

GOVERNMENT OF GUAM

and

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PPO 1500

**FOR THE PERIOD OF:  
OCTOBER 1, 2019 – SEPTEMBER 30, 2020**

**GOVERNMENT OF GUAM GROUP HEALTH INSURANCE AGREEMENT**

PPO 1500

**FOR THE PERIOD OF:  
OCTOBER 1, 2019 – September 30, 2020**

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GROUP HEALTH INSURANCE AGREEMENT

PPO 1500

October 1, 2019– September 30, 2020

**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, 2019.

**Recitals**

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

WHEREAS, Company is qualified to provide a group health insurance program to GovGuam; and

WHEREAS, GovGuam selected Company to provide group health insurance benefits to GovGuam active and retired employees, their dependents, and survivors of retired employees who receive annuity benefits; and

WHEREAS, Company offers group health insurance program benefits, as hereinafter set forth, under a group health insurance plan known as the "Government of Guam 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.

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 **Administrative Service Office:** Shall be defined as the Company or an agent appointed by Company which is directly responsible for administrative procedures and for the processing and payment of Provider claims on behalf of Covered Persons. \_\_\_\_\_ shall be the Administrative Service Office until otherwise notified in writing by Company.

2.1.3 **Agreement:** Shall be defined as this Group Health Insurance Agreement including the Group Health Insurance Certificate and Exhibits A through \_\_\_\_.

2.1.4 **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:

2.1.4.1 has continuous Physician and Nursing services whenever 88a patient is in the facility; and

2.1.4.2 has permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; and

2.1.4.3 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.

2.1.5 **Anesthesia Services:** Shall be defined as the administration of anesthetics to achieve general or regional anesthesia and related resuscitative procedures.

2.1.6 **Birthing Center:** Shall be defined as any facility, other than the mother's usual place of residence, that is staffed, equipped and operated for the purpose of providing prenatal care, delivery, immediate postpartum and newborn care rendered within 24 hours after delivery for low risk women and their newborns.

2.1.7 **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:

2.1.7.1 The total cost of said alternative benefits does not exceed the total benefits payable for Covered Services;

- 2.1.7.2 The Covered Person's Physician recommends that the Covered Person receive said alternative benefits;
- 2.1.7.3 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
- 2.1.7.4 The Covered Person, or the Covered Person's guardian, if the Covered Person is a minor or incapacitated, agrees to receive the alternative benefits.
- 2.1.7.5 The services are prior authorized by the Company's Medical Management Department.

2.1.7 **Center of Excellence [Preferred Provider]:** Center of Excellence 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 Center of Excellence in the more recent of Company's most current member brochure or Company's most current updated provider directory.

2.1.8 **Certificate:** Shall be defined as the Group Health Insurance Certificate - GovGuam PPO 1500 attached hereto, including the related Exhibits A through \_\_\_\_.

2.1.9 **Chemotherapy:** Shall be defined as remedial Services of a euplastic Illness or tumor by means of systemic cytotoxic agents or systemic hormonal agents.

2.1.10 **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.

2.1.11 **Co-Insurance:** Shall be defined as the percentage of Eligible Charges that a Covered Person must pay for certain Covered Services as stated in this Agreement, and after the Deductible has been met and before the Out of Pocket Maximum has been met. The Out-of-Pocket Maximum provision does not apply to Non-Participating Providers. Subject to the terms of this Agreement, a Covered Person shall be required to pay, as Co-Insurance, the amounts shown on the Schedule of Benefits.

2.1.12 **COBRA:** COBRA, Consolidated Omnibus Budget Reconciliation Act, shall be defined as a federal statute that requires most employers to offer to covered employees and covered dependents who would otherwise lose health coverage for reasons specified in the statute, the opportunity to purchase the same health benefits coverage that the employer provides to its remaining employees. For the purpose of this agreement, the COBRA benefit is not applicable to Government of Guam employees, retirees, and/or dependents.

2.1.13 **Co-Payment:** Shall be defined as the predetermined (flat) dollar amount that a Covered Person must pay for certain Covered Services as stated in this Agreement and after the Deductible, when applicable, has been met.

2.1.14 **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.

2.1.15 **Covered Dependent:** Shall be defined as a Dependent eligible to receive benefits under the terms of this Plan.

2.1.16 **Covered Person:** Shall be defined as a person entitled to receive Covered Services pursuant to the Plan. A Covered Person shall reside in the Service Area and shall be:

- 2.1.16.1 a bona fide employee of GovGuam who is classified as a full-time employee by GovGuam; or
- 2.1.16.2 voluntarily working under the "Quality Time" program and classified as such by GovGuam pursuant to P.L. 25-72; or
- 2.1.16.3 classified as a retiree of GovGuam by GovGuam; or

2.1.16.4 classified as a survivor of a retired employee of GovGuam by GovGuam; or

2.1.16.5 except as otherwise provided in this Agreement, a Covered Dependent.

2.1.17 **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.

2.1.18 **Currency:** Shall be defined as money accepted as a medium of exchange for payment of debts such as the United States Dollar in the United States and the Peso in the Philippines.

2.1.19 **Custodial Care:** Shall be defined as Services, whenever furnished and by whatever name called, designed primarily to assist an individual, whether or not totally disabled, in the activities of daily living. These activities include, but are not limited to, Services that constitute personal services such as help in walking, getting in and out of bed, assistance in bathing, dressing, feeding, and Services which do not entail or require the continuing attention of trained medical or paramedical personnel.

2.1.20 **Deductible:** Shall be defined as the amount paid by a Covered Person or Family for Covered Services during a Plan Year before Covered Services shall be paid by the Company under this Agreement. No deductible shall apply to preventive services as defined by PPACA, annual refraction eye exam, primary physician care, specialty care visits, prescription drugs, routine laboratory, urgent care, outpatient executive checkup and routine x-ray.

2.1.21 **Dental Service:** Shall be defined as the act of:

2.1.21.1 adjusting, removing, or replacing teeth. The removing of wholly or partly unerupted impacted wisdom teeth shall be considered an oral surgical procedure; or

2.1.21.2 providing Services for teeth, gums, and related parts of the oral cavity; or

2.1.21.3 performing any other Services normally rendered by a Dentist.

2.1.23 **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.

2.1.24 **Dependent:** Shall be defined as specified in Article 5 Section 5.2 of the Group Health Insurance Certificate attached hereto.

2.1.25 **Domestic Partner:** Shall be defined as a person who: (1) is 18 years of age or older; (2) is of the same or opposite sex as the Subscriber; (3) is in an exclusive mutually committed relationship with the Subscriber and intends to remain the Subscriber's sole domestic partner; (4) is not married to any other person; (4) is not related to the Subscriber by blood to a degree that would prohibit marriage; and (5) has cohabitated with the Subscriber for the two (2) consecutive years immediately preceding the proposed Enrollment.

2.1.26 **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.

2.1.27 **Durable Medical Equipment:** Shall be defined as equipment which is:

2.1.27.1 Able to withstand repeated use; and

2.1.27.2 Primarily and customarily used to serve an Illness or Injury; and

2.1.27.3 Not generally useful for a person in the absence of Illness or Injury.

2.1.28 **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.

For a Non-Participating Provider, the Eligible Charges for covered medical Services rendered by a provider who is not a Participating Provider, shall be limited to the lesser of (a) the actual charge made by the provider, or (b) in the United States, the Medicare Participating Provider fees in the geographic area where the Service was rendered; or (c) in Asia, the fees most recently contracted by the Company at St. Luke's Medical Center, Manila, Philippines, or (d) elsewhere, the Medicare National Standard Fee.

For a Non-Participating Provider, the Eligible Charges for covered dental Services shall be the lesser of (a) the actual charges made by the provider or (b) the usual customary and reasonable charge, as determined by the Company, for the dental Service in the geographic region in which that Service was rendered.

#### 2.1.29 **Emergency:**

2.1.29.1 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.

2.1.29.2 For purposes of compliance with the requirements of Section 2719A(b) of the PHS Act, 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.

2.1.29.3 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.

2.1.29.4 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 less than the greater of:

2.1.29.4.1 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

2.1.29.4.2 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

2.1.29.4.3 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.

2.1.30 **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.

2.1.31 **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.



2.1.32 **Family:** Shall be defined as a Subscriber and his or her Covered Dependents.

2.1.33 **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.

2.1.34 **Home Health Care:** Shall be defined as the Services set forth below, subject to all other exclusions and limitations set forth in this Agreement:

2.1.34.1 Part-time or intermittent home nursing Services from or supervised by a registered Nurse or a licensed practical Nurse;

2.1.34.2 Part-time or intermittent home health aide Services;

2.1.34.3 Physical therapy; and

2.1.34.4 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.

2.1.34.5 To be a Covered Service, Home Health Services shall:

2.1.34.5.1 replace a needed Hospital or Skilled Nursing Facility stay.

2.1.34.5.2 be for the care or treatment of a Covered Person's Illness or Injury.

2.1.34.5.3 be ordered in writing by the Covered Person's Physician; and

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

2.1.35 **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

2.1.35.1 Is legally qualified in the state or locality in which it operates;

2.1.35.2 Keeps clinical records on all patients;

2.1.35.3 Services are supervised by a Physician or Nurse; and

2.1.35.4 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.

2.1.36 **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.

2.1.37 **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.

2.1.38 **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.

2.1.38.1 A Hospital may include a psychiatric or tuberculosis facility which satisfies the above requirements.

2.1.38.2 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.

2.1.39 **Injury:** Shall be defined as a condition caused by Accidental means that results in damage to the Covered 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.

2.1.40 **Illness:** Shall be defined as a bodily disorder, disease, physical sickness, Pregnancy, Mental or Nervous Condition or congenital abnormality.

2.1.41 **Inhalation Therapy:** Shall be defined as remedial Services for an Illness or Injury by means of intermittent positive pressure breathing equipment.

2.1.42 **Inpatient:** Shall be defined as a Covered Person admitted to a Hospital, Skilled Nursing Facility or Hospice for a condition requiring confinement.

2.1.43 **Intensive 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.

2.1.44 **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 \_\_\_\_.

2.1.45 **Medically Necessary or Medical Necessity:** Shall mean services or supplies which, under the provisions of this Agreement, are determined to be:

2.1.45.1 appropriate and necessary for the symptoms, diagnosis or treatment of the Injury or Illness or dental condition;

2.1.45.2 provided for the diagnosis or direct care and treatment of the Injury or Illness or dental condition;

2.1.45.3 within standards of good medical or dental practice within the organized medical or dental community;

2.1.45.4 not primarily for the convenience of the Covered Person or of any Provider providing Covered Services to the Covered Person;

2.1.45.5 an appropriate supply or level of service needed to provide safe and adequate care;

2.1.45.6 within the scope of the medical or dental specialty, education and training of the Provider;

2.1.45.7 provided in a setting consistent with the required level of care; or

2.1.45.8 preventative Services as provided in the Plan.

2.1.46 **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.

2.1.47 **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.

2.1.48 **Military Service:** Shall be defined as service for any length of time in any branch of the Armed Forces or Merchant Marine of any country, combination of countries, or international organizations, except temporary training service for two months or less.

2.1.49 **Newborn:** Shall be defined as an infant during the period beginning on the date of birth until the initial Hospital discharge or until the infant is thirty (30) days old, whichever occurs first.

2.1.50 **Non-Participating Provider Eligible Charges:** Eligible Charges for covered medical Services rendered by a provider who is not a Participating Provider, shall be limited to the lesser of (a) the actual charge made by the provider, or (b) whichever of the following is applicable: (i) in the United States, the Medicare participating provider fee schedule in the geographical area where the service was rendered, or (ii) in Asia, the fees most recently contracted by the Company at St. Luke's Medical Center, Manila, Philippines, or (c) elsewhere, the Medicare national standard fee schedule.

2.1.51 **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.

2.1.52 **Occupational Injury:** Shall be defined as an Injury arising out of, or in the course of, employment.

2.1.53 **Organ Transplant:** Shall be defined as the replacement of a diseased organ with a healthy organ from a donor with a compatible issue type.

2.1.54 **Other Plan:** Shall be defined as any other health insurance or health benefits program offered to GovGuam's employees, retirees and their eligible Dependents, through an Agreement with GovGuam.

2.1.55 **Out of Pocket Maximum:** Shall be defined as the total maximum of any Eligible Charges paid, or payable as defined by a payment schedule or arrangement by a Covered Person to a Participating Provider to satisfy any applicable Deductible, Co-Payment, and/or Co-Insurance specified in this Agreement before the Plan will begin to pay Covered Services at one hundred percent (100%) for the remainder of the Plan Year, subject to the maximum amounts provided in the Plan as indicated in Exhibit \_\_\_\_.

2.1.56 **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.

2.1.57 **Participating Providers, Non-Participating Providers, Providers and Network:**

2.1.57.1 "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.

2.1.57.2 "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.

2.1.57.3 "Network" shall be defined as the network of Participating Providers. Network may also be referred to as "Plan Network".

2.1.57.4 "Non-Participating Provider" shall be defined as Providers who have NOT been contracted by the Company to provide medical or dental services to Covered Persons.

2.1.57.5 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; and based on the Usual, Customary, and Reasonable whenever the services are rendered by a non-participating provider.

2.1.58 **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.

2.1.59 **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.

2.1.60 **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.

2.1.60.1 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.

2.1.60.2 Specialist Care Services. Services provided by a medical specialist to whom a patient has been referred, usually by a primary care provider.

2.1.61 **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.

2.1.62 **Plan:** Shall be defined as the group health insurance benefits provided in accordance with this Agreement.

2.1.63 **Plan Year:** Shall be defined as the twelve (12) month period during which group health insurance benefits are provided under this Agreement.

2.1.64 **PPACA:** Shall mean the Patient Protection and Affordable Care Act of 2010, as amended.

2.1.65 **PPACA Preventative Care Services:** Shall mean care required by Section 2713 of the PHSA, as added by PPACA, to be provided without cost-sharing.

2.1.65.1 Care considered PPACA Preventative Care shall be:

2.1.65.1.1 Evidence-based items or services that have in effect a rating of A or B in the current 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

2.1.65.1.2 Immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved; and

2.1.65.1.3 With respect to infants, children, and adolescents, evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration ("HRSA"); and

2.1.65.1.4 With respect to women, any additional evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the HRSA.

2.1.65.2 No Co-Payments, Co-Insurance or Deductibles shall be imposed on Covered Persons for PPACA Preventive Care Services. If Participating Provider billing data for office visits bill or track PPACA Preventive Care Services separately from other services or items provided at an office visit, Co-Payments, Co-Insurance and Deductibles shall apply (unless otherwise provided under this Agreement) to all services that are not PPACA Preventive Care Services. If PPACA Preventive Care Services are not billed or tracked separately, the entire office visit shall be treated as a PPACA Preventive Care Services visit if PPACA Preventive Care was the primary purpose of such visit, but otherwise the entire office visit shall (unless otherwise provided under this Agreement) be treated as not being a PPACA Preventive Care Service,

2.1.65.3 Except as specifically provided in this Agreement, PPACA Preventive Care Services shall only be provided without Deductibles, Co-Insurance or Co-Payments if provided by Participating Providers.

2.1.66 **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.

2.1.67 **Preferred Provider(s):** 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 listing of Preferred Providers.

2.1.68 **Pregnancy:** Shall be defined as the physical state which results in childbirth, abortion or miscarriage and any medical complications arising out of or resulting from such state.

2.1.69 **Premium:** Shall be defined as the dollar amount paid to the Company for the provision of this Plan to Covered Persons, including any contributions required from the Covered Persons.

2.1.70 **Psychiatric Services or Psychoanalytical Care:** Shall be defined as Services provided for the treatment of a Mental or Nervous Condition.

2.1.71 **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.

2.1.72 **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.

2.1.73 **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.

2.1.74 **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.

2.1.75 **Services:** Shall be defined as medical, dental or other health care services, treatments, supplies, medications and equipment.

2.1.76 **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. However, residence in the service area shall not be a requirement for enrollment for dependent children below 26 years of age.

2.1.77 **Skilled Nursing Facility:** Shall be defined as a specially qualified and licensed facility that:

2.1.77.1 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

2.1.77.2 maintains daily clinical records; and

2.1.77.3 complies with legal requirements applicable to the operation of a skilled nursing institution; and

2.1.77.4 has transfer arrangements with one or more Hospitals; and

2.1.77.5 has an effective utilization review plan; and

2.1.77.6 is approved and licensed by the jurisdiction in which it operates.

2.1.78 **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.

2.1.79 **Spouse:** The Spouse of the Subscriber includes: (i) lawful wedded husband or wife; or (ii) a domestic partner as defined in 2.1.25 or (iii) a divorced spouse where there is an order issued by a court having jurisdiction over the parties that the Subscriber continue to provide such spouse coverage under the Plan, provided that no Subscriber can enroll more than one (1) person as a spouse at a time unless one spouse is covered pursuant to a court order.

2.1.80 **Subscriber:** Shall be defined as a Covered Person who is not a Dependent.

2.1.81 **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 electro-surgery. The term "Surgery" does not include Dental Services, routine venipuncture or minor endoscopic examinations.

2.1.82 **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.

2.1.83 **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.

2.1.84 **Well Child Care:** Shall be defined as Services rendered to a Dependent Child from newborn to seventeen (17) years of age solely for the purpose of health maintenance and not for the Treatment of an Illness or Injury.

§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 group health insurance benefits, subject to the applicable limitations and conditions, set forth in this Agreement and the Certificate incorporated herein.

## ARTICLE 4

### Rates, Premiums and Experience Participation

§4.1 **Rates.** Company shall provide the group health insurance benefits set forth in the Certificate for the rates contained herein.

§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.

§4.3 **Experience Participation.** No later than January 31, 2020, the Company shall present to GovGuam an annual experience participation accounting, which will produce either a positive or negative balance after accounting for all incurred claims and the \_\_\_% [14% or less, depending upon negotiated agreement] of premium guaranteed retention for the Company, such experience participation to be determined as follows,

- The term "Target Experience" shall mean the amount calculated by multiplying (a) the total Premiums earned by the Company for the full 12-month Plan Year ending the last day of the fiscal year under the Participating Policies issued to the government of Guam with respect to such Plan Year, by (2) **a percentage not lower than eighty-six percent (86%)**; The term "Actual Experience" shall be an amount calculated by subtracting from the Target Experience all claims incurred during such Plan Year and paid in the time period ending six months after the end of the Plan Year by the Health Insurance Provider under all the Participating Policies (PPO 1500, HSA 2000, RSP, and Dental);
  - Claims are defined as: Payments to Medical, Dental, and Pharmacy Providers; Gym Membership payments
  - Excluded from Claims: Network access fees, Shared Savings or other cost containment programs, Wellness Incentives other than gym memberships, Quality Improvement incentives
  - Note: The intent of this RFP is that Wellness and Quality Improvement incentives, quantifiable and payable directly to the member, will be included as claims in the numerator of the loss ratio calculation. Other general Quality Improvement activities and other costs are intended to be administrative costs for the carrier and are not to be included in the numerator of this calculation.
  - Subtracted from Claims: Pharmacy Rebates accrued during the plan year
  - Premiums are calculated as premiums due in the course of the plan year October 1, 2019 to September 30, 2020: monthly enrollment by Plan and Class, multiplied by applicable premium rates by Plan and Class. Supporting documentation of this calculation must be provided with the annual statement of reconciliation
- The term "Experience Refund" shall be a positive Actual Experience. See Title 4 GCA §4302.3(g). The difference between: [86% (or higher, if specified) of Premiums] less [Claims defined above] will be refunded to the Government.

4.3.1 To the extent the Actual Experience is positive (i.e., an amount greater than zero), such amount will be called an "Experience Refund," and the Company shall remit such amount to GovGuam for placement into the "Section 2718 Fund" established by Title 4, Guam Code Annotated, Section 4302.3 (P.L. 31-233:XII:18).

4.3.2 To the extent the Actual Experience is negative (i.e., an amount less than zero), the Company may add this amount to the premium needed for the Plan Year beginning on October 1, 2020, but only if the Company is the health insurance provider during such Plan Year.

4.3.3 This Experience Participation provision determines the combined Actual Experience of the Participating Policies. Identical provisions, describing the combined calculation, are included in each of the Participating Policies for convenience, but the result of the combined calculation shall be applied only once. If necessary to determine the distribution of any positive or negative amount of Actual Experience between the two Participating Policies, such amount may be allocated between the two policies in any share, at the discretion of GovGuam, as long as the total of the shares is equal to the combined amount of the Actual Experience.

4.3.4 If PPACA's Minimum Loss Ratio ("MLR") requirements result in payment, from the Company to GovGuam, of a refund for either the 2018 or 2019 calendar year MLR calculations, any Experience Refund calculated above in section 4.3.3, will be reduced by the portion of the MLR refund payable to GovGuam and applicable to the Participating Policies. The portion applicable to the Participating Policies is determined by multiplying the MLR refund by the ratio of the Participating Policies' earned premium in the calendar

year to the total of the GovGuam earned premium in that calendar year. A hypothetical illustration is included in this agreement as Exhibit

## ARTICLE 5

### Term and Termination

§5.1 **Term.** The Agreement is for a one-year term beginning October 1, 2019 and ending September 30, 2020, 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 Insurance 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.

5.4.1 **Termination of Subscriber's Coverage.** If a Subscriber's coverage terminates, the coverage of all of that Subscriber's Covered Dependents also terminates as of the same 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.

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 becomes a GovGuam employee, or for any other reason 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 §5.7 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.

§6.4 **Disenrollment Permitted.** Covered persons for whom this group health insurance is secondary to Medicare coverage, shall be permitted to disenroll with 30 days notice to the Company, and enroll in the Retiree Supplemental Plan.

## 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 Section 2719 and regulations thereto on internal claims appeal process and external appeals process review requirements.

§7.7 **Prompt Payment Report.** Company shall send a status report on a claim filed by Covered Person against a Provider within forty-five (45) days after receipt if the claim is still pending disposition by the Company and Provider. At a minimum the report shall indicate that the claim is under review and the Company is working to resolve the claim with the Provider. The Company shall send another status report on the claim to the Covered Person with a copy to the Provider thirty (30) days from the date the first status report was sent to the Covered Person if the claim has not been resolved.

§7.8 **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.

§7.9 **Termination Notification.** If the Company terminates this Agreement, Company shall provide notice announcing its termination at least fifteen (15) days prior to the date of termination on the Company's website, an ad in any of the local newspaper publications, and email to subscribers of the Company's Plan. Further, Company shall fully cooperate with GovGuam in transitioning Covered Persons to Other Plans.

§7.10 **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.

§7.11 **Performance Guarantees.** Performance guarantees have the appropriate annual penalties listed by each guarantee as stated in Exhibit \_\_\_ with a maximum amount of \$105,000 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, and they are combined for the PPO1500 and HSA2000 Agreement.

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

7.12.1 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.

7.12.2 For the Covered Person, access to Personal Health Record ("PHR") or Personal Claim Record ("PCR"), whichever is applicable to the Company, to include historical health conditions, prescription medications, office visit summary and procedures where a medical claim has been filed.

7.12.3 For the Covered Person, access to record of medical and drug claims.

7.12.4 For the Covered Person, ability to verify eligibility.

7.12.5 Ability of Providers to submit claims through a separate portal rather than through Company's website for payment.

7.12.6 For the Covered Person, GovGuam, and Providers access to Schedule of Benefits, Member Handbooks and Provider Network Information.

7.12.7 For the Covered Person, ability to print PHR or PCR, whichever is applicable to the Company, to federal compliance standard file formats or plain text file.

7.12.8 For the Covered Person, ability to print online membership cards.

7.12.9 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.

## 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 \_\_ through \_\_, 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.

§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 Certificate and Exhibits \_\_ through \_\_, 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.

**\*\*SIGNATURE PAGE FOLLOWS\*\***

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

Government of Guam

By: \_\_\_\_\_

By: \_\_\_\_\_  
Director, Department of Administration

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Effective Date

October 1, 2019

By: \_\_\_\_\_  
Insurance Commissioner,  
Department of Revenue & Taxation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Director, Bureau of Budget and  
Management Research

Date: \_\_\_\_\_

Approved as to Legality and Form:

By: \_\_\_\_\_  
Attorney General

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Governor of Guam

Date: \_\_\_\_\_

EXHIBIT AA

GOVERNMENT OF GUAM

AND

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GROUP HEALTH INSURANCE CERTIFICATE

GOVGUAM PPO 1500

FOR THE PERIOD OF:

OCTOBER 1, 2019 – SEPTEMBER 30, 2020



**GOVERNMENT OF GUAM**

and

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**GROUP HEALTH INSURANCE CERTIFICATE**

**GOVGUAM PPO 1500**

This Certificate, including Exhibits A through \_\_\_\_, describes the group health insurance benefits that shall be provided to each Covered Person, the circumstances under which the benefits shall be provided, limitations on and exclusions from benefits, and provisions for termination of benefits. No benefits are available under the Plan, except as set forth herein. In the event of conflict between the provisions of this Certificate and those of Exhibits A through \_\_\_\_, the provisions of this Certificate shall govern.

**ARTICLE 1**

**Conditions**

§1.1 **Agreement definitions.** The definitions contained in Article 2 of the Group Health Insurance Agreement by and between GovGuam and Company ("Agreement"), to which this Certificate is attached, apply to this Certificate unless a term is otherwise defined herein.

§1.2 **Scope of benefits:** Company shall provide only the benefits described in this Certificate. Covered Person shall be responsible for payment of:

1.2.1 Deductibles;

1.2.2 Co-Payments and Co-Insurance;

1.2.3 Any difference between a Non-Participating Provider's charges and Company's reimbursement to such Provider;

1.2.4 Services that are not covered under this Certificate;

1.2.5 Otherwise Covered Services that exceed the maximums provided under this Certificate;

and

1.2.6 Services received while the individual is not covered under this Certificate.

1.2.7 All benefits are subject to the terms and conditions contained in this Agreement, including all applicable conditions, limitations and exclusions.

§1.3 **Deductible:** Under this Plan, there is no Deductible for Dental Benefits (as defined in Article 7 of this Certificate), and there is no Deductible when Participating Providers are utilized for PPACA Preventive Care Services, but there is a Deductible for other Medical Benefits (as defined in Article 2 of this Certificate). Payments by a Covered Person for Dental Benefits shall not be applied to the Deductible for Medical Benefits. Any costs paid towards the Deductible applicable to Participating Providers do not accumulate towards the Deductible applicable to Non-Participating Providers.

The Deductible shall be accumulated by each Covered Person during the Plan Year. The Deductible for this

Plan is \$1,500 for Covered Services received through Participating Providers per Covered Person, with a Family maximum of \$3,000 for Covered Services received through Participating Providers. There is a separate Deductible of \$3,000 per Covered Person, with a Family maximum of \$9,000 for Covered Services received through Non-Participating Providers. The Deductible for Class I is \$1,500, and \$3,000 for Class II through IV. If a Covered Person meets their \$1,500 deductible, the Plan begins to pay for Covered Services.

§1.4 **Co-Insurance.** Co-Insurance shall be in addition to the Deductibles. The Co-Insurance shall be paid by each Covered Person, if applicable, during each Plan Year, subject to the maximum amounts provided in the Plan as indicated in the charts in Exhibits \_\_\_ and \_\_\_. No Co-insurance shall be imposed when Participating Providers are utilized for preventive care as required by PPACA.

§1.5 **Exceptions to Out of Pocket Maximums.** The following payments do not accumulate towards the Out of Pocket Maximums: (a) payments for Services which are not covered; (b) payments for otherwise Covered Services that exceed the Plan's maximums; (c) payments for Services of Non-Participating Providers; and (d) payments for Dental Benefits under the optional dental plan. All other out-of-pocket expenses for covered benefits shall count towards the deductible and out-of-pocket maximum.

§1.6 **Deductibles, Co-Payments and Co-Insurance for Participating and Non-Participating Provider Charges.** The Deductibles, Co-Payments and Co-Insurance for Covered Persons shall, in most cases, be separate for Participating Providers and for Nonparticipating Providers. Subject to the limitations set forth in this Certificate, including Exhibits \_\_\_ and \_\_\_, the Covered Person shall pay Deductibles, Co-Payments and Co-Insurance for Covered Services for Medical Benefits and Dental Benefits indicated in Exhibits \_\_\_ and \_\_\_. Deductibles, Co-Payments and Co-Insurance shall be based on the Eligible Charges for Covered Services. Out of Pocket Maximums for Covered Services, including Deductibles, Co-Insurances and Co-Payments for Participating Providers, regardless of whether the costs were incurred in Guam or outside Guam, shall be \$3,000 per Covered Person and \$9,000 per Family. Only payments for Covered Services rendered by Participating Providers will accumulate towards the Out of Pocket Maximums. No Deductibles, Co-Payments or Co-Insurance shall be imposed when Participating Providers are utilized for PPACA Preventive Care Services only. The Out-of-Pocket Maximum for Class I is \$3,000; and \$9,000 for Class II through IV. Co-payments and co-insurances do not accumulate towards the deductible, but accumulate towards the out of pocket maximum.

There are no Out of Pocket Maximums for Non-Participating Providers.

§1.7 LIMITATIONS ON BENEFITS. A COVERED PERSON UTILIZING A NON-PARTICIPATING PROVIDER SHALL BE RESPONSIBLE FOR ANY AMOUNT BY WHICH SUCH PROVIDER'S CHARGES EXCEED ELIGIBLE CHARGES.

However, and notwithstanding any other provision of this Agreement, in no event will a Covered Person's Co-Payment or total Out-of-Pocket Expense, due to Out-of-Service Area Emergency Services rendered by a Non-Participating Provider, exceed what they would have been if the Service had been rendered by a Participating Provider, provided the Covered Person's medical condition precluded receiving care from a Participating Provider. Covered Person shall not be responsible for any amount by which the Non-Participating Provider exceeds eligible charges for Emergency cases only. In the case of a PPACA Emergency, the Covered Person's Co-Payments or Co-Insurance for PPACA Emergency Services rendered by a Non-Participating Provider shall not exceed what they would have been if the PPACA Emergency Service had been rendered by a Participating Provider, whether or not the Emergency Care could have been received from a Participating Provider.

## ARTICLE 2

### Medical Benefits

**Medical Benefits.** Subject to the terms and conditions of this Agreement, payment for the Covered Services contained in this Article 2 ("Medical Benefits") shall be paid by Company when provided in accordance with this Agreement.

§2.1 **Physician Services.** Visits to or by a Physician for a non-Surgical health Services as a Covered Person may require in the treatment of an Injury or Illness.

§2.1.1 **Primary Care Services.** As required by Section 2719A of the PHSA, as added by PPACA, each Covered Person shall be entitled to designate any Participating Provider who is a Primary Care Physician and who is available to accept the Covered Person as the Primary Care Physician for that Covered Person. If the Covered Person is a child, the child's parents shall be entitled to select for the child a Primary Care Physician who specializes in pediatric care.

- Office visits with your Primary Care Physician during office hours
- Treatment for illness and injury
- Routine physical examinations
- Well-child care from birth, including immunizations and booster doses
- Annual prostate screening (PSA) and digital exam for males age 40 and over, and for males considered to be at high risk who are under age 40
- Routine gynecological examinations and Pap smears for females, performed by your Primary Care Physician or a participating gynecologist. No referral to a gynecologist is required for a female to obtain covered gynecological care from a gynecologist.
- Annual mammography screening for asymptomatic women age 40 and older

**Note:** Diagnostic mammography for women with signs or symptoms of breast disease is covered as medically necessary.

- Breast pumps and breast feeding supplies, not including disposable items as part of women's preventive health in accordance with PPACA.
- Routine immunizations (except those required for travel work)
- Annual eye examinations without a referral to a participating provider
- Routine hearing screenings

§2.1.2 **Specialist Care Services.** Services provided by a medical specialist to whom a patient has been referred, usually by a primary care provider.

- Participating specialist office visits.
- Participating specialist consultations, including second opinions.
- Outpatient surgery for a covered surgical procedure when furnished by a participating outpatient surgery center. All outpatient surgery must be approved in advance by the Company.

- Preoperative and postoperative care.
- Casts and dressings.
- Radiation therapy.
- Cancer chemotherapy.
- Short-term cardiac rehabilitation provided on an outpatient basis following angioplasty, cardiovascular surgery, congestive heart failure or myocardial infarction.
- Short-term pulmonary rehabilitation provided on an outpatient basis for the treatment of reversible pulmonary disease.
- Hearing Aids - Coverage will be provided for medically necessary expenses incurred in the purchase of a hearing aid for Covered Persons. Hearing aid replacement when it is medically necessary and prescribed by a licensed physician or audiologist. Coverage is limited to \$500 per covered person per plan year. Replacement once every twenty-four months.

§2.1.3 Home or office visit. Each home or office visit, including charges for injections, inclusive of materials.

§2.1.4 Hospital or Skilled Nursing Facility visit. Visit to a Covered Person who is a Registered Bed Patient at a Hospital or Skilled Nursing Facility.

§2.1.5 Intensive Care Unit visit. A visit for a critical Injury or Illness provided that the Covered Person is a Registered Bed Patient.

§2.2 **Preventive Physical Exam.** A routine preventive physical examination (including limited hearing testing and mammograms in accordance with the U.S. Preventive Services Task Force Recommendations with a Grade A or B only). Physical examinations required for obtaining or continuing any employment, insurance, schooling or licensing are excluded from this benefit. Coverage for routine preventive physical exam is limited to one exam per plan year.

2.2.1 PPACA Preventive Care Services (with no Deductibles, Co-Payments or Co-Insurance) when provided by Participating Providers

2.2.2 Routine preventive physical examination, in accordance with the USPSTF, coverage at a Participating Provider in the Philippines with no maximum.

§2.3 **Preventive Lab Services.** Preventive Laboratory Services are covered at One Hundred percent (100%) with no copayment, co-insurance, or deductibles in accordance with PPACA.

§2.4 **Immunizations.** Charges incurred in connection with immunizations in accordance with the guidelines provided by the United States Preventive Services Task Force. See Exhibit \_\_\_\_, 'Schedule of Covered Immunizations.

§2.5 **Injections.** Other than immunizations, an infusion method of putting fluid into the body, usually with a hollow needle and a syringe which is pierced through the skin to a sufficient depth for the material to be forced into the body. There are several methods of injection or infusion, including intradermal, subcutaneous, intramuscular,

intravenous, intraosseous, and intraperitoneal.

§2.6 **Allergy testing** A maximum benefit of One Thousand Dollars (1000) per Plan Year per Covered Person for charges for allergy testing.

§2.7 **Maternity.** Hospital and Physician charges for maternity Services, including prenatal, postnatal, delivery and Newborn care, in accordance with all applicable restrictions thereon, and to include coverage for epidural injections when medically indicated. Provided, however, that Newborn care shall not be provided to a child born to a non-Spouse Dependent even if the non-Spouse Dependent's own prenatal, postnatal and delivery care are covered.

§2.8 **Well Child Care.** Charges incurred by a Covered Person from newborn to seventeen (17) years of age for services rendered solely for the purpose of health maintenance and not for the Treatment of an Illness or Injury. Payment, for such Services shall be based on the Bright Futures/American Academy of Pediatrics recommendations for Preventive Pediatric health Care and as stated in Exhibit \_\_\_\_\_. Benefits for such services may include immunization and lab tests. Services must be performed by or under the supervision of a Physician. Well Child Care will not be subject to the deductible, and shall be covered at 100% by the Company. Any such care that is PPACA Preventive Care Services shall be covered without Deductibles, Co-Payments or Co-Insurance if received from a Participating Provider. Charges for treatment of illness or injury shall be covered as regular benefits. If the care is PPACA Preventive Care Services, requirements of this agreement and PPACA regulations shall be followed in determining the portion of any combined visit or service that is to be provided without Deductibles, Co-Payments or Co- Insurance

§2.9 **Basic Hospital benefits.** The Hospital benefits to which a Covered Person is entitled while medically necessary and reasonably confined as a Registered Bed Patient are limited to a maximum of three hundred and sixty-five (365) days of confinement during a Plan Year, in accordance with evidence based medical guidelines. If necessarily incurred during said period, the following Services shall be Covered Services:

2.9.1 Hospital Room and Board. Coverage is provided at the Hospital's most common Semi-Private room rate, or at the Hospital's daily average private or single room rate if there are no Semi-Private accommodations or if a private room is Medically Necessary.

2.9.2 Intensive Care Unit. Room and Board charges for a stay in an intensive care unit which is equipped and operated according to generally recognized Hospital standards.

2.9.3 Cardiac room. Charges for a stay in a cardiac room which is equipped and operated according to generally recognized Hospital standards.

2.9.4 Surgery. Charges for the operating room, surgical supplies, Hospital Anesthesia Services, drugs, dressings, oxygen and antibiotics.

2.9.5 Diagnostics. Charges for diagnostics to the extent the same are not provided under Article 2.9.

2.9.6 Outpatient Hospital benefits. Hospital charges incurred by a Covered Person for use of a Hospital's outpatient facilities in connection with an Injury or Illness as follows:

2.9.6.1 Emergency medical Services within twenty-four (24) hours of a serious Injury or the sudden onset of an acute Illness, or such longer time as may be necessary to stabilize a covered individual in accordance with the emergency definitions and requirements of PPACA in the case of PPACA Emergencies.

2.9.6.2 Medical Services received on the day of and in connection with Surgery.

2.9.6.3 Pre-admission tests and/or examinations.

2.9.6.4 Medical Services which cannot be rendered in a Physician's office.

2.9.6.5 Non-Emergency. Company shall not pay for charges incurred for use of a Hospital's outpatient facilities, supplies and equipment in connection with elective minor Surgical Services, non-Emergency Services or health Services that could be received in a Physician's office. Services in the emergency setting must meet the definition of Emergency. The Company reserves the right to audit and review the claim retrospectively to validate the nature of the condition for which services were provided. The Company shall not pay for non-Emergency use of the Hospital's emergency facilities, unless the condition is urgent and treatment is unavailable elsewhere at the time.

2.9.7 Ambulatory Surgical Center benefits. Charges for Outpatient Surgery.

§2.10 **Basic Surgical benefits.** The Surgical benefits to which a Covered Person is entitled are as follows:

2.10.1 Surgical Services. Charges for Surgical Services the Covered Person may require in the treatment of an Injury or Illness, including charges for such Medically Necessary after visits in connection with the particular Surgical Services performed. Any charges for non-Medically Necessary after Service visits shall not be paid.

2.10.2 Anesthesiology. Charges of a private anesthesiologist or Hospital anesthesiologist when the Services of an anesthesiologist are Medically Necessary.

2.10.3 Gastric Banding and Bariatric Surgery. Gastric banding and bariatric surgery will only be covered if such treatment is in accordance with the following:

- Company covers bariatric surgery using a covered procedure outlined below as medically necessary when ALL of the following criteria are met:
  - The individual is  $\geq 18$  years of age or has reached full expected skeletal growth AND has evidence of EITHER of the following:
    - a BMI (Body Mass Index)  $\geq 40$
    - a BMI (Body Mass Index) 35-39.9 with at least one clinically significant comorbidity, including but not limited to, cardiovascular disease, Type 2 diabetes, hypertension, coronary artery disease, or pulmonary hypertension
  - Failure of medical management including evidence of active participation within the last two years in a weight-management program that is supervised either by a physician or a registered dietician for a minimum of six months without significant gaps. The weight-management program must include monthly documentation of ALL of the following components:
    - weight
    - current dietary program
    - physical activity (e.g., exercise program)

Programs such as Weight Watchers®, Jenny Craig® and Optifast® are acceptable alternatives if done in conjunction with the supervision of a physician or registered dietician and detailed documentation of participation is available for review. For individuals with long-standing, morbid obesity, participation in a program within the last five years is sufficient if reasonable attendance in the weight-management program over an extended period of time of at least six months can be demonstrated. However, physician-supervised

programs consisting exclusively of pharmacological management are not sufficient to meet this requirement.

- A thorough multidisciplinary evaluation within the previous 12 months which includes the following:
  - an evaluation by a bariatric surgeon recommending surgical treatment, including a description of the proposed procedure(s) and all of the associated current CPT codes
  - a separate medical evaluation from a physician other than the surgeon recommending surgery, that includes a medical clearance for bariatric surgery
  - unequivocal clearance for bariatric surgery by a mental health provider
  - a nutritional evaluation by a physician or registered dietician

2.10.4 Elective Surgery. Covered by plan in accordance with the Schedule of Benefits and must be pre-certified and approved by plan.

2.10.5 Robotic Surgery/Robotics Suite. Covered in accordance with basic surgical procedure benefits as indicated on the Schedule of Benefits. Robotic surgery/Robotics Suite must be pre-certified and approved by the plan.

2.10.6 Organ Transplant. Covered in accordance with basic surgical procedure benefits as indicated on the Schedule of Benefits. Transplant must be pre-certified and approved by the plan. Only the services, care and treatment received for, or in connection with, the pre-approved transplant of organs, which are determined by the Plan to be medically necessary services and which are not experimental, investigational or for research purposes except as permitted through approved clinical trials will be covered by this Plan. Coverage for organ donor is included.

## §2.11 Basic diagnostic and therapy benefits.

2.11.1 Provider Services. Charges for the following Services when ordered by a Physician for the treatment of an Injury or Illness.

2.11.1.1 Laboratory Services. Charges for laboratory Services.

2.11.1.2 X-ray Services. Charges for diagnostic X-ray procedures.

2.11.1.3 Electrocardiograms. Charges for EKG procedures.

2.11.1.4 Radiotherapy. Charges for radiotherapy.

2.11.1.5 Inhalation Therapy. Charges for Inhalation Therapy provided as an Outpatient Service.

2.11.1.6 Sleep Apnea Studies/Polysomnography. Charges for sleep apnea studies/polysomnography - diagnostic and therapeutic procedures.

## §2.12 Medical-related Dental Benefits. The following dental benefits are Covered Services:

2.12.1 Services rendered by a Dentist or Physician, and Hospital or Ambulatory surgi-center services related thereto, when required to treat traumatic injury to sound, natural teeth or jaw. Coverage is limited to palliative care to alleviate pain and other acute symptoms resulting from the Injury. Such may include debridement of wounds, suturing, extraction of broken teeth, splinting of loose teeth, wiring of jaws, smoothing

jagged edges of broken teeth. Services must be completed within 12 months following the injury. Fillings, crowns, bridges, dentures, bonding and similar permanent restorations are excluded.

2.12.2 If a Participating Physician certifies, in advance, that a non-dental, medical condition makes admission necessary to safeguard the Covered Person in connection with Dental Services rendered by a Dentist, Hospital and Ambulatory Surgi-center Services rendered in connection therewith are covered.

§2.13 **Home Health Care.** Home Health Care, provided by allied health care professionals, is covered at 100%.

§2.14 **Basic Skilled Nursing Facility benefits.** The following Skilled Nursing Facility benefits are provided:

2.14.1 Skilled Nursing Facility benefits. If a Covered Person is confined as a Registered Bed Patient in a Skilled Nursing Facility, the Covered Person shall be eligible for benefits as if confined in a Hospital, except that the eligible period of confinement shall be limited to a maximum of sixty (60) days per Plan Year and payment for such benefits shall be the rates applicable for such Skilled Nursing Facility. To be eligible for these benefits, each of the following requirements must be met:

2.14.2 The admission to the Skilled Nursing Facility must be approved in advance by Company.

2.14.3 The Covered Person must be admitted on the authorization of a Physician and must continue to be attended by a Physician while confined.

2.14.4 Confinement in the Skilled Nursing Facility must not be primarily for comfort, convenience, rest cure or domiciliary care.

2.14.5 If a Covered Person remains in a Skilled Nursing Facility more than thirty (30) days, the attending Physician must submit to Company an evaluation report reviewing the thirty (30) day period of confinement and addressing the specific need for continued confinement.

§2.15 **Hospice Care.** Charges for a maximum of one hundred eighty (180) days per lifetime. The attending Physician must determine limited life expectancy of six (6) months or less. The Covered Person shall not be entitled to benefits for any Services for the Terminal Illness except for palliative care. Services must be provided through a bona fide Hospice. Coverage for Hospice Services shall be limited to One Hundred Dollars (\$150) per day.

2.15.1 Palliation Therapy is covered under the Hospice Care Benefit.

2.15.1.1 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.

2.15.2 At least one of the treating Physicians must determine limited life expectancy of six months or less and certifies terminal illness of a Covered Person.

2.15.3 There must have been agreement by the Covered Person or the Covered Person's authorized representative to begin Hospice care as palliative and/or support only; and

The Hospice level of benefits begins on the date the above conditions are met. The Covered Person shall not be entitled to any care for the terminal illness except for palliative care. Medically necessary



care for unrelated conditions shall continue as covered benefits, subject to plan benefits, deductibles, exclusions and limitations, medically necessity determinations and eligibility. Benefits for conditions normally covered, and not directly or indirectly related to the terminal condition are covered for inpatient, outpatient and emergency care in accordance with the schedule of benefits.

## §2.16 **Prescription Drugs.**

2.16.1 Charges for Prescription Drugs, including insulin and syringes, when prescribed by a Physician. Charges for Medically Necessary prescription drugs not contained on the Company's Preferred Drug Formulary shall be covered provided the Physician certifies to the Company that the non-formulary drug is Medically Necessary for the Covered Person, and that no formulary drug was appropriate.

2.16.2 Prescription Drugs shall be limited to a thirty (30) day supply except for birth control pills and mail order Prescription Drugs which may be issued in a ninety (90) day prescription.

2.16.3 Prescriptions may be refilled for a period up to six (6) months from the original date of prescription, if so specified by a Physician in writing on the prescription.

2.16.4 Prescription Unit represents the maximum amount of outpatient prescription medication that can be obtained at one time for a single co-payment. For most oral medications, a prescription unit is up to a 30-day supply of medication.

2.16.5 For other medications, a Unit represents a single container, inhaler unit, package or course of therapy. For habit-forming medication, a unit may be set at a smaller quantity for the covered person's protection and safety.

2.16.6 Participating Mail Order Pharmacy. A pharmacy which has contracted with Company's Pharmacy Benefits Manager to provide covered outpatient prescription drugs or medicines and insulin to Members by mail or other carrier.

2.16.7 Participating Retail Pharmacy. A community pharmacy which has contracted with Company's Pharmacy Benefits Manager to provide covered outpatient prescription drugs to Members.

2.16.8 Benefits for outpatient prescription Drug Products dispensed by a mail service Network Pharmacy. The following supply limits apply:

- As written by the provider, up to a consecutive 90-day supply of a Prescription Drug Product, unless adjusted based on the drug manufacturer's packaging size, or based on supply limits.

2.16.9 Prescribed drugs in countries outside the United States may differ from those that require a prescription in the U.S. Drugs purchased outside the U.S. must be an equivalent product of one approved by U.S. federal law or there must be clinical evidence that prescribing the drug is consistent with the standard of medical practice in the country where the prescription is issued.

§2.17 **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.

§2.18 **Health education.** Charges for health education classes and materials in accordance with Exhibit \_\_\_ herein provided.

§2.19 **Durable Medical Equipment.** The rental cost of: standard hospital bed, cane single tip, cane quad tip, crutches (forearm, aluminum OR forearm, wood), walker (folding, adjustable with wheels OR folding, adjustable without wheels), oxygen refill, oxygen concentrator, oxygen portable with regulator, suction pump with supplies, suction tubing (replaceable every 3 months), yank Auer oral suction catheter, tracheostomy care kits (for new and established tracheostomies), continuous positive airway pressure (CPAP) machine, and standard wheelchairs (to include extra-wide sizes), when prescribed by a Physician and then only at the prescribed level. If the total rental cost exceeds the purchase price, Company may, at its discretion, either rent or purchase the item for the Covered Person. This benefit is limited to one rental or purchase every three (3) years and is limited to standard equipment only, unless subject to a treatment plan.

§2.20 **Mental health benefits.** The charges for the diagnosis and treatment of mental illness, as that term is defined in Title 22, Guam Code Annotated, Section 28103, subject to the same conditions and restrictions applicable to physical illness.

§2.21 **Ambulance Services.** If a Covered Person is transported to a Hospital by ground ambulance from the place where an Injury occurred, or when prescribed by a Physician, eighty percent (80%) of the charges for such ground ambulance Services are payable if: (i) the Services are provided by a licensed ambulance service; and (ii) the transportation is to a Hospital capable of treating the Covered Person and which Hospital is nearest to the place of Injury or place of entering the ambulance.

§2.22 **Tubal ligation.** The charges for tubal ligations.

§2.23 **Vasectomy.** The charges for vasectomies on an outpatient basis only.

§2.24 **Breast reconstruction.** Reconstruction of the breast on which a mastectomy was performed, surgery and reconstruction of the other breast to produce a symmetrical appearance, and prostheses and physical complications of all states of mastectomy, including lymphedemas, are covered. Such re-constructive procedures are not limited to re-constructive procedures necessitated by mastectomies performed while covered under this Plan.

§2.25 **Blood products.** Charges for blood and blood products and their administration.

§2.26 **Hearing Screening.** Charges for infant hearing screening as required by Title 10 GCA §§ 4101-4111, the Universal Newborn Hearing Screening and Intervention Act.

§2.27 **Cancer Screening.** Including any applicable lab work, for cervical, prostate, colorectal and breast (in accordance with PL 34-02, 34-03 and 34-109).

§2.28 **Preferred Provider(s):** 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 listing of Preferred Providers.

§2.29 **Preventive Care.** To the extent required by PPACA, preventive care (with no cost-sharing) when preventive care is provided by Participating Providers.

§2.30 **Centers of Excellence [Preferred Provider(s)]** The following sections refer to charges incurred by a Covered Person for Covered Services provided at Centers of Excellence [by Preferred Providers]:

2.30.1 The Covered Person has obtained written Prior Authorization from Company or Company's agent to receive Services from a Center of Excellence [Preferred Providers] and has agreed to receive Services from

such Center of Excellence [Preferred Providers] chosen by Company or Company's agent. No Prior Authorization shall be required for Emergency or PPACA Emergency cases and the Covered Person may select the Center of Excellence [Preferred Providers] where Emergency or PPACA Emergency Services shall be rendered.

2.30.2 Company is the primary payor based on the coordination of benefits provisions of this Certificate, unless the primary payor is Medicare for those Centers of Excellence located in the United States; provided, however, the Company shall be the primary payor for Centers of Excellence [Preferred Providers] outside of the United States and located in the Philippines', Korea, Japan, or other Pacific-Asian locations.

2.30.3 For Inpatient Services which are unavailable in Guam and rendered by the Center of Excellence [Preferred Providers].

2.30.3.1 Company shall pay 100% of these services.

2.30.3.2 Company shall waive any co-insurance for such Services.

2.30.3.3 Company shall only provide airfare for the Covered Person for the most direct route to and from the location of the Covered Person and the Center of Excellence [Preferred Providers] as determined by Company. Regardless of the location of the Covered Person, or if it is Medically Necessary to provide for a break in the trip, Company shall provide the lesser of the lowest applicable economy airfare or the lowest economy, round-trip airfare on a commercial direct flight between Guam and the Center of Excellence [Preferred Providers]. In no event shall Company provide an air ambulance.

2.30.3.4 If the Service is one of the following specific procedures or conditions: open heart surgery, oncology surgery to include but not limited to the following cancers brain, lung, liver, kidney, adrenal, nasopharyngeal, tongue, prostate, colon, genitourinary, breast and gynecological oncology, aneurysmectomy, pneumonectomy, intra cranial surgery, acute leukemia, gamma knife or if the level of care required is NICU Level III, or if the expected cost to the Company for off-island Covered Services exceeds \$25,000.00, Company shall pay the air fare of one companion of the Covered Person to the Center of Excellence [Preferred Providers] under the terms set forth in §2.28.3.3.

2.30.3.5 If it is Medically Necessary that a licensed medical attendant be with the Covered Person, Company shall provide for one airline seat for such attendant under the same terms set forth in §2.28.3.3.

2.30.3.6 If the Covered Person is unable to self-care, Company shall provide for one airline seat for a qualified assistant under the same terms as §2.28.3.3.

2.30.3.7 Company may, at its option, make the travel arrangements for the Covered Person and his or her companion, attendant or assistant (if any) and purchase the airline tickets. In the event the covered person/attendant purchases the seat(s), the Company will reimburse for actual expenses incurred in purchasing Medically Necessary seat(s), but not more than the Company would have paid had it purchased the seat(s) for the companion in advance. In no event will Company reimburse for any seat(s) purchased with frequent flyer miles.

2.30.3.8 Company shall facilitate the Hospital/Physician arrangements for the Covered Person.

2.30.3.9 For Company to be liable to pay any airfare, the proposed Service to be performed at the Center of Excellence [Preferred Providers] must be a specific procedure and not merely a diagnostic work-up or to confirm or rule out the diagnosis of another Physician.

2.30.4 For Ambulatory Surgical Center Services which are unavailable in Guam and rendered by Center of Excellence [Preferred Providers]:

2.30.4.1 Company shall waive the twenty percent (20%) Co-Insurance.

2.30.4.2 Company shall facilitate the Surgicenter/Physician arrangements for the Covered Person.

2.30.5 Inpatient and Ambulatory Surgical Center Services which are unavailable in Guam and rendered by Center of Excellence [Preferred Providers]:

2.30.5.1 Company shall waive the twenty percent (20%) Co-Insurance.

2.30.5.2 Company shall facilitate the Surgicenter/Physician arrangements for the Covered Person.

2.30.6 Only those facilities identified as Centers of Excellence [Preferred Providers] in the Company's most recently updated Provider Directory will qualify for the airfare benefit.

§2.31 If no Participating Provider available. If there is no Participating Provider available, within the United States, to provide necessary Covered Services to a Covered Person, Company will cover those services at a Non-Participating Provider, within the United States, unless otherwise agreed by the Covered Person, such that the Covered Person will have no greater out-of-pocket cost than he or she would have had had the Services been rendered by a Participating Provider.

§2.32 If not able to travel. In case Emergency medical care is needed off-island, and it is medically imprudent for the Covered Person to be transported to a Participating Provider, Company will cover Services rendered to the Covered Person at a Non- Participating Provider such that the Covered Person will have no greater out-of-pocket cost than he or she would have had had the Services been rendered by a Participating Provider.

## ARTICLE 3

### Specific Limitations on Benefits

§3.1 **Dollar limitations.** The medical benefits available under this Agreement are subject to the following specific dollar limitations per Covered Person, in addition to all other exclusions and limitations set forth in the Agreement and this Certificate:

3.1.1 **Maximum Annual Benefit.** The total benefits payable to or on behalf of a Covered Person shall be unlimited per Plan Year.

3.1.2 **Cardiac surgery.** Benefits for cardiac surgery, including, but not limited to catheterization, angioplasty, valve replacement/repair, bypass and pacemaker are included.

3.1.3 **Non-Spouse Dependent.** Maternity benefits for a non-Spouse Dependent are covered. Except that Newborn care shall not be covered for a child born to a non-Spouse Dependent. A child born to a non-Spouse Dependent shall not be covered unless such child specifically meets the requirements for coverage as a Dependent of an employee (such as the employee becoming the guardian of such child).

3.1.4 **Nuclear medicine.** Coverage for nuclear medicine and all Covered Services related thereto are included.

3.1.5 **Orthopedic conditions.** Coverage for orthopedic conditions and related internal and external prosthetic devices, are included.

3.1.5.1 Except as specifically limited under this Agreement, Services, supplies and devices related to the treatment of chronic or acute orthopedic conditions are covered. This includes, but is not limited to:

3.1.5.1.1 Prosthetic devices. Devices, including artificial joints, limbs and spinal segments.

3.1.5.1.2 Orthotic devices. Orthotic devices, which are defined as appliances or apparatus that support or align movable parts of the body, correct deformities or improve the functioning of movable parts of the body.

3.1.6 **Radiation therapy.** Coverage for radiation therapy and all Services related thereto shall be included.

3.1.7 **Allergy testing.** A maximum benefit of One Thousand Dollars (1000) per Plan Year for charges for allergy testing that are not considered essential benefits under PPACA. Benefits for Allergy testing and treatment that constitute essential benefits under PPACA are subject only to the PPACA Annual Limit.

3.1.8 **Annual refraction eye examination.** Coverage for annual eye examination is once per member per Plan Year.

3.1.9 **Blood and blood products and derivatives.** Coverage for blood and blood products/derivatives and services related thereto shall be included.

3.1.10 **Hearing aids.** Coverage for hearing aids is limited to Five Hundred Dollars (\$500) per Plan Year. Replacements for hearing aids are allowed once every two years.

3.1.11 **Acupuncture.** Coverage for acupuncture services is up to a maximum of thirty (30) visits per Plan Year as stated in Exhibit \_\_\_\_\_, Schedule of Benefits.

3.1.12 **Chemical dependency treatment.** Coverage for the diagnosis and necessary treatment of chemical dependency shall not be subject to a dollar limit other than being included under the PPACA Annual Limit.

3.1.13 **Chiropractic.** Coverage for chiropractic Services is up to a maximum of thirty (30) visits per Plan Year as stated in Exhibit \_\_\_\_\_, Schedule of Benefits.

3.1.14 **Occupational Therapy.** Coverage for Occupational therapy is up to a maximum of twenty (20) visits per Plan Year as stated in Exhibit \_\_\_\_\_, Schedule of Benefits.

3.1.15 **Respiratory Assist Devices.** Coverage for Respiratory Assist Devices (RAD) is based upon medical necessity and will be in accordance with published Medicare Guidelines of coverage at the time of service.

3.1.16 **Autism Spectrum Disorder.** Diagnosis, treatment and behavioral therapy is limited per Contract Period to \$50,000 up to age 8 years and \$25,000 from ages 9 to 21 years as stated in Exhibit \_\_\_\_\_, Schedule of Benefits.

§3.2 **Other benefit limitations.** The medical benefits available under this Agreement are subject to the following other benefit limitations, in addition to all other exclusions and limitations set forth in the Agreement and this Certificate, Per Covered Person:

3.2.1 **Emergency Services.** Coverage for Emergency Services is generally limited to those Services required for diagnosis and treatment of an Emergency immediately after onset, no later than twenty-four (24) hours. PPACA Emergency Services shall be provided as necessary to stabilize the Covered Person, without regard to such time limit.

3.2.2 **Hospital and Surgical authorization.** Prior Authorization must be obtained from the Company before a Covered Person is admitted to a Hospital or has one of the Surgeries or Medical Procedures listed in §3.2.2.2. Prior Authorization will be handled in accordance to the Milliman Healthcare Guidelines.

3.2.2.1 **Responsibility for Prior Authorization.** The Participating Provider ordering the hospitalization or Surgery for a Covered Person shall obtain Prior Authorization. The Covered Person shall not be responsible for obtaining Prior Authorization and shall not be liable for any penalty.

The Non-Participating Provider or the Covered Person shall be responsible for obtaining Prior Authorization required by the Company prior to the hospitalization or Surgery. In the event a Covered Person is admitted to a Hospital for an Emergency, required authorization consists of notifying Company (i) within forty eight (48) hours of the admission if it occurs on a day other than a Saturday, Sunday or holiday; or (ii) within seventy-two (72) hours if it occurs on a Saturday, Sunday or holiday, and, in either case, receiving Company's authorization for the admission. PPACA Emergency Services shall not require Prior Authorization, and such services provided by Non-Participating Providers shall not require any notification or other administrative requirement other than what is required when provided by Participating Providers.

Prior Authorization denials shall be handled pursuant to the PPACA Claims Procedure Requirements provided in §6.7, to the extent required by PPACA.

3.2.2.2 **Reduced benefit without Prior Authorization.** If a required Prior Authorization is not obtained in accordance with this §3.2.2, Company shall pay fifty percent (50%) of the Eligible Charges incurred in connection with the confinement or Surgery. If the Participating Provider is the person required to obtain the Prior Authorization, the reduction in benefits shall not be charged to the Covered Person. No penalty for failure to obtain Prior Authorization shall be imposed for a PPACA Emergency, whether Participating or Non-Participating Providers are utilized.

List of outpatient and inpatient procedures requiring authorization (unless a

PPACA Emergency). If the following procedures are not pre-certified by plan, payment may be denied.

- Aids Treatment
- All elective outpatient surgical procedures requiring use of surgical facilities
- All out of service area services and procedures
- Any and all diagnostics and surgical procedures in excess of \$300.00 including specialty laboratory
- Any back or disc surgery
- Any knee surgery
- Any procedure requiring implants
- Any procedure requiring orthopedic devices and/or prosthetics
- Any varicose veins surgery
- Breast reconstruction surgery
- Cardiac surgery
- Carpal Tunnel Release
- Chemotherapy
- Congenital treatment
- CPAP machine (durable medical equipment)
- Durable Medical Equipment: Standard hospital bed, wheelchairs, walkers, crutches, oxygen, suction machine
- EMG/NCT (upper extremities)
- End Stage Renal Disease treatment/hemodialysis
- Gall Bladder Surgery
- Heart By-Pass Surgery
- Heart catheterization
- hernia surgery
- Hyperbaric oxygen treatment
- Hysterectomy
- Mastectomy
- MIBI Scan, Thallium Stress Test, Exercise Stress Test
- MRI (All)
- Non-Routine Endoscopies and Colonoscopies
- Pain Management Studies
- Physical Therapy requiring more than five (5) out-patient visits
- Prostatectomy
- Radiological and nuclear diagnostic procedures performed or ordered by the same provider on any one patient two or more time
- Robotic Suite and Robotic Surgery
- Ultrasounds (All with the exception of the first OB ultrasound & first FNST)
- Upper GI Endoscopy

**3.2.3 Excess Non-Participating Provider charges.** The Covered Person shall be responsible for charges by a Non-Participating Provider in excess of Eligible Charges, except (a) Out-Of-Service Area emergency, or (b) when the Non-Participating Provider is a Sole Source Provider as defined in §7.9 of the Agreement. A Covered Person using a Non-Participating Provider for a PPACA Emergency shall not be liable for Co-Payments or Co-Insurance in excess of Co-Payments and Co-Insurance that would have been charged if Participating Providers had been used. The Company shall pay an amount for PPACA Emergency Services computed as provided in this Agreement.

**3.2.4 Excessive Participating Provider charges.** Neither the Covered Person nor the Company shall be liable for charges by a Participating Provider in excess of the Eligible Charges. These charges shall be the responsibility of the Participating Provider.

**3.2.5 Physical therapy.** Charges for the first twenty (20) visits to a licensed physical therapist for physical therapy, including neuromuscular rehabilitation. After twenty (20) visits in a Plan Year, Company shall pay fifty percent (50%) of Eligible Charges.

3.2.6 **Pregnancy termination.** Charges for the termination of Pregnancy is covered only when Medically Necessary.

3.2.7 **Skilled Nursing Facility care.** Coverage for Skilled Nursing Facility Services is limited to sixty (60) days maximum per Plan Year.

3.2.8 **Well Child Care.** Well Child Care is covered only as set forth in §2.7 and as required by PPACA (as a PPACA Preventive Care Services or otherwise).

3.2.9 **Case Management.** Company may, in its discretion, assign Nurses or other qualified health professionals for the purpose of Case Management. Payment for alternative Services in one instance does not obligate the Company to provide the same or similar benefits for the same or any other Covered Person in any other instance. Payment of these alternative benefits is made as an exception and in no way changes or voids the benefits, terms or conditions of this Agreement.

## ARTICLE 4

### Specific Exclusions from Benefits

§4.1 No benefits will be paid for Injury or Illness, (a) when the Covered Person is entitled to receive disability benefits or compensation (or forfeits his or her right thereto) under Worker's Compensation or Employer's Liability Law for such Injury or Illness or (b) when Services for an Injury or Illness are rendered to the Covered Person by any federal, state, territorial, municipal or other governmental instrumentality or agency without charge, or (c) when such Services would have been rendered without charge but for the fact that the person is a Covered Person under the Plan.

§4.2 No benefits will be paid if any material statement made in an application for coverage, enrollment of any Dependent or in any claim for benefits is false. Upon identifying any such false statement, Company shall give the Covered Person at least 30 days notice that his or her benefits have been suspended and that his or her coverage is to be terminated. If the false statement is fraudulent or is an intentional misrepresentation of a material fact, such termination shall be retroactive to the date coverage was provided or continued based on such fraudulent statement or intentional misrepresentation of material fact. If the false statement was not a fraudulent statement or intentional misrepresentation of material fact, termination of coverage shall be effective no earlier than the date of the suspension. The Covered Person may dispute any termination of coverage by filing a claim under the PPACA Claims Procedure for internal or external appeals, set out in §6.7 of this Certificate. If an appeal under §6.7 is filed, the resolution of the matter shall be in accordance with the outcome of the appeal proceedings. If no appeal is filed for any retroactive termination and the Company paid benefits prior to learning of any such false statement, the Subscriber must reimburse the Company for such payment. Terminations of coverage shall be handled in accordance with the applicable claims procedure requirements of Section 2719 of the PHSA, as added by PPACA. Retroactive terminations of coverage shall not violate the applicable prohibitions on rescissions of Section 2712 of the PHSA, as added by PPACA, and rescissions shall be handled in compliance with PPACA's applicable claim denial requirements.

§4.3 No benefits will be paid for confinement in a Hospital or in a Skilled Nursing Facility if such confinement is primarily for custodial or domiciliary care. (Custodial or domiciliary care includes that care which consists of training in personal hygiene, routine nursing services and other forms of self care. Custodial or domiciliary care also includes supervisory services by a Physician or Nurse for a person who is not under specific medical or surgical treatment to reduce his or her disability and to enable that person to live outside an institution providing such care.) Company and not Covered Person shall be liable if the Company approves the confinement, regardless of who orders the service.

§4.4 No benefits will be paid for nursing and home health aide services provided outside of the home (such as in conjunction with school, vacation, work or recreational activities)

§4.5 No benefits will be paid for private Duty Nursing. This provision does not apply to Home Health Care.

§4.6 No benefits will be paid for special medical reports, including those not directly related to treatment of the Member. (e.g., Employment or insurance physicals, and reports prepared in connection with litigation.)

§4.7 No benefits will be paid for services required by third parties, including but not limited to, physical examinations, diagnostic services and immunizations in connection with obtaining or continuing employment, obtaining or maintaining any license issued by a municipality, state, or federal government, securing insurance coverage, travel, school admissions or attendance, including



examinations required to participate in athletics, except when such examinations are considered to be part of an appropriate schedule of wellness services.

§4.8 No benefits will be paid for court ordered services, or those required by court order as a condition of parole or probation.

§4.9 No benefits will be paid for Services and supplies provided to a Covered Person for an Injury or Illness resulting from an attempted suicide by that Covered Person unless resulting from a medical condition (including physical or mental health conditions) or from domestic violence.

§4.10 No benefits will be paid for Services and supplies provided in connection with intentionally self-induced or intentionally self-inflicted injuries or illnesses unless resulting from a medical condition (including physical or mental conditions) or from domestic violence.

§4.11 No benefits will be paid for Services and supplies provided to a Covered Person for Injuries incurred while the person was committing a criminal act.

§4.12 Unless otherwise specifically provided in the Agreement, no benefit will be paid for, or in connection with, airfare and the Company will not pay for the transportation from Guam to any off-island facility, nor for any other non-medical expenses such as taxes, taxis, hotel rooms, etc. In no event will the Company pay for air ambulance or for the transportation of the remains of any deceased person.

§4.13 No benefits will be paid for living expenses for Covered Persons who require, or who of their own accord seek, treatment in locations removed from their home.

§4.14 No benefits will be paid for Services and supplies provided to a dependent of a non-Spouse Dependent. Dependents of non-Spouse Dependents are not eligible for coverage. For example, when a Dependent, other than a Spouse of the Subscriber, has a child, that child is a dependent of a non-Spouse Dependent and is not eligible to become covered under the Plan, unless such child otherwise becomes eligible for enrollment.

§4.15 No benefits will be paid for home uterine activity monitoring.

§4.16 No benefits will be paid for services performed by an immediate family member for which, in the absence of any health benefits coverage, no charge would be made. Immediate family member is defined as parents, spouses, siblings, or children of the insured member.

§4.17 No benefits will be paid for treatment of occupational injuries and occupational diseases, including those injuries that arise out of (or in the course of) any work for pay or profit, or in any way results from a disease or injury which does. If a Member is covered under a Workers' Compensation law or similar law, and submits proof that the Member is not covered for a particular disease or injury under such law, that disease or injury will be considered "nonoccupational" regardless of cause. The Covered Benefits under the Group Health Insurance Certificate for Members eligible for Workers' Compensation are not designed to duplicate any benefit to which they are entitled under Workers' Compensation Law. All sums payable for Workers' Compensation services provided under the Group Health Insurance Certificate shall be payable to, and retained by Company. Each Member shall complete and submit to Company such consents, releases, assignments and other documents reasonably requested by Company in order to obtain or assure reimbursement under the Workers' Compensation Law

§4.18 No benefits will be paid for:

4.18.1 Drugs or substances not approved by the Food and Drug Administration (FDA), or

4.18.2 Drugs or substances not approved by the FDA for treatment of the illness or injury being treated unless empirical clinical studies have proven the benefits of such drug or substance in treating the illness or injury, or

4.18.3 Drugs or substances labeled "Caution: limited by federal law to investigational use."

4.18.4 Any drug or substance which does not by federal or state law, require a prescription order (i.e., an over-the-counter "OTC" drug).

§4.19 No benefits will be paid for experimental or Investigational Procedures, or ineffective surgical, medical, psychiatric, or dental treatments or procedures, research studies, or other experimental or investigational health care procedures or pharmacological regimes, unless deemed medically necessary by the patient's physician, are associated with a qualifying clinical trial per PPACA regulations, and pre-authorized by the Company.

Per PHSA sec. 2709(a)(2), added by PPACA sec 10103(c), the plan must pay for items and services furnished in connection with approved clinical trials, and cannot exclude such items and services based on an exclusion for experimental or investigational treatments. The requirement mandates coverage of all medically necessary charges associated with the clinical trial, such as physician charges, labs, X-rays, professional fees and other routine medical costs.

An approved clinical trial is defined as:

- Phase I, Phase II, Phase III, or Phase IV clinical trial,
- Being conducted in relation to the prevention, detection or treatment for Cancer or other life threatening disease or condition, and
- Is one of the following:
  1. A federally funded or approved trial.
  2. A clinical trial conducted under an FDA investigational new drug application.
  3. A drug trial that is exempt from the requirement of an FDA investigational new drug application.

§4.20 No benefits will be paid for services or supplies related to Genetic Testing except as may be required by PPACA.

§4.21 No benefits will be paid for any item or substance that is available without a Physician's prescription even if prescribed by a Physician, except as otherwise provided herein and except for medicines and supplies Medically Necessary for inpatient care.

§4.22 No benefits will be paid for Services and supplies provided to perform transsexual surgery or to evaluate the need for such surgery. Evaluations and subsequent medications and Services necessary to maintain transsexual status are also excluded from coverage, as are complications or medical sequela of such surgery or treatment.

§4.23 No benefits will be paid for injuries incurred by the operator of a motorized vehicle while such operator is under the influence of intoxicating alcoholic beverage, controlled drugs, or substances. If a blood alcohol level or the DRAEGER ALCO TEST is available and shows levels that are equal to or exceed 0.08 grams percent (gms%) or that exceed the amount allowed by law as constituting legal intoxication, no benefits will be paid.

§4.24 No benefits will be paid for any medical Service or supply which is available to the Covered Person on Guam and which is paid by or reimbursable through a governmental agency or institution that provides medical and healthcare services to low-income or indigent persons, provided, however, this exclusion *shall* not apply to the treatment of any communicable disease as defined in Article 3 of Chapter 3, Title 10, Guam Code Annotated, and for which the Company *shall* pay for medical services and supplies as is medically necessary for the treatment of Covered Person. However, notwithstanding the aforesaid, in no event will the Company consider the availability of benefits under Medicaid or Medically Indigent Program when paying benefits under this Agreement.

§4.25 No benefits will be paid for dental services including but not limited to, services related to the care, filling, removal or replacement of teeth and treatment of injuries to or diseases of the teeth, dental services related to the gums, apicoectomy (dental root resection), orthodontics, dental splint and other dental appliances, root canal treatment, soft tissue impactions, alveolectomy, augmentation, and vestibuloplasty, treatment of periodontal disease, false teeth, prosthetic restoration of dental implants, maxillary and mandible implants (Osseo integration) and all related services, removal of impacted teeth, bite plates, orthognathic surgery to correct a bit defect. This exclusion does not apply to:

4.25.1 Removal of bony impacted teeth, bone fractures, removal of tumors, and biopsy or excision of oral cysts.

4.25.2 Emergency Services to stabilize an acute injury to sound natural teeth, the jawbone or surrounding structures, if provided within 48 hours of the injury or as required by PPACA to stabilize and treat a PPACA Emergency.

4.25.3 Surgical treatment of TMJ as described in the Covered Benefits Section "Temporomandibular Joint Syndrome (TMJ) Services".

4.25.4 Dental anesthesia when provided according to the conditions described in the Covered Benefits Section, "Limited General Anesthesia for Dental Procedures".

4.25.5 Procedures deemed medically necessary by patient's physician and pre-authorized by Company.

§4.26 No benefits will be paid in connection with elective abortions unless Medically Necessary.

§4.27 No benefits will be paid for vision care services and supplies, including orthoptics (a technique of eye exercises designed to correct the visual axes of eyes not properly coordinated for binocular vision), lasik, keratoplasty, and radial keratotomy, including related procedures designed to surgically correct refractive errors except as provided in the Covered Benefits section of the Group Health Insurance Certificate and the Schedule of Benefits.

§4.28 No benefits will be paid for eyeglasses or contact lenses or for Services and supplies in connection with surgery for the purpose of diagnosing or correcting errors in refraction except as provided in the Schedule of Benefits.

§4.29 No benefits will be paid in connection with any injuries sustained while the Covered Person is operating any wheeled vehicle during an organized, off-road, competitive sporting event.

§4.30 No benefits will be paid for personal comfort or convenience items, including those services and supplies not directly related to medical care, such as guest meals and accommodations, barber services, telephone charges, radio and television rentals, homemaker services, travel expenses, take-home supplies.

§4.31 No benefits will be paid for hypnotherapy.

§4.32 No benefits will be paid for religious, marital and sex counseling, including services and treatment related to religious counseling, marital/relationship counseling, and sex therapy.

§4.33 No benefits will be paid for cosmetic Surgery or other services intended primarily to improve the Member's appearance or treatment relating to the consequences of, or as a result of, Cosmetic Surgery. This exclusion does not apply to:

4.32.1 Medically Necessary reconstructive surgery as described in the Covered Benefits sections Mastectomy and Reconstructive Breast Surgery or Reconstructive Surgery.

4.32.2 surgery to correct the results of injuries causing an impairment;

4.32.3 surgery as a continuation of a staged reconstruction procedure, including but not limited to post-mastectomy reconstruction;

4.32.4 surgery to correct congenital defects necessary to restore normal bodily functions, including but not limited to, cleft lip and cleft palate.

§4.34 No benefits will be paid for routine foot/hand care, including routine reduction of nails, calluses and corns.

§4.35 Except as otherwise provided in this agreement, no benefit will be paid for specific non-standard allergy services and supplies, including but not limited to, skin titration (wrinkle method), cytotoxicity testing (Bryan's Test), treatment of non-specific candida sensitivity, and urine auto-injections.

§4.36 No benefits will be paid for Services and supplies associated with growth hormone treatment unless the Covered Person is proven to have growth hormone deficiency using accepted stimulated growth hormone analyses and also shows an accelerated growth response to growth hormone treatment. Under no circumstances will growth hormone treatment be covered to treat short stature in the absence of proven growth hormone deficiency.

§4.37 No benefits will be paid for Services and supplies provided for liposuction.

§4.38 No benefits will be paid for weight reduction programs, or dietary supplements, except as pre-authorized by Company for the Medically Necessary treatment of morbid obesity.

§4.39 No benefits will be paid for any drug, food substitute or supplement or any other product, which is primarily for weight reduction unless medically necessary.

§4.40 Except as provided in this Agreement, or unless medically necessary for the treatment of Morbid Obesity or other disease, no benefit will be paid for gastric bypass, stapling or reversal if for the purpose of weight reduction or aesthetic purposes.

§4.41 No benefits will be paid for surgical operations, procedures or treatment of obesity, except when pre-authorized by Company.

§4.42 No benefits will be paid for the treatment of male or female Infertility, including but not limited to:

§4.42.1 The purchase of donor sperm and any charges for the storage of sperm;

§4.42.2 The purchase of donor eggs and any charge associated with care of the donor required for donor egg retrievals or transfers or gestational carriers;

§4.42.3 Charges associated with cryopreservation or storage of cryopreserved embryos (e.g. office, hospital, ultrasounds, laboratory tests, etc.);

§4.42.4 Home ovulation prediction kits;

§4.42.5 Injectable Infertility medications, including but not limited to, menotropins, hCG, GnRH agonists, IVIG;

§4.42.6 Artificial Insemination, including in vitro fertilization (IVF), gamete intrafallopian tube transfer (GIFT), zygote intrafallopian tube transfer (ZIFT), and intracytoplasmic sperm injection (ICSI), and any advanced reproductive technology ("ART") procedures or services related to such procedures;

§4.42.7 Any charges associated with care required for ART (e.g., office, Hospital, ultrasounds, laboratory tests, etc.);

§4.42.8 Donor egg retrieval or fees associated with donor egg programs, including but not limited to fees for laboratory tests;

§4.42.9 Any charge associated with a frozen embryo transfer including but not limited to thawing charges;

§4.42.10 Reversal of sterilization surgery; and

§4.42.11 Any charges associated with obtaining sperm for ART procedures.

§4.43 Except as provided in this Agreement, no benefits will be paid for the purchase or rental of durable or disposable medical equipment and supplies, other than for equipment and supplies used in a Hospital or Skilled Nursing Facility, or in conjunction with an approved Hospital or Skilled Nursing Facility confinement, or items covered as preventive care under well-women coverage such as breastfeeding supplies in accordance with reasonable medical management techniques, or as otherwise noted in the Agreement.

§4.43 No benefits will be paid for household equipment, including but not limited to, the purchase or rental of exercise cycles, water purifiers, hypo-allergenic pillows, mattresses or waterbed, whirlpool or swimming pools, exercise and massage equipment, central or unit air conditioners, air purifiers, humidifiers, dehumidifiers, escalators, elevators, ramps, stair glides, emergency alert equipment, handrails, heat appliances, improvements made to a Member's house or place of business, and adjustments to vehicles.

§4.44 No benefits will be paid for outpatient supplies (except diabetic supplies), including but not limited to, outpatient medical consumable or disposable supplies such as syringes, incontinence pads, and elastic stockings.

§4.45 No benefits will be paid for Services and supplies provided for penile implants of any type.

§4.46 No benefits will be paid for Services and supplies to correct sexual dysfunction.

§4.47 Except as specifically provided, if a benefit is excluded, all Hospital, surgical, medical treatments, prescription drugs, laboratory services, and x-rays in relation to the excluded benefits are also excluded as of the time it is determined that the benefit is excluded.

§4.48 Except as specifically provided in this Agreement, no benefits will be provided for Services and supplies not ordered by a Physician or not Medically Necessary.

§4.49 No benefits will be paid for temporomandibular joint disorder treatment (TMJ) including treatment performed by prosthesis placed directly on the teeth except as covered in the Covered Benefits Section

§4.50 Except as specifically provided in this Agreement, no benefits will be paid for corrective appliances, artificial aids and durable equipment.

§4.51 No benefits will be paid for Services for which the Covered Person or Subscriber is not legally obligated to pay.

§4.52 No benefit will be paid for ambulance services when used for routine and convenience transportation to receive outpatient or inpatient services, unless deemed medically necessary with prior authorization obtained from Company.

§4.53 Elective or voluntary enhancement procedures, surgeries, services, supplies and medications including, but not limited to, hair growth, hair removal, hair analysis, sexual performance, athletic performance, anti-aging, and mental performance, even if prescribed by a Physician.

§4.54 No benefits will be paid for hospital take-home drugs.

§4.55 No benefits will be paid for fees for any missed appointments or voluntary transfer of records as requested by the Covered Person.

§4.56 No benefits will be paid for educational services. Special education, including lessons in sign language to instruct a Member, whose ability to speak has been lost or impaired, to function without that ability, are not covered.

§4.57 No benefits will be paid for Intelligence, IQ, aptitude ability, learning disorders, or interest testing not necessary to determine the appropriate treatment of a psychiatric condition.

§4.58 No benefits will be paid for Psychoanalysis or psychotherapy credited toward earning a degree or furtherance of education or training regardless of diagnosis or symptoms or whether providing or receiving the Service.

§4.59 No benefits will be paid for non-medically necessary services, including but not limited to, those services and supplies:

4.59.1 Which are not Medically Necessary, for the diagnosis and treatment of illness, injury, restoration of physiological functions, or covered preventive services;

4.59.2 That do not require the technical skills of a medical, mental health or a dental professional;

4.59.3 Furnished mainly for the personal comfort or convenience of the Member, or any person who cares for the Member, or any person who is part of the Member's family, or any Provider;

4.59.4 Furnished solely because the Member is an inpatient on any day in which the Member's disease or injury could safely and adequately be diagnosed or treated while not confined;

4.59.5 Furnished solely because of the setting if the service or supply could safely and adequately be furnished in a Physician's or a dentist's office or other less costly setting.

§4.60 As required by HIPAA, no source-of-injury exclusion, such as exclusion 4.28 for off-road sporting events, will apply if the accident resulted from an act of domestic violence or a medical condition (including both physical and mental health conditions).

§4.61 No benefits will be paid for any item or substance that is available without a Physician's prescription even if prescribed by a Physician, except as otherwise provided herein and except for medicines and supplies Medically Necessary for inpatient care.

## ARTICLE 5

### General Terms and Conditions

§5.1 **Eligibility.** An individual is eligible for Enrollment and benefits only if he or she satisfies the definition of Covered Person and has not previously had coverage under the Plan which was terminated for cause.

§5.2 **Dependent.** A Dependent is either a:

5.2.1 **Spouse.** The Spouse of the Subscriber includes: (i) a lawful wedded spouse; or (ii) a divorced spouse where there is an order issued by a court having jurisdiction over the parties that the Subscriber continue to provide such spouse coverage under this Plan, provided that no Subscriber can enroll more than one (1) person as a spouse at a time unless one spouse is covered pursuant to a court order.

5.2.2 **Domestic Partner.** The Domestic Partner of the Subscriber shall be defined as a person who: (1) is 18 years of age or older; (2) is of the same or opposite sex as the Subscriber; (3) is in an exclusive mutually committed relationship with the Subscriber and intends to remain the Subscriber's sole domestic partner; (4) is not married to any other person; (5) is not related to the Subscriber by blood to a degree that would prohibit marriage; and (6) has cohabitated with the Subscriber for the two (2) consecutive years immediately preceding the proposed Enrollment.

5.2.3 **Children.** The following are eligible for coverage as children under the Plan.

5.2.3.1 Subscriber's biological or adopted children or children placed for adoption. Eligible children include the Subscriber's biological or adopted children or children placed with the Subscriber for adoption by the Subscriber, and children under legal guardianship of the Subscriber; and children of the Subscriber's lawfully married Spouse. The Plan may not deny enrollment of a child on the grounds that the child is not claimed as a Dependent on the Subscriber's Guam Tax Return or on the grounds that the child does not reside with the Subscriber or in the Plan's Service Area. If a Subscriber is required, by a court or administrative order, to provide health care for a child, as defined above, the Plan shall permit the Subscriber to enroll, under family coverage, the child and himself/herself, provided the child is otherwise eligible, without regard to any open enrollment season or open enrollment restriction; or

5.2.3.2 Incapacitated child. An unmarried, dependent biological child, adopted child, or child placed for adoption with the Subscriber or the Subscriber's lawfully wedded spouse, which child is over the age of twenty-six (26) years, and incapable of self-sustaining employment by reason of mental retardation or physical handicap, and is therefore primarily dependent on the Subscriber for support and maintenance and has been continuously dependent since reaching age twenty-six (26); or

5.2.3.3 Child under court order. A biological child, adopted child, or child placed for adoption with the Subscriber who does not reside with the Subscriber, provided that a court having jurisdiction over the parties and the subject matter has issued an order requiring the Subscriber to provide such child with health coverage. If such coverage is effected through this Plan, such coverage shall continue only so long as the order remains in effect, and such child is and remains otherwise eligible; or

5.2.3.4 Child of Domestic Partner. A child of an eligible Domestic Partner who is not the biological child, adopted child or child placed with the Subscriber for adoption if (i) a court having jurisdiction over the parties and the subject matter has issued an order granting the guardianship of such child to the Subscriber; and (ii) such child is and remains otherwise eligible; or

5.2.3.5 Child under guardianship. A child for whom (i) a court having jurisdiction over the parties has issued an order granting the guardianship of such child to the Subscriber; and (ii) such child is and remains otherwise eligible. Children under guardianship will only remain eligible until the guardianship terminates but no later than up to age 26. An unborn child does not qualify as a child

under guardianship. Any such retroactive termination shall be handled in compliance with PPACA regulations.

- 5.2.3.6 Adult Child up to Age 26. As required by PPACA, a child having a relationship to the Subscriber or the Subscriber's lawfully married spouse as provided in section 5.2.1 and 5.2.3.1 shall be eligible until the child's 26th birthday, regardless of whether the child is married, dependent on the Subscriber, or a student. The spouse of a married adult child shall not be eligible and the child of an adult child shall not be eligible for coverage under this section 5.2.3.6. The adult child shall receive coverage on the same terms as other children except for any special rights designed for individuals below the age of 19 and any other differences permitted by PPACA. Any adult child who was previously covered by the plan and excluded due to age, marital status, or cessation of dependency or student status, and any adult child who was previously denied coverage due to age, marital status, or lack of dependency or student status, shall be notified of the ability to enroll under this provision, and shall be given at least 30 days to elect to enroll. Any such child electing to enroll under this provision shall be treated as a HIPAA special enrollee.

5.2.4 Child Not Denied Coverage. In accordance with Title 10 GCA Section 95101, and notwithstanding any other provision of this Agreement, no child whose parent is a Subscriber or Spouse shall be denied coverage solely for any of the following reasons:

- 5.2.4.1 The child was born out of wedlock.
- 5.2.4.2 The child is not claimed as a dependent on the parent's Guam tax return.
- 5.2.4.3 The child does not reside with the parent or in the Service Area.
- 5.2.4.4 The child has a pre-existing or excluded medical condition.
- 5.2.4.5 The child is adopted or the subject of adoption proceedings.

§5.3 **Residency Requirement.** Except as otherwise specifically stated in this Agreement, Enrollment in the Plan shall be limited to only those Covered Persons who are Domiciled in the Service Area and do not reside out of the Service Area for more than 182 days per Plan Year. Company shall be entitled to prior notice from the Covered Person concerning his/her residency status and the failure of the Covered Person to provide this prior notice may result in a denial of benefits under this Agreement. Company shall also 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. Covered Persons outside the Service Area must coordinate their care and obtain Prior Authorization from the Company for Services, excluding Emergency services. For a Covered Person who is Domiciled in the Service Area, time spent receiving continuous medical Services out of the Service Area shall not count toward the 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 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 out of

the Service Area. Company shall use its best efforts, to include making available written forms and materials, to inform Subscribers of the requirements of this Section during enrollment period, in its marketing materials and on its website.

§5.4 **Enrollment documentation.** The following documents are required prior to enrolling the following Dependents:

5.4.1 **Overage child.** For a Dependent child over the limiting age:

5.4.1.1 Eligible Dependent Children residing outside the Service Area are eligible for coverage up to but not including their twenty-sixth (26<sup>th</sup>) birthday, provided proof of eligibility such as but not limited to a legal birth certificate being submitted to the Company, The Eligible Dependent Children must select a Participating Provider as provided in §2.1.1 of this Certificate. To obtain coverage, all care must be provided or coordinated with the Participating Primary Care Provider and Prior Authorization must be obtained from the Company for Specialty and Hospital Services excluding Emergency and covered Primary Care Services.

5.4.1.2 Proof of incapacity. For continuing dependency resulting from incapacity, satisfactory proof of such continuing incapacity and dependency, within thirty-one (31) days of such child attaining the limiting age and annually thereafter.

5.4.1.3 Child under court order. For a Dependent child under court order requiring the Subscriber to provide health coverage for such child, a certified copy of the court order requiring such coverage.

5.4.1.4 Child under guardianship. For a Dependent child under guardianship, a certified copy of the court order granting the guardianship of such to the Subscriber.

5.4.2 **Non-resident child.** For a Dependent child not residing with the Subscriber, and is not under court order and is not covered as an adult child up to age 26, and is over the age of 26, is a dependent of the Subscriber and an incapacitated child as stated under Section 5.2.3.2:

5.4.2.1 Affidavit. A notarized affidavit of support executed by the Subscriber.

5.4.2.2 Any other documentation as required by the Company to show the Dependent Child's relationship to Subscriber.

5.4.3 **Child under court order.** For a Dependent child under court order requiring the Subscriber to provide health coverage for such child, a certified copy of the court order requiring such coverage.

5.4.4 **Child under guardianship.** For a Dependent child of an eligible Domestic Partner and a Dependent child otherwise under guardianship, a certified copy of the court order granting the guardianship of such child to the Subscriber. The Subscriber shall also be required to provide such evidence as to the qualification of the Dependent for legal guardianship as Company may require.

5.4.5 **Domestic Partner of the Subscriber.** A Domestic Partner may only be enrolled during an open enrollment period. At the time that a Subscriber attempts to enroll a Domestic Partner, the Company may require an affidavit from said Subscriber and Domestic Partner in order to establish the person's eligibility as a Domestic Partner. If the affidavit contains any material factual matters which later prove to be untrue as a result of fraud or intentional misrepresentation of material fact, the Domestic Partner shall be retroactively terminated to the effective date of the Plan, and the Subscriber and Domestic Partner shall be liable to reimburse the Company for the costs of all Services which have been provided for the Domestic Partner. If any material factual matters were not the result of fraud or intentional misrepresentation of material fact, termination of coverage of the Domestic Partner shall be prospective. Domestic Partner of the Subscriber.

5.4.5.1 Affidavit. A notarized affidavit executed by both the Subscriber and the Domestic Partner in a form acceptable to the Company verifying, among other facts, that the Subscriber and Domestic Partner have cohabitated for the two (2) consecutive years immediately preceding the proposed Enrollment of such Domestic Partner.

5.4.5.2 Proof of eligibility. Satisfactory proof to the Company that the Domestic Partner and Subscriber meet the requirements of a domestic partnership as defined for purposes of this Agreement.



§5.5 **Institutionalized applicant.** Any individual shall be entitled to the full benefits of this Plan beginning on his or her effective date regardless of any pre-existing medical condition and regardless of whether he or she is confined as an inpatient in any institution. In the event the individual is confined in an inpatient facility covered under this Agreement and incurring costs covered under this Plan, Company will make best efforts to coordinate with the individual's prior carrier, if any, to minimize disruption in the individual's medical care and to minimize cost to the Plan.

§5.6 **Enrollment.**

5.6.1 Enrollment during an open Enrollment period. An eligible individual may enroll in the Plan and may cause his or her Dependents to become Enrolled, during an open Enrollment period.

5.6.2 Enrollment after open Enrollment period. Persons becoming eligible for Enrollment after completion of the open Enrollment period under this Agreement may elect to enroll within thirty (30) days of the date of first becoming eligible.

5.6.3 After thirty (30) Day Enrollment.

5.6.3.1 Subscriber. Subject to §5.6.3.3, an individual eligible to enroll as a Subscriber who does not make written election for Enrollment within thirty (30) days after first becoming eligible shall not be permitted to enroll hereunder until the next open Enrollment period unless entitled to special enrollment rights under HIPAA or PPACA.

5.6.3.2 Dependents. Subject to §5.6.3.3, a Subscriber with Dependents eligible for Enrollment who does not make written election for Enrollment of such Dependents within thirty (30) days after their first becoming eligible shall not be permitted to enroll such Dependents hereunder until the next open Enrollment period unless entitled to special enrollment rights under HIPAA or PPACA.

5.6.3.3 HIPAA and PPACA Enrollment requirements. If an individual eligible to Enroll as a Subscriber loses other employer coverage or acquires a Dependent through marriage, birth, adoption of a child under nineteen (19) years of age, or placement for adoption of a child under nineteen (19) years of age, then the special Enrollment requirements of HIPAA may be applicable. If a Subscriber becomes eligible for a HIPAA special enrollment, such Subscriber and Spouse and children, if applicable, shall be entitled to change from Class I or Class II to Class III during such special Enrollment. A child previously excluded, or whose coverage ceased, because of age, shall have special enrollment rights to enter or reenter the Plan upon receipt of notice of the right to do so, to the extent required by Section 2714 of the PHSA, as added by PPACA, and the regulations thereunder.

§5.7 **Commencement of coverage.** After fulfilling all conditions of Enrollment as set out in this Agreement, coverage under the Plan shall commence:

5.7.1 Previously Enrolled. As of the Effective Date of this Agreement, for a Subscriber and his or her Covered Dependents who are Enrolled on such Effective Date.

5.7.2 Not yet Enrolled. As of the first day following the pay period in which the individual satisfies the Enrollment requirements set forth in this Agreement and Company becomes entitled to receive the appropriate Premium for a Subscriber and his or her Covered Dependents who become Enrolled subsequent to the Effective Date of this Agreement.

5.7.3 Except as provided in §5.8, coverage of a Dependent of a Subscriber who becomes eligible after such Subscriber has been Enrolled hereunder shall commence as of the first day of the pay period following the timely filing of an application for Enrollment and liability for the appropriate Premium accrues. Coverage for a child born, adopted (if under nineteen (19) years), placed for adoption (if under nineteen (19) years), or for whom legal guardianship has taken place after the Subscriber has been enrolled hereunder shall commence from the date of birth, date of adoption, date of placement for adoption, or for child under guardianship, from the date at which custody commences, whichever is applicable; provided that the Subscriber applies to Enroll the child within the first thirty (30) days of that date and the applicable Premium is paid.

5.7.4 Open Enrollment period. For any eligible individual and his or her eligible Dependents who apply for Enrollment or re-Enrollment during GovGuam's open Enrollment period, coverage shall commence as of the Plan effective date first following the open Enrollment.

§5.8 **Continuing Enrollment.** Subscribers and Covered Dependents enrolled under this Plan on the last day of a Plan Year shall be automatically enrolled for the following Plan Year unless they change to some Other Plan during open Enrollment or unless this Plan is not renewed.

§5.9 **Medical term.** Covered Persons must continue medical coverage under this Agreement for a minimum of twelve (12) months or for the balance of the Plan Year, except when terminating GovGuam employment, or when termination of Enrollment is approved by GovGuam's Director of Administration and by Company. A rate increase during the Plan Year is not grounds for disenrollment.

§5.10 **Dental eligibility and term**

5.10.1 Covered Persons may enroll in the Company's dental plan only if they are enrolled in Company's medical plan. Covered Persons in the medical and dental Plan must continue their medical and dental coverage under this Agreement for a minimum of twelve (12) months or for the balance of the Plan Year, except when terminating GovGuam employment, or when termination of Enrollment is approved by GovGuam's Director of Administration and by Company. A rate increase during the Plan Year is not grounds for disenrollment.

§5.11 **Leave without pay, reduction in force, sabbatical and related status.** A Subscriber, who enters the status with GovGuam of leave without pay, sabbatical leave, educational leave of absence or a faculty exchange program as approved by GovGuam, or is laid off due to a reduction in the workplace by GovGuam, and all enrolled Dependents of such Subscriber, can remain covered under this Agreement if such Subscriber self-pays both the Subscriber's and GovGuam's share of the premium for such coverage directly to the Company. Within 10 business days following commencement of the leave without pay, reduction in force, sabbatical and related status, the Subscriber must provide Company (i) proof, in a form satisfactory to Company, that he or she has been approved by GovGuam for such status and (ii) written notice of his or her intention to continue coverage during the leave. Such notice must be accompanied by the first month's Premium. Subsequent Premium payments must be made by the 15<sup>th</sup> day of the month preceding the month for which coverage is being paid. Subscribers who do not make their Premium payments when due shall have their coverage terminated as of the last day for which payment was made and shall not be allowed to reenroll in the Plan until the next Enrollment period following the return to work. In no case, however, can such continued membership in the Plan extend for a period in excess of 12 months. If Company does not receive the full amount of Premium due at least 15 days in advance, it shall make a good faith effort to notify the Subscriber that Coverage shall terminate on the last day of the month for which Premium was paid. Notwithstanding the aforesaid, laid off Subscribers may not remain in the Plan beyond the end of the current Plan Year.

5.11.1 Notwithstanding the aforesaid, if the leave is taken pursuant to the Family and Medical Leave Act of 1993, Company shall fully cooperate in assisting GovGuam in complying with this Act.

5.11.2 Active employees required to live out of the Service Area pursuant to their employment by GovGuam or GovGuam sponsored training status and their eligible Dependents shall be eligible for coverage under the Plan.

§5.12 **Military leave.** Company shall be given prior written notice if a Subscriber shall take a military leave of absence ("Military Leave"). Coverage for such Subscriber shall continue for the shorter of eighteen (18) months or the duration of the Military Leave up to a cumulative length of no longer than five (5) years unless otherwise agreed upon with Company, provided Premiums are paid. Even if the Subscriber elects not to continue coverage for himself or herself or any Dependent during the Subscriber's Military Service, the Subscriber and all Dependents shall be eligible to re-enroll immediately after such Military Leave terminates, without a waiting period or health statement, upon the Subscriber's return to employment by GovGuam if the Subscriber satisfies applicable requirements that were in the Plan prior to such Military Leave and no discharge from Military Service is less than fully honorable. Company shall not provide coverage for any Injury or Illness determined by the Secretary of Veterans' Affairs to have been incurred or aggravated during Military Service. The provisions of this paragraph are notwithstanding any other section of this Agreement.

§5.13 **Reduction in hours.** If a Subscriber's work hours are reduced below 30 per week due to a GovGuam cost-saving program, such Subscriber and his/her enrolled Dependents shall be eligible to remain in the Plan in accordance with all other terms of the Plan. Alternatively, such Subscriber shall have the option to disenroll within 30 days of the effective date on which the reduction in hours occurs provided that, within 10 business days following such effective date, the Subscriber shall have provided notice to Company

of his/her intent to disenroll. Further, he/she shall not be eligible to reenroll until a future open Enrollment or until his/her work hours are increased to at least 30 hours per week.

**§5.14 Procedure upon retirement.** A newly retired Subscriber, and all of his/her enrolled Dependents, may remain in the Plan by paying the full amount of the Premium due to the Company, in accordance with the time frames applicable to GovGuam, until such Subscriber's status change from active to retired employee is fully processed by GovGuam. However, within 10 business days of separation of active employment, GovGuam must certify in writing to the Company that such Subscriber is eligible for retiree health coverage. Further, within 10 business days of separation from active employment, the Subscriber must provide the Company with written notice of his/her separation from active employment and intention to continue coverage.

**§5.15 Coordination of Benefits.** If a Covered Person receives any medical, Surgical, Hospital or other Services entitling that Covered Person to the payment of benefits under this Agreement and such Services are also covered or payable under any Other Plan, which, for purposes of this section, shall include Medicare Parts A and B and any motor vehicle insurance policy or contract, then the benefits of this Plan and each other plan shall be appropriately coordinated and adjusted so that such benefits shall not exceed one hundred percent (100%) of Eligible Charges. Integration or coordination of benefits with Medicare shall be done on a "Carve Out" or "Benefit Offset" basis. When any Other Plan provides benefits in the form of Services rather than cash payments, the reasonable cash value of such Services rendered shall be deemed to be both an allowable expense and a benefit paid. The coordination and adjustment of benefits shall be determined as follows:

5.15.1 The plan under which the Covered Person is a Subscriber is primary.

5.15.2 In the case of a Dependent child, the plan of the parent whose birthday occurs earlier in the calendar year is the primary carrier. If both parents have the same birthday, then the plan in which the Covered Person has been enrolled for the longest continuous time pays first. However, other rules apply if a claim is made for an insured dependent child whose parents are separated or divorced. If the parent with custody of the child has not remarried, the plans shall pay in this order: first, any plan in which the child is insured as a Dependent of the parent who has custody; and second, any plan in which the child is insured as a Dependent of the parent who does not have custody.

If the parent with custody of the child has remarried, the plans shall pay in this order: first, any plan in which the child is insured as a dependent of the parent who has custody; second, any plan in which the child is insured as the dependent of the stepparent; and third, any plan in which the child is insured as the dependent of the parent who does not have custody.

These rules do not apply when a court decree fixes the responsibility for the health Services costs of a child whose parents have separated or divorced. Any plan in which the child is insured as the dependent of a parent with this legal responsibility shall always pay first.

If the order of payment is unclear, the National Association of Insurance Commissioners' (NAIC) model shall apply.

5.15.3 In no event shall coordination of benefits require Company to: (i) make any payment which would exceed the amount for which it would be liable under this Plan if a Covered Person were not eligible to receive benefits from any other plan; or (ii) pay the excessive, unnecessary or unreasonable portion of any charge or expense. A Covered Person who is also enrolled in one or more of Company's other plans shall be entitled to receive benefits from all of such plans not to exceed one hundred percent (100%) of Eligible Charges.

**§5.16 Subrogation, Right of Reimbursement and Right of Recovery.** The Company reserves the "right of subrogation" the "right of reimbursement" and the "right of recovery," in the event of an illness, injury or condition caused by a third party or with respect to which a "first party payor" has liability, for which the Company has paid or is being requested to pay benefits under this Plan or for which the Company chooses to advance benefits as provided in this Section.

#### 5.16.1 Definitions.

5.16.1.1 As used throughout this provision, the term "Responsible Party" means any party actually, possibly, or potentially responsible for making any payment to or for the benefit of a Covered Person due to a Covered Person's injury, illness or condition. The term "Responsible Party" includes (without limitation) the liability insurer of such party or any insurance coverage.

- 5.16.1.2 For purposes of this provision, the term "Insurance Coverage" refers to any coverage providing medical expense coverage or liability coverage including, but not limited to, uninsured or underinsured motorist coverage, personal umbrella coverage, medical payments coverage, workers' compensation coverage, no-fault automobile insurance coverage, or any first party insurance coverage.
- 5.16.1.3 For purposes of this provision, a "Covered Person" includes anyone on whose behalf the Company pays or provides any benefit including, but not limited to, the participating employee or former employee and any minor child or other dependent of any such employee, and any person who acts or holds funds on behalf of such an employee, former employee or dependent. For example, if an injured Covered Person is a minor child, and the child's parents receive a recovery for the child, "Covered Person" for purposes of the Company's right to repayment shall include a right for the Company to recover from the parents or other party receiving or holding such recovery on behalf of the child
- 5.16.1.4 For the purposes of this section, a first party payor is a person or company with whom a Covered Person has either a contractual relationship, is in privity with a non-responsible party through whom benefits are available that are related to the Illness or Injury, or for whom benefits are otherwise available, regarding the Illness or Injury but regardless of fault, such as workers' compensation coverage, uninsured motorist coverage and no-fault motorist coverage.

**5.16.2 Subrogation.** Immediately upon paying or providing any benefit under the Government of Guam Health Insurance Plan, and as permitted by Guam's laws, the Company shall be subrogated to all rights of recovery that a Covered Person has against any Responsible Party with respect to any payment made by the Responsible Party to a Covered Person due to a Covered Person's injury, illness, or condition to the full extent of benefits provided or to be provided by the Company.

**5.16.3 Reimbursement.** In addition, if a Covered Person receives any payment from any Responsible Party or Insurance Coverage as a result of an injury, illness, or condition, the Company has the right to recover from, and be reimbursed by, the Covered Person for all amounts this Company has paid and will pay as a result of that injury, illness, or condition, up to and including the full amount the Covered Person receives from any Responsible Party.

**5.16.4 Right of Recovery.** The Company also has a "right of recovery," in that it may choose to take action to recover the amount of all claims paid to or on behalf of a Covered Person from the third party, or from any insurer or other party that is or may be liable for damages related to the third party's actions.

**5.16.5 Constructive Trust.** By accepting benefits (whether the payment of such benefits is made to the Covered Person or made on behalf of the Covered Person to any provider) from the Company, the Covered Person agrees that if he or she receives any payment from any Responsible Party as a result of an injury, illness, or condition, he or she will serve as a constructive trustee over the funds that constitute such payment. Failure to hold such funds in trust will be deemed a breach of the Covered Person's fiduciary duty to the Company and the Plan, and will give the Company rights to recover equitable and money damages from the Covered Person.

**5.16.6 Lien Rights.** The Company shall automatically have a lien to the extent of benefits paid by the Company for treatment of the illness, injury, or condition for which the Responsible Party is liable. The lien shall be imposed upon any recovery whether by settlement, judgment, or otherwise related to treatment for any illness, injury, or condition for which the Company paid benefits. The lien may be enforced against any party who possesses funds or proceeds representing the amount of benefits paid by the Company including, but not limited to, the Covered Person, the Covered Person's representative or agent; Responsible Party; Responsible Party's insurer, representative, or agent; and/or any other source possessing funds representing the amount of benefits paid by the Company. The Company may file this lien with the third party, third party's agent, any insurance company, first party payor or the court in which any action is filed, to assure that the lien is satisfied from any such recovery. Further, the Plan reserves the right to notify the Responsible Party and his or her agents of its lien. Agents include, but are not limited to, insurance companies and attorneys.

**5.16.7 First-Priority Claim.** By accepting benefits (whether the payment of such benefits is made to the Covered Person or made on behalf of the Covered Person to any provider) from the Company, the Covered Person acknowledges that the Company's recovery rights are the first priority claim against all Responsible Parties and are to be paid to the Company before any other claim for the Covered Person's damages. The Company shall be entitled to full reimbursement on a first-dollar basis from any and all payments from each and every Responsible Party, even if such payment to the Company will result in a recovery to the Covered Person

that is insufficient to make the Covered Person whole or to compensate the Covered Person in part or in whole for the damages sustained. The Company is not required to participate in or pay court costs or attorney fees to any attorney hired by the Covered Person to pursue the Covered Person's damage claim.

**5.16.8 Applicability to All Settlements and Judgments.** The terms of this entire subrogation, reimbursement and right of recovery provision shall apply to each and every settlement or judgment related to the injury, illness or condition of the Covered Person, and the Company is entitled to full recovery regardless of whether any liability for payment is admitted by any Responsible Party and regardless of whether the settlement or judgment received by the Covered Person identifies any medical benefit the Company provided or purports to allocate any portion of such settlement or judgment to payment of expenses other than medical expenses. The Company is entitled to recover from any and all settlements or judgments, including (without limitation) those designated as pain and suffering, non-economic damages, and/or general damages only.

**5.16.9 Cooperation.** The Covered Person shall fully cooperate with the Company's efforts to recover its benefits paid. It is the duty of the Covered Person to notify the Company within 30 days of the date when any notice is given to any party, including an insurance company or attorney, of the Covered Person's intention to pursue or investigate a claim to recover damages or obtain compensation due to injury, illness, or condition sustained by the Covered Person. The Covered Person and his or her agents shall provide all information requested by the Company or the Plan, or its representative including, but not limited to, completing and submitting any applications or other forms or statements as the Company may reasonably request. Failure to provide this information may result in the termination of health benefits for the Covered Person or the institution of court proceedings against the Covered Person. The Covered Person shall do nothing to prejudice the Company's subrogation or recovery interest or to prejudice the Company's ability to enforce the terms of this Plan provision. This includes, but is not limited to, refraining from making any settlement or recovery that attempts to reduce or exclude the full cost of all benefits provided by the Plan.

**5.16.10 Right of Investigation.** The Company has the right to conduct an investigation regarding the injury, illness, or condition of any Covered Person to or for the benefit of whom the Company pays benefits under the Plan to identify any Responsible Party. Each Covered Person receiving benefits under the Plan acknowledges or is deemed to acknowledge that the Company has such right of investigation.

**5.16.11 Interpretation.** In the event that any claim is made that any part of this subrogation, reimbursement and right of recovery provision is ambiguous or questions arise concerning the meaning or intent of any of its terms, the Company shall have the sole authority and discretion to resolve all disputes regarding the interpretation of this provision in accordance with the most recent U.S. Supreme Court decision on ERISA cases on health insurance subrogation. (See *U.S. Airways v. McCutchen*, 2013 WL 1567371 (2013)).

**5.16.12 Jurisdiction.** By accepting benefits (whether the payment of such benefits is made to the Covered Person or made on behalf of the Covered Person to any provider) from the Company, the Covered Person agrees that any court proceeding with respect to this provision may be brought in any court of competent jurisdiction as the Company may elect. By accepting such benefits, the Covered Person hereby submits to each such jurisdiction, waiving whatever rights may correspond to him or her by reason of his or her present or future domicile.

**5.16.13** After expenses incurred by the Company in obtaining any recovery from, on behalf of or related to such third party, the net amount recovered must be divided proportionately with the Covered Person to allow the Covered Person to recover a proportionate share of any deductible for which the insured was responsible.

**5.16.14 Benefit Exclusion or Delay.** In cases where third party or first party payor liability is being pursued, and upon the execution and delivery to Company of all documents required by it, to secure its rights of subrogation, reimbursement and right of recovery entitlements, as provided in this Section 5.16, the Company may pay benefits in connection with such Injury or Illness if it is satisfied that its subrogation, reimbursement and recovery rights are being upheld and shall be repaid only from the proceeds (beginning with the first proceeds) of any and all recoveries, if any, from or on behalf of such third party or from any first party payor. As security for such repayment, the Company shall have a lien, as provided in this Section 5.16, against any and all such recoveries to the extent of the amount advanced to the Covered Person by Company.

**5.16.15 PPACA Compliance.** In the event that any applicable provision of PPACA prohibits the application of any provision of this Section 5.16, the section shall be deemed modified to the extent necessary to comply with PPACA.

**§5.17 Covered Person eligible for Medicare.** The Plan shall pay its benefits pursuant to this Agreement before Medicare if (i) the Subscriber is an active, full-time employee of GovGuam or his or her Spouse is a Covered Person and the Subscriber or Spouse who is a Covered Person is sixty-five (65) or older; or (ii) the Subscriber or Spouse who is a Covered Person is under age sixty-five (65) and is in the Medicare waiting period during which he or she or his or her Spouse is receiving treatment for end-stage renal disease (ESRD); or (iii) for services in the Philippines or other countries outside of Guam or the United States as provided in this section.

If any Covered Person, including disabled active individuals as defined in the Omnibus Budget Reconciliation Act of

1993, incurs expense for benefits covered under the Plan and for which the Covered Person is eligible for and entitled to benefits under Medicare, then the Plan, where primary carrier, shall pay to the full limit of its coverage before Medicare assumes coverage. The Covered Person shall have covered benefits equal to the greater of the two plans' benefits.

If any Covered Person, for whom Medicare is or would be primary, is eligible for but not enrolled in the entire Medicare program but is receiving income benefits from Social Security, the Plan shall provide no benefits on behalf of that person. However, under no circumstances shall anyone be required to enroll in Medicare in order to receive benefits under the Plan, unless the Medicare programs are available at no cost. Eligible Persons receiving Social Security may be required to enroll in Medicare Part A in order to receive benefits under the Plan, unless Medicare Part A is available to her or him at no cost but shall be required to enroll in Part B, subject to the Government of Guam or some other entity paying the Part B premium.

For a Covered Person enrolled in Medicare Parts A and B and where Medicare is primary, 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 purpose of receiving benefits under this Agreement.

For a Covered Person, for whom Medicare is or would be primary if the covered services are received in the United States or its territories, the Plan shall pay to the full limit of its coverage as primary provider, when covered services are received at a Participating Provider, in the Philippines or other country outside of Guam or the United States and when prior authorization for the services is received from the Company. The preceding sentence shall not apply to emergency or nonemergency hospital services provided to the Covered Person that are covered by Medicare because the hospital outside of Guam or the United States is closer to, and substantially more accessible from, the retiree's Guam residence than the nearest participating US hospital which is adequately equipped to deal with and available to provide treatment of the illness or injury, and to any physician and ambulance services furnished in connection with emergency or nonemergency hospital services.

**§5.18 Incarcerated Benefits.** The Plan is secondary payer for services furnished to individuals in the custody of penal authorities. The state (or other government component which operates the prison) in which the beneficiary resides is responsible for all medical costs incurred.

**§5.19 Release of medical information.** As a condition to the receipt of Plan benefits, each Covered Person authorizes Company to use and obtain information about his or her medical history, medical condition and the Services provided to him or her as may be necessary in connection with the administration of this Agreement. Information from medical records of Covered Persons and information received from Physicians or Hospitals arising from the Physician-patient relationship shall be kept confidential and shall only be disclosed with the consent of the Covered Person and in accordance with applicable law.

**§5.20 No warranty of Service.**

5.20.1 Company is not liable for the negligence or other, wrongful act or omission of any Physician, Hospital, Hospital employee or other Provider, or for any act or omission of any Covered Person.

5.20.2 Company does not guarantee the availability of or undertake to provide any Services of any third party.

**§5.21 Termination for cause.** Company may terminate a Covered Person from the Plan for:

5.21.1 Misuse of card. A Covered Person knowingly allowing his or her Plan identity card to be used by another person or falsely representing the relation between himself or herself and another in order that the other person can obtain Services hereunder; or

5.21.2 Non-payment. A Covered Person's failure to pay or arrange to pay applicable Deductibles, Co-Payments, or Co-Insurance as soon as practicable, and in no case later than the next Enrollment period.

5.21.3 To the extent required by PPACA, terminations for cause (other than for non-payment of premiums) shall be handled as required by the applicable PPACA Claims Procedure Requirements provided in §6.7 and as reflected in the Company's Appeal Procedures attached as Exhibit \_\_\_\_.

**§5.22 Termination other than for cause.** Other terminations of benefits, not for cause, are as follows:

5.22.1 Termination by a Covered Person. Except as otherwise provided in this Agreement or applicable law, if the Covered Person terminates his or her rights under this Agreement then all rights to benefits shall cease as of the effective date of such termination. If a Subscriber's coverage so terminates, his or her Covered Dependents' coverage shall terminate on the same date. However, Company shall pay Eligible Charges for all Covered Services incurred prior to the date of termination.

5.22.2 Marriage terminated or no longer eligible spouse. If the spouse of a Subscriber ceases to be a Spouse as defined herein, coverage for such person under this Agreement shall terminate on the first (1st) day of the pay period following termination of eligibility.

5.22.3 Domestic Partnership terminated. If the domestic partner of a subscriber ceases to be a Domestic Partner as defined herein, coverage for such person under this Agreement shall terminate on the first (1<sup>st</sup>) day of the pay period following termination of eligibility.

5.22.4 Children no longer eligible as Dependents. Coverage shall terminate as to a Dependent child who attains age twenty-six (26), or who enters the Military Service, on the date of such occurrence. However, a Dependent child who has attained the limiting age (26), and who is incapable of self-sustaining employment by reason of developmental disability or physical handicap, and who is primarily dependent upon the Subscriber for support and maintenance, may continue to be covered under this Plan as an enrolled Dependent during the continued disability or handicap provided proof of such incapacity and dependency is furnished to Company within thirty (30) days of the child's attainment of the limiting age and annually thereafter.

5.22.5 Rebate of Premium. In the event of termination of coverage, GovGuam or the Subscriber, as applicable, shall receive a pro rata rebate of the Premium paid to Company for such Covered Person.

5.22.6 Effective date of termination. Except as otherwise provided herein, termination of coverage shall take effect on the first (1st) day of the pay period following the event causing termination.

5.22.7 To the extent required by PPACA, disputed terminations (other than for non-payment of premiums) shall be handled as required by the applicable PPACA claims procedure rules. A Covered Person can appeal a disputed termination pursuant to the PPACA Claims Procedure for internal and external review appeals provided in §6.7 and set out and reflected in Exhibit \_\_\_\_.

5.22.8 HIPAA compliance. Company shall provide the certifications required by HIPAA for terminated Subscribers and their Covered Dependents, upon notification by GovGuam of the Subscriber's termination. Company shall also provide certifications for all other terminated Covered Persons, such as Dependent children reaching the limiting age, divorce of a Spouse, or end of domestic partnership, without notification by GovGuam, but after receipt of actual notice of the triggering event.

**§5.23 Grievance Procedures.** The Grievance Procedure is not applicable to adverse benefit determinations, including rescission of coverage, and their appeals which are subject to PPACA Claims Procedure Requirements provided in §6.7 and reflected in the Company's Appeal Procedures attached as Exhibit \_\_\_\_\_. A grievance is a formal complaint or dissatisfaction with the service received by a Covered Person. Grievance includes complaints about the quality of care or non-quality of care services at any of the Company's contracted network facilities, providers or with any administration provider/behavioral services and access to care. Non-quality of care services includes complaints about administrative services, sales processes or other marketing issues. A Covered Person and/or his or her representative may file a written grievance claim, including all relevant documentation, with the Company. The Covered Person and Company shall provide additional information or documentation, as applicable, if requested in writing.

5.23.1 Within sixty (60) days after a grievance is received by the Company, the Covered Person shall be notified in writing of the denial, partial denial or approval of the grievance.

5.23.2 If a Covered Person does not agree with the decision, then the Covered Person or the Covered Person's authorized representative may file a grievance appeal as follows:

5.23.2.1 A written grievance appeal request must be directed to the Grievance Coordinator. The request shall state all bases for the grievance appeal and be supported by all relevant information and documentation.

5.23.2.2 The Grievance Coordinator may refer grievance appeals to the medical society, the utilization department, peer review committee, or a medical specialty organization for an opinion to assist in the resolution of the grievance appeal.



- 5.23.2.3 Within ten (10) working days of the receipt of a grievance appeal, the Grievance Coordinator shall be available to meet with the Covered Person to discuss possible resolution of the matter and establish the time frame for review of the grievance appeal, which shall not exceed thirty (30) days.
- 5.23.2.4 If, after receipt of the written decision on disposition of the grievance appeal the Covered Person is not satisfied, then the Covered Person may proceed with arbitration, in which event the provisions of §5.24 shall apply.

§5.24 **Notice.** For purposes of service of any notice or other document under this Agreement, a Covered Person's address shall be that stated in the Enrollment materials, unless the Covered Person designates a new address by providing written notice to the Company. The address of the Company is: \_\_\_\_\_ unless the Company designates a new address in writing served on the Covered Person.

§5.25 **Cooperation Regarding Federal Law.** Company and the Government of Guam shall fully cooperate in implementing any Qualified Medical Child Support Order as defined and required by federal law. This shall include enrolling the employee, if eligible, and the relevant child, if eligible, outside a regularly scheduled open Enrollment period.

## ARTICLE 6

### Claims and Payment for Service

§6.1 **Submission of claims.** When Services are provided to a Covered Person, the Covered Person shall inform the Provider that he or she is a Covered Person of Company. In the case of a Participating Provider, the Covered Person is not responsible for filing the claim. In the case of a Non-Participating Provider, the Covered Person must file a claim for reimbursement unless the Provider agrees to file a claim on the Covered Person's behalf. Company shall not be obligated to make any payment until it receives, reviews and approves a claim for payment.

§6.2 **Payment for Covered Services.** Company shall make payment of claims for Covered Services directly to Participating Providers. In the case of Non-Participating Providers, the Covered Person is responsible for payment to the Provider, and payment of claims shall be made by Company directly to the Covered Person.

§6.3 **Reimbursement for Services.** If the Covered Person has paid for Covered Services, Company, upon submission of a complete claim by the Covered Person shall reimburse the Covered Person within 90 days of receipt of claim from Covered Person to the same extent that it would have directly paid the Provider of the Covered Services.

§6.4 **Payment of late claims.** In no event shall any payment be owed or made on any claim submitted to Company more than ninety (90) days after which the Covered Services were rendered, unless:

6.4.1 The claim is subject to coordination of benefits, Company is not the primary carrier, and the claim was submitted to the primary carrier during the twelve (12) month period; or

6.4.2 Required by law, including applicable PPACA Claims Procedure requirements.

§6.5 **Proof of Payment of Deductible.** Company shall require participating providers to report all payments made by members for covered services within 120 days of the date when the covered services were rendered. Company shall not credit any eligible amounts paid towards any Deductible unless proof of such payment is submitted within one hundred twenty (120) days of the date on which the Covered Services were rendered.

§6.6 **Utilization review.**

6.6.1 Company shall not be required to pay any claim until it determines that Services provided to a Covered Person are Covered Services.

6.6.2 Company has the right to conduct utilization review on a prospective concurrent and/or retrospective basis, subject to compliance with PPACA applicable Claims Procedure Requirements.

§6.7 **PPACA Claims Procedure Requirements.** Adverse benefit determinations, including rescissions of coverage, and their appeals are subject to the requirements of Section 2719 of the PHSA, as added by PPACA, and applicable regulations to include 45 CFR 147.136 and 29 CFR 2560.503-1. The term “adverse benefit determination” means any of the following: a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on a determination of a participant's or beneficiary's eligibility to participate in a plan (e.g., a rescission of coverage), and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate. The Company's PPACA Claims Procedure is reflected in Exhibit \_\_\_\_.

6.7.1 As required by PPACA, the Company shall comply with U.S. Department of Labor claims regulations applicable to health plans under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), as set forth at Section 2560.503-1 of Title 29, Code of Federal Regulations, as such regulations may be updated from time to time by the Secretary of Labor (the "ERISA Claims Regulations"). These ERISA Claims Regulations shall apply notwithstanding that the Plan is a government plan, previously not subject to ERISA's requirements, but shall be modified as follows:

- 6.7.1.1 An adverse benefit decision, to which the ERISA Claims Regulations shall apply, shall include a rescission, whether or not the rescission has an adverse effect on any particular benefit at that time.
- 6.7.1.2 In the case of a claim determination (whether adverse or not) involving urgent care, the claimant shall be notified as soon as possible, taking into account the medical exigencies, but not later than 72 hours after the receipt of the claim, unless the claimant fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable under the plan.

6.7.2 On appeal, the claimant must be allowed to review the claim file and to present evidence and testimony.

6.7.3 Other aspects of the PPACA Claims Procedure regulations shall be followed, including the right of a Covered Person to file an external review within four (4) months after the Covered Person receives notice adverse benefit determination or denial of an internal appeal from the Company.

## ARTICLE 7

### Dental Benefits

§7.1 **Dental Benefits Available.** This Article contains the Dental Benefits available to Covered Persons in the optional dental plan.

§7.2 **Definitions.** The definitions contained herein are supplemental to those contained elsewhere in this Agreement and apply only to Dental Benefits in the optional dental plan. The definitions contained elsewhere in this Agreement are applicable to this Article.

7.2.1 **Treatment Plan.** Treatment Plan means a Dentist's report of the Covered Person's dental defects, prescribing a program of treatment for the identified defects, including applicable charges.

§7.3 **Maximum Allowances.** The maximum dental benefit payable by the Company for each Covered Person shall be One Thousand Dollars (\$1,000) per Plan Year.

#### §7.4 **Co-Payments for Diagnostic and Preventive Services.**

7.4.1 For any Diagnostic and Preventive Services which are covered under §7.7.1 of this Agreement, Company will pay 100% of Eligible Charges if the Services are rendered by a Participating Provider.

7.4.2 For any Diagnostic and Preventive Services which are covered under §7.7.1 of this Agreement, Company will pay 70% of Eligible Charges if the Services are rendered by a Non-Participating Provider.

#### §7.5 **Payments for Basic and Restorative Services.**

7.5.1 For any Basic and Restorative Services which are covered under §7.7.2 of this Agreement, Company will pay 80% of Eligible Charges if the Services are rendered by a Participating Provider.

7.5.2 For any Basic and Restorative Services which are covered under §7.7.2 of this Agreement, Company will pay 70% of Eligible Charges if the Services are rendered by a Non-Participating Provider.

#### §7.6 **Payments for Major and Replacement Services.**

7.6.1 For any Major and Replacement Services which are covered under §7.7.3 of this Agreement, Company will pay 50% of Eligible Charges if the Services are rendered by a Participating Provider.

7.6.2 For any Major and Replacement Services, which are covered under §7.7.3 of this Agreement, Company will pay 35% of Eligible Charges if the Services are rendered by a Non-Participating Provider.

§7.7 **Services Available.** Subject to the other conditions contained in this Agreement, Covered Persons choosing the optional dental plan for whom Premiums have been paid shall be entitled to the following Dental Benefits:

##### 7.7.1 Diagnostic and Preventive Services.

7.7.1.1 Examinations (including Treatment Plan) limited to once every six (6) months.

7.7.1.2 Radiographs (X-rays).

- 7.7.1.2.1 Full mouth series (once per 36 months).
- 7.7.1.2.2 Bite-wings. Maximum of four per Plan Year.
- 7.7.1.3 Prophylaxis (cleaning and polishing) limited to twice per Plan Year.
- 7.7.1.4 Topical application of fluoride (once every Plan Year for Covered Persons under the age of 19);
- 7.7.1.5 Study models.
- 7.7.1.6 Space maintainers (for Covered Persons age 15 and under). This includes adjustments within 6 months of installation.
- 7.7.1.7 Caries susceptibility test.
- 7.7.1.8 Sealants (for permanent molars of Covered Persons age 15 and under).
- 7.7.2 Basic and Restorative Services.
  - 7.7.2.1 Emergency Services (during office hours).
  - 7.7.2.2 Pulp treatment.
  - 7.7.2.3 Routine fillings (amalgam and composite resin).
  - 7.7.2.4 Simple extractions.
  - 7.7.2.5 Complicated extractions.
  - 7.7.2.6 Extraction of impacted teeth.
  - 7.7.2.7 Periodontal prophylaxis (cleaning and polishing once every six months).
  - 7.7.2.8 Periodontal treatment.
  - 7.7.2.9 Pulpotomy and root canals (endodontic surgery and care).
  - 7.7.2.10 Conscious sedation and nitrous oxide for Covered Persons under the age of 13.
- 7.7.3 Major Dental Services and Replacement Services.
  - 7.7.3.1 Fixed prosthetics.
    - 7.7.3.1.1 Crowns and bridges.
    - 7.7.3.1.2 Gold inlays and onlays.
    - 7.7.3.1.3 Repairs of crowns and bridges.
    - 7.7.3.1.4 Replacement of crown or bridge (limited to once every five years)
  - 7.7.3.2 Removable prosthetics.
    - 7.7.3.2.1 Full and partial dentures. Replacements limited to once every five years.
    - 7.7.3.2.2 Denture repair and relines.
  - 7.7.3.3 General anesthesia, but only if medically or dentally necessary.

§7.8 **Claims and Payment for Services.** The procedures, requirements and conditions applicable to the processing and payment of claims for Medical Benefits contained in Article 6 shall apply to claims for Dental Services under this Agreement, except the Deductible amount does not apply to the Dental Benefits.

§7.9 **Reasonableness and necessity of Services and charges.**

7.9.1 Company shall not be required to pay any claim unless and until Company has determined that the Covered Person received Covered Services and that the charges for the Dental Services are reasonable. No payment shall be made for: (i) Dental Services not actually rendered; or (ii) Dental Services which are not Covered Services. No payment shall be made for any portion of a charge determined by Company to be unnecessary, unreasonable or excessive. In the case of a Participating Provider, when a Covered Person receives Covered Services, Company guarantees the Covered Person shall not be responsible for payment of any charges in excess of the Eligible Charges

7.9.2 Preliminary determination that any Dental Service or charge is unnecessary or unreasonable or otherwise not payable shall, at the Dentist's or Covered Person's request, be reviewed through Company's grievance procedure. The determination made through the grievance procedure shall be conclusive upon all parties in interest, subject, however to the parties' right to arbitration.

§7.10 **Prior Authorization of Services.** Prior Authorization by Company for Dental Services shall be required when any Treatment Plan and/or treatments exceed Five Hundred Dollars (\$500).

§7.11 General Provisions.

7.11.1 Dental Exclusions. No benefits will be paid for:

7.11.1.1 Work in progress on the effective date of coverage. Work in progress is defined as:

7.11.1.1.1 A prosthetic or other appliance, or modification of one, where an impression was made before the patient was covered.

7.11.1.1.2 A crown, bridge, or cast restoration for which the tooth was prepared before the patient was covered.

7.11.1.1.3 Root canal therapy, if the pump chamber was opened before the patient was covered.

7.11.1.2 Services not specifically listed in the Agreement, Services not prescribed, performed or supervised by a Dentist, Services which are not medically or dentally necessary or customarily performed, Services that are not indicated because they have a limited or poor prognosis, or Services for which there is a less expensive, professionally acceptable alternative.

7.11.1.3 Any Service unless required and rendered in accordance with accepted standards of dental practice.

7.11.1.4 A crown, cast restoration, denture or fixed bridge or addition of teeth to one, if work involves a replacement or modification of a crown, cast restoration, denture or bridge installed less than five years ago or one that replaces a tooth that was missing before the date of the Covered Person became eligible for Services under the plan (including previously extracted missing teeth).

7.11.1.5 Replacement of existing dentures, crowns or fixed bridgework if the existing dentures, crowns or fixed bridgework can be made serviceable

7.11.1.6 Precision attachments, Interlocking device, one component of which is fixed to an abutment or abutments the other is integrated into a fixed or removable prosthesis in order to stabilize and/or retain it; or stress breakers, part of a tooth borne and/or tissue-borne prosthesis designed to relieve the abutment teeth and their supporting tissues from harmful stresses.

- 7.11.1.7 Replacement of any lost or stolen appliance, or replacement of any appliance damaged while not in the mouth.
- 7.11.1.8 Any Service for which the Covered Person received benefits under any other coverage offered by the Company.
- 7.11.1.9 Spare or duplicate prosthetic devices.
- 7.11.1.10 Services included, related to, or required for:
  - 7.11.1.10.1 Implants;
  - 7.11.1.10.2 Cosmetic purposes;
  - 7.11.1.10.3 Services or appliances to change the vertical dimension or to restore or maintain the occlusion, including but not limited to, equilibrium, full mouth rehabilitation and restoration for malalignment of teeth;
  - 7.11.1.10.4 Temporomandibular joint (TMJ) or craniomandibular disorders, myofunctional therapy or the correction of harmful habits;
  - 7.11.1.10.5 Experimental procedures; and
  - 7.11.1.10.6 Intentionally self inflicted injury unless resulting from a medical condition (including physical or mental conditions) or from domestic violence.
- 7.11.1.11 Any over the counter drugs or medicine.
- 7.11.1.12 Fluoride varnish.
- 7.11.1.13 Charges for finance charges, broken appointments, completion of insurance forms or reports, providing records, oral hygiene instruction, pit and fissure sealants and dietary instruction, or lack of cooperation on the part of the patient.
- 7.11.1.14 Charges in excess of the amount allowed by the Plan for a Covered Service.
- 7.11.1.15 Any treatment, material, or supplies which are for orthodontic treatment, including extractions for orthodontics.
- 7.11.1.16 Services for which no charge would have been made had the Agreement not been in effect.
- 7.11.1.17 All treatments not specifically stated as being covered.
- 7.11.1.18 Surgical grafting procedures.
- 7.11.1.19 General anesthetic, conscious sedation, and other forms of relative analgesia, except as otherwise specifically provided herein.
- 7.11.1.20 Services paid for by Workers' Compensation.
- 7.11.1.21 Charges incurred while confined as an inpatient in a Hospital unless such charges would have been covered had treatment been rendered in a dental office.
- 7.11.1.22 Treatment and/or removal of oral tumors.
- 7.11.1.23 All surgical procedures except for surgical extractions of teeth and periodontal surgeries Performed by a Dentist. Surgical procedure is defined as the surgical and adjunctive treatment of diseases, injuries, and deformities of the oral and maxillofacial region.

7.11.1.24 Panoramic x-ray if provided less than three (3) years from the Covered Person's last full mouth x-rays; and full mouth x-rays if provided less than three (3) years from the Covered Person's last panoramic x-ray.

7.11.2 Issuance of this Agreement. This Article 7 shall take effect, and coverage for the Subscriber and Dependents initially listed on the Enrollment form shall commence as of the Subscriber's Effective Date if the Enrollment form is accepted by Company.

7.11.3 DENTAL COVERAGE SPECIAL CONDITIONS OF ENROLLMENT. EMPLOYEES MAY ELECT TO ENROLL IN THE MEDICAL PLAN ONLY BENEFIT LEVEL OR IN THE MEDICAL AND DENTAL PLAN BENEFIT LEVEL. MEMBERS ENROLLED IN THE MEDICAL PLAN ONLY BENEFIT LEVEL MAY ELECT TO ENROLL IN THE MEDICAL AND DENTAL PLAN DURING ANY OPEN ENROLLMENT PERIOD. ANY COVERED PERSON SELECTING THE MEDICAL AND DENTAL PLAN BENEFIT LEVEL SHALL ENROLL IN THE SAME CLASS FOR THE MEDICAL PLAN AND THE DENTAL PLAN.

**ARTICLE 8**

**Rates**

**GOVGUAM PPO 1500**

Rates for retired and active Covered Persons shall be effective from October 1, 2019 through September 30, 2020.

§8.1 Monthly rates:

	Medical	Dental
<b>Actives</b>		
Class I	\$	\$
Class II	\$	\$
Class III	\$	\$
Class IV	\$	\$
<b>Retirees</b>		
Class I	\$	\$
Class II	\$	\$
Class III	\$	\$
Class IV	\$	\$

§8.2 Bi-weekly rates (Actives):

	Medical	Dental
Class I	\$	\$
Class II	\$	\$
Class III	\$	\$
Class IV	\$	\$

§8.3 Semi-monthly rates (Retirees):

	Medical	Dental
Class I	\$	\$
Class II	\$	\$
Class III	\$	\$
Class IV	\$	\$