



33618



**FLEXIBLE SPENDING ACCOUNT
ADMINISTRATIVE SERVICES AGREEMENT**

(Agreement)

between

THE CITY OF LONG BEACH

(PLAN SPONSOR)

and

ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY

(COMPANY)

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FLEXIBLE SPENDING ACCOUNT
ADMINISTRATIVE SERVICES AGREEMENT

This Agreement is made and entered into by and between the COMPANY, a California Life Insurance Company and the PLAN SPONSOR. In consideration of the mutual covenants contained herein, the execution of this Agreement, and other consideration, the adequacy and receipt of which is hereby acknowledged, the parties hereto agree as follows:

SECTION I: RECITALS

- 1.1 The PLAN SPONSOR has adopted or will adopt a Plan of flexible compensation in accordance with the requirements, as applicable, of the Employee Retirement Income Security Act of 1974 (ERISA) and Internal Revenue Code (IRC) §125 for its employees.
- 1.2 The PLAN SPONSOR wishes to retain the COMPANY to assist in the administration of said Plan, such services to include enrollment and claims administration and to provide related services as are more fully set forth herein.
- 1.3 The COMPANY wishes to provide such services in accordance with the terms of this Agreement.
- 1.4 The COMPANY may use the services of Blue Cross of California, or other affiliated companies, to assist in the performance of this Agreement.

SECTION II: DEFINITIONS

- 2.01 **Plan.** The CITY OF LONG BEACH Flexible Benefits Plan, effective as of January 1, 2012, and as it may subsequently be amended.
- 2.02 **Employee.** An employee of the PLAN SPONSOR who is eligible for benefits under the terms of the Plan, and any qualified beneficiary, as defined in IRC §4980B(g)(1), who elects continued medical coverage after the occurrence of a qualifying event.
- 2.03 **Plan Member.** An Employee of the PLAN SPONSOR who participates in the Plan.
- 2.04 **Participant.** A Plan Member who enrolls in a Flexible Spending Account.
- 2.05 **Flexible Spending Account.** The Medical Flexible Spending Account and Dependent Care Flexible Spending Account.
- 2.06 **Agreement Year.** The period commencing with the effective date of this Agreement or any Agreement Anniversary and ending immediately prior to the next following Agreement Anniversary.
- 2.07 **Agreement Anniversary.** January 1, 2013 and each January 1 of every calendar year thereafter.

SECTION III: SERVICES PROVIDED

- 3.01 Plan Design.** Upon written request, the COMPANY will assist the PLAN SPONSOR in developing a plan of flexible compensation for its Plan Members in accordance with specifications provided by the PLAN SPONSOR.
- 3.02 Administration of Employee Choices.** The PLAN SPONSOR shall be responsible for establishing an appropriate and satisfactory system for communication and selection of benefits by employees. The PLAN SPONSOR shall provide the COMPANY information related to such selection that is needed by the COMPANY in order to administer the Plan.
- 3.03 Processing of Selections.** The COMPANY shall take all reasonable steps to process selections and confirm such selections to persons entitled thereto under the Plan. The PLAN SPONSOR hereby authorizes the COMPANY to confirm such selections in accordance with the Plan on the PLAN SPONSOR's behalf. It is agreed and stipulated that under this Agreement, the COMPANY shall to no extent be liable to any person for any benefit selected by such person. The COMPANY shall be liable to the PLAN SPONSOR only for the negligence, bad faith or intentional fraud of the COMPANY's employees in issuing confirmation under this section.

Upon completion of the confirmation process, the COMPANY will provide the PLAN SPONSOR with reports to summarize the enrollment process and to aid the PLAN SPONSOR in the implementation and administration of the Plan.

- 3.04 Claim Administration.** Upon receipt of a claim for benefits under a Flexible Spending Account of the Plan, the COMPANY will review the claim to determine whether it has been properly filed and the amount, if any, which is due and payable with respect thereto. Claims for benefits must be submitted to the COMPANY in accordance with procedures prescribed by the COMPANY. The review and determination will be made in accordance with rules and procedures established by the COMPANY for the administration of claims, and with the terms of the Plan.

The claims administration procedures will provide for adequate written notice to any person whose claim for benefits has been denied and will set forth the specific reasons for such denial, as required by ERISA. Furthermore, the Plan will afford any person whose claim for benefits has been denied a reasonable opportunity for review of such denial by the appropriate named fiduciary.

The COMPANY will maintain records of claims received and determinations thereon for a period of 7 years. Such records shall be the property of the PLAN SPONSOR.

Claims to be processed under this Agreement shall include only claims for which benefits are payable under a Flexible Spending Account.

- 3.05 Payment of Claims.** The COMPANY shall take all reasonable steps to process claims and disburse payments on a weekly basis to persons entitled to such payments under the Plan. Such payment shall be made through a banking system established by the PLAN SPONSOR. The PLAN SPONSOR agrees to maintain at all times funds sufficient to pay claims under the Plan and to provide the COMPANY with such authorizations as shall be necessary to make the required instruments valid claims against the PLAN SPONSOR. It is understood and agreed that the COMPANY shall to no extent be liable to the payee or endorsee of any instrument issued or delivered pursuant to this Agreement. The COMPANY shall be liable to the PLAN SPONSOR only for negligence, bad faith or intentional fraud of the COMPANY's employees in issuing instruments under this section.

In the event the COMPANY pays any person less than the amount to which he is entitled under the Plan, the COMPANY will promptly adjust the underpayment. In the event the COMPANY pays any person more than the amount to which he is entitled under the Plan or pays benefits to any person who is not entitled to them under the Plan, the COMPANY shall take all reasonable steps to recover the overpayment, provided that the COMPANY shall not be obligated to initiate court proceedings to recover such overpayment. The COMPANY will promptly notify the PLAN SPONSOR if it is unsuccessful in recovering any such over payment, and will promptly reimburse the PLAN SPONSOR the amount of any overpayment attributable to the negligence of the COMPANY.

- 3.06 Administrative Services.** The COMPANY shall not be responsible for distributing to Plan Members or filing with any government department such Plan descriptions and modifications thereto as may be required by law, but, may distribute such materials as the COMPANY deems necessary to protect itself from liability for any benefits hereunder.

The COMPANY will design administrative procedures consistent with the terms of the Plan, instruct the PLAN SPONSOR's designated personnel in their implementation, and will, at the PLAN SPONSOR's request, review the administration of the Plan by the PLAN SPONSOR and make recommendations pertaining thereto.

- 3.07 Plan Sponsor's Duty.** As a condition to the COMPANY's obligations hereunder, the PLAN SPONSOR shall cooperate with the COMPANY, provide the COMPANY with information requested by it, comply with the procedures prescribed by it, and make the payments required by this Agreement.

- 3.08 Determination of Eligibility.** Where applicable, the PLAN SPONSOR will provide certification in writing on the claim form, of the eligibility of the person who is submitting a claim for benefits under the Plan. In addition, the PLAN SPONSOR will provide the COMPANY with an eligibility list and a monthly deposit report for the Flexible Spending Account.

SECTION IV: CHARGES AND PREPAYMENTS

- 4.01 Administrative Charges for Services.** As compensation for the services rendered by the COMPANY under this Agreement, the PLAN SPONSOR agrees to pay to the COMPANY the following fees:

- (a) An Annual Case Initialization Fee of \$1,750 payable in one installment;
- (b) A Monthly Participant Fee based upon the aggregate number of Participants for the immediately preceding month multiplied by \$5.00; and
- (c) With respect to services rendered for any run-out period following the termination of either a plan year or the Plan, a Monthly Transaction Fee equal to the aggregate number of transactions processed by the COMPANY for each month of such run-out period multiplied by an amount mutually agreed to by the PLAN SPONSOR and the COMPANY.

The term "transaction" refers to each submission of (i) either a Health Care Plan Claim Form or a Dental Claim Form which requests reimbursement from the Medical Flexible Spending Account, (ii) a Flexible Spending Account Medical Reimbursement Request Form, or (iii) a Flexible spending Account Dependent Care Reimbursement Request Form by a Plan Member to the COMPANY without regard to whether such claim forms are properly filed or whether any reimbursement is due.

Such fees may be modified upon the first Agreement Anniversary with thirty-one (31) days prior written notice, or any subsequent Agreement Anniversary upon thirty-one (31) days prior written notice. Payment of such fees shall be remitted to the COMPANY not later than thirty-one (31) days after the due date. The "due date" of subsequent payments for such Sections is the first day of each succeeding month. The "due date" for the fees in Section 4.01(c) is the day the PLAN SPONSOR receives a notice from the COMPANY that payment is due.

SECTION V: TERMINATION AND MODIFICATION OF AGREEMENT

5.01 At Will Termination of Agreement. This Agreement may be terminated at will by either party by sending written notice by certified mail, return receipt requested, to the other party. Termination will be effective ninety (90) days after receipt of such notice or the date specified in such notice, whichever is later (hereinafter the "Termination Date."). The preceding sentence is subject to the following additional terms:

- (a) In the event such Termination Date occurs on the day immediately prior to the Agreement Anniversary, such Termination Date shall be postponed for the limited purpose of conducting a run-out period, and only until the last day of the run-out period, and only until the last day of the run-out period provided for under the Plan; provided the PLAN SPONSOR pays to the COMPANY any Administrative Charges required by Section IV.
- (b) In the event the PLAN SPONSOR terminates this Agreement and such Termination Date is a date other than the day immediately prior to the Agreement Anniversary, the PLAN SPONSOR shall pay to the COMPANY any Administrative Charges required by Section IV up to and including the Termination Date, and the unpaid balance of any Case Initialization Fee or any Annual Employee Fee outstanding as of such Termination Date shall become immediately due and payable.
- (c) The COMPANY (i) will not terminate this Agreement at such a time when the resulting Termination Date will be a date other than the day immediately prior to the Agreement Anniversary and will occur less than ninety (90) days prior to the Agreement Anniversary, and (ii) may terminate this Agreement if such Termination Date will be a date other than the day immediately prior to the Agreement Anniversary and will occur ninety (90) or more days prior to the Agreement Anniversary.

The COMPANY's receipt of written notice of termination sent by the PLAN SPONSOR in accordance with this Section 5.01 shall immediately release the COMPANY from any duty to administer employee choices, in accordance with Section 3.02 of this Agreement, or process selection, in accordance with Section 3.03 of this Agreement, as of the date of receipt of such notice.

With respect to Sections 5.01(a) and 5.01(c)(ii), the COMPANY will process and make a determination on all claims submitted to the COMPANY on or before the end of normal working hours on the Termination Date. Claims submitted after the end of normal working hours on the Termination Date shall be returned to the PLAN SPONSOR.

With respect to Section 5.01(b), the COMPANY will continue to process claims only until the end of normal working hours on the Termination Date. Claims not processed by the

end of normal working hours on the Termination Date shall be returned to the PLAN SPONSOR.

5.02 Termination of Agreement for Cause. The COMPANY retains the right to immediately terminate this Agreement for cause by giving written notice of termination to the PLAN SPONSOR:

- (a) upon failure of the PLAN SPONSOR to pay the Administrative Charges required by Section IV when due; or
- (b) upon failure of the PLAN SPONSOR to provide sufficient funds to the Bank to pay claims in accordance with Section 3.05; or
- (c) upon failure of the PLAN SPONSOR to provide notice of an amendment, modification or change in accordance with Section 6.04; or
- (d) upon the PLAN SPONSOR's termination of the Group Contract on a date other than the day immediately prior to the anniversary date of said group contract.

Upon such termination for cause, the PLAN SPONSOR shall pay to the COMPANY any Administrative charges required by Section IV up to and including the Termination Date, and the unpaid balance of any Case Initialization Fee or any Annual Employee Fee outstanding as of such Termination Date shall become immediately due and payable.

Upon such termination for cause, the COMPANY shall return to the PLAN SPONSOR all claims and all Employee selections not processed by the end of normal working hours on the day this Agreement terminates.

The PLAN SPONSOR agrees to allow the COMPANY continuing access to records after termination of this Agreement for purposes of fulfilling its obligation under this Agreement.

5.03 Modification of Agreement. This Agreement may only be modified, altered or amended in writing and signed by an authorized officer of each party.

SECTION VI: GENERAL PROVISIONS

6.01 Company's Liability. The COMPANY's liability under this Agreement is limited to the performance of the services enumerated herein in accordance with the procedures prescribed by the COMPANY. In no event shall the COMPANY be liable for benefits under the Plan or for any other payment except as expressly stated here. The PLAN SPONSOR shall be liable for and shall protect, hold harmless and indemnify the COMPANY and its agents and employees from and against all fines, penalties, losses, damages, costs, expenses, attorneys' fees and court costs suffered by the COMPANY, its agents and employees for which the COMPANY, its agents and employees may be held or become liable as a result of the performance of the COMPANY's obligations hereunder except to the extent they are attributable to the negligence of the COMPANY. The COMPANY shall have no liability for any damages to participants in the Plan resulting from a decision of the PLAN SPONSOR not to allow any selection or not to pay any claim, and the PLAN SPONSOR shall protect and hold harmless the COMPANY from any such damages, costs, expenses, attorneys' fees and court costs.

The PLAN SPONSOR shall also assume the liability for any assessment of tax by any taxing authority against the COMPANY with respect to the existence of the Plan or in connection with any amounts paid into or from the Plan, as distinct from the administrative


fees paid to the COMPANY by the PLAN SPONSOR pursuant to Section IV of this Agreement, and the PLAN SPONSOR shall reimburse the COMPANY upon demand in the full amount of such taxes paid.

- 6.02 **Confidentiality.** Any information requested hereunder shall be used only for the purposes of performing the services described herein and shall not be released by the COMPANY to any other person for purposes other than those described here, unless otherwise directed, in writing, by the PLAN SPONSOR.
- 6.03 **Waiver.** Any forbearance or pattern of forbearances by either party of the other party's failure to cooperate or otherwise comply with the terms of this Agreement or the procedures prescribed hereunder shall not be deemed a waiver of the terms of the Agreement or said procedures nor shall it be deemed a modification of this Agreement or said procedure.
- 6.04 **Modification of Plan.** The PLAN SPONSOR shall deliver to the COMPANY all amendments of, modifications to or changes in the Plan at least 60 days prior to the proposed effective date of such amendment, modification or change. The COMPANY shall have no obligation to administer any such amendment, modification or changes that increases its duties and obligations hereunder unless and until approved by the COMPANY. The COMPANY retains the right to modify the fees set forth in Section IV to reflect any additional duties and obligations required by such amendment or change.
- 6.05 **Legal Services.** The PLAN SPONSOR herewith acknowledges that the COMPANY disclaims any intention or capacity to provide legal advice, legal opinions or other legal services relative to the establishment and maintenance of the Plan or relative to this Agreement. The PLAN SPONSOR agrees that it will rely solely upon the advice of its own legal counsel in evaluating the legal aspects of the Plan and this Agreement.
- 6.06 **Entire Agreement.** This Agreement constitutes the entire understanding of the parties with respect to its subject matter. It supersedes all prior or contemporaneous written or oral understandings between the parties.
- 6.07 **Governing Law.** This Agreement shall be governed by, and shall be construed in accordance with, ERISA and any other applicable federal laws and, to the extent not preempted by federal law, the laws of the State of California.
- 6.08 **Effective Date.** This Agreement shall be effective as of the first day of January 2012.


AUTHORIZATION

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date set forth herein.

FOR COMPANY

by: 

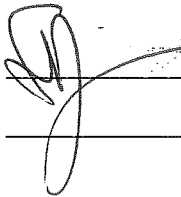
Pam Kehaly
Title: _____
Chief Executive Officer

by: 

Steven Scott
Vice President and General Manager
Title: _____
Large Group

FOR PLAN SPONSOR

by: _____
Title: _____

by: 

Assistant City Manager
Title: _____
**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

APPROVED AS TO FORM
6/28 70 12
ROBERT E. SHANNON, City Attorney
By _____
ONELA YOUNG
DEPUTY CITY ATTORNEY

ADDENDUM TO AGREEMENT WITH BUSINESS ASSOCIATE

This addendum ("Addendum") is effective upon full execution, and amends and is made part of the Administrative Services Agreement ("Agreement") between Anthem Blue Cross Life and Health Insurance Company ("Business Associate"), the Group Health Plan ("Plan") and THE CITY OF LONG BEACH ("Employer").

WHEREAS, Employer has established and maintains a plan of health care benefits which is administered by the Employer or its designee as an employee welfare benefit plan as defined by Section 3(1) of the Employee Retirement Income Security Act of 1974 ("ERISA");

WHEREAS, Employer has retained Business Associate to provide certain claims administrative services with respect to the Plan which are described and set forth in a separate Administrative Services Agreement among those parties ("Agreement"), as amended from time to time;

WHEREAS, Employer is authorized to enter into this Addendum on behalf of Plan;

WHEREAS, the parties to this Addendum desire to establish the terms under which Business Associate may use or disclose Protected Health Information (as defined herein) such that the Plan may comply with applicable requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-164) ("HIPAA Privacy Regulation" and/or "HIPAA Security Regulation");

NOW, THEREFORE, in consideration of these premises and the mutual promises and agreements hereinafter set forth, the Plan, Employer, and Business Associate hereby agree as follows:

PART 1. BUSINESS ASSOCIATE'S RESPONSIBILITIES

I. Privacy of Protected Health Information

A. Confidentiality of Protected Health Information

Except as permitted or required by this Addendum, Business Associate will not use or disclose Protected Health Information without the authorization of the Individual who is the subject of such information or as required by law.

B. Prohibition on Non-Permitted Use or Disclosure

Business Associate will neither use nor disclose Individuals' Protected Health Information except (1) as permitted or required by this Addendum, or any other agreement between the parties, (2) as permitted in writing by the Plan or its Plan administrator, (3) as authorized by Individuals, or (4) as required by law.

C. Permitted Uses and Disclosures

Business Associate is permitted to use or disclose Individuals' Protected Health Information as follows:

1. Functions and Activities on Plan's Behalf

Business Associate will be permitted to use and disclose Individuals' Protected Health Information (a) for the management, operation and administration of the Plan, (b) for the services set forth in the Agreement, which include (but are not limited to) Treatment, Payment activities, and/or Health Care Operations as these terms are defined in this Addendum and 45 Code of Federal Regulations § 164.501, and (c) as otherwise required to perform its obligations under this Addendum and the Agreement, or any other agreement between the parties provided that such use or disclosure would not violate the HIPAA Privacy or

Security Regulations if done by the Plan.

2. Business Associate's Own Management and Administration

a. Protected Health Information Use

Business Associate may use Individuals' Protected Health Information as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities.

b. Protected Health Information Disclosure

Business Associate may disclose Individuals' Protected Health Information as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only (i) if the disclosure is required by law, or (ii) if before the disclosure, Business Associate obtains from the entity to which the disclosure is to be made reasonable assurance, evidenced by written contract, that the entity will (x) hold Individuals' Protected Health Information in confidence, (y) use or further disclose Individuals' Protected Health Information only for the purposes for which Business Associate disclosed it to the entity or as required by law; and (z) notify Business Associate of any instance of which the entity becomes aware in which the confidentiality of any Individuals' Protected Health Information was breached.

3. Miscellaneous Functions and Activities

a. Protected Health Information Use

Business Associate may use Individuals' Protected Health Information as necessary for Business Associate to perform Data Aggregation services, and to create De-identified Information, Summary Health Information and/or Limited Data Sets.

b. Protected Health Information Disclosure

Business Associate may disclose, in conformance with the HIPAA Privacy Regulation, Individuals' Protected Health Information to make Incidental Disclosures and to make disclosures of De-identified Information, Limited Data Set Information, and Summary Health Information.

4. Minimum Necessary

Business Associate will make reasonable efforts to use, disclose, or request only the minimum necessary amount of Individuals' Protected Health Information to accomplish the intended purpose.

D. Disclosure to Plan and Employer (and their Subcontractors)

Other than disclosures permitted by Section I.C above, Business Associate will not disclose Individuals' Protected Health Information to the Plan, its Plan administrator or Employer, or any business associate or subcontractor of such parties except as set forth in Section VIII.

E. Disclosure to Business Associate's Subcontractors and Agents

Business Associate will require its subcontractors and agents to provide reasonable assurance, evidenced by written contract, that such other entity will comply with the same privacy and security obligations with respect to Individuals' Protected Health Information as applies to Business Associate.

F. Reporting Non-Permitted Use or Disclosure

Business Associate will promptly report to the Plan any use or disclosure of Individuals' Protected Health Information not permitted by this Addendum or in writing by the Plan or its Plan administrator, of which Business Associate becomes aware.

In addition to reporting to Plan any use or disclosure of Protected Health Information not permitted by the Addendum, Business Associate will also report any security incidents of which Business Associate becomes aware. A security incident is an attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system, and involves only electronic Protected Health Information that is created, received maintained or transmitted by or on behalf of Business Associate, that is in electronic form.

G. Termination for Breach of Privacy Obligations

Without limiting the rights of the parties set forth in the Agreement, Plan will have the right to terminate this Addendum and the Agreement if Business Associate has engaged in a pattern of activity or practice that constitutes a material breach or violation of Business Associate's obligations regarding Protected Health Information under this Addendum. Plan will follow the notice of termination procedures as set forth in the Agreement.

Rather than terminating this Addendum as set forth above, Plan shall provide Business Associate with an opportunity to cure the material breach. If these efforts to cure the material breach are unsuccessful, as determined by Plan in its reasonable discretion, Plan shall terminate the Agreement and this Addendum, as soon as administratively feasible.

H. Disposition of Protected Health Information

1. Return or Destruction Upon Administrative Services Agreement End

The parties agree that upon cancellation, termination, expiration or other conclusion of the Agreement, Business Associate will destroy or return all Protected Health Information, in whatever form or medium (including in any electronic medium under Business Associate's custody or control) to the extent feasible given the regulatory requirements to maintain and produce such information for extended periods of time after such termination. In addition, Business Associate is required to maintain such records to support its contractual obligations with its vendors and network providers. Business Associate shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those consistent with applicable law for so long as Business Associate, or its subcontractors or agents, maintains such Protected Health Information. Business Associate may destroy such records in accordance with applicable law and its record retention policy that it applies to similar records.

2. Exception When Business Associate Becomes Plan's Health Insurance Issuer

If upon cancellation, termination, expiration or other conclusion of the Agreement, Business Associate (or an affiliate of Business Associate) becomes the Plan's health insurance underwriter, then Business Associate shall transfer any Protected Health Information that Business Associate created or received for or from Plan to that part of Business Associate (or affiliate of Business Associate) responsible for health insurance functions.

3. Survival of Termination

The provisions of this Section I.H. shall survive cancellation, termination, expiration, or other conclusion of this Addendum and the Agreement.

II. Access, Amendment and Disclosure Accounting

- A. **Access.** Unless otherwise limited by applicable laws and regulations, whenever feasible, and to the extent that responsible information is in the possession of Business Associate, Business Associate will provide access to Protected Health Information as required by 45 C.F.R. § 164.524 on Plan's behalf. Such provision of access will not relieve Plan of any additional and independent obligations to provide access where requested by an Individual. Such access shall be provided in a time and manner consistent with Business Associate's procedures for access, which Business Associate hereby represents comply with the requirements of 45 C.F.R. § 164.524. Accordingly, upon Plan's written request or the direct request of an Individual (or the Individual's Personal Representative), Business Associate will make available for inspection and obtaining copies by Plan, or at Plan's direction by the Individual (or the Individual's Personal Representative), any Protected Health Information about the Individual created or received for or from Plan in Business Associate's custody or control contained in a Designated Record Set, so that Plan may meet its access obligations under 45 C.F.R. § 164.524. All fees related to this access, as determined by Business Associate, shall be borne by Individual.
- B. **Amendment.** Whenever feasible, and to the extent that responsive information is in the possession of Business Associate, Business Associate will amend Protected Health Information as required by 45 C.F.R. § 164.526 on Plan's behalf. Business Associate will amend such Protected Health Information according to its own procedures for such amendment. Business Associate represents that its procedures for such amendment comply with applicable requirements of 45 C.F.R. § 164.526. Such amendment will not relieve Plan of any additional and independent obligations to amend Protected Health Information where requested by an Individual. Accordingly, upon Plan's written request, or the direct request of an Individual (or the Individual's Personal Representative), Business Associate will amend such Protected Health Information contained in a Designated Record Set, in accordance with the requirements of 45 C.F.R. § 164.526. Upon receipt of written notice from Plan, Business Associate will amend any portion of the Protected Health Information created or received for or from Plan in Business Associate's custody or control, so that Plan may meet its amendment obligations under 45 C.F.R. § 164.526.
- C. **Disclosure Accounting.** In order that Plan may satisfy its Disclosure Accounting obligations under 45 C.F.R. § 164.528(d), Business Associate agrees to record each disclosure, not excepted from Disclosure Accounting under 45 C.F.R. § 164.528(a)(1), that Business Associate makes to Plan or to a third party of Protected Health Information in accordance with the requirements of 45 C.F.R. § 164.528(b). Business Associate will make its Disclosure Accounting available to Plan in a time and manner that would enable Plan to comply with its obligations under 45 C.F.R. § 164.528.
- D. **Disclosure Accounting Time Periods.** Business Associate will have available for Plan the Disclosure Accounting information it must record to satisfy Plan's obligations under 45 C.F.R. § 164.528 for the six (6) years immediately preceding the date of Plan's or Individual's (or the Individual's Personal Representative) written request for the Disclosure Accounting information (except that Business Associate will not be required to have such Disclosure Accounting information for disclosures occurring prior to April 14, 2003). Disclosure Accounting shall be provided according to Business Associate's own procedures for such accounting. Business Associate represents that its procedures for such accounting comply with the requirements of 45 C.F.R. § 164.528. Such provision of Disclosure Accounting will not relieve Plan of any additional

and independent obligations to provide Disclosure Accounting when requested by an Individual. Accordingly, upon Plan's written request or the direct request of an Individual (or the Individual's Personal Representative), Business Associate will provide a Disclosure Accounting in accordance with 45 C.F.R. § 164.528.

E. Request for Restriction and Confidential Information. Whenever feasible and to the extent that communications are within the control of Business Associate, Business Associate will evaluate and determine whether to grant Requests for Restriction and Confidential Communications in connection with the Disclosure of Protected Health Information pursuant to 45 C.F.R. § 164.522. A Request for Restriction shall only apply to the extent that such restriction may affect Business Associate's Use or Disclosure of an Individual's Protected Health Information. Business Associate will evaluate and determine whether to grant such requests according to its own procedures for such requests, and shall implement such appropriate operational steps as required by its own procedures. Business Associate represents that its procedures for evaluation and determination regarding such requests complies with the requirements of 45 C.F.R. § 164.522. Such evaluation and determination will not relieve Plan of any additional and independent obligations to evaluate Requests for Restriction or implement Confidential Communications when requested by an Individual. Accordingly, upon Plan's written request or the direct request of an Individual (or the Individual's Personal Representative), Business Associate will evaluate and determine whether to grant Requests for Restriction or Confidential Communications and will respond to these requests as appropriate under Business Associate's procedures.

F. Applicable Laws and Regulations. The phrase "applicable laws and regulations" shall mean the Privacy Regulation and any state law or regulation governing the privacy and/or confidentiality of an Individual's health information that is not otherwise preempted by the Privacy Regulation.

III. Safeguarding of Protected Health Information

Business Associate will develop and maintain reasonable and appropriate administrative, technical and physical safeguards, as required by Social Security Act § 1173(d) and 45 Code of Federal Regulations § 164.530(c), to ensure and to protect against reasonably anticipated threats or hazards to the security or integrity of health information, to protect against reasonably anticipated unauthorized use or disclosure of health information, and to reasonably safeguard Protected Health Information from any intentional or unintentional use or disclosure in violation of this Addendum.

Business Associate will also develop and use appropriate administrative, physical and technical safeguards to preserve the Availability of electronic Protected Health Information, in addition to preserving the integrity and confidentiality of such Protected Health Information. The "appropriate safeguards" Business Associate uses in furtherance of 45 Code of Federal Regulations § 164.530(c), will also meet the requirements contemplated by 45 Code of Federal Regulations Parts 160, 162 and 164, as amended from time to time.

IV. Compliance With Standard Transaction

On and after October 16, 2003, Business Associate will comply with each applicable requirement for Standard Transactions established in 45 Code of Federal Regulations Part 162 when conducting all or any part of a Standard Transaction electronically for, on behalf of, or with the Plan.

V. Inspection of Books and Records

Business Associate will make its internal practices, books, and records relating to its use and disclosure of Protected Health Information created or received for or from the Plan available to the U.S. Department of Health and Human Services to determine Plan's compliance with 45 Code of Federal Regulations Parts 160-64 or this Addendum.

VI. Mitigation for Non-Permitted Use or Disclosure

Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Addendum.

PART 2. PLAN'S RESPONSIBILITIES

VII. Plan's Notice of Privacy Practices

- A. **Preparation of Plan's Notice of Privacy Practices.** Plan shall be responsible for the preparation of its Notice of Privacy Practices ("NPP"). To facilitate this preparation, upon Plan's or Employer's request, Business Associate will provide Plan with its NPP that Plan may use as the basis for its own NPP. Plan will be solely responsible for the review and approval of the content of its NPP, including whether its content accurately reflects Plan's privacy policies and practices, as well as its compliance with the requirements of 45 C.F.R. § 164.520. Unless advance written approval is obtained from Business Associate, the Plan shall not create any NPP that imposes obligations on Business Associate that are in addition to or that are inconsistent with the NPP prepared by Business Associate or with the obligations assumed by Business Associate hereunder.
- B. **Distribution of Notice of Privacy Practice.** Plan shall bear full responsibility for distributing its own NPP as required by the Privacy Regulation.
- C. **Changes to Protected Health Information.** Plan shall notify Business Associate of any change(s) in, or revocation of, permission by an Individual to Use or Disclose Protected Health Information, to the extent that such change(s) may affect Business Associate's Use or Disclosure of such Protected Health Information.

PART 3. DISCLOSURE OF PROTECTED HEALTH INFORMATION TO THE PLAN, EMPLOYER AND OTHER BUSINESS ASSOCIATES

VIII. DISCLOSURE OF PROTECTED HEALTH INFORMATION

The following provisions apply to disclosures of Protected Health Information to the Plan, Employer and other business associates of the Plan.

A. Disclosure to Plan

Unless otherwise provided by this Section VIII, all communications of Protected Health Information by Business Associate shall be directed to the Plan.

B. Disclosure to Employer

Business Associate may provide Summary Health Information regarding the Individuals in the Plan to Employer upon Employer's written request for the purpose either (a) to obtain premium bids for providing health insurance coverage for the Plan, or (b) to modify, amend or terminate the Plan.

Business Associate may provide information to Employer on whether an individual is participating in the Plan or is enrolled in or has disenrolled from any insurance coverage offered by the Plan.

C. Disclosure to Other Business Associates and Subcontractors

Business Associate may disclose Individuals' Protected Health Information to other entities or business associates of the Plan if the Plan authorizes Business Associate in writing to disclose Individuals' Protected Health Information to such entity or business associate. The Plan shall be solely responsible for ensuring that any contractual relationships with these entities or business associates and

subcontractors comply with the requirements of 45 Code of Federal Regulations § 164.504(e) and § 164.504(f).

PART 4. MISCELLANEOUS

IX. AGREEMENT TERM

This Addendum will continue in full force and effect for as long as the Agreement remains in full force and effect. This Addendum will terminate upon the cancellation, termination, expiration or other conclusion of the Agreement.

X. INDEMNIFICATION

Business Associate will indemnify and hold harmless Employer and any Employer affiliates, officers, directors, employees and agents from and against any claim, cause of action, liability, damage, cost, or expense, including attorneys' fees and court or proceeding costs, arising out of or in connection with any nonpermitted or prohibited use or disclosure of Protected Health Information or other breach of this Addendum by Business Associate or any subcontractor, agent, person or entity under Business Associate's control.

XI. AUTOMATIC AMENDMENT TO CONFORM TO APPLICABLE LAW

Upon the effective date of any final regulation or amendment to final regulations with respect to Protected Health Information, Standard Transactions, the security of health information or other aspects of the Health Insurance Portability and Accountability Act of 1996 applicable to this Addendum or to the Agreement, this Addendum will automatically amend such that the obligations imposed on the Plan, Employer, and Business Associate remain in compliance with such regulations, unless Business Associate elects to terminate the Agreement by providing Employer notice of termination in accordance with the Agreement at least thirty (30) days before the effective date of such final regulation or amendment to final regulations.

XII. CONFLICTS

The provisions of this Addendum will override and control any conflicting provision of the Agreement. All other provisions of the Agreement remain unchanged by this Addendum and in full force and effect.

XIII. NO THIRD PARTY BENEFICIARIES

The parties agree that there are no intended third party beneficiaries under this Addendum. This provision shall survive cancellation, termination, expiration, or other conclusion of this Addendum and the Agreement.

XIV. INTERPRETATION

Any ambiguity in this Addendum or the Agreement or in operation of the Plan shall be resolved to maintain compliance with the Regulations enacted pursuant to HIPAA Administrative Simplification.

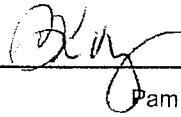
XV. DEFINITIONS

Unless otherwise defined in this Addendum, the capitalized terms set forth herein have the meanings ascribed to them under the HIPAA Privacy Regulation and/or HIPAA Security Regulation. A reference in this Addendum to the Privacy Regulation, Security Regulation or HIPAA shall mean the section as in effect or as amended.

XVI. REFERENCES


References herein to statutes and regulations shall be deemed to be references to those statutes and regulations as amended or recodified.

**Anthem Blue Cross Life and Health
Insurance Company**

By: 
Pam Kehaly

Title: Chief Executive Officer

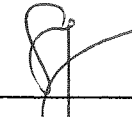
Date: 5/10/12

By: 
Steven Scott

Title: Vice President and General Manager,
Large Group

Date: 6/5/12

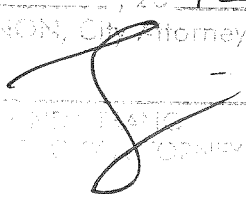
The City of Long Beach

By:  Assistant City Manager

Title: City Manager

Date: 2.10.12

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM
6/28, 20 12
ROBERT E. THOMPSON, City Attorney

CITY OF LONG BEACH