

APPROVED AS TO LEGAL FORM  
12/2/13  
ConnectYourCare

## BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE AGREEMENT (hereinafter the "Agreement") is made and entered into by and between City of Grand Island (hereinafter "Client") and CONNECTYOURCARE, LLC (hereinafter "CYC") as of the 21<sup>st</sup> day of November, 2013 (hereinafter the "Effective Date"). The services provided by CYC to Client may involve the use and disclosure of health information that is protected by federal law as defined below (hereinafter "Protected Health Information"). Therefore, the parties desire to enter into this Agreement in order to set forth the obligations regarding the Protected Health Information.

1. **Definitions.** As used herein, the following capitalized terms shall have the meanings indicated:

- a) **Accounting of Disclosures.** "Accounting of Disclosures" shall mean a written accounting of disclosures of Protected Health Information as articulated in 45 C.F.R. § 164.528.
- b) **Breach.** "Breach" shall have the same meaning as the term "breach" at 45 C.F.R. 164.402, including without limitation, the unauthorized acquisition, access, use, or disclosure of Protected Health Information which compromises the security or privacy of such Protected Health Information. A "Breach" shall not include the following:
  - i) any unintentional acquisition, access, or use of Protected Health Information by an employee or person acting under the authority of Client or CYC, as long as such acquisition, access, or use was made in good faith and within the scope of such employee's or person's authority with Client or CYC, provided that such information is not further used or disclosed in an unauthorized manner;
  - ii) an inadvertent disclosure by a person who is otherwise authorized to access Protected Health Information at Client or CYC to another similarly situated person at the same Client or CYC, provided that any such information received as a result of such disclosure is not further used or disclosed in an unauthorized manner; or
  - iii) a disclosure of Protected Health Information where Client or CYC has a good faith belief that an unauthorized person to whom the disclosure was made would reasonably have been able to obtain such information.
- c) **Business Associate Agreement.** "Business Associate Agreement" shall mean an agreement that sets forth the obligations regarding the acquisition, access, use, and disclosure of Protected Health Information between the parties to such agreement.
- d) **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.

- e) Electronic Health Record. "Electronic Health Record" shall mean an electronic record of health-related information on an Individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- f) Electronic Protected Health Information. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to the information created, maintained, transmitted, or received by CYC (or any agent or subcontractor thereof) from or on behalf of Client.
- g) Health Plan. "Health Plan" shall have the same meaning as the term "Health Plan" at 45 C.F.R. § 160.103.
- h) HIPAA. "HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, as amended, and the implementation regulations thereunder, including, without limitation, the HITECH Standards (as defined below), and all future regulations promulgated thereunder.
- i) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- j) HITECH. "HITECH" shall mean the Health Information Technology for Economic and Clinical Health Act, found at Title XIII of the American Recovery and Reinvestment Act of 2009, and any regulations promulgated thereunder.
- k) HITECH Standards. "HITECH Standards" shall mean Subtitle D of the Health Information Technology for Economic and Clinical Health Act, and any regulations promulgated thereunder, including all amendments to the HIPAA Rules.
- l) Individual. "Individual" shall have the same meaning as the term "individual" at 45 C.F.R. § 160.103, and any amendments thereto, and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- m) Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164.
- n) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, and any amendments thereto, limited to the information created, maintained, transmitted, or received by CYC (or any agent or subcontractor thereof) from or on behalf of Client.
- o) Required By Law. "Required By Law" shall have the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- p) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- q) Security Incident. "Security Incident" shall have the same meaning as the term "security incident" at 45 C.F.R. § 164.304.

- r) Security Rule. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Parts 160, 162, and 164.
- s) Unsecured Protected Health Information. "Unsecured Protected Health Information" shall mean Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary.
- t) Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule, the Security Rule, the HITECH Standards, or other HIPAA Rules or any future regulations promulgated or guidance issued by the Secretary thereunder.

## 2. Relationship of the Parties.

In the performance of the work, duties and obligations described in this Agreement or under any other agreement between the parties, the parties acknowledge and agree that each party is at all times acting and performing as an independent contractor and at no time shall the relationship between the parties be construed as a partnership, joint venture, employment, principal/agent relationship, or master/servant relationship.

## 3. Ownership of Protected Health Information.

CYC acknowledges that all right, title and interest in and to any Protected Health Information furnished to CYC vests solely and exclusively with Client or the Individual to whom such Protected Health Information relates.

## 4. Obligations and Activities of CYC.

- a) CYC agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement, any underlying agreement between the parties, or as Required By Law.
- b) CYC will make reasonable efforts to limit requests for and the use and disclosure of Protected Health Information to the minimum necessary, and as applicable, in accordance with the regulations and guidance issued by the Secretary on what constitutes the minimum necessary for CYC to perform its obligations to Client under this Agreement, any underlying agreement, or as Required By Law.
- c) CYC agrees to use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as provided for by this Agreement.
- d) CYC agrees to mitigate, to the extent practicable, any harmful effect that is known to CYC of a use or disclosure of Protected Health Information by CYC in violation of the requirements of this Agreement.
- e) CYC agrees to report to Client any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware. To the extent that CYC creates, receives, maintains or transmits Electronic Protected Health Information, CYC agrees to report as soon as practicable to Client any Security Incident, as determined by CYC, involving Protected Health Information of which CYC becomes aware. At the request of Client, CYC shall identify the

date of the Security Incident, the scope of the Security Incident, CYC's response to the Security Incident and the identification of the party responsible for causing the Security Incident, if known.

- f) CYC shall notify Client without unreasonable delay, and in no event later than sixty (60) calendar days after, if it or any of its employees or agents discovers a Breach of Unsecured Protected Health Information. Such notification shall include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by CYC to have been, accessed, acquired, used, or disclosed during the Breach and any other information available to CYC about the Breach which Client is required to include in the notification of the Breach provided to the Individual in accordance with 45 C.F.R. §164.404(c). A Breach of Unsecured Protected Health Information shall be treated as discovered as of the first day on which such Breach is known or should have been known by CYC.
- g) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- h) CYC agrees to provide access, at the request of Client, and in a time and manner mutually acceptable to CYC and Client, to Protected Health Information in a Designated Record Set to Client, or, as directed by Client, to an Individual, in order to meet the requirements under 45 C.F.R. § 164.524.
- i) CYC agrees to make any amendment(s) to Protected Health Information in its possession contained in a Designated Record Set that Client directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Client or an Individual, and in a time and manner mutually acceptable to CYC and Client.
- j) CYC agrees to document disclosures of Protected Health Information and information related to such disclosures as would be required for Client to respond to a request by an Individual for an Accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
- k) Within ten (10) business days (or such other date that CYC and Client may reasonably agree upon) of receiving written notice from Client that Client has received a request for an Accounting of Disclosures of Protected Health Information, CYC agrees to provide to Client information collected to permit Client to make the Accounting of Disclosures required in accordance with 45 C.F.R. § 164.528.
- l) CYC agrees to honor any restriction to the use or disclosure of Protected Health Information that Client has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect CYC's use or disclosure of Protected Health Information, upon written notice by Client to CYC. Specifically, effective February 17, 2010, upon written notice from Client that an Individual has made a request to restrict the disclosure of the Individual's Protected Health Information,

CYC must comply with the requested restriction if, except as otherwise Required by Law, the disclosure is to a Health Plan for purposes of carrying out payment or health care operations and the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

- m) CYC agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by CYC on behalf of Client, available to the Secretary for purposes of determining Client's compliance with the Privacy Rule. Any release of information regarding CYC's practices, books and records is proprietary to CYC and shall be treated as confidential and shall not be further disclosed without the written permission of CYC, except as necessary to comply with the HIPAA Rules.
- n) Beginning effective February 17, 2010, if CYC uses or maintains Protected Health Information in an Electronic Health Record, CYC must provide access to such information in an electronic format if so requested by an Individual. Any fee that CYC may charge for such electronic copy shall not be greater than CYC's labor costs in responding to the request.
- o) Beginning effective February 17, 2010, CYC shall not engage in any marketing activities toward or communications with any Individual unless such marketing activities or communications are allowed by the terms of this Agreement or a separate underlying agreement between the parties, and are made in accordance with the HITECH Standards or any future regulations promulgated thereunder. Notwithstanding the foregoing, any payment for marketing activities shall be made in accordance with the HITECH Standards or any future regulations promulgated thereunder.
- p) Beginning effective February 17, 2010, if CYC knows of, or becomes aware of, a pattern of activity or practice of Client that constitutes a material breach or violation of Client's obligations under this Agreement, CYC shall take reasonable steps to cure the breach or end the violation, as applicable, and if such steps are unsuccessful shall terminate this Agreement, if feasible, or, if termination is not feasible, report the problem to the Secretary.
- q) Beginning effective February 17, 2010, CYC shall abide by the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, specifically the Administrative Safeguards at 45 C.F.R. § 164.308, the Physical Safeguards at 45 C.F.R. § 164.310, the Technical Safeguards at 45 C.F.R. § 164.312, and the Policies and Procedures and Documentation Requirements at 45 C.F.R. § 164.316. CYC shall further abide by the most current guidance on the most effective and appropriate Technical Safeguards as issued by the Secretary.
- r) Beginning effective February 17, 2010, CYC shall not receive remuneration, directly or indirectly, in exchange for any Protected Health Information, unless so allowed by the terms of this Agreement or a separate underlying agreement

between the parties and in accordance with the HITECH Standards and any future regulations promulgated thereunder.

- s) As of the compliance date set forth in the regulations promulgated under HITECH or as otherwise determined by the Secretary, in addition to the accounting of disclosure obligations required under 45 C.F.R. § 164.528, CYC shall account for all disclosures of Protected Health Information made through an Electronic Health Record for treatment, payment, and health care operations activities in accordance with the HITECH Standards and any future regulations promulgated thereunder.
- t) To the extent that CYC is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, CYC shall comply with the requirements of Subpart E that apply to Client in the performance of such obligation(s).

#### **5. General Use and Disclosure Provisions.**

Except as otherwise limited in this Agreement:

- a) CYC may only use or disclose protected health information as necessary to perform the services set forth in the underlying service agreement.
- b) CYC may use or disclose protected health information as required by law.
  - i) CYC may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Client, except for the specific uses and disclosures set forth below: CYC may use protected health information for the proper management and administration of CYC or to carry out the legal responsibilities of CYC.
  - ii) CYC may disclose Protected Health Information in its possession for the proper management and administration of CYC, provided that disclosures are Required by Law, or CYC obtains reasonable assurances from the third party to whom the information is disclosed that such Protected Health Information will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the third party, and the third party notifies CYC of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.
  - iii) CYC may provide data aggregation services relating to the health care operations of the Client.
- c) The provisions of this Section 5 shall be subject to the minimum necessary requirements of Section 4(b).

#### **6. Obligations of Client.**

- a) Client shall notify CYC of any limitation(s) in its notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect CYC's use or disclosure of Protected Health Information.
- b) Client shall notify CYC, in writing and in a timely manner, of any change in or revocation of permission by an Individual to use or disclose Protected Health



Information, to the extent that such change may affect CYC's permitted or required use or disclosure of Protected Health Information.

- c) Client shall notify CYC, in writing and in a timely manner, of any restriction to the use and/or disclosure of Protected Health Information, which Client has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect CYC's use or disclosure of Protected Health Information.
- d) Client shall enter into a Business Associate Agreement with any third party (e.g., case managers, brokers or third party administrators) to which Client directs and authorizes CYC to disclose Protected Health Information.

**7. Permissible Requests by Client.**

Client shall not request CYC to use or disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if performed by Client.

**8. Term and Termination.**

- a) Term. The term of this Agreement shall commence on the Effective Date, and shall terminate when all of the Protected Health Information provided by Client to CYC, or created or received by CYC on behalf of Client, is destroyed or returned to Client, or, if it is not feasible to return or destroy the Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- b) Termination for Cause. Upon Client's knowledge of a material breach by CYC, Client shall either:
  - i) Provide an opportunity for CYC to cure the breach or end the violation within thirty (30) calendar days, and if CYC does not cure the breach or end the violation within thirty (30) calendar days, terminate this Agreement;
  - ii) Immediately terminate this Agreement if CYC has breached a material term of this Agreement and cure is not possible; or
  - iii) If neither termination nor cure is feasible, Client shall report the violation to the Secretary.
- c) Effect of Termination.
  - i) Except as provided in paragraph (ii) of this Section 8(c), upon termination of this Agreement for any reason, CYC shall return or destroy all Protected Health Information received from Client, or created or received by CYC on behalf of Client. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of CYC. CYC shall not retain copies of the Protected Health Information.
  - ii) In the event that CYC determines that returning or destroying the Protected Health Information is not feasible, CYC shall provide to Client notification of the conditions that make return or destruction not feasible.

Upon determination that return or destruction of Protected Health Information is not feasible, CYC shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction not feasible, for so long as CYC maintains such Protected Health Information.

**9. Standards for Electronic Transactions.**

- a) In connection with CYC's obligations pursuant to this Agreement or a separate underlying agreement between the parties, CYC agrees that if it (or an agent or subcontractor) conducts an electronic transmission for which the Secretary has established a standard transaction as identified in 45 C.F.R. §§ 162.1101 through 162.1802, CYC (or its agent or subcontractor) shall comply with the requirements of the those standards. CYC specifically represents that it has obtained such compliance.
- b) CYC agrees that, in connection with the transmission of standard transactions, it will not (and will not permit any agent or subcontractor with which it might contract to):
  - i) change the definition, data condition, or use of a data element or segment in a standard;
  - iii) add any data elements or segments to the maximum defined data set;
  - iii) use any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the standard's implementation specification; or
  - iv) change the meaning or intent of the standard's implementation specification(s).
- c) CYC understands that Client reserves the right to request an exception from the uses of a standard as permitted by 45 C.F.R. § 162.940, and, if such an exception is sought, CYC agrees to participate in a test modification as articulated in that regulation.
- d) CYC understands and agrees that from time to time, the Secretary might modify the standard transactions now identified in 45 C.F.R. §§ 162.1101 through 162.1802. CYC (and any agent or subcontractor) agrees to abide by any changes to such standard transactions that might be applicable to the CYC's obligations under this Agreement or a separate underlying agreement between the parties.

**10. Miscellaneous.**

- a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended and for which compliance is required.
- b) Amendment. No change, amendment, or modification of this Agreement shall be valid unless set forth in writing and agreed to by both parties. Notwithstanding the

foregoing, the parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. The parties specifically agree to take such action as may be necessary from time to time for the parties to comply with the requirements of HIPAA. CYC shall provide written notice to Client to the extent that any final regulation or amendment to final regulations promulgated by the Secretary under HITECH requires an amendment to this Agreement to comply with HIPAA. Such written

- c) notice shall include the proposed language of such amendment that is required by any such final regulation and the Agreement shall be automatically amended to incorporate the proposed amendment provided by CYC to Client, unless Client objects to such amendment, in writing, within fifteen (15) calendar days of receipt of the written notice. In the event that Client objects timely to the amendment, the parties shall work in good faith to reach an agreement on an amendment to the Agreement that complies with the final regulations. If the parties are unable to reach an agreement regarding amendment to the Agreement within thirty (30) calendar days of the date that CYC receives written objection from the Client, CYC may terminate this Agreement upon ninety (90) calendar day's written notice to Client.
- d) Survival. The respective rights and obligations of CYC under Section 8(c) of this Agreement shall survive the termination of this Agreement, unless expressly stated otherwise.
- e) Interpretation. Any ambiguity in this Agreement shall be resolved to permit Client and CYC to comply with HIPAA.
- f) Notice. Any notice, report or other communication required under this Agreement shall be in writing and shall be delivered personally, emailed, sent by facsimile transmission, or sent by U.S. mail.
- g) Governing Law. The rights, duties and obligations of the parties to this Agreement and the validity, interpretation, performance and legal effect of this Agreement shall be governed and determined by applicable federal law with respect to the Privacy Rule and Security Rule and otherwise by the laws of the state of Nebraska.

(SIGNATURES ON THE FOLLOWING PAGE)



IN WITNESS WHEREOF, (CLIENT NAME) and CONNECTYOURCARE, LLC have each caused this Agreement to be executed by its duly authorized representative.

(CLIENT NAME) Authorized By:

CONNECTYOURCARE, LLC Authorized By:

Jay Vavricek

R. Jamie Spriggs

Name

Name

Authorized Signature

Authorized Signature

Mayor

Chief Executive Officer

Title

Title

Date

12/3/13

Date

12-2-13

Stacy R. Winkof Asst. City Attorney  
12-3-13

## ADMINISTRATIVE SERVICES AGREEMENT

APPROVED AS TO LEGAL FORM  
11/21/13  
ConnectYourCare

This AGREEMENT is made and entered into by and between ConnectYourCare, LLC. ("ConnectYourCare") with its headquarters at 307 International Circle, Suite 200, Hunt Valley, MD 21030 and City of Grand Island ("Employer"), with its headquarters at Grand Island Nebraska.

"Code" refers to the Internal Revenue Code of 1986, as amended.

Employer represents and ConnectYourCare acknowledges that:

- Whereas, Employer may choose to offer to its employees various types of health savings programs;
- Whereas, Employer may offer to its employees a Health Reimbursement Arrangement ("HRA") as described in the regulations underlying Code § 105 and 106;
- Whereas, Employer may offer to its employees a Health Flexible Spending Arrangement ("FSA") as described in the regulations underlying Code § 125;
- Whereas, Employer may offer to its employees a Dependent Care Assistance Program ("DCAP") Flexible Spending Arrangement as described in Code § 129 and regulations underlying Code § 125;
- Whereas, the above are collectively referred to as "The Program" or "The Programs;"
- Whereas, Employer may offer to its employees a Health Savings Account ("HSA") described in Code § 223;
- Whereas, the HSA is funded by a related trust (the "Trust") which is intended to satisfy the requirements of Code § 223 and for which HSA Bank serves as trustee ("Trustee");
- Whereas, Employer's employees may elect to enroll in an HSA under the terms set forth in the HSA Bank Health Savings Account (HSA) Enrollment Form and Agreements;
- Whereas, Employer desires ConnectYourCare to provide, in conjunction with the Trustee, certain assistance to Employer in connection with the HSA, all as more fully described in this Agreement, and ConnectYourCare is willing to provide those services;
- Whereas, Employer desires ConnectYourCare to perform certain administrative services with respect to the Program and the HSA as more fully described in this Agreement, and ConnectYourCare is willing to perform those services.

In consideration of the promises and mutual covenants contained in this Agreement, Employer and ConnectYourCare agree as follows:

1. Services: ConnectYourCare shall provide to Employer (or the employees electing the HSA) those HSA-related services described in Exhibit A. ConnectYourCare shall provide to Employer (or the Employees electing the Program) those Program-related services described in Exhibit B.
  - a) Nature of Services:
    - i) Administrative Services Only - Employer understands and agrees that ConnectYourCare's sole function under this Agreement is to act as recordkeeper or provide other administrative services in accordance with the terms of this Agreement. Under the terms of this Agreement,



ConnectYourCare does not render investment advice, is not the "plan administrator," trustee or a fiduciary, as these terms or other analogous terms may be defined under applicable state, local, or federal law, and does not provide legal, tax or accounting advice with respect to the creation, adoption or operation of the HSA and the Programs or the Trust. ConnectYourCare is not an insurer or guarantor of any benefits provided under the Program and in no event will ConnectYourCare be obligated to use any of its own funds to provide benefits under the Program. Providing adequate funding for benefits and expenses due under, or in connection, with the Program is the sole responsibility of Employer.

- ii) Discontinuance of Services Inconsistent with Role - If, based on changes in the applicable regulatory structure or the interpretation of the regulatory structure, there is a reasonable likelihood that any service being, or to be, provided under this Agreement by ConnectYourCare could constitute a discretionary function and thereby subject ConnectYourCare to classification as a "fiduciary" under applicable state, local, or federal law with respect to the HSA or the Program, and such service could not be restructured in a manner that would not subject ConnectYourCare to classification as a "fiduciary" under applicable state, local, or federal law, then ConnectYourCare, upon reasonable notice to Employer may decline to thereafter provide that service. The failure to provide any such service shall not constitute a breach of ConnectYourCare's obligations under this Agreement.
- iii) Not ERISA Benefit Plan – If Employer offers the HSA to its employees, Employer shall do so in such a manner that it will not constitute an "employee welfare benefit plan" within the meaning of ERISA § 3(1) or an "employee pension benefit plan" within the meaning of ERISA § 3(2), and acknowledges that any services provided by ConnectYourCare with respect to the HSA need not comply with ERISA requirements.
- iv) Compliance Responsibility - Employer is solely responsible for ensuring that the HSA and the Program comply with all applicable provisions of the Code and any applicable state and local laws governing the HSA and the Program.
- v) Reliance Upon Data: All services provided by ConnectYourCare hereunder shall be based on information supplied by Employer or any other designee or agent of Employer (as designated by Employer). Employer acknowledges that the timely provision of accurate, consistent and complete HSA and Program Data in the format specified by ConnectYourCare is essential to its delivery of services, and Employer is responsible for ensuring such timely and accurate data is delivered to ConnectYourCare in ConnectYourCare's approved format. For these purposes, "HSA and Program Data" means all data and records supplied to ConnectYourCare, obtained by ConnectYourCare or produced by ConnectYourCare (based on data or records supplied to, or obtained by, ConnectYourCare) in connection with performing the services pursuant to this Agreement. HSA and Program Data include current participant names, addresses, status and contribution amounts.



- b) Data in Electronic Format: Employer agrees that administrative, contribution and recordkeeping data shall be in an electronic format acceptable to ConnectYourCare and will be updated as ConnectYourCare requires for proper processing. If the data is not submitted in an electronic format or if the format of the data requires additional translation, formatting or cleansing, ConnectYourCare reserves the right to approve or refuse such submission and to charge additional data-handling fees as required.
  - c) Reliance Upon Persons Designated by Employer: Employer will provide names and other information for persons authorized to take actions for or provide information on behalf of the HSA and the Program or the Trust. Until notified of a change, ConnectYourCare may reasonably rely upon this information and may act upon instructions received from and/or on information provided by these named persons. ConnectYourCare has the right to assume that those persons continue to be authorized unless notified otherwise in writing.
  - e) Customer Service:
    - i) Customer Service Representatives - Customer service representatives will be available at a toll free telephone number 24 hours a day, 7 days a week (except for emergency closings) to assist participants. ConnectYourCare reserves the right to change the customer service representatives' hours of availability upon reasonable advance notice to the Employer.
    - ii) Internet Services - ConnectYourCare will provide access to ConnectYourCare website as described in paragraph 1(f) of this Agreement to allow participants and Employer to access certain account information and for participants to file claims.
    - iii) Participant Statement of Account - Participants will have access to their accounts through ConnectYourCare's website as described in paragraph 1(f) of this Agreement.
  - f) Basic Benefits Portal System Services:
    - i) Participant Portal - ConnectYourCare will provide participants with access to ConnectYourCare's portal system. This system will allow online claim filing. The participant will also have online access to the following:
      - Real-time history of claim submission and payment process;
      - Account management with transaction history and account balance;
      - Contribution data; and
      - Education tools.
    - ii) Non-participant Portal - As an additional service, ConnectYourCare will provide non-participants with access to ConnectYourCare's portal system for a service fee as described in Exhibit C. The non-participants will have online access to the education tools.
2. Compensation: In consideration for its services provided hereunder, Employer shall pay ConnectYourCare or its designee in accordance with the Fee Schedule provided in Exhibit C. ConnectYourCare may amend the schedule for services not yet rendered upon giving notice in writing under the same conditions specified in paragraph 7(c) of



this Agreement. If Employer is billed by ConnectYourCare, Employer shall pay all invoiced fees by utilizing an Automated Clearing House ("ACH") Electronic Funds Transfer ("EFT"), and all fees are due upon receipt of ConnectYourCare's invoice. If Employer is billed for ConnectYourCare services by the designee, Employer shall pay the designee all invoiced fees utilizing the method and due dates agreed to by Employer and the designee. In connection with the operation of its business activities, CYC may be entitled to certain bank interchange (or similar) fees. Such fees are for CYC's sole benefit and are assets of CYC in which CYC retains all title, interest and rights, including the right to allocate a portion of such CYC assets to other service providers.

3. Use of Agents or Subcontractors: ConnectYourCare may perform any of the services described in this Agreement through agents and subcontractors selected by ConnectYourCare. ConnectYourCare shall reasonably supervise any such agent or subcontractor, and the retention of agents or subcontractors shall not relieve ConnectYourCare of its duties hereunder.
4. ConnectYourCare not Legal Counsel: Employer understands and agrees that it shall review with its legal and/or tax counsel all documents and information provided to it by ConnectYourCare and that Employer shall consult such counsel on any questions concerning Employer's responsibilities under this Agreement, the HSA and the Program documents, and the legal sufficiency of any documents so provided. Employer understands that neither ConnectYourCare nor any of ConnectYourCare's other affiliates are permitted to provide Employer with legal or tax advice or otherwise engage in the practice of law. Employer acknowledges that it will not rely on any documents or information provided as if it were legal or tax advice, and ConnectYourCare shall not be liable for any legal or tax consequences resulting from such reliance.
5. Notice of Errors: All information supplied to Employer or participant will be deemed correct if notice of discrepancies is not given to ConnectYourCare by the participant or Employer within 90 days of issuance of the report statement, confirmation, or other information. After that period, ConnectYourCare will correct statements or transactional errors reflected on these statements, but will not be liable for consequential damages due to any errors not reported within that period.
6. Indemnification:
  - a) Indemnification of ConnectYourCare: Employer shall hold harmless and indemnify ConnectYourCare and its employees, agents, and subcontractors ("Indemnitees") from and against any loss, damage, liability, claims, costs and expenses, including reasonable attorneys' fees ("Liabilities"), to which the Indemnitees may become subject, which result from:
    - i) Any misrepresentation or nonfulfillment of any terms of this Agreement by the Programs, Employer, or other individual including, but not limited to, liabilities resulting from the provision of inaccurate, untimely, or incomplete information to ConnectYourCare or the failure to provide ConnectYourCare with clear instructions as to distributions;
    - ii) Any failure by Employer, or other individual to comply with the terms of the HSA and the Program;
    - iii) A violation by Program, Employer or other individual of the requirements of applicable state, local and/or federal laws;
    - iv) The making by ConnectYourCare of any benefit payment based upon



instructions that ConnectYourCare reasonably believes to be authorized;  
and

- v) Any action, conduct or activity, including the failure to take action or to perform any activity taken by ConnectYourCare at the direction of Employer or Trustee or in accordance with the Program.
- b) Indemnification of Employer: Except as provided in paragraph 6 above or otherwise in this Agreement. ConnectYourCare shall hold harmless and indemnify Employer and its employees from and against any loss, damage, liability, claims, costs and expenses, including reasonable attorneys' fees, to which Employer may become subject, which are caused directly by the gross negligence or willful misconduct by ConnectYourCare. The liability of ConnectYourCare (and its affiliates, agents and subcontractors) hereunder, regardless of the theory or form of action, shall not exceed the aggregate of the total amount of fees paid by Employer hereunder.
- c) General Conditions of Indemnification: The indemnified person shall:
  - i) Give written notice to the indemnifying party of any indemnified claim, demand or action within 15 days after it has knowledge thereof;
  - ii) Permit the indemnifying party at its option to assume control of the defense of such claim, demand or action;
  - iii) Give full cooperation in the investigation and defense on request;
  - iv) Use its best efforts to mitigate the damages: and
  - v) Not compromise or settle such claim, demand or action without the indemnifying party's written consent.

7. Duration; Termination; Successor Recordkeeper:

- a) Effective Date of Initial Plan Year: The Effective Date of Initial Plan Year will be as defined on the signature page below. The Applicable Plan Year will be the then current plan year as defined in Employer's plan documents.
- b) Duration: After an Initial Term which will end three (3) years from the Effective Date of Initial Plan Year, this Agreement will continue for successive one (1) year Renewal Terms until terminated according to paragraph 7(c).
- c) Termination: Either party may terminate this Agreement by providing written notice at least 90 days prior to the end of the Initial Term or 90 days notice prior to each subsequent one year Renewal Term. Such notice shall be deemed to have been given three (3) days after mailing in the U.S. mail or immediately upon receipt if delivered to the address set forth in paragraph 8 of this Agreement. The notice period may be waived by the party entitled to the notice.
- d) Run-Out Period: If the Agreement is terminated on an anniversary date, ConnectYourCare will, for the 90 day period immediately following the date of termination ("Run-Out Period"), continue to administer claims for expenses incurred in the previous year in the manner described in this Agreement. Upon expiration of the Run-Out Period, all obligations of ConnectYourCare to administer claims or perform any other services under this Agreement shall cease.
- e) Successor Recordkeeper: Upon termination, the parties agree that



ConnectYourCare shall have no further duty or responsibility to Employer under this Agreement except as provided by the Run-Out Period described in paragraph 7(d) of this Agreement. However, ConnectYourCare will use reasonable efforts to transfer all relevant non-proprietary information concerning the HSA and the Program that ConnectYourCare deems necessary for future operations, in ConnectYourCare's standard format, to Employer or to a successor service provider. Any unforeseeable or unusual costs or expenses incurred by ConnectYourCare in effecting this transfer shall be paid by Employer unless waived in writing by ConnectYourCare. Employer agrees that ConnectYourCare may charge reasonable fees for the provision of requested records or reports that ConnectYourCare previously provided.

- f) Survival of Indemnification: Employer acknowledges and agrees that the indemnification provisions of paragraph 6 of this Agreement shall survive the termination of this Agreement.
8. Notices: Any notice or other communication required under paragraph 7 of this Agreement shall be in writing and shall be delivered personally, telegraphed, sent by facsimile transmission or sent by certified, registered or express mail, postage prepaid. Any such notice shall be deemed given when so delivered personally, telegraphed or, if sent by facsimile transmission, upon the recipient's oral verification by telephone of receipt or, if mailed, three (3) days after the date of deposit in the U.S. mail, as follows:  
If to ConnectYourCare: 307 International Circle, Suite 200, Hunt Valley, MD 21030.  
If to Employer: City of Grand Island
9. Entire Agreement; Amendment: This Agreement, including the Exhibits hereto, which are specifically incorporated herein contains the entire Agreement among the parties hereto with respect to the subject matter hereof, and there are no other Agreements written or oral, relating to the subject matter hereof other than those explicitly set forth herein or attached hereto. This Agreement may be amended at any time, but only when agreed to in writing by the parties.
10. Construction: This Agreement is the result of negotiation by both parties, and, therefore, no claim shall be made to construe any portion of the Agreement against either party on the basis of such party's participation in the negotiating thereof.
11. Binding Effect; No Assignment: This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives. Neither this Agreement, nor any right hereunder, may be assigned by any party without the written consent of the other parties hereto. Notwithstanding the foregoing, this Agreement may be assigned by ConnectYourCare to a successor entity without prior written consent of Employer.
12. Representations and Warranties: ConnectYourCare makes no representations or warranties, either statutory, express or implied, of any kind with respect to the services or ConnectYourCare's performance of services under the agreement, including, without limitation, those of merchantability and fitness for a particular purpose, which, without limiting the foregoing, are disclaimed by ConnectYourCare. No descriptions or specifications, whether or not incorporated into the agreement, no provision of marketing or sales materials and no statement made by any sales representative in connection with the services shall constitute representations or warranties of any kind.



- 13. Headings: The headings in this Agreement are for reference only, and shall not affect the interpretation of this Agreement.
- 14. Severability: If any word, phrase, sentence, paragraph, provision or section of this Agreement shall be held, declared, pronounced or rendered invalid, void, unenforceable or inoperative for any reason by any court of competent jurisdiction, governmental authority, statute or otherwise, such holding, declaration, pronouncement or rendering shall not adversely affect any other word, phrase, sentence, paragraph, provision or section of this Agreement, which shall otherwise remain in full force and effect and be enforced in accordance with its terms.
- 15. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of Nebraska. The forum for any legal disputes shall be limited to courts within the State of Nebraska, and Employer consents to the personal jurisdiction therein.
- 16. Third Party Beneficiaries: The provisions of this Agreement are solely for the benefit of the parties hereto and their affiliates and are not intended to confer upon any person except the parties hereto any rights or remedies herein.
- 17. Unforeseen Circumstances: ConnectYourCare shall not be liable for any default or delay in the performance of its services under this Agreement if and to the extent such default or delay is primarily caused, directly or indirectly, by:
  - a) Fire, flood, elements of nature or other acts of God;
  - b) Any outbreak or escalation of hostilities, terrorist actions, war, riots or civil disorders in any country;
  - c) Any act or omission of the other party or any governmental authority; or
  - d) Nonperformance of a third party or any similar cause beyond the reasonable control of ConnectYourCare, including without limitation, failures or fluctuations in telecommunications or other equipment.

In any such event, ConnectYourCare shall be excused from any further performance and observance of the obligations so affected only for as long as such circumstances prevail and ConnectYourCare continues to use reasonable efforts to recommence performance or observance as soon as practicable.

- 18. Writing and Signature; Electronic Transactions: Unless otherwise explicitly required by law,
  - a) Any requirement for a writing under this Agreement may be rendered in any form that can reliably reproduce an accurate physical record of the communication and authenticate the source, including but not limited to facsimile transmission, electronic mail, or Internet transmission.
  - b) Any requirement of a signature under this Agreement may be rendered in any form clearly indicated by the signatory to be a signature or which complies with instructions directly given to the signatory as to the proper form of indicating a signature in an electronic or voice response environment. Appropriate forms include, but are not limited to, personal identification numbers rendered over the Internet, and facsimile transmissions.
  - c) Notwithstanding a) or b), above, the recipient of any writing or signature under this Agreement may require the confirmation of any writing or signature in

physical form (such as hand or typewritten or the equivalent) with a manual signature.

- d) Employer represents that the HSA and the Program document(s) will allow for transactions to be made by electronic means. Under the HSA and the Program document(s) and this Agreement together, notices, consents and other actions by or on behalf of, or with respect to, the HSA and the Program, its participants and their respective beneficiaries ("HSA & Program Transactions") may be effected, in whole or in part, by electronic means. Any HSA and Program Transactions relating to services provided under this Agreement may be initiated or effected by Employer, the Program, a participant or a beneficiary by use of ConnectYourCare-authorized electronic means, Internet access system (including ConnectYourCare web site) or telephone service line. Use of electronic means for HSA and Program Transactions is subject to the terms and conditions established by ConnectYourCare and disclosed to Employer and participants, and electronic transactions shall be binding on the parties if ConnectYourCare, acting in good faith, believes that such transactions are authorized by Employer, a participant, or beneficiary, as applicable.
19. Change in Trustee: Upon mutual agreement of the parties, a new trustee may be substituted for the existing Trustee. Such substitution shall not alter the obligations of ConnectYourCare or Employer under this Agreement.
20. Confidential Information: Each party shall comply with the provisions of this paragraph 20 "Confidential Information".
- a) Definition. The term "Confidential Information" shall mean the terms and conditions of this Agreement and all proprietary information, data, trade secrets, business information, financial information, tax and legal opinions, customer and prospect lists, supplier lists, business forecasts, processes, methodologies, algorithms, merchandising and marketing plans and materials, and other information of any kind whatsoever, the confidential or proprietary nature of which is reasonably apparent under the circumstances and which (a) a party or its affiliates or subcontractors ("Discloser") discloses, in writing, orally or visually, to the other Party or its Affiliates or subcontractors ("Recipient") or to which Recipient obtains access in connection with the negotiation and performance of this Agreement, and which (b) relates to (i) the Discloser, (ii) the customers and/or associates of a party or its affiliates or subcontractors, or (iii) clients or participants who have made confidential or proprietary information available to a party or its affiliates or subcontractors. Confidential Information shall not include any information that (A) is public knowledge at the time of disclosure; (B) at the time of disclosure is already in the lawful possession of the other party or its affiliates or subcontractors; (C) was made available to the other party or its affiliates or subcontractors, without restriction on disclosure, by a third party not under obligation of confidentiality with respect to the disclosed information; or (D) information which a party or its affiliates or subcontractors independently develops.
- b) Protection of Confidential Information. Each of the parties, as Recipient, hereby agrees on behalf of itself and its employees, officers, affiliates and subcontractors that Confidential Information of the other party (and of its affiliates and subcontractors) shall be kept in confidence and shall not be disclosed or made available, directly or indirectly, to any person for any reason whatsoever, other



than on a "need to know basis" and then only to: (a) its employees and officers; (b) subcontractors and other third parties specifically permitted under this Agreement, provided that all such persons are subject to a confidentiality agreement which shall be no less restrictive than the provisions of this paragraph 20 and as otherwise provided in this Agreement; (c) independent contractors, agents, and consultants hired or engaged by a party, provided that all such persons are subject to a confidentiality agreement which shall be no less restrictive than the provisions of this paragraph 20 and otherwise provided in this Agreement; and (d) as required by law or as otherwise permitted by this Agreement, either during the term of this Agreement or after the termination of this Agreement. Each party shall use Confidential Information of the other party only for the purposes of performing its obligations under this Agreement. A party shall use at least the same degree of care to protect the other party's Confidential Information as it uses to protect its own information, which shall in any event be no less than reasonable care. A party shall promptly notify the other party of any actual or suspected loss or unauthorized use, disclosure of or access to the other party's Confidential Information. Prior to any disclosure of Confidential Information as required by law, the Recipient shall (i) notify the Discloser of any actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure immediately upon becoming so obligated, and (ii) cooperate with the Discloser's reasonable, lawful efforts to resist, limit or delay disclosure.

- c) Destruction/Return of Confidential Information. Upon the termination or expiration of this Agreement, or at any time upon the request of a Party, the other Party shall return or destroy (and cause its affiliates and subcontractors to return or destroy) all Confidential Information, including Customer Information, in the possession of such party or in the possession of any third party over which such party has or may exercise control. However, to the extent such Confidential Information is necessary for the Recipient to perform one or more obligations that survive the termination or expiration of this Agreement, the Recipient shall not be required to return or destroy such Confidential Information until all such surviving obligations have been satisfied. Notwithstanding anything to the contrary herein, each party shall be entitled to retain one (1) copy of any Confidential Information of the other party for archival purposes or to satisfy any future legal requirements. Any such retained Confidential Information shall be protected as described in this paragraph 20.

IN WITNESS THEREOF, Employer has caused this Agreement to be executed by its duly authorized representative.

Date Agreement Effective: \_\_\_\_\_

Effective Date of Initial Plan Year: \_\_\_\_\_

Employer Authorized By:

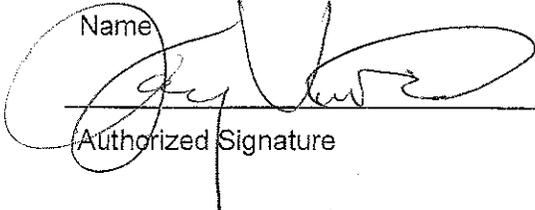
ConnectYourCare Authorized By:

Jay Vavricek \_\_\_\_\_

R. Jamie Spriggs \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

  
Authorized Signature

  
Authorized Signature

Mayor 12/3/13 \_\_\_\_\_

Chief Executive Officer \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

  
Asst. City Attorney

## EXHIBIT A

### Administration and Recordkeeping Services for Health Savings Account

ConnectYourCare will provide the following administrative services under this Agreement:

1. Enrollment and Communications: ConnectYourCare will provide its standard enrollment kit with standard forms and notices necessary to implement the HSA's administration, including the HSA Enrollment Form, Agreement, and Terms and Conditions, all in electronic format, necessary to implement the administration with the Trustee. Customized enrollment and communication materials may be provided at additional cost, as more fully described in Exhibit C. ConnectYourCare will be reimbursed for costs incurred when using design and production facilities outside of ConnectYourCare, these costs to be Employer-reviewed and approved in advance.
2. HSA Administration and Recordkeeping:
  - a) Participant Accounts with the Trustee: Each participant in the HSA must establish his or her own HSA Trust Account with the Trustee. The Trustee will establish and maintain a participant HSA account for each program participant for whom it receives complete enrollment information. ConnectYourCare is not responsible for determining if such participants are eligible under the terms of the program or for maintaining such accounts.
  - b) Participant Files: ConnectYourCare maintains electronic records for all participants for whom participant accounts have been established.
  - c) Transfer of HSA funds: Employer agrees to establish a payroll deduction for the HSA. ConnectYourCare will notify Employer after each contribution cycle is processed as to cumulative HSA funds processed for that period. Employer will allow ConnectYourCare to initiate transfer via Automated Clearing House (ACH) Electronic Funds Transfer (EFT) from Employer's designated bank account the cumulative HSA funds processed for that period. ConnectYourCare will deposit these funds into a pre-established sweep account owned and managed by ConnectYourCare. ConnectYourCare will remit the funds to the Trustee for deposit into each employee's HSA in accordance with an agreement between ConnectYourCare and the Trustee. ConnectYourCare will retain funds only for as long as necessary to complete the transfer of funds to the Trustee.
  - d) Reports: ConnectYourCare will provide Employer with the ability to produce program-level reports utilizing the information maintained on its recordkeeping system. Standard reports will summarize all transactions that occurred for each participant and report new enrollees within the specified time period.
3. HSA Document: All documents pertaining to the HSA will be provided by the Trustee.
4. ConnectYourCare Healthcare Payment Card: ConnectYourCare will provide participants with a healthcare payment card integrated with the participant's account. The payment card will allow the participant's account balance to automatically transfer to the payment card. The payment card can be used at any eligible healthcare merchant provided the merchant has properly configured the merchant code to identify itself correctly. Cardholders are subject to the terms and conditions described in the cardholder agreement, which will be provided with the payment card.

**Administration and Recordkeeping Services for the Programs**

ConnectYourCare will provide the following administrative services under this Agreement:

1. Enrollment and Communications: ConnectYourCare will provide its standard enrollment kit with standard forms and notices necessary to implement the Program's administration, all in electronic format. Customized enrollment and communication materials may be provided at additional cost, as more fully described in Exhibit C. ConnectYourCare will be reimbursed for costs incurred when using design and production facilities outside of ConnectYourCare, these costs to be Employer-reviewed and approved in advance.
2. Compliance With Applicable Governing Law: Employer is solely responsible for all Program documents and for ensuring that the Program complies with all applicable provisions of the Internal Revenue Code and any applicable state and local laws governing the Program. ConnectYourCare will provide basic Program information, such as participant counts, that is readily available on its systems to assist Employer with complying with the requirements of the Code
3. Administration and Recordkeeping:
  - a) Participant Accounts: ConnectYourCare will establish participant accounts for each Program participant for whom it receives complete enrollment information. ConnectYourCare is not responsible for determining if such Program participants are eligible under the terms of the Program.
  - b) Participant Files: ConnectYourCare maintains electronic records for all participants for whom participant accounts have been established.
  - c) Transfer of Funds: Employer agrees to establish a payroll deduction for the Program as applicable. In addition, Employer agrees to advance benefit payments on behalf of the plan by transferring funds from its own general assets to ConnectYourCare in an amount equal to 4% of expected annual Program contributions, but not less than \$250, this amount to be known as the Required Minimum Funding. This advance, or initial deposit, will be made prior to the Effective Date of Initial Plan Year and will be used by ConnectYourCare to pay claims.
    - i) On a weekly basis, Employer will allow ConnectYourCare to initiate a transfer via ACH EFT from Employer's designated bank account. The amount transferred will be the amount necessary to return the existing deposit balance to the Required Minimum Funding. In this manner, ConnectYourCare will, each week, have available an amount equal to the Required Minimum Funding to facilitate payment of claims for the week. Employer agrees to grant ConnectYourCare authority to write checks for the payment of allowable expenses under the Program.
    - ii) As calculated on a daily basis, if current claim payments cause the existing deposit balance to fall below 4% of the Required Minimum Funding, Employer will allow ConnectYourCare to initiate a transfer via ACH EFT from Employer's designated bank account outside the schedule provided for in paragraph 3(c)(i) of this Exhibit. The amount transferred will be the amount necessary to return the existing deposit balance to 50% of the Required Minimum Funding.

- iii) On a Monthly basis, ConnectYourCare will re-calculate the Required Minimum Funding based on the expected annual Program contributions for all Participants active at that time. If the re-calculated Required Minimum Funding exceeds the previously used Required Minimum Funding by 25% or more, the Required Minimum Funding will be replaced by the new calculation. This adjustment to the Required Minimum Funding will be part of the weekly process provided for in paragraph 3(c)(i) of this Exhibit.
- iv) In no event will ConnectYourCare be obligated to issue claim payments of any kind or cause payment card payments to be approved if the existing deposit balance falls below zero.

d) Claims Processing:

- i) Review of Claims - ConnectYourCare will review claims in accordance with standards set forth under applicable law, including IRS guidelines concerning eligible expenses, and Department of Labor claims procedure regulations. Employer retains the authority to decide appeals. ConnectYourCare shall have no discretionary authority with respect to the processing of claims under the Program as such claims shall be processed in accordance with the framework of policies, interpretations, rules, practices and procedures, established by Employer for the Program. ConnectYourCare's services under this Agreement are solely ministerial and non-discretionary in nature.
- ii) Payment of Claims - ConnectYourCare will process claims within five (5) business days of the date ConnectYourCare receives a claim request from a participant. Checks, if applicable, will be issued within two (2) scheduled weekly check payment cycles, upon receipt of claims in good order. Claims are in "good order" when the reimbursement request contains all pertinent information, including information required to substantiate the claim. ConnectYourCare will not reimburse a participant's claim unless the participant has sufficient funds in his/her Program at the time the claim is submitted. If the participant does not have sufficient funds in his/her Program at the time the claim is submitted, the reimbursement request will be held by ConnectYourCare and processed in accordance with the time frame described in this paragraph starting with the date that such funds are available.

For the Health FSA only, ConnectYourCare will reimburse a participant's claim up to the amount the participant has elected to contribute to the Health FSA for the year minus any amounts previously reimbursed, whether or not the participant has sufficient funds in his Health FSA account at the time the claim is submitted, in accordance with IRS regulations.

- iii) Unsubstantiated Claims/Ineligible Expenses - If a participant is not able to substantiate a claim, or if payment for an expense is advanced through the debit card and subsequently deemed ineligible for reimbursement, ConnectYourCare will attempt to collect these amounts from the participant. Where ConnectYourCare is unsuccessful, Employer will be responsible for collecting such amounts. ConnectYourCare will make data available to the Employer that identifies the employees and amounts

to enable Employer to deduct an amount equal to the unsubstantiated or ineligible reimbursement from the participant's paycheck or to add to the participant's taxable wages, as allowed by state law.

- e) Reports: ConnectYourCare will provide Employer with the ability to produce Program-level reports utilizing the information maintained on its recordkeeping system. Standard reports will summarize all transactions that occurred for each participant and report new enrollees within the specified time period.

4. Plan Document:

Maintenance of a document consistent with the Program operations and all legal requirements is the responsibility solely of Employer.

- a) Maintenance of Documents: ConnectYourCare will provide a sample plan document to Employer if requested. ConnectYourCare will use reasonable best efforts to provide updates to Employer in a timely manner after changes in the law and regulation. Employer will inform ConnectYourCare of changes it desires to the Program prior to the time ConnectYourCare is expected to implement those changes.
- b) Preparation of Amendments: The preparation of amendments, other documentation, or systems changes to implement amendments will be billed at ConnectYourCare's hourly service rates listed in Exhibit C.

- 5. ConnectYourCare Healthcare Payment Card: ConnectYourCare will provide participants with a healthcare payment card integrated with the participant's account. The payment card will allow the participant's account balance to automatically transfer to the payment card. The payment card can be used at any eligible merchant provided the merchant has properly configured the merchant code to identify itself correctly. Cardholders are subject to the terms and conditions described in the cardholder agreement, which will be provided with the payment card.

EXHIBIT C

Fee Schedule

In consideration for the services provided under this Agreement, Employer agrees to pay the following fees:

Monthly fee per account participant per month (PPPM)	\$3.00
Run-Out Charges (one-time fee)	\$
Set up fee (one time charge)	Waived
Annual fee per Program (waived first year)	\$
Trust services (HSA only)	Included
Healthcare Payment Card Services	Included
Additional Payment Card (initial card included)	\$
Returned check/ Automated Clearinghouse (ACH)	\$

Additional Services Fees, check if applicable:

<input type="checkbox"/> Monthly fee per non-participant per month (PEPM), (based on the number of employees with access to ConnectYourCare's portal system not participating in the Program).	\$
<input type="checkbox"/> Enrollment meetings:	\$
<input type="checkbox"/> Non-discrimination Testing	\$
<input type="checkbox"/> Customized material design	Hourly Rate = \$
<input type="checkbox"/> Additional data handling fee:	Hourly Rate = \$
<input type="checkbox"/> Additional services:	Hourly Rate = \$