
c. Determine the eligibility of an employee or dependent to receive benefits. The Employer shall supply the TPA in writing or by electronic medium with all information regarding the eligibility of employees and dependents.
d. Remit all fees and insurance premiums when due. Failure to do so may result in a loss of coverage and cessation of administrative services and will relieve the TPA of any further responsibility under this Agreement. Payments received after the due date may be subject to a $50.00 late fee.
e. Perform and comply with the obligations set forth in the HIPAA Business Associate Addendum, attached as Exhibit A to this Agreement and incorporated hereto by reference.
f. Provide the TPA with the social security numbers and Medical Health Insurance Claim Numbers ("HICNs") (if applicable) for all Benefit Plan participants (employees and dependents) upon request in order for the TPA to supply such information to the Centers for Medicare and Medicaid Services in compliance with the Medicare, Medicaid and SCHIP Extension Act.
g. The Employer shall furnish the TPA with the following information for each employee and dependent for which COBRA coverage will be offered by the Employer:
   i. name
   ii. address
   iii. social security number
   iv. date of birth
   v. type of qualifying event
   vi. date of qualifying event
   vii. premium rate
   viii. available coverage
   ix. any other appropriate information requested by the TPA.

Such information will be forwarded to the TPA within thirty (30) days of the date of the qualifying event.
h. Furnish the TPA with sufficient information regarding claims incurred before the effective date of the claims administration of the Benefit Plan by the TPA to allow it to determine the liability of the Benefit Plan for related claims incurred thereafter.
i. Promptly inform the TPA of the addition or deletion of persons covered by the Benefit Plan with the agreement that the Benefit Plan shall remain liable for benefit claims which are pre-certified, or which have been paid, as being covered until such time as the TPA is notified of the change in eligibility of any person covered under the Benefit Plan.
j. Forward to the TPA any incoming Certificates of Creditable Coverage received from any employee or eligible dependent to be used by the TPA to calculate any pre-existing condition waiting period.
k. Acknowledge its fiduciary responsibility per the Employee Retirement Income Security Act of 1974.
l. Reconcile monthly billings and notify TPA of any discrepancies within 60 days of the billing date. Notwithstanding the foregoing, Employer must nonetheless pay all bills timely.

2. RESPONSIBILITIES OF TPA

a. Provide Benefit Plan documents for the Employer's review.
b. Arrange for the production and distribution of summary plan descriptions, ID cards, summaries of benefits and coverage and other agreed upon Benefit Plan-related documents for Benefit Plan participants.
c. Follow the claims administration procedures and practices provided for under the Benefit Plan, and consult with the Employer on any changes.
d. Provide suitable facilities, personnel, procedures, forms and instructions and other services reasonably necessary for the processing of claims under the Benefit Plan.
e. Determine, in accordance with the Benefit Plan and claims processing procedures and practices, the qualification of claims submitted, making as required, such investigations as may be reasonably necessary as determined by the TPA.
f. Forward payment with Employer funds as provided for in Section 5 of amounts due with respect to claims that qualify under the Benefit Plan as provided above.
g. Submit to the Employer a reconciliation, which includes a monthly accounting of payments made in sufficient detail to provide for the audit and control of funds used.
h. Submit to the Employer a monthly accounting of benefit payments for all lines of coverage and payments to individuals.
i. Submit to each employee and dependent specified by the Employer a COBRA package containing the necessary election forms and premium rates established by the Employer. Such information will be forwarded to any individual specified by the Employer within fourteen (14) days of the date the TPA receives the Employer's request. If COBRA coverage is elected, the TPA shall forward to the individual(s) payment coupons indicating the monthly premium payments for continued coverage. Such coupons will be forwarded within fourteen (14) days of the date the signed and completed election form is received by the TPA.

j. If requested, assist the Employer in the preparation and filing of Form 5500 for the Benefit Plan.

k. If the Employer has elected to utilize the Aetna Signature Administrators® program as its network, and in the event the TPA becomes aware that the Employer has (a) filed an application for, or consented to the appointment of a receiver, trustee, or liquidator of all or a substantial portion of the Employer's assets; (b) filed a voluntary petition in bankruptcy or admission in writing of its inability to pay its debts as they become due; or (c) filed a petition or an answer seeking reorganization or arrangement with creditors to take advantage of any insolvency law; or (d) refused to fund any covered claims of participating providers, then, if the Employer is not current on its payment, the TPA will require Employer to immediately notify all members of the Benefit Plan and all health care providers whose claims are pended as a result of the delinquency of funding. Such notification shall be in writing and a copy forwarded to the TPA and Aetna Life Insurance Company.

l. Comply with the requirements imposed on the Claims Processor by the Medicare, Medicaid and SCHIP Extension Act, including the transmission of the social security numbers and HICNs of Employer's Benefit Plan participants to the Centers for Medicare and Medicaid Services as applicable.

m. Using information provided by the Employer, maintain eligibility files of employees and dependents to obtain benefits under the Benefit Plan.

n. Provide appropriate billings for all services and insurance coverages, request additional funding when the Benefit Plan does not meet or exceed the cumulative claim fund contribution and remit collected funds to the appropriate party.

o. TPA, at its sole cost and expense, shall procure and maintain policies of general liability and professional liability insurance.

p. Provide standard eligibility and claim reports.

q. Maintain records related to the Benefit Plan and the TPA's services provided hereunder for a period of ten years.

3. ADMINISTRATION FEE

TPA shall collect from Employer the agreed-upon administration fee, which shall include the fee to which TPA is entitled for its performance of the services outlined in this Agreement. TPA shall remit the remaining portions of the administration fee to Employer's contracted vendors, as directed by Employer. Separately, with respect to any subrogation matter of which TPA is involved, Employer shall pay TPA a fee in the amount of 25% of any monetary recovery.

4. BENEFIT PLAN ACCOUNT

Employer shall provide funds to be used to make Benefit Plan payments to, or on behalf of, plan participants as funds are needed to cover such payments. Upon the request of TPA, Employer or the Benefit Plan will transfer to TPA those funds which are necessary to provide for the payment of approved claims and other approved expenses of the Benefit Plan. All funds transferred to TPA will be used solely and exclusively for the purpose of paying approved claims or for the payment of other approved expenses of the Benefit Plan. TPA shall not be liable for provider/facility charges claimed as a result of purported lost discounts, or for any other expenses incurred as a result of purported lost discounts, unless such charges or expenses are a result of TPA's sole negligence or willful misconduct.

5. AUDIT

Upon reasonable prior written notice, the Employer and/or its designated auditor may conduct an on-site audit to examine any records of TPA relating to the performance of its responsibilities under this Agreement, including processing of eligibility, claims, claims payments, and the issuing of checks for payment of claims. The audit must be reasonable in scope as mutually determined by the Employer and TPA. In addition, TPA must consent to the choice of auditor, such consent shall not be unreasonably withheld. Audits performed on a contingency fee basis will not be allowed by the TPA. Employer shall pay all expenses and fees associated with the auditor, and shall also pay a fee to TPA for TPA's time and costs associated with the audit. The amount of this fee to TPA shall be agreed to in writing between the parties in advance of the audit.

6. LIABILITY AND INDEMNITY

a. TPA does not insure nor underwrite the liability of Employer under the Benefit Plan. Employer acknowledges and agrees that: (a) Employer is the fiduciary under the Benefit Plan, pursuant to the Employee Retirement Income Security Act of 1974 ; (b) the services provided by TPA to the Benefit Plan shall be performed within the framework established by the Employer; (c) the Employer retains the ultimate responsibility for claims made under the Benefit Plan, COBRA compliance, the purchase of stop-loss, the filing of Form 5500 and all expenses incident to the Benefit Plan; (d) the Employer retains the exclusive discretionary authority and control to manage and otherwise administer the Benefit Plan and the disposition of its assets, , and (e) with the exception of payments made by Employer to TPA in satisfaction of any administrative fees, TPA will act as a mere custodian, financial intermediary, or commercial conduit with respect to any funds provided by Employer to TPA pursuant to this Agreement, and TPA shall not be considered an initial transferee of those funds, as those terms are applied to Section 550 of Title 11 of the United States Code. Except to the extent TPA is otherwise indemnified by a third party, Employer agrees to indemnify the TPA and hold the TPA harmless against claims for insurance premiums, taxes, penalties, employee benefits and any and all losses, damages, expenses, costs or liabilities, including reasonable attorneys' fees and court costs, arising out of claims brought against the TPA 1) to recover benefits under the Benefit Plan, 2) to recover damages for failure to pay such benefits, including any purported lost discounts, or 3) in connection with any other action or claim relating to the Benefit Plan, including, without limitation, any action for recovery of amounts paid to the TPA for the Benefit Plan (with the exception of

payments in satisfaction of administrative fees), whether under Sections 544, 547, and 548 of Title 11 of the United States Code or otherwise, unless such losses, damages, expenses, costs or liabilities are incurred solely as a result of the negligence or willful misconduct of TPA.

b. Except to the extent TPA is otherwise indemnified by a third party, Employer agrees to indemnify TPA and hold TPA harmless for penalties levied by the federal government against TPA for failure to provide all social security numbers and HICNs (when applicable) of Employer's Benefit Plan participants to the Centers for Medicare and Medicaid Services, pursuant to the Medicare, Medicaid and SCHIP Extension Act. This section will not apply when such failure is based on the negligence of TPA. TPA agrees to send a letter to Employer on a quarterly basis regarding the necessary social security numbers.

c. During the continuance of this Agreement, the TPA agrees to indemnify the Employer and hold the Employer harmless against any and all loss, damage, and expense with respect to this Benefit Plan resulting from or arising out of the dishonest, fraudulent, negligent or criminal acts of TPA's employees, acting alone or in collusion with others. TPA shall maintain blanket bond coverage for employee dishonesty.

d. Any regulatory or governmental assessment, tax, fee or penalty assessed or imposed on the TPA (except to the extent such a penalty is assessed or imposed as a result of the TPA's negligence or willful misconduct), as a result of the existence of the Benefit Plan or the TPA's administration of the Benefit Plan, will be the responsibility of the Employer.

e. TPA shall not be liable to Employer for any claim which is asserted by Employer more than one (1) year after Employer is or should have been reasonably aware of such claim, and will in no event be liable to Employer for any claim which is asserted by Employer more than twenty-four (24) months after the event resulting in damage or loss.

f. The provisions contained within this Section 6 shall survive termination of this Agreement.

7. ASSESSMENTS, TAXES, PENALTIES AND GOVERNMENTAL FEES

Subject to Section 6, entitled "Liability and Indemnity," all assessments will be paid in accordance with and will be the responsibility of the applicable party set forth or otherwise prescribed in the regulation or other applicable law governing the applicable assessment. To the extent the regulation or other applicable law does not identify the responsible party, the following guidelines shall be used to determine the party responsible for the payment of such assessment:

a. Assessments directly related to the payment for medical care will be processed and paid in the same manner as claims paid in accordance with the terms of the Benefit Plan. As such, these assessments are not the responsibility of the TPA.

b. Residency taxes and/or fees will be billed to and paid by the Employer as a separate line item on its monthly bills. As such, these taxes and/or fees are not the responsibility of the TPA.

c. TPA license fees that are charged as a result of doing business, as well as TPA's corporate taxes, will be the responsibility of TPA.

d. Except to the extent otherwise agreed upon between TPA and a third party, nothing in this section shall preclude TPA from passing through to the Employer any applicable assessment, tax, penalty or fee for which the responsible party cannot be determined based on the foregoing.

8. SEVERABILITY

Should any part of this Agreement be declared invalid, any remaining portion shall remain in full force and effect as if this Agreement had been executed with the invalid portion eliminated.

9. TERMINATION AND REVISION

This Agreement shall commence as of the Effective Date and shall continue in full force and effect for one (1) year, and thereafter shall automatically renew for additional terms of one (1) year unless terminated in accordance with the remainder of this Section and/or other provisions of this Agreement.

Unless otherwise provided, this Agreement may be terminated effective upon (a) the first day of any month following thirty (30) days written notice of termination by either party to the other, (b) failure of Employer to pay its monthly administration fee, if such fee is not received by TPA within 31 days following the applicable due date or (c) failure of Employer to pay its first monthly administration fee upon re-issue, if such fee is not received by TPA within 40 days following the applicable due date. Upon termination of this Agreement, TPA will provide services in accordance with the terms of the Benefit Plan, and/or Employer's stop-loss policy, during the Employer's applicable run-out period, and all claim files shall remain in TPA's possession until the completion of all such services. If requested by the Employer in writing, the TPA will provide a computer - generated Paid Claims Analysis Report and Eligibility Listing for the period of this Agreement. No other services will be provided by the TPA after the termination of this Agreement unless agreed to in writing by both parties.

10. INDEPENDENT CONTRACTOR

It is understood and agreed that the TPA is engaged to perform services under this Agreement as an independent contractor and not as an employee, agent, partner or joint venturer of the Employer, its broker or consultant or any other vendor.

11. NO CONTINUING WAIVER

Failure of either party to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provision or in any way offset the validity of this Agreement or any part thereof or the right of such party to thereafter enforce each and every provision of this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

12. THIRD PARTY RIGHTS

Nothing contained in this Agreement, expressed or implied, is intended to confer, or shall confer, upon any individual participant in or beneficiary under the Benefit Plan any rights or remedies under or by reason of this Agreement.

13. NONSOLICITATION

During the term of this Agreement and for a period of twenty-four (24) months following termination of this Agreement, for any reason, with or without cause, neither party shall solicit or induce (or attempt to solicit or induce) any employee or independent contractor of the other party to leave or terminate his/her employment and/or independent contractor relationship. This provision shall survive termination of this Agreement.

14. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and assigns.

15. HEADINGS, GENDER AND NUMBER

Paragraph numbers and headings have been inserted solely for convenience and reference and shall not be construed to affect or limit the meanings, construction or effect of this Agreement. Use of the masculine gender shall include the feminine gender and vice versa. Use of the word "party" shall mean and include any trust, corporation, partnership, or other entity. The singular number shall include the plural number and vice versa.

16. APPLICABLE LAW

This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Wisconsin.

17. AMENDMENTS AND MODIFICATIONS

Unless stated otherwise in this Agreement, this Agreement may only be revised by a written agreement signed by both parties.

18. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties and no other representations, oral or otherwise, are binding.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on the day and year first above written.

FOR THE EMPLOYER:

BY:_____

TITLE:_____

DATE:_____

FOR THE TPA:

BY: 

TITLE: Vice President of Administration

ALLIED BENEFIT SYSTEMS, INC.
200 West Adams
Suite 500
Chicago, IL 60606

EXHIBIT A
HIPAA BUSINESS ASSOCIATE ADDENDUM

This HIPAA Business Associate Addendum ("Addendum") supplements and is made a part of the Administrative Services Agreement ("Agreement") between (Group Name)_____,, plan sponsor of the (Group Name Employee Benefit Plan)_____ ("Covered Entity") and Allied Benefit Systems, Inc. ("Business Associate").

Covered Entity and Business Associate are parties to the Agreement pursuant to which Business Associate provides certain services to Covered Entity. In connection with Business Associate's services, Business Associate creates, receives, maintains and/or transmits Protected Health Information ("PHI") on behalf of Covered Entity. To that end, the purpose of this Addendum is to comply with the requirements of (i) the implementing regulations at 45 C.F.R Parts 160, 162, and 164 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (*i.e.,* the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules ("the Implementing Regulations"), (ii) the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") that are applicable to business associates, and (iii) the requirements of the final modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules as issued on January 25, 2013 and effective March 26, 2013 (75 Fed. Reg. 5566 (Jan. 25, 2013)) ("the Final Regulations"). The Implementing Regulations, the HITECH Act, and the Final Regulations are collectively referred to in this Addendum as "the HIPAA Requirements."

Covered Entity and Business Associate agree to incorporate into this Addendum any regulations issued by the U.S. Department of Health and Human Services ("HHS") with respect to the HIPAA Requirements that relate to the obligations of business associates to be reflected in a business associate agreement. Business Associate recognizes and agrees that it is obligated by law to meet the provisions of the HIPAA Requirements directly applicable to Business Associate, and that it has direct liability for any violations of such HIPAA Requirements.

In the event of an inconsistency between the provisions of this Addendum and a mandatory term of the HIPAA Requirements (as these terms may be expressly amended from time to time by HHS or as a result of interpretations by HHS, a court, or another regulatory agency with authority over the parties), the interpretation of HHS, such court or regulatory agency shall prevail.

Where provisions of this Addendum are different from those mandated by the HIPAA Requirements, but are nonetheless permitted by the HIPAA Requirements, the provisions of this Addendum shall control.

In light of the foregoing and the requirements of HIPAA, Business Associate and Covered Entity agree to be bound by the following terms and conditions:

1. Definitions.

(a) General. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms are defined in the HIPAA Requirements.

(b) Specific.

i. Breach. "Breach" shall mean, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of Unsecured Protected Health Information in a manner not permitted by the HIPAA Requirements that compromises the security or privacy of that Protected Health Information.

ii. Business Associate Subcontractor. "Business Associate Subcontractor" shall mean, as defined in 45 C.F.R. § 160.103, any entity (including an agent) that creates, receives, maintains or transmits Protected Health Information on behalf of Business Associate.

iii. Electronic Protected Health Information. "Electronic Protected Health Information" ("EPHI") shall have the same meaning set forth in 45 C.F.R. § 160.103, as amended from time to time, and generally means Protected Health Information that is transmitted or maintained in any electronic media.

iv. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

v. 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.

vi. Protected Health Information. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity pursuant to this Addendum.

vii. Required By Law. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.

viii. Security Incidents. The term "Security Incidents" has the meaning set forth in 45 C.F.R. § 164.304, as amended from time to time, and generally means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system.

ix. Security Rule. "Security Rule" shall mean the Standards for Security of Individually Identifiable

Health Information created, transmitted, maintained or received in an electronic media (45 C.F.R. Parts 160, 162 and 164.)

x. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

xi. Unsecured Protected Health Information. "Unsecured Protected Health Information" shall mean, as defined in 45 C.F.R. §164.402, Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by HHS.

2. **Flow-Down of Obligations to Business Associate Subcontractors**. Business Associate agrees that as required by the HIPAA Requirements, Business Associate will enter into a written agreement with all Business Associate Subcontractors that: (i) requires them to comply with the Privacy and Security Rule provisions of this Addendum in the same manner as required of Business Associate, and (ii) notifies such Business Associate Subcontractors that they will incur liability under the HIPAA Requirements for non-compliance with such provisions. Accordingly, Business Associate shall ensure that all Business Associate Subcontractors agree in writing to the same privacy and security restrictions, conditions and requirements that apply to Business Associate with respect to PHI.

3. Obligations and Activities of Business Associate under HIPAA Privacy Rules.

(a) Use and Disclosure. Business Associate agrees to not use or disclose PHI other than as permitted or required by this Addendum or as Required by Law. When performing the functions and activities specified in the Agreement and this Addendum (including when requesting PHI from another covered entity or business associate), Business Associate agrees to use, disclose, or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure, or request.

(b) Appropriate Safeguards. Business Associate shall establish, implement and maintain appropriate safeguards, and comply with the Security Standards (Subpart C of 45 C.F.R. Part 164) with respect to electronic PHI, as necessary to prevent any use or disclosure of PHI other than as provided for by this Addendum. Without limiting the generality of the foregoing, Business Associate agrees to protect the integrity and confidentiality of any PHI it electronically exchanges with Covered Entity.

(c) Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Addendum.

(d) Reporting. Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided in this Addendum of which Business Associate becomes aware, including reporting Breaches of Unsecured PHI as required by 45 C.F.R. § 164.410 and this Addendum.

(e) Access to Designated Record Sets. To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner reasonably requested by Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to those individuals who are the subject of the PHI (or their designees) in order to meet the requirements under 45 CFR 164.524. Business Associate shall make such information available in an electronic format where directed by Covered Entity.

(f) Amendments to Designated Record Sets. To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner reasonably requested by Covered Entity.

(g) Access to Books and Records. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner reasonably requested by the Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's and/or Business Associate's compliance with the HIPAA Requirements.

(h) Accountings. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

(i) Requests for Accountings. Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner reasonably requested by Covered Entity, information collected in accordance with Section 3.h. of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

4. Obligations and Activities of Business Associate under HIPAA Security Rules.

(a) Business Associate shall use appropriate administrative, technical, and physical safeguards ("Safeguards"), that reasonably and appropriately protect the integrity, confidentiality, and availability of, and to prevent non-permitted or violating use or disclosure of, EPHI created, transmitted, maintained, or received in connection with the services provided under the Agreement.

(b) Business Associate shall document and keep these Safeguards current. These Safeguards shall extend to transmission, processing, and storage of EPHI. Transmission of EPHI shall include transportation of storage media, such as magnetic tape, disks or compact disk media, from one location to another. Upon Covered Entity's request, Business Associate shall provide Covered Entity access to, and copies of,

documentation regarding such Safeguards.

(c) Business Associate shall comply with and implement the requirements of the HIPAA Security Rule (45 C.F.R. Parts 160, 162, and 164) by:

i. Implementing administrative, physical, and technical safeguards required by the Security Rule that reasonably protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

ii. Ensuring that any Business Associate Subcontractors to whom it provides such information agree to implement reasonable and appropriate safeguards to protect such information;

iii. Reporting and tracking all Security Incidents as described below:

iv. .Business Associate shall report to Covered Entity any Security Incident that results in (i) unauthorized access, use, disclosure, modification, or destruction of Covered Entity's EPHI of which Business Associate becomes aware, or (ii) interference with Business Associate's system operations in Business Associate's information systems, of which Business Associate becomes aware;

v. Business Associate shall report to Covered Entity within twenty-one (21) days after Business Associate learns of such Security Incident. For any other Security Incident, Business Associate shall aggregate the data and provide such reports on a quarterly basis, or more frequently upon Covered Entity's request.

vi. Making Business Associate's policies and procedures and documentation required by the Security Rule related to these safeguards available to the Secretary for purposes of determining Covered Entity's and/or Business Associate's compliance with the Security Rule.

(d) Business Associate agrees to take all reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from any unauthorized access, use, disclosure modification or destruction of EPHI.

5. <u>Notice and Reporting Obligations of Business Associate.</u>

(a) Business Associate shall notify Covered Entity within twenty-one (21) days after discovery by Business Associate, any unauthorized access, use, disclosure, modification, or destruction of PHI (including any successful Security Incident) that is not permitted by this Addendum, by applicable law, or permitted in writing by Covered Entity.

(b) Business Associate shall, as required by law, notify Covered Entity of the discovery of any Breach of Unsecured Protected Health Information. Notice must be made without any unreasonable delay and no later than twenty-one (21) days after discovery of the Breach by Business Associate.

(c) As provided for in 45 C.F.R. Sec. 164.402, Business Associate recognizes and agrees that any acquisition, access, use or disclosure of Unsecured PHI in a manner not permitted under the HIPAA Privacy Rule (Subpart E of 45 C.F.R. Part 164) is presumed to be a Breach. As such, Business Associate shall assist Covered Entity in performing a risk assessment to examine whether there is a low probability that the Unsecured PHI has been compromised to determine whether a Breach has in fact occurred.

Business Associate shall cooperate with Covered Entity in furtherance of Covered Entity's Breach notification obligations under the HIPAA Requirements by:

- Identifying each individual (if known) whose Unsecured PHI has been or is reasonably believed to have been accessed, acquired, or disclosed.
- Identifying the nature of the Breach, including the date of the Breach and date of the discovery.
- Identifying the nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification.
- Identifying the unauthorized person who used the PHI or to whom the disclosure was made.
- Determining whether the PHI was actually acquired or viewed.
- Identifying what corrective or investigational action Business Associate took or will take to prevent further non-permitted accesses, uses, or disclosures.
- Determining the extent to which the risk to the PHI has been or will be mitigated by Business Associate.
- Determining whether the incident falls under any of the Breach notification exceptions.

6. <u>Permitted Uses and Disclosures by Business Associate.</u>

(a) <u>Agreement</u>. Business Associate agrees to create, receive, use, disclose, maintain or transmit PHI only in a manner that is consistent with this Addendum or the HIPAA Requirements, and only in connection with providing the services identified in the Agreement. To that end, Business Associate may not use or disclose PHI in a manner that would violate the requirements of the Privacy Rule if done by Covered Entity, subject to subsections 6(b) and (c), or the minimum necessary policies and procedures of Covered Entity. Business Associate further agrees that to the extent it is carrying out one or more of the Covered Entity's obligations under the Privacy Rule (Subpart E of 45 C.F.R. Part 164), it shall comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.

(b) <u>Use for Administration of Business Associate</u>. As permitted by the HIPAA requirements, Business Associate may use PHI received by the Business Associate in its capacity as a Business Associate to the Covered Entity for 1) the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, or 2) data aggregation services relating to health care operations of the Covered Entity.

(c) <u>Disclosure for Administration of Business Associate</u>. As permitted by the HIPAA Requirements, Business Associate may disclose PHI received by the Business Associate in its capacity as a Business Associate to the Covered Entity for the proper management and administration of the Business

Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

7. Obligations of Covered Entity.

(a) Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

(b) Notification of Changes Regarding Individual Permission. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Notification of Restrictions to Use or Disclosure of PHI. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522.

(d) Obligations of Covered Entity with respect to a Breach of Unsecured PHI. Covered entity shall:

- Investigate any unauthorized access, use, or disclosure of Unsecured PHI.
- Perform a risk assessment to determine if there is a low probability that the PHI has been compromised
- Determine whether the incident falls under any of the HITECH Breach notification exceptions.
- Notify each Covered Entity plan member impacted by a Breach by first class mail (or by other methods applicable under law) without any unreasonable delay and no later than 60 days after discovery of the Breach. The notification will comply with the HIPAA Requirements.
- Maintain a log and submit to HHS an annual report of Breaches of Unsecured PHI that impact fewer than 500 individuals under the time frames required by the HIPAA Requirements.
- Notify HHS in the event the Breach of Unsecured PHI impacts 500 or more individuals under the time frames required by the HIPAA Requirements.
- Notify media when required by the HIPAA Requirements.

8. Permissible Requests by Covered Entity.

Except as set forth in Section 6 of this Addendum, Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

9. Term and Termination.

(a) Term. This Addendum shall be effective as of effective date of the Administrative Services Agreement and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause. Upon either party's knowledge of a material breach by the other party, including the breaching party engaging in a pattern of activity or practice that constitutes a material breach or violation of the breaching party's obligations under this Addendum, the non-breaching party shall either:

i. Provide an opportunity for the breaching party to cure the breach or end the violation. If the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party, the non-breaching party shall terminate the Agreement and this Addendum;
ii. Immediately terminate the Agreement and this Addendum if the breaching party has breached a material term of this Addendum and cure is not possible; or
iii. If neither termination nor cure are feasible, the breaching party shall report the violation to the Secretary.

(c) Effect of Termination.

i. Except as provided in paragraph ii. of this Section 9.c., upon termination of the services provided to Covered Entity under the Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of Business Associate Subcontractors. Business Associate shall retain no copies of the PHI.
ii. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Addendum and the HIPAA Requirements to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

10. Miscellaneous.

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

(b) Amendment. The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule and HIPAA.

(c) Survival. Business Associate's and Covered Entity's obligation to protect the privacy and security of the PHI they created, received, maintained, or transmitted in connection with services to be provided under the Agreement and this Addendum will be continuous and survive termination, cancellation, expiration, or other conclusion of this Addendum or the Agreement.

(d) Information Systems. If Business Associate is provided access to any Covered Entity information system or network containing any EPHI, Business Associate agrees to comply with all Covered Entity policies for access to and use of information from the information systems or network

(e) Interpretation. Any ambiguity in this Addendum shall be resolved to permit Covered Entity to comply with the applicable provisions of the Privacy Rule and Security Rule.

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

(g) Miscellaneous. The Addendum constitutes the entire agreement between the parties with respect to the subject matter contained herein, and no other representations, oral or otherwise, are binding.

SCHEDULE C
EXHIBIT 1 – NETWORK SERVICE AGREEMENT

This Network Service Agreement ("NSA") is between Cigna Health and Life Insurance Company (“Cigna”) and the undersigned employer sponsoring the Plan (“Plan Sponsor”).

WHEREAS, Cigna directly and through affiliates has established a national panel of physicians, hospitals and other health care practitioners and entities (“Participating Providers”) to provide or arrange for the provision of certain health care services and supplies (“Covered Services”) at rates of reimbursement specified in agreements with the Participating Providers (the “Provider Agreements”); and

WHEREAS, Plan Sponsor has established a self-insured health care benefit plan (“Plan”) that provides for the reimbursement of Covered Services in accordance with the terms and conditions of the Plan; and

WHEREAS, Cigna and National General Management Corp., on behalf of itself and The Association Benefits Solution, LLC (collectively, “Company”) have entered into an administrative services agreement (“ASA”) for the shared administration of Participating Provider; and

WHEREAS, through a program marketed by National General Benefits Solutions, Company provides a healthcare solution under which Company markets, provides risk management, and arranges for the administration of health care benefit plans (“Program”); and

WHEREAS, under the ASA, Company will offer the Program to the Plan; and

WHEREAS, Plan Sponsor desires to make the Participating Providers available to those of its employees and their dependents who are covered under the Plan (“Members”) for the provision of Covered Services.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and covenants contained herein, Cigna and Plan Sponsor hereby agree as follows:

I. CIGNA DUTIES

Cigna shall make the Participating Providers available for the provision of Covered Services to Members at the reimbursement rates determined by Cigna in accordance with its applicable Participating Provider Agreements for Cigna’s Medical Network (“Participating Provider Rates”). Cigna shall be responsible for the credentialing and re-credentialing, if any, of Participating Providers in accordance with its credentialing standards. Cigna reserves the right to remove any Participating Provider from its panel of Participating Providers. Cigna or its designee shall make available to Members its list of Participating Providers. Participating Providers will be required by Cigna to accept as payment in full for all Covered Services rendered to Members the charges reflected in the applicable Provider Agreements with respect to network products. Cigna's standard Provider Agreements shall require that Participating Providers look solely to Plan Sponsor for reimbursement of charges for Covered Services provided to Members except for (i) coinsurance, co-payments and deductibles identified in the Plan which are the responsibility of Members; and (ii) any payment obligations associated with Network Performance Fees that have been paid by Plan Sponsor which are the responsibility of Cigna.

II. PLAN SPONSOR’S DUTIES

Plan Sponsor shall fund all Covered Services and shall ensure that Company processes and pays Participating Providers for all such Covered Services in accordance with the terms of the Participating Provider Agreements with the exception of any amounts paid or payable by Cigna on Plan Sponsor’s behalf in association with a Network Performance Fee. In the event of a conflict between this NSA and any Participating Provider Agreement, the Participating Provider Agreement shall prevail. Plan Sponsor shall ensure, through its agreement with Company that Participating Providers are reimbursed for Covered Services in accordance with the terms of the applicable Participating Provider Agreement less deductibles, copayments, coinsurance and any reductions in benefits due to a Member’s non-compliance

with the terms of the Plan. Plan Sponsor acknowledges and agrees that, in some instances, payment to Participating Providers in accordance with Participating Provider Agreements may result in payment of amounts in excess of billed charges. Notwithstanding the foregoing, the Participating Provider Rates shall not apply to Covered Services provided to Members by Participating Providers unless the Plan provides an incentive (through benefit differentials or otherwise) for Members to use Participating Providers rather than other health care providers and the ID cards provided to Members conspicuously identify Cigna. Plan Sponsor may seek reimbursement from Participating Providers for claim payments made with respect to individuals whose eligibility as a Member ceased prior to the provision of the services/supplies for which the payment was made within sixty (60) days following the date the Participating Provider submitted the claim to Cigna for payment. Plan Sponsor shall, through its agreement with Company, provide for the payment of all fees due to Cigna under the ASA in accordance with the terms of the ASA. Plan Sponsor shall, directly or through its agreement with Company, provide Cigna with information, including paid claim data, reasonably requested by Cigna in association with the ASA or this NSA. Plan Sponsor acknowledges that access to health services under this NSA creates an obligation between Plan Sponsor and the Participating Provider and between Plan Sponsor and Cigna, and if Plan Sponsor fails to perform its obligations, the Participating Provider and/or Cigna, as applicable, will have a direct cause of action against Plan Sponsor.

III. EFFECTIVE DATE & TERMINATION

This NSA shall, be effective the earlier of:

(i) the date this NSA is signed by Plan Sponsor, or
(ii) the date the Plan and/or its Members first access Cigna's Medical Network.

In no event shall this NSA take effect unless there is then in effect an agreement between Plan Sponsor and Company for administration of the Plan by Company.

This NSA shall automatically terminate upon:

(i) termination of the Plan,
(ii) termination of Plan Sponsor's agreement with Company for the administration of the Plan,
(iii) termination of the ASA, or
(iv) termination of Plan Sponsor's access to Cigna's Medical Network.

If this NSA is terminated, Cigna will, in accordance with the ASA, provide twelve (12) months of run-out services on claims incurred prior to the termination effective date.

IV. RESPONSIBILITY FOR COVERED SERVICES

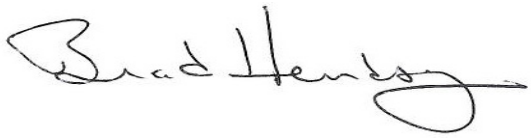
Plan Sponsor acknowledges and agrees that, with the exception of any obligations to be paid by Cigna in association with Network Performance Fees that have been paid by Plan Sponsor, Cigna and its affiliates shall not, under any circumstances, be financially responsible to Plan Sponsor, the Plan, a Member, a Participating Provider or any other party for the payment of any Covered Services under the Plan. It is understood and agreed that, with the exception of any obligations to be paid by Cigna in association with Network Performance Fees that have been paid by Plan Sponsor, the payment of all Covered Services is the responsibility of Plan Sponsor. This provision shall survive the termination of this NSA.

V. GENERAL

Any use of the name, logo, trademark, or service mark of Cigna or any Cigna Affiliate by Plan Sponsor without Cigna's prior written approval is prohibited. Any controversies or claims between Cigna and Plan Sponsor arising out of or in any way directly or indirectly connected with this NSA shall be resolved by binding arbitration. Such arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules ("AAA Rules"). The arbitral proceeding will be held in Bloomfield, Connecticut and shall be before a single arbitrator jointly agreed to by the parties. If the parties are unable to agree upon an arbitrator, the arbitrator shall be chosen in accordance with the AAA

Rules. Discovery shall be limited to mutual exchange of documents relevant to the dispute, controversy or claim; depositions shall not be permitted unless agreed to by both Parties. Each party will assume its own costs related to the arbitration, which includes any costs, fees (including attorneys' fees), and expenses of any kind. The arbitration shall be subject to the laws of the State of Delaware, without regard to its conflict of law provisions. The arbitrator may grant any remedy or relief deemed just and equitable with the exception of punitive or exemplary damages. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Arbitration is the exclusive remedy for the resolution of disputes under this NSA. The decision of the arbitrator will be final, conclusive and binding, and no action at law or in equity may be instituted by either party other than to enforce the award of the arbitrator. The existence and results of any arbitration will be treated as confidential by both parties. The relationship of the parties under this NSA is that of independent contractors. This NSA is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this NSA as a third party beneficiary or otherwise, including, but not limited to, Members and Participating Providers. This NSA as well as any subsequent amendments represent the entire agreement between the parties hereto and supersede any and all previous written or oral agreements or understandings regarding the subject matter of this NSA. Neither party may assign or transfer any duty or interest in this NSA without the written consent of the other party, and any attempted transfer or assignment without such consent shall be void, except Cigna may assign or transfer any duty or interest in this NSA to an Affiliate without the consent of Plan Sponsor. This NSA may be amended upon the mutual written consent of the parties, except Cigna shall have the right to unilaterally amend this NSA as follows: (1) upon ninety (90) days written notice to Plan Sponsor to administer any changes in law, provided, Plan Sponsor has the right to terminate this NSA within the ninety (90) day period; (2) upon one hundred and eighty (180) days prior written notice to Plan Sponsor, provided, Plan Sponsor has the right to terminate this NSA within the one hundred and eighty (180) day period; or (3) to the extent amendment is required by law.

CIGNA HEALTH AND LIFE INSURANCE COMPANY



Brad Hendsey
Vice President, Payer Solutions

PLAN SPONSOR
Sign below and return to Cigna care of:

Company's name and address for collection of this NSA:

_____

Plan Sponsor Name: _____

By: Signature: _____

Printed Name: _____

Title: _____

Dated: _____