Greater TC Municipal Health Insurance Consortium Agenda

Board of Directors

September 24th 5:30 PM, TCPL

5:30 1. Welcome and Review Agenda

5:35 2. Approval of Minutes

5:40 3. Election of Officers - Presentation by Nominating Committee of Slate of Officers

5:45 4. Grant Update- J. Kippola

5:50 5. Review Budget - Establish timeline & process steps to approve budget and 2010 rates by 10/15

6:15 6. Discussion of Contract with Excellus for Consortium Third Party Administrator

6:25 7. Prescription Drug - Third Party Administrator – Recommendation for Steering Committee

6:35 8. Process for Outreach to Unions for Representation of Board

6:50 9. Benefit Plan Review

7:20 10. Ancillary Benefits

7:25 11. Consortium Letterhead

7:30 Adjourn

Future Agenda items

- Meet Attorney-in-Fact
- Advisory Committee- Skills, scope of tasks, staff support
- Local contact for questions
- Process for Board to deal with concerns with TPA
- RFP for Actuary
- RFP for Consultant
- RFP for Stop-Loss Insurance

Greater Tompkins County Municipal Health Insurance Consortium - Board of Directors

Municipality	Primary Alternate	Email	Mailing Address
City of Ithaca	Carolyn Peterson Mayor	carolynp@cityofithaca.org	City of Ithaca, City Hall, 108 E. Green Street, Ithaca, NY 14850
	Steve Thayer Controller	stevet@cityofithaca.org	City of Ithaca, City Hall, 108 E. Green Street, Ithaca, NY 14850
County of Tompkins	Anita Fitzpatrick Commissioner of Personnel	afitzpatrick@tompkins-co.org	Tompkins County Personnel, 125 East Court St., Ithaca, NY14850
	Steve Estes Deputy Commissioner Of Personnel	sestes@tompkins-co.org	Tompkins County Personnel, 125 East Court St., Ithaca, NY14850
Town of Caroline	Don Barber Town Supervisor	sunnybrk@gmail.com	Town of Caroline, PO Box 136, Slaterville Springs, NY 14881
	Toby McDonald Town Councilperson	toebemcdonald@hotmail.com	Town of Caroline, PO Box 136, Slaterville Springs, NY 14881
Town of Danby	Laura Shawley Asst. to Superintendent of Highways	danbyhwy@yahoo.com	Town of Danby, 1830 Danby Road, Ithaca, NY 14850
	Ric Dietrich Town Supervisor	rdietric@twcny.rr.com	Town of Danby, 1830 Danby Road, Ithaca, NY 14850
Town of Dryden	Mary Ann Sumner Town Supervisor	Supervisor@dryden.ny.us	Town of Dryden, 93 E. Main Street, Dryden, NY 13053
	Bambi L. Avery Town Clerk	townclerk@dryden.ny.us	Town of Dryden, 93 E. Main Street, Dryden, NY 13053
Town of Enfield	Herb Masser Town Councilperson	bigfrank1876@aol.com	Town of Enfield, 168 Enfield Main Road, Ithaca, NY 14850
	Stephanie Gaynor Town Councilperson	stephgyno@aol.com	164 Jacobs Drive Exit, Ithaca, NY
Town of Groton	Glenn Morey Town Supervisor	gem5@cornell.edu	Town of Groton, 101 Conger Boulevard, Groton, NY 13073
	Don Scheffler Deputy Supervisor	townclerk@grotontown.com	Town of Groton, 101 Conger Boulevard, Groton, NY 13073
Town of Ithaca	Judy Drake Human Resources Director	jdrake@town.ithaca.ny.us	Town of Ithaca, 215 N. Tioga St. Ithaca, NY 14850
	Herb Engman Town Supervisor	hengman@town.ithaca.ny.us	Town of Ithaca, 215 N. Tioga St. Ithaca, NY 14850
Town of Lansing	A. Scott Pinney Town Supervisor	asp243@twcny.rr.com	Town of Lansing, 29 Auburn Road, Lansing, NY 14882
	Sharon Butler Bowman Bookkeeper/Personnel Officer	sbbowman@tweny.rr.com	Town of Lansing, 29 Auburn Road, Lansing, NY 14882

Greater Tompkins County Municipal Health Insurance Consortium - Board of Directors

Municipality	Primary Alternate	Email	Mailing Address
Town of Newfield	Charles Berggren Town Supervisor	townclerk@centralny.twcbc.com	Town of Newfield, 166 Main Street, NY 14867
	Katherine Crance Town Clerk		Town of Newfield, 166 Main Street, NY 14867
Town of Ulysses	Doug Austic Town Supervisor	tousuper@twcny.rr.com	Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886
	Marsha L. Georgia Town Clerk	touclerk@twcny.rr.com	Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886
Village of Cayuga Heights	Jim Gilmore Mayor	jgilmore@cayuga-heights.ny.us	Village of Cayuga-Heights, 836 Hanshaw Road, Ithaca, NY 14850
	Jeff Silber Treasurer	jsilber@cayuga-heights.ny.us	Village of Cayuga-Heights, 836 Hanshaw Road, Ithaca, NY 14850
Village of Dryden	Charles Becker Village Trustee	charlie@beckerwells.com	Village of Dryden, 903 Hanshaw Road, Ithaca, NY 14850
	Monica Armstrong Village Trustee	moniclee2442@yahoo.com	Village of Dryden, 903 Hanshaw Road, Ithaca, NY 14850
Village of Freeville	Lotte Carpenter Mayor	caravan@lightlink.com	Village of Freeville, 5 Factory Street, Freeville, NY 13068
	Amy Finne Village Clerk	freevilleclerk@frontiernet.net	Village of Freeville, 5 Factory Street, Freeville, NY 13068
Village of Groton	Charles V. Rankin Clerk – Treasurer/Administrator	crankin55@grotonny.org	PO Box 100, Groton, NY 13073
	Elizabeth T. Conger Village Trustee	econger1@twcny.rr.com	119 Washington Ave., Groton, NY 13073
Village of Lansing	Larry Fresinski Deputy Mayor	lf10@cornell.edu	Village of Lansing, 2405 Triphammer Road, Ithaca, NY 14850
	Jodi Dake Clerk / Treasurer	clerk@vlansing.org	Village of Lansing, 2405 Triphammer Road, Ithaca, NY 14850
Village of Trumansburg	Rordan Hart Village Trustee	hart@trumansburg-ny.gov	PO Box 265, Trumansburg, NY 14886
	A. Martin Petrovic Mayor	clerk@trumansburg-ny.gov	Village of Trumansburg, 56 E. Main Street, Trumansburg, NY 14886
	Non-Voting Resources		
Locey & Cahill	Steve Locey, President	slocey@loceycahill.com	Locey & Cahill, Armory Square, 309 S. Franklin St. Syracuse, NY 13202-1138
Locey & Cahill	Dave Sanders, Project Manager	dmsanders72@yahoo.com>	Locey & Cahill, Armory Square, 309 S. Franklin St. Syracuse, NY 13202-1138
County Administration	Joe Mareane, County Administrator	jmareane@tompkins-co.org	Tompkins. Co. Administration, 125 East Court St. Ithaca, NY 14850
County Administration	Jackie Kippola, Risk Manager	jkippola@tompkins-co.org	Tompkins Co. Administration, 125 East Court St. Ithaca, NY 14850
County Finance	David Squires, Comptroller	dsquires@tompkins-co.org	Tompkins Co. Finance Office, 125 East Court St. Ithaca, NY 14850

ITEM 2

Draft Minutes
Greater Tompkins County Municipal Health Insurance Consortium Board of Directors Meeting
August 31, 2009

Present:

Steve Locey	Consultant, Locey & Cahill
Betty Conger	Village of Groton
Rordan Hart	Village of Trumansburg
Don Barber	Town of Caroline
David Squires	Tompkins County Comptroller
Mary Ann Sumner	Town of Dryden
Jim Gilmore	Village of Cayuga Heights
Carolyn Peterson	City of Ithaca
Charlie Becker	Village of Dryden
Chuck Rankin	Village of Groton
Anita Fitzpatrick	Tompkins County
Laura Shawley	Town of Danby
Judy Drake	Town of Ithaca
Stephanie Gaynor	Town of Enfield

Guests:

Jackie Kippola	County Risk Manager
Jed Constantz	Finger Lakes Mgmt.Asso. Exe Director
Sharon Dovi	TC3 Humans Services Director
Scott Ochs	TC3 Faculty Association President
Blixy Taetzsch	TC3 Dean
Darlene Finn	TC3 Prof Admin Assoc President
Olivia Hersey	TC3 Prof Admin Assoc Treasure
Joe Mareane	TC Administrator
Dave Sanders	Locey and Cahill, Project Manager
Marcia Lynch	County Public Information Officer
Stephen Estes	Deputy Commissioner of Personnel

Absent: Town of Groton, Village of Lansing, and Town of Ulysses

Interim Chair Don Barber called the meeting to order at 6:05 p.m.

At Chairman Barber's request, the Shared Municipal Services Initiative (SMSI) health benefits consultant, Steven Locey, provided an overview of the consortium and circulated the Municipal Cooperation Agreement. He noted that this document, along with all other material and meeting notes from the SMSI plan, are on the County's web page under "shared services."

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Mr. Locey stated the goal and objective of the Consortium is that by pooling resources, municipalities can realize efficiencies in health care without diminishing benefits; providing the same benefits but with a more efficient model. By banding as a group, the municipalities can realize lower administrative costs. The City and County already realize some of these economies of scale. By working to create the consortium and agreeing to participate, the City and County can bring those economies to the rest of the county.

There are now approximately 2,100 "contracts", or employees and retirees, covered by the municipalities that have agreed to join the coalition. All will benefit by the law of averages or large numbers—risks are spread across a large group, therefore providing greater stability for all members of the group. Therefore, the consortium model provides both administrative cost savings and greater stability to its members. Mr. Locey cited the experience of the local school district health benefits consortium where costs have increased by an average of 6% per year, lower than the experience in local municipalities.

Mr. Locey said the consortium model has worked well for school districts, but the model is rare for municipalities. The Tompkins consortium will be the first to be formed under Article 47 of the State Insurance Law.

He said that of the 17 municipal governments within Tompkins County, 14 have committed all or in part to the consortium. The goal remains universal participation, but the consortium does have enough members now to exceed the minimum numbers of participants required by Article 47.

Mr. Locey described the responsibilities of the Board and Board Members, citing sections of the Municipal Cooperation Agreement. He highlighted the Board's responsibility for the operation of the consortium, comparing the responsibility to an insurance company that is in charge of overseeing the firm's operations. The Board must develop rates and budgets and approve contracts with outside parties. Although there is a system for weighted voting, most items will be taken by 1 vote per person, with a simple majority vote required for passage. A quorum is required to conduct business.

He said each appointment to the Board needs to be made via a resolution in order to protect board members. The Board needs to name a Chair, Vice Chair, Treasurer, and Secretary (described on page 4 of the Agreement). The Treasurer has a number of duties, most of which will be facilitated by the Chief Financial Officer, who must also be appointed by the Board. He said the County's Finance Director has agreed to serve as CFO for the Consortium. He also noted that the Consortium's reserves must be invested in the same manner as a local government, i.e., in guaranteed investment products.

Mr. Locey stated that the Board may create an Executive Committee composed of officers and other members as the Board determines. The Committee would meet on matters requiring research and investigation The Board could form other committees as it saw fit.

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Mr. Locey referred to page 6 of the Municipal Agreement that outlines actions of the Board. He noted the Board needs to establish the time and place of its meetings, and suggested the meetings occur on a set date each month and that the Board plan to meet at least monthly at first.

He said the Board must adopt a budget by October 15 of each year; commission an annual audit; establish administrative guidelines (and suggested a "handbook" for new directors); establish a financial entry threshold for new entrants (a future issue); contract with third parties for goods and services (requires 2/3rds vote); procure stop-loss policy as required by Article 47; set premium equivalent rates by 10/15; choose an actuary and determine who will accept subpoenas (suggests current SMSI grant attorney John Powers); and hiring plan administrator.

He explained the weighted voting system, which is posted on the website.

Don Barber began a discussion about the election of officers, noting that TCCOG had recommended the Board recognize him as the Interim Chair until the Board could consider and elect a permanent Chair. He also said the Board needed to appoint a Chief Financial Officer immediately. He opened up the topic for discussion.

There was agreement that a nominating committee should be established to recommend candidates for Board Officers.

A motion was made by Mayor Peterson and seconded by Mr. Becker to establish a nominating committee to recommend a slate of officers. The motion passed unanimously (11-0).

A motion was then made by Don Barber and seconded by Ms. Conger to appoint Anita Fitzpatrick, Jim Gilmore, and Mary Ann Sumner to the nominating committee. The motion passed unanimously (11-0).

Mr. Locey advised that the County Finance Director, David Squires, had agreed to serve as treasurer, subject to an annual fee of $57,000 to support from the consortium that would provide him the capacity to assume the function. The Board's contract with the Treasurer would be reviewed and renewed annually.

A motion was made by Jim Gilmore and seconded by Judy Drake to designate the County Finance Director David Squires as Chief Financial Officer for the Consortium. The motion passed unanimously (11-0).

Mr. Barber began a discussion about the Health Plan Administrator. He described the work of the SMSI steering committee in developing an RFP for the services of a Third Party Administrator (TPA), reviewing responses, and developing a recommendation to TCCOG.

Mr. Locey distributed a summary evaluation spreadsheet showing the relative rankings of the TPA candidates across a range of criteria. He said the RFP requested information on administrative fees, networks, cost of services, functionality, and reporting. The process led to three finalists: EBS/RMSCO, Excellus Blue Cross (EBS), and POMPCO. Each finalist was interviewed by the SMSI steering committee. He said POMPCO and EBS were the strongest of

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the three candidates. EBS provided a slight economic advantage and offered the additional advantage of not having to amend labor contracts that make a specific reference to EBS. He said the steering committee and TCCOG both recommended retaining EBS on a one-year contract with a specific expectation about responsive, informative reporting to be provided by EBS. The Board would review EBS's performance during the initial year of operations. Next year, with experience and the non-voting union members in place to participate in the discussion about the TPA, there will be an opportunity to again seek competitive TPA proposals.

Mr. Barber confirmed that this does reflect the thinking of the steering committee and TCCOG. He also noted the need for timely action on the selection of a TPA.

Jim Gilmore asked whether the TPA also owns the insurance company providing coverage or could dictate coverage. Mr. Locey responded that the TPA is an outside entity equipped to do what we cannot do. It is hired only to provide administrative support; with actual claims processed by the TPA paid by the consortium. Mr. Gilmore asked whether the TPA would have an incentive to be efficient. Mr. Locey said that the TPA negotiates rates with providers based on an entire "book" rather than for each plan, so that rates paid to providers will be the same for the consortium as for their insured customers.

Mr. Locey said the consortium will want to monitor how well the TPA handles disease management and other cost saving approaches.

Mr. Becker asked how the data for the spreadsheet, particularly relating to cost, was collected. Mr. Locey said there is a list of about 50 procedure codes that are weighted based on usage patterns from his clients of similar size, to which the TPAs reimbursement rates are applied. He also uses information regarding hospital reimbursement rates and information from audits his firm has conducted.

Mr. Hart asked how the plan would look to the doctor/provider—whether this will look just like an Excellus product. Mr. Locey said "yes", the provider will bill Excellus Blue Cross for this plan just like others.

Mr. Barber made a motion to select Excellus Blue Cross as the Third Party Administrator for a one-year term. Mr. Becker seconded the motion.

Ms. Peterson noted that this will be a one-year contract and the TPA will have to prove itself.

Mr. Constantine suggested that there be performance guarantees included in the contract.

Mr. Locey said his firm will draft a contract for Board review by the end of September.

At that time, Mr. Barber's motion to select Excellus Blue Cross as the TPA, subject to the negotiation of a contract, was considered and approved unanimously (11-0).

Mr. Barber began a discussion about the authorization of the health plans to be provided by the consortium.

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Mr. Locey distributed a handout showing budget rates and plans by municipality. He asked the Board to consider a resolution making it clear that its goal is to provide health plans that are at least equal to those now provided to employees and retirees.

Mr. Becker asked whether the consortium would e able to delete state and federal mandates or exceed mandated coverage levels. Mr. Locey said that state and federal mandates must be followed, but that the consortium could choose to exceed them.

Ms. Drake asked whether New York State could make material changes to our plan. Mr. Locey said that was conceivable, but our plan is modeled on existing plans so the possibility is fairly small.

Mr. Rankin asked whether consortium members typically drift to fewer plan options over time. Mr. Locey indicated the opposite is often true, and that the Board must sometimes act to rein in the tendency to expand the number of plans.

Ms. Peterson asked why the budget shows 2 sets of 2010 fees. Mr. Locey said the two fee charts show the effect of two different reserve levels (25% and 17%). Mr. Barber asked whether we will know the reserve requirement before the budget is approved. Mr. Locey stated that he is trying to meet that deadline.

Mr. Becker asked why the State Insurance Department would allow a reduced reserve. Mr. Locey said that there is a quicker turn around of claims today than when the requirement was developed in 1993, so less money is needed to be in reserves to cover outstanding claims.

Mr. Gilmore asked about the Teamsters plan. Mr. Locey noted that the Teamsters plan was just adjusted to include higher rates and co-pays, something the Board will need to continue to discuss. He said we've put in a rate we felt was reasonable.

Mr. Barber then made a motion to formalize the Coalition Board's goal to provide a health benefit plan to employees and retirees that are equal to or better than their current plans. The motion was seconded by Mr. Rankin and approved unanimously (11-0).

Mr. Barber began a discussion about the role of the steering committee that was formed by TCCOG to help develop the countywide health benefits program. He said the committee includes experts from the health and medical community, human service agencies, and municipal government. He asked whether the Board wanted the steering committee to stay involved as an advisory group to the Board in the process as the final pieces of the plan—such as the process of selecting a prescription benefit manager, actuary, consultant, auditor and the like are take place. The Board indicated its willingness to retain the steering committee in an advisory capacity.

Mr. Barber advised that he would add to the next agenda an update on the status of the SMSI grant. In response to that discussion, Jackie Kippola indicated that about half of the funds have been spent or encumbered, with approximately $123,000 remaining for "incentive" programs.

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Mr. Barber outlined items for the next agenda, including: Nominating Committee's report on candidates for officers, the selection of a prescription drug manager, the adoption of the benefit plans, tentative 2010 rates, review of the draft Excellus Blue Cross contract, and an update on stop-loss insurance, and various professional services required by the Consortium.

The next meeting was scheduled for September 24 at 5:30. The Board will attempt to meet on the 4th Thursday of each month.

The meeting was adjourned at 8:05 p.m.

ITEM 4

Shared Municipal Services Incentive (SMSI) Grant
For Health Benefits

As of April 2009

	Current Budget Amount (1)	Expenditures Documented this Report (2)	Cumulative Expenditures Documented to Date (3)	Available Balance to Document (1-3)
A. Salaries, Wages and Fringe	$0.00	$0.00	$0.00	$0.00
B. Travel	$3,280.00	$0.00	$499.00	$2,781.00
C. Supplies and Materials	$2,000.00	$546.29	$712.60	$1,287.40
D. Equipment	$0.00	$0.00	$0.00	$0.00
E. Contractual Services	$137,500.00	$55,280.14	$69,280.14	$68,219.86
F. Other	$123,250.00	$0.00	$0.00	$123,250.00
	$266,030.00	$55,826.43	$70,491.74	$195,538.26

Prepared by Tompkins County Administration

Greater Tompkins County Municipal Health Insurance Consortium

2010 Fiscal Year Preliminary Budget Estimates (08-26-2009)

	2010 Fiscal Year	2010 Fiscal Year	
Beginning Balance	$0.00	$0.00	
Income			
Premium	$25,108,844.86	$25,108,844.86	99.84%
Interest	$40,000.00	$40,000.00	0.16%
Other	$0.00	$0.00	0.00%
Total Income	$25,148,844.86	$25,148,844.86	
Expenses			
Paid Claims	$18,011,174.00	$18,011,174.00	93.10%
Admin. Fees	$850,000.00	$850,000.00	4.39%
Stop-Loss	$350,000.00	$350,000.00	1.81%
Legal Fees	$25,000.00	$25,000.00	0.13%
Consultant	$50,000.00	$50,000.00	0.26%
Audit Fees	$5,000.00	$5,000.00	0.03%
Insurances	$10,000.00	$10,000.00	0.05%
Internal Coordination	$40,000.00	$40,000.00	0.21%
Other Expenses	$5,000.00	$5,000.00	0.03%
Total Expenses	$19,346,174.00	$19,346,174.00	
Net Income	$5,802,670.86	$5,802,670.86	
Ending Balance	$5,802,670.86	$5,802,670.86	
Liabilities	*25% IBNR*	*17% IBNR*	
IBNR Reserve	$5,297,404.12	$3,602,234.80	
Rate Stabilization Reserve	$1,255,442.24	$1,255,442.24	
Unencumbered Fund Balance	-$750,175.50	$944,993.82	

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ADMINISTRATIVE SERVICES CONTRACT

This is an Agreement, effective between Excellus Health Plan, Inc., d/b/a Excellus BlueCross BlueShield, with offices at ("Excellus BlueCross BlueShield"); and , with offices at ("Employer"). Excellus Health Plan, Inc. is a nonprofit independent licensee of the BlueCross BlueShield Association.

SECTION 1 - RECITALS

1.1 Employer administers a welfare benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

1.2 Employer desires assistance from Excellus BlueCross BlueShield in the administration of its welfare benefit plan.

1.3 Excellus BlueCross BlueShield possesses the administrative capacity to assist Employer in administering health benefits, and is willing to assist in the administration of Employer's welfare benefit plan for Employer's participants.

SECTION 2 - DEFINITIONS

As used in this Agreement, the term:

2.1 **"Account"** means a depository account

☒ established and maintained by Employer. Excellus BlueCross BlueShield shall have access to funds in the Account in order to pay claims for Benefit Plan benefits as more fully described in this Agreement

☐ established and maintained by Excellus BlueCross BlueShield in the name of Employer. Excellus BlueCross BlueShield shall have access to funds in the Account in order to pay claims for Benefit Plan benefits, and any interest on funds in the Account shall accrue to the benefit of Excellus BlueCross BlueShield as additional reasonable compensation for services rendered under this Agreement

2.2 **"Affiliate"** means any entity controlling, controlled by, or under common control with Excellus BlueCross BlueShield.

2.3 **"Allowable Expense"** means the amount specified in Exhibit A to be paid for Covered Services.

2.4 **"Benefit Plan"** means Employer's welfare benefit plan for Participants that Excellus BlueCross BlueShield shall assist Employer in administering as of the effective date of

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this Agreement. The Benefit Plan consists of the benefits provided by Employer, described in the booklet(s) attached to this Agreement as Exhibit A.

2.5 **"BlueCard Claim"** is a claim for Covered Services rendered to a Participant by a member or participating Provider of a Participating Plan that processes claims under the BlueCard program.

2.6 **"Covered Services"** means those services and supplies for which Employer is legally obligated to pay pursuant to the Benefit Plan.

2.7 **"Excellus BlueCross BlueShield's Service Area"** or **"Service Area"** means the geographic territory within which Excellus BlueCross BlueShield is licensed to use the Blue Cross and Blue Shield service marks by the BlueCross BlueShield Association.

2.8 **"Member"** means an employee of Employer who is eligible for coverage under the Benefit Plan.

2.9 Benefits under the Benefit Plan are **"paid"** or **"payment"** is made when a claim for benefits has been approved for payment in accordance with Excellus BlueCross BlueShield's internal claims processing procedures and, where applicable, claims processing procedures under the BlueCard program.

2.10 **"Participant"** means each of the following who is covered under the Benefit Plan: a Member, a Member's spouse, a Member's eligible dependent as defined in the Benefit Plan, or any other eligible beneficiary of the Benefit Plan, as determined by Employer in accordance with its policies that may be in effect from time to time.

2.11 **"Participating Plan"** means an independent Blue Cross and/or Blue Shield corporation that has entered into an arrangement for the purpose of providing benefits to Participants who reside or receive Covered Services outside of Excellus BlueCross BlueShield's Service Area.

2.12 **"Participating Provider"** means any Provider of Covered Services who has an agreement with Excellus BlueCross BlueShield or any Participating Plan with respect to payment for the provision of Covered Services.

2.13 **"Plan Benefits Litigation"** means the assertion of a demand for, or the commencement of, litigation or arbitration by a Participant, Provider, or attorney representing a Participant or Provider, to recover Benefit Plan benefits.

2.14 **"Provider"** means any provider of supplies; duly certified, licensed, or authorized institutional services provider; or duly licensed health care practitioner, for whose supplies or services Employer is obligated to pay or provide benefits under the terms of the Benefit Plan.

2.15 **"Trade Secrets"** means all proprietary, confidential information and materials of either party, including all formulas, pricing algorithms, Provider payment schedules and rates,

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Provider profiles, and any other related confidential or otherwise not publicly available information or materials of either party.

SECTION 3 - ADMINISTRATIVE SERVICES

3.1 **Services.** Excellus BlueCross BlueShield shall provide the services listed below, to assist Employer in the administration of benefits under the Benefit Plan. Employer shall, upon request from Excellus BlueCross BlueShield, provide reasonable assistance to Excellus BlueCross BlueShield, to enable Excellus BlueCross BlueShield to provide these services:

a. claims processing and administrative services, as set forth in this Agreement;

b. preparation and delivery of reports required under this Agreement;

c. medical review and managed care services (if applicable);

d. arrangement for provision of Benefit Plan benefits to Participants who require Covered Services outside the Service Area;

e. maintenance of an adequate provider network for the provision of Covered Services to Participants;

f. using reasonable efforts to recoup claims paid in error as described in paragraph 5.6;

g. submitting reports (including without limitation the necessary election forms to permit payment directly to the pool administrator), and remitting payments upon receipt from Employer, on behalf of Employer to the New York State Public Goods Pools pursuant to the New York State Health Care Reform Act of 1996, as amended;

h. compliance with all federal and state laws applicable to Excellus BlueCross BlueShield in connection with the services provided by Excellus BlueCross BlueShield pursuant to this Agreement; and

i. other services to which the parties may agree from time to time in an executed amendment to this Agreement.

3.2 **Materials.** Excellus BlueCross BlueShield shall provide to Employer, and Employer shall distribute to Participants, as appropriate, identification cards, claim forms, and any additional documents to be provided to Participants by Excellus BlueCross BlueShield. Alternatively, Excellus BlueCross BlueShield may elect to provide some or all of these materials directly to Participants.

3.3 **Reports.** Throughout the term of this Agreement, Excellus BlueCross BlueShield shall prepare and provide to Employer, as part of the services covered by the administrative fee

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described in paragraph 6.5, the following reports, which shall be used by Employer in the financial management and administration of the Benefit Plan:

a. monthly report of funds requested and received for payment of benefits under the Benefit Plan;

b. monthly reports of dollar amounts and dates of service per Participant in connection with all paid claims;

c. annual claims utilization reports;

d. annual accounting reports for the Benefit Plan, including an accounting of claims experience, which reports shall be provided to Employer no later than 120 days after the end of each Contract Period (as defined in paragraph 9.1); and

e. upon request, timely reports containing information maintained by Excellus BlueCross BlueShield that is necessary to enable Employer to comply with its ERISA and Internal Revenue Code ("Code") reporting and disclosure requirements.

Excellus BlueCross BlueShield's obligation to provide reports to Employer pursuant to this paragraph 3.3 shall at all times be subject and subordinate to the limitations set forth in Section 7.

SECTION 4 - RESPONSIBILITIES OF EMPLOYER

4.1 Enrollment Information; Termination of Participants.

a. Employer shall be responsible for determining the eligibility of individuals to be Participants and for payment of all claims for Participants through the expiration of the time period described in subparagraph b. below. Enrollment eligibility information shall be provided in a format acceptable to Excellus BlueCross BlueShield, which shall be entitled to rely upon information provided to it by Employer.

b. If, by 3:00 p.m. on a business day, Excellus BlueCross BlueShield receives information from Employer regarding the termination of coverage of a Participant, Employer shall not be responsible for reimbursement of claims for Covered Services rendered to the former Participant on or after the seventh business day after such receipt, unless one of the following applies:

   i. Employer is required to continue to cover the Participant during a period of disability under state or federal law, or under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), the Family and Medical Leave Act of 1993 ("FMLA"), or the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), as those laws have been or may be amended from time to time.

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ii. A claim for Covered Services is a BlueCard Claim, as defined in Section 2 of this Agreement. In the event that Excellus BlueCross BlueShield receives a BlueCard Claim at any time prior to the seventh business day after receipt of notice of termination of a Participant's coverage (even if the notice was received on a timely basis), Excellus BlueCross BlueShield shall process the BlueCard claim in accordance with the requirements of the BlueCard program, and Employer shall be responsible for payment of the BlueCard Claim.

iii. Employer notifies Excellus BlueCross BlueShield of a termination of coverage less than seven business days prior to the date on which a Participant (or former Participant) is admitted to a hospital for services reimbursed under a case payment methodology, in which case Employer shall be responsible for payment of the full case payment for otherwise Covered Services regardless of the fact that the Employer's obligation would otherwise expire during the middle of the inpatient stay pursuant to subparagraph 4.1.b. above.

If Employer fails to provide Excellus BlueCross BlueShield with timely written notice of termination of a Participant's coverage, and the Participant receives benefits in the interim, Employer shall remain liable to Excellus BlueCross BlueShield for the benefits received unless and until claim dollars paid in error are recouped by Excellus BlueCross BlueShield, in which case Employer shall be given credit against future claims expense to the extent provided in paragraph 5.6.

4.2 **Other Information.** Employer shall promptly furnish to Excellus BlueCross BlueShield all information reasonably required by Excellus BlueCross BlueShield concerning Medicare as secondary payer ("MSP") status, enrollment, terminations of coverage, changes in family status, and changes in employment status of enrolled Members under this Agreement. This information shall be supplied on forms furnished or approved by Excellus BlueCross BlueShield, or electronically in a format prescribed by Excellus BlueCross BlueShield. In this and all other respects, Excellus BlueCross BlueShield shall be entitled to rely upon all information provided to it by Employer.

4.3 **Continuation of Coverage.** Employer shall retain full responsibility for notifying Participants of the termination of their coverage and their right, if any, to continuation of coverage, and for administering the exercise of continuation rights, as required by COBRA, FMLA, USERRA, or any other applicable continuation coverage requirement. Excellus BlueCross BlueShield shall have no obligation to ensure that any termination instructions received by it from Employer comply with the requirements of COBRA, FMLA, USERRA, or any other applicable continuation coverage requirement.

4.4 **ERISA Requirements.** To the extent that ERISA applies to Employer or the Benefit Plan, Employer shall be deemed the "administrator" of the Benefit Plan, as defined by ERISA, and shall retain full responsibility for ensuring that all ERISA requirements applicable to the Benefit Plan are satisfied. These include, but shall not be limited to, the following (to the extent applicable):

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a. plan document requirements under Section 402 of ERISA;

b. reporting and disclosure requirements, including summary plan descriptions, summaries of material modifications, summary annual reports, and annual reports (Form 5500 series);

c. bonding requirements; and

d. trust requirements.

4.5 **Internal Revenue Code Requirements.** Compliance with any Code requirements applicable to the Benefit Plan shall be the sole responsibility of Employer. These include, but shall not be limited to, the following (to the extent applicable):

a. nondiscrimination requirements for self-insured medical reimbursement plans under Section 105(h) of the Code and cafeteria plans under Section 125 of the Code;

b. welfare benefit fund requirements under Sections 419 and 419A of the Code; and

c. withholding and reporting requirements for any benefits that are taxable.

4.6 **Other Benefit Plan Obligations and Requirements.** Employer shall retain full responsibility for any obligations or requirements involving the Benefit Plan that are not explicitly delegated to Excellus BlueCross BlueShield under this Agreement. These include, but shall not be limited to, the following (to the extent applicable):

a. including a provision in the Benefit Plan and the summary plan description for the Benefit Plan that reserves Employer's right to modify or terminate benefits;

b. determining when the Benefit Plan needs to be amended to ensure compliance with all legal requirements, and timely amending the Benefit Plan to ensure such compliance;

c. administering the Benefit Plan in a manner that complies with labor law nondiscrimination requirements (e.g., the requirements imposed by the Americans with Disabilities Act);

d. administering the Benefit Plan in a manner that complies with the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA");

e. including a provision in the Benefit Plan and the summary plan description describing how Provider discounts and rebates will be applied with respect to the Benefit Plan; and

f. if the Benefit Plan is collectively bargained, satisfying any collective bargaining obligation that exists with respect to the Benefit Plan.

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SECTION 5 - BENEFITS

5.1 Payment of Benefits.

a. Determination of Benefits. Employer expressly approves the terms and conditions set forth in the benefit booklet(s) attached as Exhibit A, which define(s) the benefits available to Participants under the Benefit Plan. During the period of this Agreement, Excellus BlueCross BlueShield shall make or cause to be made available to each Participant, on behalf of Employer, the benefits appropriate to the Participant's classification under the Benefit Plan. Benefits will be provided only if all of the terms and conditions set forth in Exhibit A are satisfied, except to the extent that Employer has given Excellus BlueCross BlueShield explicit written instructions to administer benefits in a manner that results in claim payments that would not otherwise have been made or that would have been made in secondary, rather than primary, position.

b. Payments. In all cases, payment made or authorized by Excellus BlueCross BlueShield shall be the Allowable Expense set forth in the booklet(s) attached as Exhibit A, subject to any deductible, copayment, coinsurance, managed care penalty, maximum, and/or other limits specified in Exhibit A and not eliminated upon Employer's express written instruction to Excellus BlueCross BlueShield. Excellus BlueCross BlueShield's payment shall be made to the Member or Provider, as specified in Exhibit A; except that payment with respect to BlueCard Claims shall be made to the appropriate Participating Plan. Except as provided to the contrary in Exhibit A or in written instructions provided to Excellus BlueCross BlueShield by Employer, any difference between a non-Participating Provider's actual charge and the Excellus BlueCross BlueShield payment shall be the personal responsibility of the Participant, in addition to any applicable deductibles, copayments, coinsurance, managed care penalties, maximums and/or other limits.

5.2 Calculation of Payments. Excellus BlueCross BlueShield shall not be required to include in its payment calculations, or to pay on behalf of Employer, any amount the payment of which would result in a violation of any state's law, even if the failure to include or pay the amount results in greater liability for Participants.

5.3 Participant's Share of the Cost of Out-of-Area Covered Services.

a. Like all Blue Cross and Blue Shield Plans, Excellus BlueCross BlueShield participates in a program called the BlueCard Program. This program provides benefits when Participants are outside the Service Area. When a Participant receives health care services outside the Service Area from a Provider that participates with a Blue Cross and Blue Shield Plan, the resulting claims may be processed through the BlueCard Program. In such cases, the Participant's liability for BlueCard Covered Services will be based on the lower of:

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i. the Provider's billed charges, or

ii. the negotiated price that the out-of-area Blue Cross and Blue Shield Plan passes on to Excellus BlueCross BlueShield. This negotiated price may be (1) the price the out-of-area Blue Cross and Blue Shield Plan paid its Provider; or (2) an estimated price that includes expected settlements, withholds, other payment arrangements, or non-claims transactions with the Provider that the out-of-area Blue Cross and Blue Shield Plan factored in; or (3) an average price that includes reductions to the bill that reflects the out-of-area Blue Cross and Blue Shield Plan's average expected savings. The out-of-area Blue Cross and Blue Shield Plan may increase or decrease the negotiated price in the future to correct for over- or underestimation of past prices, but the amount paid by or on behalf of the Participant will be the final price, and will not be affected by any future adjustment. Because the amounts paid by or on behalf of the Participant are final, any funds that the out-of-area Blue Cross and Blue Shield Plan holds in a separate account pending final settlement with its Providers do not belong to the Participant or Employer. These funds will be used to pay Providers and to adjust future payments.

b. Some states may prohibit out-of-area Blue Cross and Blue Shield Plans from passing on to Excellus BlueCross BlueShield their entire savings on a particular claim. Other states may require the out-of-area Blue Cross and Blue Shield Plan to add a surcharge to the bill. In either of these events, Excellus BlueCross BlueShield will calculate the Participant's liability in accordance with the applicable state law in effect at the time the Participant received services.

c. Sometimes, an out-of-area Blue Cross and Blue Shield Plan might recover amounts paid on particular claims, due to audits and refunds. These recoveries, after subtracting out the fees incurred in determining the overpayments, will be applied in accordance with BlueCard Policies, and might result in a correction on a specific claim.

5.4 Pharmaceutical Rebates.

a. From time to time, Excellus BlueCross BlueShield enters into agreements with pharmacy benefit managers, manufacturers of prescription drugs, prescription drug distributors or other entities (collectively "Vendor"), which result in Excellus BlueCross BlueShield receiving rebates. Rebates are based upon utilization of prescription drugs across all Excellus BlueCross BlueShield's business and not solely on a Participant's or group's utilization of prescription drugs. Any rebates received by Excellus BlueCross BlueShield may or may not be applied, in whole or in part, to the reduction of claims expense or administrative expense, or be paid to Employer. Rebates may be retained by Excellus BlueCross BlueShield, at its discretion, in whole or in part, in order to fund such activities as new utilization management, retail pharmacy audits, community benefit activities, and increasing reserves for the protection of members enrolled under its insured products.

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b. Only prescription drug claims that are fully processed through the Excellus BlueCross BlueShield on-line, electronic system are eligible for a rebate. This means that the claim must be both submitted and remitted by and to the pharmacy Provider. No paper claims, Participant submitted claims, or claims paid directly to Participants are eligible for a rebate.

c. On a regular basis and when new agreements are entered into, Excellus BlueCross BlueShield will review its rebate return schedule, which will include the amount of the rebate for each eligible prescription drug claim, depending upon whether the prescription drug benefit is managed or otherwise. Excellus BlueCross BlueShield will also determine what prescription drug coverage will be considered a managed care product. The rebate return schedule will be made available to Employer upon request.

d. Excellus BlueCross BlueShield will calculate the amount of prescription drug rebates and distribute the amount due to Employer, if any, annually. In no event will rebates be paid to Employer until Excellus BlueCross BlueShield has received rebates from the Vendor for the relevant time frame. If at the time the rebates are being calculated, Employer owes Excellus BlueCross BlueShield any sum of money, Excellus BlueCross BlueShield has the right to subtract any amount Employer owes Excellus BlueCross BlueShield from any payment Excellus BlueCross BlueShield owes Employer.

5.5 **BlueCard Fees.** Employer will be required to pay Excellus BlueCross BlueShield certain fees which Excellus BlueCross BlueShield is required to pay to out-of-area Blue Cross and Blue Shield Plans, to the BlueCross BlueShield Association, or to certain BlueCard vendors under the BlueCard Program. These BlueCard fees may be revised in the future without Employer's prior approval in accordance with the standard procedures for revising fees under BlueCard. Some of these fees, including but not limited to access fees, administrative expense allowance fees, Central Financial Agency Fees, and ITS Transactions Fees, are charged each time a claim is processed through BlueCard. Some of these claim-based fees, such as the access fee and the administrative expense allowance, may be passed on to Employer as part of the claim liability. Excellus BlueCross BlueShield will, upon request, provide to Employer a complete listing of all the BlueCard fees that Employer pays directly.

5.6 **Erroneous Claims Payment Recoupments.** In certain circumstances Excellus BlueCross BlueShield may make a payment for services that are not covered under the Benefit Plan, or in an amount in excess of what is required under the terms of the Benefit Plan. This may happen, among other circumstances, when Excellus BlueCross BlueShield is not notified in a timely manner of the termination of a Participant's enrollment under the Benefit Plan, when Excellus BlueCross BlueShield receives inaccurate information from a Provider as to the nature of the services rendered, when a Provider submits a bill in an incorrect format, or when a processing error occurs. In the event that Excellus BlueCross BlueShield makes an incorrect payment and is subsequently able to recover some or all of the amount previously paid, Excellus BlueCross BlueShield will pass the amount recovered along to Employer as a credit

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against paid claims for the period in which the amount is received by Excellus BlueCross BlueShield. In certain circumstances Excellus BlueCross BlueShield may retain an outside contractor to seek repayment of incorrect payments; in these cases the amount credited to Employer will be net of the fee paid to the vendor to obtain the recovery. Notwithstanding paragraph 10.2, Excellus BlueCross BlueShield shall not be liable to Employer for amounts paid in error that are not successfully recovered, except to the extent that the erroneous payment resulted directly from the grossly negligent or intentional act or omission of Excellus BlueCross BlueShield.

5.7 Interim Provider Payments.

a. In certain circumstances Excellus BlueCross BlueShield may make payments to a Provider or Providers with whom it is negotiating contractual arrangements, based upon interim rates agreed upon with the Provider(s) that are to be used to process claims during the period of time before the contractual arrangements are finalized. In the event that the rates ultimately agreed upon by the Provider(s) and Excellus BlueCross BlueShield are different than those used to make claims payments during this interim period and Excellus BlueCross BlueShield makes an adjustment to payments that were previously made using the interim rates, Employer's paid claims obligation will be adjusted by Excellus BlueCross BlueShield to reflect the difference at the time that Excellus BlueCross BlueShield adjusts payments with the Provider(s).

b. In certain circumstances Excellus BlueCross BlueShield may advance funds to a Provider or Providers with whom it is negotiating contractual arrangements, based upon an interim arrangement with the Provider(s) that is intended to approximate Excellus BlueCross BlueShield's aggregate claims liability to the Provider(s) during the interim period (*i.e.*, funds are advanced on an aggregate basis without processing individual claims during this interim period). In such event, Excellus BlueCross BlueShield may, in its discretion, either (i) bill Employer during the interim period based upon Excellus BlueCross BlueShield's reasonable determination as to Employer's appropriate share of the advanced amounts, and adjust Employer's paid claims obligation once final rates are implemented to reflect the difference between the payments previously made by Employer and Employer's liability for claims incurred during the interim period and priced using the final rates; or (ii) refrain from billing Employer for claims incurred during the interim period and bill Employer for such claims at the final rates once such rates are determined.

5.8 Other Payments. Employer's paid claims obligation may include other types of health care payments made by Excellus BlueCross BlueShield on behalf of Participants. These include, but are not limited to:

a. fixed payments per month made by Excellus BlueCross BlueShield for each Member or Participant (e.g., capitation payments for services or covered lives payments for graduate medical education);

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b. extra payments based on demonstrated quality of care or achievement of utilization or financial targets negotiated between Excellus BlueCross BlueShield and Providers (e.g., payment of an extra percentage of standard claim amounts for meeting quality of care targets); and

c. lump sum payments made to Providers to improve quality or as incentives to meet financial targets.

Employer's share of the total will be based on Employer's proportionate share of covered persons (as compared to the total number of covered persons under insured and self-funded contracts and plans issued or administered by Excellus BlueCross BlueShield) served by that Provider or residing in a defined region. An example is a lump sum payment to an institutional Provider to deliver services to such covered persons for the entire year, under circumstances where Participants' use of that facility constitutes 10% of Excellus BlueCross BlueShield's covered persons' use of the facility. Employer's share equals 10% of the yearly lump sum.

5.9 Amendments to Benefit Plan by Employer. Employer may amend the Benefit Plan to change either the benefits provided to its Participants, or the eligibility requirements for Participants to participate, at any time during the initial term or any extension of this Agreement. Not less than 60 days prior to the effective date of any amendment, Employer shall provide Excellus BlueCross BlueShield with written notice of the amendment and written confirmation that all affected Participants have been provided with a summary of the changes made by the amendment. Upon receipt by Excellus BlueCross BlueShield of the written notice and confirmation from Employer, this Agreement shall be amended to conform to the amendment of the Benefit Plan; provided, however, that this Agreement shall not be amended to require Excellus BlueCross BlueShield to administer claims in a manner that would be inconsistent with the limitations of any applicable provision of federal or state law. If any amendment modifies Employer's anticipated claims expense or the amount of effort or expense required of Excellus BlueCross BlueShield, the financial arrangements and administrative fees set forth in this Agreement shall be modified accordingly by mutual agreement of the parties. If the parties fail to reach agreement on the financial arrangements and/or administrative fees, this Agreement shall terminate 60 days after the date on which the parties mutually determine that agreement cannot be reached.

5.10 Obligation to Pay Benefits.

a. With the exception of BlueCard Claims, addressed in subparagraph b. below, Excellus BlueCross BlueShield shall not be liable for the payment of its own funds, and shall not be obligated to advance its own funds, for the payment of claims for benefits under the Benefit Plan. The obligation of Excellus BlueCross BlueShield to pay claims for benefits (other than BlueCard Claims) under the Benefit Plan is expressly conditioned upon the availability of sufficient funds from Employer. Excellus BlueCross BlueShield shall not be considered the

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insurer, guarantor, or underwriter of the liability of Employer to provide benefits for Participants under the Benefit Plan. Employer shall have the final responsibility and liability for payment of claims for benefits under the Benefit Plan. If, in the normal course of business under this Agreement, Excellus BlueCross BlueShield or any Affiliate chooses to advance any funds, Employer shall promptly reimburse Excellus BlueCross BlueShield or its Affiliate for the payment. In no event shall an advance by Excellus BlueCross BlueShield or its Affiliate be construed as obligating Excellus BlueCross BlueShield or its Affiliate to make further advances or to assume liability of Employer for the payment of benefits under the Benefit Plan.

b. In accordance with the terms of the BlueCard program, Excellus BlueCross BlueShield shall be obligated to make payments to the appropriate Participating Plan, and Employer shall be obligated to reimburse Excellus BlueCross BlueShield, for all BlueCard Claims that meet the requirements of subparagraph 4.1.b.ii. of this Agreement. Excellus BlueCross BlueShield shall be entitled to reimburse itself from the funds and security described in paragraphs 6.2 and 6.4 of this Agreement in the event that Employer fails to reimburse Excellus BlueCross BlueShield for any BlueCard Claim that meets the requirements of subparagraph 4.1.b.ii.of this Agreement.

5.11 **Benefit Claims Procedures.** Excellus BlueCross BlueShield shall provide services with respect to claims for benefits, and appeals of claims for benefits that have been denied in whole or part by Excellus BlueCross BlueShield, as set forth below.

a. Excellus BlueCross BlueShield shall process and determine benefits for claims in accordance with the terms of the Benefit Plan and its own internal procedures.

b. A Participant may appeal any complete or partial denial of benefits by Excellus BlueCross BlueShield. Excellus BlueCross BlueShield shall review the denial in accordance with the Benefit Plan and its own internal procedures and render its decision in writing to the Participant. If a Participant is not satisfied with the initial appeal determination, the Participant may appeal to Employer. Employer shall have the duty and authority to conduct a final full and fair review of the denial in accordance with the Benefit Plan and the requirements of ERISA and shall render a final decision. Excellus BlueCross BlueShield shall assist Employer in conducting the final review by providing an explanation for its initial determination and information that was used by Excellus BlueCross BlueShield to conduct its review.

c. Employer (or, in its sole discretion, another appointed entity or person) shall serve as the appropriate "named fiduciary," as defined by ERISA, for the purpose of reviewing and making decisions on claims denials. These benefit claims procedures shall be conducted in accordance with the Benefit Plan and Section 503 of ERISA and the implementing Department of Labor regulations. If the Benefit Plan does not have benefit claims procedures that comply with ERISA

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and incorporate the provisions of this paragraph 5.11, Employer shall amend the Benefit Plan promptly to incorporate such procedures and provisions. Excellus BlueCross BlueShield shall have no fiduciary obligations under the Benefit Plan, except as specifically set forth in paragraphs 5.1, 5.3, and 5.11 of this Agreement. Notwithstanding any other provision in this Agreement to the contrary:

i. any other matter involving the management of the Benefit Plan or the management or disposition of Benefit Plan assets shall be the sole responsibility of Employer, and

ii. Excellus BlueCross BlueShield shall not be a fiduciary and shall not have any discretionary authority with respect to any other obligation it has under this Agreement.

d. Employer shall serve as the final review committee under the Benefit Plan to determine for all parties all questions relating to the payment or nonpayment of claims for benefits under the Benefit Plan. To the full extent permitted by law, Employer shall have the sole authority and discretion to construe any uncertain or disputed term or provision of the Benefit Plan, including, but not limited to:

i. determining whether an individual is eligible for benefits under the Benefit Plan;

ii. determining the amount of benefits, if any, to which an individual is entitled;

iii. interpreting applicable terms of the Benefit Plan; and

iv. making factual findings relevant to determining eligibility and benefit amounts.

e. Any exercise of discretionary authority or determination under, and any interpretation of any provision of, the Benefit Plan by Employer will:

i. be binding upon Participants and their spouses, estates, or beneficiaries, and any parties covered by Qualified Domestic Relations Orders, Qualified Medical Child Support Orders, or other orders issued by a court or a government entity;

ii. be given deference in all courts of law, to the greatest extent allowed by applicable law; and

iii. not be overturned or set aside by any court of law unless an abuse of discretion has been found because Employer acted arbitrarily and capriciously or in bad faith.

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f. The appeals provided for in this paragraph may be made only by the Participant or his or her representative. If directed in writing by Employer after completion of the final full and fair review, Excellus BlueCross BlueShield shall make payment for benefits under the Benefit Plan in accordance with this Agreement.

SECTION 6 - CLAIMS EXPENSE AND OTHER CHARGES

6.1 **Employer's Obligation to Pay Claims Expense.** Employer shall be responsible for all claims paid by Excellus BlueCross BlueShield on behalf of or to the Participants, including BlueCard Claims that meet the requirements of subparagraph 4.1.b.ii. of this Agreement, plus BlueCard fees and other items identified in Section 5 of this Agreement and the additional amounts specified in this Section 6 of this Agreement. The financial arrangement set forth in this Section 6 of this Agreement may be modified from time to time during the initial term as mutually agreed in writing by the parties, and upon any extension or renewal of this Agreement pursuant to paragraph 9.3 of this Agreement.

6.2 **Claim Deposit Fund.** Employer shall make an advance deposit into the Account as a claim deposit fund. The amount of this claim deposit fund shall be , which shall be the approximate equivalent of the anticipated claims volume under the Benefit Plan for a - week period. The claim deposit fund may be adjusted by Excellus BlueCross BlueShield each month, based upon a change in the volume of claims paid under the Benefit Plan. Excellus BlueCross BlueShield shall give written notice to Employer of the amount of any increase required, and Employer shall, within one business day of receipt of the notice, deposit the requested amount into the Account. If the requested amount is not deposited into the Account by Employer within one business day of Employer's receipt of the notice, Excellus BlueCross BlueShield may immediately stop processing claims.

6.3 **Additional Deposits into Account.** At or before 10:00 a.m. approximately ***twice each month***, Excellus BlueCross BlueShield, by facsimile, shall inform Employer of the amount of claims that have been approved and processed by Excellus BlueCross BlueShield since the last such written notice was provided.

☒ Not less than 24 hours after giving this notice, Excellus BlueCross BlueShield shall withdraw the requested amount from the Account to pay the claims set forth on the notice. In the event that the Account does not contain sufficient funds to pay in full all claims set forth on the notice,

☐ By 2:00 p.m. on the same day, Employer shall wire transfer the stated amount into the Account for withdrawal by Excellus BlueCross BlueShield to pay the processed claims. In the event that Employer does not timely wire transfer the full stated amount,

Excellus BlueCross BlueShield may immediately stop processing claims and/or access the security and funds provided pursuant to paragraphs 6.2 and 6.4.

6.4 **Security for Run-out Claims.** In addition to the claims deposit fund established pursuant to paragraph 6.2, Employer shall provide security to Excellus BlueCross BlueShield, in form[1] acceptable to Excellus BlueCross BlueShield and in the initial principal amount of , to cover payment of Run-Out Claims as defined in subparagraph 9.7.a. The amount of the required security may be adjusted by Excellus BlueCross BlueShield each month, based upon a change in the volume of claims paid under the Benefit Plan. Excellus BlueCross BlueShield shall give written notice to Employer of the amount of any increase required, and Employer shall, within one business day of receipt of the notice, provide the requested security. If the requested security is not provided by Employer within one business day of Employer's receipt of the notice, Excellus BlueCross BlueShield may immediately stop processing claims under this Agreement.

6.5 **Administrative Fee.** Employer shall pay a monthly administrative fee to Excellus BlueCross BlueShield as compensation for the services rendered by Excellus BlueCross BlueShield in the prior month. The amount of the administrative fee is per Contract per month. The administrative fee for any given month shall be based on sum of the actual number of Members enrolled in each of the coverage options, if any, under the Benefit Plan (without reduction based upon the enrollment of Members in more than one Benefit Plan option) as of the first day of that month. Employer shall pay the administrative fee to Excellus BlueCross BlueShield within ten business days after receipt of the monthly invoice sent by Excellus BlueCross BlueShield.

6.6 **Survival.** The provisions of this Section 6 shall survive any discontinuance of this Agreement for purposes of the payment of Run-Out Claims set forth in paragraph 9.7 (if applicable).

SECTION 7 - RECORDS

7.1 **Maintenance.** Excellus BlueCross BlueShield shall keep books and records to reflect accurately the business it transacts with respect to the Benefit Plan. All books and records maintained pursuant to the Agreement shall be maintained in hard copy, microfiche or computerized form for a period of at least six years after the date they are prepared or for such longer period as may be required by law.

7.2 **Inspection.** Employer and its auditors shall have the right, at times that are agreeable to Excellus BlueCross BlueShield, to inspect the records of Excellus BlueCross BlueShield in connection with its obligations under this Agreement. Any examination of individual benefit payment records shall be carried out in a manner designed to protect the individual's medical information, and Excellus BlueCross BlueShield shall not release

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[1] Forms of acceptable security include a reserve fund held by Excellus BlueCross BlueShield, a secured account established pursuant to a security agreement acceptable to Excellus BlueCross BlueShield, or a Letter of Credit in form acceptable to Excellus BlueCross BlueShield.

any medical or other patient-identifying information that is protected from disclosure under applicable law, rule, or regulation. Before conducting an audit, Employer's auditor shall sign a confidentiality agreement that includes a provision indemnifying Excellus BlueCross BlueShield for breach of confidentiality. Employer shall limit its use of information received during an audit to the following purposes: administering the Benefit Plan; auditing, reviewing, and evaluating the performance of Excellus BlueCross BlueShield; designing benefit programs under the Benefit Plan; and other proper benefit program purposes. Employer shall limit access to any such information to only those of its employees and representatives with a reasonable need to know the information. Employer shall take all reasonable steps to protect the confidentiality of Participants' claim information.

7.3 Confidentiality.

a. Books and Records of Employer. All books and records pertaining to Employer that may come into the possession of Excellus BlueCross BlueShield shall be treated as confidential and private records of Employer, and Excellus BlueCross BlueShield shall not disclose information from the books and records, unless required by law or authorized by Employer in writing prior to disclosure. In the event that Excellus BlueCross BlueShield is required by law to disclose information from the books and records, Excellus BlueCross BlueShield shall notify Employer prior to making the disclosure.

b. Trade Secrets. Each party acknowledges that the other's Trade Secrets are valuable property rights and are entitled to any and all protection afforded trade secrets and confidential information under applicable law. The following provisions shall apply to Trade Secrets.

i. Grant of Usage for Particular Purpose. Each party grants to the other the right to use the Trade Secrets only in connection with the implementation of this Agreement, the Benefit Plan, and any related agreement or arrangement. Each party shall take all reasonable steps to ensure that neither it, nor any of its subsidiaries, divisions, employees, affiliates, agents, or representatives, uses a Trade Secret of the other party for any other purpose, either during or after the term of this Agreement or any renewal term.

ii. Nondisclosure. Neither party shall disseminate or disclose any Trade Secret of the other party to any person or organization without the express written consent of the owner of the Trade Secret, except: (A) to employees, agents, or representatives with a reasonable need to have access to the Trade Secret; or (B) to a third party, if required by law, order, decree, subpoena, or other judicial process issued by a court, governmental agency, body, or tribunal. In the event that a party is required to disclose the other party's Trade Secret pursuant to (B) above, the disclosing party shall notify the other party prior to making the

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disclosure. Each party shall provide the same level of protection for the other party's Trade Secrets as it would for its own Trade Secrets. This means, at a minimum, that each party shall take all reasonable steps to protect the confidentiality of the other party's Trade Secrets.

iii. Return of Documents. Upon completion of the 12-month period following termination of this Agreement for any reason, each party shall, at the option of the other party, either return or destroy all documents, records, notebooks, software, and similar repositories of or containing the other party's Trade Secrets then in its possession. This applies to all such items, whether prepared by one or both of the parties to this Agreement or by third parties. In addition, each party shall provide the other with documented evidence of the removal of the other party's programs or operating systems, if any, from the computers located at its offices or at the offices of its subsidiaries, divisions, employees, affiliates, agents, representatives, or other persons or entities over which it has control.

iv. Injunction as Remedy for Breach. Each party acknowledges that the other party may be irreparably injured upon the occurrence of a breach of this subparagraph 7.3.b. of this Agreement. In the event of a breach or threatened breach of subparagraph 7.3.b. of this Agreement, the owner of the Trade Secret that is the subject of the breach or threatened breach shall be entitled to a temporary injunction or restraining order prohibiting the other party from committing or continuing to commit the breach, without proof of actual damage by the owner of the Trade Secret.

7.4 Release of Medical Information.

a. To the extent necessary and permitted under applicable law, Employer shall require each Participant, or other person authorized to release medical information of any Participant on that Participant's behalf, to execute a valid, written release authorizing Providers to provide Excellus BlueCross BlueShield or its designee with any and all medical information required for the performance of Excellus BlueCross BlueShield's obligations under this Agreement.

b. Excellus BlueCross BlueShield shall not release medical records, other protected patient-identifying information, or copies of such records or information, to Employer or its agents without the receipt of (i) a valid, written release that meets the requirements of all applicable laws, rules, and regulations, and that authorizes Excellus BlueCross BlueShield to release the records, information, or copies to Employer or its agents; and (ii) a certification by Employer, in form and substance acceptable to Excellus BlueCross BlueShield, as to compliance by Employer and the Benefit Plan with certain provisions of HIPAA.

7.5 Additional Obligations with Respect to Protected Health Information. Capitalized terms used but not defined in this paragraph 7.5 shall have the meanings given to them in

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the Standards for Privacy of Individually Identifiable Health Information promulgated by the United States Department of Health and Human Services at 45 CFR part 160 and part 164, subparts A and E.

a. In addition to its obligations set forth elsewhere in this Section 7, Excellus BlueCross BlueShield agrees as follows:

i. To not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law.

ii. To use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement. Excellus BlueCross BlueShield shall also implement and provide Employer with evidence of the implementation of administrative, physical and technical security safeguards that reasonably and appropriately protect the integrity and availability of Electronic Protected Health Information that Excellus BlueCross BlueShield creates, receives, maintains or transmits on behalf of Employer. Such safeguards must, at a minimum, meet or exceed every security standard and implementation specification set forth at 45 CFR Parts 160-164.

iii. To mitigate, to the extent practicable, any harmful effect that is known to Excellus BlueCross BlueShield of a use or disclosure of Protected Health Information by Excellus BlueCross BlueShield in violation of the requirements of this Agreement.

iv. To report to Employer any use or disclosure of Protected Health Information not provided for by this Agreement of which Excellus BlueCross BlueShield becomes aware. Excellus BlueCross BlueShield shall also provide Employer with immediate notice upon learning of any security breach or security incident. A "security incident" includes the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with a system operation in an information system.

v. To ensure that any agent or subcontractor, to whom Excellus BlueCross BlueShield provides Protected Health Information received from Employer, or created or received by Excellus BlueCross BlueShield on Employer's behalf, agrees to the same restrictions and conditions that apply through this Agreement to Excellus BlueCross BlueShield with respect to such information.

vi. To provide access, upon Employer's request, to Protected Health Information in a Designated Record Set (if any), to Employer or, as

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directed by Employer, to an Individual in order to meet the requirements of 45 CFR 164.524.

vii. To make any amendment(s) to Protected Health Information in a Designated Record Set (if any) that Employer directs or agrees to pursuant to 45 CFR 164.526, at Employer's request or at the request of an Individual.

viii. To make internal practices, books and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from Employer and the treatment of Electronic Protected Health Information, or created or received by Excellus BlueCross BlueShield on Employer's behalf, available to Employer or to the Secretary, for purposes of the Secretary determining Employer's compliance with the Privacy Rule.

ix. To document such disclosures of Protected Health Information and information related to such disclosures as would be required for Employer to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

x. To provide to Employer or an Individual information collected in accordance with paragraph 7.5(a)(ix) of this Agreement, to permit Employer to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

b. In addition to its obligations set forth elsewhere in this Section 7, Employer agrees as follows:

i. To provide Excellus BlueCross BlueShield with any changes in or revocation of permission by an Individual to use or disclose PHI, if such changes affect Excellus BlueCross BlueShield's permitted or required uses or disclosures.

ii. To notify Excellus BlueCross BlueShield of any restrictions to the use or disclosure of PHI to which Employer has agreed in accordance with 45 CFR §164.522, to the extent that such restrictions are pertinent to Excellus BlueCross BlueShield.

iii. To notify Excellus BlueCross BlueShield of any restrictions, limitations or requirements in its Notice of Privacy Practices pursuant to 45 CFR §164.520, to the extent that such restrictions, limitations or requirements are pertinent to Excellus BlueCross BlueShield.

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7.6 **Survival.** The provisions of this Section 7 shall survive any discontinuance of this Agreement.

SECTION 8 - AMENDMENT TO COMPLY WITH LAW

8.1 **Procedure for Amendment.** This Agreement shall be amended for the purpose of complying with the provision of any applicable law or laws by increasing, reducing, or eliminating any of the benefits or obligations provided for in this Agreement that affect or may affect one or more Participants enrolled pursuant to this Agreement, and each party shall sign any written document deemed necessary to effect that amendment. Employer shall pay any increased claims expense and administrative expense, and shall receive the benefit of any reduction or elimination, that results from the amendment. It is expressly understood and agreed that Excellus BlueCross BlueShield shall not administer claims pursuant to this Agreement in a manner that would be inconsistent with the limitations of any applicable provision of federal or state law.

SECTION 9 - TERM, RENEWAL AND TERMINATION

9.1 **Term and Renewal.** This Agreement shall commence as of the effective date set forth at the beginning, shall remain in effect for an initial 12 month term until 12:00 midnight on the anniversary of the effective date, and shall automatically renew on each anniversary of the effective date for consecutive additional 12 month renewal terms, unless sooner terminated as provided below. The initial term and each successive renewal term shall be a "contract period" for purposes of this Section 9.

9.2 **Termination Upon Notice.** This Agreement shall terminate and coverage shall end on the earlier of the following dates:

a. the date the Benefit Plan terminates;

b. 60 days after the date that either Excellus BlueCross BlueShield or Employer provides written notice to the other of its intention to terminate this Agreement and/or the Benefit Plan; or

c. at any time upon mutual agreement of the parties.

9.3 **Change in Financial Arrangements.** Upon 120 days' written notice to the other party prior to the end of a contract period, either Employer or Excellus BlueCross BlueShield may request a change in the financial arrangements set forth in this Agreement (other than the administrative fee rates, which shall be governed by paragraph 9.4). If the parties are unable to agree upon the requested change, this Agreement shall automatically terminate at the end of the contract period in which the request for change is made, unless the parties agree in writing to an extension.

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9.4 **Change in Administrative Fees.** The administrative fees specified in paragraph 6.5 of this Agreement may be modified by Excellus BlueCross BlueShield, effective as of the beginning of any Contract Period, upon not less than 60 days' prior written notice to Employer. The new fees set forth in the notice shall become effective as of the beginning of the Contract Period unless Employer objects to them in writing prior to such date. In the event that Employer objects to the proposed fees, the parties may, if they mutually desire, attempt to reach agreement on different fees for the new Contract Period. Either party may, however, terminate this Agreement upon not less than 30 days' prior written notice to the other party at any time following Excellus BlueCross BlueShield's receipt of Employer's objection, if it is not (or no longer) willing to pursue such negotiations.

9.5 **Termination for Non-Payment.** This Agreement shall automatically terminate at the end of the second business day following the receipt by Employer of a written notice of default in the payment of any amount due under this Agreement, effective on the date the payment was due, unless all amounts due and unpaid (with the exception of charges disputed by Employer in good faith) have been paid in full within those two business days. Excellus BlueCross BlueShield shall have no obligation to pay any claims, regardless of the date of service, after termination for nonpayment. Excellus BlueCross BlueShield, without waiving any rights, may accept late payments and reinstate the Agreement.

9.6 **Automatic Termination.** This Agreement shall automatically terminate in the event of:

a. bankruptcy or insolvency of either party;

b. merger, sale, or consolidation of either party, but in the event of the merger, sale, or consolidation of Excellus BlueCross BlueShield, only if the parties agree in writing to have the Agreement terminate; or

c. the enactment of any law or the promulgation of any regulation that makes illegal the continuation of this Agreement or the performance of any obligation under this Agreement.

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9.7 **Services Following Termination.**

a. Upon the termination of this Agreement for any reason other than non-payment by Employer or termination due to Employer's bankruptcy or insolvency, Excellus BlueCross BlueShield shall continue to provide all services under this Agreement until the end of the day on the termination date. In addition, Excellus BlueCross BlueShield shall continue to process claims for Covered Services that are rendered after the effective date and before the termination date, and that are reported to Excellus BlueCross BlueShield within six months after the termination date ("Run-Out Claims").

b. Anything to the contrary notwithstanding, Employer shall be responsible for, and shall provide the funds necessary for Excellus BlueCross BlueShield to pay, any claim for Covered Services rendered to a person who was shown as an eligible Participant on Excellus BlueCross BlueShield's computer system as of the date that the Participant was admitted to a hospital that rendered the Covered Services, even if Excellus BlueCross BlueShield receives the claim (i) after the date on which this Agreement terminates, if Run-Out Claims are not processed pursuant to subparagraph 9.7.a., or (ii) more than six months after the date on which this Agreement terminates, if Run-Out Claims are processed pursuant to subparagraph 9.7.a.

c. Employer shall compensate Excellus BlueCross BlueShield at the levels in effect as of the effective date of the termination for services performed during the six-month period described in subparagraph 9.7.a.

d. The obligations of Excellus BlueCross BlueShield under subparagraph 9.7.a. shall be contingent upon receipt from Employer of funds necessary to pay the Run-Out Claims.

SECTION 10 - INDEMNIFICATION

10.1 **Indemnification by Employer.** Employer shall defend with competent counsel, indemnify, and hold harmless Excellus BlueCross BlueShield and its directors, officers, employees, agents, successors, and assigns from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the negligence, intentional act or omission, or willful misconduct of Employer, its directors, officers, employees, agents, or assigns, including without limitation any unlawful or unauthorized use or disclosure of information pertaining to a Participant.

10.2 **Indemnification by Excellus BlueCross BlueShield.** Excellus BlueCross BlueShield shall defend with competent counsel, indemnify, and hold harmless Employer and its directors, officers, employees, agents, successors, and assigns from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or

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damages arising out of the negligence, intentional act or omission, or willful misconduct of Excellus BlueCross BlueShield, its directors, officers, employees, agents, or assigns, including without limitation any unlawful or unauthorized use or disclosure of information pertaining to a Participant.

10.3 **Survival.** The provisions of this Section 10 shall survive any discontinuance of this Agreement.

SECTION 11 - PLAN BENEFITS LITIGATION

11.1 **Notice and Intervention.** Either party shall provide written notice to the other as soon as practicable, but in no event more than 10 days, after it receives notice of Plan Benefits Litigation. If Plan Benefits Litigation is brought against only one of the parties, the named party agrees not to oppose any attempt by the other party to intervene.

11.2 **Defense and Costs.** In the event that Plan Benefits Litigation is brought against Excellus BlueCross BlueShield, Excellus BlueCross BlueShield shall select and retain counsel to defend itself and, if applicable, Employer. Excellus BlueCross BlueShield shall have the authority to direct and control the defense of such Plan Benefits Litigation, but shall obtain the consent of Employer regarding any proposed settlement of Plan Benefits Litigation. Employer shall assume liability for the payment of legal fees, costs, and disbursements related to the defense, and Employer shall be liable for any legal fees, costs, or other damages recovered by a claimant in connection with Plan Benefits Litigation.

11.3 **Cooperation and Separate Counsel.** Excellus BlueCross BlueShield and Employer shall work with retained counsel and cooperate with each other in the defense of Plan Benefits Litigation. In the event that Plan Benefits Litigation is brought against Employer and Excellus BlueCross BlueShield, Excellus BlueCross BlueShield may select and retain separate counsel, in which case it shall assume liability for the payment of any resulting legal fees, costs, and disbursements in connection with Plan Benefits Litigation.

11.4 **Claims Against Employer.** If Plan Benefits Litigation is brought against Employer, and Excellus BlueCross BlueShield is not made a party to such litigation, Employer shall select and retain counsel and assume liability for the payment of its own legal fees, costs, and disbursements. In the event that Employer brings Excellus BlueCross BlueShield into the litigation as a party, Excellus BlueCross BlueShield shall retain separate counsel and assume liability for the payment of its own legal fees, costs, and disbursements.

11.5 **Responsibility for Benefit Plan Benefits.** Employer shall be liable for the full amount of any Benefit Plan benefits paid as a result of an adverse judgment, settlement, or other disposition of Plan Benefits Litigation, together with any interest due.

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11.6 **Survival.** The provisions of this Section 11 shall survive any discontinuance of this Agreement.

SECTION 12 - SERVICE MARKS

12.1 **Service Marks.** Excellus Health Plan, Inc. d/b/a Excellus BlueCross BlueShield, is a nonprofit independent corporation organized under the Insurance Law of New York State. Excellus BlueCross BlueShield also operates under licenses with the BlueCross BlueShield Association, an association of independent Blue Cross and Blue Shield Plans, which licenses the use of the Blue Cross and Blue Shield service marks to Excellus BlueCross BlueShield in a portion of New York State. Excellus BlueCross BlueShield does not act as an agent of the BlueCross BlueShield Association, and is solely responsible for honoring its agreements to provide or administer benefits for health care.

12.2 **Use of Service Marks.** Employer shall not use any service mark of Excellus BlueCross BlueShield for any purpose (including in enrollment materials, advertisements, and the like) without the express written permission of Excellus BlueCross BlueShield. All requests for permission to use a service mark of Excellus BlueCross BlueShield by Employer or any of its employees, agents, or representatives shall be submitted to Excellus BlueCross BlueShield in writing for approval not less than 15 days prior to the proposed use. Excellus BlueCross BlueShield shall review the proposed use and notify Employer of its decision.

SECTION 13 - GENERAL PROVISIONS

13.1 **Relationship of Parties.** Excellus BlueCross BlueShield, in performing its obligations under this Agreement, is acting only as a representative of Employer; the rights and responsibilities of the parties shall be determined in accordance with the law governing relationships of this nature, except as otherwise provided in this Agreement. Employer delegates authority to Excellus BlueCross BlueShield to make determinations on behalf of Employer with respect to benefit payments under the Benefit Plan and to pay such benefits.

13.2 **Entire Agreement.** This Agreement consists of this printed document and the booklet(s) describing the benefits of the Benefit Plan, attached as Exhibit A. This Agreement sets forth the entire understanding of the parties with respect to its subject matter and supersedes all prior agreements existing between the parties. All modifications to this Agreement shall be null and void unless made in writing and signed by the parties.

13.3 **Applicable Law, Jurisdiction, Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law. The parties agree and consent to personal jurisdiction, personal service, and venue in any state or federal court within the County of ***Onondaga,*** New York having subject matter jurisdiction, for the purpose of any proceeding to enforce, or arising out of or relating to this Agreement.

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13.4 **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, or overnight courier, and addressed as follows:

To: Excellus Health Plan, Inc., d/b/a

Attention: Vice President Sales

To:

Attention:

13.5 **Right of Offset.** If Employer withholds from Excellus BlueCross BlueShield any amounts due and owing under this Agreement, Excellus BlueCross BlueShield shall have the right to offset these amounts against any amounts that may be due to Employer from Excellus BlueCross BlueShield (whether pursuant to this Agreement or for any other reason whatsoever).

13.6 **Severability.** If any provision of this Agreement is held by a court or government agency of competent jurisdiction to be illegal or unenforceable, the remaining provisions of this Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid, except to the extent to do so would contravene the present valid and legal intent of the parties.

13.7 **Assignment and Delegation.** Employer may not assign this Agreement without the prior written consent of Excellus BlueCross BlueShield, and any purported assignment without such consent shall be null, void, and unenforceable. The services or other obligations to be performed by Excellus BlueCross BlueShield under this Agreement may, at its discretion, be performed directly by a related entity, or under a contract with an organization of Excellus BlueCross BlueShield's choosing, but Excellus BlueCross BlueShield shall remain liable for the services or obligations under this Agreement.

13.8 **Waiver.** Waiver of any breach of any provision of this Agreement shall be in writing and shall not be deemed a waiver of any other breach of the same or a different provision.

13.9 **Binding Effect.** This Agreement shall bind and benefit the parties and their successors and any permitted assigns.

13.10 **Interpretation of this Agreement.** Only designated officers/trustees of Employer and Excellus BlueCross BlueShield have the authority to interpret or execute any document

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pertaining to this Agreement or the arrangement between Employer and Excellus BlueCross BlueShield. Each party shall provide to the other, in accordance with the notice provisions of paragraph 13.4, the names, titles, and addresses of the officers that may be designated from time to time.

The parties' assent to the terms of this Agreement is confirmed by the following signatures.

EXCELLUS HEALTH PLAN, INC., d/b/a
EXCELLUS BLUECROSS BLUESHIELD

By:_____
Vice President - Sales

By:_____

Print Name:_____

Title:_____

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EXHIBIT A

BENEFIT BOOKLET(S)

Attached

ITEM 8

MEMORANDUM

TO: TCCOG June 2, 2009
FROM: Hancock & Estabrook, LLP
SUBJECT: Legality of Union Voting Authority on Municipal Cooperative Boards

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INTRODUCTION

We have acted as counsel to the Tompkins County Council of Governments ("TCCOG") in connection with the formation of the Greater Tompkins County Municipal Health Insurance Consortium (the "Consortium"), a self-insured health insurance municipal cooperative that will be seek certification under Article 47 of the New York Insurance Law ("Article 47"). In that capacity, we have drafted a certain Municipal Cooperation Agreement (the "Agreement"), which will serve as the Consortium's governing document. In the course of drafting the Agreement, we have researched whether the Consortium may grant labor unions (the "Unions") voting authority as part of their participation on the Consortium's governing board of directors (the "Board"). The following is a discussion of our research.

QUESTION PRESENTED

Where the governing board of a Municipal Cooperative Health Insurance Plan will necessarily make decisions impacting the assessment and expenditure of municipal public monies, is it legally permissible to grant a private organization, such as a union, voting authority on that governing board?

SHORT ANSWER

No.

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ANALYSIS

A. The legal authority governing the formation of municipal cooperatives

Article VIII, Section 1 of the New York State Constitution authorizes two or more municipalities to join together to provide any municipal service that each municipality has the authority to provide individually. *See* N.Y. CONST., ART VIII, § 1. Since Section 92-a of the New York General Municipal Law authorizes municipalities to individually purchase health insurance policies and enter into health insurance plans on behalf of their employees, *see* N.Y. GEN. MUN. L. § 92-a (McKinney 2009), Article VIII of the New York State Constitution permits those municipalities to join together to jointly provide that service.

Article 5-G of the New York State General Municipal Law provides the enabling legislation for the formation of municipal cooperatives contemplated by Article VIII of the State Constitution. Thus, Section 119-o of Article 5-G authorizes municipal corporations to "enter into, amend, cancel and terminate agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service..." *Id.* at § 119-o(1).

Article 47 of the New York State Insurance Law sets forth the specific requirements governing certain self-insured municipal cooperative health insurance plans. *See* N.Y. INS. L. §§ 4701-4714 (McKinney 2009). Article 47 places additional requirements on municipal cooperatives beyond those contained in Article 5-G. Article 47, is not however, read separately from Article 5-G, but rather the two statutory provisions must be read together. *See, e.g.,* N.Y. INS. L. § 4702 (defining a "municipal cooperative agreement" as that "authorized by article five-G of the general municipal law"). Taken together, these sections authorize multiple municipal

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corporations to enter into a cooperative health benefit plan, and establish a joint governing board to administer such a plan.

Although the Article 5-G and Article 47 authorize municipalities to form self-insurance cooperatives, these cooperatives themselves do not constitute separate legal entities. *See Rice v. Cayuga-Onondaga Healthcare Plan*, 190 A.D.2d 330, 332 (4th Dep't 1993). But rather a municipal cooperative and its governing board are merely "an extension or part of each of the participants and subject to their control." *See* Op. St. Compt. 85-67 at 100 (1985).

B. Governance of a municipal cooperative through a governing board

Section 4705 of Article 47 grants broad powers to a cooperative's governing board to take all necessary actions regarding the operation of the municipal cooperative and the administration of the health benefit plan. *See* N.Y. INS. L. § 4705. These powers include the authority to: (i) design the benefits plan; (ii) enter into an agreement with a contract administrator; (iii) purchase stop-loss insurance; (iv) establish joint reserve funds; (v) prepare the cooperative's annual budget; (vi) assess participants for additional contributions; and (vii) refund surpluses to the participants. *See id.* at § 4705(d)(1)-(7). Under Article 47, and as also authorized under Article 5-G, a governing board has near plenary power over the administration of a municipal cooperative, including, most importantly, discretion regarding the collective expenditure and allocation of public funds for the purpose of funding the joint service.

With respect to the make-up of the governing board, Article 47 requires that the cooperative agreement include a provision:

> describing the composition, number and procedures under which governing board members are chosen, provided that, for those agreements entered into after the effective date of this article, the governing board shall include representation by unions which are the exclusive collective bargaining representatives of employees covered by the plan, and that such unions shall establish and agree to the procedures by which the member or members of the governing board which represent unions are selected. . . .

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Id. at § 4705(c)(1). Because a municipal cooperative is merely extension of all the participating municipalities, the governing board must fully represent all of the participating municipalities in its decision making. *See American Re-Fuel Co. of Niagara, L.P. v. N.E. Southtowns Solid Waste Mgmt. Bd.*, 291 A.D.2d 861, 861 (4th Dep't 2002).

C. The scope of union representation on the governing board

While Article 47 indicates that the governing board of an Article 47 municipal cooperative must include some form of union representation, the statute does not elaborate upon the scope of the term "representation." *See* N.Y. INS. L. §§ 4705(a)(8), 4705(c)(1) (McKinney 2009). The original Assembly Bill 11724, which would become 1994 N.Y. Laws Article 698, originally provided that § 4705(a)(8) would simply let the municipal cooperative agreement dictate the means for selecting the governing body. *See* Op. Ins. Dep. 03-08-08 at 4 (2003). Subsequently, at the request of a number of municipal unions, the current language was inserted as part of the legislative process. *See id.* While our research has uncovered no direct authority interpreting the term "representation" or otherwise clarifying the exact scope of union participation, existing legal principles regarding the legal authority of a municipal cooperative and its governing board place distinct limitations on the ability of non-municipal actors to influence the expenditure of public funds. Indeed, it well settled that a statute may not be construed in a manner that would render its effect unconstitutional. *See, e.g., Lavalle v. Hayden*, 98 N.Y.2d 155, 161 (2002).

As a general matter, labor unions and other private entities cannot be participants in a municipal cooperative. *See* Op. St. Compt. 81-390 at 427-28 (1981). This limitation is confirmed by the plain language of both the constitutional authorization contained in Article VIII of the New York Constitution and the statutory authorization contained in Article 5-G of the

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General Municipal law, each of which specify that only municipal corporations[1] may join to form a municipal cooperative. Article 47 is no different in this regard as Section 4702(e) defines a "municipal cooperative health benefit plan" as "any plan established or maintained by two or more *municipal corporations*..." *See* N.Y. INS. L. § 4702(e)(McKinney 2009). Moreover, Article 47 does not impose financial or other obligations upon the unions that would be indicative of full participation. *See, e.g., id.* at § 4705(a)(2) (providing that participating *municipal corporations* must "agree to share the costs and assume the liabilities for [the benefits] provided under the municipal cooperative health insurance plan."). The Comptroller has opined that private actors are precluded from participating in municipal cooperatives by statute. *See* Op. St. Compt. 81-390 at 427-28; *c.f.,* Op. St. Compt. 81-214 at 228-29. Likewise, the plain language of Article VIII, Section 1 of the New York Constitution, which limits such cooperatives to governmental units, indicates that there is no constitutional authorization for such an arrangement.[2] *See* N.Y. CONST. ART. VIII, § 1.

In addition, this limitation must be considered together conceptually with premises that: (i) a municipal cooperative is no more than an extension of its individual municipal participants, *see Rice, supra*; (ii) municipal participants necessarily act jointly through the decisions of their governing board, and (iii) public entities may not delegate decisions that impact the expenditure of public funds to private actors. *See, e.g.,* Op. St. Compt. 88-46 at 92-93 (decisions regarding

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[1] GML § 119-n defines a "municipal corporation" as "a county outside the city of New York, a city, a town, a village, a board of cooperative educational services, fire district or a school district." *See* N.Y. Gen. Mun. L. § 119-n(1) (McKinney 2009). Insurance Law § 4702 defines a "municipal corporation" as "a city with a population of less than one million or a county outside the city of New York, town, village, board of cooperative educational services, school district, a public library, as defined in section two hundred fifty-three of the education law, or district, as defined in section one hundred nineteen-n of the general municipal law." *See* N.Y. INS. L. § 4702 (McKinney 2009).

[2] In addition, such an arrangement would likely be unconstitutional to the extent a private actor could direct payment of cooperative funds for its own benefit. *See* N.Y. CONST. ART. VIII, § 1; *cf.* Op. St. Compt. 81-214 at 228-29 (1981).

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the investment of public funds may not be delegated to private actors but rather must be made by the body or officer legally charged with that responsibility); Op. St. Compt. 85-67 at 99-101 (a municipal cooperative may not cede authority over any statutory function – including custody of municipal funds – to a private actor). Indeed, municipalities may not "vest in private associations or corporations authority and power affecting the life, liberty, and property of the citizens..." *See Fox v. Mohawk & H.R. Humane Soc.*, 165 N.Y. 517, 524 (1901); *see also* N.Y. CONST. ART. IX, § 2; *Fink v. Cole*, 302 N.Y. 216, 224 (1951); *Johnstown Cemetery Ass'n v. Parker*, 45 A.D. 55, 55 (3 Dep't 1899); *Fifty Park Central West Corp. v. Bastien*, 60 Misc.2d 195, 198 (N.Y. Civ. Ct. 1969).

In light of these considerations, Section § 4705 may not be construed as allowing a private actor – namely a union – to be permitted voting authority regarding the decisions of a municipal cooperative that impact the expenditure of public funds. This makes practical sense as well given that voting authority in a municipal cooperative may be tied to the quantity of revenue contributed for the services purchased by the Consortium. Indeed, under the weighted voting procedures in the draft cooperative agreement, voting strength is tied directly to the amount of revenue generated from – i.e., the amount of contracts held by – each individual participant. This voting provision is in harmony with the municipal cooperative statutes which require *pro rata* distribution of any financial obligation. Since a private actor, like a union, contributes no revenue to the municipal cooperative and assumes no risk for the debts and financial obligations of the organization, it makes little sense that the same private actor would have voting rights to bind the collective whole as to those same matters.

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CONCLUSION

As a matter of statutory construction and constitutional law, it would be improper to interpret Article 47 of the New York as permitting a private organization, like a union, to have voting authority with respect the governing body of a municipal cooperative. Article 47's requirement of union "representation" on the governing board is satisfied by union membership and participation on the governing board as a non-voting board member.

While this memorandum, and the analysis contained herein, is the result of significant research, it should not be deemed a "formal" opinion of counsel. This memorandum is intended to facilitate discussion of these matters, and should not be considered to be a formal opinion letter.

ITEM 9

The Greater Tompkins County Municipal Health Insurance Consortium
PPO Benefit Plan

Benefit Type	Benefit Description	
	• PPO In Network	• PPO Out-of-Network
WHO IS COVERED		
Type of Premium Tiers • individual • family	**2-Tier (Individual and Family)**	
Dependent Coverage • Age to which dependents covered • Age to which students covered	**Dependent to 19th Birthday** **Student to 25th Birthday**	
Domestic Partner	**Covered**	
MEDICAL NECESSITY		
Pre-Certification	**Pre-Certification Applies to:** **All Inpatient admissions, excluding maternity, home health care, infusion therapy, Durable Medical Equipment (DME) over $200, MRI, CAT scans, and PET scans.**	
COST SHARING EXPENSES		
Deductible Individual / Family	**None**	**$250 / $750**
Deductible Carry-Over Y/N	**No**	**No**
Co-Payment	**$10, except where noted**	**None**
Coinsurance	**None**	**20%, except where noted**
Annual Out-of-Pocket Maximum (includes deductible, excludes co-payment)	**None**	**$1,000/$3,000** **Includes deductible and coinsurance, no co-payment. Excludes artificial insemination and prescription drugs.**
Lifetime Benefit Maximum	**None**	**None**
HOSPITAL INPATIENT SERVICES		
Inpatient Hospital Services • Inpt. Adm. for mastectomy must be covered for as long as attending physician deems medically necessary) (Unlimited days per Calendar Year)	**Covered in Full**	**Deductible/Coinsurance**

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The Greater Tompkins County Municipal Health Insurance Consortium
PPO Benefit Plan

Benefit Type	Benefit Description	
	• PPO In Network	• PPO Out-of-Network
Acute Mental Health Care Includes Partial Hospital 3:1 days. (Mandate: 30 days per calendar year, coverage equal to Inpatient Hospital Services)	**Mandatory Rider** **Covered in Full**	**Mandatory Rider** **Deductible/Coinsurance**
Acute Mental Health Care Mandated for Biologically based Mental Illness & Children with Serious Emotional Disturbances	**Coverage is inclusive with Inpatient Hospital Services.**	
Residential Treatment	**Not Covered**	**Not Covered**
Detoxification (7 days per Calendar Year)	**Covered in Full**	**Deductible/Coinsurance**
Skilled Nursing Facility	**Covered in Full** **120 days per calendar year**	**Deductible/Coinsurance** **120 days per calendar year**
Physical Rehabilitation (60 days per Calendar Year)	**Not Covered**	**Not Covered**
Chemical Dependence and Abuse Rehabilitation (30 days per Calendar Year) (2 admissions per Life)	**Covered in Full**	**Deductible/Coinsurance**
Maternity Care (Mandated, 48 hrs regular delivery, 96 for c-section; one home care visit covered in full, not subject to any other home care visit limitations)	**Covered in Full**	**Deductible/Coinsurance**
Newborn Nursery Care	**Covered in Full**	**Deductible/Coinsurance**
Internal Prosthetics	**Included in inpatient services**	
HOSPITAL OUTPATIENT SERVICES		
Surgical Care including Surgicenters/Freestanding	**Co-Payment**	**Deductible/Coinsurance**
Pre-admission/Pre-Operative Testing (Mandated benefit; same as inpatient)	**Covered in Full**	**Deductible/Coinsurance**
Diagnostic Imaging, X-ray, CAT, MRI	**Co-Payment**	**Deductible/Coinsurance**
Diagnostic Laboratory and Pathology	**Covered in Full**	**Deductible/Coinsurance**
Radiation Therapy and Chemotherapy	**Covered in Full**	**Deductible/Coinsurance**
Hemodialysis	**Covered in Full**	**Deductible/Coinsurance**
Mammogram	**Covered in Full**	**Deductible/Coinsurance**
Cervical Cytology (Pap Smear, does not include exam)	**Covered in Full**	**Deductible/Coinsurance**
Mental Health Care (Federal Mandate – Unique financial limits no imposed on other benefits prohibited. NYS Mandate – 20 visits per calendar year combined with physician, coverage equal to diagnostic office visit, if OV not covered coverage equal to CD)	**Co-Payment**	**Deductible/Coinsurance**

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The Greater Tompkins County Municipal Health Insurance Consortium
PPO Benefit Plan

Benefit Type	Benefit Description	
	• PPO In Network	• PPO Out-of-Network
Mental Health Care Mandated for Biologically based Mental Illness & Children with Serious Emotional Disturbances	**Coverage is equivalent to Diagnostic Office visits.**	
Chemical Dependency (Mandated 60 visits, includes 20 family visits; should be on par with inpatient)	**Co-Payment**	**Deductible/Coinsurance**
Covered Therapies (Includes aggregate of [45] per calendar year of Physical, Speech, Occupational and Respiratory Therapy)	**Co-Payment**	**Deductible/Coinsurance**
Cardiac Rehabilitation	**Co-Payment**	**Deductible/Coinsurance**
HOME CARE (Mandated; benefits of not less than 40 4 hr. visits per 12 month period, no more than 25% coinsurance & no more than $50 deductible) (Unlimited visits per Calendar Year)	**Covered in Full**	**$50 Ded/20% Coins**
HOSPICE CARE (Includes 5 bereavement counseling visits) (Unlimited visits per Calendar Year)	**Covered in Full**	**Deductible/Coinsurance**
PHYSICIAN SERVICES		
Inpatient Hospital Surgery	**Covered in Full**	**Deductible/Coinsurance**
Outpatient Hospital & Ambulatory Surgery	**Covered in Full**	**Deductible/Coinsurance**
Office Surgery	**Co-Payment**	**Deductible/Coinsurance**
Covered Therapies (Includes aggregate of [45] per calendar year of Physical, Speech, Occupational and Respiratory Therapy)	**Co-Payment**	**Deductible/Coinsurance**
Anesthesia	**Covered in Full**	**Deductible/Coinsurance**
Additional Surgical Opinion (mandate)	**Co-Payment**	**Deductible/Coinsurance**
Second Medical Opinion (mandated for cancer; cover same as office visit)	**Co-Payment**	**Deductible/Coinsurance**
Normal Pregnancy	**Covered in Full**	**Deductible/Coinsurance**
Prenatal and Postpartum Care	**Co-Payment for initial visit, then covered in full**	**Deductible/Coinsurance**
Complications of Pregnancy and Termination	**Covered in Full**	**Deductible/Coinsurance**
Delivery Anesthesia	**Covered in Full**	**Deductible/Coinsurance**
In-Hospital Physician Visits (IHM for mastectomy must be covered for as long as attending physician deems medically necessary)	**Covered in Full**	**Deductible/Coinsurance**

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The Greater Tompkins County Municipal Health Insurance Consortium
PPO Benefit Plan

Benefit Type	Benefit Description	
	• PPO In Network	• PPO Out-of-Network
Physician's Office – Preventive Services		
Routine Physical Examinations (1 per Calendar Year)	**Co-Payment**	**Deductible/Coinsurance**
Well Child Visits and Immunizations (mandated visits/immunizations full coverage)	**Covered in full**	**Covered in full**
Adult Immunizations	**Not Covered**	**Not Covered**
Physician's Office - Other Services		
Diagnostic Laboratory and Pathology	**Covered in Full**	**Deductible/Coinsurance**
Eye Exams Routine	**Co-Payment** **1 per Calendar Year**	**Deductible/Coinsurance** **1 per Calendar Year**
Eyewear Routine (must purchase eye exam)	**$60 allowance** **1 per Calendar year**	**$60 allowance** **1 per Calendar year**
Eye Exams - Diagnostic	**Co-Payment**	**Deductible/Coinsurance**
Hearing Evaluations Routine	**Not Covered**	**Not Covered**
Hearing Evaluations Diagnostic	**Co-Payment**	**Deductible/Coinsurance**
Hearing Aids (Children to age 19)	**$600 allowance every 3 years**	**Not Covered**
Diagnostic Office Visits	**Co-Payment**	**Deductible/Coinsurance**
Office Consultations	**Co-Payment**	**Deductible/Coinsurance**
Diagnostic Imaging Services, X-ray, CAT, MRI, etc.	**Co-Payment**	**Deductible/Coinsurance**
Radiation Therapy and Chemotherapy	**Covered in Full**	**Deductible/Coinsurance**
Hemodialysis	**Covered in Full**	**Deductible/Coinsurance**
Mammogram (Mandated; should be on par with other basic physician services; co-payment allowed on PPO)	**Covered in Full**	**Deductible/Coinsurance**
Routine GYN Visits including Pap Smear (Mandated; same as other basic physician services; co-payment allowed on PPO)	**Covered In Full, including Lab**	**Deductible/Coinsurance**
Diagnostic GYN Visits	**Co-Payment**	**Deductible/Coinsurance**
Prostate Cancer Screenings (Mandated if office visits covered; coverage must be equal to office visits)	**Co-Payment**	**Deductible/Coinsurance**
Allergy Testing and Treatment (Injections are inclusive)	**Co-Payment – Testing** **Covered In Full – Treatment**	**Deductible/Coinsurance**

ITEM 9

The Greater Tompkins County Municipal Health Insurance Consortium
PPO Benefit Plan

Benefit Type	Benefit Description	
	• PPO In Network	• PPO Out-of-Network
Mental Health Care (Federal Mandate – Unique financial limits not imposed on other benefits prohibited. NYS Mandate – 20 visits per calendar year combined with physician, coverage equal to diagnostic office visit.)	**Co-Payment**	**Deductible/Coinsurance**
Mental Health Care Mandated for Biologically based Mental Illness & Children with Serious Emotional Disturbances	**Coverage is equivalent to Diagnostic Office visits.**	
Chiropractic Care (Mandated if office visits covered; coverage must be equal to office visits)	**Co-Payment**	**Deductible/Coinsurance**
Inpatient Consultations	**Covered in Full**	**Deductible/Coinsurance**
Infertility Care (Mandated if inpatient hospital, medical/surgery covered)	**Covered same as similar services under benefit plan – i.e. labs see Diagnostic Laboratory and Pathology benefit, office visit see Diagnostic Office visit benefit.**	
Bone Density Testing (Mandated if x-ray covered; coverage must be equal office visit or x-ray benefit, whichever is better benefit)	**Co-Payment**	**Deductible/Coinsurance**
ADDITIONAL BENEFITS		
Treatment of Diabetes (Insulin & Supplies) Education and DME (Mandated if physician office visits covered; must be covered equal to office visits for a 30 day supply)	**Co-Payment**	**Deductible/Coinsurance**
Durable Medical Equipment (DME)	**20% Coinsurance**	**Deductible/Coinsurance**
External Prosthetics/Orthotics (foot orthotics excluded) ($15,000 max per Calendar Year)	**Included in DME Benefit**	
Medical Supplies	**20% Coinsurance**	**Deductible/Coinsurance**
Foot Orthotics	**Not Covered**	**Not Covered**
Ambulance Service (Includes air)	**Co-Payment**	**Deductible/Coinsurance**
Pre-Hospital Emergency Services/Transportation (Mandated for ambulance, coverage must be equal to or better than emergency benefit. Excludes air.)	**Co-Payment**	
Acupuncture (10 visits per Calendar Year)	**Not Covered**	**Not Covered**
Prescription Drugs (If Rx covered, enteral nutrition mandated; coverage must be equal to all other drugs; certain formulas capped at $2,500 annually.)	**Covered – see RX options**	**Not covered**
EMERGENCY SERVICES (Emergency Condition Mandated; coverage on par with inpatient; copayment allowed for POS/PPO; O/N benefit for Emergency Condition must be same covered same as I/N)		

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The Greater Tompkins County Municipal Health Insurance Consortium
PPO Benefit Plan

Benefit Type	Benefit Description	
	• PPO In Network	• PPO Out-of-Network
Facility – Emergency Room	**$35 Co-Payment**	
Freestanding Urgent Care Center	**$25 Co-Payment**	**Deductible/Coinsurance**
Physician's Hospital Emergency Room Visit	**Covered in Full**	
WAITING PERIODS		
Pre-Existing Condition Waiting Period	**No – waived**	
CLUSIONS: The following are common exclusions that will apply. Indicate if coverage should be provided and the applicable deductible/copayment/coinsurance.		
Acupuncture	**Excluded**	
Blood products	**Excluded**	
Certification Examinations	**Excluded**	
Cosmetic Services	**Excluded**	
Custodial Care	**Excluded**	
Dental (non-accidental services)	**Excluded**	
Developmental Delay	**Excluded**	
Experimental and Investigational Services	**Excluded**	
Free Care	**Excluded**	
Hypnosis/Biofeedback	**Excluded**	
Military Service-Connected Conditions	**Excluded**	
No-Fault Automobile Insurance	**Excluded**	
Nutritional Therapy	**Excluded**	
Private Duty Nursing	**Excluded**	
Reproductive Procedures	**Excluded**	
Reversal of elective sterilization	**Excluded**	
Routine Care of the Feet	**Excluded**	
Self-Help Diagnosis, Training, and Treatment	**Excluded**	
Smoking Cessation Programs	**Excluded**	
Transsexual Surgery and Related Services	**Excluded**	
Weight Loss Services	**Excluded**	

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The Greater Tompkins County Municipal Health Insurance Consortium
PPO Benefit Plan

Consortium Options Available

Consortium Plan Options	Co-Payments Per Service "Office"	Emergency Room
Co-Payment Plan 1 (Current Plan)	$10.00	$35.00
Co-Payment Plan 2 (Current Plan)	$15.00	$50.00
Co-Payment Plan 3 (Current Plan)	$20.00	$50.00
Co-Payment Plan 4	$25.00	$50.00

	Retail Pharmacy Benefit			Mail-Order Benefit		
Possible Consortium Plan Options	Tier I	Tier II	Tier III	Tier I	Tier II	Tier III
2-Tier Plan 1 (Current Plan)	$1.00	$1.00	$1.00	$0.00	$0.00	$0.00
2-Tier Plan 2 (Current Plan)	$2.00	$5.00	$5.00	$0.00	$0.00	$0.00
2-Tier Plan 3 (Current Plan)	$2.00	$10.00	$10.00	$0.00	$0.00	$0.00
2-Tier Plan 4	$0.00	$15.00	$15.00	$0.00	$30.00	$30.00
2-Tier Plan 5	$5.00	$15.00	$15.00	$10.00	$30.00	$30.00
2-Tier Plan 6	$5.00	$20.00	$20.00	$10.00	$40.00	$40.00
3-Tier Plan 1 (Current Plan)	$5.00	$10.00	$25.00	$10.00	$20.00	$50.00
3-Tier Plan 2 (Current Plan)	$5.00	$10.00	$25.00	$15.00	$30.00	$75.00
3-Tier Plan 3 (Current Plan)	$5.00	$15.00	$30.00	$10.00	$30.00	$60.00
3-Tier Plan 4 (Current Plan)	20%	30%	50%	20%	30%	50%
3-Tier Plan 5	$0.00	$5.00	$20.00	$0.00	$10.00	$40.00
3-Tier Plan 6	$5.00	$20.00	$35.00	$10.00	$40.00	$70.00
3-Tier Plan 7	$10.00	$20.00	$35.00	$20.00	$40.00	$70.00
3-Tier Plan 8	$15.00	$30.00	$45.00	$30.00	$60.00	$90.00

Note: This benefit grid provides a summary of benefits only and does not, nor is it intended to, replace the legal contract.

*Payments for all out-of-network benefits are based on participating provider allowances. Any difference between the allowance and the out-of-network provider's actual charge is the responsibility of the member, in addition to any applicable deductible, copayment or coinsurance amounts.

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The Greater Tompkins County Municipal Health Insurance Consortium
Indemnity Benefit Plan

Benefit Type	Benefit Description	
WHO IS COVERED		
Type of Premium Tiers • individual • family	**2-Tier (Individual and Family)**	
Dependent Coverage • Age to which dependents covered • Age to which students covered	**Dependent to 19th Birthday** **Student to 25th Birthday**	
Domestic Partner	**Covered**	
WAITING PERIODS Pre-Existing Condition Waiting Period	**No – waived**	
Pre-Certification	**Not Required**	
COST SHARING EXPENSES		
Deductible Individual / Family	**Group Specific**	**When services are rendered by an Out of Network Provider, member is responsible for difference between in-network Allowed Amount and the Out of Network provider charge.**
Deductible Carry-Over Y/N	**Yes**	
Coinsurance	**20% of Allowed Amount**	
Annual Out-of-Pocket Maximum (excludes deductible, and co-payments)	**Group Specific**	
Lifetime Benefit Maximum	**Group Specific**	
Benefit Type	**Benefit Description**	
BASIC COVERAGE	***In Network***	***Out of Network***
Inpatient Hospital Services • Inpatient Admission for mastectomy must be covered for as long as attending physician deems medically necessary) (365 days per Calendar Year)	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Acute Mental Health Care Includes Partial Hospital 3:1 days. (Mandate: 30 days per calendar year, coverage equal to Inpatient Hospital Services)	**Mandatory Rider** **Covered in Full – 30 Inpatient Days**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount – 30 Days**

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The Greater Tompkins County Municipal Health Insurance Consortium
Indemnity Benefit Plan

Benefit Type	Benefit Description	
Acute Mental Health Care Mandated for Biologically based Mental Illness & Children with Serious Emotional Disturbances	**Coverage is inclusive with Inpatient Hospital Services.**	
BASIC COVERAGE (Continued)	***In Network***	***Out of Network***
Residential Treatment	**Not Covered**	**Not Covered**
Inpatient Detoxification (7 days per Calendar Year)	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Skilled Nursing Facility	**Covered in Full** **365 days per calendar year**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount** – 365 Days
Inpatient Physical Rehabilitation	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Inpatient Chemical Dependence and Abuse Rehabilitation (49 days per Calendar Year)	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Inpatient Maternity Care (Mandated, 48 hrs regular delivery, 96 for c-section; one home care visit covered in full, not subject to any other home care visit limitations)	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Newborn Nursery Care	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Internal Prosthetics	**Included in inpatient services**	
MEDICAL/SURGICAL COVERAGE	***In Network***	***Out of Network***
Surgical Care including Surgicenters/Freestanding	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Pre-admission/Pre-Operative Testing (Mandated benefit; same as inpatient)	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Diagnostic Imaging, Diagnostic Testing, X-ray, CAT, MRI	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Diagnostic Laboratory and Pathology	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Radiation Therapy and Chemotherapy	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Hemodialysis	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Routine Mammogram	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Cervical Cytology (Pap Smear, does not include exam)	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Chemical Dependency (Mandated 60 visits, includes 20 family visits; should be on par with inpatient)	**Covered in Full** **60 Visits**	**Covered in full – 60 Visits Member responsible for difference between Provider Charge and Allowed Amount**

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The Greater Tompkins County Municipal Health Insurance Consortium
Indemnity Benefit Plan

Benefit Type	Benefit Description	
Physical Therapy/Respiratory Therapy	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Surgery/Assistant Surgeon	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
MEDICAL/SURGICAL COVERAGE (Continued)	***In Network***	***Out of Network***
Cardiac Rehabilitation	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Home Health Care	**Covered in Full – 40 Visits**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount – 40 Visits**
Hospice Care (Includes 5 bereavement counseling visits) (210 visits per Calendar Year)	**Covered in Full**	**80% – Member responsible for difference between Provider Charge and Allowed Amount**
Emergency Room	**Covered in Full**	**Covered in Full**
Ambulance	**Deductible/80%**	**Deductible/80%**
Urgent Care	**Covered in Full**	**Covered in Full**
MAJOR MEDICAL COVEAGE	***In Network***	***Out of Network***
Inpatient Hospital – Additional Days	**Covered in Full**	**Coinsurance**
Skilled Nursing – Additional Days	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Elective Sterilization	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Surgery – IP Physician	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Surgery – OP Physician	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Consultation - Inpatient	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Anesthesia	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Additional Surgical Opinion (mandate)	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
In Hospital Medical Care	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Emergency Care	**Covered in Full**	**Covered in Full**
Adult Routine Physical 1 Per Calendar Year	**Covered in Full**	**Not Covered**
X-rays	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**
Lab Tests	**Covered in Full**	**Covered in full – Member responsible for difference between Provider Charge and Allowed Amount**

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The Greater Tompkins County Municipal Health Insurance Consortium
Indemnity Benefit Plan

Benefit Type	Benefit Description	
Maternity	**Covered in Full**	Covered in full – Member responsible for difference between Provider Charge and Allowed Amount
In-Hospital Physician Visits (IHM for mastectomy must be covered for as long as attending physician deems medically necessary)	**Covered in Full**	Covered in full – Member responsible for difference between Provider Charge and Allowed Amount
Skilled Nursing Care	**Covered in Full**	Covered in full – Member responsible for difference between Provider Charge and Allowed Amount
MAJOR MEDICAL COVERAGE (Continued)	***In Network***	***Out of Network***
Well Child Visits and Immunizations (mandated visits/immunizations full coverage)	**Covered in full**	**Covered in full**
Adult Immunizations	**Not Covered**	**Not Covered**
Cervical Cancer Screen	**Covered in Full**	Covered in full – Member responsible for difference between Provider Charge and Allowed Amount
Chemotherapy	**Covered in Full**	Covered in full – Member responsible for difference between Provider Charge and Allowed Amount
Office Visits	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Chiropractic Visits	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Eye Exams - Diagnostic	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Hearing Evaluations Routine	**Not Covered**	**Not Covered**
Hearing Aids	**Not Covered**	**Not Covered**
Durable Medical Equipment	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Prosthetics	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Medical Supplies – including Diabetic Equipment and Supplies	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Office Consultations	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Home Care 325 Visit Max	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Prostate Cancer Screenings (Mandated if office visits covered; coverage must be equal to office visits)	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount

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The Greater Tompkins County Municipal Health Insurance Consortium
Indemnity Benefit Plan

Benefit Type	Benefit Description	
Routine GYN Visits including Pap Smear (Mandated; same as other basic physician services; co-payment allowed on PPO)	**Covered In Full, including Lab**	Covered in full – Member responsible for difference between Provider Charge and Allowed Amount
Diagnostic GYN Visits	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
MAJOR MEDICAL COVERAGE (Continued)	***In Network***	***Out of Network***
Speech Therapy	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Allergy Testing and Treatment (Injections are inclusive)	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Mental Health Care (Federal Mandate – Unique financial limits not imposed on other benefits prohibited. NYS Mandate – 20 visits per calendar year combined with physician, coverage equal to diagnostic office visit,)	**Deductible/Coinsurance**	**Deductible/Coinsurance** - Member responsible for difference between Provider Charge and Allowed Amount
Mental Health Care Mandated for Biologically based Mental Illness & Children with Serious Emotional Disturbances	**Coverage is equivalent to Diagnostic Office visits.**	
Prescription Drugs (If Rx covered, enteral nutrition mandated; coverage must be equal to all other drugs; certain formulas capped at $2,500 annually.)	**Covered – see RX options**	**Not covered**
CLUSIONS:		
Acupuncture	**Excluded**	
Blood products	**Excluded**	
Certification Examinations	**Excluded**	
Cosmetic Services	**Excluded**	
Custodial Care	**Excluded**	
Dental (non-accidental services)	**Excluded**	
Developmental Delay	**Excluded**	
Experimental and Investigational Services	**Excluded**	
Free Care	**Excluded**	
Hypnosis/Biofeedback	**Excluded**	
Military Service-Connected Conditions	**Excluded**	
No-Fault Automobile Insurance	**Excluded**	
Nutritional Therapy	**Excluded**	
Private Duty Nursing	**Excluded**	
Reproductive Procedures	**Excluded**	
Reversal of elective sterilization	**Excluded**	
Routine Care of the Feet	**Excluded**	
Self-Help Diagnosis, Training, and Treatment	**Excluded**	
Smoking Cessation Programs	**Excluded**	
Transsexual Surgery and Related Services	**Excluded**	
Weight Loss Services	**Excluded**	

The Greater Tompkins County Municipal Health Insurance Consortium
Indemnity Benefit Plan

Note: This benefit grid provides a summary of benefits only and does not, nor is it intended to, replace the legal contract.

*Payments for all out-of-network benefits are based on participating provider allowances. Any difference between the allowance and the out-of-network provider's actual charge is the responsibility of the member, in addition to any applicable deductible, copayment or coinsurance amounts.

Consortium Options Available

	Major Medical Deductibles	
Consortium Plan Options	**Individual**	**Family**
Deductible Plan 1 (Current Plan)	$50.00	$150.00
Deductible Plan 2 (Current Plan)	$100.00	$200.00
Deductible Plan 3 (Current Plan)	$100.00	$250.00
Deductible Plan 4 (Current Plan)	$100.00	$300.00
Deductible Plan 5	$150.00	$450.00
Deductible Plan 6	$250.00	$750.00

	Out of Pocket Maximums	
Consortium Plan Options	**Individual**	**Family**
Out –of-Pocket Plan 1 (Current Plan)	$ 400.00	$1,200.00
Out –of-Pocket Plan 2 (Current Plan)	$ 750.00	$3,750.00
Out –of-Pocket Plan 3	$1,000.00	$3,000.00
Out –of-Pocket Plan 4	$1,500.00	$4,500.00

Consortium Plan Options	**Lifetime Maximums**
Lifetime Maximum Plan 1 (Current Plan)	$1,000,000
Lifetime Maximum Plan 2 (Current Plan)	$2,000,000
Lifetime Maximum Plan 3	Unlimited

	Retail Pharmacy Benefit			**Mail-Order Benefit**		
Possible Consortium Plan Options	**Tier I**	**Tier II**	**Tier III**	**Tier I**	**Tier II**	**Tier III**
2-Tier Plan 1 (Current Plan)	$1.00	$1.00	$1.00	$0.00	$0.00	$0.00
2-Tier Plan 2 (Current Plan)	$2.00	$5.00	$5.00	$0.00	$0.00	$0.00
2-Tier Plan 3 (Current Plan)	$2.00	$10.00	$10.00	$0.00	$0.00	$0.00
2-Tier Plan 4	$0.00	$15.00	$15.00	$0.00	$30.00	$30.00
2-Tier Plan 5	$5.00	$15.00	$15.00	$10.00	$30.00	$30.00
2-Tier Plan 6	$5.00	$20.00	$20.00	$10.00	$40.00	$40.00
3-Tier Plan 1 (Current Plan)	$5.00	$10.00	$25.00	$10.00	$20.00	$50.00
3-Tier Plan 2 (Current Plan)	$5.00	$10.00	$25.00	$15.00	$30.00	$75.00
3-Tier Plan 3 (Current Plan)	$5.00	$15.00	$30.00	$10.00	$30.00	$60.00
3-Tier Plan 4 (Current Plan)	20%	30%	50%	20%	30%	50%
3-Tier Plan 5	$0.00	$5.00	$20.00	$0.00	$10.00	$40.00
3-Tier Plan 6	$5.00	$20.00	$35.00	$10.00	$40.00	$70.00
3-Tier Plan 7	$10.00	$20.00	$35.00	$20.00	$40.00	$70.00
3-Tier Plan 8	$15.00	$30.00	$45.00	$30.00	$60.00	$90.00

GREATER
TOMPKINS COUNTY MUNICIPAL
HEALTH INSURANCE CONSORTIUM

Municipalities building a
stable insurance future.

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