

33617

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement") is entered into by and between City of Long Beach ("Employer") and Anthem Blue Cross Life and Health Insurance Company ("Anthem Blue Cross Life and Health") and is effective as of January 1, 2012 upon the following terms and conditions:

1. Employer is the sponsor of a self-funded Group Health Plan (as defined below) providing, among other things, health care benefits to certain eligible employees and their qualified dependents.
2. Employer desires to retain Anthem Blue Cross Life and Health as an independent contractor to administer certain elements of Employer's Group Health Plan.
3. Anthem Blue Cross Life and Health desires to administer certain elements of Employer's Group Health Plan pursuant to the terms of this Agreement.

In consideration of the promises and the mutual covenants contained in this Agreement, Anthem Blue Cross Life and Health and Employer (the "Party" or "Parties" as appropriate) agree as follows:

ARTICLE 1 - DEFINITIONS

For purposes of this Agreement and any amendments, attachments or schedules to this Agreement, the following words and terms have the following meanings unless the context or use clearly indicates another meaning or intent:

ADMINISTRATIVE SERVICES FEE. The amount payable to Anthem Blue Cross Life and Health in consideration of its administrative services and operating expenses as indicated in Section 3 of Schedule A, excluding any cost for stop loss insurance coverage or any other policy of insurance, if applicable. All additional charges not included in the Administrative Services Fee are specified elsewhere in this Agreement.

AGREEMENT PERIOD. The period of time indicated in Section 1 of Schedule A.

ANTHEM BLUE CROSS LIFE AND HEALTH AFFILIATE. An entity controlling, under common control with or controlled by Anthem Blue Cross Life and Health.

BENEFITS BOOKLET. A description of the portion of the health care benefits provided under the Plan that is administered by Anthem Blue Cross Life and Health.

BILLED CHARGES. The amount that appears on a Member's Claim form (or other written notification acceptable to Anthem Blue Cross Life and Health that Covered Services have been provided) as the Provider's charge for the services rendered to a Member, without any adjustment or reduction and irrespective of any applicable reimbursement arrangement with the Provider.

BLUE CROSS BLUE SHIELD ASSOCIATION ("BCBSA"). An association of independent Blue Cross and Blue Shield companies.

CLAIM. Written or electronic notice of a request for reimbursement of any health care service or supply on a form acceptable to Anthem Blue Cross Life and Health.

CLAIMS RUNOUT SERVICES. Processing and payment of Claims that are incurred but unreported and/or unpaid as of the date this Agreement terminates.

COVERED SERVICE. Any health care service or supply rendered to Members for which benefits are eligible for reimbursement pursuant to the terms of the applicable Benefits Booklet.

EMPLOYER AFFILIATES. Companies affiliated with the Employer that are participating in the Plan and which, along with the Employer constitute a single "control group" as that term is used in Internal Revenue Code.

ERISA. The Employee Retirement Income Security Act of 1974, as amended, and regulations promulgated thereunder.

GROUP HEALTH PLAN OR PLAN. An employee welfare benefit plan (as defined in Section 3(1) of ERISA) established by the Employer, in effect as of the Effective Date, as described in the Plan Documents, as they may be amended from time to time.

INTER-PLAN PROGRAMS. Blue Cross and Blue Shield Association programs, including the BlueCard Program, where Anthem can process certain Claims for Covered Services received by Members outside of Anthem Blue Cross Life and Health's service area, which may include accessing the reimbursement arrangement of a Provider that has contracted with another Blue Cross and/or Blue Shield plan.

INVOICE DUE DATE. The date on the invoice provided to Employer indicating when payment is due.

MEMBER. The individuals, including the Subscriber and his/her dependents, as defined in the Benefits Booklet, who have satisfied the Plan eligibility requirements of the Employer, applied for coverage, and been enrolled for Plan benefits.

NETWORK PROVIDER. A physician, health professional, hospital, pharmacy, or other individual, organization and/or facility that has entered into a contract, either directly or indirectly, with Anthem Blue Cross Life and Health to provide Covered Services to Members through negotiated reimbursement arrangements.

PAID CLAIM. The amount charged to the Employer for Covered Services or services provided during the term of this Agreement. Paid Claims may also include any applicable interest and any surcharges assessed by a state or government agency. In addition, Paid Claims shall be determined as follows:

1. Provider and Vendor Claims. Except as otherwise provided in this Agreement, Paid Claims shall mean the amount Anthem Blue Cross Life and Health actually pays the Provider or Vendor (without regard to whether Anthem Blue Cross Life and Health reimburses such Provider or Vendor on a percentage of charges basis, a fixed payment basis, a global fee basis, or single case rate, or other reimbursement methodology) or whether such amount is more or less than the Provider's or Vendor's actual Billed Charges for a particular service or supply.
2. Prescription Drug Claims. This provision is intentionally deleted.
3. Performance Payments. If a Provider or Vendor participates in any Anthem Blue Cross Life and Health program in which performance incentives, rewards or bonuses ("Performance Payments") are paid based on the achievement of certain goals, outcomes or performance standards adopted by Anthem Blue Cross Life and Health (collectively, "Performance Targets"), Paid Claims shall also include the amount of such Performance Payments. Such Performance Payments may be charged to Employer on a per Claim, lump sum, per Subscriber, per Member, or a pro-rata apportionment basis. The amount charged to Employer may be greater than the amount actually paid to any one particular Provider or Vendor pursuant to the terms of the contract with such Provider or Vendor. In no event, shall the amount charged to the Employer be greater than its proportionate share of total Performance Payments.
4. Fees Paid to Manage Care or Costs. Paid Claims may also include fees paid to Providers or Vendors for managing the care or cost of care for designated Members. In addition, Paid Claims may also include an amount Anthem Blue Cross Life and Health charges to oversee programs and such program charges, if any, shall be provided in Section 4 of Schedule A.
5. Claims Payment Pursuant to any Judgment, Settlement, Legal or Administrative Proceeding. Paid Claims shall include any Claim amount paid as the result of a settlement, judgment, or legal, regulatory or administrative proceeding brought against the Plan and/or Anthem Blue Cross Life and Health, or otherwise agreed to by Anthem Blue Cross Life and Health, with respect to the decisions made by Anthem Blue Cross Life and Health regarding the coverage of or amounts paid for services under the terms of the Plan. Paid Claims also includes any amount paid as a result of Anthem Blue Cross Life and Health's billing dispute resolution procedures with a Provider or Vendor. Any Claims paid pursuant to this provision will count towards any stop loss accumulators under a stop loss agreement with Anthem Blue Cross Life and Health.
6. Claims Payment Pursuant to Inter-Plan Programs and Other BCBSA Programs. Paid Claims shall include any amount paid for Covered Services incurred outside the geographical area that Anthem Blue Cross Life and Health serves and that are processed through Inter-Plan Programs or for any amounts paid for Covered Services provided through another BCBSA program (e.g. BCBSA Blue Distinction Centers for Transplant). More information about Inter-Plan Programs is found in Article 15 of this Agreement.

7. Claims Payment Pursuant to a Consumer Directed Health Plan Account. If applicable to Plan benefits and as indicated on Schedule B of this Agreement, Paid Claims shall include any amount actually paid by Anthem Blue Cross Life and Health from a consumer directed health plan account, such as a health reimbursement account or a health incentive account.

PLAN DOCUMENTS. The documents that set forth the terms of the Plan, and which include the Summary Plan Description and the Benefits Booklet.

PROPRIETARY INFORMATION AND CONFIDENTIAL INFORMATION. Employer Proprietary Information is the systems, procedures, methodologies and practices used by Employer to run its operations and the Plan and other non-public information about Employer. Anthem Blue Cross Life and Health Proprietary Information is the systems, procedures, methodologies and practices used by Anthem Blue Cross Life and Health in connection with its underwriting, Claims processing, Claims payment and health care management activities. Anthem Blue Cross Life and Health Proprietary Information also includes Anthem Blue Cross Life and Health's Provider network, negotiated fees, terms and discounts with Providers, and other non-public information about Anthem Blue Cross Life and Health. Anthem Blue Cross Life and Health Confidential Information includes Provider tax identification numbers, social security numbers and drug enforcement administration ("DEA") numbers or pharmacy numbers.

PROVIDER. A duly licensed physician, health professional, hospital, pharmacy or other individual, organization and/or facility that provides health services or supplies within the scope of an applicable license and/or certification and meets any other requirements set forth in the Benefits Booklet.

SUBSCRIBER. An employee or retiree of Employer or other eligible person (other than a dependent) who is enrolled in the Plan.

SUMMARY PLAN DESCRIPTION. A document provided to Subscribers by the Employer or its designee that describes the health care benefits available to Members under the Plan, their rights under the Plan and the obligations of the Plan. This document may incorporate the Benefits Booklet. In the event of any conflict or inconsistency between the Summary Plan Description and the Benefits Booklet, the terms of the Benefits Booklet shall control Anthem Blue Cross Life and Health's performance under this Agreement.

VENDOR. A person or entity other than a Provider, including an Anthem Blue Cross Life and Health Affiliate, that provides services or supplies pursuant to a contract with Anthem Blue Cross Life and Health.

ARTICLE 2 - ADMINISTRATIVE SERVICES PROVIDED BY ANTHEM BLUE CROSS LIFE AND HEALTH

- a. Anthem Blue Cross Life and Health shall process the enrollment of eligible individuals and termination of Members as directed by the Employer subject to the provisions of this Agreement. Anthem Blue Cross Life and Health shall, with the assistance of Employer, respond to direct routine inquiries made to it by employees and other persons concerning eligibility in the Plan.
- b. Anthem Blue Cross Life and Health shall perform the following Claims administrative services:
 1. Process Claims with a Claims Incurred Date indicated in Section 1 of Schedule A and provide customer service at a level consistent with industry standards, including investigating and reviewing such Claims to determine what amount, if any, is due and payable according to the terms and conditions of the Benefits Booklet and this Agreement. Anthem Blue Cross Life and Health shall perform coordination of benefits ("COB") with other payors, including Medicare. In processing Claims, Anthem Blue Cross Life and Health shall utilize Anthem Blue Cross Life and Health's medical policies and medical policy exception process, its definition of medical necessity, its precertification and/or preauthorization policies and applicable Claim timely filing limits.
 2. Disburse to the applicable individuals or entities (including Providers and Vendors) payments that it determines to be due according to the provisions of the Benefits Booklet.
 3. Provide notice in writing when a Claim for benefits has been denied which notice shall set forth the reasons for the denial and the right to a full and fair review of the denial under the terms of the Benefits Booklet and shall otherwise satisfy applicable regulatory requirements, including those of ERISA, governing the notice of a denied Claim.

- c. Pursuant to Section 405(c)(1) of ERISA, Employer delegates to Anthem Blue Cross Life and Health fiduciary authority to determine claims for benefits under the Plan as well as the authority to act as the appropriate fiduciary under Section 503 of ERISA to determine appeals of any adverse benefit determinations under the Plan. Anthem Blue Cross Life and Health shall administer complaints, appeals and requests for independent review according to Anthem Blue Cross Life and Health's complaint and appeals policy, and any applicable law or regulation, unless otherwise provided in the Benefits Booklet. In carrying out this authority, Anthem Blue Cross Life and Health is delegated full discretion to determine eligibility for benefits under the Plan and to interpret the terms of the Plan. Anthem Blue Cross Life and Health shall be deemed to have properly exercised such authority unless a Member proves that Anthem Blue Cross Life and Health has abused its discretion or that its decision is arbitrary and capricious. Anthem Blue Cross Life and Health is a fiduciary of the Plan only to the extent necessary to perform its obligations and duties as expressed in this Agreement and only to the extent that its performance of such actions constitutes fiduciary action under ERISA. Anthem Blue Cross Life and Health shall not act as the administrator of the Plan nor shall it have any fiduciary responsibility in connection with any other element of the administration of the Plan. Anthem Blue Cross Life and Health shall charge Employer the fee described in Section 3.C of Schedule A for any independent review conducted pursuant to this provision.
- d. Anthem Blue Cross Life and Health shall have the authority, in its discretion, to institute from time to time, utilization management, case management, disease management or wellness pilot initiatives in certain designated geographic areas. These pilot initiatives are part of Anthem Blue Cross Life and Health's ongoing effort to find innovative ways to make available high quality and more affordable healthcare and will apply equally to Members of both insured and self-funded plans. A pilot initiative may affect some, but not all Members under the Plan. These programs will not result in the payment of benefits which are not provided in the applicable Benefits Booklet, unless otherwise agreed to by the Employer. Anthem Blue Cross Life and Health reserves the right to discontinue a pilot initiative at any time without advance notice to Employer.
- e. Anthem Blue Cross Life and Health shall perform recovery services as provided in Article 13.
- f. Anthem Blue Cross Life and Health shall issue identification cards to Subscribers and/or Members, as applicable, and the content and design of the identification cards shall comply with BCBSA regulations.
- g. Anthem Blue Cross Life and Health shall provide certificates of creditable coverage as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") with respect to Members' participation in the Plan. Employer agrees to promptly provide Anthem Blue Cross Life and Health with any information relating to a Subscriber's employment history as may be necessary for Anthem Blue Cross Life and Health to provide the certificates of creditable coverage.
- h. Anthem Blue Cross Life and Health shall provide Members and potential Members access to an online directory of Providers contracted with Anthem Blue Cross Life and Health ("Provider Directories"). Such Provider Directories shall also be available and distributed in booklet format upon Member request. Additionally, if applicable to Plan benefits, Anthem Blue Cross Life and Health shall ensure that Members and potential Members have access to the BlueCard directory of Providers via a website sponsored by BCBSA.
- i. Anthem Blue Cross Life and Health reserves the right to make benefit payments to either Providers or Members at its discretion. Employer agrees that the terms of the Plan will include provisions for supporting such discretion in determining the direction of payment including, but not limited to, a provision prohibiting Members from assigning their rights to receive benefit payments, unless otherwise prohibited by applicable law.
- j. If applicable to the Plan benefits and as indicated in Schedule B of this Agreement, Anthem Blue Cross Life and Health may provide or arrange for the provision of the following managed care services:
 - 1. Conduct medical necessity review, utilization review, and a referral process, which may include, but is not limited to: (a) preadmission review to evaluate and determine the medical necessity of an admission or procedure and the appropriate level of care, and for an inpatient admission, to authorize an initial length of stay; (b) concurrent review throughout the course of the inpatient admission for authorization of additional days of care as warranted by the patient's medical condition; (c) retrospective review; and (d) authorizing a referral to a non-Network Provider. Anthem Blue Cross Life and Health shall have the authority to waive a requirement if, in Anthem Blue Cross Life and Health's discretion, such exception is in the best interest of the Member or the

Plan, or is in furtherance of the provision of cost effective services under this Agreement.

2. Perform case management to identify short and long term treatment programs in cases of severe or chronic illness or injury. Anthem Blue Cross Life and Health may, but is not required to, customize benefits in limited circumstances by approving otherwise non-Covered Services if, in the discretion of Anthem Blue Cross Life and Health, such exception is in the best interest of the Member and the Plan.
 3. Provide access to a specialty network of Providers if the Plan includes a specialty network. Anthem Blue Cross Life and Health reserves the right to establish specialty networks for certain specialty or referral care.
 4. Provide any other managed care services incident to or necessary for the performance of the services set forth in this Article 2.
- k. If applicable to the Plan benefits and as indicated in Schedule B of this Agreement, Anthem Blue Cross Life and Health shall offer programs to help Employer effectively manage the cost of care, and Employer shall pay fees for the programs selected by Employer only if such fees are indicated in Section 3(B) of Schedule A. Employer shall abide by all applicable policies and procedures of the programs selected, which may require Employer to provide requested information prior to Anthem Blue Cross Life and Health initiating the service.
- l. On behalf of Employer, Anthem Blue Cross Life and Health shall produce and maintain a master copy of the Benefits Booklet and make changes and amendments to the master copy of the Benefits Booklet and incorporate any approved changes or amendments pursuant to Article 18(a) of this Agreement. Employer shall determine, in its sole discretion, whether Anthem Blue Cross Life and Health has accurately produced the Benefits Booklet and has fully implemented the approved changes or amendments. Until Employer has approved the Benefits Booklet, Anthem Blue Cross Life and Health will administer the quoted benefits according to Anthem Blue Cross Life and Health's most similar standard Benefits Booklet language.
- m. Anthem Blue Cross Life and Health will provide the Employer with Plan data and assistance necessary for preparation of the Plan's information returns and forms required by ERISA or other federal or state laws. Anthem Blue Cross Life and Health shall prepare and mail all IRS Form 1099's and any other similar form that is given to Providers or brokers. Form 5500s are the sole responsibility of the Employer; however, Anthem Blue Cross Life and Health shall provide timely information and, if requested, assistance. Anthem Blue Cross Life and Health will disclose its fee and compensation information to Employer, as required by applicable law, for Employer to complete its Form 5500 and assess its compliance with section 408(b)(2) of ERISA and any applicable regulations promulgated there under. Employer is solely responsible for the preparing the summary annual reports.
- n. Anthem Blue Cross Life and Health shall provide reports of unclaimed funds to Employer; however, such reports shall not include any information about Paid Claims processed through Inter-Plan Programs and Host Claims processed on a common Anthem Blue Cross Life and Health claims processing system. Employer shall administer the unclaimed funds pursuant to applicable unclaimed property or escheat laws and shall make any required payment or file any required reports under such laws.
- o. Unless otherwise agreed to by the Parties and specified in the Benefits Booklet, Anthem Blue Cross Life and Health's standard policies and procedures, as they may be amended from time-to-time, will be used in the provision of services specified in this Agreement. In the event of any conflict between this Agreement and any of Anthem Blue Cross Life and Health's policies and procedures, this Agreement will govern.
- p. If applicable to the Plan benefits as indicated in Schedule B, Anthem Blue Cross Life and Health shall provide conversion rights to Members following termination of this Agreement, and Employer shall pay the fee indicated in Section 3(C) of Schedule A.
- q. The Massachusetts Health Safety Net Trust Fund, the New York Health Care Reform Act, the Maine Dirigo Access Payment, and other similar state law requires Employers to finance health related initiatives through residency-based assessments and/or surcharges added to certain Paid Claims. After Employer completes the applicable forms, Anthem Blue Cross Life and Health shall make all assessment and/or surcharge payments on behalf of Employer to the appropriate pools administered by the respective states, based primarily upon Anthem Blue Cross Life and Health's Paid Claims information and Member information provided to Anthem Blue Cross Life and Health by Employer.

- r. Anthem Blue Cross Life and Health shall provide required notices describing Member's rights under the Women's Health and Cancer Rights Act (WHCRA) upon a Member's enrollment and at least annually thereafter.
- s. Anthem Blue Cross Life and Health shall have the authority to build and maintain its Provider network. Nothing in this Agreement shall be interpreted to require Anthem Blue Cross Life and Health to maintain negotiated fees or reimbursement arrangements or other relationships with certain Providers or Vendors. Anthem Blue Cross Life and Health will be solely responsible for acting as a liaison with Providers including, but not limited to, responding to Provider inquiries, negotiating rates with Providers or auditing Providers.
- t. If a catastrophic event (whether weather-related, caused by a natural disaster, or caused by war, terrorism, or similar event) occurs that affects Members in one or more locations, and such catastrophic event prevents or interferes with Anthem Blue Cross Life and Health's ability to conduct its normal business with respect to such Members or prevents or interferes with Members' ability to access their benefits, Anthem Blue Cross Life and Health shall have the right, without first seeking consent from Employer, to take reasonable and necessary steps to process Claims and provide managed care services in a manner that may be inconsistent with the Benefits Booklet in order to minimize the effect such catastrophic event has on Members. As soon as practicable after a catastrophic event, Anthem Blue Cross Life and Health shall report its actions to Employer. Employer shall reimburse Anthem Blue Cross Life and Health for amounts paid in good faith under the circumstances and such amounts shall constitute Paid Claims, even if the charges incurred were not for services otherwise covered under the Benefits Booklet.
- u. Anthem Blue Cross Life and Health shall submit any claim that is required to be filed under any stop loss policy issued by Anthem Blue Cross Life and Health or an Anthem Blue Cross Life and Health Affiliate. Anthem Blue Cross Life and Health shall have no obligation to prepare or file any claim for excess risk or stop loss coverage under a policy not issued by Anthem Blue Cross Life and Health or an Anthem Blue Cross Life and Health Affiliate. Anthem Blue Cross Life and Health shall provide Employer with Claims data pursuant to Article 11 of this Agreement if Employer chooses to file a claim under a stop loss policy issued by an entity other than Anthem Blue Cross Life and Health or an Anthem Blue Cross Life and Health Affiliate. Anthem Blue Cross Life and Health shall assume no liability or responsibility to Employer for inconsistencies between the determination of Covered Services under the Benefits Booklet and this Agreement and the determination of coverage by an unaffiliated stop loss carrier.
- v. This provision is intentionally omitted.
- w. If a Member is a Massachusetts resident, Anthem Blue Cross Life and Health shall mail the Member any notices required by the Massachusetts Health Care Reform Act ("HCRA") reflecting coverage during the current and prior Agreement Period. If a Member works in Massachusetts for Employer, but resides in another State, Anthem Blue Cross Life and Health will only provide such notices if Employer notifies Anthem Blue Cross Life and Health at least 60 days prior to any notice deadline imposed by HCRA that such Member requires the HCRA notices.
- x. Anthem Blue Cross Life and Health is the responsible reporting entity ("RRE") for the Plan as that term is defined pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007. In order to fulfill its RRE obligation, Anthem Blue Cross Life and Health requires information from the Employer, including, but not limited to, Member's Social Security Numbers. Employer shall cooperate with Anthem Blue Cross Life and Health and timely respond to any request for information made by Anthem Blue Cross Life and Health.

ARTICLE 3 - OBLIGATIONS OF EMPLOYER

- a. Employer shall furnish to Anthem Blue Cross Life and Health initial eligibility information regarding Members. Employer is responsible for determining eligibility of individuals and advising Anthem Blue Cross Life and Health in a timely manner, through a method agreed upon by the Parties, as to which employees, dependents, and other individuals are to be enrolled Members. Anthem Blue Cross Life and Health reserves the right to limit the effective date of retroactive enrollment to a date not earlier than 60 days prior to the date notice is received. Such retroactive enrollments shall be subject to Anthem Blue Cross Life and Health's receipt of any applicable Administrative Services Fees as indicated in Section 3(A) of Schedule A. Employer shall keep such records and furnish to Anthem Blue Cross Life and Health such notification and

other information as may be required by Anthem Blue Cross Life and Health for the purpose of enrolling Members, processing terminations, effecting COBRA coverage elections, effecting changes in single or family coverage status, effecting changes due to a Member becoming eligible or ineligible for Medicare, effecting changes due to a leave of absence, or for any other purpose reasonably related to the administration of eligibility under this Agreement. Employer acknowledges that prompt and complete furnishing of the required eligibility information is essential to the timely, accurate, and efficient processing of Claims.

Employer shall notify Anthem Blue Cross Life and Health monthly of the Subscribers, dependents, or other individuals that will be or have become ineligible for benefits under the Plan. Upon receipt of such notice, Anthem Blue Cross Life and Health shall terminate coverage effective as of the date specified in the Benefits Booklet. Employer shall give Anthem Blue Cross Life and Health advance notice, if possible, of any Member's expected termination and/or retirement. Anthem Blue Cross Life and Health reserves the right to limit retroactive terminations to a maximum of 60 days prior to the date notice is received. Anthem Blue Cross Life and Health shall credit Employer Administrative Services Fees for such retroactive terminations as indicated in Section 3(A) of Schedule A.

If Anthem Blue Cross Life and Health has paid Claims for persons no longer eligible for reasons including, but not limited to, Anthem Blue Cross Life and Health having been provided inaccurate eligibility information, or Anthem Blue Cross Life and Health having received notice of a retroactive change to enrollment, then Employer shall reimburse Anthem Blue Cross Life and Health for all unrecovered Paid Claim amounts to the extent that the amounts have not already been paid by Employer.

- b. Employer acknowledges that it or its designee(s) serves as the "plan sponsor, "plan administrator" and "named fiduciary" as those terms are defined in ERISA. Employer has the discretionary authority and control over the management of the Plan, and all discretionary authority and responsibility for the administration of the Plan except as delegated to Anthem Blue Cross Life and Health in Article 2(c) of this Agreement. Anthem Blue Cross Life and Health does not serve either as "plan administrator" or as the Plan's "named fiduciary"; Employer retains all final authority and responsibility for the Plan and its operation and Anthem Blue Cross Life and Health is empowered to act on behalf of Employer in connection with the Plan only as expressly stated in this Agreement or as otherwise agreed to by the Parties in writing.
- c. It is understood and agreed that the provision of any notice, election form, or communication and the collection of any applicable premium or fees required by or associated with Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), or any other applicable law governing continuation of health care coverage, shall be the sole responsibility of Employer and not Anthem Blue Cross Life and Health, except as otherwise agreed to in a written agreement between the Parties.
- d. Employer is solely responsible for compliance with the Family and Medical Leave Act ("FMLA").
- e. Employer agrees to and shall collect those contributions from Subscribers that are required by Employer for participation in the Plan. If Employer elects Anthem Blue Cross Life and Health's stop loss coverage, Employer shall abide by Anthem Blue Cross Life and Health's participation and contribution guidelines.
- f. Unless otherwise agreed to by the Parties in writing, Employer shall prepare and distribute SPDs, summary annual reports, and all notices or summaries of changes or material modifications to the Plan. Employer shall ensure that when it or its designee prepares the SPD, such SPD will accurately reflect the terms of the Benefits Booklet.
- g. To the extent that Medicare, Medicaid, the Veterans Administration or any other federal or state agency or entity asserts a reimbursement right against Employer, the Plan, or Anthem Blue Cross Life and Health pursuant to that agency's or entity's rights under applicable law with respect to Claims processed by Anthem Blue Cross Life and Health under this Agreement, the Employer shall be responsible for reimbursing Anthem Blue Cross Life and Health any such amounts determined to be owed.
- h. Employer shall give notice to Anthem Blue Cross Life and Health of the expected occurrence of any of the following events (including a description of the event), with such notice to be given at least 30 days prior to the effective date of the event, unless such advance notice is prohibited by law or contract in which case, notice will be provided as soon as practicable:

1. Change of Employer's name;

2. Any merger between or consolidation with another entity where, after such merger or consolidation, Employer is not the controlling entity;
 3. The sale or other transfer of all or substantially all of the assets of either the Employer or any of the Employer Affiliates or the sale or other transfer of the equity of Employer or any of the Employer Affiliates, or;
 4. Any bankruptcy, receivership, insolvency or inability of Employer to pay its debts as they become due.
- i. The Employer shall have the sole responsibility, in accordance with state or federal law, to develop procedures for determining whether a medical child support order is a "qualified" medical child support order. The Employer shall provide notice to Anthem Blue Cross Life and Health once it has made such determination.
 - j. The Employer may request Anthem Blue Cross Life and Health, on an exception basis, to process and pay Claims that were denied by Anthem Blue Cross Life and Health or take other actions with respect to the Plan that are not specifically set forth in this Agreement or the Benefits Booklet. In such cases, any payments shall not count toward the stop loss accumulators under a stop loss agreement issued by Anthem Blue Cross Life and Health, unless otherwise agreed to by Anthem Blue Cross Life and Health. Anthem Blue Cross Life and Health may charge Employer a processing fee that has been mutually agreed to by the Parties prior to the processing of the Claim. Anthem Blue Cross Life and Health shall not be responsible for any liability associated with any act or omission undertaken at the direction of, or in accordance with, instructions received from the Employer under this provision.

ARTICLE 4 - CLAIMS PAYMENT METHOD

- a. Employer shall pay or fund Paid Claims according to the Claims payment method described in Section 4 of Schedule A. Employer shall pay or fund such amounts by the Invoice Due Date. In addition, from time to time, the Parties acknowledge that Employer may request a review of the appropriateness of a Claim payment and, during the review period, Employer shall pay or fund such Claim.
- b. The Parties acknowledge that, from time to time, a Claims adjustment may be necessary as a result of coordination of benefits, subrogation, workers' compensation, other third party recoveries, payment errors and the like, and that the adjustment will take the form of a debit (for an additional amount paid by Anthem Blue Cross Life and Health) or a credit (for an amount refunded to Employer). The Parties agree that such Claims adjustment shall be treated as an adjustment to the Claims payment made in the billing period in which the adjustment occurs, rather than as a retroactive adjustment to the Claim in the billing period in which it was initially reported as paid. Any Claims credit may be reduced by a fee charged by Vendors as indicated in Article 13 of this Agreement. In addition, a credit shall not be provided to Employer for a recovery related to a Claim that was covered under stop loss coverage provided by Anthem Blue Cross Life and Health.

ARTICLE 5 - ADMINISTRATIVE SERVICES FEE

During the term of this Agreement, Employer shall pay Anthem Blue Cross Life and Health the Administrative Services Fee, described in Section 3 of Schedule A. Employer shall pay the Administrative Services Fee and other fees authorized under this Agreement by the applicable Invoice Due Date according to the payment method described in Section 5 of Schedule A.

ARTICLE 6 - RENEWAL SCHEDULES

If Anthem Blue Cross Life and Health offers to renew this Agreement at the end of an Agreement Period, then Anthem Blue Cross Life and Health shall provide Employer with the terms and conditions of the proposed renewal in writing within the time period provided in Section 1 of Schedule A. The Employer shall notify Anthem Blue Cross Life and Health in writing of its selection from the renewal options by indicating its selection and signing Anthem Blue Cross Life and Health's designated renewal form. If Anthem Blue Cross Life and Health does not receive a signed acceptance of the renewal from Employer prior to the start of the next Agreement Period, the Employer's payment of the amounts set forth in the renewal shall constitute Employer's acceptance of the terms. Anthem Blue Cross Life

and Health shall provide a revised Schedule A that will become part of this Agreement without the necessity of securing Employer's signature.

ARTICLE 7 - CLAIMS RUNOUT SERVICES

- a. Claims Runout Services shall be provided for the period of time provided in Section 6 of Schedule A (the "Claims Runout Period"), except such Claims Runout services shall not be provided in the event that termination is due to non-payment pursuant to Article 19(a) of this Agreement. During the Claims Runout Period, the terms of this Agreement shall continue to apply. Anthem Blue Cross Life and Health shall have no obligation to process or pay any Claims or forward Claims to Employer beyond the Claims Runout Period. Any amounts recovered beyond the Claims Runout Period shall be retained by Anthem Blue Cross Life and Health as reasonable compensation for services under this Agreement. Anthem Blue Cross Life and Health shall, however, return any recoveries for which Anthem Blue Cross Life and Health had received monies, but had not processed the recovery prior to the end of the Claims Runout Period. In addition, Employer shall have no obligation to reimburse Anthem Blue Cross Life and Health for any amounts paid by Anthem Blue Cross Life and Health due to adjustments to Claims after the end of the Claims Runout Period.
- b. The Administrative Services Fee for the Claims Runout Period, if applicable, is provided in Section 6 of Schedule A. Paid Claims and the Administrative Services Fee shall be invoiced and paid in the same manner as provided in Sections 4 and 5 of Schedule A, unless otherwise provided or agreed to in writing by the Parties.

ARTICLE 8 - LATE PAYMENT PENALTY

If Employer fails to timely pay or fund any amount due to Anthem Blue Cross Life and Health under this Agreement, Employer agrees to pay a late payment penalty for each day the payment is late. The late payment penalty shall be calculated at the rate of 12% simple interest per annum (365 days), and shall be included on a subsequent invoice and payable by the Invoice Due Date. If applicable, Employer agrees to reimburse Anthem Blue Cross Life and Health for any expenses charged to Anthem Blue Cross Life and Health by a financial institution, Provider or Vendor due to Employer's failure to maintain sufficient funds in a designated bank account. Any acceptance by Anthem Blue Cross Life and Health of late payments shall not be deemed a waiver of its rights to terminate this Agreement for any future failure of Employer to make timely payments.

ARTICLE 9 - HIPAA

- a. Anthem Blue Cross Life and Health's duties and responsibilities in connection with the requirements imposed by the Health Insurance Portability and Accountability Act ("HIPAA") and the privacy and security regulations promulgated thereunder will be set forth in a separate business associate agreement between the Parties.
- b. In the event the Plan submits Claims or eligibility inquiries or any other HIPAA covered transaction as defined in 45 CFR Part 160 and 162 to Anthem Blue Cross Life and Health through electronic means, the Plan and Anthem Blue Cross Life and Health shall comply with all applicable requirements of HIPAA and the Plan and Anthem Blue Cross Life and Health shall require any of their respective agents or subcontractors to comply with all applicable requirements of HIPAA.

ARTICLE 10 - PROPRIETARY AND CONFIDENTIAL INFORMATION

- a. Each Party agrees to treat the other Party's Proprietary Information and Confidential Information in strict confidence, and shall institute commercially reasonable safeguards to protect the Information.
- b. Employer shall use and disclose Anthem Blue Cross Life and Health's Proprietary Information and/or Confidential Information solely for the purpose of administering the Plan. Employer shall not use or disclose Anthem Blue Cross Life and Health's Proprietary Information and/or Confidential Information, or reports or summaries thereof, for any other purpose, including, but not limited to: (1) combining Anthem Blue Cross Life and Health's Proprietary Information and/or Confidential Information with other data to create or add to an existing aggregate database that will or could be made available to any entity other than the Employer;

(2) combining Anthem Blue Cross Life and Health's Proprietary Information and/or Confidential Information with any other data received from Anthem Blue Cross Life and Health; or, (3) selling or disclosing Anthem Blue Cross Life and Health's Proprietary Information and/or Confidential Information to any other person or entity.

- c. Employer shall not disclose Anthem Blue Cross Life and Health's Proprietary Information and/or Confidential Information to any other person or entity without Anthem Blue Cross Life and Health's prior written consent. Employer may disclose Anthem Blue Cross Life and Health's Proprietary Information and/or Confidential Information to other Employer subcontractors, stop loss carriers, consultants, agents or auditors who need to know such information in order to provide services to Employer, (e.g. Plan administration), provided that such third party signs a confidentiality agreement with Anthem Blue Cross Life and Health prior to disclosure.
- d. Upon termination of this Agreement, either Party may retain, return or destroy the other Party's Proprietary Information and Confidential Information; however, the Parties agree to continue to comply with the provisions as set forth in this Article 10 upon termination of this Agreement for as long as it retains the other Party's Proprietary Information and Confidential Information.
- e. This Agreement shall not be construed to restrict the use or disclosure of information that: (1) is public knowledge other than as a result of a breach of this Agreement; (2) is independently developed by a Party not in violation of this Agreement; (3) is made available to a Party by any person other than Anthem Blue Cross Life and Health or Employer, provided the source of such information is not subject to any confidentiality obligations with respect to it; or, (4) is required to be disclosed pursuant to law, order, regulation or judicial or administrative process, but only to the extent of such required disclosures and after reasonable notice to the other Party.
- f. Notwithstanding any other provision of this Agreement, a Party may seek injunctive or other equitable relief from a court of competent jurisdiction against the non-compliant Party should there be any unauthorized use of Proprietary Information or Confidential Information.

ARTICLE 11 - DATA REPORTS

- a. Upon Employer's request and only as permitted by the business associate agreement entered into between the Parties, Anthem Blue Cross Life and Health will provide Anthem Blue Cross Life and Health's standard account reporting package. Prior to Anthem Blue Cross Life and Health providing data or reports to Employer, the Parties must mutually agree to the types, format, content and purpose of the reports requested. If Employer requests from Anthem Blue Cross Life and Health information that is not part of Anthem Blue Cross Life and Health's standard account reporting package, and such request is approved by Anthem Blue Cross Life and Health, Employer agrees to pay a mutually agreed upon charge to Anthem Blue Cross Life and Health for such additional reports.
- b. Anthem Blue Cross Life and Health and Anthem Blue Cross Life and Health Affiliates shall have the right to use or disclose Claims data collected in the performance of services under this Agreement or any other agreement between the Parties, so long as: (i) the data is de-identified in a manner consistent with the requirements of HIPAA; or (ii) the data is used or disclosed for research, health oversight activities, or other purposes permitted by law; or (iii) a Member has consented to the release of his or her individually identifiable data. The data used or disclosed shall be used for a variety of lawful purposes including, but not limited to, research, monitoring, and benchmarking of industry and health care trends. Anthem Blue Cross Life and Health may receive remuneration for the data only if permitted by HIPAA.

ARTICLE 12 - CLAIMS AUDIT

- a. At Employer's expense, Employer shall have the right to audit Claims on Anthem Blue Cross Life and Health's premises, during regular business hours and in accordance with Anthem Blue Cross Life and Health's audit policy, which may be revised from time to time. A copy of the audit policy shall be made available to Employer upon request.
- b. If Employer elects to utilize a third-party auditor to conduct an audit pursuant to this Agreement and Anthem Blue Cross Life and Health's audit policy, such auditor must be mutually acceptable to Employer and Anthem Blue Cross Life and Health. Anthem Blue Cross Life and Health will only approve auditors that are

independent and objective and will not approve auditors paid on a contingency fee or other similar basis. Anthem Blue Cross Life and Health reserves the right to charge a fee to Employer for expenditure of time by Anthem Blue Cross Life and Health's employees in completing any audit. An auditor or consultant must execute a confidentiality and indemnification agreement with Anthem Blue Cross Life and Health pertaining to Anthem Blue Cross Life and Health's Proprietary and Confidential Information prior to conducting an audit.

- c. Employer may conduct an audit once each calendar year and the audit may only relate to Claims processed during the current year or immediately preceding calendar year (the "Audit Period") and neither Employer nor anyone acting on Employer's or the Plan's behalf, shall have a right to audit Claims processed prior to the Audit Period. The scope of the audit shall be agreed to in writing by the Parties prior to the commencement of the audit.
- d. Employer shall provide to Anthem Blue Cross Life and Health copies of all drafts, interim and/or final audit reports at such time as they are made available by the auditor or consultants to Employer. Any errors identified and/or amounts identified as owed to Employer as the result of the audit shall be subject to Anthem Blue Cross Life and Health's review and approval prior to initiating any recoveries of Paid Claims pursuant to Article 13 of this Agreement. Anthem Blue Cross Life and Health reserves the right to terminate any audit being performed by or for Employer if Anthem Blue Cross Life and Health determines that the confidentiality of its information is not properly being maintained or if Anthem Blue Cross Life and Health determines that the Employer or auditor is not following Anthem Blue Cross Life and Health audit policy.
- e. An audit performed pursuant to this Agreement shall be the final audit for the Audit Period and for any prior Audit Period unless otherwise agreed to in writing by the Parties; however, Claims may be re-audited if Employer is required to conduct the audit by a government agency with which it has a contractual arrangement.

ARTICLE 13 - RECOVERY SERVICES

- a. Pursuant to the provisions of this Article 13, Anthem Blue Cross Life and Health shall pursue recoveries related to Paid Claims processed under this Agreement, including during any Claims Runout Period. Anthem Blue Cross Life and Health shall exercise discretion to determine which recoveries it will pursue and, in no event will Anthem Blue Cross Life and Health pursue a recovery if the cost of the collection is likely to exceed the recovery amount or if the recovery is prohibited by law or an agreement with a Provider or Vendor. Anthem Blue Cross Life and Health will not be liable for any amounts it does not successfully recover. If Anthem Blue Cross Life and Health determines that there is a potential recovery opportunity, Employer grants Anthem Blue Cross Life and Health the authority and discretion to do the following: (1) determine and take steps reasonably necessary and cost-effective to effect recovery; (2) select and retain outside counsel or other Vendors as appropriate; (3) reduce any recovery obtained on behalf of the Plan by its proportionate share of the outside counsel fees and costs incurred during litigation or settlement activities to obtain such recovery; and (4) negotiate and effect any settlement of the Employer's and Plan's rights by, among other things, executing a release waiving the Employer's and Plan's rights to take any action inconsistent with the settlement.
- b. During the term of this Agreement and any applicable Claims Runout period, Anthem Blue Cross Life and Health may pursue payments to Members by any other person, insurance company or other entity on account of any action, claim, request, demand, settlement, judgment, liability or expense that is related to a Claim for Covered Services ("Subrogation Services"). Anthem Blue Cross Life and Health may charge Employer a fixed percentage fee up to 25% of gross subrogation recovery, or, if outside counsel is retained, 15% of net recovery after a deduction for outside counsel fees for Subrogation Services ("Subrogation Fee"). Any subrogation recoveries shall be net of the Subrogation Fee and shall be treated as an adjustment to the Claims payment in the billing period in which the adjustment occurs as described in Article 4 of this Agreement. Subrogation Fees will not be assessed on subrogation recoveries until they are received by Anthem Blue Cross Life and Health and credited to Employer.
- c. Notwithstanding any other provision of this Article 13, Anthem Blue Cross Life and Health has responsibility for compliance with Provider and Vendor contracts, including discount and contract audits. Anthem Blue Cross Life and Health shall have authority to enter into a settlement or compromise regarding enforcement of these contracts, including the right to reduce future reimbursement to Provider or Vendor in lieu of a lump sum settlement. If Anthem Blue Cross Life and Health conducts audits or reviews to enforce Provider or Vendor contracts or activities, and recoveries or cost avoidance is a result of such audits, reviews or

enforcement activities, then Anthem Blue Cross Life and Health shall provide Employer a credit, after a reduction of third party vendor fees or costs, if any. Anthem Blue Cross Life and Health shall credit Employer a proportionate share of the net recovery equal to the ratio of (1) total Members' Paid Claims to such Provider or Vendor for the audit period, to (2) total payments made to such Provider or Vendor for all of Anthem Blue Cross Life and Health's business during the audit period. Notwithstanding the above, Anthem Blue Cross Life and Health shall retain any recoveries made from a Provider or Vendor resulting from any audits or reviews if the cost to administer the refund is likely to exceed the total recovery from the Provider or Vendor.

- d. Anthem Blue Cross Life and Health shall credit Employer net recovery amounts after deduction of fees and costs as set forth in this Article 13 not later than 150 days following the receipt of such recovery amounts. If Anthem Blue Cross Life and Health does not credit Employer within 150 days of its receipt of recovery amounts, Anthem Blue Cross Life and Health shall pay Employer interest calculated at the Federal Reserve Funds Rate in effect at the time of the payment. Anthem Blue Cross Life and Health may have contracts with Network Providers or Vendors or there may be judgments, orders, settlements, applicable laws or regulations that limit Anthem Blue Cross Life and Health's right to make recoveries under certain circumstances. Employer agrees that Anthem Blue Cross Life and Health shall not be responsible for any such amounts that it is unable to recover from such Providers or Vendors. Notwithstanding the provisions of this Article 13, Anthem Blue Cross Life and Health may, but is not required to, readjudicate Claims or adjust Members' cost share payments related to the recoveries made from a Provider or a Vendor. In no event, however, will Anthem Blue Cross Life and Health be liable to credit Employer for any recovery after the termination date of this Agreement, and any Claims Runout Period, and the Employer acknowledges and agrees that such sums shall be retained by Anthem Blue Cross Life and Health as reasonable compensation for recovery services provided by Anthem Blue Cross Life and Health.

ARTICLE 14 - PHARMACY BENEFITS AND SERVICES

This Article has been intentionally deleted in its entirety.

ARTICLE 15 - INTER-PLAN ARRANGEMENTS (THE LANGUAGE IN THIS ARTICLE IS REQUIRED BY BCBSA.)

- a. Out of Area Services. Anthem Blue Cross Life and Health has a variety of relationships with other Blue Cross and/or Blue Shield Licensees referred to generally as "Inter-Plan Programs." Claims for certain services may be processed through one of these Inter-Plan Programs and presented to Anthem Blue Cross Life and Health for payment in accordance with the rules of the Inter-Plan Programs policies then in effect. The Inter-Plan Programs available to Members under this Agreement are described generally below. Typically, Members' Claims are processed through an Inter-Plan Program when Members obtain care from health care Providers that have a contractual agreement (i.e., are "Network Providers") with a local Blue Cross and/or Blue Shield Licensee ("Host Blue"). In some instances, Members may obtain care from non-Network Providers. Anthem Blue Cross Life and Health's payment practices in both instances are described below.
- b. BlueCard® Program. Under the BlueCard® Program, when Members access Covered Services within the geographic area served by a Host Blue, Anthem Blue Cross Life and Health will remain responsible to Employer for fulfilling Anthem Blue Cross Life and Health's contractual obligations. However, in accordance with applicable Inter-Plan Programs policies then in effect, the Host Blue will be responsible for providing such services as contracting and handling substantially all interactions with its Network Providers. The financial terms of the BlueCard Program are described generally below. Individual circumstances may arise that are not directly covered by this description; however, in those instances, Anthem Blue Cross Life and Health's action will be consistent with the spirit of this description.
1. Liability Calculation Method Per Claim. The calculation of the Member liability on Claims for Covered Services processed through the BlueCard Program will be based on the lower of the Network Provider's Billed Charges or the negotiated price made available to Anthem Blue Cross Life and Health by the Host Blue.

The calculation of Employer liability on Claims for Covered Services processed through the BlueCard Program will be based on the negotiated price made available to Anthem Blue Cross Life and Health by the Host Blue. Sometimes, this negotiated price may be greater than Billed Charges if the Host Blue has negotiated with its Network Provider(s) an inclusive allowance (e.g.,

per case or per day amount) for specific health care services. Host Blues may use various methods to determine a negotiated price, depending on the terms of each Host Blue's health care Provider contracts. The negotiated price made available to Anthem Blue Cross Life and Health by the Host Blue may represent a payment negotiated by a Host Blue with a health care Provider that is one of the following:

- i. an actual price. An actual price is a negotiated payment without any other increases or decreases, or
- ii. an estimated price. An estimated price is a negotiated payment reduced or increased by a percentage to take into account certain payments negotiated with the Provider and other Claim- and non-Claim-related transactions. Such transactions may include, but are not limited to, anti-fraud and abuse recoveries, Provider refunds not applied on a Claim-specific basis, retrospective settlements, and performance-related bonuses or incentives, or
- iii. an average price. An average price is a percentage of Billed Charges representing the aggregate payments negotiated by the Host Blue with all of its health care Providers or a similar classification of its Providers and other Claim- and non-Claim-related transactions. Such transactions may include the same ones as noted above for an estimated price.

Host Blues using either an estimated price or an average price may, in accordance with Inter-Plan Programs policies, prospectively increase or reduce such prices to correct for over- or understatement of past prices (i.e., prospective adjustments may mean that a current price reflects additional amounts or credits for Claims already paid to Providers or anticipated to be paid to or received from Providers). However, the amount paid by the Member and Employer is a final price; no future price adjustment will result in increases or decreases to the pricing of past Claims. The BlueCard Program requires that the price submitted by a Host Blue to Anthem Blue Cross Life and Health is a final price irrespective of any future adjustments based on the use of estimated or average pricing. If a Host Blue uses either an estimated price or an average price on a Claim, it may also hold some portion of the amount that Employer pays in a variance account, pending settlement with its Network Providers. Because all amounts paid are final, neither variance account funds held to be paid, nor the funds expected to be received, are due to or from Employer. Such payable or receivable would be eventually exhausted by health care Provider settlements and/or through prospective adjustment to the negotiated prices. Some Host Blues may retain interest earned, if any, on funds held in variance accounts.

A small number of states require Host Blues either (i) to use a basis for determining Member liability for Covered Services that does not reflect the entire savings realized, or expected to be realized, on a particular Claim, or (ii) to add a surcharge. Should the state in which health care services are accessed mandate liability calculation methods that differ from the negotiated price methodology or require a surcharge, Anthem Blue Cross Life and Health would then calculate Member liability and Employer liability in accordance with applicable law.

2. Return of Overpayments. Under the BlueCard Program, recoveries from a Host Blue or its Network Providers can arise in several ways, including, but not limited to, anti-fraud and abuse recoveries, health care Provider/hospital audits, credit balance audits, utilization review refunds, and unsolicited refunds. In some cases, the Host Blue will engage a third party to assist in identification or collection of recovery amounts. The fees of such a third party may be netted against the recovery. Recovery amounts determined in this way will be applied in accordance with applicable Inter-Plan Programs policies, which generally require correction on a Claim-by-Claim or prospective basis.

- c. Negotiated National Account Arrangements. As an alternative to the BlueCard Program, Member Claims for Covered Services may be processed through a negotiated National Account arrangement with a Host Blue. For purposes of this Article, a "National Account" is an Employer that has membership in more than one state.

If Anthem Blue Cross Life and Health and Employer have agreed that (a) Host Blue(s) shall make available a custom health care Provider network(s) in connection with this Agreement, then the terms and conditions set forth in Anthem Blue Cross Life and Health's negotiated National Account arrangement(s) with such Host Blue(s) shall apply. In negotiating such arrangement(s), Anthem Blue Cross Life and Health is not acting on behalf of or as an agent for Employer, the Plan or Members.

Employer agrees that Anthem Blue Cross Life and Health will not have any responsibility in connection with the processing and payment of Claims when Members access such network(s), except as may be set forth in the relevant participation agreement.

Member Liability Calculation. Member liability calculation will be based on the lower of either Billed Charges or negotiated price made available to Anthem Blue Cross Life and Health by the Host Blue that allows Members access to negotiated participation agreement networks of specified Network Providers outside of Anthem Blue Cross Life and Health's service area.

- d. Non-Network Providers Outside Anthem Blue Cross Life and Health's Service Area.
1. Member Liability Calculation. When Covered Services are provided outside of Anthem Blue Cross Life and Health's service area by non-Network Providers, the amount a Member pays for such services will generally be based on either the Host Blue's non-Network Provider local payment or the pricing arrangements required by applicable state law. In these situations, the Member may be responsible for the difference between the amount that the Non-Network Provider bills and the payment Anthem Blue Cross Life and Health will make for the Covered Services as set forth in this paragraph.
 2. Exceptions. In some exception cases, Anthem Blue Cross Life and Health may pay Claims from non-Network Providers outside of Anthem Blue Cross Life and Health's service area based on the Provider's Billed Charges, such as in situations where a Member did not have reasonable access to a Network Provider, as determined by Anthem Blue Cross Life and Health in Anthem Blue Cross Life and Health's sole and absolute discretion or by applicable state law. In other exception cases, Anthem Blue Cross Life and Health may pay such a Claim based on the payment it would make if Anthem Blue Cross Life and Health were paying a non-Network Provider inside of Anthem Blue Cross Life and Health's service area, as described elsewhere in this Agreement, where the Host Blue's corresponding payment would be more than Anthem Blue Cross Life and Health's in-service area non-Network Provider payment, or in its sole and absolute discretion, Anthem Blue Cross Life and Health may negotiate a payment with such a Provider on an exception basis. In any of these exception situations, the Member may be responsible for the difference between the amount that the non-Network Provider bills and the payment Anthem Blue Cross Life and Health will make for the Covered Services as set forth in this paragraph.
- e. Inter-Plan Program Fees and Compensation. Employer understands and agrees to reimburse Anthem Blue Cross Life and Health for certain fees and compensation which it is obligated under BlueCard or any other Inter-Plan Program, to pay to the Host Blues, to the BCBSA, and/or to BlueCard or Inter-Plan Program vendors, as described below. Fees and compensation under BlueCard and other Inter-Plan Programs may be revised in accordance with the specific Program's standard procedures for revising such fees and compensation, which do not provide for prior approval by any groups. Such revisions typically are made annually as a result of Program policy changes and/or vendor negotiations. These revisions may occur at any time during the course of a given calendar year, and they do not necessarily coincide with the Agreement Period. With respect to Negotiated National Account Arrangements, the participation with the Host Blue may provide that Anthem Blue Cross Life and Health must pay an administrative and/or network access fee to the Host Blue. For this type of negotiated participation arrangement, any such administrative and/or network access fee will not be greater than the comparable fees that would be charged under the BlueCard Program. Anthem Blue Cross Life and Health will charge these fees as described in Section 7 of Schedule A.

ARTICLE 16 - CLAIMS LITIGATION

- a. Anthem Blue Cross Life and Health shall defend against any legal action or proceeding brought against Anthem Blue Cross Life and Health to recover a claim for benefits under the Plan as administered by Anthem Blue Cross Life and Health. If a demand for benefits under the Plan is asserted, or litigation, investigation, or other proceedings are commenced against Anthem Blue Cross Life and Health by a Member, or by any other party on behalf of a Member, in connection with the Plan, Anthem Blue Cross Life and Health shall provide notice to the Employer as soon as practicable. Anthem Blue Cross Life and Health will select and retain counsel. Employer will assume liability for payment of attorneys' fees and costs in connection with the litigation, proceeding, or investigation. If the Employer or Plan are also named in the legal action or proceeding, Employer reserves the right to retain separate counsel for itself, in its sole

discretion and at its own expense, and separate counsel for the Plan. If during such litigation, investigation or proceedings Employer and Anthem Blue Cross Life and Health are both represented by the same counsel selected by Anthem Blue Cross Life and Health and a conflict of interest arises, the selected counsel shall continue to represent Anthem Blue Cross Life and Health's interests. Employer shall waive any conflict for such representation and retain its own counsel, or separate counsel for the Plan, at its own expense. Each Party will provide the other with reasonable cooperation in the defense of any such matter. Anthem Blue Cross Life and Health is authorized to settle or compromise any claim to recover benefits under the Plan arising out of a course of legal action with the approval of Employer, which approval shall not be unreasonably withheld.

- b. Notwithstanding the above in this Article 16, if Anthem Blue Cross Life and Health fails to perform its responsibility to review and determine Claims for benefits under the Plan in a manner that is consistent with customs and practices in the industry, Anthem Blue Cross Life and Health will assume liability for payment of its legal fees and costs. However, Anthem Blue Cross Life and Health is not an insurer of benefits under the Plan nor does it underwrite the risk or otherwise assume any risk for the payment of benefits under the Plan. Under all circumstances, Employer shall be liable to pay Plan benefits awarded or paid by settlement, judgment, or otherwise.
- c. In the event of any legal action or proceeding against the Employer or Plan pertaining to Covered Services described in the Benefits Booklet, Anthem Blue Cross Life and Health shall make available to Employer, the Plan, and their respective counsel, such evidence that is not privileged or otherwise confidential and is relevant to such action or proceeding.

ARTICLE 17 - INDEMNIFICATION

Except for legal actions or proceedings seeking benefits under the Plan, which are governed by Article 16 of this Agreement, Anthem Blue Cross Life and Health and Employer shall each indemnify, defend and hold harmless the other Party, and its directors, officers, employees, agents and affiliates, from and against any and all losses, claims, damages, liabilities, costs and expenses (including without limitation, reasonable attorneys' fees and costs) resulting from: (1) the indemnifying Party's or its subcontractor's gross negligence or willful misconduct in the performance of the obligations under this Agreement, and/or (2) the indemnifying Party's failure to provide information required under this Agreement or otherwise required by law that results in a sanction or penalty being assessed against the other Party, and/or (3) the indemnifying Party's or its subcontractor's breach of fiduciary duties under ERISA. The obligation to provide indemnification under this Agreement shall be contingent upon the Party seeking indemnification: (i) providing the indemnifying Party with prompt written notice of any claim for which indemnification is sought, (ii) allowing the indemnifying Party to control the defense and settlement of such claim; provided, however, that the indemnifying Party agrees not to enter into any settlement or compromise of any claim or action in a manner that admits fault or imposes any restrictions or obligations on an indemnified Party without that indemnified Party's prior written consent, which will not be unreasonably withheld; and, (iii) cooperating fully with the indemnifying Party in connection with such defense and settlement.

ARTICLE 18 - CHANGES IN BENEFITS BOOKLET AND AGREEMENT

- a. Either Party reserves the right to propose changes to the provisions described in the Benefits Booklet by giving written notice to the other Party not less than 90 days prior to the start of an Agreement Period and such changes will be made to the Benefits Booklet as mutually agreed to in writing by the Parties. Either Party may also propose changes to the Benefits Booklet at a time other than the start of an Agreement Period and such changes will be made to the Benefits Booklet if mutually agreed to in writing by the Parties. Anthem Blue Cross Life and Health's incorporation of the requested changes into the Benefits Booklet shall constitute Anthem Blue Cross Life and Health's acceptance of the Employer's requested changes. If Anthem Blue Cross Life and Health initiates the proposed changes and does not receive written notice from Employer prior to the effective date of the proposed changes that such changes are unacceptable, the changes shall be deemed acceptable by Employer and Anthem Blue Cross Life and Health shall incorporate such changes into the Benefits Booklet.
- b. If changes to the provisions of the Benefits Booklet are mandated as a result of a change to any applicable state or federal law, Anthem Blue Cross Life and Health shall have the right to make such changes to the Benefits Booklet to comply with the law and shall provide written notice to Employer at least 30 days prior to the effective date of the change, unless the effective date specified in the law is earlier.

- c. Anthem Blue Cross Life and Health also reserves the right to change the Administrative Services Fee at a time other than the start of an Agreement Period upon the occurrence of one or more of the following events: (1) a change to the Plan benefits initiated by Employer that results in a substantial change in the services to be provided by Anthem Blue Cross Life and Health; (2) a change in ownership as described in Article 3(h) of this Agreement; (3) a change in the total number of Members resulting in either an increase or decrease of 10% or more of the number of Members enrolled for coverage on the date the Administrative Services Fee was last modified; (4) a change in Employer contribution as described in Article 3(e) of this Agreement; (5) a change in nature of Employer's business resulting in a change in its designated Standard Industrial Classification ("SIC") code; or (6) a change in applicable law that results in an increase in the cost or amount of administrative services from those currently being provided by Anthem Blue Cross Life and Health under this Agreement. Anthem Blue Cross Life and Health shall provide notice to Employer of the change in the Administrative Services Fee at least 30 days prior to the effective date of such change. If such change is unacceptable to Employer, either Party shall have the right to terminate this Agreement by giving written notice of termination to the other Party before the effective date of the change. If Employer accepts the proposed rates, Anthem Blue Cross Life and Health shall provide a revised Schedule A that will then become part of this Agreement without the necessity of securing Employer's signature on the Schedule.
- d. In the event any action of any department, branch or bureau of the federal, state or local government is initiated or taken ("Action") against a Party to this Agreement and such Action materially and adversely affects that Party's performance of the obligations under this Agreement, the affected Party shall notify the other Party of the nature of the Action and provide copies of pertinent documents supporting the reason(s) for the Action. If a modification to the Agreement is needed as a result of the Action, the Parties shall meet within 30 days of the notice by the affected Party to the other Party and shall, in good faith, attempt to negotiate a modification to this Agreement that minimizes or eliminates the impact of the Action. If the Parties are unable to minimize or eliminate the impact of the Action, then either Party may terminate this Agreement by giving at least 90 days notice of termination. This Agreement may be terminated sooner if agreed to by the Parties or required by the government entity initiating or taking the Action.
- e. No modification or change in any provision of this Agreement, including but not limited to, changes at renewal, shall be effective unless and until approved in writing by an authorized representative of Anthem Blue Cross Life and Health and evidenced by an amendment or new Schedule attached to this Agreement.

ARTICLE 19 - TERMINATION AND/OR SUSPENSION OF PERFORMANCE

- a. Notwithstanding any other provision of this Article, this Agreement automatically terminates, without further notice or action, if Employer fails to pay or fund any amount due under this Agreement within 7 days of the date of Anthem Blue Cross Life and Health's notice to the Employer of a delinquent amount owed. Such termination shall be effective as of the last period for which full payment was made. In addition, this Agreement automatically terminates, without further notice or action, at the end of each Agreement Period unless Anthem Blue Cross Life and Health offers to renew this Agreement and Employer accepts such offer of renewal pursuant to Article 6 of this Agreement. Upon termination of this Agreement, Employer shall remain liable for all payments due to Anthem Blue Cross Life and Health under the terms of this Agreement. Notwithstanding the above, Anthem Blue Cross Life and Health has the right to suspend performance of its obligations under this Agreement if full payment is not made by the Invoice Due Date. Anthem Blue Cross Life and Health shall have no obligation to pay any Claims under the Agreement until all required payments have been paid in full.
- b. If either Party fails to comply with any material duties and obligations under this Agreement other than payment of amounts due under this Agreement, the other Party shall have the right to: (1) terminate this Agreement by giving the non-compliant Party at least 60 days prior written notice of termination; or (2) upon written notice to the other Party, suspend performance of its obligations under this Agreement. The Employer acknowledges and agrees that in the event it is the non-compliant Party, Anthem Blue Cross Life and Health shall have no liability to any Member. Either Party, at its option, may allow the non-compliant Party to cure a breach of this Agreement and, upon acceptance in writing by that Party that a breach is cured, this Agreement may be reinstated retroactive to the date of the breach or suspension of performance.
- c. If there shall occur any change in the condition (financial or otherwise) of Employer or an Employer Affiliate that, in the reasonable opinion of Anthem Blue Cross Life and Health, has a material adverse effect upon the validity, performance, or enforceability of this Agreement, on the financial condition or business

operation of Employer (or Employer Affiliate), or on the ability of Employer to fulfill its obligations under this Agreement, then Anthem Blue Cross Life and Health shall have the right to require Employer to provide adequate assurance of future performance, which may include a payment of a cash deposit, letter of credit, or other method of assurance acceptable to Anthem Blue Cross Life and Health. Examples of such a change could include, but would not be limited to the actual, or Anthem Blue Cross Life and Health's reasonable anticipation of: (1) any voluntary or involuntary case or proceedings under bankruptcy law with respect to Employer or an Employer Affiliate; (2) any receivership, liquidation, dissolution, reorganization or other similar case or proceeding with respect to Employer or an Employer Affiliate; (3) any appointment of a receiver, trustee, custodian, assignee, conservator or similar entity or official for Employer or an Employer Affiliate; or (4) any assignment for the benefit of creditors or sale of all or substantially all of Employer's assets or a key Employer Affiliate's assets.

Any deposit amount shall be paid to Anthem Blue Cross Life and Health within 30 days of the request or in such shorter time as agreed to by the Parties. The deposit amount shall not be paid with Plan assets, shall not be funded in any part by Member contributions, and shall not be paid from any segregated fund or from funds in which the Plan or any Member has a beneficial interest. The deposit amount shall be the property of Anthem Blue Cross Life and Health, may be held in Anthem Blue Cross Life and Health's general account, may be subject to satisfy the claims of Anthem Blue Cross Life and Health's general creditors, and does not govern or limit the benefits available under the terms of the Plan. At the termination of this Agreement and designated Claims Runout Period, if any, the deposit amount, net of any outstanding fees or Claims amounts payable to Anthem Blue Cross Life and Health, shall be returned to Employer. Any deposit amount returned to Employer under this Article 19(c) shall not include interest. The deposit amount is the property of Anthem Blue Cross Life and Health. Neither Employer, the Plan, nor any Member shall have any beneficial or legal ownership interest in any deposit amount paid pursuant to this Section.

If such further assurance is required by Anthem Blue Cross Life and Health, Anthem Blue Cross Life and Health may, at any time after the date of notice to Employer of such requirement, suspend performance of its obligations under this Agreement until the date of receipt by Anthem Blue Cross Life and Health of such adequate assurance without being liable to the Employer, the Plan or any Member for such suspension. If such adequate assurance is not received within 30 days of the request, Anthem Blue Cross Life and Health may terminate this Agreement.

- d. Subject to the provisions of Article 7 of this Agreement, if this Agreement terminates and Anthem Blue Cross Life and Health makes payment of any Claim that would otherwise have been payable under the terms of this Agreement after the termination date, Employer shall be liable to reimburse Anthem Blue Cross Life and Health for such Claim to the extent that the amounts have not already been paid by Employer.
- e. The Employer may terminate this Agreement at any time other than at the end of an Agreement Period by giving Anthem Blue Cross Life and Health 90 days written notice of its intent to terminate.
- f. In connection with the termination of this Agreement and upon Employer's request, Anthem Blue Cross Life and Health shall provide reports that are part of Anthem Blue Cross Life and Health's standard account reporting package at no extra charge. However Anthem Blue Cross Life and Health shall have no obligation to provide the reports after the termination date of this Agreement if such termination is due to non-payment pursuant to Article 19(a) of this Agreement. Upon Employer's request, Anthem Blue Cross Life and Health shall also provide data extract files to Employer for an additional fee mutually agreed to by the Parties. In no event shall Anthem Blue Cross Life and Health be obligated to produce more than two sets of reports following the termination date of this Agreement.

ARTICLE 20 - LIMITATION ON ACTIONS AND GOVERNING LAW

- a. No action by either Party alleging a breach of this Agreement may be commenced after the expiration of 3 years from the date on which the claim arose. Any disputes between the Parties in connection with this Agreement shall be resolved pursuant to Article 26 of this Agreement.
- b. Except to the extent preempted by ERISA or any other applicable provisions of federal law, this Agreement shall be governed by, and shall be construed in accordance with the laws of California but without giving effect to that state's rules governing conflict of laws.

ARTICLE 21 - NO WAIVER

No failure or delay by either Party to exercise any right or to enforce any obligation herein, and, no course of dealing between Employer and Anthem Blue Cross Life and Health, shall operate as a waiver of such right or obligation or be construed as or constitute a waiver of the right to enforce or insist upon compliance with such right or obligation in the future. Any single or partial exercise of any right or failure to enforce any obligation shall not preclude any other or further exercise, or the right to exercise any other right or enforce any other obligation.

ARTICLE 22 - ASSIGNMENT AND SUBCONTRACTING

- a. Unless it has first obtained the written consent of an officer of the other Party, neither Party may assign this Agreement to any other person. Notwithstanding the foregoing, Anthem Blue Cross Life and Health may, with advance written notice to Employer, assign or otherwise transfer its rights and obligations hereunder, in whole or in part, to: (i) any affiliate of Anthem Blue Cross Life and Health; or (ii) any entity surviving a transaction involving the merger, acquisition, consolidation, or reorganization of Anthem Blue Cross Life and Health, or in which all or substantially all of Anthem Blue Cross Life and Health's assets are sold. Additionally, Employer may, with advance written notice to Anthem Blue Cross Life and Health, assign, delegate, or otherwise transfer its rights and obligations hereunder, in whole, to (i) any affiliate of Employer; or (ii) any entity surviving a transaction involving the merger, acquisition, consolidation, or reorganization of Employer, or in which all or substantially all of Employer's assets are sold, provided that such affiliate or other assignee presents, in Anthem Blue Cross Life and Health's opinion, an equivalent or better financial status and credit risk. Either Party is required to provide advance written notice under this provision only to the extent permissible under applicable law and the reasonable terms of the agreement(s) governing such merger, acquisition, consolidation, reorganization, or asset sale. If advance written notice is not allowed, notice shall be provided as soon as practicable. Upon receipt of notice of an assignment of this Agreement, the other Party may terminate this Agreement by providing the assigning Party with 30 days advance written notice of termination. Any assignee of rights or benefits under this Agreement shall be subject to all of the terms and provisions of this Agreement.
- b. Either Party may subcontract any of its duties under this Agreement without the prior written consent of other Party; however, the Party subcontracting the services shall remain responsible for fulfilling its obligations under this Agreement.

ARTICLE 23 - NOTICES

- a. Any notice or demand pursuant to Articles 19 and 22 of this Agreement shall be deemed sufficient when made in writing as follows: to Employer, by first class mail, personal delivery, or electronic mail or overnight delivery with confirmation capability, to its principal office shown upon the records of Anthem Blue Cross Life and Health; to Anthem Blue Cross Life and Health, by first class mail, personal delivery, electronic mail or overnight delivery with confirmation capability, to the designated Anthem Blue Cross Life and Health sales representative.
- b. A notice or demand shall be deemed to have been given as of the date of deposit in the United States mail with postage prepaid or, in the case of delivery other than by mail, on the date of actual delivery at the appropriate address.
- c. Employer shall be obligated to provide all notices to Members as may be necessary to effectuate any change in or termination of the Agreement.

ARTICLE 24 - ADMINISTRATION

- a. The Employer, on behalf of itself and its Members, hereby expressly acknowledges its understanding that this Agreement constitutes a contract solely between the Employer and Anthem Blue Cross Life and Health, that Anthem Blue Cross Life and Health is an independent corporation operating under a license with BCBSA permitting Anthem Blue Cross Life and Health to use the Blue Cross Service Mark in California and that Anthem Blue Cross Life and Health is not contracting as the agent of BCBSA. The Employer further acknowledges and agrees that it has not entered into this Agreement based upon representations by any person other than Anthem Blue Cross Life and Health and that no person, entity, or organization other than Anthem Blue Cross Life and Health shall be held accountable or liable to it for any of Anthem Blue Cross

Life and Health's obligations to the Employer created under this Agreement. This paragraph shall not create any additional obligations whatsoever on the part of Anthem Blue Cross Life and Health other than those obligations created under other provisions of this Agreement.

- b. Anthem Blue Cross Life and Health is providing administrative services only with respect to the portion of the Plan described in the Benefits Booklet. Anthem Blue Cross Life and Health has only the authority granted it pursuant to this Agreement. Anthem Blue Cross Life and Health is not the insurer or underwriter of any portion of the Plan. Anthem Blue Cross Life and Health has no responsibility or liability for funding benefits provided by the Plan, notwithstanding any advances that might be made by Anthem Blue Cross Life and Health. Employer retains the ultimate responsibility and liability for all benefits and expenses incident to the Plan, including but not limited to, any applicable taxes that might be imposed relating to the Plan.
- c. The Parties acknowledge that the portion of the Plan described in the Benefits Booklet is a self-funded plan and is not subject to state insurance laws or regulations.
- d. Employer shall ensure that sufficient amounts are available to cover Claims payments, the monthly Administrative Services Fee, and other fees or charges.

ARTICLE 25 - ENTIRE AGREEMENT

- a. The following documents will constitute the entire Agreement between the Parties: this Agreement, including any amendments and Schedules thereto, and the Benefits Booklet.
- b. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- c. This Agreement supersedes any and all prior agreements between the Parties, whether written or oral, and other documents, if any, addressing the subject matter contained in this Agreement.
- d. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under applicable law, order, judgment or settlement, such provision shall be excluded from the Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

ARTICLE 26 - ARBITRATION

- a. In the event that any dispute, claim, or controversy relating to this Agreement arises between the Parties, the Parties agree to meet in person and make a good faith effort to resolve the dispute. If the dispute is not resolved following such meeting, and either Party wishes to pursue the dispute further, that Party shall commence arbitration by filing an arbitration demand with the American Arbitration Association ("AAA") within 20 days of the meeting. The dispute shall be resolved through arbitration to be heard in Los Angeles, California unless the Parties agree otherwise.
- b. Any dispute subject to arbitration as set forth in this Article 26 shall be settled by binding arbitration, except to the extent that the dispute is required by law to be resolved by a state or federal regulatory authority. The Employer shall not have the right to participate as a member of any class of claimants pertaining to any dispute subject to arbitration hereunder, nor shall there be any authority for disputes arising under this Agreement to be arbitrated on a class action basis. Arbitration shall be limited to disputes between the Parties and cannot be consolidated or joined with claims of other persons or entities who may have similar claims.
- c. The Commercial Arbitration Rules of the AAA shall apply, using a 3 member panel of arbitrators. The arbitration panel shall consist of one arbitrator selected by each Party and the third independent arbitrator who shall be selected and agreed upon by the first 2 arbitrators. The Parties may also use a single arbitrator provided they mutually agree to do so and mutually agree on the choice of the arbitrator. The decision of the arbitrator(s) shall be binding. Each Party shall bear its own costs (including attorneys fees) for the proceedings, and all other costs of the arbitration proceeding shall be shared equally by the Parties, except as may be awarded in the discretion of the arbitrator(s) in accordance with the arbitration decision (including an award of attorneys' fees). Judgment upon the award rendered by the arbitrator(s) may be

entered and enforced in any court of competent jurisdiction.

ARTICLE 27 - MISCELLANEOUS

- a. Employer and Anthem Blue Cross Life and Health are separate legal entities. Anthem Blue Cross Life and Health is strictly an independent contractor. Nothing contained in this Agreement shall cause either Party to be deemed a partner, member, agent or representative of the other Party, nor shall either Party have the expressed or implied right or authority to assume or create any obligation on behalf of or in the name of the other Party through its actions, omissions or representations.
- b. Except as may be explicitly set forth in this Agreement, nothing herein shall be construed as an implied license by a Party to use the other Party's name, trademarks, domain names, or other intellectual property. Neither Party shall use the name, trademarks, domain names, or any other name or mark of the other Party in any press release, printed form, advertising or promotional materials or otherwise, without the prior written consent of the other Party. In addition, Employer has no license to use the Blue Cross and/or Blue Shield trademarks or derivative marks (the "Brands") and nothing in the Agreement shall be deemed to grant a license to Employer to use the Brands. Any references to the Brands made by Employer in its own materials are subject to prior review and approval by Anthem Blue Cross Life and Health.
- c. Nothing contained herein shall cause either Party to be deemed an agent for service of legal process for the other Party.
- d. Anthem Blue Cross Life and Health may pay Performance Payments to Providers or Vendors as described in the definition of Paid Claim in this Agreement. Anthem Blue Cross Life and Health may perform a periodic settlement or reconciliation based on the Provider's or Vendor's performance and experience against established Performance Targets that would: (1) require the Provider or Vendor to repay a portion of a Performance Payment previously paid by Anthem Blue Cross Life and Health; or (2) require Anthem Blue Cross Life and Health to make additional payments. Employer acknowledges and agrees that it has no responsibility for additional payments to Providers or Vendors nor any right in any discounts or excess money refunded or paid to Anthem Blue Cross Life and Health from Providers or Vendors pursuant to such settlement/reconciliation arrangements, and neither it nor the Plan has any legal right or beneficial interest in such sums retained by Anthem Blue Cross Life and Health. Similarly, if Providers or Vendors do not achieve established Performance Targets, Anthem Blue Cross Life and Health is not obligated to refund any amounts previously charged Employer. In turn, if under any such settlement/reconciliation Anthem Blue Cross Life and Health is required to pay Providers or Vendors excess compensation for Member management performance, risk-sharing rewards, or other performance incentives, it shall not seek payment from the Employer or the Plan, and neither the Employer nor the Plan shall have any liability in connection with such amounts. Such Providers or Vendors may include Anthem Blue Cross Life and Health Affiliates. In calculating any Member co-insurance amounts in accordance with the Benefit Booklet, Anthem Blue Cross Life and Health does not take into account these settlement/reconciliation arrangements.
- e. The Parties acknowledge that Anthem Blue Cross Life and Health, in making decisions regarding the scope of coverage of services under the Benefits Booklet, is not engaged in the practice of medicine. Providers are not restricted in exercising their independent medical judgment by contract or otherwise and do not act on behalf of, or as agents for, Anthem Blue Cross Life and Health or the Plan.
- f. In addition to any other provision providing for survival upon termination of this Agreement, the Parties' rights and obligations under Articles 10, 11, 12, 13, 16, 17, 19, 24, 25(a), 25(c), 26 and 27(d) shall survive the termination of this Agreement for any reason.
- g. Each Party shall comply with all laws and regulations applicable to their respective duties and obligations assumed to under this Agreement.
- h. Anthem Blue Cross Life and Health and Employer agree to the performance standards set forth in Schedule C.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by affixing the signatures of duly authorized officers.

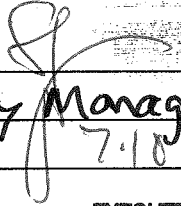
City of Long Beach

Anthem Blue Cross Life and Health Insurance Company

By:

Title:

Date:

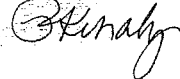

Assistant City Manager
City Manager
7/10/12

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

By:

Title:

Date:


President and General Manager
June 6, 2012

APPROVED AS TO FORM

6/28, 2012
ROBERT E. SHANNON, City Attorney

By:


LINDA TANG
DEPUTY CITY ATTORNEY

Section 4. Paid Claims, Billing Cycle and Payment Method

A. Claims also include the following amounts or charges:

NCN When Anthem Blue Cross Life and Health, in its discretion, forwards a non-Network Provider Claim to NCN to negotiate with the non-Network Provider, Employer will pay a fee equal to 40% of the difference between the non-Network Provider's Billed Charges and the amount Anthem Blue Cross Life and Health uses to calculate Plan liability for the Covered Services (the "Plan Liability Amount"). In the case of hospital or facility Provider Claims in non-Anthem Blue Cross Life and Health or non-Anthem Blue Cross Life and Health Affiliate states, if negotiations are successful, the Plan Liability Amount will be based on the negotiated rate. If negotiations are not successful, the Plan Liability Amount shall be determined using NCN's Data iSight tool if Data iSight pricing is lower than Host Blue pricing. If Data iSight pricing is not lower than Host Blue pricing, the Plan Liability Amount will be determined based on Host Blue pricing and there will be no fee charged. In the case of professional Provider Claims in all states, and/or hospital or facility Provider Claims in Anthem Blue Cross Life and Health states or Anthem Blue Cross Life and Health Affiliate states, if negotiations are successful the Plan Liability Amount will be based upon NCN's negotiated rate. If negotiations are not successful, there will be no fee charged as the Plan Liability Amount will be determined based on Host Blue pricing. These Claims may not be included in Performance Guarantee calculations.

B. Billing Cycle

Weekly

Anthem Blue Cross Life and Health shall notify Employer of the amount due to Anthem Blue Cross Life and Health as a result of Claims processed and paid by Anthem Blue Cross Life and Health according to the billing cycle described above. The actual date of notification of Paid Claims and the Invoice Due Date will be determined according to Anthem Blue Cross Life and Health's regular business practices and systems capabilities.

C. Payment Method

ACH or Wire Transfer Reimbursement for Paid Claims. Employer shall deposit the amount due in a designated Anthem Blue Cross Life and Health bank account by the Invoice Due Date. The deposit shall be made in accordance with any policies and regulations of the bank necessary to assure that the deposit is credited to Anthem Blue Cross Life and Health's account no later than the next business day.

Section 5. Administrative Services Fee Billing Cycle and Payment Method

A. Billing Cycle

Monthly List Bill (pay as billed)

Anthem Blue Cross Life and Health shall notify Employer of the amount due to Anthem Blue Cross Life and Health pursuant to Section 3 of Schedule A according to the billing cycle described above. The actual date of notification of amounts due and the Invoice Due Date will be determined according to Anthem Blue Cross Life and Health's regular business practices and systems capabilities.

B. Payment Method

Check Reimbursement. Employer shall provide the amount due by check to Anthem Blue Cross Life and Health through a designated lockbox address as designated on the Administrative fee billing coupon. The check shall be made in accordance with any policies and regulations of the bank necessary to assure that the deposit is credited to Anthem Blue Cross Life and Health's account no later than the next business day.

Section 6. Claims Runout Services

A. Claims Runout Period

Claims Runout Period shall be for the 12 months following the date of termination of this Agreement.

B. Claims Runout Administrative Services Fees

Claims Runout Administrative Services Fee will be equal to 6.00% of Claims processed and paid by Anthem Blue Cross Life and Health or through the Inter-Plan Programs.

Section 7. Other Amendments. The Administrative Services Agreement is otherwise amended as follows:

BlueCard Program, Other Inter-Plan Programs and Non-Network Provider Fees

As described in Article 15, certain fees and compensation may be charged each time a Claim is processed through the BlueCard Program, other Inter-Plan Programs, including Negotiated National Account Arrangements, and non-participating Provider Claims. The extent to which they are (i) included in the Administrative Services Fee; or (ii) included in Paid Claims or separately billed to Employer is as follows:

Included in Administrative Services Fee:

All BlueCard Program and Inter-Plan Program fees, including Negotiated National Account Arrangements and Non-Network Provider Claim fees.

Included in Paid Claims or separately billed to Employer:

Not applicable

Notice of Loss of Grandfathering Status

In the event Employer maintains a grandfathered health plan(s), as that term is used in the Patient Protection and Affordable Care Act ("PPACA"), Employer shall not make any changes to such plan(s), including, but not limited to, changes with respect to Employer contribution levels, without providing Anthem Blue Cross Life and Health with advance written notice of the intent to change such plan(s). Making changes to grandfathered plans without notice to Anthem Blue Cross Life and Health may result in the plan(s) losing grandfathered status and significant penalties and/or fines to Employer and Anthem Blue Cross Life and Health. In the event Employer implements changes to its plan(s) and does not provide advance notice to Anthem Blue Cross Life and Health, Employer agrees to indemnify Anthem Blue Cross Life and Health according to the indemnification provisions set forth elsewhere in this Agreement for any penalties, fines or other costs assessed against Anthem Blue Cross Life and Health.

Additionally, at each renewal after September 23, 2010, Employer shall affirm in writing, upon reasonable request of Anthem Blue Cross Life and Health, that it has not made changes to its plan(s) that would cause the plan(s) to lose its/their grandfathered status.

Anthem Blue Cross Life and Health Insurance Company



By: _____

Title: President and General Manager

Date: June 6, 2012

**SCHEDULE B
TO
ADMINISTRATIVE SERVICES AGREEMENT
WITH
CITY OF LONG BEACH**

For the purposes of this Agreement Period, this Schedule B shall supplement and amend the Agreement between the Parties. If there are any inconsistencies between the terms of the Agreement including any prior Schedule and this Schedule B, the terms of this Schedule B shall control.

SERVICES INCLUDED IN THE ADMINISTRATION FEE IN SECTION 3A OF SCHEDULE A

Management Services

- Anthem Blue Cross Life and Health standard Benefits and administration:
 - Anthem Blue Cross Life and Health definitions and exclusions
 - Anthem Blue Cross Life and Health complaint and appeals process
 - Claims incurred and paid as provided in Schedule A
 - Accumulation toward plan maximums beginning at zero on effective date
 - Anthem Blue Cross Life and Health Claim forms
 - Customized ID card
 - Standard Explanation of Benefits
 - Customized communication material
- Acceptance of electronic submission of updated eligibility information for active employees and hard copy enrollment form for retirees
- Preparation of Benefits Booklet (accessible via internet)
- Information for ERISA 5500
- Account reporting - standard data reports
- Plan Design consultation
- Employer eServices – view only access
 - Add and delete Members
 - Download administrative forms
 - View Member Benefits and request ID cards
 - View eligibility
 - View Claim status and detail

Claims and Customer Services

- Claims processing services
- Coordination of Benefits
- Recovery Services
- Medicare crossover processing
- Complaint and appeals processing
- One mandatory level of appeal, one voluntary level of appeal
- Employer customer service, standard business hours
- Member customer service, standard business hours

- 1099s prepared and delivered to Providers
- NYHCRA (New York Health Care Reform Act) and other legislative reporting requirements
- Member eServices

Health Care Management and 360 Health Services

- Health Care Management
 - Referrals
 - Utilization management
 - Case management
 - Anthem Blue Cross Life and Health Medical Policy
- SpecialOffers
- HealthCare Advisor
- Care Comparison (where available)
- Transplant services - Blues Distinction
- Healthy Solutions Newsletter (available online)
- MyHealth (Member Portal)
 - Electronic Health Risk Assessment
 - Personal Health Record
 - Online Communities
 - Member Alerts
- 360° Health Services (HMO/POS/PPO Plans)
 - ConditionCare
 - Asthma
 - Pulmonary disease
 - Congestive heart failure
 - Coronary artery disease
 - Diabetes
 - 24/7 NurseLine

Networks

- Access to networks
 - Provider Network
 - Mental Health/Substance Abuse Network
 - Coronary Services Network
 - Human Organ and Tissue Transplant Network
 - Complex and Rare Cancer Network
 - Bariatric Surgery Network
- Cost Management/Quality improvement program

- Credentialing
 - Hospital audit program
 - Anthem Blue Cross Life and Health standard Claims bundling edits
- Anthem.com Provider directory

Billing and Banking Services

- Summary and detailed billing and Claims (electronic)
- Financing Arrangements
 - 15/16 day rule on new hire admin fees


Other Optional Services

- Personalized application overprinted with name and logo
- Non-standard benefit design
 - group specific exclusions
 - mandated benefit exclusions
 - benefit limitations/maximums
- Deductible accumulation provided
 - Calendar Year accumulation
- Out of Pocket accumulation provided
 - Calendar Year accumulation

OPTIONAL PROGRAMS - FEES LISTED IN SECTION 3B, 3C OR 4A OF SCHEDULE A

- Conversion
- Independent review

Anthem Blue Cross Life and Health Insurance Company

By: 

Title: President and General Manager

Date: June 6, 2012

**SCHEDULE C
TO
ADMINISTRATIVE SERVICES AGREEMENT
WITH
CITY OF LONG BEACH**

This Schedule C, which contains the Performance Guarantees, In-Network Discount Guarantee, Account Management Report Card and Account Implementation Survey, shall govern the Agreement Period from January 1, 2012 through December 31, 2012. For purposes of this Agreement Period, this Schedule shall supplement and amend the Agreement between the Parties. If there are any inconsistencies between the terms of the Agreement including any prior Schedules and this Schedule C, the terms of this Schedule C shall control.

Performance Guarantees

Anthem Blue Cross Life and Health's compliance with the standards set forth in this document requires timely performance by Employer of its obligations as set forth herein. Anthem Blue Cross Life and Health shall not be penalized if its failure to satisfy any of the standards set forth is due in whole or in part to Employer's failure to meet any of its obligations.

Anthem Blue Cross Life and Health places 10% of the Administrative Services Fee at risk to guarantee performance for Employer in year one. The amount at risk applies to base fees only. Any fees related to other ancillary services such as disease management are not at risk. Anthem Blue Cross Life and Health requires a signed Agreement by the time penalties are assessed if payment is to be made.

Standard	% of Fees at Risk	Guarantee
Claim Timeliness – 14 Days	2.0%	Anthem Blue Cross Life and Health guarantees that 85% of medical Claims will be processed in 14 calendar days. Claim timeliness is defined as the number of calendar days it takes to process both Provider and Subscriber non-investigated Claims. Timeliness is measured from the receipt date of the Claim to the date the Claim has passed through all edits and is pending the issuance of a check, voucher, or denial notice. The entire population of non-investigated Claims processed in the month for the assigned unit will be used in the calculation.
Claim Timeliness – 30 Days	2.0%	Anthem Blue Cross Life and Health guarantees that 98% of medical Claims will be processed in 14 calendar days. Claim timeliness is defined as the number of calendar days it takes to process both Provider and Subscriber non-investigated Claims. Timeliness is measured from the receipt date of the Claim to the date the Claim has passed through all edits and is pending the issuance of a check, voucher, or denial notice. The entire population of non-investigated Claims processed in the month for the assigned unit will be used in the calculation.
Claim Timeliness – 30 Days (BlueCard only)	2.0%	Anthem Blue Cross Life and Health guarantees that 95% of medical Claims will be processed in 14 calendar days. Claim timeliness is defined as the number of calendar days it takes to process both Provider and Subscriber non-investigated Claims. Timeliness is measured from the receipt date of the Claim to the date the Claim has passed through all edits and is pending the issuance of a check, voucher, or denial notice. The entire population of non-investigated Claims processed in the month for the assigned unit will be used in the calculation.

Standard	% of Fees at Risk	Guarantee
Financial Accuracy	2.0%	Anthem Blue Cross Life and Health guarantees a financial accuracy rate of 96% or greater. Annual penalties will be based on the total audited medical dollars paid correctly expressed as a percentage of the total audited medical dollars paid. Both overpayments and underpayments are included in this calculation. Results will be reported at the Claims processing unit level.
Payment Accuracy	2.0%	Anthem Blue Cross Life and Health guarantees that, at a minimum, 94% of medical Claims will be processed correctly. This metric is calculated as the total number of audited Claims minus the number of Claims processed with a payment error, divided by the number of audited Claims. Results will be reported at the Claims processing unit level.
Average Speed To Answer	2.0%	Anthem Blue Cross Life and Health guarantees an average speed to answer of 45 seconds or less for Employer. Average Speed to Answer (ASA) is defined as the average number of seconds all calls wait and/or are in queue in the system before reaching an agent or voice response unit (VRU).
Abandonment Rate	2.0%	Anthem Blue Cross Life and Health guarantees an abandonment rate of 5% or less for Employer. Abandonment rate is defined as the percent of calls accepted into the telephone system that abandon before reaching their final destination divided by the calls accepted in the telephone system.

In-Network Discount Guarantee

In-Network Discount Guarantee. This in-network discount guarantee applies for the PPO, BC PPO and Medicare Supplement plans:

Discount off Eligible In-Network Charges	Percent of Fees at Risk
59.0% or greater	0.0%
57.5% to 58.9%	1.0%
56.0% to 57.4%	2.0%
54.5% to 55.9%	3.0%
53.0% to 54.4%	4.0%
52.9% or less	5.0%

The maximum penalty placed at risk by Anthem Blue Cross Life and Health is 5.0% of the PPO Administrative Services Fees, excluding fees for ancillary services. The discount guarantee applies to Claims incurred from January 1, 2012 through December 31, 2012 and paid from January 1, 2012 through March 31, 2013. The Claims used in the analysis will only be based on eligible in-network Claims and will exclude Claims not covered in the discount analyses (e.g. Medicare, ITS access fees and state surcharges). Any Claims incurred outside of the United States and in Puerto Rico will be excluded. The definition of in-network discount percentage is 1 minus (in-network allowed charges divided by in-network eligible charges).

The one-year guarantee requires that:

- If the percentage of Employer's Subscribers changes by more than 10% in any geographic area or 10% in total, the discount target will be re-calculated using the same method used to calculate this guarantee.
- The current enrollment used to set the guarantee will be shared between Parties to be compared against actual Subscriber enrollment by state during the Claims period.
- The guarantee is void if the Agreement is canceled off-anniversary.
- The minimum average enrollment is at least 3,758 Subscribers.
- Anthem Blue Cross Life and Health is the sole carrier for the Employer.

The settlement of this guarantee will occur no later than ninety days after the completion of the Paid Claims period.

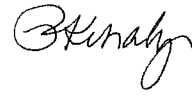
Account Management Report Card

Standard	% of Fees at Risk	Guarantee												
Account Management Report Card	2.0%	Anthem Blue Cross Life and Health guarantees that Employer's benefits staff will be satisfied or better with the account management representation, timely issue of documentation, issue resolution, cooperation, customization, and flexibility. Employer will evaluate performance quarterly based on Employer's scoring of Anthem's survey. The following measurement criteria will apply:												
		<table border="1"> <thead> <tr> <th>Definition</th> <th>Points</th> </tr> </thead> <tbody> <tr> <td>Completely Satisfied</td> <td>5</td> </tr> <tr> <td>Very Satisfied</td> <td>4</td> </tr> <tr> <td>Satisfied</td> <td>3</td> </tr> <tr> <td>Somewhat Satisfied</td> <td>2</td> </tr> <tr> <td>Dissatisfied</td> <td>1</td> </tr> </tbody> </table>	Definition	Points	Completely Satisfied	5	Very Satisfied	4	Satisfied	3	Somewhat Satisfied	2	Dissatisfied	1
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		<table border="1"> <thead> <tr> <th>Overall Annual Composite Score (average)</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>3.0 or higher</td> <td>None</td> </tr> <tr> <td>2.5 to 2.9</td> <td>0.5%</td> </tr> <tr> <td>2.0 to 2.4</td> <td>1.0%</td> </tr> <tr> <td>Less than 2.0</td> <td>2.0%</td> </tr> </tbody> </table>	Overall Annual Composite Score (average)	Penalty	3.0 or higher	None	2.5 to 2.9	0.5%	2.0 to 2.4	1.0%	Less than 2.0	2.0%		
Overall Annual Composite Score (average)	Penalty													
3.0 or higher	None													
2.5 to 2.9	0.5%													
2.0 to 2.4	1.0%													
Less than 2.0	2.0%													

Account Implementation Survey

Standard	% of Fees at Risk	Guarantee												
Account Implementation Survey	2.0%	Anthem Blue Cross Life and Health guarantees that Employer's benefits staff will rate account management performance on implementation as good or better based on Employer's scoring of Anthem's survey. Employer will evaluate performance during March 2012. The following measurement criteria will apply:												
		<table border="1"> <thead> <tr> <th>Definition</th> <th>Points</th> </tr> </thead> <tbody> <tr> <td>Excellent</td> <td>5</td> </tr> <tr> <td>Very Good</td> <td>4</td> </tr> <tr> <td>Good</td> <td>3</td> </tr> <tr> <td>Fair</td> <td>2</td> </tr> <tr> <td>Poor</td> <td>1</td> </tr> </tbody> </table>	Definition	Points	Excellent	5	Very Good	4	Good	3	Fair	2	Poor	1
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Poor	1													
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Anthem Blue Cross Life and Health Insurance Company



By: _____

Title: President and General Manager

Date: June 6, 2012