



Board of County Commissioners - Staff Report

Meeting Date: December 6, 2016
Submitting Dept: Human Resources

Presenter: Julianne Fries, Director of HR
Subject: Medical ASA for Plan Year 2017

Statement / Purpose:

Consideration of the Allegiance Administrative Services Agreement (ASA) for Medical/Vision Benefit Plan Year 2017.

Background / Description (Pros & Cons):

Teton County contracts with an independent Third Party Administrator (TPA) to perform certain administrative services on behalf of Teton County's self-funded medical and vision benefit plan. The ASA outlines the responsibilities of Allegiance as the TPA, as well as the responsibilities of Teton County as the plan sponsor. The agreement includes: Appendix A- Fee Schedule; Appendix B-Subrogation; Appendix C-COBRA Administration; and Appendix D-Report Package List.

This year HAYS, our Benefit Consultant, conducted a market check analysis on Third Party Vendors; results were presented to the Commissioners in October. Allegiance was found to be the most competitive relative to administrative fees, network fees, and medical management program offerings.

Stakeholder Analysis & Involvement:

none

Fiscal Impact:

The administrative service fees are increasing this year by 2.83%, from \$20.70/employee per month (PEPM) to \$21.30 PEPM and includes a two year rate guarantee through December 31, 2018. Network access fees for First Choice of the Midwest and CIGNA will remain flat with no rate increase (this will be 3 years in a row that these fees have remained flat). Other associated program fees also remain flat.

Staff Impact:

None

Legal Review:

K. Gingery has reviewed and approved the agreement.

Staff Input / Recommendation:

Staff recommends approving the Allegiance Administrative Services Agreement for the Medical/Vision Benefit Plan administration as presented.

Attachments:

The Administrative Services Agreement, Appendix A, B, C, and D are attached.

Suggested Motion:

I move to approve the 2017 Allegiance Administrative Services Agreement for the Medical/Vision Benefit Plan, effective January 1, 2017 through December 31, 2017.

ADMINISTRATIVE SERVICES AGREEMENT

THIS Administrative Services Agreement (hereinafter "Agreement"), effective for the January 1, 2017, and ending December 31, 2017, and continuing thereafter, for additional twelve (12) month periods, as provided by this Agreement, is entered into by **TETON COUNTY**, a legal entity, duly organized and existing under the laws of the State of Wyoming (hereinafter referred to as the "Plan Sponsor"), and **ALLEGIANCE BENEFIT PLAN MANAGEMENT, INC.**, a corporation duly organized and existing under the laws of the State of Montana (hereinafter referred to as the "TPA").

WHEREAS, the Plan Sponsor sponsors a self-funded employee welfare benefit plan (the "Plan");

WHEREAS, the Plan Sponsor desires to make available a program of health care benefits under the Plan;

WHEREAS, the Plan Sponsor wishes to contract with an independent third party administrator to perform certain administrative services with respect to the Plan as described herein;

WHEREAS, the TPA desires to contract with the Plan Sponsor to perform certain administrative services with respect to the Plan as described herein; and

THEREFORE, in consideration of the promises and mutual covenants contained herein, the Plan Sponsor and the TPA enter into this Agreement for administrative services for the Plan.

ARTICLE I: DEFINITIONS

For the purposes of this Agreement, the following words and phrases have the meanings set forth below, unless the context clearly indicates otherwise and, wherever appropriate, the singular shall include the plural and the plural shall include the singular.

- 1.1 "Claim" means each bill, invoice, claim form or other document representing a request for payment for medical, dental or vision services, which is received by the TPA. Each such document will be considered to be one "claim", regardless of the number of itemized lines on the document and regardless of whether the document is a duplicate of previous documents or whether the services indicated on the document are eligible for coverage under the applicable Plan.
- 1.2 "Claimant" means a Covered Person or entity on behalf of a Covered Person, submitting expenses for payment or reimbursement from the Plan.
- 1.3 "Claims Payment Account" means an account utilized by the Plan Sponsor for payment or reimbursement for Covered Services, which account balances shall constitute assets of the Plan Sponsor and not the Plan.
- 1.4 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Public Health Service Act, as amended, together with all regulations applicable thereto.
- 1.5 "COBRA Participant" means any person who is properly enrolled for and entitled to benefits from the Plan policy, pursuant to COBRA continuation coverage.
- 1.6 "Complete Claim" means a claim for benefits for a Covered Person that has been submitted by a licensed Health Care Provider or the Covered Person, void of any omissions of pertinent information, coordination of benefits or liability issues, in a form satisfactory to TPA

and with sufficient documentation to substantiate the claim for benefits under the Plan that is necessary or required according to industry standards or requirements in order for the TPA to make a determination of benefits under the Plan.

- 1.7 "Covered Person" is a person who is properly enrolled and entitled to benefits from the Plan.
- 1.8 "Covered Services" means the care, treatments, services or supplies described in the Plan Document as eligible for payment or reimbursement from the Plan.
- 1.9 "Employer" means the Plan Sponsor and any successor organization or affiliate of such Employer which assumes the obligations of the Plan and this Agreement.
- 1.10 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, together with all regulations applicable thereto.
- 1.11 "Fee Schedule" means the listing of fees or charges for services provided under this Agreement. This Fee Schedule may be modified from time to time in writing by the mutual agreement of the parties. The Fee Schedule is contained in Appendix A and is a part of this Agreement.
- 1.12 "Health Care Providers" means physicians, dentists, hospitals, or other health care practitioners or health care facilities that are duly licensed and authorized to receive payment or reimbursement for Covered Services in accordance with the terms of the Plan.
- 1.13 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended, together with all applicable regulations thereto.
- 1.14 "Paid Claims" means claims for benefits under the Plan which have been processed for payment by the TPA, have been funded in U.S. Dollars by the Plan or the Plan

- Sponsor, and for which payment or electronic payment has been issued and transmitted to the Claimant or assignee.
- 1.15 "Plan" means the self-funded health and welfare benefit plan which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.
- 1.16 "Plan Administrator" means the person or entity, including an insurance company, designated by the Plan Sponsor to manage the Plan and make all discretionary decisions regarding Plan terms and managing Plan assets.
- 1.17 "Plan Document" means the instrument or instruments that set forth and govern the duties of the Plan Sponsor and eligibility and benefit provisions of the Plan, which provide for the payment or reimbursement of Covered Services.
- 1.18 "Plan Participant" is any employee, retiree or COBRA beneficiary who is properly enrolled and eligible for benefits under the Plan.
- 1.19 "Plan Year" means the twelve-month period of time beginning with the effective date of the Plan as specified in the Plan Document.
- 1.20 "Qualified Beneficiary" means a Covered Person under the Plan Sponsor's Plan, who is eligible to continue coverage under the Plan policy in accordance with the applicable provisions of Title X of COBRA or §609(a) of ERISA regarding Qualified Medical Child Support Orders, or in accordance with any similar applicable state law. Qualified Beneficiary also means a child born to, adopted or placed for adoption with a Participant or former Participant, who is a COBRA participant, at any time during active COBRA continuation coverage of that Participant or former Participant.
- 1.21 "Qualifying Event" means:
- (a) With respect to an eligible Participant:
1. The termination (other than by reason of gross misconduct) of the covered Participant's employment; or
 2. The reduction in hours of the covered Participant's employment causing the Participant to become ineligible for coverage.
- (b) With respect to covered Dependents:
1. Death of the covered Participant;
 2. Termination of the covered Participant's employment;
 3. Reduction in hours of the covered Participant's employment causing the Participant to become ineligible for coverage;
 4. The divorce or legal separation of the covered Participant from his or her spouse;
 5. The covered Participant's entitlement to Medicare; or
 6. A covered Dependent child ceases to be a Dependent as defined by the Plan.
- (c) Qualifying Events for retired Participants, for purposes of this section, are:
1. Bankruptcy, if the covered Participant retired on or before the date of any substantial elimination of group health coverage due to bankruptcy.
- (d) Qualifying Events for the Dependents of retired covered Participants, for purposes of this section, are:
1. Bankruptcy, if the Dependent was a covered Dependent of a covered retiree on or before the day before the bankruptcy Qualifying Event.
- 1.22 "Stop Loss or Excess Loss Insurance" means an insurance policy obtained by the Plan or the Plan Sponsor to provide coverage for individual claims at a specified stop loss limit and/or group claims at an aggregate stop loss limit that are incurred and paid during a defined period of time by the insurance policy.
- 1.23 "Summary Plan Description" means the document that describes the terms and conditions under which the Plan operates.
- 1.24 "Utilization Management" means the evaluation of medical necessity and appropriateness of the use of health care services, procedures, and facilities utilized by a Covered Person under the terms of the Plan.
- 1.25 "Working Days" shall mean a regular business day, which is not a recognized federal or banking holiday, and specifically excluding any Saturday or Sunday.

ARTICLE II: RELATIONSHIP OF THE PARTIES

- 2.1 The Plan Sponsor acknowledges that the TPA is an independent contractor for purposes of this Agreement. As such, the TPA is not an agent or employee of the Plan Sponsor and does not assume any liability or responsibility for any breach of duty or act of omission by the Plan Sponsor. The Plan Sponsor delegates to the TPA only non-discretionary authority with respect to assisting Plan Sponsor in the development, maintenance and administration of the Plan as specifically described in this Agreement. Any function not specifically delegated by Plan Sponsor to, and agreed to be assumed by the TPA in writing pursuant to this Agreement shall remain the sole responsibility of the Plan Sponsor. The Plan Sponsor shall retain all discretionary authority, control and responsibility for the operation and administration of the Plan.
- 2.2 The parties acknowledge that:
- (a) This is a contract for administrative services only as specifically set forth herein;
- (b) The TPA shall not be obligated to disburse more in payment for Claims or other obligations arising under the Plan than the Plan Sponsor shall have made available in the Claims Payment Account;
- (c) This Agreement shall not be deemed a contract of insurance under any laws or regulations. The TPA does not insure, guarantee or underwrite

- the liability of the Plan Sponsor under the Plan. The TPA has no responsibility and the Plan Sponsor has total responsibility for payment of Claims under the Plan and all expenses incidental to the Plan; and
- (d) The TPA is not the plan administrator, plan sponsor or plan fiduciary and the Plan Sponsor will not identify the TPA or any of its affiliates as such. The Plan Sponsor acknowledges and agrees that it is the plan sponsor, plan administrator and named fiduciary as such terms are defined by ERISA, or other applicable law.
- 2.3 Except as specifically set forth herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal successors provided, however, that neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.
- 2.4 Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, unless otherwise stated in this provision, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The locale for arbitration under this provision shall be Missoula, MT, unless otherwise agreed by the parties.
- 2.5 It is agreed by the parties to this Agreement that any cause of action brought by either party to this contract must be made within two (2) years of the date of occurrence of any alleged breach, infraction or dispute, or within two (2) years of the termination date of this Agreement, whichever occurs first.
- 2.6 The Plan Sponsor acknowledges and agrees that the TPA will not be deemed to be a legal or tax advisor for the Plan or the Plan Sponsor as a result of the performance of its duties under this Agreement. The TPA makes no representation to the Plan Sponsor concerning federal, state, or local laws, rules or regulations applicable to the Plan. Company must seek its own counsel for legal advice and guidance. **In no event shall the TPA be liable for special or consequential damages, even if the TPA was advised of the possibility of such damages.**
- 2.7 The TPA may secure the services of actuaries, computer software companies, computer service firms, insurance consultants and producers, legal counsel, accountants, utilization management consultants, pharmacy benefit management companies, preferred provider organizations, claims negotiation companies, subrogation firms, and any other entities that it deems necessary in the performance of its obligations under this Agreement. At the discretion of the TPA, such services may be performed directly by the TPA, wholly or in part, through a subsidiary or affiliate of TPA or under an agreement with an organization, agent, advisor or other person of its choosing. Any such services resulting in a fee not agreed to in the Fee Schedule, Appendix A, must first be authorized in writing by the Plan Sponsor.
- 2.8 The TPA agrees to be duly licensed as a Third Party Administrator to the extent required under applicable law and agrees to maintain such licensure throughout the term of this Agreement.
- 2.9 The TPA will possess through the term of this Agreement an in-force fidelity bond or other insurance as may be required by state and federal laws for the protection of its clients. Additionally, the TPA agrees to comply with any state or federal statutes or regulations regarding its operations.
- 2.10 The TPA shall be entitled to rely upon, without investigation or inquiry, any written or oral information or communication of the Plan Sponsor or agents, including but not limited to consultants, actuaries, attorneys, accountants, auditors, managed care organizations, preferred provider organizations, pharmacy benefit management companies, mental health care management companies or brokers retained by the Plan Sponsor.
- 2.11 The TPA will indemnify, defend, save and hold the Plan Sponsor harmless from and against any and all claims, suits, liabilities, losses, penalties or damages including court costs and attorneys' fees with respect to the Plan which directly result from or arise out of the dishonest, fraudulent, grossly negligent or criminal acts of the TPA or its employees, except for any acts taken at the specific direction of the Plan Sponsor.
- 2.12 The Plan Sponsor will indemnify, defend, save and hold the TPA harmless from and against any and all claims, suits, actions, liabilities, losses, penalties or damages, including court costs and attorneys' fees to the extent that such claims, losses, liabilities, damages and expenses arise out of or are based upon the gross negligence, fraudulent, criminal or dishonest acts of the Plan Sponsor, its agents or employees, in the performance of their duties, a release of Claims data by the TPA to the Plan Sponsor, or an interpretation of the Plan by the Plan Sponsor on which the TPA acts.
- The Plan Sponsor will further indemnify and hold the TPA harmless for any attorneys' fees, costs fine civil penalties or any other damages of any kind whatsoever in the event that TPA has advised the Plan Sponsor that any act or omission of the Plan Sponsor may be non-compliant or a violation of any known law or regulation, and the Plan Sponsor continues with such act or omission contrary to TPA's advice and such act or omission results in any attorneys' fees, costs fine civil penalties or any other damages of any kind being assessed to or incurred by TPA.

ARTICLE III: THE TPA'S RESPONSIBILITIES

The TPA will provide the following Plan Administrative services for the Plan Sponsor:

- 3.1 Maintain Plan records based on eligibility information submitted by the Plan Sponsor as to the dates on which a Covered Person's coverage commences and terminates.

Maintain Plan records of Plan coverage applicable to each Covered Person based on information submitted by the Plan Sponsor.

Maintain Plan records regarding payment of Claims, denial of Claims, and Claims pending.

3.2 Administer enrollment of Covered Persons, create and distribute enrollment forms and answer inquiries, create and maintain enrollment records for Covered Persons, and distribute identification cards to the Plan Sponsor in accordance with Appendix A, the Fee Schedule.

3.3 Process Complete Claims submitted by Covered Persons or Health Care Providers according to the terms of the Plan Document as construed by the Plan Sponsor. These Claims will be processed in accordance with prevailing industry practices and the TPA will use an industry-recognized method of determining usual, customary, and reasonable charges or the prevailing fee allowance as determined by the Plan Sponsor in the Plan.

The TPA will not be required by the Plan Sponsor to alter its standard claims processes, procedures or regular mail dates to manipulate the Paid Claims date for any purpose.

The TPA will process claims received on a basis consistent with prevailing industry practice for timeliness and accuracy, in accordance with the terms of the Plan Document as construed by the Plan Sponsor, and consistent medical information forms, pre-existing conditions requirements, disability determinations and coordination of benefits situations. Unless specifically agreed by the parties in writing, the TPA's duties with respect to subrogation situations shall be limited to informing the Plan Sponsor that subrogation rights may exist. The terms, conditions and fees for any additional agreement regarding subrogation are as stated in the attached Subrogation Services Appendix, if applicable.

The TPA will process Claims or request additional information in order to be able to process a Complete Claim within an average of fourteen (14) Working Days from the date the Complete Claim is received by the TPA. If additional information is needed for a Complete Claim, the TPA will send through the U.S. Mail to the appropriate persons (with a copy to the Plan Participant) a follow-up request for the required information for a Complete Claim requesting a response to the request for additional information for a Complete Claim within a maximum of forty-five (45) days. The follow-up request will indicate that no additional requests for information will be sent and the file will be closed, and the initial incomplete claim will be denied, if the requested information is not provided within the specified time.

When all necessary documents and Claim information have been received to constitute a Complete Claim and the Complete Claim has been approved, a Claim check or draft will be remitted on the next Paid Claims batch disbursement date provided that the Plan Sponsor has provided funds for such Complete Claims or advance funding has been provided by the Stop Loss or Excess Loss insurance company. All Complete Claims will

remain in a processed but pending status until funded by the Plan Sponsor or its Stop Loss or Excess Loss insurance company. The Plan Sponsor must provide funding of all Complete Claims within five (5) Working Days of receipt of request for funding from the TPA.

Customer Service Representatives of the TPA will inform any Plan Participant or Health Care Provider who inquires about any Claim which is pending for lack of funds that such Claim has been received and processed and is pending receipt of funds. No further explanation will be required of the TPA by the Plan Sponsor under such circumstances.

Unless otherwise advised by the Plan Sponsor, the Plan Sponsor agrees that the order of claims payment by TPA of new claims submitted under the Plan shall be based on processing first the oldest claims with complete medical, repricing/discount, and other necessary information with permitted exceptions for those claims identified with excess loss insurance reimbursement potential or which face loss of any available discounts for the medical services so rendered. Any payment by TPA is contingent upon the availability of adequate funding by the Plan Sponsor. If the funds provided by the Plan Sponsor are insufficient to pay all adjudicated claims, then, at the specific direction of Plan Sponsor, the funds will be applied to pay claims as noted above to the extent funds are available except that large claims that cannot be funded by the then available funding will be skipped in favor of more recent claims that can be covered with then available funding. Further, all claims for a participant and his or her covered dependents subsequent to the first claim that cannot be funded due to insufficient funding from the Plan Sponsor shall be skipped in favor of more recent claims from other participants and/or their dependents if the Plan Sponsor funding is not sufficient to cover all adjudicated claims for the participant and/or his or her dependent.

3.4 After a preliminary review to determine that the Claim was correctly processed, the TPA will refer any doubtful, disputed or appealed Claims to the Plan Sponsor for a final decision. The TPA will provide initial claims adjudication and assist the Plan Administrator with appeals. The Plan will pay the actual cost of any expert medical consultation required to determine claims eligibility under the Plan as a claims cost.

3.5 Process, issue and distribute Claims checks, drafts or electronic funds transfers, as instructed by the Plan Sponsor to Plan Participants, Health Care Providers, or others as may be applicable.

Every week the TPA will notify the Plan Sponsor of the Claims batch amount required to be prospectively deposited to the Claims Payment Account to pay the Claims liability after these Claims are processed for payment.

The TPA shall establish and maintain customary investigative benefit and Claims review procedures within the prevailing standard of care in the TPA industry. The TPA shall take reasonable measures and precautions to

prevent the allowance and payment of improper benefits and Claims. The TPA shall not be liable for fraud by any Health Care Provider or Covered Person or for errors in Claim payment made to Covered Persons or designated assignees in good faith. The TPA shall not be liable for any loss of discount or increase in charges arising from a Claim due to a delay in the payment of a Claim. If a Claim payment error is discovered, the Health Care Provider or Covered Person will be notified and requested to refund payment. In the event that the Covered Person or his/her assignee does not respond to the refund request or refuses payment, the Plan Sponsor will be notified. The Plan Sponsor shall have the right to bring action against any employee or provider of service who does not voluntarily agree to repay the Plan for payments made in error. The TPA shall not be liable for misrepresentations, inflated charges, omissions, errors or fraud by any Health Care Provider or Covered Person which may result in any ineligible or excessive Claim payments.

- 3.6 Notify Covered Persons in writing through the U.S. Mail of ineligible Claims received. The computerized Explanation of Benefits form (EOB) shall indicate the general reason why such Claim is ineligible for payment. The EOB shall also contain notice of the written Claims review and appeal procedure in the Plan. This notification will be made within an average of fourteen (14) Working Days of the date the TPA receives the Complete Claim documentation and any Plan interpretations by the Plan Sponsor.
- 3.7 Respond to Claims inquiries by a Covered Person, the estate of a Covered Person, an authorized member of a Covered Person's family unit, the Covered Person's authorized legal representative or an authorized Health Care Provider.
- 3.8 Maintain local telephone service and toll-free telephone lines during regular business hours for inquiries made by Covered Persons regarding the status of their Claims. Such telephone lines may be recorded by the TPA.
- 3.9 Maintain an Internet Inquiry site for Paid Claims, processed claims and related information. Maintain an interactive voice response system and fax back service for the convenience of Covered Persons and Health Care Providers for Claim or coverage inquiries.
- 3.10 Maintain information that identifies a Covered Person in a confidential manner. The TPA agrees to take all reasonable precautions to prevent disclosure or use of Claims information for a purpose unrelated to the administration of the Plan. TPA shall not be liable for fraud, deceit, misrepresentation or any other false, misleading or erroneous representations made by the Plan Sponsor, any Covered Person, any Health Care Provider or any other person pertaining to any confidential, personal or protected health information or claim request. The TPA will only release non-protected health or Claims information for certificate of need reviews; for medical necessity determinations; to set uniform data standards; to update relative values scales; to use in claims analysis; to further cost containment programs; to verify eligibility; to comply with federal, state

or local laws; for coordination of benefits; for subrogation; in response to a civil or criminal action upon issuance of a subpoena, or with the written consent of the Covered Person or his or her legal representative.

- 3.11 Provide and maintain a specimen Plan Document and Summary Plan Description in a format acceptable to the TPA for review and final approval by the Plan Sponsor and the Plan Sponsor's legal counsel. Upon approval of the Plan Document from the Plan Sponsor, the TPA will forward copies of plan document and amendments, if any, to the Stop Loss or Excess Loss insurance company.

The TPA will furnish a master Summary Plan Description to the Plan Sponsor, either electronically (PDF format), or in printed form, and Summary Plan Description booklets in TPA's format for the fees stated in Appendix A.

The TPA will maintain an electronic Claims file on every Claim reported to it by the Covered Persons. The TPA shall retain such files and all Plan-related information for a period of six (6) years. Copies of such records shall be made available to the Plan Sponsor for inspection during a regularly scheduled Working Day at the office of the TPA for consultation, review and audit upon advance notice of a minimum of fourteen (14) Working Days.

The Plan Sponsor shall pay for any audit made at its request.

In the event this Agreement is terminated, the Plan Sponsor shall have a continuing obligation and liability to pay the TPA for all costs and professional, executive, managerial and clerical time expended by the TPA and its employees for any audit conducted by the Plan Sponsor or its Stop Loss or Excess Loss insurance company, and this obligation and liability shall survive and continue beyond the termination of this Agreement. The Plan Sponsor shall pay an advance retainer to the TPA for any audit assistance at any time the TPA receives notice from the Plan Sponsor or its Stop Loss or Excess Loss insurance company of an audit to be conducted after the termination date of this Agreement. The advance retainer shall be in an amount to be determined by the TPA in estimation of the extra time required for the scope of the audit that is requested. In no event shall the audit retainer fee be less than Two Thousand Five Hundred and no/100 Dollars (\$2,500.00). The TPA will not be required by the Plan Sponsor to provide access to its records, nor will any of the TPA's employees provide assistance to any auditor until receipt by the TPA of the required audit retainer fee. Any audit shall be conducted by an auditor mutually acceptable to the Plan Sponsor and the TPA and the audit shall include, but not necessarily be limited to, producing photocopies of Claims and funding information in the TPA's existing format(s), a review of procedural controls, a review of system controls, a review of Plan provisions, a review of sampled Claims, and comparison of results to TPA industry performances standards or any statistical models previously agreed to by the Plan Sponsor and the TPA in writing.

Nothing in this Agreement, expressed or implied, shall require the TPA to disclose any proprietary information,

including, but not limited to, file layout or record formats of its Claims processing system or procedures, providing records or information in a format not in use by the TPA, or creating unique information formats solely for the use of the auditor(s), consultant(s), agent(s) or broker(s) for the Plan Sponsor.

3.12 Upon request of the Plan Sponsor, provide COBRA continuation coverage services through a related corporation, Allegiance COBRA Services, Inc. (ACSI). A separate fee will be charged for COBRA continuation services, which fee is set out in a COBRA Services Agreement. If the Plan Sponsor does not request COBRA continuation services from ACSI, all responsibility and liability for administration of COBRA continuation shall remain with the Plan Sponsor, and neither the TPA nor ACSI will have any obligation or responsibility for providing such services or consultation regarding such services.

3.13 Provide reports as listed in Appendix D, TPA Report Package.

3.14 If requested by Plan Sponsor, procure, through Intermountain Underwriters, Inc., an affiliated company of TPA, Stop Loss or Excess Loss (specific and aggregate) insurance proposals and policies for the Plan Sponsor's consideration and selection, which Excess Loss or Stop Loss insurance will be an asset of the Plan Sponsor and not of the Plan. Intermountain Underwriters, Inc., may act as agent of record for the Plan Sponsor in placing Stop Loss or Excess Loss for the Plan Sponsor.

3.15 If applicable:

- (a) Notify the Stop Loss or Excess Loss insurance company of any potential large Claims, which may become a Claim under the Stop Loss or Excess Loss coverage.
- (b) On behalf of the Plan Sponsor, the TPA will file with the insurance company or its designee any Complete Claims for consideration for reimbursement under the Stop Loss or Excess Loss policies.
- (c) Promptly forward to the Plan Sponsor any premium, claim reimbursement, Stop Loss or Excess Loss or other notices received from the Stop Loss or Excess Loss insurance carrier concerning the policy.

3.16 If applicable, conduct utilization review for the Plan, including pre-certification of hospital stays, concurrent review of hospital stays, discharge planning, preliminary review for potential hospital bill audits, large case management or any other managed care programs as agreed to between the Plan Sponsor and the TPA. A separate fee will be charged for these services as stated in Appendix A.

Specific to these services, the Plan Sponsor adopts for the Plan all screening criteria used by TPA and its affiliated companies including, but not limited to:

- 16th Edition of the Milliman USA Optimal Recovery Guidelines for medical/surgical inpatient reviews, and all Addenda
- Acuity Assessment Tools for Rehabilitation and Skilled Nursing Level of Care
- Solucient Length of Stay Guidelines
- Medicare Guidelines
- Milliman USA Behavioral Health Guidelines
- American Society of Addiction Medicine (ASAM), Patient Placement Criteria-2R, 2001, for Substance-Related Disorders.

3.17 Maintain working relationships with networks of Health Care Providers through Preferred Provider Organizations (PPO) contracted by the Plan Sponsor or arranged by the TPA. The TPA shall be entitled to rely upon any and all representations made by Health Care Providers/PPO regarding their qualifications as Health Care Providers, and shall have no obligation or liability to obtain, verify or monitor such qualifications or credentials.

If applicable, a separate fee will be charged for PPO network services, TPA coordination and system maintenance for PPO networks, as stated in Fee Schedule, Appendix A.

The TPA will not be responsible for any services provided (or any failure to provide services) by a participating PPO or Health Care Providers and specifically makes no representation, warranty or guarantee whatsoever regarding any such PPO, Health Care Providers, or their representations, qualifications or credentials.

3.18 If checked as an included service in Appendix A, the TPA will provide coordination of services for wellness and health assessment through a third party vendor, Behavioral Health Care Options, Inc.

3.19 Provide, within thirty (30) days after termination of this Agreement, a summary paid Claim report of all Claims paid twenty-four (24) months prior to the date of termination, copies of any governmental reports, and other plan documentation to the Plan Sponsor. Until that time, these records will be maintained at the TPA's principal administrative office. Claim files will be kept in secure storage facilities or electronic media for at least six (6) years following the termination of the Plan Year. Copies of any materials in storage will be available to the Plan Sponsor for a copy fee of fifteen (\$0.15) cents per page copied plus a retrieval fee of Ten Dollars (\$10.00) per box or electronic media access. At the end of the six (6) year period or termination of this Agreement, if earlier, the TPA shall notify the Plan Sponsor that these records will be destroyed.

3.20 Provide Medicare, MSP, and §111 reporting services.

3.21 Provide non-proprietary information and documents as requested by the Plan Sponsor to brokers and agents designated by the Plan Sponsor. However, if the Plan Sponsor has entered into an agent of record agreement with any new agent or broker, and the TPA has notice of the same, the TPA shall not be required to provide any information or documentation to other agents or brokers

unless or until the Plan Sponsor has terminated the original agent of record agreement and notified the original agent of record of the termination. The TPA shall have the express right to contact any agent of record to verify the agent of record agreement has been terminated. A separate fee will be charged for this service as stated in Appendix A.

3.22 For Plan Sponsors which have designated subsidiaries, divisions, or which are a Multiple Employer Welfare Arrangement (MEWA): when any designated subsidiary, division or member employer of a MEWA terminates coverage under the plan that is the subject of this Agreement, the TPA will automatically perform run-out services for a period of three (3) months after the date of such termination for such designated subsidiary, division or member employer, unless directed not to do so by the Plan Sponsor in writing. The fee for each month of run-out services will be equal to the claims processing fee(s) stated in Appendix A, based upon the designated subsidiary's, division's or MEWA member employer's number of enrolled Plan Participants for the month immediately prior to the date of termination of coverage. Plan Sponsor will also pay the TPA run-out services fees for any enrolled Plan Participants who were laid-off or otherwise terminated from the rolls of the Plan during the term of this Agreement if the total number of such laid-off or terminated Plan Participants exceeds five (5%) percent of the total number of enrolled Plan Participants during the first month of this Agreement. Final reconciliation of run-out services fees will be made within ninety (90) days of the end of this Agreement.

3.23 Fees for the services described in Article III are set out in Appendix A hereto. Such fees are fixed for the initial term of this Agreement except that the fees are subject to change under the following conditions:

- (a) if the Plan Sponsor's census of enrolled employees increases or decreases by more than five (5%) percent from the number of employees that were enrolled upon the commencement of this Agreement;
- (b) if the Plan Sponsor significantly alters the design or complexity of its health benefit plan; or
- (c) regularly requesting and obtaining extra-contractual services from the TPA.

3.24 The TPA will comply with the applicable laws and rules for the storage, transmission and release of any "protected health information" (used herein as such defined in HIPAA). Notwithstanding any other provision of this Agreement, the TPA shall not be required to do any act which in its judgment violates HIPAA.

3.25 The TPA will provide consolidated billing services if checked as an included service in Appendix A. Specifically, the TPA will bill fees and premiums for other employee benefits including, but not limited to, group life, group AD&D and/or group short term and long term disability to the Plan Sponsor, and will remit the premium collected to the applicable carrier.

3.26 TPA will provide administrative interface services for the plan sponsor with the Plan's Pharmacy Benefit Manager including but not limited to census reconciliation and claims information transfer, and dispersal and distribution of any pharmacy rebates due to the Plan Sponsor. With regard to any pharmacy rebates due the Plan Sponsor, the PBM will transfer the entire amount of any rebate to the TPA and the TPA will distribute the rebate to the Plan Sponsor or its designee, after deducting an amount for the fees due the TPA for providing the interface services described above. The amount deducted by the TPA shall be as stated in Appendix A of this agreement.

ARTICLE IV: THE PLAN SPONSOR'S RESPONSIBILITIES

The Plan Sponsor or Employer will:

4.1 Establish the Plan together with a framework of policies, interpretations and rules, which shall be the basis for the TPA's performance of its duties under this Agreement.

Maintain current and accurate Plan eligibility and coverage records, verify Covered Person eligibility and submit eligibility and coverage information monthly, or more often if requested by the TPA, to the TPA at its designated electronic or postal address.

This information shall be provided in a format acceptable to the TPA and shall include the following for each Covered Person: name and address, Social Security number, date of birth, type of coverage, sex, relationship to employee, changes in coverage, date coverage begins or ends, and any other information as necessary to determine eligibility and coverage under the Plan.

The Plan Sponsor assumes the responsibility for and will hold the TPA harmless from the erroneous disbursement of benefits by the TPA in the event of error or neglect by the Plan Sponsor or Employer in providing eligibility and coverage information to the TPA, including, but not limited to, failure to give timely notification if ineligibility or termination of a former Covered Person, or fraudulent enrollment and/or continuation of coverage.

4.2 The TPA shall make recommendations regarding Claims determinations. The Sponsor shall have the sole authority to resolve all Plan ambiguities and interpretations, questions and disputes relating to the Plan eligibility of a Covered Person, Plan coverage and denied Claims.

The Plan Sponsor shall have the sole authority to make determinations regarding appeal of denied Claims. The Plan Sponsor will respond to any written request for information made by the TPA within ten (10) Working Days of receipt of the request.

Resolve all Plan ambiguities, questions and disputes relating to the Plan eligibility of a Covered Person, Plan coverage, denial of Claims or decisions regarding appeal or denial of Claims, or any other Plan interpretation questions. The Plan Sponsor will respond to any written request made by the TPA within ten (10) Working Days of receipt of the request.

The TPA will administer and process Claims in accordance with Article III if the Plan Document and Summary Plan description are clear and unambiguous as to the validity of the Claims and the Covered Person's eligibility for coverage under the Plan. The TPA will have no discretionary authority to interpret the Plan or adjudicate Claims. If processing a benefit Claim requires interpretation of ambiguous Plan language, and the Plan Sponsor has not previously indicated to the TPA the proper interpretation of the language, then the Plan Sponsor will be responsible for resolving the ambiguity or any other dispute.

In any event, the TPA shall rely upon the Plan Sponsor's decision as to any Claim (whether or not it involves a Plan ambiguity or other dispute) and such decision by the Plan Sponsor shall be final and binding unless modified or reversed by a court or regulatory agency having jurisdiction over such Claim matter.

- 4.3 Fully fund the Claims Payment Account every week based upon the Claims batch report provided by the TPA.
- 4.4 Set funding levels for the Plan at a minimum level necessary to cover the expected Claims costs, administrative expenses and incurred but not reported Claims liability and fund the Plan at such level.
- 4.5 Not request or require the TPA, under any circumstances, to issue Claims drafts for Claims, stop loss or excess loss insurance premiums, or any other costs arising out of the subject matter of this Agreement, unless the Plan Sponsor has so authorized and has previously deposited sufficient funds to cover such Complete Claims or other Plan expense obligations and payment(s).
- 4.6 Provide the TPA with copies of any and all revisions or changes to the Plan at least five (5) Working Days prior to the effective date of the changes. Failure to provide timely notice may result in additional claims processing fees as set forth in Appendix A.
- 4.7 Provide, and timely distribute, all notices and information required to be given to Covered Persons, including Summary Annual Reports. Maintain and operate the Plan in accordance with applicable law. Maintain all recordkeeping and file all forms relative thereto pursuant to any federal, state or local law, unless this Agreement specifically assigns such duties to the TPA.
- 4.8 Acknowledge that it is the Plan Sponsor, Plan Administrator, and Named Fiduciary. As such, the Plan Sponsor retains full discretionary control and authority and discretionary responsibility in the operation and administration of the Plan.
- 4.9 Pay any taxes, assessments for fees arising solely out of the operations of the Plan or the services provided under this Agreement that are levied against the Plan or against the TPA by any governmental entity whether federal, state or local, or any political subdivisions or instrumentality thereof. Taxes based on TPA's net income or licenses

TPA is required to maintain to provide the services under this Agreement shall be the sole responsibility of TPA.

- 4.10 Hold confidential information that is proprietary to the TPA or information or material not generally known by personnel other than management employees of the TPA. The Plan Sponsor agrees not to use or disclose proprietary information of the TPA. Such proprietary information includes, but is not limited to, information designated as "trade secrets" under the Montana Uniform Trade Secrets Act, Title 30, Chapter 14, Part 4 of the Montana Code Annotated and any other constitutional protections. The Plan Sponsor acknowledges that such proprietary information shall include all financial information, PPO network or provider contracting arrangements, reasonable and customary Claims levels, fee schedules, conversion factors and Claims administration guidelines or procedures of the TPA or its affiliates or subcontractors.
- 4.11 Pay, in accordance with the Fee Schedule, Appendix A, the TPA's fees for services rendered under this Agreement. The TPA is expressly directed by the Plan Sponsor to pay any excess loss insurance premiums (where applicable), fee, cost or charge then due to the TPA prior to application of funds to payment of Claims or any other costs arising out of the Plan or subject matter of this Agreement. The Plan Sponsor specifically directs that all funds provided to TPA under this Agreement will be disbursed in the following order: First to pay excess loss insurance premiums where applicable, claims administration fees, costs and related expenses incurred by TPA and second, to pay benefit claims arising under the Plan.
- 4.12 Maintain any fidelity bond or other insurance as may be requested by state or federal law for the protection of the Plan and Covered Persons.
- 4.13 Maintain Stop Loss or Excess Loss insurance with an admitted insurance company in the minimum amount set forth in the Fee Schedule, Appendix A.
- 4.14 Promptly notify the TPA of any termination notice, expiration lapse, or modification of Stop Loss or Excess Loss insurance, life insurance, disability insurance, conversion insurance or any other insurance purchased in conjunction with the Plan.
- 4.15 Ensure that there is adequate release and authorization from each participant and/or beneficiary under the Plan permitting Health Care Providers to share with TPA and TPA to share with Health Care Providers and other service providers to the Plan any and all information, whether protected or individually identifiable, which may be necessary to perform the services anticipated by this Agreement and any Appendices hereto. TPA may in its sole discretion, require participants and/or beneficiaries of the Plan to execute additional releases and authorizations for the use and disclosure of such information. TPA may refuse to release protected or other individually identifiable health care information to Plan Sponsor, its agents and designees if such authorizations and/or releases are not provided.

4.16 Have the sole responsibility for reporting and disclosure, including but not limited to plan documents, summary plan descriptions, summaries of material modifications, participant communications, pre-retirement counseling to participants, bonding filings or other compliance required of, by or for the Plan, their participants and beneficiaries, or the Plan Sponsor by ERISA, the Internal Revenue Code, or any other related and/or applicable federal, state or local laws, rules or regulations. Plan Sponsor shall indemnify and hold harmless TPA from any claim or expense incurred as a result of the Plan Sponsor's failure to comply with the requirements or provisions of applicable, federal, state, and local laws, rules and regulations.

4.17 Shall be solely responsible for paying all fees, expenses, or costs attributable to any legal action or proceeding brought to recover a claim for benefits under the Plan. TPA shall, however, make available to the Plan Sponsor and its counsel, such evidence which relates to or is relevant to such action or proceeding as TPA may have as a result of the performance of the services set forth in this Agreement. TPA shall promptly notify the Plan Sponsor in writing of any legal actions of which it becomes aware that involve the Plan or the Plan Sponsor. Any legal fees incurred by TPA in connection with any legal action or proceeding brought to recover a claim for benefits under the Plan shall be the responsibility of the Plan Sponsor.

4.18 Provide timely, accurate and complete information required by TPA to provide the services that TPA has agreed to perform under this Agreement. TPA shall have the right to rely on such information. Such information shall include but not be limited to all necessary eligibility enrollment and participant data; and copies of all governing documents of the Plan and any amendments thereto, including any written policies, interpretations, rules, practices or procedures concerning same. Such information shall be provided upon execution of this Agreement and immediately following modification or amendment. TPA shall have the right to assume that all such information is accurate and complete and TPA shall be under no duty to question such information. Plan Sponsor shall reimburse TPA at its standard hourly rates for TPA's costs incurred for efforts expended to remedy data or information inaccuracies as were provided by the Plan Sponsor.

4.19 File and timely pay all applicable PCORI and Transitional Reinsurance fees and file and distribute to employees all applicable IRS Form 1094 and 1095 forms.

4.20 Premier Joint Replacement Provider Benefit Shared Savings:

If Plan Sponsor has adopted a Premier Joint Replacement Provider Benefit in its Plan Document, Plan Sponsor agrees to share the savings realized under such benefit with the hospital providing such services under this benefit. Such savings will be shared on a 50% / 50% basis between Plan Sponsor and the applicable hospital.

Such savings shall be calculated as follows:

- (a) Professional charges (doctors, assistant surgeons, and anesthesiology) will be deducted from the Maximum Benefit Amount stated in the Plan Document.
- (b) Additionally, TPA's Premier Joint Replacement Provider Benefit management fee of \$100.00 per event shall be deducted from the Maximum Benefit Amount stated in the Plan Document.
- (c) The hospital's contractually agreed upon base rate shall be subtracted from the remaining balance after subtraction of (a) and (b) above.
- (d) The remaining balance, if any, shall be divided equally between the Plan Sponsor, as a credit to claims experience, and to the hospital as an additional payment.

The shared savings shall be distributed by the TPA on a per surgical event basis.

ARTICLE V: DURATION OF AGREEMENT

5.1 This Agreement shall commence and end on the dates first written above, unless terminated earlier in accordance with this Article. This Agreement shall automatically renew at the end of each term for an additional twelve (12) month period pursuant to receipt of a fee quote from the TPA for the succeeding twelve (12) month period, or unless modified or terminated as described below. The fee quote in this subsection must be accepted, in writing, by the Plan Sponsor prior to the renewal date for the period to which the fee quote applies. Non-acceptance of the renewal fee quote shall cause this Agreement to lapse and terminate at 5:00 P.M. on the last Working Day of this Agreement.

5.2 At any time during the term of this Agreement, either the Plan Sponsor or the TPA may amend or change the provisions of this Agreement. These amendments or changes must be agreed upon in advance in writing by both the Plan Sponsor and the TPA. If any such amendment increases the anticipated Claims experience under the Plan or the TPA's cost of administering the Plan, the Plan Sponsor agrees to pay any increase in Claims expenses, as well as increases in administrative fees or other costs which the TPA reasonably expects to incur as a result of such modification.

Any amendment which affects only the Fee Schedule, Appendix A, may be made, in writing, signed by all parties, and without other formal amendment of this Agreement. All fee quotes accepted by the Plan Sponsor for renewals of this Agreement will be incorporated into this Agreement as amendments to the Fee Schedule, Appendix A.

5.3 Either the Plan Sponsor or the TPA may terminate this Agreement at any time, by giving sixty (60) days advance written notice to the other party unless both parties agree to waive such advance notice. At the option of the party initiating the termination, the other party may be permitted a cure period (of a length determined by the party initiating the termination) to cure any default.

5.4 The TPA may, at its sole option, terminate this Agreement with ten (10) days written notice upon the occurrence of any one or more of the following events pertaining to the Plan Sponsor:

- (a) The Plan Sponsor fails to fund the Claims Payment account;
- (b) The Plan Sponsor fails to pay administration fees or other fees for the TPA's services upon presentation for payment and in accordance with the Fee Schedule, Appendix A;
- (c) The Plan Sponsor fails to comply with any federal, state or other government statute, rule or regulation;
- (d) The Plan Sponsor, through its acts, practices, or operations, exposes the TPA to any existing or potential investigation or litigation.
- (e) The Plan Sponsor permits its stop loss or excess loss insurance to lapse, whether by failure to pay premiums or otherwise;
- (f) The Plan Sponsor loses its licensure or certification, if required by law, to continue the Plan;
- (g) Insolvency of the Plan;
- (h) Court appointment of a permanent receiver for substantially all of the Plan Sponsor's assets;
- (i) A general assignment of the benefit of credits by the Plan Sponsor; or
- (j) The filing of a voluntary or involuntary petition of bankruptcy, if such petition is not dismissed within forty-five (45) days of the date of filing, provided that an order for relief from automatic stay has been obtained, or with respect to a Chapter 11 proceeding, that the bankrupt or Bankruptcy Trustee fails to reaffirm this Agreement and provide adequate assurances pursuant to 11 USC 365.

5.5 The Plan Sponsor may, at its option, terminate this Agreement with ten (10) days written notice upon the occurrence of any one or more of the following events pertaining to the TPA:

- (a) Court appointment of a permanent receiver for all or substantially all of the TPA's assets;
- (b) A general assignment of the benefit of credits by the TPA;
- (c) The filing of a voluntary or involuntary petition of bankruptcy, if such petition is not dismissed within forty-five (45) days of the date of filing, provided that an order for relief from automatic stay has been obtained, or with respect to a Chapter 11 proceeding, that the bankrupt or Bankruptcy Trustee fails to reaffirm this Agreement and provide adequate assurances pursuant to 11 USC 365;
- (d) The TPA loses its licensure or certification required by law to continue its business or continue as third party administrator; or
- (e) The TPA fails to comply with any federal, state or other governmental statute, rule or regulation.

5.6 At the written request of the Plan Sponsor and subject to the Plan Sponsor's continuing obligation to fund the

Claims Payment Account, and to timely pay any outstanding amounts due and payable to the TPA under the terms of this Agreement, the TPA may, at its sole discretion, agree to process incurred but not reported Claims after the termination of this Agreement (Run-Out Services). The written request of the Plan Sponsor must be received simultaneously with the notice of termination required by subsection 5.3 of this Agreement. Such agreement (Run-Out Services Agreement), if any, shall be in writing and a separate fee will be charged for this service.

5.7 If this Agreement terminates for any reason and no Run-Out Service Agreement is requested, or if the TPA declines to provide Run-Out Services, the TPA shall have no obligation to:

- (a) Complete the processing of any claim requests that were pending or otherwise not Complete Claims or complete the processing of any Complete Claims if the Plan Sponsor has failed to provide funds for the payments of any benefits due;
- (b) Accept or process requests for claim payments presented to it after termination of this Agreement irrespective of when such claim was incurred;
- (c) Issue claims checks after the termination date of this Agreement for any request for claims payments relative to conditions existing before, on or after such a date.
- (d) Provide ongoing customer service to Plan Participants or Health Care Providers; or
- (e) Perform any other task or requirement of this Agreement, except for those requirements that specifically survive termination of this Agreement.

5.8 If the Plan Sponsor terminates this Agreement on or before the expressed expiration date of this Agreement, but after such termination date becomes entitled to any reimbursement(s) pursuant to the provisions of the Plan Sponsor's Stop Loss or Excess Loss insurance policy aggregate or specific loss reimbursement provisions, and no separate Run-Out Services Agreement is executed, the Plan Sponsor shall pay to the TPA an hourly fee of One Hundred and no/100 Dollars (\$100.00) per hour for all services rendered by the TPA after termination of this Agreement regarding such reimbursement(s) request made to or claims paid by a Stop Loss or Excess Loss insurance company.

5.9 In the event this Agreement is terminated for any reason and Plan Sponsor cannot be located following reasonable efforts by TPA, TPA shall charge a \$50.00 per check administrative charge for its efforts to return any stale dated funds (defined as a check with an original issue date greater than 180 days) belonging to Plan Sponsor or belonging to a plan participant who, likewise, cannot be located. The administrative charge may be paid from any funds of the Plan Sponsor held by TPA, or billed directly to the Plan Sponsor. This provision shall survive termination of this Agreement.

5.10 The Plan Sponsor specifically acknowledges that the TPA incurs ongoing costs for staffing, long term planning, maintenance of customer service support and other costs connected with providing services to Plan Sponsor's Plan, and that the notice of termination and terminate date provisions of this Agreement provide adequate notice to the TPA so that unnecessary costs are not incurred by the TPA if the Plan Sponsor terminates this Agreement. In that regard, it is specifically agreed by the Plan Sponsor that in the event that the Plan Sponsor either fails to provide the advance notice for termination required by this Agreement, or terminates this Agreement other than on its express expiration date, the Plan Sponsor shall pay to the TPA a fee equal to two times the amount of Plan Sponsor's administrative fees payable to the TPA for the month immediately prior to the date notice of termination is received. The amount payable under this provision shall be as liquidated damages incurred by the TPA for the costs recited in this subsection, in lieu of specific calculation of the same, and not as a penalty. The liquidated damages will be in addition to any other fees required under this Agreement or any subsequent Run-Out Services Agreement between the parties.

ARTICLE VI: MISCELLANEOUS

6.1 This Agreement, together with all addenda, exhibits and appendices, supersedes any and all prior representations, conditions, warranties, understandings, proposals or other agreements between the Plan Sponsor and the TPA hereto, oral or written, in relation to the services and systems of the TPA, which are rendered or are to be rendered in connection with its assistance to the Plan Sponsor in the administration of the Plan.

6.2 This Agreement, together with the aforesaid addenda, exhibits, and appendices, constitutes the entire Administrative Services Agreement of whatsoever kind or nature existing between or among the parties.

6.3 The parties hereto, having read and understood this entire Agreement, acknowledge and agree that there are no other representations, conditions, promises, agreements, understandings or warranties that exist outside this Agreement which have been made by either of the parties hereto, which have induced either party or have led to the execution of this Agreement by either party. Any statements, proposals, representations, conditions, warranties, understandings or agreements which may have been heretofore made by either of the parties hereto, and which are not expressly contained or incorporated by reference herein, are void and of no effect.

6.4 Except as provided in Article V, no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto.

6.5 In the event any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason and in any respect, such invalidity, illegality or unenforceability shall in no event affect, prejudice or disturb the validity of the remainder of this Agreement, which shall remain in accordance with its terms.

6.6 The Plan Sponsor will notify the TPA within ten (10) Working Days of any inquiry made by any Covered Person or authorized representative of any Covered Person related to Plan Documents, Plan Records, Claims, Claims Appeals, Claims Disputes, threatened litigation, lawsuits pertaining to the Plan or any inquiry made by federal or state authority regarding the Plan.

6.7 In the event that either party is unable to perform any of its obligations under this Agreement because of natural disaster, fire, flood, wind storm, power outage, labor unrest, civil disobedience, acts of war (declared or undeclared), or actions or decrees of governmental bodies or any event which is referred to as a "Force Majeure Event", the party who has been so affected shall immediately notify the other party and shall do everything possible to resume performance.

Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds fourteen (14) Working Days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may terminate this Agreement by giving ten (10) Working Days' written notice.

6.8 All notices required to be given to either party by this Agreement shall, unless otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested.

Any official notice to the TPA will be mailed to the attention of: President, 2806 South Garfield St., Missoula, MT 59801.

Any official notice to the Plan Sponsor will be mailed to the attention of: Julianne Fries, Teton County, 200 South Willow, PO Box 3594, Jackson, WY 83001.

6.9 The TPA has adopted an Affirmative Action Policy which is in compliance with §49-2-101, Montana Code Annotated.

Employees hired by the TPA are hired on the basis of merit and qualifications, and there is no discrimination on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical handicap, national origin or ancestry by persons performing this Agreement. Qualifications mean such abilities as are genuinely related to competent performance of the particular occupational task.

6.10 This Agreement shall be interpreted and construed in accordance with the laws of the state of Montana except to the extent superseded by federal law.

6.11 The parties agree to use and disclose protected health information about a Covered Person in accordance with the terms of a separately provided Business Associate Agreement.

6.12 The TPA shall comply with the Montana Workers' Compensation Act while performing its obligations under

this Agreement in accordance with §§39-71-120, 39-71-401 and 39-71-405, Montana Code Annotated. Proof of compliance shall be in the form of workers' compensation insurance, an independent contractor's exemption or documentation of corporate officer status. Such insurance/exemption shall be valid and in force for the duration of this Agreement.

6.13 The TPA may enter into arrangements with a Health Care Provider or group of Health Care Providers to obtain discounts in charges for Covered Services. The TPA makes no representations that such discounts will continue for any period of time or will apply in any particular factual context. Plan Sponsor agrees to pay such discounted charges based upon the terms of the arrangement, the terms of the contract between the arrangement and the Health Care Provider(s) or the terms of the contract between the TPA and the Health Care Provider(s). In no event will TPA be responsible for the loss of any such discounts except in the sole event that such loss is directly caused by commissions or omissions of the TPA which constitute gross negligence.

6.14 No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement shall be construed as a waiver, alteration or modification of the Agreement.

6.15 Should the TPA's performance of its duties under this Agreement be made materially more burdensome or expensive due to an increase in US Postal Service rates or due to a change in federal, state or local laws or imposition of fees there under, any such additional fees shall be paid by Plan Sponsor.

6.16 The TPA and the Plan Sponsor specifically state, acknowledge and agree that it is their intent that no other parties including, but not limited to, all persons eligible for benefits under the Plan, all covered employees, and their assignees shall be third party beneficiaries of this Agreement. The parties further agree that nothing herein shall be deemed to impose on the TPA any obligation to any other party including, but not limited to, all persons eligible for benefits under the Plan, all covered employees, and their assignees.

6.17 The Plan Sponsor acknowledges that the TPA shall have no responsibility or liability for any fines or penalties assessed by the Internal Revenue Service as a result of the issuance of annual 1099 forms to medical service providers so long as the TPA has issued the 1099 to the same name, address and TIN as billed by the medical services provider at the point of claim submission.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf by their duly authorized representatives' signatures, effective as of the date first written above.

TETON COUNTY
200 South Willow
PO Box 3594
Jackson, WY 83001

ALLEGIANCE BENEFIT PLAN MANAGEMENT, INC.
2806 S. Garfield St.
Missoula, MT 59801

By: _____, **Chairman**
Teton County Board of County Commissioners

By: **Ronald K. Dewsnup**
President and General Manager

By: _____
(Signature)

By: _____
(Signature)

Date: _____

Date: _____

ATTEST:

By: _____
_____, **Teton County Clerk**

APPENDIX A

FEE SCHEDULE AND FINANCIAL ARRANGEMENT

I

Fee Schedule

The Plan Sponsor and the TPA hereby agree to the compensation schedules set forth below as being the sole compensation to the TPA for the performance of its obligations under this Agreement. Monthly fees are based upon Plan Participant enrollment as of the beginning of each month. The fees paid to TPA in this contract are guaranteed for a period of two (2) years from the original date of this contract.

A. Administration fee of \$21.30 per Plan Participant per month, which fee shall include services for production and maintenance of Plan Documents/Summary Plan Description, plan building, amendment production, plan document compliance, and HIPAA compliance, regulatory compliance (if applicable) and production and mailing via bulk mail to the Plan Sponsor of health plan identification cards, and all of the following services that are checked:

Medical Claims

Dental Claims

Vision Claims

Short Term Disability

PPO Management and Provider Network Coordination

Predictive Modeling Services

Behavioral Healthcare Options

World Doc online wellness program

On-line Wellness/health risk assessment program

Consolidated Billing

COBRA services provided by Allegiance COBRA Services, Inc., pursuant to the COBRA Administrative Services Agreement attached hereto. (In addition to this fee, the TPA will also retain two (2%) percent of all COBRA premiums as fees for COBRA services.)

pre-certification, continued stay review, concurrent utilization review, or coordination of large case management referrals.

PBM management fee for regular eligibility maintenance, file maintenance, ID card production, reporting customer service assistance and other services performed by the TPA in connection with the PBM agreement for and on behalf of the participating Plan. Any administrative fees charged by the Pharmacy Benefit Management (PBM) company that is utilized by the Plan pursuant to written agreement with the Plan, the PBM and the TPA, will be paid by Plan Sponsor.

Distribution of plan materials will be delivered to the Plan Sponsor. An additional postage and handling fee will be paid to the TPA for mailing materials to individual Plan Participants.

B. A monthly fee for Retiree Billing of \$5.00 per Plan Participant per month.

C. Hourly fee of \$175.00 for Ad-Hoc Reporting (customized reports, changes to standard reports, correspondence, documents or other materials).

D. Hourly fee of \$125.00 for welfare plan consulting. Such services must be agreed to in advance by the Plan Sponsor.

E. Hourly fee of \$125.00 for stop-loss reimbursement services, audit assistance services and any other services provided by the TPA after termination of this Agreement and in the absence of a separate Run-Out Services Agreement.

F. Hourly fee of \$125.00 for special programming requests or research including production of any special claims history reports. Such services must be agreed to in advance by the Plan Sponsor.

G. Special Reports requested by the Plan Sponsor and produced by the TPA upon prior agreement as to report(s) and fee(s).

H. Hourly fee of \$115.00 for Large Case Management.

I. Final fee of \$500.00 for forwarding magnet diskette of eligibility/enrollment file in DBC or ASCII format to the Plan Sponsor (if requested).

J. Final fee of \$1,500.00 for forwarding magnetic diskette of Claims history file in DBC or ASCII format to the Plan Sponsor (if requested).

K. Check customization, customized printed material, special statistical reports other than those enumerated in this contract, special medical underwriting, new taxes assessed against the Plan, or other services mutually agreed upon will be billed separately at the rate of \$125.00 per hour for such services. Such services must be agreed to in advance by the Plan Sponsor.

L. A fee equal to the actual costs for printing a Summary Plan Description Booklet, together with costs of shipping for each booklet.

M. A fee of \$125.00 per hour for time expended producing and providing information to agents, consultants or brokers for whom the Plan Sponsor requests Plan information be provided, together with any postage, shipping and copying costs. Paper copies will be billed at fifteen (\$0.15) cents per copy and electronic copies shall be billed at \$500.00 per disk in DBC or ASCII format only.

N. Broker fee of \$4,791.67 per month, payable to: Stephanie Mace, Hays Companies, 170 S. Main St., Suite 1000, Salt Lake City, UT 84101.

O. PPO access fees for any Preferred Provider Organization claim negotiation company or cost containment vendor that assesses a per Plan Participant fee, a per Claim fee, or a percentage of claims savings fees not to exceed twenty-five (25%) percent of the actual savings amount between the charges billed by the Health Care Provider and the discounted amount agreed to between the PPO or Claims Negotiation Company and the Health Care Provider. The amount charged under this Agreement shall be equal to the amount charged by the PPO or Claims Negotiation Company. The TPA, its parents or its affiliates, may be paid a service fee by the PPO for claim repricing or other administrative services associated with the claims discount or negotiation. The Plan Sponsor will receive a report that outlines the total billed charges, the total discounts obtained, the net claims cost and the total claim savings to the Plan. Any additional fee in excess of this amount must be approved in advance by the Plan Sponsor. The TPA may be paid a fee not to exceed twenty-five (25%) percent of net savings payable to TPA, its parent or its affiliates, realized as a result of any negotiation or reduction in the amount of claims paid or any recovered funds obtained by TPA through employment of cost containment companies or outsourced claims editing service for unbundling and other erroneous or unacceptable medical billing practices. Specific fees at the inception of this contract for which a per Participant per month rate is charged are:

\$ 3.75 per Plan Participant per month for First Choice of Midwest

\$ 6.25 per Plan Participant per month for CIGNA

P. Funds held in accounts by TPA, until paid out for benefits, may accrue interest. The interest accrued will be retained by TPA as reasonable compensation and fees for fees assessed on the accounts, for paper, printing and postage, record keeping and account reconciliation, bank service fees, trust tax return preparation; and SAS 70 and related trust activities audit fees.

Q. Sentinel Air Medical Alliance air ambulance pre-authorization fee payable to TPA of \$750.00 per pre-authorization.

R. Any mandatory assessments charged by Network or Preferred Provider organizations based upon pay for performance criteria required of network providers, which assessments will be paid upon receipt of billing and supporting documentation from the Network or Preferred Provider organization.

II

Funding and Fee Payment Terms

Allegiance Benefit Plan Management, Inc., will establish and maintain a zero balance Claims Payment Account for payment and reimbursement of Covered Services.

TPA will notify Plan Sponsor or its designee on a weekly basis of amount required to be deposited to the Claims Payment Account to pay claims after they have been processed for payment. Notification of the amount required to be deposited will take place as follows:

On Wednesday of each week (Tuesday, if Monday coincides with a recognized Federal holiday), an electronic notification will be provided to Plan Sponsor that the weekly report of claims processed for payment is available on TPA's secured website.

Within five (5) business days from the electronic notification, Plan Sponsor will authorize TPA to release checks for payment of claims from an account designated by Plan Sponsor.

TPA will generate a monthly bill for fees. Payment of monthly billing will be as follows:

On or about the 15th of each month, TPA will provide an electronic notification to Plan Sponsor that the monthly bill is available on TPA's secured website.

Plan Sponsor will remit payment by check for the monthly bill on or before the 10th day following the date the monthly billing notification is received.

III

Stop Loss Arrangement

The Plan Sponsor agrees to do the following:

Maintain Excess Loss Insurance as follows:

1. \$100,000 specific excess loss with an Incurred/Paid limit of UNLIMITED on a Paid basis.
2. Aggregate excess loss insurance with a minimum aggregate corridor of 125% of expected Claims on a Paid
3. Minimum policy limits of \$1,000,000 in excess of the annual aggregate deductible.

Excess loss insurance will be purchased with Employer contributions or funds and NOT with Employee contributions or Plan Assets.

Initials
(Plan Sponsor)

Initials
(TPA)

APPENDIX C

COBRA ADMINISTRATIVE SERVICES AGREEMENT

This COBRA Administrative Services (hereinafter "Agreement") is entered into January 1, 2017, by and between **TETON COUNTY** (hereinafter "Plan Sponsor"), whose address and phone number are 200 South Willow, PO Box 3594, Jackson, WY 83001; (307) 733-4430, and **ALLEGIANCE COBRA SERVICES, INC.**, (hereinafter "TPA"), whose address and phone number are 2806 S. Garfield St, PO Box 2097, Missoula, MT 59806; (406) 721-2222.

WHEREAS, the Plan Sponsor and/or the plan administrator of the group health plan sponsored by the Plan Sponsor is required to perform certain duties pursuant to continuation of benefits coverage requirements;

WHEREAS, the Plan Sponsor has selected the TPA to perform certain nondiscretionary and ministerial duties pursuant to the Plan Sponsor's continuation of benefits coverage requirements;

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties agree as follows:

SECTION 1: Definitions

- 1.1 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Public Health Service Act, as amended or interpreted from time to time, and applicable regulations.
- 1.2 "COBRA Participant" means any person who is properly enrolled for and entitled to benefits from the Plan, pursuant to COBRA continuation coverage.
- 1.3 "Plan" means the self-funded health and welfare benefit plan which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.
- 1.4 "Plan Administrator" means the person or entity designated by the Plan Sponsor to manage the Plan and make all discretionary decisions regarding Plan terms and managing Plan assets.
- 1.5 "Plan Participant" is any employee, retiree or COBRA beneficiary who is properly enrolled and eligible for benefits under the Plan.
- 1.6 "Qualified Beneficiary" means a covered person under the Plan, who is eligible to continue coverage under the Plan in accordance with the applicable provisions of COBRA, regarding Qualified Medical Child Support Orders, or in accordance with any other applicable Federal or State law.
- "Qualified Beneficiary" also means a child born to, adopted by or placed for adoption with a covered employee or former employee, at any time during active COBRA continuation coverage of that employee or former employee.
- 1.7 "Qualifying Event" means:
- a. With respect to a covered employee or former employee, termination of employment of the employee (except for termination as a result of gross misconduct), or reduction of hours of employment causing the employee to become ineligible for coverage.
 - b. With respect to an eligible dependent or spouse of a covered employee or former employee, termination of employment of the employee (except for termination as a result of gross misconduct), reduction of hours of employment causing the employee to become ineligible for coverage, the covered employee's entitlement to Medicare, the death of the covered employee, the divorce or legal separation of the spouse from the covered employee, and an eligible dependent who ceases to be a dependent as that term is defined by the Plan.
 - c. With respect to eligible retirees and their eligible dependents, the commencement of a bankruptcy proceeding.
 - d. Any other qualifying event as defined by law and as the law may be amended or interpreted from time to time.

SECTION 2: Relationship of Parties

- 2.1 Independent Contractor. Plan Sponsor acknowledges that the TPA is an independent contractor as defined in section 39-71-120 of the Montana Code Annotated, as amended, for purposes of this Agreement. As such, the TPA is not an agent or employee of Plan Sponsor and does not assume any liability or responsibility for any breach of duty or act of omission by Plan Sponsor.
- 2.2 Plan Fiduciary. Plan Sponsor acknowledges and agrees that the performance by the TPA of its obligations under this Agreement does not make the TPA a plan administrator, plan sponsor, or fiduciary as defined by ERISA or other applicable law, and Plan Sponsor will not identify the TPA or any of its affiliates as such. The Plan Sponsor further acknowledges and agrees that it is the plan sponsor, plan administrator, and named fiduciary as defined by ERISA or other applicable law. As such, Plan

Sponsor retains full discretionary authority, control, and responsibility for the operation and administration of the Plan.

- 2.3 No Legal or Tax Advice. Plan Sponsor acknowledges and agrees that the TPA will not be deemed to be a legal or tax advisor as a result of the performance of its duties under this Agreement.
- 2.4 Subcontractors. The TPA may subcontract the services of computer companies, consultants, attorneys, accountants, and other organizations that it deems necessary in the performance of its obligations under this Agreement. At the discretion of the TPA, such services may be performed directly by the TPA, wholly or in part, through a subsidiary or affiliate of the TPA or under an agreement with an organization, agent, or other person of its choosing. Any such services resulting in a fee not agreed to in Appendix A, Fee Schedule and Financial Arrangement in the Administrative Services Agreement between Plan Sponsor and Allegiance Benefit Plan Management, shall have prior written authorization by the Plan Sponsor.
- 2.5 Third Party Administrator Licensure. The TPA represents that during the term of this agreement it will be licensed or registered as necessary in the Plan Sponsor's state of domicile.

SECTION 3: Responsibilities of Plan Sponsor

- 3.1 Initial Notice: If applicable, Plan Sponsor will notify the TPA within thirty (30) days after employees and/or their dependents enroll in Plan Sponsor's Plan of such enrollment to allow the TPA to send the employee an initial COBRA notice.
- 3.2 Qualifying Event Notice: Plan Sponsor will notify the TPA or cause the TPA to be notified when employees and/or their dependents have a Qualifying Event as follows:
- Within thirty (30) days of the employee's death, termination from employment for any reason including gross misconduct, or reduction of employment hours.
 - Within sixty (60) days of the divorce or legal separation of the employee or the date at which a dependent child ceases eligibility under the Plan.
 - Within sixty (60) days of a second Qualifying Event of a Qualified Beneficiary dependent or spouse, such as the divorce or legal separation from the covered employee, death of the covered employee, entitlement to Medicare or the dependent child ceasing eligibility under the Plan.
- 3.3 Late Notice of Qualifying Event: If any employee or dependent of an employee provides notice to the Plan Sponsor of divorce or legal separation, entitlement to Medicare, or that a dependent child ceases eligibility under the Plan, and such notice is made more than 60 days after the Qualifying Event, Plan Sponsor will notify

the TPA in writing of the same within ten (10) days after receiving the notice.

The TPA will not enroll those persons who provided notice in such manner for COBRA continuation coverage, unless specifically directed to do so in writing, by the Plan Sponsor and/or the Plan Administrator.

- 3.4 Qualified Beneficiary Information: Plan Sponsor will provide the TPA the following information with notice of a Qualifying Event:
- The name, address, and Social Security number of the employee.
 - The name, address, and Social Security number for any covered dependents.
 - Date and description of the Qualifying Event, or if not a Qualifying Event, the date and reason, if known, for dropping or terminating Dependent coverage. If the Plan Sponsor knows that the Participant's reason for dropping or terminating Dependent coverage is in contemplation of divorce or legal separation, Plan Sponsor shall notify the TPA of the same to assure that any affected Dependent receives notice of any COBRA rights to which he or she is entitled.
- 3.5 SSI Determination Letters: Plan Sponsor will forward copies of any Social Security Disability Determination letters it may receive from COBRA Participants within ten (10) days after Plan Sponsor receives the same and has date stamped the letter.
- 3.6 Plan Sponsor Plan, Changes, and Amendments: Plan Sponsor will notify the TPA of any changes in benefits, eligibility and/or premiums for Plan Sponsor's Plan, in accordance with the terms of the Administrative Service Agreement for the Plan Sponsor's Plan.
- 3.7 COBRA Premiums: Plan Sponsor will determine the amount to be charged for COBRA premiums and notify the TPA of the same, in writing, upon execution of this Agreement. Plan Sponsor will notify the TPA in writing of any premium changes at least thirty (30) days prior to the effective date of the change or as soon as reasonably possible thereafter.
- 3.8 COBRA Election Forms: If Plan Sponsor receives requests for COBRA coverage, Plan Sponsor will record on the form the date it was received by Plan Sponsor. Plan Sponsor will fax a copy of the form to the TPA on the date it is received by Plan Sponsor, and will mail a copy of the same to the TPA within five (5) days of receipt by Plan Sponsor.
- 3.9 Premium Accounts: Plan Sponsor will establish, or cause to be established, a premium account at a bank designated by the TPA. Plan Sponsor, and not the TPA, will be the owner of such account.

Plan Sponsor authorizes the TPA to endorse COBRA premium payments received by stamping the same with

“FOR DEPOSIT ONLY” and the applicable premium account number and to deposit the payments into the premium account.

3.10 Premium Payments Received from COBRA Participants: If Plan Sponsor receives premium payments directly from COBRA Participants, Plan Sponsor will notify the TPA in writing on the date of receipt, or cause the TPA to be notified in writing on the date of receipt, of the premium amount, the name of the COBRA Participant(s) for whom the premium applies, the date of receipt, and the period for which the premium applies. Plan Sponsor shall forward premium checks received to the TPA for deposit into the premium account.

3.11 Initial Grace Period: Plan Sponsor designates that the initial forty-five (45) day grace period for the premium payment will begin on the date of COBRA election.

3.12 Other: Plan Sponsor will provide any other information required by the TPA to perform its obligations under this Agreement.

SECTION 4: COBRA Services of the TPA

4.1 Initial Notice. If applicable, within fourteen (14) days of receipt of notice from Plan Sponsor of a newly-enrolled employee and/or spouse, the TPA will mail to the employee and/or spouse an initial notice of COBRA continuation coverage rights.

4.2 Enrollment Packet: Within fourteen (14) days of receipt of notice from the Plan Sponsor of a Qualifying Event, the TPA will mail to Qualified Beneficiaries a notice of the right to elect COBRA continuation coverage.

4.3 Enrollment of Qualified Beneficiaries: The TPA will enroll all Qualified Beneficiaries who elect COBRA continuation coverage within the time permitted by law.

4.4 Notice of Open Enrollment. The TPA will notify COBRA participants of any open enrollment periods held for employees under Plan Sponsor's Plan.

4.5 Contemplation of Divorce: Upon receipt of notice from the Plan Sponsor, the TPA will provide notices to spouses and other Dependents whose coverage is being terminated in contemplation of divorce or legal separation that they may have rights to COBRA continuation coverage when the divorce decree or legal separation is entered by a court.

4.6 Post-Election Notices: The TPA will provide all post election notices to employees and their spouses required by applicable law, including but not limited to notice of ineligibility for COBRA continuation coverage, notice of nonpayment of premium, and notice of termination of COBRA coverage. If the notice of ineligibility is due to the employee's termination of employment for gross misconduct, the Plan Sponsor shall be solely responsible for the determination of gross misconduct.

4.7 Plan Changes and Amendments: The TPA will inform COBRA Participants under the Plan of any changes in benefits, eligibility requirements, or premiums of the Plan. The obligations of the TPA under this subsection will be limited to mailing to COBRA Participants copies of all Plan amendments, changes, modifications, or other notices as received from the Plan Sponsor.

4.8 Customer Service Toll-Free Line: The TPA will provide customer service assistance regarding COBRA issues to Plan Sponsor and beneficiaries under Plan Sponsor's Plan through a toll-free telephone number during regular business hours.

4.9 COBRA Participant Premiums: The TPA will bill COBRA Participants for the premiums as designated by Plan Sponsor and in accordance with applicable law. The TPA will not be required to bill for any premium amount that does not comply with applicable law.

The TPA will direct COBRA Participants to make premium payments payable to the Plan Sponsor and to send payments to the TPA for deposit into the premium account. If the TPA receives premium checks made payable to the TPA, the TPA will endorse them over to Plan Sponsor, without recourse. The TPA will collect COBRA premiums and deposit them in the Plan Sponsor's premium account no less frequently than weekly.

The TPA will establish, or cause to be established, a system to credit the premium payments to the appropriate Qualified Beneficiary or COBRA Participant.

4.10 Late Premium Notices: The TPA will send a reminder notice to Qualified Beneficiaries and COBRA Participants whose premium payment has not been received on or about the twentieth day of the month.

4.11 Late Premium Payments: If the TPA receives a premium payment past the premium due date (including any grace period provided by law or the Plan), the TPA will return the payment to the sender with a notice that it cannot be accepted. The TPA will return the payment to the sender, with such notice, within five (5) days of receiving the payment.

4.12 COBRA Terminations: The TPA will notify the Plan Sponsor of the date COBRA continuation coverage will expire, in the absence of any default, for each COBRA Participant. Such notice will be given in an eligibility report provided by the TPA to the Plan Sponsor on a monthly basis.

4.13 Notice of Default: The TPA will notify each COBRA Participant, in writing, of any default in payment of premium, or other default causing loss of coverage, including the date of default and the date COBRA continuation coverage terminated. Notice will be sent by first class mail within five (5) days following receipt of notice from Plan Sponsor and/or Plan Administrator.

- 4.14 Notice of COBRA Exhaustion: The TPA will notify each COBRA Participant of the date COBRA continuation coverage will expire in the absence of any default. Such notice will be sent by first class mail within thirty (30) days of the termination date.
- 4.15 Conversion Coverage: If applicable, the TPA shall provide notices to eligible COBRA Participants of their rights to obtain conversion coverage. Such notices shall be supplied at the expense of the Plan. The TPA shall administer conversion rights in accordance with the provisions of the Plan document.

SECTION 6: TPA Compensation

Plan Sponsor agrees to pay the TPA its compensation for services provided under this Agreement in accordance with the terms and conditions outlined in Appendix A, "Fee Schedule and Financial Arrangement" in the Administrative Services Agreement between Plan Sponsor and Allegiance Benefit Plan Management.

SECTION 7: Limitations on Liability

- 7.1 Premium Payments/Loss of Coverage: Except as provided for under section 8.1, the TPA will have no liability to any person or entity regarding the processing of premium payments. Provided the TPA acts in accordance with this Agreement, the TPA will have no liability to any person or any entity for loss of COBRA coverage as a result of late or nonpayment of premium.
- 7.2 Failure of Plan Sponsor to Notify: The TPA will provide all notices to COBRA Participants and Qualified Beneficiaries in accordance with this Agreement. Provided the TPA acts in accordance with this Agreement, the TPA will have no liability to any COBRA Participant or Qualified Beneficiary for failure of the Plan Sponsor to properly notify the TPA and provide the information required for the TPA to perform its obligations under this Agreement. The TPA will have no liability for the accuracy of the information provided by the Plan Sponsor nor for any actions taken in reliance upon any such information.
- 7.3 NSF Checks: This Agreement will not be construed in any manner to require the TPA to collect insufficient funds, "stop-payment" or otherwise dishonored checks, or other negotiable instruments received for premium payments, which are subsequently not paid by the maker. The TPA will not be liable for any losses to Plan Sponsor or Plan Sponsor's Plan as a result of such checks or negotiable instruments.
- 7.4 Determinations of Gross Misconduct: The TPA shall not make any determinations of any nature regarding whether a Qualified Beneficiary's termination from employment was due to gross misconduct. The TPA shall be entitled to rely upon any determinations of gross misconduct as made by the Plan Sponsor and shall have no liability for actions taken in reliance upon any such information as provided by the Plan Sponsor.

SECTION 8: Indemnification

- 8.1 Plan Sponsor Indemnification: The TPA will indemnify, defend, save and hold the Plan Sponsor harmless from and against any and all claims, suits, actions, liabilities, losses, penalties or damages including court costs and attorneys' fees with respect to the Plan to the extent they are caused by the gross negligence, malfeasance, or criminal acts or omissions of the TPA or its employees in the performance of its duties under this Agreement and for any acts taken at the specific direction of the Plan Sponsor.
- 8.2 TPA Indemnification: The Plan Sponsor will indemnify, defend, save, and hold the TPA harmless from and against any and all claims, suits, actions, liabilities, losses, penalties or damages, including court costs and attorneys' fees, to the extent that such claims, losses, liabilities, damages and expenses are caused by the gross negligence, malfeasance or criminal acts or omissions of the Plan Sponsor, its agents or employees, in the performance of its duties under this Agreement and in those situations under Section 7 where the TPA is exculpated from liability.

SECTION 9: Term and Termination of Agreement

- 9.1 Term and Renewal Term. The term of this Agreement shall commence on January 1, 2017, and end on December 31, 2017, unless terminated earlier in accordance with this Section. This Agreement may be renewed for an additional two-year renewal term upon mutual agreement in writing by the parties.
- 9.2 Termination. This Agreement shall be terminated in accordance with the provisions of Article V: Term and Termination of the Administrative Services Agreement between the Plan Sponsor and Allegiance Benefit Plan Management, Inc., effective as of the 1st day of January, 2017.
- 9.3 Survival: The provisions of Sections 2, 7, and 8 shall survive termination of this Agreement.

SECTION 10: General Provisions

- 10.1 Authorization: Plan Sponsor grants to the TPA the authority to do all acts it deems necessary to carry out the terms of this Agreement.
- 10.2 Waiver: No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement will be construed as a waiver, alteration, or modification of this Agreement.
- 10.3 Entire Agreement, Amendments, Modification: This Agreement and any attachments constitute the entire agreement between the parties with respect to its subject matter. This Agreement supersedes all existing agreements and all other oral, written or other communications between them concerning its subject matter. This Agreement or any attachment shall not be

amended or modified except as agreed upon in writing and signed by the parties. If any such modification or amendment increases the direct costs to the TPA under this Agreement, the Plan Sponsor agrees to pay any increases in direct costs that the TPA reasonably expects to incur as a result of such modification.

otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested.; date of facsimile transmission; or date of e-mail transmission

Notice to the TPA shall be directed to:

Ronald K. Dewsnup, President, Allegiance Benefit Plan Management, Inc., 2806 South Garfield St., PO Box 3018, Missoula, MT 59806-3018; Phone: (406) 721-2222; Fax: (406) 721-2252; Email: ron.dewsnup@askallegiance.com.

Notice to the Plan Sponsor shall be directed to:

Julianne Fries, Teton County, 200 South Willow, PO Box 3594, Jackson, WY 83001; Phone: (307) 734-4330; Fax: (307) 739-8681; Email: jfries@tetonwyo.org.

10.4 Severability: If any provision of this Agreement is held to be invalid, illegal, or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

10.5 Agreement Counterparts: This Agreement may be executed in two or more counterparts, each and all of which will be deemed an original and all of which together will constitute but one and the same instrument.

10.6 Assignment. Neither party shall assign, transfer, or subcontract any portion of this Agreement without the prior written consent of the non-assigning party.

10.7 Notice of Threatened Litigation: The Plan Sponsor will notify the TPA within ten (10) days of any threatened litigation, lawsuits or regulatory complaints or inquiries pertaining to the subject matter of this Agreement, or any inquiry made by any federal or state authority regarding the same.

10.8 Compliance with Laws. The TPA shall, in the performance of its obligations under this Agreement, comply with applicable federal, state or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the American Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. In accordance with section 49-3-207, Montana Code Annotated, the TPA agrees that the hiring of persons to perform the Agreement will be made on the basis of merit and qualifications and there will be no discrimination based upon race, creed, religion, color, national origin, sex, age, physical or mental disability, marital status, or political ideas in the right to obtain and hold employment.

10.9 Service of Notice. Neither party will be bound by any notice, directive or request unless and until it is received in writing, or by facsimile transmission, or by e-mail address at the addresses in this subsection. All notices given to either party under this Agreement shall, unless

10.10 Choice of Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Montana.

10.11 Costs and Attorney Fees. If either party breaches or defaults in the performance of their obligations under this Agreement, the breaching party will pay all reasonable attorney fees and costs incurred by the non-breaching party as a result of such breach or default.

10.12 Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, unless otherwise stated in this provision, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The locale for arbitration under this provision shall be Missoula, Montana, unless otherwise agreed by the parties.

10.13 Headings: Section headings are included only for convenient reference and do not describe the sections to which they relate.

10.14 Interpretation of Words: Words denoting the singular include the plural and vice versa.

Initials
(Plan Sponsor)

Initials
(TPA)

ADMINISTRATIVE SERVICES AGREEMENT

THIS Administrative Services Agreement (hereinafter "Agreement"), effective for the January 1, 2017, and ending December 31, 2017, and continuing thereafter, for additional twelve (12) month periods, as provided by this Agreement, is entered into by **TETON COUNTY**, a legal entity, duly organized and existing under the laws of the State of Wyoming (hereinafter referred to as the "Plan Sponsor"), and **ALLEGIANCE BENEFIT PLAN MANAGEMENT, INC.**, a corporation duly organized and existing under the laws of the State of Montana (hereinafter referred to as the "TPA").

WHEREAS, the Plan Sponsor sponsors a self-funded employee welfare benefit plan (the "Plan");

WHEREAS, the Plan Sponsor desires to make available a program of health care benefits under the Plan;

WHEREAS, the Plan Sponsor wishes to contract with an independent third party administrator to perform certain administrative services with respect to the Plan as described herein;

WHEREAS, the TPA desires to contract with the Plan Sponsor to perform certain administrative services with respect to the Plan as described herein; and

THEREFORE, in consideration of the promises and mutual covenants contained herein, the Plan Sponsor and the TPA enter into this Agreement for administrative services for the Plan.

ARTICLE I: DEFINITIONS

For the purposes of this Agreement, the following words and phrases have the meanings set forth below, unless the context clearly indicates otherwise and, wherever appropriate, the singular shall include the plural and the plural shall include the singular.

- 1.1 "Claim" means each bill, invoice, claim form or other document representing a request for payment for medical, dental or vision services, which is received by the TPA. Each such document will be considered to be one "claim", regardless of the number of itemized lines on the document and regardless of whether the document is a duplicate of previous documents or whether the services indicated on the document are eligible for coverage under the applicable Plan.
- 1.2 "Claimant" means a Covered Person or entity on behalf of a Covered Person, submitting expenses for payment or reimbursement from the Plan.
- 1.3 "Claims Payment Account" means an account utilized by the Plan Sponsor for payment or reimbursement for Covered Services, which account balances shall constitute assets of the Plan Sponsor and not the Plan.
- 1.4 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Public Health Service Act, as amended, together with all regulations applicable thereto.
- 1.5 "COBRA Participant" means any person who is properly enrolled for and entitled to benefits from the Plan policy, pursuant to COBRA continuation coverage.
- 1.6 "Complete Claim" means a claim for benefits for a Covered Person that has been submitted by a licensed Health Care Provider or the Covered Person, void of any omissions of pertinent information, coordination of benefits or liability issues, in a form satisfactory to TPA

and with sufficient documentation to substantiate the claim for benefits under the Plan that is necessary or required according to industry standards or requirements in order for the TPA to make a determination of benefits under the Plan.

- 1.7 "Covered Person" is a person who is properly enrolled and entitled to benefits from the Plan.
- 1.8 "Covered Services" means the care, treatments, services or supplies described in the Plan Document as eligible for payment or reimbursement from the Plan.
- 1.9 "Employer" means the Plan Sponsor and any successor organization or affiliate of such Employer which assumes the obligations of the Plan and this Agreement.
- 1.10 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, together with all regulations applicable thereto.
- 1.11 "Fee Schedule" means the listing of fees or charges for services provided under this Agreement. This Fee Schedule may be modified from time to time in writing by the mutual agreement of the parties. The Fee Schedule is contained in Appendix A and is a part of this Agreement.
- 1.12 "Health Care Providers" means physicians, dentists, hospitals, or other health care practitioners or health care facilities that are duly licensed and authorized to receive payment or reimbursement for Covered Services in accordance with the terms of the Plan.
- 1.13 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended, together with all applicable regulations thereto.
- 1.14 "Paid Claims" means claims for benefits under the Plan which have been processed for payment by the TPA, have been funded in U.S. Dollars by the Plan or the Plan

Sponsor, and for which payment or electronic payment has been issued and transmitted to the Claimant or assignee.

1.15 "Plan" means the self-funded health and welfare benefit plan which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.

1.16 "Plan Administrator" means the person or entity, including an insurance company, designated by the Plan Sponsor to manage the Plan and make all discretionary decisions regarding Plan terms and managing Plan assets.

1.17 "Plan Document" means the instrument or instruments that set forth and govern the duties of the Plan Sponsor and eligibility and benefit provisions of the Plan, which provide for the payment or reimbursement of Covered Services.

1.18 "Plan Participant" is any employee, retiree or COBRA beneficiary who is properly enrolled and eligible for benefits under the Plan.

1.19 "Plan Year" means the twelve-month period of time beginning with the effective date of the Plan as specified in the Plan Document.

1.20 "Qualified Beneficiary" means a Covered Person under the Plan Sponsor's Plan, who is eligible to continue coverage under the Plan policy in accordance with the applicable provisions of Title X of COBRA or §609(a) of ERISA regarding Qualified Medical Child Support Orders, or in accordance with any similar applicable state law. Qualified Beneficiary also means a child born to, adopted or placed for adoption with a Participant or former Participant, who is a COBRA participant, at any time during active COBRA continuation coverage of that Participant or former Participant.

1.21 "Qualifying Event" means:

- (a) With respect to an eligible Participant:
 - 1. The termination (other than by reason of gross misconduct) of the covered Participant's employment; or
 - 2. The reduction in hours of the covered Participant's employment causing the Participant to become ineligible for coverage.
- (b) With respect to covered Dependents:
 - 1. Death of the covered Participant;
 - 2. Termination of the covered Participant's employment;
 - 3. Reduction in hours of the covered Participant's employment causing the Participant to become ineligible for coverage;
 - 4. The divorce or legal separation of the covered Participant from his or her spouse;
 - 5. The covered Participant's entitlement to Medicare; or
 - 6. A covered Dependent child ceases to be a Dependent as defined by the Plan.

(c) Qualifying Events for retired Participants, for purposes of this section, are:

- 1. Bankruptcy, if the covered Participant retired on or before the date of any substantial elimination of group health coverage due to bankruptcy.

(d) Qualifying Events for the Dependents of retired covered Participants, for purposes of this section, are:

- 1. Bankruptcy, if the Dependent was a covered Dependent of a covered retiree on or before the day before the bankruptcy Qualifying Event.

1.22 "Stop Loss or Excess Loss Insurance" means an insurance policy obtained by the Plan or the Plan Sponsor to provide coverage for individual claims at a specified stop loss limit and/or group claims at an aggregate stop loss limit that are incurred and paid during a defined period of time by the insurance policy.

1.23 "Summary Plan Description" means the document that describes the terms and conditions under which the Plan operates.

1.24 "Utilization Management" means the evaluation of medical necessity and appropriateness of the use of health care services, procedures, and facilities utilized by a Covered Person under the terms of the Plan.

1.25 "Working Days" shall mean a regular business day, which is not a recognized federal or banking holiday, and specifically excluding any Saturday or Sunday.

ARTICLE II: RELATIONSHIP OF THE PARTIES

2.1 The Plan Sponsor acknowledges that the TPA is an independent contractor for purposes of this Agreement. As such, the TPA is not an agent or employee of the Plan Sponsor and does not assume any liability or responsibility for any breach of duty or act of omission by the Plan Sponsor. The Plan Sponsor delegates to the TPA only non-discretionary authority with respect to assisting Plan Sponsor in the development, maintenance and administration of the Plan as specifically described in this Agreement. Any function not specifically delegated by Plan Sponsor to, and agreed to be assumed by the TPA in writing pursuant to this Agreement shall remain the sole responsibility of the Plan Sponsor. The Plan Sponsor shall retain all discretionary authority, control and responsibility for the operation and administration of the Plan.

2.2 The parties acknowledge that:

- (a) This is a contract for administrative services only as specifically set forth herein;
- (b) The TPA shall not be obligated to disburse more in payment for Claims or other obligations arising under the Plan than the Plan Sponsor shall have made available in the Claims Payment Account;
- (c) This Agreement shall not be deemed a contract of insurance under any laws or regulations. The TPA does not insure, guarantee or underwrite

- the liability of the Plan Sponsor under the Plan. The TPA has no responsibility and the Plan Sponsor has total responsibility for payment of Claims under the Plan and all expenses incidental to the Plan; and
- (d) The TPA is not the plan administrator, plan sponsor or plan fiduciary and the Plan Sponsor will not identify the TPA or any of its affiliates as such. The Plan Sponsor acknowledges and agrees that it is the plan sponsor, plan administrator and named fiduciary as such terms are defined by ERISA, or other applicable law.
- 2.3 Except as specifically set forth herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal successors provided, however, that neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.
- 2.4 Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, unless otherwise stated in this provision, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The locale for arbitration under this provision shall be Missoula, MT, unless otherwise agreed by the parties.
- 2.5 It is agreed by the parties to this Agreement that any cause of action brought by either party to this contract must be made within two (2) years of the date of occurrence of any alleged breach, infraction or dispute, or within two (2) years of the termination date of this Agreement, whichever occurs first.
- 2.6 The Plan Sponsor acknowledges and agrees that the TPA will not be deemed to be a legal or tax advisor for the Plan or the Plan Sponsor as a result of the performance of its duties under this Agreement. The TPA makes no representation to the Plan Sponsor concerning federal, state, or local laws, rules or regulations applicable to the Plan. Company must seek its own counsel for legal advice and guidance. **In no event shall the TPA be liable for special or consequential damages, even if the TPA was advised of the possibility of such damages.**
- 2.7 The TPA may secure the services of actuaries, computer software companies, computer service firms, insurance consultants and producers, legal counsel, accountants, utilization management consultants, pharmacy benefit management companies, preferred provider organizations, claims negotiation companies, subrogation firms, and any other entities that it deems necessary in the performance of its obligations under this Agreement. At the discretion of the TPA, such services may be performed directly by the TPA, wholly or in part, through a subsidiary or affiliate of TPA or under an agreement with an organization, agent, advisor or other person of its choosing. Any such services resulting in a fee not agreed to in the Fee Schedule, Appendix A, must first be authorized in writing by the Plan Sponsor.
- 2.8 The TPA agrees to be duly licensed as a Third Party Administrator to the extent required under applicable law and agrees to maintain such licensure throughout the term of this Agreement.
- 2.9 The TPA will possess through the term of this Agreement an in-force fidelity bond or other insurance as may be required by state and federal laws for the protection of its clients. Additionally, the TPA agrees to comply with any state or federal statutes or regulations regarding its operations.
- 2.10 The TPA shall be entitled to rely upon, without investigation or inquiry, any written or oral information or communication of the Plan Sponsor or agents, including but not limited to consultants, actuaries, attorneys, accountants, auditors, managed care organizations, preferred provider organizations, pharmacy benefit management companies, mental health care management companies or brokers retained by the Plan Sponsor.
- 2.11 The TPA will indemnify, defend, save and hold the Plan Sponsor harmless from and against any and all claims, suits, liabilities, losses, penalties or damages including court costs and attorneys' fees with respect to the Plan which directly result from or arise out of the dishonest, fraudulent, grossly negligent or criminal acts of the TPA or its employees, except for any acts taken at the specific direction of the Plan Sponsor.
- 2.12 The Plan Sponsor will indemnify, defend, save and hold the TPA harmless from and against any and all claims, suits, actions, liabilities, losses, penalties or damages, including court costs and attorneys' fees to the extent that such claims, losses, liabilities, damages and expenses arise out of or are based upon the gross negligence, fraudulent, criminal or dishonest acts of the Plan Sponsor, its agents or employees, in the performance of their duties, a release of Claims data by the TPA to the Plan Sponsor, or an interpretation of the Plan by the Plan Sponsor on which the TPA acts.
- The Plan Sponsor will further indemnify and hold the TPA harmless for any attorneys' fees, costs fine civil penalties or any other damages of any kind whatsoever in the event that TPA has advised the Plan Sponsor that any act or omission of the Plan Sponsor may be non-compliant or a violation of any known law or regulation, and the Plan Sponsor continues with such act or omission contrary to TPA's advice and such act or omission results in any attorneys' fees, costs fine civil penalties or any other damages of any kind being assessed to or incurred by TPA.

ARTICLE III: THE TPA'S RESPONSIBILITIES

The TPA will provide the following Plan Administrative services for the Plan Sponsor:

- 3.1 Maintain Plan records based on eligibility information submitted by the Plan Sponsor as to the dates on which a Covered Person's coverage commences and terminates.

Maintain Plan records of Plan coverage applicable to each Covered Person based on information submitted by the Plan Sponsor.

Maintain Plan records regarding payment of Claims, denial of Claims, and Claims pending.

3.2 Administer enrollment of Covered Persons, create and distribute enrollment forms and answer inquiries, create and maintain enrollment records for Covered Persons, and distribute identification cards to the Plan Sponsor in accordance with Appendix A, the Fee Schedule.

3.3 Process Complete Claims submitted by Covered Persons or Health Care Providers according to the terms of the Plan Document as construed by the Plan Sponsor. These Claims will be processed in accordance with prevailing industry practices and the TPA will use an industry-recognized method of determining usual, customary, and reasonable charges or the prevailing fee allowance as determined by the Plan Sponsor in the Plan.

The TPA will not be required by the Plan Sponsor to alter its standard claims processes, procedures or regular mail dates to manipulate the Paid Claims date for any purpose.

The TPA will process claims received on a basis consistent with prevailing industry practice for timeliness and accuracy, in accordance with the terms of the Plan Document as construed by the Plan Sponsor, and consistent medical information forms, pre-existing conditions requirements, disability determinations and coordination of benefits situations. Unless specifically agreed by the parties in writing, the TPA's duties with respect to subrogation situations shall be limited to informing the Plan Sponsor that subrogation rights may exist. The terms, conditions and fees for any additional agreement regarding subrogation are as stated in the attached Subrogation Services Appendix, if applicable.

The TPA will process Claims or request additional information in order to be able to process a Complete Claim within an average of fourteen (14) Working Days from the date the Complete Claim is received by the TPA. If additional information is needed for a Complete Claim, the TPA will send through the U.S. Mail to the appropriate persons (with a copy to the Plan Participant) a follow-up request for the required information for a Complete Claim requesting a response to the request for additional information for a Complete Claim within a maximum of forty-five (45) days. The follow-up request will indicate that no additional requests for information will be sent and the file will be closed, and the initial incomplete claim will be denied, if the requested information is not provided within the specified time.

When all necessary documents and Claim information have been received to constitute a Complete Claim and the Complete Claim has been approved, a Claim check or draft will be remitted on the next Paid Claims batch disbursement date provided that the Plan Sponsor has provided funds for such Complete Claims or advance funding has been provided by the Stop Loss or Excess Loss insurance company. All Complete Claims will

remain in a processed but pending status until funded by the Plan Sponsor or its Stop Loss or Excess Loss insurance company. The Plan Sponsor must provide funding of all Complete Claims within five (5) Working Days of receipt of request for funding from the TPA.

Customer Service Representatives of the TPA will inform any Plan Participant or Health Care Provider who inquires about any Claim which is pending for lack of funds that such Claim has been received and processed and is pending receipt of funds. No further explanation will be required of the TPA by the Plan Sponsor under such circumstances.

Unless otherwise advised by the Plan Sponsor, the Plan Sponsor agrees that the order of claims payment by TPA of new claims submitted under the Plan shall be based on processing first the oldest claims with complete medical, repricing/discount, and other necessary information with permitted exceptions for those claims identified with excess loss insurance reimbursement potential or which face loss of any available discounts for the medical services so rendered. Any payment by TPA is contingent upon the availability of adequate funding by the Plan Sponsor. If the funds provided by the Plan Sponsor are insufficient to pay all adjudicated claims, then, at the specific direction of Plan Sponsor, the funds will be applied to pay claims as noted above to the extent funds are available except that large claims that cannot be funded by the then available funding will be skipped in favor of more recent claims that can be covered with then available funding. Further, all claims for a participant and his or her covered dependents subsequent to the first claim that cannot be funded due to insufficient funding from the Plan Sponsor shall be skipped in favor of more recent claims from other participants and/or their dependents if the Plan Sponsor funding is not sufficient to cover all adjudicated claims for the participant and/or his or her dependent.

3.4 After a preliminary review to determine that the Claim was correctly processed, the TPA will refer any doubtful, disputed or appealed Claims to the Plan Sponsor for a final decision. The TPA will provide initial claims adjudication and assist the Plan Administrator with appeals. The Plan will pay the actual cost of any expert medical consultation required to determine claims eligibility under the Plan as a claims cost.

3.5 Process, issue and distribute Claims checks, drafts or electronic funds transfers, as instructed by the Plan Sponsor to Plan Participants, Health Care Providers, or others as may be applicable.

Every week the TPA will notify the Plan Sponsor of the Claims batch amount required to be prospectively deposited to the Claims Payment Account to pay the Claims liability after these Claims are processed for payment.

The TPA shall establish and maintain customary investigative benefit and Claims review procedures within the prevailing standard of care in the TPA industry. The TPA shall take reasonable measures and precautions to

prevent the allowance and payment of improper benefits and Claims. The TPA shall not be liable for fraud by any Health Care Provider or Covered Person or for errors in Claim payment made to Covered Persons or designated assignees in good faith. The TPA shall not be liable for any loss of discount or increase in charges arising from a Claim due to a delay in the payment of a Claim. If a Claim payment error is discovered, the Health Care Provider or Covered Person will be notified and requested to refund payment. In the event that the Covered Person or his/her assignee does not respond to the refund request or refuses payment, the Plan Sponsor will be notified. The Plan Sponsor shall have the right to bring action against any employee or provider of service who does not voluntarily agree to repay the Plan for payments made in error. The TPA shall not be liable for misrepresentations, inflated charges, omissions, errors or fraud by any Health Care Provider or Covered Person which may result in any ineligible or excessive Claim payments.

- 3.6 Notify Covered Persons in writing through the U.S. Mail of ineligible Claims received. The computerized Explanation of Benefits form (EOB) shall indicate the general reason why such Claim is ineligible for payment. The EOB shall also contain notice of the written Claims review and appeal procedure in the Plan. This notification will be made within an average of fourteen (14) Working Days of the date the TPA receives the Complete Claim documentation and any Plan interpretations by the Plan Sponsor.
- 3.7 Respond to Claims inquiries by a Covered Person, the estate of a Covered Person, an authorized member of a Covered Person's family unit, the Covered Person's authorized legal representative or an authorized Health Care Provider.
- 3.8 Maintain local telephone service and toll-free telephone lines during regular business hours for inquiries made by Covered Persons regarding the status of their Claims. Such telephone lines may be recorded by the TPA.
- 3.9 Maintain an Internet Inquiry site for Paid Claims, processed claims and related information. Maintain an interactive voice response system and fax back service for the convenience of Covered Persons and Health Care Providers for Claim or coverage inquiries.
- 3.10 Maintain information that identifies a Covered Person in a confidential manner. The TPA agrees to take all reasonable precautions to prevent disclosure or use of Claims information for a purpose unrelated to the administration of the Plan. TPA shall not be liable for fraud, deceit, misrepresentation or any other false, misleading or erroneous representations made by the Plan Sponsor, any Covered Person, any Health Care Provider or any other person pertaining to any confidential, personal or protected health information or claim request. The TPA will only release non-protected health or Claims information for certificate of need reviews; for medical necessity determinations; to set uniform data standards; to update relative values scales; to use in claims analysis; to further cost containment programs; to verify eligibility; to comply with federal, state

or local laws; for coordination of benefits; for subrogation; in response to a civil or criminal action upon issuance of a subpoena, or with the written consent of the Covered Person or his or her legal representative.

- 3.11 Provide and maintain a specimen Plan Document and Summary Plan Description in a format acceptable to the TPA for review and final approval by the Plan Sponsor and the Plan Sponsor's legal counsel. Upon approval of the Plan Document from the Plan Sponsor, the TPA will forward copies of plan document and amendments, if any, to the Stop Loss or Excess Loss insurance company.

The TPA will furnish a master Summary Plan Description to the Plan Sponsor, either electronically (PDF format), or in printed form, and Summary Plan Description booklets in TPA's format for the fees stated in Appendix A.

The TPA will maintain an electronic Claims file on every Claim reported to it by the Covered Persons. The TPA shall retain such files and all Plan-related information for a period of six (6) years. Copies of such records shall be made available to the Plan Sponsor for inspection during a regularly scheduled Working Day at the office of the TPA for consultation, review and audit upon advance notice of a minimum of fourteen (14) Working Days.

The Plan Sponsor shall pay for any audit made at its request.

In the event this Agreement is terminated, the Plan Sponsor shall have a continuing obligation and liability to pay the TPA for all costs and professional, executive, managerial and clerical time expended by the TPA and its employees for any audit conducted by the Plan Sponsor or its Stop Loss or Excess Loss insurance company, and this obligation and liability shall survive and continue beyond the termination of this Agreement. The Plan Sponsor shall pay an advance retainer to the TPA for any audit assistance at any time the TPA receives notice from the Plan Sponsor or its Stop Loss or Excess Loss insurance company of an audit to be conducted after the termination date of this Agreement. The advance retainer shall be in an amount to be determined by the TPA in estimation of the extra time required for the scope of the audit that is requested. In no event shall the audit retainer fee be less than Two Thousand Five Hundred and no/100 Dollars (\$2,500.00). The TPA will not be required by the Plan Sponsor to provide access to its records, nor will any of the TPA's employees provide assistance to any auditor until receipt by the TPA of the required audit retainer fee. Any audit shall be conducted by an auditor mutually acceptable to the Plan Sponsor and the TPA and the audit shall include, but not necessarily be limited to, producing photocopies of Claims and funding information in the TPA's existing format(s), a review of procedural controls, a review of system controls, a review of Plan provisions, a review of sampled Claims, and comparison of results to TPA industry performances standards or any statistical models previously agreed to by the Plan Sponsor and the TPA in writing.

Nothing in this Agreement, expressed or implied, shall require the TPA to disclose any proprietary information,

including, but not limited to, file layout or record formats of its Claims processing system or procedures, providing records or information in a format not in use by the TPA, or creating unique information formats solely for the use of the auditor(s), consultant(s), agent(s) or broker(s) for the Plan Sponsor.

- 16th Edition of the Milliman USA Optimal Recovery Guidelines for medical/surgical inpatient reviews, and all Addenda
- Acuity Assessment Tools for Rehabilitation and Skilled Nursing Level of Care
- Solucient Length of Stay Guidelines
- Medicare Guidelines
- Milliman USA Behavioral Health Guidelines
- American Society of Addiction Medicine (ASAM), Patient Placement Criteria-2R, 2001, for Substance-Related Disorders.

3.12 Upon request of the Plan Sponsor, provide COBRA continuation coverage services through a related corporation, Allegiance COBRA Services, Inc. (ACSI). A separate fee will be charged for COBRA continuation services, which fee is set out in a COBRA Services Agreement. If the Plan Sponsor does not request COBRA continuation services from ACSI, all responsibility and liability for administration of COBRA continuation shall remain with the Plan Sponsor, and neither the TPA nor ACSI will have any obligation or responsibility for providing such services or consultation regarding such services.

3.17 Maintain working relationships with networks of Health Care Providers through Preferred Provider Organizations (PPO) contracted by the Plan Sponsor or arranged by the TPA. The TPA shall be entitled to rely upon any and all representations made by Health Care Providers/PPO regarding their qualifications as Health Care Providers, and shall have no obligation or liability to obtain, verify or monitor such qualifications or credentials.

3.13 Provide reports as listed in Appendix D, TPA Report Package.

If applicable, a separate fee will be charged for PPO network services, TPA coordination and system maintenance for PPO networks, as stated in Fee Schedule, Appendix A.

3.14 If requested by Plan Sponsor, procure, through Intermountain Underwriters, Inc., an affiliated company of TPA, Stop Loss or Excess Loss (specific and aggregate) insurance proposals and policies for the Plan Sponsor's consideration and selection, which Excess Loss or Stop Loss insurance will be an asset of the Plan Sponsor and not of the Plan. Intermountain Underwriters, Inc., may act as agent of record for the Plan Sponsor in placing Stop Loss or Excess Loss for the Plan Sponsor.

The TPA will not be responsible for any services provided (or any failure to provide services) by a participating PPO or Health Care Providers and specifically makes no representation, warranty or guarantee whatsoever regarding any such PPO, Health Care Providers, or their representations, qualifications or credentials.

3.15 If applicable:

3.18 If checked as an included service in Appendix A, the TPA will provide coordination of services for wellness and health assessment through a third party vendor, Behavioral Health Care Options, Inc.

- (a) Notify the Stop Loss or Excess Loss insurance company of any potential large Claims, which may become a Claim under the Stop Loss or Excess Loss coverage.
- (b) On behalf of the Plan Sponsor, the TPA will file with the insurance company or its designee any Complete Claims for consideration for reimbursement under the Stop Loss or Excess Loss policies.
- (c) Promptly forward to the Plan Sponsor any premium, claim reimbursement, Stop Loss or Excess Loss or other notices received from the Stop Loss or Excess Loss insurance carrier concerning the policy.

3.19 Provide, within thirty (30) days after termination of this Agreement, a summary paid Claim report of all Claims paid twenty-four (24) months prior to the date of termination, copies of any governmental reports, and other plan documentation to the Plan Sponsor. Until that time, these records will be maintained at the TPA's principal administrative office. Claim files will be kept in secure storage facilities or electronic media for at least six (6) years following the termination of the Plan Year. Copies of any materials in storage will be available to the Plan Sponsor for a copy fee of fifteen (\$0.15) cents per page copied plus a retrieval fee of Ten Dollars (\$10.00) per box or electronic media access. At the end of the six (6) year period or termination of this Agreement, if earlier, the TPA shall notify the Plan Sponsor that these records will be destroyed.

3.16 If applicable, conduct utilization review for the Plan, including pre-certification of hospital stays, concurrent review of hospital stays, discharge planning, preliminary review for potential hospital bill audits, large case management or any other managed care programs as agreed to between the Plan Sponsor and the TPA. A separate fee will be charged for these services as stated in Appendix A.

3.20 Provide Medicare, MSP, and §111 reporting services.

Specific to these services, the Plan Sponsor adopts for the Plan all screening criteria used by TPA and its affiliated companies including, but not limited to:

3.21 Provide non-proprietary information and documents as requested by the Plan Sponsor to brokers and agents designated by the Plan Sponsor. However, if the Plan Sponsor has entered into an agent of record agreement with any new agent or broker, and the TPA has notice of the same, the TPA shall not be required to provide any information or documentation to other agents or brokers

unless or until the Plan Sponsor has terminated the original agent of record agreement and notified the original agent of record of the termination. The TPA shall have the express right to contact any agent of record to verify the agent of record agreement has been terminated. A separate fee will be charged for this service as stated in Appendix A.

3.22 For Plan Sponsors which have designated subsidiaries, divisions, or which are a Multiple Employer Welfare Arrangement (MEWA): when any designated subsidiary, division or member employer of a MEWA terminates coverage under the plan that is the subject of this Agreement, the TPA will automatically perform run-out services for a period of three (3) months after the date of such termination for such designated subsidiary, division or member employer, unless directed not to do so by the Plan Sponsor in writing. The fee for each month of run-out services will be equal to the claims processing fee(s) stated in Appendix A, based upon the designated subsidiary's, division's or MEWA member employer's number of enrolled Plan Participants for the month immediately prior to the date of termination of coverage. Plan Sponsor will also pay the TPA run-out services fees for any enrolled Plan Participants who were laid-off or otherwise terminated from the rolls of the Plan during the term of this Agreement if the total number of such laid-off or terminated Plan Participants exceeds five (5%) percent of the total number of enrolled Plan Participants during the first month of this Agreement. Final reconciliation of run-out services fees will be made within ninety (90) days of the end of this Agreement.

3.23 Fees for the services described in Article III are set out in Appendix A hereto. Such fees are fixed for the initial term of this Agreement except that the fees are subject to change under the following conditions:

- (a) if the Plan Sponsor's census of enrolled employees increases or decreases by more than five (5%) percent from the number of employees that were enrolled upon the commencement of this Agreement;
- (b) if the Plan Sponsor significantly alters the design or complexity of its health benefit plan; or
- (c) regularly requesting and obtaining extra-contractual services from the TPA.

3.24 The TPA will comply with the applicable laws and rules for the storage, transmission and release of any "protected health information" (used herein as such defined in HIPAA). Notwithstanding any other provision of this Agreement, the TPA shall not be required to do any act which in its judgment violates HIPAA.

3.25 The TPA will provide consolidated billing services if checked as an included service in Appendix A. Specifically, the TPA will bill fees and premiums for other employee benefits including, but not limited to, group life, group AD&D and/or group short term and long term disability to the Plan Sponsor, and will remit the premium collected to the applicable carrier.

3.26 TPA will provide administrative interface services for the plan sponsor with the Plan's Pharmacy Benefit Manager including but not limited to census reconciliation and claims information transfer, and dispersal and distribution of any pharmacy rebates due to the Plan Sponsor. With regard to any pharmacy rebates due the Plan Sponsor, the PBM will transfer the entire amount of any rebate to the TPA and the TPA will distribute the rebate to the Plan Sponsor or its designee, after deducting an amount for the fees due the TPA for providing the interface services described above. The amount deducted by the TPA shall be as stated in Appendix A of this agreement.

ARTICLE IV: THE PLAN SPONSOR'S RESPONSIBILITIES

The Plan Sponsor or Employer will:

4.1 Establish the Plan together with a framework of policies, interpretations and rules, which shall be the basis for the TPA's performance of its duties under this Agreement.

Maintain current and accurate Plan eligibility and coverage records, verify Covered Person eligibility and submit eligibility and coverage information monthly, or more often if requested by the TPA, to the TPA at its designated electronic or postal address.

This information shall be provided in a format acceptable to the TPA and shall include the following for each Covered Person: name and address, Social Security number, date of birth, type of coverage, sex, relationship to employee, changes in coverage, date coverage begins or ends, and any other information as necessary to determine eligibility and coverage under the Plan.

The Plan Sponsor assumes the responsibility for and will hold the TPA harmless from the erroneous disbursement of benefits by the TPA in the event of error or neglect by the Plan Sponsor or Employer in providing eligibility and coverage information to the TPA, including, but not limited to, failure to give timely notification if ineligibility or termination of a former Covered Person, or fraudulent enrollment and/or continuation of coverage.

4.2 The TPA shall make recommendations regarding Claims determinations. The Sponsor shall have the sole authority to resolve all Plan ambiguities and interpretations, questions and disputes relating to the Plan eligibility of a Covered Person, Plan coverage and denied Claims.

The Plan Sponsor shall have the sole authority to make determinations regarding appeal of denied Claims. The Plan Sponsor will respond to any written request for information made by the TPA within ten (10) Working Days of receipt of the request.

Resolve all Plan ambiguities, questions and disputes relating to the Plan eligibility of a Covered Person, Plan coverage, denial of Claims or decisions regarding appeal or denial of Claims, or any other Plan interpretation questions. The Plan Sponsor will respond to any written request made by the TPA within ten (10) Working Days of receipt of the request.

The TPA will administer and process Claims in accordance with Article III if the Plan Document and Summary Plan description are clear and unambiguous as to the validity of the Claims and the Covered Person's eligibility for coverage under the Plan. The TPA will have no discretionary authority to interpret the Plan or adjudicate Claims. If processing a benefit Claim requires interpretation of ambiguous Plan language, and the Plan Sponsor has not previously indicated to the TPA the proper interpretation of the language, then the Plan Sponsor will be responsible for resolving the ambiguity or any other dispute.

In any event, the TPA shall rely upon the Plan Sponsor's decision as to any Claim (whether or not it involves a Plan ambiguity or other dispute) and such decision by the Plan Sponsor shall be final and binding unless modified or reversed by a court or regulatory agency having jurisdiction over such Claim matter.

- 4.3 Fully fund the Claims Payment Account every week based upon the Claims batch report provided by the TPA.
- 4.4 Set funding levels for the Plan at a minimum level necessary to cover the expected Claims costs, administrative expenses and incurred but not reported Claims liability and fund the Plan at such level.
- 4.5 Not request or require the TPA, under any circumstances, to issue Claims drafts for Claims, stop loss or excess loss insurance premiums, or any other costs arising out of the subject matter of this Agreement, unless the Plan Sponsor has so authorized and has previously deposited sufficient funds to cover such Complete Claims or other Plan expense obligations and payment(s).
- 4.6 Provide the TPA with copies of any and all revisions or changes to the Plan at least five (5) Working Days prior to the effective date of the changes. Failure to provide timely notice may result in additional claims processing fees as set forth in Appendix A.
- 4.7 Provide, and timely distribute, all notices and information required to be given to Covered Persons, including Summary Annual Reports. Maintain and operate the Plan in accordance with applicable law. Maintain all recordkeeping and file all forms relative thereto pursuant to any federal, state or local law, unless this Agreement specifically assigns such duties to the TPA.
- 4.8 Acknowledge that it is the Plan Sponsor, Plan Administrator, and Named Fiduciary. As such, the Plan Sponsor retains full discretionary control and authority and discretionary responsibility in the operation and administration of the Plan.
- 4.9 Pay any taxes, assessments for fees arising solely out of the operations of the Plan or the services provided under this Agreement that are levied against the Plan or against the TPA by any governmental entity whether federal, state or local, or any political subdivisions or instrumentality thereof. Taxes based on TPA's net income or licenses

TPA is required to maintain to provide the services under this Agreement shall be the sole responsibility of TPA.

- 4.10 Hold confidential information that is proprietary to the TPA or information or material not generally known by personnel other than management employees of the TPA. The Plan Sponsor agrees not to use or disclose proprietary information of the TPA. Such proprietary information includes, but is not limited to, information designated as "trade secrets" under the Montana Uniform Trade Secrets Act, Title 30, Chapter 14, Part 4 of the Montana Code Annotated and any other constitutional protections. The Plan Sponsor acknowledges that such proprietary information shall include all financial information, PPO network or provider contracting arrangements, reasonable and customary Claims levels, fee schedules, conversion factors and Claims administration guidelines or procedures of the TPA or its affiliates or subcontractors.
- 4.11 Pay, in accordance with the Fee Schedule, Appendix A, the TPA's fees for services rendered under this Agreement. The TPA is expressly directed by the Plan Sponsor to pay any excess loss insurance premiums (where applicable), fee, cost or charge then due to the TPA prior to application of funds to payment of Claims or any other costs arising out of the Plan or subject matter of this Agreement. The Plan Sponsor specifically directs that all funds provided to TPA under this Agreement will be disbursed in the following order: First to pay excess loss insurance premiums where applicable, claims administration fees, costs and related expenses incurred by TPA and second, to pay benefit claims arising under the Plan.
- 4.12 Maintain any fidelity bond or other insurance as may be requested by state or federal law for the protection of the Plan and Covered Persons.
- 4.13 Maintain Stop Loss or Excess Loss insurance with an admitted insurance company in the minimum amount set forth in the Fee Schedule, Appendix A.
- 4.14 Promptly notify the TPA of any termination notice, expiration lapse, or modification of Stop Loss or Excess Loss insurance, life insurance, disability insurance, conversion insurance or any other insurance purchased in conjunction with the Plan.
- 4.15 Ensure that there is adequate release and authorization from each participant and/or beneficiary under the Plan permitting Health Care Providers to share with TPA and TPA to share with Health Care Providers and other service providers to the Plan any and all information, whether protected or individually identifiable, which may be necessary to perform the services anticipated by this Agreement and any Appendices hereto. TPA may in its sole discretion, require participants and/or beneficiaries of the Plan to execute additional releases and authorizations for the use and disclosure of such information. TPA may refuse to release protected or other individually identifiable health care information to Plan Sponsor, its agents and designees if such authorizations and/or releases are not provided.

4.16 Have the sole responsibility for reporting and disclosure, including but not limited to plan documents, summary plan descriptions, summaries of material modifications, participant communications, pre-retirement counseling to participants, bonding filings or other compliance required of, by or for the Plan, their participants and beneficiaries, or the Plan Sponsor by ERISA, the Internal Revenue Code, or any other related and/or applicable federal, state or local laws, rules or regulations. Plan Sponsor shall indemnify and hold harmless TPA from any claim or expense incurred as a result of the Plan Sponsor's failure to comply with the requirements or provisions of applicable, federal, state, and local laws, rules and regulations.

4.17 Shall be solely responsible for paying all fees, expenses, or costs attributable to any legal action or proceeding brought to recover a claim for benefits under the Plan. TPA shall, however, make available to the Plan Sponsor and its counsel, such evidence which relates to or is relevant to such action or proceeding as TPA may have as a result of the performance of the services set forth in this Agreement. TPA shall promptly notify the Plan Sponsor in writing of any legal actions of which it becomes aware that involve the Plan or the Plan Sponsor. Any legal fees incurred by TPA in connection with any legal action or proceeding brought to recover a claim for benefits under the Plan shall be the responsibility of the Plan Sponsor.

4.18 Provide timely, accurate and complete information required by TPA to provide the services that TPA has agreed to perform under this Agreement. TPA shall have the right to rely on such information. Such information shall include but not be limited to all necessary eligibility enrollment and participant data; and copies of all governing documents of the Plan and any amendments thereto, including any written policies, interpretations, rules, practices or procedures concerning same. Such information shall be provided upon execution of this Agreement and immediately following modification or amendment. TPA shall have the right to assume that all such information is accurate and complete and TPA shall be under no duty to question such information. Plan Sponsor shall reimburse TPA at its standard hourly rates for TPA's costs incurred for efforts expended to remedy data or information inaccuracies as were provided by the Plan Sponsor.

4.19 File and timely pay all applicable PCORI and Transitional Reinsurance fees and file and distribute to employees all applicable IRS Form 1094 and 1095 forms.

4.20 Premier Joint Replacement Provider Benefit Shared Savings:

If Plan Sponsor has adopted a Premier Joint Replacement Provider Benefit in its Plan Document, Plan Sponsor agrees to share the savings realized under such benefit with the hospital providing such services under this benefit. Such savings will be shared on a 50% / 50% basis between Plan Sponsor and the applicable hospital.

Such savings shall be calculated as follows:

- (a) Professional charges (doctors, assistant surgeons, and anesthesiology) will be deducted from the Maximum Benefit Amount stated in the Plan Document.
- (b) Additionally, TPA's Premier Joint Replacement Provider Benefit management fee of \$100.00 per event shall be deducted from the Maximum Benefit Amount stated in the Plan Document.
- (c) The hospital's contractually agreed upon base rate shall be subtracted from the remaining balance after subtraction of (a) and (b) above.
- (d) The remaining balance, if any, shall be divided equally between the Plan Sponsor, as a credit to claims experience, and to the hospital as an additional payment.

The shared savings shall be distributed by the TPA on a per surgical event basis.

ARTICLE V: DURATION OF AGREEMENT

5.1 This Agreement shall commence and end on the dates first written above, unless terminated earlier in accordance with this Article. This Agreement shall automatically renew at the end of each term for an additional twelve (12) month period pursuant to receipt of a fee quote from the TPA for the succeeding twelve (12) month period, or unless modified or terminated as described below. The fee quote in this subsection must be accepted, in writing, by the Plan Sponsor prior to the renewal date for the period to which the fee quote applies. Non-acceptance of the renewal fee quote shall cause this Agreement to lapse and terminate at 5:00 P.M. on the last Working Day of this Agreement.

5.2 At any time during the term of this Agreement, either the Plan Sponsor or the TPA may amend or change the provisions of this Agreement. These amendments or changes must be agreed upon in advance in writing by both the Plan Sponsor and the TPA. If any such amendment increases the anticipated Claims experience under the Plan or the TPA's cost of administering the Plan, the Plan Sponsor agrees to pay any increase in Claims expenses, as well as increases in administrative fees or other costs which the TPA reasonably expects to incur as a result of such modification.

Any amendment which affects only the Fee Schedule, Appendix A, may be made, in writing, signed by all parties, and without other formal amendment of this Agreement. All fee quotes accepted by the Plan Sponsor for renewals of this Agreement will be incorporated into this Agreement as amendments to the Fee Schedule, Appendix A.

5.3 Either the Plan Sponsor or the TPA may terminate this Agreement at any time, by giving sixty (60) days advance written notice to the other party unless both parties agree to waive such advance notice. At the option of the party initiating the termination, the other party may be permitted a cure period (of a length determined by the party initiating the termination) to cure any default.

5.4 The TPA may, at its sole option, terminate this Agreement with ten (10) days written notice upon the occurrence of any one or more of the following events pertaining to the Plan Sponsor:

- (a) The Plan Sponsor fails to fund the Claims Payment account;
- (b) The Plan Sponsor fails to pay administration fees or other fees for the TPA's services upon presentation for payment and in accordance with the Fee Schedule, Appendix A;
- (c) The Plan Sponsor fails to comply with any federal, state or other government statute, rule or regulation;
- (d) The Plan Sponsor, through its acts, practices, or operations, exposes the TPA to any existing or potential investigation or litigation.
- (e) The Plan Sponsor permits its stop loss or excess loss insurance to lapse, whether by failure to pay premiums or otherwise;
- (f) The Plan Sponsor loses its licensure or certification, if required by law, to continue the Plan;
- (g) Insolvency of the Plan;
- (h) Court appointment of a permanent receiver for substantially all of the Plan Sponsor's assets;
- (i) A general assignment of the benefit of credits by the Plan Sponsor; or
- (j) The filing of a voluntary or involuntary petition of bankruptcy, if such petition is not dismissed within forty-five (45) days of the date of filing, provided that an order for relief from automatic stay has been obtained, or with respect to a Chapter 11 proceeding, that the bankrupt or Bankruptcy Trustee fails to reaffirm this Agreement and provide adequate assurances pursuant to 11 USC 365.

5.5 The Plan Sponsor may, at its option, terminate this Agreement with ten (10) days written notice upon the occurrence of any one or more of the following events pertaining to the TPA:

- (a) Court appointment of a permanent receiver for all or substantially all of the TPA's assets;
- (b) A general assignment of the benefit of credits by the TPA;
- (c) The filing of a voluntary or involuntary petition of bankruptcy, if such petition is not dismissed within forty-five (45) days of the date of filing, provided that an order for relief from automatic stay has been obtained, or with respect to a Chapter 11 proceeding, that the bankrupt or Bankruptcy Trustee fails to reaffirm this Agreement and provide adequate assurances pursuant to 11 USC 365;
- (d) The TPA loses its licensure or certification required by law to continue its business or continue as third party administrator; or
- (e) The TPA fails to comply with any federal, state or other governmental statute, rule or regulation.

5.6 At the written request of the Plan Sponsor and subject to the Plan Sponsor's continuing obligation to fund the

Claims Payment Account, and to timely pay any outstanding amounts due and payable to the TPA under the terms of this Agreement, the TPA may, at its sole discretion, agree to process incurred but not reported Claims after the termination of this Agreement (Run-Out Services). The written request of the Plan Sponsor must be received simultaneously with the notice of termination required by subsection 5.3 of this Agreement. Such agreement (Run-Out Services Agreement), if any, shall be in writing and a separate fee will be charged for this service.

5.7 If this Agreement terminates for any reason and no Run-Out Service Agreement is requested, or if the TPA declines to provide Run-Out Services, the TPA shall have no obligation to:

- (a) Complete the processing of any claim requests that were pending or otherwise not Complete Claims or complete the processing of any Complete Claims if the Plan Sponsor has failed to provide funds for the payments of any benefits due;
- (b) Accept or process requests for claim payments presented to it after termination of this Agreement irrespective of when such claim was incurred;
- (c) Issue claims checks after the termination date of this Agreement for any request for claims payments relative to conditions existing before, on or after such a date.
- (d) Provide ongoing customer service to Plan Participants or Health Care Providers; or
- (e) Perform any other task or requirement of this Agreement, except for those requirements that specifically survive termination of this Agreement.

5.8 If the Plan Sponsor terminates this Agreement on or before the expressed expiration date of this Agreement, but after such termination date becomes entitled to any reimbursement(s) pursuant to the provisions of the Plan Sponsor's Stop Loss or Excess Loss insurance policy aggregate or specific loss reimbursement provisions, and no separate Run-Out Services Agreement is executed, the Plan Sponsor shall pay to the TPA an hourly fee of One Hundred and no/100 Dollars (\$100.00) per hour for all services rendered by the TPA after termination of this Agreement regarding such reimbursement(s) request made to or claims paid by a Stop Loss or Excess Loss insurance company.

5.9 In the event this Agreement is terminated for any reason and Plan Sponsor cannot be located following reasonable efforts by TPA, TPA shall charge a \$50.00 per check administrative charge for its efforts to return any stale dated funds (defined as a check with an original issue date greater than 180 days) belonging to Plan Sponsor or belonging to a plan participant who, likewise, cannot be located. The administrative charge may be paid from any funds of the Plan Sponsor held by TPA, or billed directly to the Plan Sponsor. This provision shall survive termination of this Agreement.

5.10 The Plan Sponsor specifically acknowledges that the TPA incurs ongoing costs for staffing, long term planning, maintenance of customer service support and other costs connected with providing services to Plan Sponsor's Plan, and that the notice of termination and terminate date provisions of this Agreement provide adequate notice to the TPA so that unnecessary costs are not incurred by the TPA if the Plan Sponsor terminates this Agreement. In that regard, it is specifically agreed by the Plan Sponsor that in the event that the Plan Sponsor either fails to provide the advance notice for termination required by this Agreement, or terminates this Agreement other than on its express expiration date, the Plan Sponsor shall pay to the TPA a fee equal to two times the amount of Plan Sponsor's administrative fees payable to the TPA for the month immediately prior to the date notice of termination is received. The amount payable under this provision shall be as liquidated damages incurred by the TPA for the costs recited in this subsection, in lieu of specific calculation of the same, and not as a penalty. The liquidated damages will be in addition to any other fees required under this Agreement or any subsequent Run-Out Services Agreement between the parties.

ARTICLE VI: MISCELLANEOUS

6.1 This Agreement, together with all addenda, exhibits and appendices, supersedes any and all prior representations, conditions, warranties, understandings, proposals or other agreements between the Plan Sponsor and the TPA hereto, oral or written, in relation to the services and systems of the TPA, which are rendered or are to be rendered in connection with its assistance to the Plan Sponsor in the administration of the Plan.

6.2 This Agreement, together with the aforesaid addenda, exhibits, and appendices, constitutes the entire Administrative Services Agreement of whatsoever kind or nature existing between or among the parties.

6.3 The parties hereto, having read and understood this entire Agreement, acknowledge and agree that there are no other representations, conditions, promises, agreements, understandings or warranties that exist outside this Agreement which have been made by either of the parties hereto, which have induced either party or have led to the execution of this Agreement by either party. Any statements, proposals, representations, conditions, warranties, understandings or agreements which may have been heretofore made by either of the parties hereto, and which are not expressly contained or incorporated by reference herein, are void and of no effect.

6.4 Except as provided in Article V, no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto.

6.5 In the event any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason and in any respect, such invalidity, illegality or unenforceability shall in no event affect, prejudice or disturb the validity of the remainder of this Agreement, which shall remain in accordance with its terms.

6.6 The Plan Sponsor will notify the TPA within ten (10) Working Days of any inquiry made by any Covered Person or authorized representative of any Covered Person related to Plan Documents, Plan Records, Claims, Claims Appeals, Claims Disputes, threatened litigation, lawsuits pertaining to the Plan or any inquiry made by federal or state authority regarding the Plan.

6.7 In the event that either party is unable to perform any of its obligations under this Agreement because of natural disaster, fire, flood, wind storm, power outage, labor unrest, civil disobedience, acts of war (declared or undeclared), or actions or decrees of governmental bodies or any event which is referred to as a "Force Majeure Event", the party who has been so affected shall immediately notify the other party and shall do everything possible to resume performance.

Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds fourteen (14) Working Days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may terminate this Agreement by giving ten (10) Working Days' written notice.

6.8 All notices required to be given to either party by this Agreement shall, unless otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested.

Any official notice to the TPA will be mailed to the attention of: President, 2806 South Garfield St., Missoula, MT 59801.

Any official notice to the Plan Sponsor will be mailed to the attention of: Julianne Fries, Teton County, 200 South Willow, PO Box 3594, Jackson, WY 83001.

6.9 The TPA has adopted an Affirmative Action Policy which is in compliance with §49-2-101, Montana Code Annotated.

Employees hired by the TPA are hired on the basis of merit and qualifications, and there is no discrimination on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical handicap, national origin or ancestry by persons performing this Agreement. Qualifications mean such abilities as are genuinely related to competent performance of the particular occupational task.

6.10 This Agreement shall be interpreted and construed in accordance with the laws of the state of Montana except to the extent superseded by federal law.

6.11 The parties agree to use and disclose protected health information about a Covered Person in accordance with the terms of a separately provided Business Associate Agreement.

6.12 The TPA shall comply with the Montana Workers' Compensation Act while performing its obligations under

this Agreement in accordance with §§39-71-120, 39-71-401 and 39-71-405, Montana Code Annotated. Proof of compliance shall be in the form of workers' compensation insurance, an independent contractor's exemption or documentation of corporate officer status. Such insurance/exemption shall be valid and in force for the duration of this Agreement.

6.13 The TPA may enter into arrangements with a Health Care Provider or group of Health Care Providers to obtain discounts in charges for Covered Services. The TPA makes no representations that such discounts will continue for any period of time or will apply in any particular factual context. Plan Sponsor agrees to pay such discounted charges based upon the terms of the arrangement, the terms of the contract between the arrangement and the Health Care Provider(s) or the terms of the contract between the TPA and the Health Care Provider(s). In no event will TPA be responsible for the loss of any such discounts except in the sole event that such loss is directly caused by commissions or omissions of the TPA which constitute gross negligence.

6.14 No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement shall be construed as a waiver, alteration or modification of the Agreement.

6.15 Should the TPA's performance of its duties under this Agreement be made materially more burdensome or expensive due to an increase in US Postal Service rates or due to a change in federal, state or local laws or imposition of fees there under, any such additional fees shall be paid by Plan Sponsor.

6.16 The TPA and the Plan Sponsor specifically state, acknowledge and agree that it is their intent that no other parties including, but not limited to, all persons eligible for benefits under the Plan, all covered employees, and their assignees shall be third party beneficiaries of this Agreement. The parties further agree that nothing herein shall be deemed to impose on the TPA any obligation to any other party including, but not limited to, all persons eligible for benefits under the Plan, all covered employees, and their assignees.

6.17 The Plan Sponsor acknowledges that the TPA shall have no responsibility or liability for any fines or penalties assessed by the Internal Revenue Service as a result of the issuance of annual 1099 forms to medical service providers so long as the TPA has issued the 1099 to the same name, address and TIN as billed by the medical services provider at the point of claim submission.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf by their duly authorized representatives' signatures, effective as of the date first written above.

TETON COUNTY
200 South Willow
PO Box 3594
Jackson, WY 83001

ALLEGIANCE BENEFIT PLAN MANAGEMENT, INC.
2806 S. Garfield St.
Missoula, MT 59801

By: _____, **Chairman**
Teton County Board of County Commissioners

By: **Ronald K. Dewsnup**
President and General Manager

By: _____
(Signature)

By: _____
(Signature)

Date: _____

Date: _____

ATTEST:

By: _____
_____, **Teton County Clerk**

APPENDIX A

FEE SCHEDULE AND FINANCIAL ARRANGEMENT

I

Fee Schedule

The Plan Sponsor and the TPA hereby agree to the compensation schedules set forth below as being the sole compensation to the TPA for the performance of its obligations under this Agreement. Monthly fees are based upon Plan Participant enrollment as of the beginning of each month. The fees paid to TPA in this contract are guaranteed for a period of two (2) years from the original date of this contract.

A. Administration fee of \$21.30 per Plan Participant per month, which fee shall include services for production and maintenance of Plan Documents/Summary Plan Description, plan building, amendment production, plan document compliance, and HIPAA compliance, regulatory compliance (if applicable) and production and mailing via bulk mail to the Plan Sponsor of health plan identification cards, and all of the following services that are checked:

Medical Claims

Dental Claims

Vision Claims

Short Term Disability

PPO Management and Provider Network Coordination

Predictive Modeling Services

Behavioral Healthcare Options

World Doc online wellness program

On-line Wellness/health risk assessment program

Consolidated Billing

COBRA services provided by Allegiance COBRA Services, Inc., pursuant to the COBRA Administrative Services Agreement attached hereto. (In addition to this fee, the TPA will also retain two (2%) percent of all COBRA premiums as fees for COBRA services.)

pre-certification, continued stay review, concurrent utilization review, or coordination of large case management referrals.

PBM management fee for regular eligibility maintenance, file maintenance, ID card production, reporting customer service assistance and other services performed by the TPA in connection with the PBM agreement for and on behalf of the participating Plan. Any administrative fees charged by the Pharmacy Benefit Management (PBM) company that is utilized by the Plan pursuant to written agreement with the Plan, the PBM and the TPA, will be paid by Plan Sponsor.

Distribution of plan materials will be delivered to the Plan Sponsor. An additional postage and handling fee will be paid to the TPA for mailing materials to individual Plan Participants.

B. A monthly fee for Retiree Billing of \$5.00 per Plan Participant per month.

C. Hourly fee of \$175.00 for Ad-Hoc Reporting (customized reports, changes to standard reports, correspondence, documents or other materials).

D. Hourly fee of \$125.00 for welfare plan consulting. Such services must be agreed to in advance by the Plan Sponsor.

E. Hourly fee of \$125.00 for stop-loss reimbursement services, audit assistance services and any other services provided by the TPA after termination of this Agreement and in the absence of a separate Run-Out Services Agreement.

F. Hourly fee of \$125.00 for special programming requests or research including production of any special claims history reports. Such services must be agreed to in advance by the Plan Sponsor.

G. Special Reports requested by the Plan Sponsor and produced by the TPA upon prior agreement as to report(s) and fee(s).

H. Hourly fee of \$115.00 for Large Case Management.

I. Final fee of \$500.00 for forwarding magnet diskette of eligibility/enrollment file in DBC or ASCII format to the Plan Sponsor (if requested).

J. Final fee of \$1,500.00 for forwarding magnetic diskette of Claims history file in DBC or ASCII format to the Plan Sponsor (if requested).

K. Check customization, customized printed material, special statistical reports other than those enumerated in this contract, special medical underwriting, new taxes assessed against the Plan, or other services mutually agreed upon will be billed separately at the rate of \$125.00 per hour for such services. Such services must be agreed to in advance by the Plan Sponsor.

L. A fee equal to the actual costs for printing a Summary Plan Description Booklet, together with costs of shipping for each booklet.

M. A fee of \$125.00 per hour for time expended producing and providing information to agents, consultants or brokers for whom the Plan Sponsor requests Plan information be provided, together with any postage, shipping and copying costs. Paper copies will be billed at fifteen (\$0.15) cents per copy and electronic copies shall be billed at \$500.00 per disk in DBC or ASCII format only.

N. Broker fee of \$4,791.67 per month, payable to: Stephanie Mace, Hays Companies, 170 S. Main St., Suite 1000, Salt Lake City, UT 84101.

O. PPO access fees for any Preferred Provider Organization claim negotiation company or cost containment vendor that assesses a per Plan Participant fee, a per Claim fee, or a percentage of claims savings fees not to exceed twenty-five (25%) percent of the actual savings amount between the charges billed by the Health Care Provider and the discounted amount agreed to between the PPO or Claims Negotiation Company and the Health Care Provider. The amount charged under this Agreement shall be equal to the amount charged by the PPO or Claims Negotiation Company. The TPA, its parents or its affiliates, may be paid a service fee by the PPO for claim repricing or other administrative services associated with the claims discount or negotiation. The Plan Sponsor will receive a report that outlines the total billed charges, the total discounts obtained, the net claims cost and the total claim savings to the Plan. Any additional fee in excess of this amount must be approved in advance by the Plan Sponsor. The TPA may be paid a fee not to exceed twenty-five (25%) percent of net savings payable to TPA, its parent or its affiliates, realized as a result of any negotiation or reduction in the amount of claims paid or any recovered funds obtained by TPA through employment of cost containment companies or outsourced claims editing service for unbundling and other erroneous or unacceptable medical billing practices. Specific fees at the inception of this contract for which a per Participant per month rate is charged are:

\$ 3.75 per Plan Participant per month for First Choice of Midwest

\$ 6.25 per Plan Participant per month for CIGNA

P. Funds held in accounts by TPA, until paid out for benefits, may accrue interest. The interest accrued will be retained by TPA as reasonable compensation and fees for fees assessed on the accounts, for paper, printing and postage, record keeping and account reconciliation, bank service fees, trust tax return preparation; and SAS 70 and related trust activities audit fees.

Q. Sentinel Air Medical Alliance air ambulance pre-authorization fee payable to TPA of \$750.00 per pre-authorization.

R. Any mandatory assessments charged by Network or Preferred Provider organizations based upon pay for performance criteria required of network providers, which assessments will be paid upon receipt of billing and supporting documentation from the Network or Preferred Provider organization.

II

Funding and Fee Payment Terms

Allegiance Benefit Plan Management, Inc., will establish and maintain a zero balance Claims Payment Account for payment and reimbursement of Covered Services.

TPA will notify Plan Sponsor or its designee on a weekly basis of amount required to be deposited to the Claims Payment Account to pay claims after they have been processed for payment. Notification of the amount required to be deposited will take place as follows:

On Wednesday of each week (Tuesday, if Monday coincides with a recognized Federal holiday), an electronic notification will be provided to Plan Sponsor that the weekly report of claims processed for payment is available on TPA's secured website.

Within five (5) business days from the electronic notification, Plan Sponsor will authorize TPA to release checks for payment of claims from an account designated by Plan Sponsor.

TPA will generate a monthly bill for fees. Payment of monthly billing will be as follows:

On or about the 15th of each month, TPA will provide an electronic notification to Plan Sponsor that the monthly bill is available on TPA's secured website.

Plan Sponsor will remit payment by check for the monthly bill on or before the 10th day following the date the monthly billing notification is received.

III

Stop Loss Arrangement

The Plan Sponsor agrees to do the following:

Maintain Excess Loss Insurance as follows:

1. \$100,000 specific excess loss with an Incurred/Paid limit of UNLIMITED on a Paid basis.
2. Aggregate excess loss insurance with a minimum aggregate corridor of 125% of expected Claims on a Paid
3. Minimum policy limits of \$1,000,000 in excess of the annual aggregate deductible.

Excess loss insurance will be purchased with Employer contributions or funds and NOT with Employee contributions or Plan Assets.

Initials
(Plan Sponsor)

Initials
(TPA)

APPENDIX B

SUBROGATION AND REIMBURSEMENT SERVICES

The Plan Sponsor and TPA hereby agree that TPA will perform certain services in connection with the Plan regarding subrogation and reimbursement rights of the Plan and for the fees stated in this Appendix.

- A. TPA shall provide recovery services for subrogation/reimbursement of Complete Claims paid by the Plan. Subrogation services shall include direct recovery on behalf of the Plan against third parties and reimbursement services shall include recovery of Plan funds from those Covered Persons who have recovered damages from third parties. Such services shall include review of paid Complete Claims and applicable medical records, identifying potential subrogation and reimbursement claims, follow up questionnaires to Covered Persons and Health Care Providers, additional research as necessary, notification to Health Care Providers, Covered Persons, and their authorized representatives, settlement of claims with prior authorization from the Plan Administrator, and other acts necessary to effectuate recovery of Plan funds.
- B. The Plan Sponsor shall pay direct costs incurred by the TPA if written approval is given in advance by Plan Sponsor for subrogation and reimbursement services, including, but not limited to costs of consultants, outside legal counsel, and other professionals. The Plan Sponsor shall also pay the TPA fifteen percent (15%) of the total funds recovered from subrogation or reimbursement less any direct costs incurred by the TPA. Plan Sponsor shall never receive less than eighty-five (85%) percent of any subrogation recovery.
- C. If necessary to retain outside legal counsel for recovery of Plan funds, the Plan Sponsor shall have sole discretion to select and retain legal counsel.
- D. Plan Sponsor and TPA acknowledge that negotiation or waiver of a subrogation/reimbursement claim may be necessary as a result of state or federal law or the specific facts and circumstances of the disputed Claim. The TPA shall refer any requests for negotiation or waiver of a claim to the Plan Sponsor for final settlement.

Initials
(Plan Sponsor)

Initials
(TPA)

APPENDIX D
TPA REPORT PACKAGE

The following reports are included as part of the Administrative Fee stated in Appendix A:

- Aggregate Report
- Check Register
- Check Register Reports
- Claims Analysis Report
- Claims Lag Report
- Deductible / OOP Reports
- Executive Summary
- Large Claimants by Medical Diagnosis Code and Employee Relationship
- Paid Claims by Diagnosis Group
- Participant Coverage Census
- Refund Report
- StarPoint Case Management Report
- Stop Loss Specific Detail Report
- Stop Loss Summary Plan Description
- Stratification Report
- Top 100 Place of Service
- Top 100 Procedures
- Top 100 Providers
- Top 100 Service Code Analysis

Initials
(Plan Sponsor)

Initials
(TPA)