

GOVERNMENT OF GUAM

And

GOVGUAM RETIREE SUPPLEMENT INSURANCE AGREEMENT

October 1, 2016 – September 30, 2017

Preamble

This Agreement is made effective by and between the GOVERNMENT OF GUAM ("GovGuam") and _____ ("Company"). The effective date of this Agreement is October 01, 2016.

Recitals

WHEREAS, Company is an insurance company duly licensed to do business in Guam; and

WHEREAS, Company is qualified to provide an insurance program designed for eligible GovGuam retirees spouses and survivors to supplement Medicare; and

WHEREAS, GovGuam selected Company to provide this insurance program to eligible GovGuam retired employees, spouses and survivors of retired employees who receive annuity benefits; and

WHEREAS, Company agrees to administer this insurance program, as hereinafter set forth, under a health insurance plan known as the "GovGuam Retiree Supplement Plan", and

WHEREAS, the parties wish to enter into an agreement defining their mutual rights and obligations.

NOW, THEREFORE, in consideration of the premises, mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1

Preamble and Recitals

The preamble and recitals set forth above are hereby incorporated into and made a part of this Agreement.

ARTICLE 2

General Provisions

§2.1 **Definitions:** The following words and phrases shall have the following meanings, unless a different meaning is required by the context. Words in the singular shall include the plural unless the context indicates otherwise. These are general definitions and are not an indication of the existence of a benefit. The definitions shall control the interpretation of this Agreement, Enrollment forms, any identification cards, any supplements and the performance hereunder, unless the term is otherwise specifically defined or modified within a particular section of this Agreement, or defined in the attached Exhibits hereto.

- 2.1.1 **Accident:** Shall be defined as an event that is sudden and not foreseen, is exact as to time and place and which results in bodily injury.
- 2.1.2 **Agreement:** Shall be defined as the GovGuam Retiree Supplement Plan Agreement, an employee-sponsored plan, including the attached Group Health Certificate and Exhibits made a part hereof.
- 2.1.3 **Ambulatory Surgical Center and/or Surgicenter:** Shall be defined as a legally operated institution or facility, either freestanding or part of a Hospital with permanent facilities, which a patient is admitted to and discharged from within a 24-hour period and which:
- 2.1.3.1 has continuous Physician and Nursing services whenever a patient is in the facility; and
 - 2.1.3.2 has permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; and
 - 2.1.3.3 is not a private office or clinic maintained by a Physician for the practice of medicine or dentistry or for the primary purpose of performing terminations of Pregnancy.
- 2.1.4 **Anesthesia Services:** Shall be defined as the administration of anesthetics to achieve general or regional anesthesia and related resuscitative procedures.
- 2.1.5 **Case Management:** Shall be defined as a process directed at coordinating resources and creating flexible, cost-effective options for catastrophically or chronically ill or injured individuals on a case by case basis to facilitate quality individualized treatment goals and improve functional outcomes. Case Management also includes providing any alternative medical or non-medical benefits to a Covered Person that are expected to be medically beneficial for the Covered Person but which may not be Covered Services under this Agreement. Services should be cost-effective and generally follow acceptable standards of evidence based medical practice. The Company may, in its discretion, provide said alternative benefits for a Covered Person's Illness or Injury in lieu of, or in addition to, Covered Services if:
- 2.1.5.1 The total cost of said alternative benefits does not exceed the total benefits payable for Covered Services;
 - 2.1.5.2 The Covered Person's Physician recommends that the Covered Person receive said alternative benefits;
 - 2.1.5.3 The Covered Person's Physician agrees that the recommended alternative benefits are expected to be beneficial for the treatment of the Illness or Injury; and
 - 2.1.5.4 The services are prior authorized by the Company's Medical Management Department.
- 2.1.6 **Certificate:** Shall be defined as the GovGuam Retiree Supplement Plan Certificate attached hereto.
- 2.1.7 **Chemotherapy:** Shall be defined as remedial Services of a neoplastic Illness or tumor by means of systemic cytotoxic agents or systemic hormonal agents.

- 2.1.8 **Chemical Dependency:** The pathological use or abuse of alcohol or other drugs in a manner, or to a degree, that produces an impairment in personal, social or occupational functioning and which may, but need not, include a pattern of tolerance and withdrawal.
- 2.1.9 **Cosmetic Procedure or Surgery:** Shall be defined as Services performed solely for the improvement of a Covered Person's appearance rather than for the improvement, restoration or correction of normal body functions.
- 2.1.10 **Covered Dependent:** Shall be defined as a Dependent eligible to receive benefits under the terms of this Plan.
- 2.1.11 **Covered Person:** Shall be defined as a person entitled to receive Covered Services pursuant to the Retiree Supplement Insurance Plan. A Covered Person shall reside in the Service Area, shall be a retiree of the Government of Guam, or a spouse of a retiree of the Government of Guam or a survivor of a retiree of the Government of Guam, and enrolled in Medicare Parts A & B, and eligible for Retiree Supplement Insurance Plan.
- 2.1.12 **Covered Services:** Shall be defined as Medically Necessary Services that are not specifically excluded from coverage by this Agreement and other Services which are specifically included.
- 2.1.13 **Dental Service:** Shall be defined as the act of:
- 2.1.13.1 adjusting, removing, or replacing teeth. The removing of wholly or partly unerupted impacted wisdom teeth shall be considered an oral surgical procedure; or
 - 2.1.13.2 providing Services for teeth, gums, and related parts of the oral cavity; or
 - 2.1.13.3 performing any other Services normally rendered by a Dentist.
- 2.1.14 **Dentist:** Dentist means a doctor of medical dentistry or dental surgery who is currently licensed to practice by the appropriate authority of the jurisdiction in which the person practices and who renders Services within the lawful scope of such license.
- 2.1.15 **Domicile:** Shall be defined as the place where a person has his or her true, fixed, and permanent home and principal establishment, and to which whenever that person is absent that person has the intention of returning. A person shall have only one domicile at a time.
- 2.1.16 **Durable Medical Equipment:** Shall be defined as equipment which is:
- 2.1.16.1 Able to withstand repeated use; and
 - 2.1.16.2 Primarily and customarily used to serve an Illness or Injury; and
 - 2.1.16.3 Not generally useful for a person in the absence of Illness or Injury.
- 2.1.17 **Eligible Charge(s):** Shall be defined as the portion of charges made to a Covered Person for Covered Services rendered which are payable to the Provider under this Agreement. For a Participating Provider, the Eligible Charges shall be the reimbursement amounts agreed to between the Company and the Participating Provider.

2.1.18 Emergency:

- 2.1.18.1 In general, an Emergency shall be defined as an Accidental Injury or an acute or serious medical condition of sudden or unexpected onset requiring immediate medical attention because any delay in treatment, in the opinion of the Physician, would seriously impair future treatment or result in permanent disability, a serious worsening of the condition, or irreparable harm to the Covered Person's health or endanger his or her life. Examples of Emergencies include, but are not limited to heart attack, severe hemorrhaging, loss of consciousness, convulsions and loss of respiration.
- 2.1.18.2 For purposes of compliance with the requirements of Section 2719A(b) of the PHS, as added by PPACA, a PPACA Emergency shall mean an injury or medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) so that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to place the health of an individual (including the health of a pregnant woman or her unborn child) in serious jeopardy, or to result in serious impairment to bodily functions or serious dysfunction of any bodily organ or part.
- 2.1.18.3 PPACA Emergency Services shall mean services provided by the emergency department of a Hospital, including a medical screening examination, and also including ancillary services routinely available to the emergency department to evaluate such condition, and such further medical examination and treatment to stabilize the Covered Person as are within the capabilities of the staff and facilities available at the hospital.
- 2.1.18.4 Co-Insurance percentages and Co-Payment amounts for any PPACA Emergency Services provided by Non-Participating Providers shall not be greater than such percentages or amounts that would be applied to Participating Providers. The Company's payments for any PPACA Emergency Service shall not be more than the greater of:
- 2.1.18.4.1 The amount negotiated with Participating Providers for the PPACA Emergency Service (excluding any Co-Insurance or Co-Payment normally charged the Covered Person for such service when provided by Participating Providers); or
 - 2.1.18.4.2 The amount calculated using the same method the Company generally uses under this Agreement to determine payments for such services when provided by Non-Participating Providers, but excluding any Co-Insurance or Co-Payment normally charged the Covered Person for such service when provided by Participating Providers; or
 - 2.1.18.4.3 The amount that would be paid under Medicare (Part A or Part B) for the PPACA Emergency service, excluding any Co-Insurance or Co-Payment normally charged the Covered Person for such service when provided by Participating Providers.

2.1.19 **Enrollment:** Shall be defined as the acceptance, as of a specified date, of a written

application for coverage under the Plan on forms provided by the Company.

- 2.1.20 **Experimental:** Shall be defined as all procedures and treatments not covered under the Medicare Program (Title XVIII of Social Security Act of 1965, as amended), unless otherwise specifically included or excluded under this Agreement.
- 2.1.21 **HIPAA:** Shall be defined as the Health Insurance Portability and Accountability Act of 1996, as amended (including amendments by PPACA), including all provisions codified at 42 U.S.C. §300gg, and the regulations promulgated thereunder.
- 2.1.22 **Home Health Care Agency:** Shall be defined as a public or private agency or organization, or part of one, that primarily provides Home Health Care Services and complies with the following requirements:
 - 2.1.22.1 Is legally qualified in the state or locality in which it operates;
 - 2.1.22.2 Keeps clinical records on all patients;
 - 2.1.22.3 Services are supervised by a Physician or Nurse; and
 - 2.1.22.4 Services provided by the Home Health Care Agency are based on policies established by associated professionals, which include at least one Physician and one Nurse.
- 2.1.23 **Home Health Care Plan:** Shall be defined as a program of Home Health Care established and approved in writing by the Covered Person's Physician for the provision of Home Health Care Services. The Physician shall state that confinement to a Hospital or Skilled Nursing Facility would be Medically Necessary for the treatment of the Covered Person's Injury or Illness if the Home Health Care Plan is not provided.
- 2.1.24 **Home Health Care:** Shall be defined as the Services set forth below, subject to all other exclusions and limitations set forth in this Agreement:
 - 2.1.24.1 Part-time or intermittent home nursing Services from or supervised by a registered Nurse or a licensed practical Nurse;
 - 2.1.24.2 Part-time or intermittent home health aide Services;
 - 2.1.24.3 Physical therapy; and
 - 2.1.24.4 Medical supplies, drugs and medications prescribed by a Physician, and laboratory Services to the extent that they would have been covered if provided or performed in a Hospital or Skilled Nursing Facility.
 - 2.1.24.5 be a Covered Service, Home Health Service shall:
 - 2.1.24.5.1 replace a needed Hospital or Skilled Nursing Facility stay;
 - 2.1.24.5.2 be for the care or treatment of a Covered Person's illness or injury;
 - 2.1.24.5.3 be ordered in writing by the Covered Person's Physician; and

2.1.24.5.4 be provided in the Covered Person's home (permanent or temporary) by a properly licensed Home Health Care Agency.

- 2.1.25 **Hospice:** Shall be defined as a coordinated plan of home and/or Inpatient Services, which treats a Terminally Ill patient and his or her family as a unit, focusing on providing comfort rather than on curing an illness. The plan provides Services to meet the special needs of the family unit during the final stages of a Terminal Illness and during bereavement. These services may include physical care, counseling, drugs, equipment and supplies for the terminal illness and related condition(s). Services are provided by a team made up of trained medical personnel, homemakers and counselors. The team acts under an independent hospice administration and helps the family unit cope with physical, psychological, spiritual, social and economic stress. Hospice is generally provided in the home, is not limited to people with cancer, and must be approved as meeting established standards, including but not limited to compliance with any licensing requirements of Guam, and the benefit period begins on the date the attending physician certifies that a covered member is terminally ill.
- 2.1.26 **Hospital:** Shall be defined as a medical institution which is operated in accordance with the laws of the jurisdiction in which the Hospital is located. The Hospital must, on an Inpatient basis, be primarily engaged in providing diagnostic and therapeutic facilities for surgical and medical diagnosis, and treatment of injured and sick persons. These Services must be provided by or under the supervision of Physicians and the institution must continuously provide twenty-four (24) hours a day Nursing Service by Nurses.
- 2.1.26.1 A Hospital may include a psychiatric or tuberculosis facility which satisfies the above requirements.
- 2.1.26.2 Any institution which is, primarily, a place for rest, a place for the aged, or a nursing home shall not be considered a Hospital for purposes of this Agreement.
- 2.1.27 **Injury:** Shall be defined as a condition caused by Accidental means that results in damage to the Person's body independently of Illness and is a result of an unexpected slip, fall, blow or other violent external force. Injury shall also include a scenario that is not unexpected or not Accidental if it constitutes a PPACA Emergency.
- 2.1.28 **Illness:** Shall be defined as a bodily disorder, disease, physical sickness, Pregnancy, Mental or Nervous Condition or congenital abnormality.
- 2.1.29 **Inhalation Therapy:** Shall be defined as remedial Services for an Illness or Injury by means of intermittent positive pressure breathing equipment.
- 2.1.30 **Inpatient:** Shall be defined as a Covered Person admitted to a Hospital, Skilled Nursing Facility or Hospice for a condition requiring confinement.
- 2.1.31 **Care Unit:** Shall be defined as a section, unit or area of a Hospital that is designated as an intensive care unit by the Hospital and is reserved and operated exclusively for the purpose of providing Services for critically ill patients.
- 2.1.32 **Maximum Annual Benefit:** Shall be defined as those benefits payable under this Agreement that have annual maximum limits for each Covered Person as shown in Exhibit A and B.

- 2.1.33 **Medically Necessary or Medical Necessity:** Shall mean services or supplies which, under the provisions of this Agreement, are determined to be:
- 2.1.33.1 appropriate and necessary for the symptoms, diagnosis or treatment of the Injury or Illness or dental condition;
 - 2.1.33.2 provided for the diagnosis or direct care and treatment of the Injury or Illness or dental condition;
 - 2.1.33.3 within standards of good medical or dental practice within the organized medical or dental community;
 - 2.1.33.4 not primarily for the convenience of the Covered Person or of any Provider providing Covered Services to the Covered Person;
 - 2.1.33.5 an appropriate supply or level of service needed to provide safe and adequate care;
 - 2.1.33.6 within the scope of the medical or dental specialty, education and training of the Provider;
 - 2.1.33.7 provided in a setting consistent with the required level of care; or
 - 2.1.33.8 preventative Services as provided in the Plan.
- 2.1.34 **Medicare:** Shall be defined as Title XVIII (Health Insurance for the Aged) of the Federal Social Security Act, which includes Part A, Hospital Insurance Benefits for the Aged; Part B, Supplementary Medical Insurance Benefits for the Aged; and Part C, miscellaneous provisions regarding both programs, and also including any subsequent changes or additions to those programs.
- 2.1.35 **Medicare Supplement Insurance:** Shall mean private health insurance designed to supplement Medicare, which is designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare, and meeting standards established by Section 1882 of the Social Security Act (42 USC §1395ss).
- 2.1.36 **Mental or Nervous Condition:** Shall be defined as a condition which includes neurosis, psychoneurosis, psychopathy, or psychosis or disease of any kind, in a degree which subsequently impairs the Covered Person's economic or social functioning; and shall, as required by the Parity In Health Insurance For Mental Illness and Chemical Dependency Act, Title 22, Guam Code Annotated, Chapter 28, include the definition of Mental Illness contained in said Act; and shall include, as required, relevant definitions found in the Mental Health Parity Act of 1996, Public Law 104-204.
- 2.1.37 **Network:** Shall be defined as the network of Participating Providers. Network may also be referred to as Plan Network.
- 2.1.38 **Nurse, Nursing, Nursing Services:** Shall be defined as a registered graduate nurse (RN), a licensed vocational nurse (LVN), or licensed practical nurse (LPN) who has received specialized Nursing training and experience and is duly licensed to perform such Nursing Services by the state or regulatory agency responsible for such licensing in the jurisdiction in

which the individual performs such Services.

- 2.1.39 **Occupational Injury:** Shall be defined as an Injury arising out of, or in the course of, employment.
- 2.1.40 **Palliation Therapy:** Shall be defined as patient and family centered care that optimizes the quality of life by anticipating, preventing, and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social and spiritual needs and facilitating patient autonomy, access to information and choice. Palliative care should be covered on an outpatient basis only.
- 2.1.41 **Participating Providers, Non-Participating Providers, Providers and Network:**
- 2.1.41.1 Providers shall be defined as health care providers who are duly licensed in their jurisdiction and acting within the scope of their license. Such term shall include, without limitation, Physicians, Hospitals, ancillary health Services facilities and ancillary health care providers.
- 2.1.41.2 Participating Providers shall be defined as Providers who: (i) have directly, or indirectly through Company's agreements with other networks, entered into an agreement with the Company to provide the Covered Services; and (ii) are assigned from time to time by the Company to participate in the Network or any other network of Company pursuant to this Agreement.
- 2.1.41.3 Payment of claims to Providers: Claims shall be paid based on the agreements that Company has with its providers whenever the services are rendered by a participating provider.
- 2.1.42 **PHSA:** Shall mean the Public Health Service Act provisions that are part of HIPAA (as defined above), some of which have been added to the PHSA by PPACA.
- 2.1.43 **Physician:** Shall be defined as a legally licensed medical doctor, Dentist, surgeon, chiropractor, osteopath, podiatrist (chiropracist), optometrist, or clinical Psychologist acting within the scope of his or her license. A Physician shall not include a medical resident, intern, fellow, Physician's assistant, social worker or master prepared therapist.
- 2.1.44 **Physician's Services:** Shall be defined as Medically Necessary professional Services provided by duly licensed Physicians including diagnosis, consultation, medical treatment, surgery, anesthesia, physical therapy, x-ray and laboratory services, diagnostic procedures such as electrocardiograms, electroencephalograms, and other services customarily provided by Physicians for patients. Experimental Services shall not be included within the scope of Physicians' Services.
- 2.1.44.1 Primary Care Services. Basic, routine or general health care services of individuals with common health problems and chronic illnesses that can be managed on an outpatient basis. Primary care is provided by primary care physicians, nurse practitioners, physician assistants and other mid-level practitioners.
- 2.1.44.2 Specialist Care Services. Services provided by a medical specialist to whom a patient has been referred, usually by a primary care provider.

- 2.1.45 **Physical Therapy:** Shall be defined as remedial Services for the treatment of an Injury or Illness by means of therapeutic massage and exercise; heat, light and sound waves; electrical stimulation; hydrotherapy; and manual traction.
- 2.1.46 **Plan:** Shall be defined as the GovGuam Retiree Supplement Insurance benefits provided in accordance with this Agreement.
- 2.1.47 **Plan Year:** Shall be defined as the twelve (12) month period during which GovGuam Retiree Supplement Insurance benefits are provided under this Agreement.
- 2.1.48 **PPACA:** Shall mean the Patient Protection and Affordable Care Act of 2010, as amended.
- 2.1.49 **PPACA Preventative Care Services:** Shall mean care required by Section 2713 of the PHSA, as added by PPACA, to be provided without cost-sharing.
- 2.1.49.1 Care considered PPACA Preventative Care shall be:
- 2.1.49.1.1 Evidence-based items or services that have in effect a rating of A or B in the most recently updated recommendations of the United States Preventive Services Task Force ("USPSTF") with respect to the individual involved, except that 2009 USPSTF recommendations regarding breast cancer screening, mammography, and prevention issued in or around November 2009 shall not be considered current for purposes of this provision; and
- 2.1.49.1.2 With respect to women, any additional evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the HRSA.
- 2.1.50 **Preferred Drug Formulary:** Shall be defined as those medications chosen by the Company for their safety, effectiveness and affordability. The Preferred Drug Formulary is subject to change during the Plan Year.
- 2.1.51 **Preferred Provider (Center of Excellence):** Preferred Provider shall be defined as a Participating Provider that is a Hospital or Ambulatory Surgical Center located outside of the Service Area. The Hospital or Ambulatory Surgical Center shall be a Participating Provider at the time Services are rendered to the Covered Person and shall be specifically designated by name as a Preferred Provider in the more recent of Company's most current member brochure or Company's most current updated provider directory.
- 2.1.52 **Premium:** Shall be defined as the dollar amount paid to the Company for the provision of this Plan to Covered Persons.
- 2.1.53 **Psychiatric Services or Psychoanalytical Care:** Shall be defined as Services provided for the treatment of a Mental or Nervous Condition.
- 2.1.54 **Psychologist:** Shall be defined as an individual holding the degree of Ph.D., licensed as a psychologist in the jurisdiction in which services are provided, and acting within the scope of his or her license.
- 2.1.55 **Registered Bed Patient:** Shall be defined as a Covered Person who has been admitted to

a Hospital or a Skilled Nursing Facility or a Hospice upon the recommendation of a Physician for any Injury or Illness covered by this Agreement and who is confined by the Hospital, Skilled Nursing Facility or Hospice as an Inpatient.

- 2.1.56 **Room and Board:** Shall be defined as all charges, by whatever name called, which are made by a Hospital, Hospice, or Skilled Nursing Facility as a condition of providing Inpatient Services. Such charges do not include the professional Services of Physicians nor intensive, private duty Nursing Services by whatever name called.
- 2.1.57 **Semi-Private:** Shall be defined as a class of accommodations in a Hospital or Skilled Nursing Facility in which at least two (2) patient beds are available per room.
- 2.1.58 **Services:** Shall be defined as medical, dental or other health care services, treatments, supplies, medications and equipment.
- 2.1.59 **Service Area:** Shall be defined as Guam and the Commonwealth of the Northern Mariana Islands. Enrollment to this Plan is limited to individuals residing in the Service Area.
- 2.1.60 **Skilled Nursing Facility:** Shall be defined as a specially qualified and licensed facility that:
- 2.1.60.1 For a fee and on an Inpatient basis, provides 24 hour per day skilled Nursing services under the full-time supervision of a Physician or Nurse and provides physical restoration services for persons convalescing from an Injury or Illness; and
 - 2.1.60.2 maintains daily clinical records; and
 - 2.1.60.3 complies with legal requirements applicable to the operation of a skilled nursing institution; and
 - 2.1.60.4 has transfer arrangements with one or more Hospitals; and
 - 2.1.60.5 has an effective utilization review plan; and
 - 2.1.60.6 is approved and licensed by the jurisdiction in which it operates.
- 2.1.61 **Specialty Drugs:** Charges for medications used to treat certain complex and rare medical conditions. Specialty drugs are often self-injected or self-administered. Many grow out of biotech research and may require refrigeration or special handling.
- 2.1.62 **Subscriber:** Shall be defined as a Covered Person.
- 2.1.63 **Surgery and Surgical Services:** Shall be defined as Medically Necessary Services directly performed by a Physician in the treatment of an Injury or Illness which requires one or more of the following: cutting; suturing; diagnostic or therapeutic endoscopic procedures; debridement of wounds, including burns; surgical management or reduction of fractures or dislocation; orthopedic casting; manipulation of joints under general anesthesia; or destruction of localized lesions, cryotherapy or electrosurgery. The term "Surgery" does not include Dental Services, routine venipuncture or minor endoscopic examinations.
- 2.1.64 **Terminally Ill:** Shall be defined as a medical prognosis of limited expected survival of six (6) months or less at the time of referral to a Hospice of a Covered Person with a chronic,

progressive illness which has been designated by the Covered Person's attending Physician as incurable.

2.1.65 **Urgent Care:** Shall be defined as the delivery of ambulatory medical care outside of a hospital emergency department on a walk-in basis, without a scheduled appointment. Urgent care centers treat many problems that can be seen in a primary care physician's office, but urgent care centers offer some services that are generally not available in primary care physician's offices such as x-rays and minor trauma treatment.

§2.2 **PPACA Requirements:** It is the intent of this Agreement to provide, at a minimum, all of the benefits, rights and responsibilities afforded as a result of the Patient Protection and Affordable Care Act (Public Law 111-148), and the regulations promulgated under the authority of this Act, except for the benefits, rights and responsibilities as specifically excluded by GovGuam.

§2.3 **Guaranteed Renewability of Health Insurance Coverage:** In the event that GovGuam invokes the protection afforded by the Health Insurance Portability and Accountability Act of 1996, as amended, found at Section 2712 of the Public Health Services Act, and its regulations, for the guaranteed renewability of health insurance coverage the parties agree that coverage would be continued until a new contract is in place with the first ninety (90) days of coverage guaranteed at the same rate and plan designs.

ARTICLE 3

Services

§3.1 Company shall provide Covered Persons with the GovGuam Retiree Supplement Plan, subject to the applicable limitations and conditions, set forth in this Agreement and the attached Exhibits incorporated herein.

§3.2 Company shall provide Covered Persons with Additional Insurance Benefits coverage in the Philippines, at Participating Providers, and when pre-authorized by the Company, for services not covered by Medicare, consistent with the extent of services and subject to the exclusions set out in the Group Health Certificate, incorporated herein, on a first dollar basis without deductible, and without co-payment.

§3.3 Company shall provide Covered Persons an Optional Dental Benefits Plan subject to the applicable limitations and conditions set forth in this Agreement and the Optional Dental Benefits Plan incorporated in the Group Health Certificate.

§3.4 Company shall pay the co-payments, deductibles, and co-insurance required by Medicare and treat Covered Person as having met the Out-of-Pocket maximum under the plan for purposes of receiving benefits under this Agreement.

ARTICLE 4

Rates and Premiums

§4.1 **Rates.** Company shall provide the GovGuam Retiree Supplement Insurance benefits set forth in §3.1 and the Additional Insurance benefits set forth in §3.2 for the semi-monthly rate of \$148.50 for Class I and \$297.00 for Class II effective October 1, 2015 through September 30, 2016, and the optional Dental Plan set forth in §3.3 for the semi-monthly rate of \$17.00 for Class I and \$38.50 for Class II effective October 1, 2015 through September 30, 2016.

§4.2 **Premium Payment.** GovGuam shall pay the Premium due under this Agreement to Company within fifteen (15) business days after the close of each GovGuam pay period. Each such Premium payment shall be for the preceding pay period. Payment in full of all Premiums due constitutes a discharge of GovGuam's responsibility for the cost of benefits and administration provided under this Agreement. Should GovGuam fail to pay any Premium when due under this Agreement, Company shall have the right to suspend performance under this Agreement with respect to any Covered Person whose Premium payments have not been paid by GovGuam, in addition to the right of termination under Article 5.2.1 and Article 5.3. However, such suspension may only take place after Company provides written notice to GovGuam at least ten (10) days prior to the suspension stating the names of the Covered Persons at risk of suspension and the amount of Premium owed for each. Further, Company shall retroactively reinstate a Covered Person's right to benefits upon full payment of the past due Premiums only if the premiums are paid within 120 days after the notification of the suspension.

ARTICLE 5

Term and Termination

§5.1 **Term.** The Agreement is for a one year term beginning October 1, 2016 and ending September 30, 2017, unless terminated for major default in services, given by written notice from GovGuam to Company not less than ninety (90) calendar days or unless modified by mutual agreement.

§5.2 **Termination.**

5.2.1 **By Company.** If GovGuam fails to make any Premium payment within fifteen (15) days after receipt of a written notice of non-payment from Company, Company may terminate this Agreement by providing at least fifteen (15) days prior written notice of termination to GovGuam and all Subscribers under this Agreement.

§5.3 **Individual termination.**

5.3.1 **Non-payment of Premium.** Company may, in accordance with the notice provisions contained in §5.2.1, terminate the coverage of one or more individual Covered Persons for non-payment of Premium without terminating this Agreement as to other Covered Persons for whom Premiums have been received by Company.

5.3.2 **Other Reasons.** Except for non-payment of Premiums, Company may only terminate a Covered Person as provided in Article 5 of the Group Health Certificate attached hereto.

5.3.3 **Review of Termination.** Any Covered Person whose coverage is terminated pursuant to this Section 5.3 shall be entitled to a review through the PPACA Claims Procedure set forth in this Agreement, if so requested.

§5.4 **Effect of Termination.** In the event of termination of this Agreement for a Covered Person, Company shall be responsible for providing the benefits contained in this Agreement up to the effective date of termination and GovGuam shall be responsible for payment of the Premiums up to said effective date.

ARTICLE 6

Enrollment

§6.1 **Regular Open Enrollment.** The parties to this Agreement shall establish one (1) open Enrollment period, which shall be the same period as for all Other Plans offering health insurance and/or health benefits programs to GovGuam. During such period GovGuam shall provide Company with the assistance and cooperation

detailed in Article 8. Except as provided in §6.1.1, §6.2 and §6.3 below, the open Enrollment period is the only time during which current and potential Covered Persons shall be allowed to enroll in this Plan or to disenroll from this Plan. The effective date of such Enrollment or disenrollment shall be the effective date of this Agreement, unless otherwise specified by GovGuam in accordance with this Agreement, or unless otherwise required under HIPAA or Social Security Act of 1882.

6.1.1 Special Open Enrollments. If GovGuam holds a special open Enrollment during the Plan Year, Company shall participate in such special open Enrollment, unless otherwise agreed by the parties, or unless the Plan is no longer to be offered as of the entry date of the special open Enrollment period. If the special open Enrollment shall impact on rates, the parties shall negotiate an appropriate change prior to the participation of Company in such special open Enrollment.

§6.2 Newly Eligible Persons. Subject to §6.3, any individual who first becomes eligible to be a Covered Person outside the open Enrollment period, shall have thirty (30) days after the date on which he/she became eligible to become a Covered Person. The effective date of such Enrollment shall be as specified in §5.5 of the Certificate.

§6.3 Otherwise Eligible. Enrollment shall be restricted to only those occasions provided for in this Article 6 unless an individual is eligible for Enrollment under the HIPAA provisions allowing special enrollment rights. Enrollment shall be in accordance with HIPAA and PPACA requirements.

ARTICLE 7

Company's Responsibilities

§7.1 Marketing. Company shall print and provide necessary brochures, announcements, instructions, Enrollment forms, and certificates for Enrollment purposes and for distribution to potential Covered Persons. Company shall be responsible for the dissemination of information to potential Covered Persons regarding the Plan. Company shall provide agreed upon quarterly communication to members clearly defining the benefits of the current plans in place. Company will work directly with the Government of Guam to determine their needs in distribution, and type of communication desired.

§7.2 Benefits to be Provided. Company shall, in consideration of receipt of applicable Premiums, provide the benefits contained in this Agreement through the earlier of the effective date of a Covered Person's termination or the termination of this Agreement.

§7.3 Financial and Medical Cost Information. In accordance with Title 4 GCA, Section 4302 (b) and (g), Company shall provide GovGuam detailed claims utilization and cost information, and shall provide upon reasonable request, the most recent audited financial statements, experience data, and any other information pertaining to this Agreement. GovGuam may, upon reasonable notice of no less than fifteen (15) working days, audit Company to confirm the accuracy of the information provided specifically to the government of Guam book of business.

§7.4 Confidential Information. The parties hereto shall maintain the confidentiality of any and all medical records which shall be in their possession and control, and such information shall only be released or disseminated pursuant to the valid authorization of the Covered Person whose medical condition is reflected in such medical records or as shall be otherwise permitted under applicable law. Upon request and subject to applicable law, Company shall make available to GovGuam medical records to assure Covered Persons are receiving adequate and appropriate benefits in accordance with the Certificate.

§7.5 **Errors and Omission Insurance.** The Company shall use all reasonable efforts to secure and maintain current errors and omission liability insurance of at least One Million Dollars (\$1,000,000) during the term of this Agreement.

§7.6 **Payment of Claims.** Company shall pay claims in accordance with the Guam Health Care Prompt Payment Act of 2000 and the applicable claims payment requirements of PPACA. Appeals of claim denials shall comply with applicable requirements of PPACA claim and external review requirements.

§7.7 **Notification.** Company shall fulfill the notice requirements of the Women's Health and Cancer Rights Act of 1998, and the Newborns' and Mothers' Health Protection Act of 1996, and shall be responsible for notice requirements applicable to PPACA requirements.

§7.8 **Termination Notification.** If the Company terminates this Agreement, Company shall provide GovGuam with an adequate number of payroll staffers announcing its termination at least fifteen (15) days prior to the date of termination. Further, Company shall fully cooperate with GovGuam in transitioning Covered Persons to Other Plans.

§7.9 **Sole Source Provider.** If there is a Covered Service which is provided on Guam by only one provider who is not a Participating Provider, the eligible Charges for such services shall be as if the sole source provider were a participating provider.

§7.10 **Performance Guarantees.** Performance guarantees have the appropriate annual penalties listed by each guarantee as stated in Exhibit _____ with a maximum amount of \$_____ annually. The penalties, if any, are to be paid annually upon an annual review meeting within thirty (30) days after the end of the plan year.

§7.11 **Online Access Capabilities.** The Company shall provide, for the benefit of the Covered Person and GovGuam, the following online access capabilities:

- 7.10.1 Online access is available twenty-four (24) hours a day, seven (7) days a week in accordance with Section 508 standards of the Rehabilitation Act of 1973 as amended.
- 7.10.2 For the Covered Person, access to Personal Claim Record ("PCR") to include historical health conditions, prescription medications, office visit summary and procedures where a medical claim has been filed.
- 7.10.3 For the Covered Person, access to record of medical and drug claims.
- 7.10.4 For the Covered Person, ability to verify eligibility.
- 7.10.5 Ability of Providers to submit claims through a separate portal rather than through Company's website for payment.
- 7.10.6 For the Covered Person, GovGuam, and Providers access to Schedule of Benefits, Member Handbooks and Provider Network Information.
- 7.10.7 For the Covered Person, ability to print PCR to federal compliance standard file formats or plain text file.
- 7.10.8 For the Covered Person, ability to print online membership cards.

7.10.9 For the Covered Person, access to interactive tools for researching health issues, treatments, and risk assessment tools for health conditions.

ARTICLE 8

GovGuam's Responsibilities

§8.1 **Marketing.** GovGuam shall give Company reasonable assistance and cooperation to enable Company to contact all sources of Enrollment, to disseminate all information, to distribute and post literature, to provide access to employees during working hours, to provide all employees' names and addresses, and to instruct department heads to provide Company's representatives reasonable opportunity for personal contact with employees, consistent with that given other GovGuam contracted health plans, for the purpose of explaining Company's Plan to GovGuam employees.

§8.2 **Responsible Persons.** GovGuam shall designate persons within each agency, department and branch, who shall be responsible for the handling of health insurance problems, Enrollment, and cancellations within their particular department. These designated persons shall be available to attend meetings on government time for the purpose of reviewing administrative procedures, and to assist in problem solving relating to this Agreement.

§8.3 **Personnel Changes.** GovGuam shall provide written notice to Company of terminations, resignations, department transfers, and the like, so that coverage can be terminated at the appropriate time. GovGuam shall make available to Company a computer listing of each employee receiving an applicable payroll deduction for Premiums no later than fifteen (15) working days following each pay period.

8.3.1 **Individual with Questionable Status.** If GovGuam does not provide the list of employees as required in §8.3, Company shall have the right to charge an individual whose Enrollment is in question for any Covered Services rendered prior to receipt of written verification of eligibility and Enrollment by GovGuam. If such individual is subsequently determined to be a Covered Person, and GovGuam remits a Premium payment for the Covered Person for the period for which the Covered Services were rendered, Company shall cancel all charges to the Covered Person and return any amounts collected. If Company files a written objection to an Enrollment list forwarded by GovGuam, then within thirty (30) days after the filing, GovGuam shall provide Company with the applicable change of status forms, Enrollment cards, and other documentation substantiating the accuracy of the Enrollment records and meet with Company to reconcile any differences. Evaluation of such individual's entitlement shall be handled in accordance with PPACA's applicable Claims Procedure requirements, taking into account any applicable PPACA prohibition on rescissions and any applicable PPACA requirement that costs of care be provided or continued during evaluation period

§8.4 **No restrictions on Enrollment.** GovGuam shall place no restriction or limitation on the percentage or number of Enrollments in the Plan.

ARTICLE 9

Covered Person's Responsibilities

§9.1 **Acceptance.** By Enrolling in the Plan, all Covered Persons agree to the terms, provisions and conditions of this Agreement.

§9.2 **Continued Residency.** Except as specifically stated in this Agreement, Enrollment in the Plan shall be limited to Covered Persons domiciled in the Service Area, and who do not reside outside the service area for more than one hundred eighty-two (182) days per plan year, Company shall be entitled to require substantiation from a Covered Person to determine the Covered Person's Domicile and may deny benefits under this Agreement for lack

thereof. For a Covered Person Domiciled in the Service Area, time spent receiving continuous medical Services out of the Service Area shall not count toward the one hundred eighty-two (182) day maximum, provided the receipt of such Services precludes returning to the Service Area. Further, time spent by a parent or Spouse of such covered person shall not count toward the one hundred eighty-two (182) day maximum, provided the parent or Spouse is providing necessary assistance to the Covered Person and further provided that under no circumstance can there be more than one such caregiver hereunder for any incident of care out of the Service Area.

§9.3 **Continued Enrollment in Medicare.** Covered Person agrees to be continuously enrolled in Medicare Parts A (Hospital) & B (Medical) for the entire benefit year (Oct. 1, 2016 - Sept. 30, 2017).

ARTICLE 10

Notices

§10.1 **Address of Record.** For the purpose of communication and services of notice under this Agreement, the parties' addresses are as follows:

To:	To: GovGuam Director Department of Administration Government of Guam 590 S. Marine Corps Dr., Ste. 224 Tamuning, Guam 96913
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§10.2 **Method of Service.** Notices shall be in writing and effective upon either receipt of a hand-delivered notice or the posting of notice by first class mail, postage prepaid, to the address listed herein or such other address as a party may designate by providing written notice to the other party from time to time.

ARTICLE 11

Dispute Resolution

§11.1 **Mandatory Disputes Resolution Clause (As amended but consistent with 2 GAR Div. 4 § 9103(g) and applicable law).** GovGuam and the Company agree to attempt resolution of all controversies which arise under, or are by virtue of, this Agreement through mutual agreement. If the controversy is not resolved by mutual agreement, then the Company shall request GovGuam in writing to issue a final decision within sixty days after receipt of the written request. If GovGuam does not issue a written decision within sixty days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Company may proceed as though GovGuam had issued a decision adverse to the Company. GovGuam shall immediately furnish a copy of the decision to the Company, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt. GovGuam's decision shall be final and conclusive, unless fraudulent or unless the Company appeals the decision. This subsection applies to appeals of GovGuam's decision on a dispute. For money owed by or to GovGuam under this Agreement, the Company shall appeal the decision in accordance with the Government Claims Act by initially filing a claim with the Office of the Attorney General no later than eighteen months after the decision is rendered by GovGuam or from the date when a decision should have been rendered. For all other claims by or against GovGuam arising under this Agreement, the Office of the Public Auditor has jurisdiction over the appeal from the decision of GovGuam. Appeals to the Office of the Public Auditor must be made within sixty days of GovGuam's decision or from the date the decision should have been made. The Company shall exhaust all administrative remedies before filing an action in the Superior Court of Guam in accordance with applicable laws. The Company shall comply with GovGuam's decision and proceed diligently with performance of this

Agreement pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Agreement, except where the Company claims a material breach of this Agreement by GovGuam. However, if GovGuam determines in writing that continuation of services under this Agreement is essential to the public's health or safety, then the Company shall proceed diligently with performance of the Agreement notwithstanding any claim of material breach by GovGuam.

ARTICLE 12

Governing Law

The rights and responsibilities of the parties and their respective officers, directors, employees, agents and representatives under this Agreement and their performance hereunder shall be governed by the laws of Guam.

ARTICLE 13

Miscellaneous

§13.1 **Government Laws and Regulation.** Company guarantees the negotiated rates shall remain in effect for the Plan Year. However, if during such year the Government of the United States or GovGuam enacts statutes or promulgates regulations which (i) require that the Company offer different coverage to Covered Persons than that specifically provided in this Agreement; or (ii) causes an increase or decrease in Provider rates or other costs, the parties reserve the right on thirty (30) days written notice to the other to adjust the Premiums if the parties mutually determine that such mandate or law shall change Company's costs under this Agreement by more than five percent (5%). Where the Agreement indicates that a PPACA requirement might override a specific limitation, this section 13.1 shall apply if it is determined that a PPACA override is in fact required.

§13.2 **Contingent Fee Warranty.** Company warrants that it has not retained anyone to solicit or secure this Agreement for payment of a commission, percentage, brokerage, or contingent fee, except for Company's bona fide employees or any bona fide established commercial selling agencies which Company may disclose to GovGuam.

§13.3 **Gratuity Warranty.** Company warrants that it has not violated, is not violating, and promises it shall not violate the prohibition against gratuities and kickbacks set forth in Guam Procurement Regulations at Title 2, GAR, Div. 4 §11107.

§13.4 **Personal Interest Disclaimer.** Company warrants that no member of any governing body of any agency of GovGuam and no officer, employee, or agent of GovGuam who exercises any functions or responsibilities in connection with the work to which this Agreement pertains has or shall have any personal interest, direct or indirect, in this Agreement, except that such members, officers or employees may be Covered Persons under the Plan. Company further warrants that no member of the Guam Legislature and no other official of GovGuam who exercises functions and responsibilities in connection with the work to which this Agreement pertains has or shall have any personal interest, direct or indirect, in this Agreement except as possible Covered Persons under the Plan.

§13.5 **Captions.** The captions, section numbers and article numbers and marginal notes appearing in this Agreement or in any copies of this Agreement are placed there only as a matter of convenience and in no way define, limit, or describe the scope or intent of this Agreement.

§13.6 **Waiver.** The waiver of any breach of this Agreement by either party shall not be deemed a waiver of any other breach or a waiver of any subsequent breach of the same nature.

§13.7 **Excused Non-Performance.** The parties' performance hereunder shall be excused when the failure of performance is caused by fire, explosion, acts of God, civil disorder, war, riot or other event not reasonably within the control of the party.

§13.8 **Entire Agreement.** This Agreement, including the Certificate and Exhibits A through E, is the entire Agreement between the parties. There are no terms or obligations other than those contained herein applicable to this Agreement. This instrument shall supersede all previous communications or representations, whether verbal or written between the parties.

Deleted: __

Deleted: __

§13.9 **Amendment.** This Agreement may only be amended upon the written consent of both parties.

§13.10 **Time of Essence.** Time is expressly made of the essence in this Agreement and for performance hereunder.

§13.11 **Limitation of Actions.** Any action in relation to this Agreement must be brought no later than one (1) year from the time such claim arises or should have been reasonably discovered.

§13.12 **Third Party Rights.** Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to this Agreement and their respective successors and assigns.

§13.13 **Successors in Interest.** Each and all of the covenants, conditions, and restrictions in this Agreement shall inure to the benefit of and shall be binding upon the assignees and successors in interest of Company. However, Company shall not be entitled to assign its interest in this Agreement, or any prior or future agreement with GovGuam, without the express written consent of GovGuam.

§13.14 **Severability.** If any term or provision of this Agreement or the application thereof shall to any extent be determined to be invalid or unenforceable, the remainder of this Agreement or the application of such remainder, other than as held invalid or unenforceable, shall not be affected and each term and condition of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

§13.15 **Counterparts.** This Agreement, including the Group Health Certificate and Exhibits may be executed by the parties in several counterparts, each of which shall be deemed to be an original copy.

§13.16 **Legal Compliance.** Company shall comply with applicable federal and local statutes and regulations, including the certification requirements of HIPAA and applicable requirements of PPACA and the PHSA. To the extent not preempted by the laws of the United States, this Agreement will be construed in accordance with and governed by the laws of Guam. In the event of conflict between any provision of this Agreement and applicable law, the law shall govern.

§13.17 **Determination of Currency Exchange Payments.** When a service is rendered outside of the United States, the claims shall be paid in accordance with Company's agreements with its participating providers. Claims for nonparticipating providers will be reimbursed using the Philippines fees as a reference. Additionally, claims incurred outside of the United States will be based on the date of service and will be converted according to the conversion rate, for cash transactions, against the U.S. Dollar as found in XE.com and for credit card transactions, against the utilized specific conversion rate for the card used. For multiple dates of service, the rate will be calculated based on the last date of service or payment, whichever is earlier in time.

§13.18 **Restriction Against Contractor Employing Sex Offenders to Work at Government of Guam Venues.** The Company warrants that no person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 Guam Code Annotated, in

Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, shall work for the Company on property of the government of Guam other than a public highway. Further, the Company warrants that if any person providing services on behalf of the Company is convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated or an offense as defined in Article 2 of Chapter 28, Title 9 Guam Code Annotated or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at such agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

§13.19 **Ethical Standards.** With respect to this Agreement and any other contract the Company may have, or wish to enter into, with any government of Guam agency, Company represents that it has not knowingly influenced, and promises that it will not knowingly influence, any government employee to breach any of the ethical standards set forth in the Guam Procurement Law and in any of the Guam Procurement Regulations.

§13.20 **Minimum Wages As Determined by U.S. Government.** Company agrees to comply with Title 5, Guam Code Annotated, Sections 5801 and 5802. In the event that Company employs persons whose purpose, in whole or in part, is the direct delivery of service contracted by the Government, then the Company shall pay such employees, at a minimum, in accordance with the U.S. Department of Labor Wage Determination for Guam and the Commonwealth of the Northern Marianas Islands in effect on the date of this Agreement. In the event that this Agreement is renewed by the Government and the Contractor, at the time of the renewal, Company shall pay such employees in accordance with the Wage Determination for Guam and the Commonwealth of the Northern Marianas Islands promulgated on a date most recent to the renewal date. Company agrees to provide employees whose purpose, in whole or in part, is the direct delivery of service contracted by the Government those mandated health and similar benefits having a minimal value as detailed in the U.S. Department of Labor Wage Determination for Guam and the Commonwealth of the Northern Marianas Islands, and guarantee such employees a minimum of ten (10) paid holidays per annum per employee.

IN WITNESS WHEREOF, GovGuam and Company have signed this Agreement on the aforementioned date.

Government of Guam

By: _____
Chief Operations Officer

By: _____
Director, Department of Administration

Date: _____

Date: _____

By: _____
Insurance Commissioner,
Department of Revenue & Taxation

Effective Date:

Date: _____

October 1, 2016

By: _____
Director, Bureau of Budget and
Management Research

Date: _____

Approved as to Legality and Form:

By: _____
Attorney General

Date: _____

By: _____
The Honorable Raymond S. Tenorio
Lieutenant Governor of Guam

Date: _____