



## Greater Tompkins County Municipal Health Insurance Consortium

125 East Court Street • Ithaca, New York 14850 • (607)274-5590

www.healthconsortium.net • consortium@tompkins-co.org

*“Individually and collectively we invest in realizing high quality, affordable, dependable health insurance.”*

### AGENDA Governance Structure Committee February 5, 2020 – 4:30 P.M.

Town of Ithaca

(Call-in: 607-378-3962; ID 636298048)

1. Welcome (4:30)
2. Changes to the Agenda (4:32)
3. Approval of 1/18/2020 minutes (4:35)
4. Review Responses from John Powers (4:40)
5. Finalize Draft MCA (4:55)
6. Finalize Draft Bylaws (5:10)
7. Review Next Steps (5:30)
8. Set Next Meeting Date and Time (5:40)
9. Adjournment (5:45)

Next Meeting: \_\_\_\_\_

**Governance Structure Committee  
Minutes – Draft  
January 8, 2020 – 4:30 p.m.  
Town of Ithaca**

Present: Bud Shattuck, Judy Drake, Chuck Rankin, Lisa Holmes Greg Pellicano( arrived at 4:44 p.m.), Jim Bower, Eric Snow

Present by Phone: Kevin Williams

Excused: Steve Thayer, John Fracchia, Ed Fairbrother

Absent: Olivia Hersey

Others: Elin Dowd, Executive Director; Brittni Griep, Administrative Assistant; Michelle Cocco; Clerk of the Board; Don Barber, Consultant

**Call to Order**

Mr. Rankin, Chair, called the meeting to order at 4:33 p.m.

**Changes to the Agenda**

There were no changes to the agenda.

**Approval of Minutes – November 13, 2019**

It was MOVED by Ms. Drake, seconded by Ms. Holmes, and unanimously adopted by voice vote by members present, to approve the minutes of November 13, 2019 as presented. MINUTES APPROVED.

**Report on Response from Participants**

Ms. Drake reported there has been a 58% response rate from Participants on the 2015 Municipal Cooperative Agreement with only the Town of Ulysses suggesting changes up to this point.

The Committee reviewed the suggested changes from the Town of Ulysses and responses from Mr. Locey.

- 1. Section A6: Current agreement calls for a penalty period of 3 years before a municipal choosing to leave the consortium can be re-admitted The Town of Ulysses recommends a two-year period since three seems excessive and punitive.***

Response from Locey & Cahill: Section A8 of the revised MCA is old language which has been heavily discussed by the GTCMHIC over the years, especially in the early years of the development of the Consortium. It was agreed that a Municipal Corporation joining the Consortium must understand that this municipal cooperative model is a long-term solution to the rising cost of health insurance. In addition, members choosing to withdraw must carefully weight their decision as the Consortium does not want to be a "revolving door." That being said a municipality which was previously a member could rejoin the Consortium sooner if 2/3 of the Board of Directors agreed to allow them to rejoin. This is an issue which we would categorize as a "Board Preference" and as such, the Board of Directors has approved this language in the past and we see no compelling reason to deviate from this position at this time.

Comments by the Committee included: the period of three years was reach as a comprise between earlier suggestions of two, with a two-thirds vote of the Board a Participant could be

allowed back in earlier, and three years is a commonly accepted term. The Committee did not recommend a change to this section.

**2. Section B2: MCA calls for new municipal members to pay a fee in addition to the cost of their premiums. No objection to that but some criteria should be included to set guidelines for the Board so that fees for new members are reasonable.**

Response from Locey & Cahill: The Consortium should take this under advisement to see if there is a formula or cap which can be applied to these potential costs to keep any upfront expense at a reasonable level for any prospective municipalities looking to join the Consortium. We would be available to assist with this action, if necessary.

Mr. Barber said the Consortium has never wanted to retain these funds and he also doesn't believe limits should be set on the Consortium at this time; the Board needs the ability to be flexible depending on circumstances. Ms. Drake noted this has been addressed by a resolution and by the institution of an application process. Mr. Barber said the role of this is primarily a signal of commitment to the Consortium. No change was recommended to this section.

Mr. Pellicano arrived at this time.

**3. Section B3: MCA outlines liability of municipalities to cover asset shortfalls of the Consortium. The Town of Ulysses recommends language be added to make clear that all state-mandated reserves and the unencumbered fund balance are used before assessing municipalities for a pro-rata share of the shortfall.**

Response from Locey & Cahill: from Locey & Cahill: You may want to get a legal review of this comment from John Powers at Hancock Estabrook, LLP as we believe this request is statutorily precluded.

It is our understanding from the New York State Department of Financial Services ("NYS-DFS") that a New York State Article 47 Municipal Cooperative Health Benefit Plan must have the required Incurred But Not Report (IBNR) Claims Liability Reserve and the Surplus Account fully funded with cash at all times. If either of these reserves were to fall below their required levels, the Consortium is required to immediately assess the Participating Municipalities for their share of any such shortfall which may occur.

As a result, it is our understanding that the Consortium could make it clear that no assessment would occur until such time as all cash assets less any statutory reserves held by the Consortium were expended.

Ms. Drake suggested utilizing Mr. Locey's comments in a response to the Town to make it clear that no assessment would occur until such time as all cash assets less statutory reserves held by the Consortium were expended. No change was recommended to this section.

**4. Section C6: Although the MCA permits remote participation, the Town of Ulysses supports the proposed governance structure that elects members to an expanded Executive Committee and outlines their expanded role to govern the Consortium between board meetings of the full membership.**

Response from Locey & Cahill: We appreciate the Town of Ulysses' support of this measure as operating the GTCMHIC through its current governance structure model has

proven difficult as the Consortium has grown and as it has expanded its geographical boundaries.

No change was suggested or recommended to this section.

**5. Section Eli: This section on board responsibility to appoint an attorney in fact should delete the name of the individual attorney since the choice can change from year to year.**

Response from Locey & Cahill: Perhaps a compromise here would be to change the language to define the "Attorney in Fact" as the Consortium's appointed legal counsel. This would allow John Powers to continue to be the "Attorney in Fact" provided Hancock Estabrook, LLP is appointed as the Consortium's Legal Counsel each year.

Reference to a specific individual has been recommended in the amended 2020 MCA.

**6. Section G1: Officers: The consortium should consider whether to institute term-limits for officers. We have been well-served by current officers and multiple terms are needed to deal with steep learning curve but 5 one-year terms may be sufficient for continuity while cultivating new leadership.**

Response from Locey & Cahill: The only comment we would make here is that the Consortium wants to be sure any rules of operation reflect the need to have experienced people "at the helm". In addition, since these are no pay, no benefit positions with no direct pathway to work or profit after service, we are not sure this is a necessary rule that needs to be implemented.

Ms. Drake commented that this could be addressed in the Bylaws of the Executive Committee. Ms. Holmes spoke as a new Director and said there is a steep learning curve.

**7. Section H1: "The Chairperson shall be the chief executive officer of the Consortium" may need to be revised to add or distinguish the role of the Executive Director. And similarly, the role of the consultant may need to be alluded to and distinguished from the Chief Fiscal Officer and Director.**

Response from Locey & Cahill: We believe this can be accomplished through the by-laws and/or through resolutions passed by the Board of Directors. If included in the MCA, any changes would require adoption of an amended MCA which is not ideal.

Ms. Drake said the Executive Director is a hired position and doesn't think it would be appropriate to reference in the MCA. The Chair of the Board is the Chief Executive Officer and the signatory on all documents at the direction of the Board of Directors. She said the position of Executive Director could, however, be elaborated further in the Executive Committee Bylaws. No change was recommended to this section.

**8. Section K5: Labor representation: The Town of Ulysses supports the proposed cap on the number of labor representatives if the consortium continues to add members.**

Response from Locey & Cahill: We appreciate the Town of Ulysses' support of this measure as finding willing labor leaders willing to be part of the governance model has proven difficult as the Consortium has grown and expanded its geographical boundaries.

No change was suggested or recommended to this section.

**9. Section L5: Excess reserves: This language needs to be strengthened to assure that the Board sets reasonable targets for all reserves and does not allow the unencumbered fund balance to grow significantly beyond those targets without having a clear plan for refunding surpluses or using them to reduce premium costs.**

Response from Locey & Cahill: It is our opinion that this section should not be amended and that the power to set reserves should be a discretionary power of the Board of Directors to be exercised during the budget process each year. By placing hard targets and/or formulas in the MCA, any changes to those targets and/or formulas would require adoption of a new MCA which is a timely and arduous process.

Members agreed with Mr. Locey's comments; no change was recommended to this section.

**10. Section N: Additional benefits. The Town of Ulysses considers its provision of Medicare Supplemental insurance for retirees to be an additional benefit under this clause and therefore is exempt from the current penalties adopted by the Board**

Response from Locey & Cahill: We disagree with this interpretation. However, this is an issue which is currently under consideration and study by the Consortium's Executive and Audit & Finance Committees. Once a final rule regarding the handling of retiree benefits is made, the Consortium will then need to deal with any "outside" plans utilized by Participating Municipalities.

Ms. Drake spoke to the Town's reference to the Medicare Supplement and said she believes the change to A.3. now referencing "actives" makes it clear that no solution has been developed to the retiree population. No change was recommended to this section.

**11. Section P3-4 Payments upon withdrawal: This section should clearly identify ALL surpluses since the Consortium currently sets premium prices sufficient to not only fund state mandated reserves but to build an unencumbered fund balance. All municipalities should know what their share of all of the reserves, not just the state-mandates reserves.**

Response from Locey & Cahill: We believe GTCMHIC Resolution No. 021-2019 addresses this issue. As with other items left to the discretion of the Board of Directors, we feel placing "hard rules" in the MCA is difficult as when these practices need to be changed it requires adoption of an amended MCA. By leaving these items outside of the MCA and having them defined by resolution gives the Board of Directors more flexibility to meet the needs of the Participating Municipalities.

No change was recommended to this section.

**12. Section V 3b: Alternative Dispute Resolution: This section should clarify who pays the cost of the American Arbitration Association of member challenges made to Board decisions.**

Response from Locey & Cahill: Not being a law firm, we would leave this question to be answered by John Powers of Hancock Estabrook, LLP. That being said, it is our

understanding that the legal fees incurred in an arbitration are the responsibility of each party in the action. As a result, the Consortium is responsible for its legal fees and the other party in the action would be responsible for their legal costs associated with the arbitration.

Ms. Drake said this is standard language; however, Ms. Dowd will follow-up to Mr. Powers on this item. No changes were recommended to this section at this time.

**13. Addendum B: The Town of Ulysses supports the proposed changes to capping the number of labor representatives at 10 as the Consortium continues to grow.**

Response from Locey & Cahill: Again, we appreciate the Town of Ulysses' support of this measure as finding willing labor leaders willing to be part of the governance model has proven difficult as the Consortium has grown and expanded its geographical boundaries.

No change was suggested or recommended to this section.

The Committee expressed its appreciation to the Town of Ulysses for reviewing the MCA and providing the Consortium with suggestions. Ms. Holmes questioned the status of comments submitted by the Town that were not related to the MCA. Ms. Dowd said those suggestions are being referred to the appropriate committee as they relate to policy and practice.

**Finalize Draft MCA and Bylaws**

Mr. Snow commented on:

**Section D. Weighted Voting:**

“Attached as Addendum “A” to this Agreement is an example of the application of the voting formula contained in subparagraph “2” of this Section”. He questioned whether No. 3 be revised to include the wording from the addendum (deleting the Addendum)? Ms. Dowd will check with legal counsel on this.

Ms. Dowd reported that research is being done on the way in which the Joint Committee on Plan Structure and Design sets its Chair. She also said that Mr. Powers advised that the Board could delegate authority to the Executive Committee to set contracts for this such as the Plan Consultant.

Mr. Barber recalled the Department of Financial Services having specific requirements related to E. Actions by the Board and said he would look into this and report back.

**Executive Committee Bylaws**

Ms. Drake said the Operations Committee reviewed the draft Bylaws. Mr. Snow said he found the proposed language relating to composition of the Executive committee to be confusing. Ms. Drake suggested providing a sample of membership using the current membership.

There was consensus that a nominations committee would put forth a proposal for a full slate of officers for the Board to consider; the remainder of the members would be voted on separately.

Section 6. "Nominations and Engagement Committee" was amended to read: "The Nominations Committee shall serve a term of one year. They will bring forward a slate of recommended officers at the annual Board meeting." Ms. Drake said they could develop a set of guidelines for how they would do that. Mr. Snow requested a sample slate be included when this goes out to Participants.

At the suggestion of Mr. Snow as to how committee chairs would be selected, the topic will be forwarded to the Operations Committee.

#### Article X – Amendments

It was agreed to revise this sentence as follows: "These Bylaws may be amended or repealed only at a meeting of the ~~Executive Committee~~ Board of Directors..."

There was agreement to send Participants a copy of any comments and the Consortium's response, a copy of the proposed Bylaws, and a red-lined version and clean copy of the MCA by the early February to provide sufficient time for review. Mr. Snow suggested a cover letter explaining the documents and process accompany the documents.

Ms. Dowd said several efforts have been made to solicit comments from Participants. She will follow-up with municipalities on this when she begins making visits to them in February.

#### Next Meeting

The next meeting will be February 5<sup>th</sup> at 4:30 p.m.

#### Adjournment

The meeting adjourned at 5:54 p.m.

# Responses from Hancock Estabrook on MCA and Bylaw Recommendations

## QUESTION:

### **Section C. Board of Directors**

2. The MCA states that a Participant must notify the Consortium in writing of its selection of a new designee to represent the Participant as a Director.

- In previous DFS audits the Consortium has been asked to provide copies of the municipal action designating a Director. The practice has been to request a resolution or copy of Board minutes from the municipal clerk.

Question: Should the MCA clarify what type of document is being requested in writing?

**RESPONSE:** No. The governing principle in the drafting of our organizational governance document was to maintain maximum flexibility. Once we start including detail regarding specific forms and other minutiae in the cooperative agreement, we do make it more detailed, but we also make it harder to comply with and less adaptable to periodic changes in administrative practices. If the Consortium wants to require a specific or uniform *type* of written designation from its constituent Participants as part of its regular practices and procedures, that is perfectly fine—but that requirement need not be part of the MCA.

## QUESTION:

### **Section D. Weighted Voting**

3. Attached as Addendum “A” to this Agreement is an example of the voting formula contained in subparagraph “2” of this Section. This concept is very confusing to Committee members and we want to make sure it is clear when we send out the changes.

Question: Can Section D, paragraph 3 be revised to include the wording from the addendum, thereby deleting the addendum and outlining how voting works right in the document, rather than refer to the attached addendum?

\*If this change is accepted, Addendum “B” will need to be reordered.

**RESPONSE:** Yes. I agree the weighted voting description itself is somewhat confusing, although I think the example makes it clearer. You may want to think about clarifying Section D (2) (b) as well.



## Responses from Hancock Estabrook on MCA and Bylaw Recommendations

### QUESTION:

***Section V 3b: Alternative Dispute Resolution: Should this section clarify who pays the cost of the American Arbitration Association of member challenges made to Board decisions.***

Response from Locey & Cahill: Not being a law firm, we would leave this question to be answered by John Powers of Hancock Estabrook, LLP. That being said, it is our understanding that the legal fees incurred in an arbitration are the responsibility of each party in the action. As a result, the Consortium is responsible for its legal fees and the other party in the action would be responsible for their legal costs associated with the arbitration. The Committee agrees with Locey&Cahill and doesn't feel the need to clarify in the document, unless you request we add that information.

**RESPONSE OF HANCOCK ESTABROOK:** The default rule in American litigation, where it is not otherwise specified by agreement, is that each side to a dispute pays their own attorney fees and litigation costs. That being said, some arbitrators, in their discretion, will order the payment of attorney fees by one side as part of their award. If you want to guarantee a specific procedure with respect to fee shifting, you could add language to the Alternative Dispute Resolution section specifying that result.

### QUESTION:

***Section B3: MCA outlines liability of municipalities to cover asset shortfalls of the Consortium. The Town of Ulysses recommends language be added to make clear that all state-mandated reserves and the unencumbered fund balance are used before assessing municipalities for a pro-rata share of the shortfall.***

Response from Locey & Cahill: You may want to get a legal review of this comment from John Powers at Hancock Estabrook, LLP as we believe this request is statutorily precluded.

It is our understanding from the New York State Department of Financial Services ("NYS-DFS") that a New York State Article 47 Municipal Cooperative Health Benefit Plan must have the required Incurred But Not Report (IBNR) Claims Liability Reserve and the Surplus Account fully funded with cash at all times. If either of these reserves were to fall below their required levels, the Consortium is required to immediately assess the Participating Municipalities for their share of any such shortfall which may occur.

## **Responses from Hancock Estabrook on MCA and Bylaw Recommendations**

As a result, it is our understanding that the Consortium could make it clear that no assessment would occur until such time as all cash assets less any statutory reserves held by the Consortium were expended.

The Committee's understanding is the same as Locey & Cahill. We will wait on your opinion before responding.

**RESPONSE OF HANCOCK ESTABROOK:** The funds earmarked for statutorily required reserves—*i.e.*, those reserves required under Article 47 of the Insurance law or other statutory requirements—may not be invaded to remedy routine budgeting shortfalls; but rather may only be invaded if the triggering conditions under their stated purpose have occurred. That being said, unencumbered fund balance—which is not associated with any of the defined reserve accounts—may be used to satisfy any shortfall created by higher-than-budgeted claims activity. Arguably, it is one of the purposes of maintaining a fund balance to protect against such situations. Whether or not this is mandated as a first step before additional assessments are levied or otherwise remains up to the discretion of the Board when such an event occurs, is a question of policy for the Board.

Three sections received comments by John Powers and warrant Committee discussion. His comments are below:

**Article IV – Section 2.**

JP: Not sure what you were going for here. EC members must also be Directors.

**Article V – Section 2.**

JP: Is this the mechanism you want? This means if the minimum quorum number is present, the vote must be unanimous.

“Provided a quorum is present, the Executive Committee shall act by an affirmative vote of a majority of the fully-constituted Executive Committee.”

Note: If quorum is set at the majority of the “fully-constituted” Committee, it would equal half plus one of the total number of members. (For an 11-member Committee, quorum would be 6.). This language requires 6 for quorum and 6 votes in favor of any action. In the event only six members were in attendance it would require a unanimous vote of all present to pass. If this were not the requirement, 6 members would need to be present for quorum and actions would require only 4 ayes out of a Committee of 11 to pass.

Note: In the event the Committee grew to 15 members the quorum would be 8. The language would require 8 votes for actions to pass. In the event only 8 members were in attendance actions would require a unanimous vote of all present to pass. If this were not the requirement, 8 members would need to be present for quorum and any action would require only 5 ayes out of a Committee of 15 to pass.

**Article VII – Section 4.**

JP: This seems like a high amount for a variance. You should review prior budgets to see if a 10% deviation on any given line item is a material change to the organization’s finances.

### **Outline of Executive Committee Membership**

- 1 Chair of the Board of Directors (Executive Committee Chair)
- 2 Vice Chair of the Board of Directors
- 3 Chief Fiscal Officer
- 4 Secretary
- 5 Chair of the Joint Committee on Plan Structure and Design
- 6 Chair of the Audit and Finance Committee
- 7 Chair of the Operations Committee
- 8 Chair of the Nominations and Engagement Committee
- 9 Chair of the Owning Your Own Health Committee
- 10 Chair of the Claims and Appeals Committee
- 11 At-large
- 12 Optional At-large
- 13 Optional At-large
- 14 Optional At-large
- 15 Optional At-large



Municipalities building a  
stable insurance future.

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## **20152020 AMENDMENT TO THE MUNICIPAL COOPERATION AGREEMENT**

*(Signed by all Participants as of October 12, 20152020)*

**THIS AGREEMENT** (the "Agreement") made effective as of the 1<sup>st</sup> day of October 2010 (the "Effective Date"), and as amended herein, by and among each of the signatory municipal corporations hereto (collectively, the "Participants").

### **W H E R E A S:**

1. Article 5-G of the New York General Municipal Law (the "General Municipal Law") authorizes municipal corporations to enter into cooperative agreements for the performance of those functions or activities in which they could engage individually;
2. Sections 92-a and 119-o of the General Municipal Law authorize municipalities to purchase a single health insurance policy, enter into group health plans, and establish a joint body to administer a health plan;
3. Article 47 of the New York Insurance Law (the "Insurance Law" or "N.Y. Ins. Law"), and the rules and regulations of the New York State Superintendent of Financial Services (the "Superintendent") set forth certain requirements for governing self-insured municipal cooperative health insurance plans;
4. Section 4702(f) of the Insurance Law defines the term "municipal corporation" to include a county, city, town, village, school district, board of cooperative educational services, public library (as defined in Section 253 of the New York State Education Law) and district (as defined in Section 119-n of the General Municipal Law); and
5. The Participants have determined to their individual satisfaction that furnishing the health benefits (including, but not limited to, medical, surgical, hospital, prescription drug, dental, and/or vision) for their eligible officers, eligible employees (as defined by the Internal Revenue Code of 1986, as amended, and the Internal Revenue Service rules and regulations), eligible retirees, and the eligible dependents of eligible officers, employees and retirees (collectively, the "Enrollees") (such definition does not include independent contractors and/or consultants) through a municipal cooperative is in their best interests as it is more cost-effective and efficient. Eligibility requirements shall be determined by each Participant's collective bargaining agreements and/or their personnel policies and procedures.

**NOW, THEREFORE**, the parties agree as follows:

#### **A. PARTICIPANTS.**

1. The Participants hereby designate themselves under this Agreement as the Greater Tompkins County Municipal Health Insurance Consortium (the "Consortium") for the purpose of providing health benefits (medical, surgical, hospital, prescription drug, dental, and/or vision) to those Enrollees that each Participant individually elects to include in the Greater Tompkins County Municipal Health Insurance Consortium Medical Plan(s) (the "Plan(s)").

2. The following Participants shall comprise the current membership of the Consortium (a) County of Tompkins; (b) City of Ithaca; (c) Town of Enfield; (d) Town of Caroline; (e) Town of Ithaca; (f) Town of Danby; (g) Town of Dryden; (h) Town of Ulysses; (i) Village of Cayuga Heights; (j) Village of Groton; (k) Village of Dryden; (l) Village of Trumansburg; (m) Town of Groton; (n) Town of Lansing; (o) City of Cortland; (p) Village of Homer; (q) Town of Willet.

<u>Municipality Name</u>	<u>Effective Date</u>
<u>City of Ithaca</u>	<u>1/1/2011</u>
<u>County of Tompkins</u>	<u>1/1/2011</u>
<u>Town of Caroline</u>	<u>1/1/2011</u>
<u>Town of Danby</u>	<u>1/1/2011</u>
<u>Town of Dryden</u>	<u>1/1/2011</u>
<u>Town of Enfield</u>	<u>1/1/2011</u>
<u>Town of Groton</u>	<u>1/1/2011</u>
<u>Town of Ithaca</u>	<u>1/1/2011</u>
<u>Town of Ulysses</u>	<u>1/1/2011</u>
<u>Village of Cayuga Heights</u>	<u>1/1/2011</u>
<u>Village of Dryden</u>	<u>1/1/2011</u>
<u>Village of Groton</u>	<u>1/1/2011</u>
<u>Village of Trumansburg</u>	<u>1/1/2011</u>
<u>City of Cortland</u>	<u>1/1/2013</u>
<u>Town of Lansing</u>	<u>1/1/2013</u>
<u>Town of Willet</u>	<u>1/1/2015</u>
<u>Village of Homer</u>	<u>1/1/2015</u>
<u>Town of Marathon</u>	<u>1/1/2016</u>
<u>Town of Truxton</u>	<u>1/1/2016</u>
<u>Town of Virgil</u>	<u>1/1/2016</u>

<u>Municipality Name</u>	<u>Effective Date</u>
<u>Town of Aurelius</u>	<u>1/1/2017</u>
<u>Town of Cincinnatus</u>	<u>1/1/2017</u>
<u>Town of Montezuma</u>	<u>1/1/2017</u>
<u>Town of Moravia</u>	<u>1/1/2017</u>
<u>Town of Preble</u>	<u>1/1/2017</u>
<u>Town of Scipio</u>	<u>1/1/2017</u>
<u>Town of Springport</u>	<u>1/1/2017</u>
<u>Village of Union Springs</u>	<u>1/1/2017</u>
<u>Town of Homer</u>	<u>1/1/2018</u>
<u>Town of Newfield</u>	<u>1/1/2018</u>
<u>Town of Owasco</u>	<u>1/1/2018</u>
<u>County of Seneca</u>	<u>1/1/2019</u>
<u>Town of Big Flats</u>	<u>1/1/2019</u>
<u>Town of Mentz</u>	<u>1/1/2019</u>
<u>Town of Niles</u>	<u>1/1/2019</u>
<u>Town of Sennett</u>	<u>1/1/2019</u>
<u>Village of Freeville</u>	<u>1/1/2019</u>
<u>Village of Horseheads</u>	<u>1/1/2019</u>
<u>Village of Lansing</u>	<u>1/1/2019</u>
<u>Town of Horseheads</u>	<u>1/1/2020</u>
<u>Town of Spencer</u>	<u>1/1/2020</u>
<u>Lansing Library</u>	<u>1/1/2020</u>
<u>Village of Watkins Glen</u>	<u>1/1/2020</u>

3. Membership in the Consortium may be offered to any municipal corporation as defined in N.Y. Ins. Law §4702(f) within the geographical boundaries of the Counties of Tompkins, Cayuga, Chemung, Cortland, Tioga, Schuyler, and Seneca, provided however that, in the sole discretion of the Board (as defined below), the applicant provides satisfactory proof of its financial responsibility and is of the same type of municipal corporation as the initial Participants.

{H3854034.1}

Notwithstanding anything to the contrary set forth in this Agreement, admission of new Participants shall not require amendment of this Section A(2). Membership shall be subject to the terms and conditions set forth in this Agreement, any amendments hereto and applicable law.

~~3. Participation in the Plan(s) by some, but not all, collective bargaining units or employee groups of a Participant is not encouraged and shall not be permitted absent prior Board approval. Further, after obtaining approval, any Participant which negotiates an alternative health insurance plan offering other than the plan offerings of the Consortium with a collective bargaining unit or employee group may be subject to a risk charge as determined by the Board.~~

4. The Board, in its sole discretion, by a two-thirds (2/3) vote of the entire Board, may elect to permit additional municipal corporations located within the geographical boundaries set forth in Section Paragraph A(32) to become Participants subject to satisfactory proof, as determined by the Board, of such municipal corporation's financial responsibility. Such municipal corporations must agree to continue as a Participant for a minimum of three (3) years upon entry.

5. The Board, in its sole discretion, by a two-thirds (2/3) vote of the entire Board, may elect to permit additional municipal corporations that does not satisfy the located within the geographical boundaries set forth in Section A(3) to become a Participants upon consideration of such factors including but not limited to financial responsibility and the municipal corporation's similarity in terms of risk and demographic makeup to the current Participants of the Consortium. Such municipal corporations must agree to continue as a Participant for a minimum of three (3) years upon entry.

~~6. Participation in the Plan(s) by some, but not all, collective bargaining units or employee groups of a Participant is not encouraged and shall not be permitted absent prior Board approval. Further, after obtaining approval, any Participant which negotiates an alternative health insurance plan offering other than the plan offerings of the Consortium with a collective bargaining unit or employee group may be subject to an additional assessed charges risk charge as determined by the Board to offset any risk or negative effect created by the piece-meal participation in the Plan.~~

~~1-6. Further, any Participant with active employees not enrolled in Consortium benefit plan options, must, within three (3) years of the date of enrolling in the Consortium, fully enroll all of their active employees in Consortium plan options or otherwise seek further Board Approval for an additional waiver. Failure to comply with this provision may be grounds for termination of participation from the Consortium as defined in Section Q(3).~~

4-7. Initial membership of additional participants shall become effective as soon as practical but preferably on the first day of the Plan Year following the adoption by the Board of the resolution to accept a municipal corporation as a Participant. Such municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon entry.

4-8. A municipal corporation that was previously a Participant, but is no longer a Participant, and which is otherwise eligible for membership in the Consortium, may apply for re-entry after a minimum of three (3) years has passed since it was last a Participant. Such re-entry shall be subject to the approval of two-thirds (2/3) of the entire Board. This re-entry waiting period may be waived by the approval of two-thirds (2/3) of the entire Board. In order to re-enter the Consortium, a municipal corporation employer must have satisfied in full all of its outstanding financial obligations to the Consortium. A municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon re-entry.

## **B. PARTICIPANT LIABILITY.**

1. The Participants shall share in the costs of, and assume the liabilities for benefits (including medical, surgical, and hospital) provided under the Plan(s) to covered officers, employees, retirees, and their dependents. Each Participant shall pay on demand such Participant's share of any assessment or additional contribution ordered by the governing Board of the municipal cooperative health benefit plan, as set forth in **Section L(4)** of this Agreement or as ordered by the Superintendent or under Article 74 (seventy four) of the New York State Insurance Law. The pro rata share shall be based on the Participant's relative "premium" contribution to the Plan(s) as a percentage of the aggregate "premium" contribution to the Plan(s), as is appropriate based on the nature of the assessment or contribution.

2. New Participants (each a "New Participant") who enter the Consortium may, at the discretion of the Board of Directors, be assessed a fee for additional financial costs above and beyond the premium contributions to the Plan(s). Any such additional financial obligations and any related terms and conditions associated with membership in the Consortium shall be determined by the Board, and shall be disclosed to the New Participant prior to its admission.

3. Each Participant shall be liable, on a pro rata basis, for any additional assessment required in the event the Consortium funding falls below those levels required by the Insurance law as follows:

a. In the event the Consortium does not have admitted assets (as defined in Insurance Law § 107) at least equal to the aggregate of its liabilities, reserves and minimum surplus required by the Insurance Law, the Board shall, within thirty (30) days, order an assessment (an "Assessment Order") for the amount that will provide sufficient funds to remove such impairment and collect from each Participant a pro-rata share of such assessed amount.

b. Each Participant that participated in the Consortium at any time during the two (2) year period prior to the issuing of an Assessment Order by the Board shall, if notified of such Assessment Order, pay its pro rata share of such assessment within ninety (90) days after the issuance of such Assessment Order. This provision shall survive termination of the Agreement of withdrawal of a Participant.

c. For purposes of this **Section B(3)**, a Participant's pro-rata share of any assessment shall be determined by applying the ratio of the total assessment to the total contributions or premium equivalents earned during the period covered by the assessment on all Participants subject to the assessment to the contribution or premium equivalent earned during such period attributable to such Participant.

## **C. BOARD OF DIRECTORS.**

1. The governing board of the Consortium, responsible for management, control and administration of the Consortium and the Plan(s), shall be referred to as the "Board of Directors" (the "Board"). The voting members of the Board shall be composed of one representative of each Participant and representatives of the Joint Committee on Plan Structure and Design (as set forth in **Section C(11)**), who shall have the authority to vote on any official action taken by the Board (each a "Director"). Each Director, except the representatives of the Joint Committee on Plan Structure and Design, shall be designated in writing by the governing body of the Participant.



2. If a Director designated by a Participant cannot fulfill his/her obligations, for any reason, as set forth herein, and the Participant desires to designate a new Director, it must notify the Consortium's Chairperson in writing of its selection of a new designee to represent the Participant as a Director.

3. Directors shall receive no remuneration from the Consortium for their service and shall serve a term from January 1 through December 31 (the "Plan Year").

4. No Director may represent more than one Participant.

5. No Director, or any member of a Director's immediate family shall be an owner, officer, director, partner, or employee of any contractor or agency retained by the Consortium, including any ~~third-party~~third-party contract administrator.

6. Except as otherwise provided in **Section D** of the Agreement, each Director shall be entitled to one vote. A majority of the entire Board, not simply those present, is required for the Board to take any official action, unless otherwise specified in this Agreement. The "entire Board", as used herein and elsewhere in this Agreement, shall mean the total number of Directors when there are no vacancies.

While physical presence is strongly encouraged, Directors who cannot be physically present at any meeting may attend remotely utilizing video conferencing appropriate technology that allows for real time audio and visual participation and voting in the meeting upon confirmation that communication is with all participants as it progresses.

7. Each Participant may designate in writing an alternate Director to attend the Board's meeting when its Director cannot attend. The alternate Director may participate in the discussions at the Board meeting and will, if so designated in writing by the Participant, be authorized to exercise the Participant's voting authority. Only alternate Directors with voting authority shall be counted toward a quorum. The Joint Committee on Plan Structure and Design may designate alternate Directors as set forth in **Section C(11)**.

8. A majority of the Directors of the Board shall constitute a quorum. A quorum is a simple majority (more than half) of the entire Board. A quorum is required for the Board to conduct any business. This quorum requirement is independent of the voting requirements set forth in **Section C(6)**. The Board shall meet on an annual-regular basis, ~~but not less than on a quarterly basis~~ at a time and place within the State of New York determined by a vote of the Board. The Board shall hold an annual meeting (the "Annual Meeting") in September between October 3<sup>rd</sup> and October 15<sup>th</sup> of each Plan Year.

9. Special meetings of the Board may be called at any time by the Chairperson or by any two (2) Directors. Whenever practicable, the person or persons calling such special meeting shall give at least three (3) days notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event three (3) days notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

10. In the event that a special meeting is impractical due to the nature and/or urgency of any action which, in the opinion of the Chairperson, is necessary or advisable to be taken on behalf of the Consortium, the Chairperson may send resolutions regarding said actions via electronic communication to each and all of the Directors. The Directors may then electronically communicate

their approval or disapproval of said resolution via signed document to the Chairperson. In accordance with NY Business Corporation Law Section 708(b), unanimous consent is required for the Chairperson to act on behalf of the Board in reliance upon such approvals. Any actions taken by the Chairperson pursuant to this paragraph shall be ratified at the next scheduled meeting of the Board

11. The Chair of the Joint Committee on Plan Structure and Design and any At-Large Labor Representatives (as defined in **Section K**) (collectively the “Labor Representatives”) shall serve as Directors and shall have the same rights and obligations as all other Directors. The Joint Committee on Plan Structure and Design may designate in writing alternate Directors to attend the Board’s meetings when the Labor Representatives cannot attend. The alternate Director may, if designated in writing, be authorized to exercise the Labor Representatives’ voting authority.

#### **D. WEIGHTED VOTING.**

1. Except as otherwise provided in this Agreement, any two or more Directors, acting jointly, may require a weighted vote on any matter that may come before the Board. In such event, the voting procedure set forth in this Section D shall apply in lieu of any other voting procedures set forth in this Agreement. Such weighted voting procedures shall apply solely with respect to the matter then before the Board.

2. For purposes of this Section D, each Director shall receive votes as follows:

a. each Director representing a Participant with five hundred (500) or fewer Enrollees shall be entitled to one (1) vote.

b. each Director representing a Participant with more than five hundred (500) Enrollees shall be entitled to a number of votes equaling the total number of votes assigned under subsection 2(a) above minus the number of Labor Representative votes, divided evenly by the number of Participants eligible under this subsection 2(b) and rounded down to the nearest whole number.

c. the Labor Representatives shall be entitled to one (1) vote each.

3. Attached as Addendum “A” to this Agreement is an example of the application of the voting formula contained in subparagraph “2” of this Section.

4. Notwithstanding anything to the contrary contained in this Agreement, any action taken pursuant to this Section D shall require the approval of two-thirds (2/3) of the total number of votes, if all votes had been cast.

#### **E. ACTIONS BY THE BOARD**

1. Subject to the voting and quorum requirements set forth in this Agreement, the Board is required, in accordance with NY Insurance Law ~~§Article~~ 4705, to take action on the following matters:

a. In accordance with N.Y. Ins. Law §-4705(d)(5), to approve an annual budget for the Consortium, which shall be prepared and approved prior to October ~~1<sup>st</sup>~~ ~~15<sup>th</sup>~~ of each year, and determine the annual premium equivalent rates to be paid by each Participant for each Enrollee classification in the Plan on the basis of a community rating methodology in accordance with N.Y. Ins. Law §-4705(d)(5)(B) and filed with and approved by the Superintendent.

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b. To audit receipts and disbursements of the Consortium and provide for independent audits, and periodic financial and operational reports to Participants in accordance with N.Y. Ins. Law §-4705(e)(1).

c. To establish a joint fund or funds to finance all Consortium expenditures, including claims, reserves, surplus, administration, stop-loss insurance and other expenses in accordance with N.Y. Ins. Law §-4705(d)(4).

d. To select and approve the benefits provided by the Plan(s) including the plan document(s), insurance certificate(s), and/or summary plan description(s) in accordance with N.Y. Ins. Law §-4709, a copy of the Plan(s) effective on the date of this Agreement is incorporated by reference into this Agreement.

e. In accordance with N.Y. Ins. Law §-4705(d)(2), may contract with third parties, if appropriate, which may include one or more Participants, for the furnishing of all goods and services reasonably needed in the efficient operation and administration of the Consortium, including, without limitation, accounting services, legal counsel, contract administration services, consulting services, purchases of insurances and actuarial services. Provided, however (a) the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services contracts, as required in Section 92-a(6) of the General Municipal Law; (b) payment for contracted services shall be made only after such services are rendered; (c) no Director or any member of such Director's immediate family shall be an owner, officer, director, partner or employee of any contract administrator retained by the Consortium; and (d) all such agreements shall otherwise comply with the requirements of Section 92-a(6) of the General Municipal Law.

f. To purchase stop-loss insurance on behalf of the Consortium and determine each year the insurance carrier or carriers who are to provide the stop-loss insurance coverage during the next Plan Year, as required by N.Y. Ins. Law §§ 4707 and 4705(d)(3).

g. To designate one governing Board member to retain custody of all reports, statements, and other documents of the Consortium, in accordance with N.Y. Ins. Law §-4705(c)(2), and who shall also take minutes of each Board meeting which, if appropriate, shall be acted upon by the Board in a subsequent meeting.

h. In accordance with N.Y. Ins. Law §-4705(e)(1), -to choose the certified public accountant and the actuary to provide the reports required by this Agreement and any applicable law.

i. In accordance with N.Y. Ins. Law Section 4705(d)(5)(A), designate the banks or trust companies in which joint funds, including reserve funds, are to be deposited and which shall be located in this state, duly chartered under federal law or the laws of this state.

j. In accordance with N.Y. Ins. Law Section 4705(a)(6), designate the fiscal officer of a participating municipal corporation to be the Chief Fiscal Officer of the municipal cooperative health benefit plan, and who will serve on the Executive Committee.

~~i. — k. In accordance with N.Y. Ins. Law Section 4705(a)(7), designate an attorney-in-fact to receive summons or other legal process in any action, suit or proceeding arising out of any contract, agreement or transaction involving the Consortium. To designate an attorney in fact to receive summons or other legal process in any action, suit or proceeding arising out of any contract, agreement or transaction involving the Consortium. The Board designates John G. Powers, Esq. as the Consortium's initial attorney in fact.~~

2. Subject to the voting and quorum requirements set forth in this Agreement, the Board is authorized to take action on the following matters:

~~a. To fill any vacancy in any of the officers of the Consortium.~~

~~b.a.~~ To fix the frequency, time and place of regular Board meetings.

~~e.b.~~ To have a plan consultant (the "Plan Consultant") contract in place for the upcoming Plan Year, prior to October 1<sup>st</sup> of each year.

~~d. — To review, consider and act on any recommendations made by the Plan Consultant.~~

~~e. — To establish administrative guidelines for the efficient operation of the Plan.~~

~~f. — To establish financial regulations for the entry of new Participants into the Consortium consistent with all applicable legal requirements and this Agreement.~~

~~g.c.~~ To determine and notify each Participant prior to October 15<sup>th</sup> of each Plan Year of the monthly premium equivalent for each enrollee classification during the next Plan Year commencing the following January 1<sup>st</sup>.

~~h. — To designate the banks or trust companies in which joint funds, including reserve funds, are to be deposited and which shall be located in this state, duly chartered under federal law or the laws of this state and insured by the Federal Deposit Insurance Corporation, or any successor thereto.~~

~~i. — To designate annually a treasurer (the "Treasurer") who may or may not be a Director and who shall be the treasurer, or equivalent financial officer, for one of the Participants. The Treasurer's duties shall be determined by the Chief Fiscal Officer to whom he/she will report.~~

~~j.d.~~ To take all necessary action to ensure that the Consortium obtains and maintains a Certificate of Authority in accordance with the Insurance Law.

~~k. — To take all necessary action to ensure the Consortium is operated and administered in accordance with the laws of the State of New York.~~

~~e.~~ To take any other action authorized by law and deemed necessary to accomplish the purposes of this Agreement.

~~l.f.~~ Annually elect Directors to the Executive Committee to oversee operations and develop recommendations for Board actions stated in this Section E.

## F. EXECUTIVE COMMITTEE.

~~1. The Executive Committee of the Consortium shall consist of the Chairperson, the Vice Chairperson, the Secretary, and the Chief Fiscal Officer of the Consortium. The Secretary shall be the governing board member who holds all records in accordance with Article E, Section 1(g).~~

~~2. The Executive Committee may meet at any time between meetings of the Board, at the discretion of the Chairperson. The Executive Committee shall make recommendations to the Board.~~

~~3. The Executive Committee shall manage the Consortium between meetings of the Board, subject to such approval by the Board as may be required by this Agreement.~~

1. The Executive Committee of the Consortium shall consist of at least eleven (11) and no greater than fifteen (15) Directors. Executive Committee Directors are elected annually, but shall always include the elected Chairperson, Vice-Chairperson, and the Secretary of the Consortium, as well as the designated Chief Fiscal Officer and Chairperson of the Joint Committee on Plan Structure and Design.

2. The Secretary shall be the governing board member who hold be responsible for maintaing all records in accordance with Article E, Section ( 1 ) ( g ) .

3. The Executive Committee shall establish meeting dates at its Organizational Meeting. The Executive Committee shall meet no less frequently than once per quarter.

4. Special meetings of the Executive Committee may be called at any time by the Chairperson or by any two (2) Executive Committee Directors. Whenever practicable, the person or persons calling such special meeting shall give at least three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event a three (3) day notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

5. The Executive Committee shall:

a. Conduct business according to its Bylaws within its delegated authority, subject to approval and/or ratification of its actions at the next scheduled Board meeting.

b. Create sub-committees as necessary to monitor operations and make recommendations, to the Executive Committee and/or Board, to ~~protect and enhance~~ facilitate operations.

c. Manage the Consortium between meetings of the Board, subject to such approval by the Board as may be required by this Agreement.

d. Develop Bylaws for its operations.

e. In consultation with a nomination committee, fill any vacancy on the Executive Committee from among its members ~~except the elected officers of the Consortium~~ as set forth in its Bylaws.

- f. Establish administrative guidelines for the efficient operation of the Plan.
- g. Annually appoint a treasurer (the "Treasurer") who may or may not be a Director and who shall be the treasurer, or equivalent financial officer, for one of the Participants. The Treasurer's duties shall be determined by the Chief Fiscal Officer to whom he/she will report.
- h. Take all necessary action to ensure the Consortium is operated and administered in accordance with the laws of the State of New York.

**G. OFFICERS.**

1. At the Annual Meeting, the Board shall elect from its Directors, a Chairperson, Vice Chairperson, Chief Fiscal Officer, and Secretary, who shall serve for a term of one (1) year or until their successors are elected and qualified. Any vacancy in an officer's position shall be filled at the next meeting of the Board.

2. Officers of the Consortium and employees of any ~~third party~~third-party vendor, including without limitation the officers and employees of any Participant, who assist or participate in the operation of the Consortium, shall not be deemed employees of the Consortium. Each ~~third party~~third-party vendor shall provide for all necessary services and materials pursuant to annual contracts with the Consortium. The officers of the Consortium shall serve without compensation from the Consortium, but may be reimbursed for reasonable out-of-pocket expenses incurred in connection with the performance of such officers' duties.

3. Officers shall serve at the pleasure of the Board and may be removed or replaced upon a two-thirds (2/3) vote of the entire Board. This provision shall not be subject to the weighted voting alternative set forth in Section D.

**H. CHAIRPERSON; VICE CHAIRPERSON; SECRETARY.**

- 1. The Chairperson shall be the Cehief Executive Officer of the Consortium.
- 2. The Chairperson, or in the absence of the Chairperson, the Vice Chairperson, shall preside at all meetings of the Board.
- 3. In the absence of the Chairperson, the Vice Chairperson shall perform all duties related to that office.
- 4. The Secretary shall retain custody of all reports, statements, and other documents of the Consortium and ensure that minutes of each Board meeting are taken and transcribed which shall be acted on by the Board at a subsequent meeting, as appropriate.

**~~I. PLAN ADMINISTRATOR.~~**

~~The Board, by a two-thirds (2/3) vote of the entire Board, may annually designate an administrator and/or insurance company of the Plan (the "Plan Administrator") and the other provider(s) who are deemed by the Board to be qualified to receive, investigate, and recommend or make payment of claims, provided that the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services and/or insurance contracts and payment for such contracted services shall be made only after such services are rendered or are reasonably expected to~~

~~be rendered. All such contracts shall conform to the requirements of Section 92 a(6) of the General Municipal Law.~~

#### J.I. CHIEF FISCAL OFFICER.

1. The Chief Fiscal Officer shall act as the chief financial administrator of the Consortium and disbursing agent for all payments made by the Consortium, and shall have custody of all monies either received or expended by the Consortium. The Chief Fiscal Officer may delegate their duties to the Treasurer to take all necessary action to ensure the Consortium is operated and administered within the laws of the state of New York. The Chief Fiscal Officer shall be a fiscal officer of a Participant. The Chief Fiscal Officer shall receive no remuneration from the Consortium. The Plan shall reimburse the Participant that employs the Chief Fiscal Officer for reasonable and necessary out-of-pocket expenses incurred by the Chief Fiscal Officer in connection with the performance of his or her duties that relate to the Consortium.

2. All monies collected by the Chief Fiscal Officer relating to the Consortium, shall be maintained and administered as a common fund. The Chief Fiscal Officer shall, notwithstanding the provisions of the General Municipal Law, make payment in accordance with procedures developed by the Board and as deemed acceptable to the Superintendent.

3. The Chief Fiscal Officer shall be bonded for all monies received from the Participants. The amount of such bond shall be established annually by the Consortium in such monies and principal amount as may be required by the Superintendent.

4. All monies collected from the Participants by the Chief Fiscal Officer in connection with the Consortium shall be deposited in accordance with the policies of the Participant which regularly employs the Chief Fiscal Officer and shall be subject to the provisions of law governing the deposit of municipal funds.

5. The Chief Fiscal Officer may invest moneys not required for immediate expenditure in the types of investments specified in the General Municipal Law for temporary investments or as otherwise expressly permitted by the Superintendent.

6. The Chief Fiscal Officer shall account for the Consortium's reserve funds separate and apart from all other funds of the Consortium, and such accounting shall show:

- a. the purpose, source, date and amount of each sum paid into the fund;
- b. the interest earned by such funds;
- c. capital gains or losses resulting from the sale of investments of the Plan's reserve funds;
- d. the order, purpose, date and amount of each payment from the reserve fund; and
- e. the assets of the fund, indicating cash balance and schedule of investments.

7. The Chief Fiscal Officer shall cause to be prepared and shall furnish to the Board, to participating municipal corporations, to unions which are the exclusive bargaining representatives of Enrollees, the Board's consultants, and to the Superintendent:

- a. an annual audit, and opinions thereon, by an independent certified public

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accountant, of the financial condition, accounting procedures and internal control systems of the municipal cooperative health benefit plan;

- b. an annual report and quarterly reports describing the Consortium's current financial status; and
- c. an annual independent actuarial opinion on the financial soundness of the Consortium, including the actuarial soundness of contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.

8. Within ninety (90) days after the end of each Plan Year, the Chief Fiscal Officer shall furnish to the Board a detailed report of the operations and condition of the Consortium's reserve funds.

#### K.J. **PLAN ADMINISTRATOR.**

The Board, by a two-thirds (2/3) vote of the entire Board, may annually designate an administrator and/or insurance company of the Plan (the "Plan Administrator") and the other provider(s) who are deemed by the Board to be qualified to receive, investigate, audit and recommend or make payment of claims, provided that the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services and/or insurance contracts and payment for such contracted services shall be made only after such services are rendered or are reasonably expected to be rendered. All such contracts shall conform to the requirements of Section 92-a(6) of the General Municipal Law.

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#### L.K. **JOINT COMMITTEE ON PLAN STRUCTURE AND DESIGN.**

1. There shall be a Joint Committee on Plan Structure and Design (the "Joint Committee"), which shall consist of (a) a representative of each collective bargaining unit that is the exclusive collective bargaining representative of any Enrollee or group of Enrollees covered by the Plan(s) (the "Union Members"); and (b) a representative of each Participant (the "Management Members"). Management Members may, but are not required to be, Directors.

2. The Joint Committee shall review all prospective Board actions in connection with the benefit structure and design of the Plan(s), and shall develop findings and recommendations with respect to such matters. The Chair of the Joint Committee shall report such findings and recommendations to the Board at any regular or special meeting of the Board.

3. The Joint Committee shall select (a) from among the Union Members, an individual who shall serve as Chair of the Joint Committee; and (b) from among the Management Members, an individual who shall serve as Vice Chair of the Joint Committee. The Joint Committee shall establish its own parliamentary rules and procedures.

4. Each eligible union shall establish such procedures by which its representative to the Joint Committee is chosen and such representative shall be designated in writing to the Chairperson of the Board and the Chair of the Joint Committee.

5. The Union Members on the Joint Committee on Plan Structure and Design shall select from among the Union Members an individual to serve as an additional at-large voting Labor Member on the Board of Directors of the Consortium. If the number of municipal members on the Consortium rises to seventeen (17), the union members of the Joint Committee on Plan Structure and Design shall select from among the Union Members an additional at-large voting Labor Member

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on the Board of Directors of the Consortium. The at-large voting Labor Member(s) along with the Joint Committee Chair shall collectively be the “Labor Representatives” as defined in Section C(11) of this Agreement. If the number of municipal members on the Consortium rises to twenty-three (23), the Union Members may select from among their members a third At-Large Labor Representative to serve as a Director. Thereafter, for every increase of five (5) additional municipal members added to the Consortium Union Members may select from among their members one (1) At-large Labor Representative to serve as Director, with a maximum number of ten (10) Labor Representatives. Attached hereto as Addendum “B” is a table illustrating the addition of At-Large Labor Representatives as set forth in this Section. Any At-Large Labor Representative designated according to this section shall have the same rights and obligations as all other Directors.

#### M.L. PREMIUM CALCULATIONS/PAYMENT.

1. The annual premium equivalent rates shall be established and approved by a majority of the entire Board. The method used for the development of the premium equivalent rates may be changed from time to time by the approval of two-thirds (2/3) of the entire Board, subject to review and approval by the Superintendent. The premium equivalent rates shall consist of such rates and categories of benefits as is set forth in the Plan[s] that is determined and approved by the Board consistent with New York law.

2. In accordance with N.Y. Ins. Law § 4706, the Consortium shall maintain reserves and stop-loss insurance to the level and extent required by the Insurance Law and as directed by the Superintendent.

3. Each Participant's monthly premium equivalent, by enrollee classification, shall be paid by the first day of each calendar month during the Plan Year. A late payment charge of one percent (1%) of the monthly installment then due ~~may will~~ be charged by the Board for any payment not received by the first of each month, or the next business day when the first falls on a Saturday, Sunday, legal holiday or day observed as a legal holiday by the Participants.

The Consortium may waive the first penalty once per Plan Year for each Participant, but will strictly enforce the penalty thereafter. A repeated failure to make timely payments, including any applicable penalties, may be used by the Board as an adequate justification for the expulsion of the Participant from the Consortium.

4. The Board shall assess Participants for additional contributions, if actual and anticipated losses due to benefits paid out, administrative expenses, and reserve and surplus requirements exceed the amount in the joint funds, as set forth in Section B(3) above.

5. The Board, in its sole discretion, may refund amounts in excess of reserves and surplus, or retain such excess amounts and apply these amounts as an offset to amounts projected to be paid under the next Plan Year’s budget.

#### N.M. EMPLOYEE CONTRIBUTIONS.

If any Participant requires an Enrollee's contribution for benefits provided by the Consortium, the Participant shall collect such contributions at such time and in such amounts as it requires. However, the failure of a Participant to receive the Enrollee contribution on time shall not diminish or delay the payment of the Participant's monthly premium equivalent to the Consortium, as set forth in this Agreement.

## **O.N. ADDITIONAL BENEFITS.**

Any Participant choosing to provide more benefits, coverages, or enrollment eligibility other than that provided under the Plan(s), will do so at its sole expense. This Agreement shall not be deemed to diminish such Participant's benefits, coverages or enrollment eligibility, the additional benefits and the payment for such additional benefits, shall not be part of the Plan(s) and shall be administered solely by and at the expense of the Participant.

## **P.O. REPORTING.**

The Board, through its officers, agents, or delegates, shall ensure that the following reports are prepared and submitted:

1. Annually after the close of the Plan Year, not later than one-hundred twenty (120) days after the close of the Plan Year, the Board shall file a report with the Superintendent showing the financial condition and affairs of the Consortium, including an annual independent financial audit statement and independent actuarial opinion, as of the end of the preceding plan year.
2. Annually after the close of the Plan Year, the Board shall have prepared a statement and independent actuarial opinion on the financial soundness of the Plan, including the contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.
3. The Board shall file reports with the Superintendent describing the Consortium's then current financial status within forty-five (45) days of the end of each quarter during the Plan year.
4. The Board shall provide the annual report to all Participants and all unions, which are the exclusive collective bargaining representatives of Enrollees, which shall be made available for review to all Enrollees.
5. The Board shall submit to the Superintendent a report describing any material changes in any information originally provided in the Certificate of Authority. Such reports, in addition to the reports described above, shall be in such form, and containing such additional content, as may be required by the Superintendent.

## **Q.P. WITHDRAWAL OF PARTICIPANT.**

1. Withdrawal of a Participant from the Consortium shall be effective only once annually on the last day of the Plan Year.
2. Notice of intention of a Participant to withdraw must be given in writing to the Chairperson prior to ~~September 1<sup>st</sup>~~ ~~October 3<sup>rd</sup>~~ of each Plan Year. Failure to give such notice shall automatically extend the Participant's membership and obligations under the Agreement for another Plan Year, unless the Board shall consent to an earlier withdrawal by a two-thirds (2/3) vote.
3. Any withdrawing Participant shall be responsible for its pro rata share of any Plan deficit that exists on the date of the withdrawal, subject to the provisions of subsection "4" of this Section. The withdrawing Participant shall be entitled to any pro rata share of surplus that exists on the date of the withdrawal, subject to the provisions of subsection "4" of this Section. The Consortium surplus or deficit shall be based on the sum of actual expenses and the estimated liability of the Consortium as determined by the Board. These expenses and liabilities will be determined

one (1) year after the end of the Plan Year in which the Participant last participated.

4. The surplus or deficit shall include recognition and offset of any claims, expenses, assets and/or penalties incurred at the time of withdrawal, but not yet paid. Such pro rata share shall be based on the Participant's relative premium contribution to the Consortium as a percentage of the aggregate premium contributions to the Consortium during the period of participation. This percentage amount may then be applied to the surplus or deficit which existed on the date of the Participant's withdrawal from the Consortium. Any pro rata surplus amount due the Participant shall be paid to the Participant one year after the effective date of the withdrawal. Any pro rata deficit amount shall be billed to the Participant by the Consortium one year after the effective date of the withdrawal and shall be due and payable within thirty (30) days after the date of such bill.

#### **R.O. DISSOLUTION; RENEWAL; EXPULSION.**

1. The Board at any time, by a two-thirds (2/3) vote of the entire Board, may determine that the Consortium shall be dissolved and terminated. If such determination is made, the Consortium shall be dissolved ninety (90) days after written notice to the Participants.

a. Upon determination to dissolve the Consortium, the Board shall provide notice of its determination to the Superintendent. The Board shall develop and submit to the Superintendent for approval a plan for winding-up the Consortium's affairs in an orderly manner designed to result in timely payment of all benefits.

b. Upon termination of this Agreement, or the Consortium, each Participant shall be responsible for its pro rata share of any deficit or shall be entitled to any pro rata share of surplus that exists, after the affairs of the Consortium are closed. No part of any funds of the Consortium shall be subject to the claims of general creditors of any Participant until all Consortium benefits and other Consortium obligations have been satisfied. The Consortium's surplus or deficit shall be based on actual expenses. These expenses will be determined one year after the end of the Plan Year in which this Agreement or the Consortium terminates.

c. Any surplus or deficit shall include recognition of any claims/expenses incurred at the time of termination, but not yet paid. Such pro rata share shall be based on each Participant's relative premium contribution to the Plan as a percentage of the aggregate premium contributions to the Plan during the period of participation. This percentage amount would then be applied to the surplus or deficit which exists at the time of termination.

2. The continuation of the Consortium under the terms and conditions of the Agreement, or any amendments or restatements thereto, shall be subject to Board review on the fifth (5<sup>th</sup>) anniversary of the Effective Date and on each fifth (5<sup>th</sup>) anniversary date thereafter (each a "Review Date") to the extent deemed required by Article 5-G of the New York Municipal Law (the "General Municipal Law").

a. At the annual meeting a year prior to the Review Date, the Board shall include as an agenda item a reminder of the Participants' coming obligation to review the terms and conditions of the Agreement.

b. During the calendar year preceding the Review Date, each Participant shall be responsible for independently conducting a review of the terms and conditions of the Agreement and submitting to the Board of Directors a written resolution containing any

objection to the existing terms and conditions or any proposed modification or amendment to the existing Agreement, such written resolution shall be submitted to the Board on or before March 1<sup>st</sup> preceding the Review Date. Failure to submit any such resolution shall be deemed as each Participant's agreement and authorization to the continuation of the Consortium until the next Review Date under the existing terms and conditions of the Agreement.

c. As soon as practicable after March 1<sup>st</sup>, the Board shall circulate to all Participants copies of all resolutions submitted by the Participants. Subject to Section S hereof, any resolutions relating to the modification, amendment, or objection to the Agreement submitted prior to each Review Date shall be considered and voted on by the Participants at a special meeting called for such purpose. Such special meeting shall be held on or before July 1<sup>st</sup> preceding the Review Date.

d. Notwithstanding the foregoing or Section T hereof, if at the Annual Meeting following any scheduled Review Date the Board votes on and approves the budget and annual assessment for the next year, the Participants shall be deemed to have approved the continuation of the Consortium under the existing Agreement until the next Review Date.

3. The Participants acknowledge that it may be necessary in certain extraordinary circumstances to expel a Participant from the Consortium. In the event the Board determines that:

a. a Participant has acted inconsistently with the provisions of the Agreement in a way that threatens the financial well-being or legal validity of the Consortium; or

b. a Participant has acted fraudulently or has otherwise acted in bad faith with regards to the Consortium, or toward any individual Participant concerning matters relating to the Consortium, the Board may vote to conditionally terminate said Participant's membership in the Consortium. Upon such a finding by the affirmative vote of ~~two-thirds (2/3)seventy five percent (75%)~~ of the Participants, the offending Participant shall be given sixty (60) days to correct or cure the alleged wrongdoing to the satisfaction of the Board. Upon the expiration of said sixty (60) day period, and an absent satisfactory cure, the Board may expel the Participant by an affirmative vote of ~~two-thirds (2/3)seventy five percent (75%)~~ of the Participants (exclusive of the Participant under consideration). This section shall not be subject to the weighted voting provision provided in Section D. Any liabilities associated with the Participant's departure from the Consortium under this provision shall be determined by the procedures set forth in Section P of this Agreement.

## **S.R. REPRESENTATIONS AND WARRANTIES OF PARTICIPANTS.**

Each Participant by its approval of the terms and conditions of this Agreement hereby represents and warrants to each of the other Participants as follows:

1. The Participant understands and acknowledges that its participation in the Consortium under the terms and conditions of this Agreement is strictly voluntary and may be terminated as set forth herein, at the discretion of the Participant.

2. The Participant understands and acknowledges that the duly authorized decisions of the Board constitute the collective will of each of the Participants as to those matters within the scope of the Agreement.

3. The Participant understands and acknowledges that the decisions of the Board made in the best interests of the Consortium may on occasion temporarily disadvantage one or more of the individual Participants.

4. The Participant represents and warrants that its designated Director or authorized representative understands the terms and conditions of this Agreement and is suitably experienced to understand the principles upon which this Consortium operates.

~~5. The Participant understands and acknowledges that all Directors, or their authorized representatives, are responsible for attending all scheduled meetings. Provided that the quorum rules are satisfied, non-attendance at any scheduled meeting is deemed acquiescence by the absent Participant to any duly authorized Board-approved action at the meeting. However, a Participant that was absent from a meeting will not be presumed to have acquiesced in a particular action taken at the meeting if, within fifteen (15) calendar days after learning of such action, the Participant delivers written notice to the Chairperson that it dissents from such action. The Participant shall also notify the other members of the Board of such dissent. The Chairperson shall direct the Secretary to file the notice with the minutes of the Board.~~

5.

6. The Participant understands and acknowledges that, absent bad faith or fraud, any Participant's vote approving any Board action renders that Board action immune from later challenge by that Participant.

#### F.S. RECORDS

The Board shall have the custody of all records and documents, including financial records, associated with the operation of the Consortium. Each Participant may request records and documents relative to their participation in the Consortium by providing a written request to the Chairperson and Chief Fiscal Officer. The Consortium shall respond to each request no later than thirty (30) days after its receipt thereof, and shall include all information which can be provided under applicable law.

#### U.T. CHANGES TO AGREEMENT.

Any change or amendment to this Agreement shall require the unanimous approval of the Participants, as authorized by their respective legislative bodies.

#### V.U. CONFIDENTIALITY.

Nothing contained in this Agreement shall be construed to waive any right that a covered person possesses under the Plan with respect to the confidentiality of medical records and that such rights will only be waived upon the written consent of such covered person.

#### W.V. ALTERNATIVE DISPUTE RESOLUTION ("ADR").

1. General. The Participants acknowledge and agree that given their budgeting and fiscal constraints, it is imperative that any disputes arising out of the operation of the Consortium be limited and that any disputes which may arise be addressed as quickly as possible. Accordingly, the Participants agree that the procedures set forth in this Section V are intended to be the exclusive means through which disputes shall be resolved. The Participants also acknowledge and agree that by executing this Agreement each Participant is limiting its right to seek redress for certain types of

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disputes as hereinafter provided.

2. Disputes subject to ADR. Any dispute by any Participant, Board Member, or Committee Person arising out of or relating to a contention that:

a. the Board, the Board's designated agents, a Committee person, or any Participant has failed to adhere to the terms and conditions of this Agreement or any duly-passed resolution of the Board;

b. the Board, the Board's designated agents, a Committee person, or any Participant has acted in bad faith or fraudulently in undertaking any duty or action under the Agreement; or

c. any other dispute otherwise arising out of or relating to: (i) the terms or conditions of this Agreement; (ii) any duly-passed decision, resolution, or policy by the Board of Directors; or (iii) otherwise requiring the interpretation of this Agreement shall be resolved exclusively through the ADR procedure set forth in paragraph (3) below.

3. ADR Procedure. Any dispute subject to ADR, as described in subparagraph (2), shall be resolved exclusively by the following procedure:

a. Board Consideration: Within ninety (90) days of the occurrence of any dispute, the objecting party (the "Claimant") shall submit a written notice of the dispute to the Chairperson specifying in detail the nature of the dispute, the parties claimed to have been involved, the specific conduct claimed, the basis under the Agreement for the Participant's objection, the specific injury or damages claimed to have been caused by the objectionable conduct to the extent then ascertainable, and the requested action or resolution of the dispute. A dispute shall be deemed to have occurred on the date the objecting party knew or reasonably should have known of the basis for the dispute.

i. Within sixty (60) days of the submission of the written notice, the Executive Committee shall, as necessary, request further information from the Claimant, collect such other information from any other interested party or source, form a recommendation as to whether the Claimant has a valid objection or claim, and if so, recommend a fair resolution of said claim. During such period, each party shall provide the other with any reasonably requested information within such party's control. The Executive Committee shall present its recommendation to the Board in writing, including any underlying facts, conclusions or support upon which it is based, within such sixty (60) day period.

ii. Within sixty (60) days of the submission of the Executive Committee's recommended resolution of the dispute, the Board shall convene in a special meeting to consider the dispute and the recommended resolution. The Claimant and the Executive Committee shall each be entitled to present any argument or material it deems pertinent to the matter before the Board. The Board shall hold discussion and/or debate as appropriate on the dispute and may question the Claimant and/or the Executive Committee on their respective submissions. Pursuant to its regular procedures, the Board shall vote on whether the Claimant has a valid claim, and if so, what the fair resolution should be. The weighted voting procedure set forth in Section D shall not apply to this provision. The Board's determination shall be deemed final subject to the Claimant's right to arbitrate as set forth below.

b. Arbitration. The Claimant may challenge any Board decision under subparagraph (V)(3)(a)(ii) by filing a demand for arbitration with the American Arbitration Association within thirty (30) days of the Board's vote (a "Demand"). In the event a Claimant shall fail to file a Demand within thirty (30) days, the Board's decision shall automatically be deemed final and conclusive. In the event the Participant files a timely Demand, the arbitrator or arbitration panel may consider the claim:

provided however;

i. in no event may the arbitrator review any action taken by the Board that occurred three (3) or more years prior to when the Chairperson received notice of the claim; and

ii. in no event may the arbitrator award damages for any period that precedes the date the Chairperson received notice of the claim by more than twenty-four (24) months.

c. The Participants agree that the procedure set forth in this Section V shall constitute their exclusive remedy for disputes within the scope of this Section.

#### X.W. MISCELLANEOUS PROVISIONS.

1. This instrument constitutes the entire Agreement of the Participants with respect to the subject matter hereof, and contains the sole statement of the operating rules of the Consortium. This instrument supersedes any previous Agreement, whether oral or written.

2. Each Participant will perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intended purposes of this Agreement.

3. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any claims made under Section V(3)(b) except to the extent otherwise limited therein, shall be governed by New York substantive law.

5. All notices to any party hereunder shall be in writing, signed by the party giving it, shall be sufficiently given or served if sent by registered or certified mail, return receipt requested, hand delivery, or overnight courier service addressed to the parties at the address designated by each party in writing. Notice shall be deemed given when transmitted.

6. This Agreement may be executed in two or more counterparts each of which shall be deemed to be an original but all of which shall constitute the same Agreement and shall become binding upon the undersigned upon delivery to the Chairperson of an executed copy of this Agreement together with a certified copy of the resolution of the legislative body approving this Agreement and authorizing its execution.

7. The provisions of Section V shall survive termination of this Agreement, withdrawal or expulsion of a Participant, and/or dissolution of the Consortium.

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8. Article and section headings in this Agreement are included for reference only and shall not constitute part of this Agreement.

9. No findings or recommendations made by the Joint Committee on Plan Structure and Design or by the Chair of the Joint Committee shall be considered a waiver of any bargaining rights under any contract, law, rule, statute, or regulation.

**Y.X. APPROVAL, RATIFICATION, AND EXECUTION.**

1. As a condition precedent to execution of this Municipal Cooperative Agreement and membership in the Consortium, each eligible municipal corporation desiring to be a Participant shall obtain legislative approval of the terms and conditions of this Agreement by the municipality's governing body.

2. Prior to execution of this Agreement by a Participant, the Participant shall provide the Chairperson with the resolution approving the municipality's participation in this Consortium and expressly approving the terms and conditions of this Municipal Cooperative Agreement. Each presented resolution shall be maintained on file with the Consortium.

3. By executing this Agreement, each signatory warrants that he/she has complied with the approval and ratification requirements herein and is otherwise properly authorized to bind the participating municipal corporation to the terms and conditions of this Agreement.

**[Signature Pages Follow]**



**IN WITNESS WHEREOF**, the undersigned has caused this Amended Agreement to be executed as of the date adopted by the Board of Directors of the Greater Tompkins County Municipal Health Insurance Consortium and subsequently adopted by all participating municipalities.

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**Addendum “A”**

Example of Weighted Voting Formula under Section D(2)

If 11 Participants have 500 or fewer enrollees each and 2 Participants have more than 500 enrollees each, under subparagraph “a” the 11 each get 1 vote. Under subparagraph “b” the 2 large Participants get 4 votes each, which is calculated by taking the total number of votes under subparagraph “a” [11] subtracting the number of Labor Representative votes [2], dividing by the number of eligible Participants under subsection “b” [2], and rounding the result [4.5] down to the nearest whole number [4]. The Labor Representative shall have 1 vote, irrespective of the votes available to the Participants.

## Addendum "B"

### Illustration of At-Large Labor Representative Calculation

<b>Total Number of Participants</b>	<b>Total Number of At-Large Labor Representatives</b>
< 17	1
17-22	2
23-27	3
28-32	4
33-37	5
38-42	6
<u>43-47</u>	<u>7</u>
<u>47-52</u>	<u>8</u>
<u>53-57</u>	<u>9</u>
<u>58+</u>	<u>10</u>



## Greater Tompkins County Municipal Health Insurance Consortium

125 East Court Street • Ithaca, New York 14850 • (607)274-5590

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*"Individually and collectively we invest in realizing high quality, affordable, dependable health insurance."*

### **2020 AMENDMENT TO THE MUNICIPAL COOPERATION AGREEMENT (dated 11/14/2019)**

**THIS AGREEMENT** (the "Agreement") made effective as of the 1<sup>st</sup> day of October 2010 (the "Effective Date"), and as amended herein, by and among each of the signatory municipal corporations hereto (collectively, the "Participants").

#### **W H E R E A S:**

1. Article 5-G of the New York General Municipal Law (the "General Municipal Law") authorizes municipal corporations to enter into cooperative agreements for the performance of those functions or activities in which they could engage individually;
2. Sections 92-a and 119-o of the General Municipal Law authorize municipalities to purchase a single health insurance policy, enter into group health plans, and establish a joint body to administer a health plan;
3. Article 47 of the New York Insurance Law (the "Insurance Law" or "N.Y. Insurance Law"), and the rules and regulations of the New York State Superintendent of Financial Services (the "Superintendent") set forth certain requirements for governing self-insured municipal cooperative health insurance plans;
4. Section 4702(f) of the Insurance Law defines the term "municipal corporation" to include a county, city, town, village, school district, board of cooperative educational services, public library (as defined in Section 253 of the New York State Education Law) and district (as defined in Section 119-n of the General Municipal Law); and
5. The Participants have determined to their individual satisfaction that furnishing the health benefits (including, but not limited to, medical, surgical, hospital, prescription drug, dental, and/or vision) for their eligible officers, eligible employees (as defined by the Internal Revenue Code of 1986, as amended, and the Internal Revenue Service rules and regulations), eligible retirees, and the eligible dependents of eligible officers, employees and retirees (collectively, the "Enrollees") (such definition does not include independent contractors and/or consultants) through a municipal cooperative is in their best interests as it is more cost-effective and efficient. Eligibility requirements shall be determined by each Participant's collective bargaining agreements and/or their personnel policies and procedures.

**NOW, THEREFORE**, the parties agree as follows:

#### **A. PARTICIPANTS.**

1. The Participants hereby designate themselves under this Agreement as the Greater Tompkins County Municipal Health Insurance Consortium (the "Consortium") for the purpose of providing health benefits (medical, surgical, hospital, prescription drug, dental, and/or vision) to those Enrollees that each Participant individually elects to include in the Greater Tompkins County Municipal Health Insurance Consortium Medical Plan(s) (the "Plan(s)").

2020 Municipal Cooperation Agreement

2. The following Participants shall comprise the current membership of the Consortium:

Municipality Name	Effective Date
City of Ithaca	1/1/2011
County of Tompkins	1/1/2011
Town of Caroline	1/1/2011
Town of Danby	1/1/2011
Town of Dryden	1/1/2011
Town of Enfield	1/1/2011
Town of Groton	1/1/2011
Town of Ithaca	1/1/2011
Town of Ulysses	1/1/2011
Village of Cayuga Heights	1/1/2011
Village of Dryden	1/1/2011
Village of Groton	1/1/2011
Village of Trumansburg	1/1/2011
City of Cortland	1/1/2013
Town of Lansing	1/1/2013
Town of Willet	1/1/2015
Village of Homer	1/1/2015
Town of Marathon	1/1/2016
Town of Truxton	1/1/2016
Town of Virgil	1/1/2016

Municipality Name	Effective Date
Town of Aurelius	1/1/2017
Town of Cincinnatus	1/1/2017
Town of Montezuma	1/1/2017
Town of Moravia	1/1/2017
Town of Preble	1/1/2017
Town of Scipio	1/1/2017
Town of Springport	1/1/2017
Village of Union Springs	1/1/2017
Town of Homer	1/1/2018
Town of Newfield	1/1/2018
Town of Owasco	1/1/2018
County of Seneca	1/1/2019
Town of Big Flats	1/1/2019
Town of Mentz	1/1/2019
Town of Niles	1/1/2019
Town of Sennett	1/1/2019
Village of Freeville	1/1/2019
Village of Horseheads	1/1/2019
Village of Lansing	1/1/2019
<u>Town of Horseheads</u>	<u>1/1/2020</u>
<u>Town of Spencer</u>	<u>1/1/2020</u>
<u>Lansing Library</u>	<u>1/1/2020</u>
<u>Village of Watkins Glen</u>	<u>1/1/2020</u>

3. Membership in the Consortium may be offered to any municipal corporation as defined in N.Y. Insurance Law Section 4702(f) within the geographical boundaries of the Counties of Tompkins, Cayuga, Chemung, Cortland, Tioga, Schuyler, and Seneca, provided however that, in the sole discretion of the Board (as defined below), the applicant provides satisfactory proof of its financial responsibility and is of the same type of municipal corporation as the initial Participants. Notwithstanding anything to the contrary set forth in this Agreement, admission of new Participants shall not require amendment of this Section A(2). Membership shall be subject to the terms and conditions set forth in this Agreement, any amendments hereto, and applicable law.

4. The Board, in its sole discretion, and by a two-thirds (2/3) vote of the entire Board, may elect to permit additional municipal corporations located within the geographical boundaries set forth in Section A(3) to become Participants subject to satisfactory proof, as determined by the Board, of such municipal corporation's financial responsibility. Such corporations must agree to continue as a Participant for a minimum of three (3) years upon entry.

5. The Board, in its sole discretion, and by a two-thirds (2/3) vote of the entire Board, may elect to permit a municipal corporation, that does not satisfy the geographical boundaries set forth in Section A.3 to become a Participant upon consideration of such factors including but not limited to financial responsibility and the municipal corporation's similarity in terms of risk and demographic makeup to the current Participants of the Consortium. Such municipal corporations must agree to continue as a Participant for a minimum of three (3) years upon entry.

6. Participation in the Plan(s) by some, but not all, collective bargaining units or employee groups of a Participant shall not be permitted absent prior Board approval. Further, after obtaining approval, any Participant that negotiates an alternative health insurance plan offering other than the plan offerings of the Consortium with a collective bargaining unit or employee group may be subject to additional assessed charges as determined by the Board, to offset any risk or negative effect created by the piece-meal participation in the Plan.

Further, any Participant with active employees not enrolled in Consortium benefit plan options, must, within 3 (three) years of the date of enrolling in the Consortium, fully enroll all of their active employees in Consortium plan options or otherwise seek further Board approval for an additional waiver. Failure to comply with this provision may be grounds for termination from the Consortium as defined in Section Q(3).

7. Initial membership of additional participants shall become effective as soon as practical but preferably on the first day of the Plan Year following the adoption by the Board of the resolution to accept a municipal corporation as a Participant. Such municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon entry.

8. A municipal corporation that was previously a Participant, but is no longer a Participant, and which is otherwise eligible for membership in the Consortium, may apply for re-entry after a minimum of three (3) years has passed since it was last a Participant. Such re-entry shall be subject to the approval of two-thirds (2/3) of the entire Board. This re-entry waiting period may be waived by the approval of two-thirds (2/3) of the entire Board. In order to re-enter the Consortium, a municipal corporation employer must have satisfied in full all of its outstanding financial obligations to the Consortium. A municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon re-entry.

## **B. PARTICIPANT LIABILITY.**

1. The Participants shall share in the costs of, and assume the liabilities for benefits (including medical, surgical, and hospital) provided under the Plan(s) to covered officers, employees, retirees, and their dependents. Each Participant shall pay on demand such Participant's share of any assessment or additional contribution ordered by the governing board of the municipal cooperative health benefit plan, as set forth in Section L(4) of this Agreement or as ordered by the Superintendent or under Article 74 (seventy four) of the New York State Insurance Law. The pro rata share shall be based on the Participant's relative "premium" contribution to the Plan(s) as a percentage of the aggregate "premium" contribution to the Plan(s), as is appropriate based on the nature of the assessment or contribution.

2. New Participants (each a "New Participant") who enter the Consortium may, at the discretion of the Board of Directors, be assessed a fee for additional financial costs above and beyond the premium contributions to the Plan(s). Any such additional financial obligations and any related terms and conditions associated with membership in the Consortium shall be determined by the Board, and shall be disclosed to the New Participant prior to its admission.

3. Each Participant shall be liable, on a pro rata basis, for any additional assessment required in the event the Consortium funding falls below those levels required by the Insurance law as follows:

- a. In the event the Consortium does not have admitted assets (as defined in Insurance Law Section 107) at least equal to the aggregate of its liabilities, reserves, and minimum surplus required by the Insurance Law, the Board shall, within thirty (30) days, order an assessment (an "Assessment Order") for the amount that will provide sufficient funds to remove such impairment and collect from each Participant a pro-rata share of such assessed amount.
- b. Each Participant that participated in the Consortium at any time during the two (2) year period prior to the issuing of an Assessment Order by the Board shall, if notified of such Assessment Order, pay its pro rata share of such assessment within ninety (90) days after the issuance of such Assessment Order. This provision shall survive termination of the Agreement of withdrawal of a Participant.
- c. For purposes of this Section B(3), a Participant's pro-rata share of any assessment shall be determined by applying the ratio of the total assessment to the total contributions or premium equivalents earned during the period covered by the assessment on all Participants subject to the assessment to the contribution or premium equivalent earned during such period attributable to such Participant.

### **C. BOARD OF DIRECTORS.**

1. The governing board of the Consortium, responsible for management, control and administration of the Consortium and the Plan(s), shall be referred to as the "Board of Directors" (the "Board"). The voting members of the Board shall be composed of one representative of each Participant and representatives of the Joint Committee on Plan Structure and Design (as set forth in Section C(11)), who shall have the authority to vote on any official action taken by the Board (each a "Director"). Each Director, except the representatives of the Joint Committee on Plan Structure and Design, shall be designated in writing by the governing body of the Participant.

2. If a Director designated by a Participant cannot fulfill his/her obligations, for any reason, as set forth herein, and the Participant desires to designate a new Director, it must notify the

Consortium's Chairperson in writing of its selection of a new designee to represent the Participant as a Director.

3. Directors shall receive no remuneration from the Consortium for their service and shall serve a term from January 1 through December 31 (the "Plan Year").

4. No Director may represent more than one Participant.

5. No Director, or any member of a Director's immediate family, shall be an owner, officer, director, partner, or employee of any contractor or agency retained by the Consortium, including any third-party contract administrator.

6. Except as otherwise provided in Section D of the Agreement, each Director shall be entitled to one vote. A majority of the entire Board, not simply those present, is required for the Board to take any official action, unless otherwise specified in this Agreement. The "entire Board", as used herein and elsewhere in this Agreement, shall mean the total number of Directors when there are no vacancies.

While physical presence is strongly encouraged, Directors who cannot be physically present at any meeting may attend remotely utilizing videoconferencing that allows for real time audio and visual participation and voting in the meeting upon confirmation that communication is with all participants as it progresses.

7. Each Participant may designate in writing an alternate Director to attend the Board's meeting when its Director cannot attend. The alternate Director may participate in the discussions at the Board meeting and will, if so designated in writing by the Participant, be authorized to exercise the Participant's voting authority. Only alternate Directors with voting authority shall be counted toward a quorum. The Joint Committee on Plan Structure and Design may designate alternate Directors as set forth in Section C(11).

8. A majority of the Directors of the Board shall constitute a quorum. A quorum is a simple majority (more than half) of the entire Board. A quorum is required for the Board to conduct any business. This quorum requirement is independent of the voting requirements set forth in Section C(6). The Board shall meet on an annual basis, at a time and place within the State of New York determined by a vote of the Board. The Board shall hold an annual meeting (the "Annual Meeting") in September of each Plan Year.

9. Special meetings of the Board may be called at any time by the Chairperson or by any two (2) Directors. Whenever practicable, the person or persons calling such special meeting shall give at least a three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event the three (3) day notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

10. In the event that a special meeting is impractical due to the nature and/or urgency of any action which, in the opinion of the Chairperson, is necessary or advisable to be taken on behalf of the Consortium, the Chairperson may send resolutions regarding said actions via electronic communication to each and all of the Directors. The Directors may then electronically communicate their approval or disapproval of said resolution via signed document to the Chairperson. In accordance with NY Business Corporation Law Section 708(b), unanimous consent is required for the Chairperson to act on behalf of the Board in reliance upon such approvals. Any actions taken by the Chairperson pursuant to this paragraph shall be ratified at the next scheduled meeting of the Board.

11. The Chair of the Joint Committee on Plan Structure and Design and any At-Large Labor Representatives (as defined in Section K) (collectively the "Labor Representatives") shall serve



as Directors and shall have the same rights and obligations as all other Directors. The Joint Committee on Plan Structure and Design may designate in writing alternate Directors to attend the Board's meetings when the Labor Representatives cannot attend. The alternate Director may, if designated in writing, be authorized to exercise the Labor Representatives' voting authority.

#### **D. WEIGHTED VOTING.**

1. Except as otherwise provided in this Agreement, any two or more Directors, acting jointly, may require a weighted vote on any matter that may come before the Board. In such event, the voting procedure set forth in this Section D shall apply in lieu of any other voting procedures set forth in this Agreement. Such weighted voting procedures shall apply solely with respect to the matter then before the Board.

2. For purposes of this Section D, each Director shall receive votes as follows:

- a. Each Director representing a Participant with five hundred (500) or fewer Enrollees shall be entitled to one (1) vote.
- b. Each Director representing a Participant with more than five hundred (500) Enrollees shall be entitled to a number of votes equaling the total number of votes assigned under subsection 2(a) above minus the number of Labor Representative votes, divided evenly by the number of Participants eligible under this subsection 2(b) and rounded down to the nearest whole number.
- c. The Labor Representatives shall be entitled to one (1) vote each.

3. Attached as Addendum "A" to this Agreement is an example of the application of the voting formula contained in subparagraph "2" of this Section.

4. Notwithstanding anything to the contrary contained in this Agreement, any action taken pursuant to this Section D shall require the approval of two-thirds (2/3) of the total number of votes, if all votes had been cast.

#### **E. ACTIONS BY THE BOARD**

1. Subject to the voting and quorum requirements set forth in this Agreement, the Board is required, in accordance with N.Y. Insurance Law § 4705, to take action on the following matters:

- a. In accordance with N.Y. Insurance Law § 4705 (d) (5), to approve an annual budget for the Consortium, which shall be prepared and approved prior to October 1st of each year, and determine the annual premium equivalent rates to be paid by each Participant for each Enrollee classification in the Plan on the basis of a community rating methodology in accordance with N.Y. Insurance Law Section 4705(d)(5)(B) and filed with and approved by the Superintendent.
- b. To audit receipts and disbursements of the Consortium and provide for independent audits, and periodic financial and operational reports to Participants in accordance with N.Y. Insurance Law § 4705 (e)(1).

- c. To establish a joint fund or funds to finance all Consortium expenditures, including claims, reserves, surplus, administration, stop-loss insurance and other expenses in accordance with N.Y. Insurance Law § 4705(d)(4).
- d. To select and approve the benefits provided by the Plan(s) including the plan document(s), insurance certificate(s), and/or summary plan description(s) in accordance with N.Y. Insurance Law Section 4709, a copy of the Plan(s) effective on the date of this Agreement is incorporated by reference into this Agreement.
- e. In accordance with N.Y. Insurance Law § 4705(d)(2), may contract with third parties, if appropriate, which may include one or more Participants, for the furnishing of all goods and services reasonably needed in the efficient operation and administration of the Consortium, including, without limitation, accounting services, legal counsel, contract administration services, consulting services, purchase of insurances and actuarial services. Provided, however (a) the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services contracts, as required in Section 92-a(6) of the General Municipal Law; (b) payment for contracted services shall be made only after such services are rendered; (c) no Director or any member of such Director's immediate family shall be an owner, officer, director, partner or employee of any contract administrator retained by the Consortium; and (d) all such agreements shall otherwise comply with the requirements of Section 92-a(6) of the General Municipal Law.
- f. To purchase stop-loss insurance on behalf of the Consortium and determine each year the insurance carrier or carriers who are to provide the stop-loss insurance coverage during the next Plan Year, as required by N.Y. Insurance Law Sections 4707 and 4705(d)(3).
- g. To designate one governing Board member to retain custody of all reports, statements, and other documents of the Consortium, in accordance with N.Y. Insurance Law Section 4705(c)(2), and who shall also take minutes of each Board meeting which, if appropriate, shall be acted upon by the Board in a subsequent meeting.
- h. In accordance with N.Y. Insurance Law § 4705(e)(1), to choose the certified public accountant and the actuary to provide the reports required by this Agreement and any applicable law.
- i. In accordance with N.Y. Insurance Law § 4705 (d)(5)(A), designate the banks or trust companies in which joint funds, including reserve funds, are to be deposited and which shall be located in this state, duly chartered under federal law or the laws of this state.
- j. In accordance with N.Y. Insurance Law § 4705 (a)(6), designate the fiscal officer of a participating municipal corporation to be the Chief Fiscal Officer of the municipal cooperative health benefit plan, and who will serve on the Executive Committee.
- k. In accordance with N.Y. Insurance Law § 4705 (a)(7), designate an attorney-in-fact to receive summons or other legal process in any action, suit or

proceeding arising out of any contract, agreement or transaction involving the Consortium.

2. Subject to the voting and quorum requirements set forth in this Agreement, the Board is authorized to take action on the following matters:

- a. To fix the frequency, time and place of regular Board meetings.
- b. To have a plan consultant (the "Plan Consultant") contract in place for the upcoming Plan Year, prior to October 1<sup>st</sup> of each year.
- c. To determine and notify each Participant prior to October 15<sup>th</sup> of each Plan Year of the monthly premium equivalent for each enrollee classification during the next Plan Year commencing the following January 1<sup>st</sup>.
- d. To take all necessary action to ensure that the Consortium obtains and maintains a Certificate of Authority in accordance with the Insurance Law.
- e. To take any other action authorized by law and deemed necessary to accomplish the purposes of this Agreement.
- f. Annually elect Directors to the Executive Committee to oversee operations and develop recommendations for Board actions stated in this Section E.

#### **F. EXECUTIVE COMMITTEE**

1. The Executive Committee of the Consortium shall consist of at least eleven (11) and no greater than fifteen (15) Directors. Executive Committee Directors are elected annually, but shall always include the elected Chairperson, Vice-Chairperson, and the Secretary of the Consortium, as well as the designated Chief Fiscal Officer and Chairperson of the Joint Committee on Plan Structure and Design.

2. The Secretary shall be the governing board member who holds all records in accordance with Article E, Section 1.g.

3. The Executive Committee shall establish meeting dates at its Organizational Meeting. The Executive Committee shall meet no less frequently than once per quarter.

4. Special meetings of the Executive Committee may be called at any time by the Chairperson or by any two (2) Executive Committee Directors. Whenever practicable, the person or persons calling such special meeting shall give at least three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event three (3) day notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

5. The Executive Committee shall:

- a. Conduct business according to its Bylaws within its delegated authority, subject to approval and/or ratification of its actions at the next scheduled Board meeting.

- b. Create sub-committees as necessary to monitor operations and make recommendations, to the Executive Committee and/or Board, to protect and enhance operations.
- c. Manage the Consortium between meetings of the Board, subject to such approval by the Board as may be required by this Agreement.
- d. Develop Bylaws for its operations.
- e. In consultation with a nomination committee, fill any vacancy on the Executive Committee from among its members except the elected officers of the Consortium.
- f. Establish administrative guidelines for the efficient operation of the Plan.
- g. Annually appoint a treasurer (the "Treasurer") who may or may not be a Director and who shall be the treasurer, or equivalent financial officer, for one of the Participants. The Treasurer's duties shall be determined by the Chief Fiscal Officer to whom he/she will report.
- h. Take all necessary action to ensure the Consortium is operated and administered in accordance with the laws of the State of New York.

## **G. OFFICERS**

1. At the Annual Meeting, the Board shall elect from its Directors a Chairperson, Vice Chairperson, Chief Fiscal Officer, and Secretary, who shall serve for a term of one (1) year or until their successors are elected and qualified. Any vacancy in an officer's position shall be filled at the next meeting of the Board.

2. Officers of the Consortium and employees of any third-party vendor, including without limitation the officers and employees of any Participant, who assist or participate in the operation of the Consortium, shall not be deemed employees of the Consortium. Each third-party vendor shall provide for all necessary services and materials pursuant to annual contracts with the Consortium. The officers of the Consortium shall serve without compensation from the Consortium, but may be reimbursed for reasonable out-of-pocket expenses incurred in connection with the performance of such officers' duties.

3. Officers shall serve at the pleasure of the Board and may be removed or replaced upon a two-thirds (2/3) vote of the entire Board. This provision shall not be subject to the weighted voting alternative set forth in Section D.

## **H. CHAIRPERSON; VICE CHAIRPERSON; SECRETARY**

1. The Chairperson shall be the Chief Executive Officer of the Consortium.

2. The Chairperson, or in the absence of the Chairperson, the Vice Chairperson, shall preside at all meetings of the Board.

3. In the absence of the Chairperson, the Vice Chairperson shall perform all duties related to that office.

4. The Secretary shall retain custody of all reports, statements, and other documents of the Consortium and ensure that minutes of each Board meeting are taken and transcribed which shall be acted on by the Board at a subsequent meeting, as appropriate.

## **I. CHIEF FISCAL OFFICER**

1. The Chief Fiscal Officer shall act as the chief financial administrator of the Consortium and disbursing agent for all payments made by the Consortium, and shall have custody of all monies either received or expended by the Consortium. The Chief Fiscal Officer may delegate their duties to the Treasurer to take all necessary action to ensure the Consortium is operated and administered in accordance with the laws of the State of New York. The Chief Fiscal Officer shall be a fiscal officer of a Participant. The Chief Fiscal Officer shall receive no remuneration from the Consortium. The Plan shall reimburse the Participant that employs the Chief Fiscal Officer for reasonable and necessary out-of-pocket expenses incurred by the Chief Fiscal Officer in connection with the performance of his or her duties that relate to the Consortium.

2. All monies collected by the Chief Fiscal Officer relating to the Consortium, shall be maintained and administered as a common fund. The Chief Fiscal Officer shall, notwithstanding the provisions of the General Municipal Law, make payment in accordance with procedures developed by the Board and as deemed acceptable to the Superintendent.

3. The Chief Fiscal Officer shall be bonded for all monies received from the Participants. The amount of such bond shall be established annually by the Consortium in such monies and principal amount as may be required by the Superintendent.

4. All monies collected from the Participants by the Chief Fiscal Officer in connection with the Consortium shall be deposited in accordance with the policies of the Participant which regularly employs the Chief Fiscal Officer and shall be subject to the provisions of law governing the deposit of municipal funds.

5. The Chief Fiscal Officer may invest monies not required for immediate expenditure in the types of investments specified in the General Municipal Law for temporary investments or as otherwise expressly permitted by the Superintendent.

6. The Chief Fiscal Officer shall account for the Consortium's reserve funds separate and apart from all other funds of the Consortium, and such accounting shall show:

- a. the purpose, source, date, and amount of each sum paid into the fund;
- b. the interest earned by such funds;
- c. capital gains or losses resulting from the sale of investments of the Plan's reserve funds;
- d. the order, purpose, date and amount of each payment from the reserve fund; and
- e. the assets of the fund, indicating cash balance and schedule of investments.

7. The Chief Fiscal Officer shall cause to be prepared and shall furnish to the Board, to participating municipal corporations, to unions which are the exclusive bargaining representatives of Enrollees, the Board's consultants, and to the Superintendent:

- a. an annual audit, and opinions thereon, by an independent certified public accountant, of the financial condition, accounting procedures and internal control systems of the municipal cooperative health benefit plan;
- b. an annual report and quarterly reports describing the Consortium's current financial status; and
- c. an annual independent actuarial opinion on the financial soundness of the Consortium, including the actuarial soundness of contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.

8. Within ninety (90) days after the end of each Plan Year, the Chief Fiscal Officer shall furnish to the Board a detailed report of the operations and condition of the Consortium's reserve funds.

#### **J. PLAN ADMINISTRATOR**

The Board, by a two-thirds (2/3) vote of the entire Board, may annually designate an administrator and/or insurance company of the Plan (the "Plan Administrator") and the other provider(s) who are deemed by the Board to be qualified to receive, investigate, audit, and recommend or make payment of claims, provided that the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services and/or insurance contracts and payment for such contracted services shall be made only after such services are rendered or are reasonably expected to be rendered. All such contracts shall conform to the requirements of Section 92-a(6) of the General Municipal Law.

#### **K. JOINT COMMITTEE ON PLAN STRUCTURE AND DESIGN**

1. There shall be a Joint Committee on Plan Structure and Design (the "Joint Committee"), which shall consist of (a) a representative of each collective bargaining unit that is the exclusive collective bargaining representative of any Enrollee or group of Enrollees covered by the Plan(s) (the "Union Members"); and (b) a representative of each Participant (the "Management Members"). Management Members may, but are not required to be, Directors.

2. The Joint Committee shall review all prospective Board actions in connection with the benefit structure and design of the Plan(s), and shall develop findings and recommendations with respect to such matters. The Chair of the Joint Committee shall report such findings and recommendations to the Board at any regular or special meeting of the Board.

3. The Joint Committee shall select (a) from among the Union Members, an individual who shall serve as Chair of the Joint Committee; and (b) from among the Management Members, an individual who shall serve as Vice Chair of the Joint Committee. The Joint Committee shall establish its own parliamentary rules and procedures.

4. Each eligible union shall establish such procedures by which its representative to the Joint Committee is chosen and such representative shall be designated in writing to the Chairperson of the Board and the Chair of the Joint Committee.

5. The Union Members on the Joint Committee on Plan Structure and Design shall select from among the Union Members an individual to serve as an additional at-large voting

Labor Member on the Board of Directors of the Consortium. If the number of municipal members on the Consortium rises to seventeen (17), the union members of the Joint Committee on Plan Structure and Design shall select from among the Union Members an additional at-large voting Labor Member on the Board of Directors of the Consortium. The at-large voting Labor Member(s) along with the Joint Committee Chair shall collectively be the “Labor Representatives” as defined in Section C(11) of this Agreement. If the number of municipal members on the Consortium rises to twenty-three (23), the Union Members may select from among their members a third At-Large Labor Representative to serve as a Director. Thereafter, for every increase of five (5) additional municipal members added to the Consortium Union Members may select from among their members one (1) At-large Labor Representative to serve as Director with a maximum of ten (10) Labor Representatives. Attached hereto as Addendum “B” is a table illustrating the addition of At-Large Labor Representatives as set forth in this Section. Any At-Large Labor Representative designated according to this section shall have the same rights and obligations as all other Directors.

#### **L. PREMIUM CALCULATIONS/PAYMENT.**

1. The annual premium equivalent rates shall be established and approved by a majority of the entire Board. The method used for the development of the premium equivalent rates may be changed from time to time by the approval of two-thirds (2/3) of the entire Board, subject to review and approval by the Superintendent. The premium equivalent rates shall consist of such rates and categories of benefits as is set forth in the Plan[s] that is determined and approved by the Board consistent with New York law.

2. In accordance with N.Y. Insurance Law § 4706, the Consortium shall maintain reserves and stop-loss insurance to the level and extent required by the Insurance Law and as directed by the Superintendent.

3. Each Participant's monthly premium equivalent, by enrollee classification, shall be paid by the first day of each calendar month during the Plan Year. A late payment charge of one percent (1%) of the monthly installment then due may be charged by the Board for any payment not received by the first of each month, or the next business day when the first falls on a Saturday, Sunday, legal holiday, or day observed as a legal holiday by the Participants.

The Consortium may waive the first penalty once per Plan Year for each Participant, but will strictly enforce the penalty thereafter. A repeated failure to make timely payments, including any applicable penalties, may be used by the Board as an adequate justification for the expulsion of the Participant from the Consortium.

4. The Board shall assess Participants for additional contributions, if actual and anticipated losses due to benefits paid out, administrative expenses, and reserve and surplus requirements exceed the amount in the joint funds, as set forth in Section B(3) above.

5. The Board, in its sole discretion, may refund amounts in excess of reserves and surplus, or retain such excess amounts and apply these amounts as an offset to amounts projected to be paid under the next Plan Year’s budget.

#### **M. EMPLOYEE CONTRIBUTIONS.**

If any Participant requires an Enrollee's contribution for benefits provided by the Consortium, the Participant shall collect such contributions at such time and in such amounts as it requires. However, the failure of a Participant to receive the Enrollee contribution on time shall not diminish or

delay the payment of the Participant's monthly premium equivalent to the Consortium, as set forth in this Agreement.

#### **N. ADDITIONAL BENEFITS.**

Any Participant choosing to provide more benefits, coverages, or enrollment eligibility other than that provided under the Plan(s), will do so at its sole expense. This Agreement shall not be deemed to diminish such Participant's benefits, coverages or enrollment eligibility, the additional benefits and the payment for such additional benefits, shall not be part of the Plan(s) and shall be administered solely by and at the expense of the Participant.

#### **O. REPORTING.**

The Board, through its officers, agents, or delegates, shall ensure that the following reports are prepared and submitted:

1. Annually after the close of the Plan Year, not later than one-hundred twenty (120) days after the close of the Plan Year, the Board shall file a report with the Superintendent showing the financial condition and affairs of the Consortium, including an annual independent financial audit statement and independent actuarial opinion, as of the end of the preceding plan year.

2. Annually after the close of the Plan Year, the Board shall have prepared a statement and independent actuarial opinion on the financial soundness of the Plan, including the contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.

3. The Board shall file reports with the Superintendent describing the Consortium's then current financial status within forty-five (45) days of the end of each quarter during the Plan year.

4. The Board shall provide the annual report to all Participants and all unions, which are the exclusive collective bargaining representatives of Enrollees, which shall be made available for review to all Enrollees.

5. The Board shall submit to the Superintendent a report describing any material changes in any information originally provided in the Certificate of Authority. Such reports, in addition to the reports described above, shall be in such form, and containing such additional content, as may be required by the Superintendent.

#### **P. WITHDRAWAL OF PARTICIPANT**

1. Withdrawal of a Participant from the Consortium shall be effective only once annually on the last day of the Plan Year.

2. Notice of intention of a Participant to withdraw must be given in writing to the Chairperson prior to September 1<sup>st</sup> of each Plan Year. Failure to give such notice shall automatically extend the Participant's membership and obligations under the Agreement for another Plan Year, unless the Board shall consent to an earlier withdrawal by a two-thirds (2/3) vote.

3. Any withdrawing Participant shall be responsible for its pro rata share of any Plan deficit that exists on the date of the withdrawal, subject to the provisions of subsection "4" of this Section. The withdrawing Participant shall be entitled to any pro rata share of surplus that exists on the



date of the withdrawal, subject to the provisions of subsection “4” of this Section. The Consortium surplus or deficit shall be based on the sum of actual expenses and the estimated liability of the Consortium as determined by the Board. These expenses and liabilities will be determined one (1) year after the end of the Plan Year in which the Participant last participated.

4. The surplus or deficit shall include recognition and offset of any claims, expenses, assets and/or penalties incurred at the time of withdrawal, but not yet paid. Such pro rata share shall be based on the Participant's relative premium contribution to the Consortium as a percentage of the aggregate premium contributions to the Consortium during the period of participation. This percentage amount may then be applied to the surplus or deficit which existed on the date of the Participant's withdrawal from the Consortium. Any pro rata surplus amount due the Participant shall be paid to the Participant one year after the effective date of the withdrawal. Any pro rata deficit amount shall be billed to the Participant by the Consortium one year after the effective date of the withdrawal and shall be due and payable within thirty (30) days after the date of such bill.

## **Q. DISSOLUTION; RENEWAL; EXPULSION**

1. The Board at any time, by a two-thirds (2/3) vote of the entire Board, may determine that the Consortium shall be dissolved and terminated. If such determination is made, the Consortium shall be dissolved ninety (90) days after written notice to the Participants.

a. Upon determination to dissolve the Consortium, the Board shall provide notice of its determination to the Superintendent. The Board shall develop and submit to the Superintendent for approval a plan for winding-up the Consortium's affairs in an orderly manner designed to result in timely payment of all benefits.

b. Upon termination of this Agreement, or the Consortium, each Participant shall be responsible for its pro rata share of any deficit or shall be entitled to any pro rata share of surplus that exists, after the affairs of the Consortium are closed. No part of any funds of the Consortium shall be subject to the claims of general creditors of any Participant until all Consortium benefits and other Consortium obligations have been satisfied. The Consortium's surplus or deficit shall be based on actual expenses. These expenses will be determined one year after the end of the Plan Year in which this Agreement or the Consortium terminates.

c. Any surplus or deficit shall include recognition of any claims/expenses incurred at the time of termination, but not yet paid. Such pro rata share shall be based on each Participant's relative premium contribution to the Plan as a percentage of the aggregate premium contributions to the Plan during the period of participation. This percentage amount would then be applied to the surplus or deficit which exists at the time of termination.

2. The continuation of the Consortium under the terms and conditions of the Agreement, or any amendments or restatements thereto, shall be subject to Board review on the fifth (5<sup>th</sup>) anniversary of the Effective Date and on the fifth (5<sup>th</sup>) anniversary date thereafter (each a “Review Date”) to the extent deemed required by Article 5-G of the New York General Municipal Law (the "General Municipal Law").

a. At the annual meeting a year prior to the Review Date, the Board shall include as an agenda item a reminder of the Participants' coming obligation to review the terms and conditions of the Agreement.

b. During the calendar year preceding the Review Date, each Participant shall be responsible for independently conducting a review of the terms and conditions of the Agreement and submitting to the Board of Directors a written resolution containing any objection to the existing terms and conditions or any proposed modification or amendment to the existing Agreement, such written resolution shall be submitted to the Board on or before March 1<sup>st</sup> preceding the Review Date. Failure to submit any such resolution shall be deemed as each Participant's agreement and authorization to the continuation of the Consortium until the next Review Date under the existing terms and conditions of the Agreement.

c. As soon as practicable after March 1<sup>st</sup>, the Board shall circulate to all Participants copies of all resolutions submitted by the Participants. Subject to Section S hereof, any resolutions relating to the modification, amendment, or objection to the Agreement submitted prior to each Review Date shall be considered and voted on by the Participants at a special meeting called for such purpose. Such special meeting shall be held on or before July 1<sup>st</sup> preceding the Review Date.

d. Notwithstanding the foregoing or Section T hereof, if at the Annual Meeting following any scheduled Review Date the Board votes on and approves the budget and annual assessment for the next year, the Participants shall be deemed to have approved the continuation of the Consortium under the existing Agreement until the next Review Date.

3. The Participants acknowledge that it may be necessary in certain extraordinary circumstances to expel a Participant from the Consortium. In the event the Board determines that:

a. A Participant has acted inconsistently with the provisions of the Agreement in a way that threatens the financial well-being or legal validity of the Consortium; or

b. A Participant has acted fraudulently or has otherwise acted in bad faith with regards to the Consortium, or toward any individual Participant concerning matters relating to the Consortium, the Board may vote to conditionally terminate said Participant's membership in the Consortium. Upon such a finding by the affirmative vote of two-thirds (2/3) of the Participants, the offending Participant shall be given sixty (60) days to correct or cure the alleged wrongdoing to the satisfaction of the Board. Upon the expiration of said sixty (60) day period, an absent satisfactory cure, the Board may expel the Participant by an affirmative vote of two-thirds (2/3) of the Participants (exclusive of the Participant under consideration). This section shall not be subject to the weighted voting provision provided in Section D. Any liabilities associated with the Participant's departure from the Consortium under this provision shall be determined by the procedures set forth in Section P of this Agreement.

## **R. REPRESENTATIONS AND WARRANTIES OF PARTICIPANTS.**

Each Participant by its approval of the terms and conditions of this Agreement hereby represents and warrants to each of the other Participants as follows:

1. The Participant understands and acknowledges that its participation in the Consortium under the terms and conditions of this Agreement is strictly voluntary and may be terminated as set forth herein, at the discretion of the Participant.

2. The Participant understands and acknowledges that the duly authorized decisions of the Board constitute the collective will of each of the Participants as to those matters within the scope of the Agreement.

3. The Participant understands and acknowledges that the decisions of the Board made in the best interests of the Consortium may on occasion temporarily disadvantage one or more of the individual Participants.

4. The Participant represents and warrants that its designated Director or authorized representative understands the terms and conditions of this Agreement and is suitably experienced to understand the principles upon which this Consortium operates.

5. The Participant understands and acknowledges that all Directors, or their authorized representatives, are responsible for attending all scheduled meetings. Provided that the quorum rules are satisfied, non-attendance at any scheduled meeting is deemed acquiescence by the absent Participant to any duly authorized Board-approved action at the meeting.

6. The Participant understands and acknowledges that, absent bad faith or fraud, any Participant's vote approving any Board action renders that Board action immune from later challenge by that Participant.

## **S. RECORDS**

The Board shall have the custody of all records and documents, including financial records, associated with the operation of the Consortium. Each Participant may request records and documents relative to their participation in the Consortium by providing a written request to the Chairperson and Chief Fiscal Officer. The Consortium shall respond to each request no later than thirty (30) days after its receipt thereof, and shall include all information which can be provided under applicable law.

## **T. CHANGES TO AGREEMENT**

Any change or amendment to this Agreement shall require the unanimous approval of the Participants, as authorized by their respective legislative bodies.

## **U. CONFIDENTIALITY**

Nothing contained in this Agreement shall be construed to waive any right that a covered person possesses under the Plan with respect to the confidentiality of medical records and that such rights will only be waived upon the written consent of such covered person.

## V. ALTERNATIVE DISPUTE RESOLUTION ("ADR").

1. General. The Participants acknowledge and agree that given their budgeting and fiscal constraints, it is imperative that any disputes arising out of the operation of the Consortium be limited and that any disputes which may arise be addressed as quickly as possible. Accordingly, the Participants agree that the procedures set forth in this Section V are intended to be the exclusive means through which disputes shall be resolved. The Participants also acknowledge and agree that by executing this Agreement each Participant is limiting its right to seek redress for certain types of disputes as hereinafter provided.

2. Disputes subject to ADR. Any dispute by any Participant, Board Member, or Committee Person arising out of or relating to a contention that:

a. The Board, the Board's designated agents, a Committee person, or any Participant has failed to adhere to the terms and conditions of this Agreement or any duly-passed resolution of the Board;

b. The Board, the Board's designated agents, a Committee person, or any Participant has acted in bad faith or fraudulently in undertaking any duty or action under the Agreement; or

c. Any other dispute otherwise arising out of or relating to: (i) the terms or conditions of this Agreement; (ii) any duly-passed decision, resolution, or policy by the Board of Directors; or (iii) otherwise requiring the interpretation of this Agreement shall be resolved exclusively through the ADR procedure set forth in paragraph (3) below.

3. ADR Procedure. Any dispute subject to ADR, as described in subparagraph (2), shall be resolved exclusively by the following procedure:

a. **Board Consideration:** Within ninety (90) days of the occurrence of any dispute, the objecting party (the "Claimant") shall submit a written notice of the dispute to the Chairperson specifying in detail the nature of the dispute, the parties claimed to have been involved, the specific conduct claimed, the basis under the Agreement for the Participant's objection, the specific injury or damages claimed to have been caused by the objectionable conduct to the extent then ascertainable, and the requested action or resolution of the dispute. A dispute shall be deemed to have occurred on the date the objecting party knew or reasonably should have known of the basis for the dispute.

i. Within sixty (60) days of the submission of the written notice, the Executive Committee shall, as necessary, request further information from the Claimant, collect such other information from any other interested party or source, form a recommendation as to whether the Claimant has a valid objection or claim, and if so, recommend a fair resolution of said claim. During such period, each party shall provide the other with any reasonably requested information within such party's control. The Executive Committee shall present its recommendation to the Board in writing, including any underlying facts, conclusions or support upon which it is based, within such sixty (60) day period.

ii. Within sixty (60) days of the submission of the Executive Committee's recommended resolution of the dispute, the Board shall convene in a special meeting to consider the dispute and the recommended resolution. The Claimant and the Executive Committee shall each be entitled to present any argument or material it deems pertinent to the matter before the Board. The Board shall hold discussion and/or debate as appropriate on the dispute and may question the Claimant and/or the Executive Committee on their respective

submissions. Pursuant to its regular procedures, the Board shall vote on whether the Claimant has a valid claim, and if so, what the fair resolution should be. The weighted voting procedure set forth in Section D shall not apply to this provision. The Board's determination shall be deemed final subject to the Claimant's right to arbitrate as set forth below.

b. Arbitration. The Claimant may challenge any Board decision under subparagraph (V)(3)(a)(ii) by filing a demand for arbitration with the American Arbitration Association within thirty (30) days of the Board's vote (a "Demand"). In the event a Claimant shall fail to file a Demand within thirty (30) days, the Board's decision shall automatically be deemed final and conclusive. In the event the Participant files a timely Demand, the arbitrator or arbitration panel may consider the claim:

provided however;

- i. in no event may the arbitrator review any action taken by the Board that occurred three (3) or more years prior to when the Chairperson received notice of the claim; and
- ii. in no event may the arbitrator award damages for any period that precedes the date the Chairperson received notice of the claim by more than twenty-four (24) months.

c. The Participants agree that the procedure set forth in this Section V shall constitute their exclusive remedy for disputes within the scope of this Section.

## **W. MISCELLANEOUS PROVISIONS**

1. This instrument constitutes the entire Agreement of the Participants with respect to the subject matter hereof, and contains the sole statement of the operating rules of the Consortium. This instrument supersedes any previous Agreement, whether oral or written.

2. Each Participant will perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intended purposes of this Agreement.

3. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any claims made under Section V(3)(b) except to the extent otherwise limited therein, shall be governed by New York substantive law.

5. All notices to any party hereunder shall be in writing, signed by the party giving it, shall be sufficiently given or served if sent by registered or certified mail, return receipt requested, hand delivery, or overnight courier service addressed to the parties at the address designated by each party in writing. Notice shall be deemed given when transmitted.

6. This Agreement may be executed in two or more counterparts each of which shall be deemed to be an original but all of which shall constitute the same Agreement and shall become binding upon the undersigned upon delivery to the Chairperson of an executed copy of this Agreement together with a certified copy of the resolution of the legislative body approving this Agreement and authorizing its execution.

7. The provisions of Section V shall survive termination of this Agreement, withdrawal or expulsion of a Participant, and/or dissolution of the Consortium.

8. Article and section headings in this Agreement are included for reference only and shall not constitute part of this Agreement.

9. No findings or recommendations made by the Joint Committee on Plan Structure and Design or by the Chair of the Joint Committee shall be considered a waiver of any bargaining rights under any contract, law, rule, statute, or regulation.

## **X. APPROVAL, RATIFICATION, AND EXECUTION**

1. As a condition precedent to execution of this Municipal Cooperative Agreement and membership in the Consortium, each eligible municipal corporation desiring to be a Participant shall obtain legislative approval of the terms and conditions of this Agreement by the municipality's governing body.

2. Prior to execution of this Agreement by a Participant, the Participant shall provide the Chairperson with the resolution approving the municipality's participation in this Consortium and expressly approving the terms and conditions of this Municipal Cooperative Agreement. Each presented resolution shall be maintained on file with the Consortium.

3. By executing this Agreement, each signatory warrants that he/she has complied with the approval and ratification requirements herein and is otherwise properly authorized to bind the participating municipal corporation to the terms and conditions of this Agreement.

**[Signature Pages Follow]**

**IN WITNESS WHEREOF**, the undersigned has caused this Amended Agreement to be executed as of the date adopted by the Board of Directors of the Greater Tompkins County Municipal Health Insurance Consortium and subsequently adopted by all participating municipalities.

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## **Addendum “A”**

### **Example of Weighted Voting Formula under Section D(2)**

If 11 Participants have 500 or fewer enrollees each and 2 Participants have more than 500 enrollees each, under subparagraph “a” the 11 each get 1 vote. Under subparagraph “b” the 2 large Participants get 4 votes each, which is calculated by taking the total number of votes under subparagraph “a” [11] subtracting the number of Labor Representative votes [2], dividing by the number of eligible Participants under subsection “b” [2], and rounding the result [4.5] down to the nearest whole number [4]. The Labor Representative shall have 1 vote, irrespective of the votes available to the Participants.

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## Addendum "B"

### Illustration of At-Large Labor Representative Calculation

<b>Total Number of Participants</b>	<b>Total Number of At-Large Labor Representatives</b>
< 17	1
17-22	2
23-27	3
28-32	4
33-37	5
38-42	6
43 - 47	7
47 - 52	8
53 - 57	9
58+	10



## Greater Tompkins County Municipal Health Insurance Consortium

125 East Court Street • Ithaca, New York 14850 • (607)274-5590

[www.healthconsortium.net](http://www.healthconsortium.net) • [consortium@tompkins-co.org](mailto:consortium@tompkins-co.org)

*“Individually and collectively we invest in realizing high quality, affordable, dependable health insurance.”*

# BYLAWS OF THE GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM EXECUTIVE COMMITTEE

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## ARTICLE I PURPOSE

The Municipal Cooperative Agreement (MCA), Paragraph F of the 2015 Amendment to the Municipal Cooperative Agreement of the Greater Tompkins County Municipal Health Insurance Consortium (GTCMHIC) creates the Executive Committee with the powers and duties to conduct certain delegated business operations for the Consortium, pursuant to the responsibilities granted in the MCA.

## ARTICLE II MEMBERS, QUALIFICATIONS, TERMS OF OFFICE

Section 1. The Executive Committee of GTCMHIC shall consist of at least eleven (11) but no greater than fifteen (15) members. The size of the Executive Committee may be increased or decreased by the Board of Directors at any Annual Meeting.

Section 2. A full slate of Executive Committee members (“Member”) shall be elected ~~from its Directors~~ at each Annual Meeting of the Greater Tompkins County Municipal Health Insurance Consortium by the Board of Directors (“Board of Directors”). However, the Board Chairperson, Vice Chairperson, Chief Fiscal Officer, and Secretary shall automatically be designated Members of the Executive Committee. In addition, One Member seat shall be filled by the Chairperson of the Joint Committee on Plan Structure and Design (“Joint Committee”), who is elected by members of the Joint Committee on Plan Structure and Design as established by the Municipal Cooperative Agreement.

The Chairs of each of the Standing Committees shall be nominated as part of the slate of candidates for the Executive Committee, as the Chairs of the Standing Committees are designated members of the Executive Committee.

Any vacant undesignated seat may be filled by an At-large member of the Board of Directors.

Section 3. Each Director shall be entitled to cast one vote for the ~~election of a full slate of membership~~ of the Executive Committee as proposed by the Nominations and Engagement Committee.

Section 4. In the event that a vacancy occurs on the Executive Committee more than 45 days prior to any Annual Meeting of the Board of Directors, ~~then~~ the Executive Committee may appoint a successor to serve until the next following Annual Meeting. ~~The Board of Directors shall appoint a member to fill the seat for the remainder of the term of such vacant position. shall then be filled by vote of the Board of Directors at the Annual Meeting.~~

Section 5. Quorum of the Executive Committee shall be a simple majority of the fully constituted Committee (e.g. 11 members – quorum equals 6; 15 members – quorum equals 8).

### **ARTICLE III COMMITTEE LEADERSHIP**

Section 1. At the Annual Meeting, ~~at the time~~ the Board of Directors shall elects from its Directors ~~the officers of:~~ a Chairperson, Vice Chairperson, Chief Fiscal Officer and Secretary, those officers shall also serve as Members of the Executive Committee for a term of one (1) year effective January 1st or until their successors are elected and qualified. The Chair of the Board of Directors shall serve as the Chair of the Executive Committee. The Vice Chair of the Board of Directors shall serve as the Vice Chair of the Executive Committee. ~~Any vacancy in an officer's position shall be filled at the next meeting of the Board.~~

Section 2. At the ~~same time as the election of the Executive Committee at the~~ annual meeting, the Board Nomination and Engagement Committee, based on collaboration, outreach, and input from Directors, shall also nominate a Chairperson for each of the Executive Committee Standing Committees: Audit and Finance, Operations, Owning Your Own Health, Nominations, Claims and Appeals Committees, and such additional committees as the Executive Committee may, from time to time, create through amendment to these By-Laws. The Chairs of each of the Standing Committees shall be nominated as part of the full slate of candidates for the Executive Committee, as the Chairs of the Standing Committees must also be members of the Executive Committee. The Executive Committee has the authority to create temporary, ad-hoc committees as may be needed, but Chairs of these committees may not be on the Executive Committee.

Section 3. Unless appointed as a voting member, The Chair of the Executive Committee shall serve as a non-voting ex-officio member of each committee. serves ex-officio on all committees, shall count toward a quorum and is empowered to vote.

### **ARTICLE IV RESIGNATION, VACANCY**

Section 1. Any Member may resign from office at any time by delivering a resignation in writing to the Chair of the Executive Committee, and the acceptance of the resignation, unless required by its terms, shall not be necessary to make the resignation effective.

Section 2. Should any Member cease to be a Director of the Consortium Board of Directors, or otherwise cease to be qualified to serve in that capacity, they shall automatically cease to be a Member of the Executive Committee and the resulting vacancy shall be filled as provided in Article II, Section 4.

### **ARTICLE V RULES OF PROCEDURE**

Section 1. The Chairperson shall preside at all meetings and, in his or her absence, the Vice-Chair shall preside.

~~Section 2. A majority of the Members of the Executive Committee shall constitute a quorum for the transaction of business. Physical presence or videoconferencing participation is required.~~

Section 23. The Executive Committee shall act in all cases by a vote of a majority of the fully constituted Executive Committee. Physical presence or videoconferencing participation is required.

Section 34. The Executive Committee shall have at least four (4) quarterly meetings each year, ~~including the Annual Meeting of the Board of Directors.~~

Section 45. Special meetings may be called by the Chair or by any two Committee members.

Section 56. Dates for the Executive Committee meetings will be stated during the Board of Directors' Annual meeting of the year. Meeting dates of the Executive Committee meetings will be published on the GTCMHIC website.

Section 78. Notice of special meetings may be delivered to each Member of the Executive Committee or given orally, in person or by telephone or email, one (1) day prior to the date of such special meeting or may be mailed to the business or home address of each member of the Executive Committee at least three (3) days prior to the date of such special meeting. Waivers of notice may be signed prior to, at or subsequent to any such meeting, by any member failing to receive a proper notice. At such a special meeting no business shall be considered other than as designated in the notice, but if all the Members of the Executive Committee are present at the special meeting, with or without notice thereof, any and all business may be transacted at such special meeting.

Section 78. The basic rules of procedure for meetings of the Executive Committee and its committees shall be as follows:

- Members must be recognized by the presiding officer before making motions and speaking.
- Informal discussion of a subject is permitted while no motion is pending.
- The presiding officer puts questions to a vote.
- The presiding officer may speak in discussion without leaving the chair.
- The presiding officer may make motions, and vote on all questions.
- Motions to close or limit debate may be entertained but shall require a two-thirds vote.
- Any parliamentary questions or points of order will be ruled on by the presiding officer, and that decision shall be final and binding on all Members.

## ARTICLE VI COMMITTEES

Section 1. The Executive Committee shall operate with ~~six (6)~~ standing committees as defined and described below. Committee members shall be appointed by the Board of Directors for specified terms. Committee membership will include Directors and may include other persons as deemed as necessary. The structure and membership of standing committees shall be established by Resolution of the Board of Directors. Standing Committees will work in collaboration with the Executive Director to develop policies and any recommendations to be submitted to the Executive Committee. ~~other resource persons like Consortium CFO and Treasurer.~~

Section 2. Audit and Finance Committee: Responsible to assist the Executive Committee and Board of Directors in its oversight of: the integrity of the financial statements of the Consortium; the Consortium's compliance with legal and regulatory requirements; and the independence, qualifications, and performance of the Consortium's independent auditors (Auditors); all financial aspects of the Consortium, including review of: annual budgets; periodic review of financial results; evaluation of transactions that are material to the organization's business; review of business and risk insurance policies, and actuarial studies to determine premium levels; and review and approval of investments and investment plans; enterprise risk management and compliance assessment and review; and oversight of all internal and external financial audits, ~~of Consortium operations.~~

Section 3. Operations Committee: The Operations Committee is responsible for oversight of Consortium operations and the overall well-being of the organization. The Operations Committee may recommend changes to improve the efficiencies of the organizations, practices, policies, and procedures, and organization structure including personnel and staffing needs. ~~that will improve the efficiencies of the organization.~~

Section 4. Joint Committee on Plan Structure and Design: The Joint Committee shall review all prospective Board actions in connection with the benefit structure and design of the Plan(s), and shall develop findings and recommendations with respect to such matters.

Section 5. Owing Your Own Health Committee: ~~This~~ The Owing Your Own Health Committee shall identify and recommend processes to promote a culture of preventative health care, support benefit clerks in that outreach to member employees and retirees, coordinate wellness activities with our claim's administrators and community associates.

Section 6. Nominations and Engagement Committee: The Nominations and Engagement Committee ~~shall serve a term of one year. They will bring forward~~ present a slate of recommended Officers and Executive Committee members at the annual Board of Directors meeting for a vote. The committee will assist the Executive Committee in engaging Directors in finding meaningful ways to contribute to the organization especially through the consideration of succession and long-term planning.

Section 7. Claims and Appeals Committee: The Claims and Appeals Committee will hear all appeals that come to the Board of Directors for action and recommend a determination to the Board. This Committee will also monitor claims data and trends and oversee all annual third party administrator claims audits.

Section 8. Ad-Hoc Committees: The Executive Committee has the authority to create temporary, ad-hoc committees as may be needed, with specific duties and terms. The Chair of an Ad-Hoc committee will not be a member of the Executive Committee, unless they are at At-large member of the Executive Committee.

## **ARTICLE VII OPERATING BUDGET**

Section 1. The objective of the GTCMHIC operating budget is to provide for the insurance needs of its Subscribers and financial security to cover its liabilities. The budget must be carefully constructed to account for: projected claims, fees and taxes, funding of services provided by contractors and Third-Party Administrators, maintenance of statutory and other reserves, Stop-Loss insurance, and to reflect all major sources of revenue. The goal is to provide all parties with the necessary information for more effective planning and decision making.

### Section 2. Budget Development

- (a) The Executive Director shall have the overall responsibility for budget preparation, in collaboration with consultants and Treasurer.
- (b) The Audit and Finance Committee shall be responsible for the development of a preliminary annual budget and 5-year pro-forma analysis to be presented to the Executive Committee.
- (c) The preliminary budget shall be designed to reflect the Executive Committee's policies y and objectives and be approved adopted by the Executive Committee prior to dissemination to the Board of Directors.
- (d) The Preliminary Budget is disseminated to the Board of Directors four (4) weeks in advance of the Board of Directors Annual meeting along with a detailed narrative ~~of each line~~ of the essential elements of the budget and 5-year pro-forma analysis.

Section 3. ~~Budget Approval~~ Approval of Budget and Premium Rates: The budget and premium rates for the ensuing fiscal year shall be thoroughly reviewed by the Board of Directors before its final adoption. The budget shall be adopted by majority vote of the Board of Directors at its Annual meeting. ~~(in September).~~

Section 4. Budget Implementation: The administration of the annual budget is the responsibility of the Executive Director in consultation with Audit and Finance Committee, CFO, and Treasurer. Under the direction and control of the Executive Director and in consultation with the Treasurer, as needed, funds may be expended within budgetary appropriations without prior approval of the Executive Committee. Extra budgetary expenditures for discretionary expenses or unexpected expenses not in the budget, greater than a 10% change for any line item, shall require the approval of the Executive Committee upon the recommendation of the Audit and Finance Committee.

## **ARTICLE VIII INDEMNIFICATION**

For all actions of the Executive Committee that fall within the scope of Executive Committee duties and responsibilities, GTCMHIC will defend and indemnify the Executive Committee or any individual Executive Committee member for any claims that may arise as a result of those duties.

## **ARTICLE IX CONDUCT AND CONFLICT OF INTEREST POLICY**

Executive Committee members are bound by their membership to follow GTCMHIC Code of Conduct and Conflict of Interest Policy while performing their duties and we expect all Executive Committee members to avoid any personal, financial or other interests that might hinder their capability or willingness to perform their responsibilities.

## **ARTICLE X AMENDMENTS**

These By-Laws may be amended or repealed only at a meeting of the Board of Directors for which at least ten (10) days written notice has been previously given to all of the members, and such notice expressly states that the meeting is called to consider certain amendments to the By-Laws of the Executive Committee in addition to such other regular business as may come before the Executive Committee.



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# BYLAWS OF THE GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM EXECUTIVE COMMITTEE

---

## ARTICLE I PURPOSE

The Municipal Cooperative Agreement of the Greater Tompkins County Municipal Health Insurance Consortium (GTCMHIC) provides for the creation of an Executive Committee with powers and duties to conduct certain business operations on behalf of the Consortium, as enumerated in the Municipal Cooperative Agreement (MCA) and as delegated, from time to time, by the Board of Directors. These Bylaws shall govern the operations of the Executive Committee in carrying out this grant.

## ARTICLE II MEMBERS, QUALIFICATIONS, TERMS OF OFFICE

Section 1. The Executive Committee of GTCMHIC shall consist of at least eleven (11) but no greater than fifteen (15) members (“Members”). The size of the Executive Committee may be increased or decreased by the Board of Directors (the “Board”), in its discretion, within these limits, without need to amend these Bylaws.

Section 2. The Board shall elect a full slate of Executive Committee Members at each Annual Meeting. However, the Board Chairperson, Vice Chairperson, Chief Fiscal Officer, and Secretary shall be automatically designated as Members of the Executive Committee. In addition, the Chairperson of the Joint Committee on Plan Structure and Design (“Joint Committee”) shall also be automatically designated as a Member.

At the Annual Meeting, the Board shall also nominate the Chairs of each of the Standing Committees. Each such Chair shall also automatically be designated a Member of the Executive Committee.

Any vacant undesignated seat may be filled by an at-large member of the Board.

Section 3. The Nominations and Engagement Committee shall have the responsibility for nominating the full slate of Member candidates, which shall include all automatically-designated and at-large seats. The slate shall then be presented to the Board for approval.

Section 4. In the event that a vacancy occurs on the Executive Committee more than 45 days prior to any Annual Meeting of the Board, the Executive Committee may appoint a successor Member who shall serve until the next Annual Meeting.

Section 5. A Quorum of the Executive Committee shall consist of a simple majority of the fully-constituted Committee (e.g., an 11 Member committee would require a quorum of six (6); a 15 Member committee would require a quorum of eight (8)).

### **ARTICLE III COMMITTEE LEADERSHIP**

Section 1. The Chair of the Board shall serve as the Chair of the Executive Committee. The Vice Chair of the Board shall serve as the Vice Chair of the Executive Committee.

Section 2. At the Annual Meeting, the Board Nomination and Engagement Committee shall, based on collaboration, outreach, and input from Directors, nominate a Chair for each of the Executive Committee Standing Committees, which shall include: (i) Audit and Finance, (ii) Operations, (iii) Owning Your Own Health, Nominations, (iv) Claims and Appeals, and (v) such additional committees as the Executive Committee may, from time to time, create through amendment to these Bylaws. The Standing Committee Chairs shall be nominated as part of the full slate of candidates for the Executive Committee, and, once elected, shall automatically be designated members of the Executive Committee. The Executive Committee has the authority to create temporary, ad-hoc committees as may be needed; but Chairs of these committees shall not be Members of the Executive Committee.

Section 3. Unless appointed as a voting member, the Chair of the Executive Committee shall serve as a non-voting ex-officio member of each Standing Committee.

### **ARTICLE IV RESIGNATION, VACANCY**

Section 1. Any Member may resign from the Executive Committee at any time by delivering a resignation in writing to the Chair. Such resignation will be effective upon delivery without regard to its acceptance.

Section 2. Should any Member cease to be a Director of the Consortium Board, or otherwise cease to be qualified to serve in that capacity, he/she shall automatically cease to be a Member of the Executive Committee and the resulting vacancy shall be filled as provided in Article II, Section 4.

### **ARTICLE V RULES OF PROCEDURE**

Section 1. The Chairperson shall preside at all meetings and, in his or her absence, the Vice-Chair shall preside.

Section 2. Provided a quorum is present, the Executive Committee shall act by an affirmative vote of a majority of the fully-constituted Executive Committee. Physical presence or videoconferencing participation is required to satisfy the quorum threshold.

Section 3. The Executive Committee shall have at least four (4) quarterly meetings each year.

Section 4. Special meetings may be called by the Chair or by any two Committee members.

Section 5. Dates for the Executive Committee meetings will be established during the Annual Meeting. Meeting dates of the Executive Committee meetings will be published on the GTCMHIC website.

Section 7. Notice of special meetings may be delivered to each Member of the Executive Committee or given orally, in person or by telephone or email, one (1) day prior to the date of such special meeting or may be mailed to the business or home address of each member of the Executive Committee at least three (3) days prior to the date of such special meeting. Waivers of notice may be signed prior to, at, or subsequent to, any such meeting, by any Member failing to receive a proper notice. At such a special meeting, no business shall be considered other than that expressly designated in the notice, but if all the



Members are present at the special meeting, with or without notice thereof, any and all business may be transacted at such special meeting.

Section 8. The basic rules of procedure for meetings of the Executive Committee and its committees shall be as follows:

- Members must be recognized by the presiding officer before making motions and speaking.
- Informal discussion of a subject is permitted while no motion is pending.
- The presiding officer puts questions to a vote.
- The presiding officer may speak in discussion without leaving the chair.
- The presiding officer may make motions, and vote on all questions.
- Motions to close or limit debate may be entertained but shall require a two-thirds vote.
- Any parliamentary questions or points of order will be ruled on by the presiding officer, and that decision shall be final and binding on all Members.

## **ARTICLE VI COMMITTEES**

Section 1. The Executive Committee shall operate with standing committees as defined and described below. Standing committee members shall be appointed by the Board for specified terms. Standing committee membership will include Directors and may include other persons, as deemed as necessary. The structure and membership of standing committees shall be established by Resolution of the Board. Standing committees will work in collaboration with the Executive Director to develop policies and any recommendations, which shall be submitted to the Executive Committee.

Section 2. Audit and Finance Committee: Responsible to assist the Executive Committee and Board in its oversight of the integrity of the Consortiums' financial statements, compliance with legal and regulatory requirements, its selection and oversight of its independent auditors (Auditors). The Audit and Finance Committee shall also be responsible for all financial aspects of the Consortium, including review of: annual budgets, periodic review of financial results, evaluation of transactions that are material to the organization's business, review of business and risk insurance policies and actuarial studies to determine premium levels, review and approval of investments and investment plans, enterprise risk management and compliance assessment and review, and oversight of all internal and external financial audits.

Section 3. Operations Committee: The Operations Committee is responsible for oversight of Consortium operations and is charged with review and oversight of any policies impacting overall well-being of the organization. The Operations Committee may recommend changes to improve the efficiency of the organization's practices, policies, procedures, and the organizational structure, including personnel and staffing needs.

Section 4. Joint Committee on Plan Structure and Design: The Joint Committee shall review all prospective Board actions in connection with the benefit structure and design of the Plan(s), and shall develop findings and recommendations with respect to such matters.

Section 5. Owning Your Own Health Committee: The Owning Your Own Health Committee shall: (i) identify and recommend processes to promote a culture of preventative health care, (ii) support benefit clerks in that outreach to member employees and retirees, and (iii) coordinate wellness activities with the Consortium's claim administrators and community associates.

Section 6. Nominations and Engagement Committee: The Nominations and Engagement Committee shall be responsible for presenting a slate of recommended Officers and Executive Committee members at the annual Board of Directors meeting for approval. The committee will assist the Executive

Committee in engaging Directors in finding meaningful ways to contribute to the organization especially through the consideration of succession and long-term planning.

Section 7. Claims and Appeals Committee: The Claims and Appeals Committee will hear all appeals that come to the Board of Directors for action and recommend a determination to the Board. This Committee will also monitor claims data and trends and oversee all annual third-party administrator claim audits.

Section 8. Ad-Hoc Committees: The Executive Committee has the authority to create temporary, ad-hoc committees as may be needed with specific duties and terms. The Chair of any ad-hoc committee shall not be a member of the Executive Committee, unless they are otherwise an at-large member of the Executive Committee.

## **ARTICLE VII OPERATING BUDGET**

Section 1. The objective of the GTCMHIC operation budgeting process is to provide for the insurance needs of its Participant enrollees and financial security to cover its liabilities. Each annual budget shall be carefully created to account and provide for: (i) projected claims, fees and taxes, (ii) funding of services provided by contractors and third-party administrators, (iii) maintenance of all reserves, including those required by statute, (iv) purchase and maintenance of stop-loss insurance, and (v) a proper accounting of all major sources of revenue. The budget shall be created in a form and at a time sufficient provide all parties with the necessary information for more effective planning and decision making.

Section 2. The following shall apply to the budget development process:

- (a) The Executive Director shall have the overall responsibility for overseeing the preparation of a recommended preliminary annual budget in collaboration with Consortium consultants, the Audit and Finance Committee, and the Treasurer.
- (b) The Audit and Finance Committee shall be responsible for the development of a preliminary annual budget and 5-year pro-forma analysis to be presented to the Executive Committee.
- (c) The preliminary budget shall be designed to reflect the Executive Committee's policies and objectives and shall be approved by the Executive Committee prior to dissemination to the Board of Directors.
- (d) The Preliminary Budget shall be disseminated to the Board of Directors four (4) weeks in advance of the Annual meeting along with a detailed narrative of the essential elements of the budget and 5-year pro-forma analysis.

Section 3. Approval of Budget and Premium Equivalent Rates: The budget and premium equivalent rates for the ensuing fiscal year shall be thoroughly reviewed by the Board before its final adoption. The budget shall be adopted by majority vote of the Board of Directors at the Annual meeting.

Section 4. Budget Implementation: The administration of the annual budget shall be the responsibility of the Executive Director in consultation with Audit and Finance Committee, Chief Financial Officer, and Treasurer. Under the direction and control of the Executive Director, and in consultation with the Treasurer as needed, funds may be expended within budgetary appropriations without prior approval of the Executive Committee. Extra budgetary expenditures for discretionary expenses or unexpected expenses not accounted for in the budget, greater than a 10% change for any line item, shall require the approval of the Executive Committee, after review and recommendation of the Audit and Finance Committee.

## **ARTICLE VIII**

## **INDEMNIFICATION**

The GTCMHIC shall defend and indemnify any committee member who is subject to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative relating to, or arising out of, his/her responsibilities relative to his/her position or activities on behalf of the Consortium. The provision of such defense and indemnity is contingent upon the provision of prompt notice to the Board of the threatened, pending or completed action, suit or proceeding. The Board, in its discretion, can refuse to provide such defense and indemnity if it determines that the claims against the individual have been initiated as a result of his/her bad faith, self-dealing, willful misconduct, or recklessness.

## **ARTICLE IX CONDUCT AND CONFLICT OF INTEREST POLICY**

All committee members are bound by their membership to follow GTCMHIC Code of Conduct and Conflict of Interest Policy while performing their duties and the Consortium expects all committee members to avoid any personal, financial or other interests that might hinder their capability or willingness to perform their responsibilities.

## **ARTICLE X AMENDMENTS**

These Bylaws may be amended or repealed only at a meeting of the Board for which at least ten (10) days written notice has been previously given to all of the members, and such notice expressly states that the meeting is called to consider certain amendments to the Bylaws of the Executive Committee in addition to such other regular business as may come before the Executive Committee.