PLANNED ADMINISTRATORS INC

EMPLOYER APPLICATION

Date: _____

GROUP INFORMATION:

Group Name: _____ **Group Legal Name:** _____

Plan Year Effective Date: _____ **Tax ID#:** _____

Physical Address: _____ **City:** _____ **State:** ____ **Zip:** _____

PO Box Address: _____ **City:** _____ **State:** _____ **Zip:** _____

Group Contact: _____ **Contact Email:** _____

Contact Phone: _____ **Contact Fax:** _____

Billing Contact: _____ **Contact Email:** _____

Contact Phone: _____ **Contact Fax:** _____

Billing Address (if different): _____ **City:** _____ **State:** _____ **Zip:** _____

Cobra Contact: _____ **Contact Email:** _____

Contact Phone: _____ **Contact Fax:** _____

AGENT INFORMATION:

Agent Name & Firm: _____ **Agent Email:** _____

Agent Phone: _____ **Agent Fax:** _____

Agent Tax ID: _____ ***Agent Note: Please submit W-9**

Select Additional Services/Products (Yes or No for each)

DENTAL: Y ☐ N ☐
VISION: Y ☐ N ☐
HRA: Y ☐ N ☐
FSA: Y ☐ N ☐
LIFE INSURANCE: Y ☐ N ☐
STD/LTD: Y ☐ N ☐

Other 1: _____

Other 2: _____

Grandfathering – Is the group keeping grandfathering status? Y ☐ N ☐

COBRA

Will the group be utilizing the PAI COBRA services program (WageWorks)? Y ☐ N ☐

Please Note: The group is responsible for notifying WageWorks of any COBRA events and new hires. If yes, please provide the following information:

Total number of eligible employees: _____

Number of currently covered employees: _____

Number of currently covered COBRA participants: _____

Number of eligible COBRA participants in the 60 day election period: _____

Please be prepared to provide a list to WageWorks of current COBRA participants with their COBRA effective date *and* a list of employees currently in their 60 day election period.

Coverage termination policy: Date of term ☐ End of month ☐

COBRA Cont'd

Ancillary Product Information for COBRA administration:

Dental Carrier: _____ Contact Name: _____

Contact Address: _____ City: _____ State: ____ Zip: _____

Contact Email: _____ Contact Phone: _____ Contact Fax: _____

Dental Premium Rates:

EE	ES	EC	FAM
$ _____	$ _____	$ _____	$ _____

Vision Carrier: _____ Contact Name: _____

Contact Address: _____ City: _____ State: ____ Zip: _____

Contact Email: _____ Contact Phone: _____ Contact Fax: _____

Vision Premium Rates:

EE	ES	EC	FAM
$ _____	$ _____	$ _____	$ _____

Please note: WageWorks requires a 30 day notice for new group set up and for group termination.

Plan Choice:

Please include a signed copy of the selected plan proposal.

Billing Locations:

Ex: Salaried/Hourly/Departments/Physical Location, etc.

1. _____

2. _____

3. _____

4. _____

5. _____

Location(s) of Employees and Networks:

	STATE	NETWORK
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

Enrollment:

How will PAI receive final enrollment data?

Spreadsheet ☐ Enrollment Forms ☐

Note: If the group submits enrollment on a spreadsheet, PAI would prefer to use our Excel format.

If the group submits spreadsheet enrollment, how will PAI get information on employees with other insurance and student dependents?

When can PAI expect this data? Date: _____

Who will supply the data? Agent ☐ Group ☐

Eligibility – Waiting Period:

New Hire Eligibility: First of the month following 30 days ☐ 60 days ☐

Term Policy: Date of term ☐ End of month ☐

Note: PAI does not pro-rate the days for new enrollment or terms.

ID Cards:

Send ID cards to the: Agent ☐ Group ☐ Employee ☐

If Agent or Group ship to:

Name: _____

Address (1): _____ Address (2): _____

City: _____ State: _____ Zip: _____

OPTIONAL: If the group would like their company logo on the front of the Plan of Benefits Booklet, please forward a jpg. of the logo with this document submission.

NOTE: Please include a copy of your most recent quarterly Wage and Tax filing.

Employer Signature: _____ Date: _____

Agent Signature: _____ Date: _____

DISCLOSURE STATEMENT

GROUP NAME: _____

Participant(s) shall include active employees, COBRA beneficiaries, retirees and their dependents.

1. Please list any **Participant** who has paid or pending claims equal to or greater than $10,000 (for specific deductible levels up to $50,000) or equal to or greater than 50% of the specific deductible (for specific deductible levels in excess of $50,000) during the past 12 months or could reasonably be expected to have claims in excess of this amount in the next 12 months.

Participant	Diagnosis	Amount Paid	Amount Pended	Amount Expected	Prognosis/Status
		$	$	$	
		$	$	$	
		$	$	$	
		$	$	$	

2. Other than those **Participants** listed above, regardless of amount paid and/or pended, please list any **Participant** known to have multiple hospital admissions with the same diagnosis or any "serious condition", including but not limited to, Cardiovascular Conditions; Chronic Respiratory Conditions; AIDS and AIDS related Conditions; Neurological Conditions (including, but not limited to, ALS, Idiopathic Ployneuropathy, Giullian Barre, Multiple Sclerosis [MS], Cystic Fibrosis, Rey's Syndrome, Meningitis, or Encephalitis); Newborns with complications; Congenital Defects; Cerebral Vascular Accident; Renal Problems (Kidney); Hepatitis C; Cancer or history of Cancer; Accidents which may lead to the following: Amputations, Brain Injuries, Burns causing hospital confinement, Multiple Crushing or Fractures, Spinal Cord Injuries; or known to have or scheduled to ha ve Organ Transplants, including Bone Marrow Transplants.

Participant	Diagnosis	Amount Paid	Amount Pended	Amount Expected	Prognosis/Status
		$	$	$	
		$	$	$	
		$	$	$	
		$	$	$	

3. Other than those **Participants** already listed above, please list any **Participant** who is disabled or hospital confined.

Participant	Diagnosis	Date of Disability	Date of Admission	Expected Discharge	Prognosis/Status

4. Are expected benefits available from the prior insurer for presently disabled **Participants**? ☐ YES ☐ NO

5. Will any former **Participant** be continuing coverage under the Plan in accordance with Federal, State, or Local law on the Effective Date of this Contract, if issued? ☐ YES ☐ NO

Please explain any "YES" answers to questions 4 and 5:

_____

_____

_____

After a thorough review of the records maintained by the Employer, the Employer's Claims Payor/TPA and the Employer's utilization review, pre-certification and large case management vendors, we represent that the above information is complete and accurate to the best of our knowledge and belief. We understand that if the information is not complete and accurate, the Excess Loss coverage proposed may be reevaluated, rerated, rescinded or declined and **Participants** not disclosed may be denied coverage or individually underwritten retroactively to the Effective Date.

Plan Sponsor/Employer: _____

Officer's Signature: _____

Name & Title: _____

Date: _____

Claims MGA/Administrator: Planned Adminsitrators, Inc.

Signature: _____

Name & Title: _____

Date: _____

NOTICE: THIS AGREEMENT IS SUBJECT TO ARBITRATION

ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT ("Agreement") is made by and between **NAME:**_____ (the "Plan Sponsor"), whose principal address is **ADDRESS:**_____ and Planned Administrators, Inc. ("PAI"), whose principal address is 17 Technology Circle, Suite E2AG, Columbia, SC 29203. This Agreement is effective as **DATE:**_____ and shall continue until terminated as herein provided.

WHEREAS, the Plan Sponsor has established a self-funded employee welfare benefit plan as amended (the "Plan") pursuant to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), for certain of its employees and their qualifying dependents (collectively "Participants"); and,

WHEREAS, PAI is in the business of providing administrative services in conjunction with self-funded employee welfare benefit plans, and the Plan Sponsor desires to engage PAI to perform such services on behalf of the Plan and as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. PLAN

1.1 Plan Document. PAI shall provide the services set forth in Section 3.2 and 3.3. All services to be provided by PAI hereunder shall be performed pursuant to the provisions of the Plan. A copy of the Summary Plan of Benefits will be provided for the client's consideration, when approved it will become a part of this agreement. The summary plan description is the responsibility of the Plan Sponsor.

1.2 Interpretation of the Plan. The Plan Sponsor shall make all final decisions with respect to interpretations of the Plan and as to the payment of benefits there under, shall consult with the Plan Sponsor in the event PAI is unable to determine the Plan Sponsors intent from the plain language of the Plan. In the event of an interpretation of the Plan by the Plan Sponsor, the Plan Sponsor will notify PAI in writing of such interpretation.

II. SCOPE OF RELATIONSHIP

2.1 Agency. In performing the services here under, PAI is acting solely as the agent of the Plan Sponsor. In the event that the Plan Sponsor fails to comply with any federal or state law, PAI shall not be liable in any action brought with regard to such failure.

2.2 Fiduciary. PAI is not and shall not be deemed to be a fiduciary of the Plan. Nor shall PAI be considered to be the "Plan Administrator" for purposes of ERISA. The duties of PAI hereunder are ministerial in nature; and this Agreement does not confer or delegate any discretionary authority or discretionary responsibility to PAI with respect to the administration of the Plan.

2.3 Communications. PAI shall be entitled to rely, without question, upon any written or oral communication from the individual(s) designated by the Plan Sponsor. Until amended by letter, the following individual(s) shall be so authorized:

2.4 Parties. This Agreement is between PAI and the Plan Sponsor, and does not create any rights or legal relationship between PAI and any of the Participants, beneficiaries under the plan, or any third party.

III. DUTIES OF PAI AND PLAN SPONSOR

3.1 Documentation. The Plan Sponsor acknowledges that ERISA requires that its employee welfare benefit plan be established and maintained pursuant to a written instrument. Plan Sponsor agrees that PAI shall review the existing Plan and associated summary plan description and provide suggestions to the Plan Sponsor for changes.

3.2 Claims Services. PAI agrees to perform the below listed services with respect to the processing and payment of claims under the Plan:

a. receive claims and claims documentation;
b. corresponds with Participants and providers of services if additional information is determined by PAI to be necessary to complete the processing of claims;
c. send (on an annual basis) a questionnaire to employee Participants to determine if such Participant (or such Participant's dependents) is covered by other insurance.
d. coordinate benefits payable under the Plan with other benefit plans, if any, to the extent that PAI has actual knowledge of such other benefit plan;
e. determines the amount of benefits payable under the Plan;
f. prepares disbursement checks (drawn on PAI's account) for the amount of benefits payable under the Plan;
g. provide notice to Participants as to the reason(s) for denial of benefits and provide for the review of denied claims; provided, however, that such review shall be advisory to the Plan Sponsor in accordance with Section 1.2 above and shall not be deemed to be an exercise of discretion by PAI;
h. use reasonable efforts in the normal course of its services hereunder to identify claims for which there is the potential for collection of amounts paid to, or on behalf of, Participants through subrogation of rights of Participants and to notify the Plan Sponsor of such claims;

3.3 Administrative Services. PAI agrees to perform the below listed services with respect to the administration of the Plan:

a. maintain member enrollment for eligibility for payment of claims and census data;
b. provides accounting details of all billing and collections;
c. maintains reinsurance reporting;
d. provides enrollment forms and identification cards to the Plan Sponsor.

3.4 Practices and Procedures. In performing services, PAI shall employ its standard practices and procedures, whether written or otherwise; provided, however, such performance shall be subject to Section 1.2. Plan Sponsor and PAI recognize that, from time to time, PAI or Plan Sponsor may receive notice of a pending class action that seeks recovery on behalf of a class that may include PAI or Plan Sponsor (a "Class Action"). PAI has no discretion to determine whether PAI will participate on behalf of the Plan Sponsor (or Plan Sponsor's group health plan) in such Class Action and PAI will not participate in the Class Action on behalf of the Plan Sponsor (or the Plan) unless the parties enter into a separate agreement relating to participation in such Class Action. PAI will notify Plan Sponsor (or any ERISA plan) of PAI receipt of notice of any Class Action.

3.5 Recovery of Payment. In the event payment is made to or on behalf of an ineligible Participant or a payment is made in excess of the amount properly payable, PAI shall make reasonable efforts to recover such payment or overpayment, but shall not be liable for the payment.

3.6 Records and Files. PAI shall maintain records concerning the services to be performed hereunder. All such records shall be the property of PAI and a copy shall be delivered to the Plan Sponsor upon termination of this Agreement. Subject to section 4.4, all such records shall be available for inspection by the Plan Sponsor at any time during normal business hours at the offices of PAI, upon reasonable prior notice.

3.7 Reports. PAI shall provide the following reports (in PAI's standard format) to the Plan Sponsor:

a. check registers (monthly);
b. statement of account (monthly);
c. report on Plan's operation during the preceding year and cost estimates and guidelines for the ensuing year (annually); and
d. input for forms required to be filed by the Plan Sponsor under ERISA (annually).

3.8 Duty of Care. PAI shall not be liable for any loss resulting from the performance of its duties here under, except for losses resulting directly from PAI's willful misconduct, criminal conduct or fraud.

3.9 Stop-Loss Insurance. PAI shall use reasonable efforts in the normal course of its services here under to identify claims that may be subject to reimbursement, based upon the existence of any stop-loss insurance policy of which PAI has actual knowledge. However, PAI will not process claims differently than in its ordinary course based on the existence of stop loss insurance. Claims will be processed in the order received by PAI and will not be reprocessed due to out of sequence dates of services. Claims will be processed in PAI's standard timeframes without regard to stop-loss insurance. In no event will PAI be liable for any claims not covered by the stop-loss carrier.

IV. DUTIES OF PLAN SPONSOR

4.1 Account. The Plan Sponsor shall fund a claim account ("Account") for the payment of benefits under the Plan. The Plan Sponsor shall be liable for all claim checks issued against the Account. The Plan Sponsor shall at all times be responsible for claims amounts, even where the Plan Sponsor would otherwise be entitled to indemnification under section 4.10.

4.2 Service Fee. The Plan Sponsor agrees to pay to PAI fee as set forth on the Exhibit A (the "Service Fee") based on the number of active Participants covered under the Plan at the beginning of each calendar month. The Plan Sponsor agrees to pay the Service Fee on or before the 25th of each calendar month for which services are being rendered. If Plan Sponsor fails to make payment for any benefits or Service Fee, and such payment remains outstanding for sixty (60) days, PAI will provide notice to Plan Sponsor that PAI will cease processing all Participant claims thirty (30) days from the date such notice is served. Plan Sponsor understands and acknowledges that PAI may deny any claims that are processed while any amount is overdue under this Agreement.

4.3 Change of Service Fee. PAI reserves the right to change the Service Fee applicable to this Agreement at any time, provided that written notice of such change is furnished to the Plan Sponsor at least 60 days prior to the effective date of such change.

4.4 Schedule of Fees. PAI will amend the Exhibit A yearly on the groups' effective date. This updated Exhibit A will include all fees relative to the plan year. This Exhibit A - Schedule of Fees will need to be signed and returned within 10 business days.

4.5 Audit Fees. Plan Sponsor agrees to pay PAI reasonable hourly rate for the staff time involved in any inspection of records or audit as well as any costs incurred by PAI in connection with such inspection or audit. Plan Sponsor will not inspect or audit records that relate to benefits paid in any year other than the current plan year and the immediately preceding plan year. Any examination of individual Participant's health benefit payment records shall be carried out in a manner specifically designed to protect the confidentiality of the Participant's medical information in compliance with all federal and state laws governing confidentiality and privacy of health information.

4.6 Credits. Plan Sponsor acknowledges that PAI may receive financial credits from drug manufacturers and/or through a pharmacy benefit manager ("PBM"). These financial credits are paid directly from drug manufacturers or from other providers through the PBM. Credits are used to help stabilize overall rates and to offset expenses. Amounts paid to pharmacies, or discounted prices charged at pharmacies, are not affected by these credits. Any coinsurance that a Participant must pay for prescription drugs is based upon the allowable charge at the pharmacy, and does not change due to receipt of any credit by TCC. Copayments are not effected by any credit. This Section does not apply if Plan Sponsor does not offer coverage for prescription drugs as part of its Plan.

4.7 Taxes and Other Assessments. The Plan Sponsor will pay PAI within a reasonable time after assessment, any tax or charge assessed against PAI which may be incurred by reason of: (a) a ruling or other determination by any Insurance Department or other governmental authority, to the effect that any fees or charges payable under Section 4.2 or the amount of claims payments made in accordance with the Plan and Section III of this Agreement is an insurance premium and subject to the premium tax provisions of the applicable statutes, including any retroactive assessment; (b) a change in any charges imposed on PAI by any public body, exclusive of Federal or State Income Taxes, which affect this Agreement. It is agreed that nothing in this Agreement will be deemed to confer on PAI any responsibility for any federal, state or local tax liability which may be imposed upon PAI the Plan Sponsor, Trust, Administration, and Fiduciary or any Participant or Beneficiary of the Plan.

4.8 Setup Charge. The Plan Sponsor agrees to pay a one-time setup charge in the amount of **N/A**.

4.9 Participant Information. The Plan Sponsor agrees to furnish PAI such information as may be required by PAI from time to time to determine eligibility of Participants or otherwise administer the Plan. Plan Sponsor shall provide such information in a format that is reasonably acceptable to PAI.

4.10 Liability for Benefits. It is understood and agreed that liability for payment of benefits under the Plan is the liability of the Employer and that PAI shall not have any duty to use any of its funds for the payment of such benefits.

4.11 Plan Sponsor Indemnification. PAI agrees to indemnify the Plan Sponsor and hold it harmless from and against any and all claims, losses, liabilities, damages and expenses incurred by the Plan Sponsor, including court costs and attorneys' fees, to the extent that such claims, losses, liabilities, damages and expenses arise out of or are based upon PAI willful misconduct, criminal conduct or fraud in the performance of its duties under this Agreement.

4.12 Planned Administrators, Inc. Indemnification. The Plan Sponsor agrees to protect, to indemnify and to hold harmless PAI from and against any and all claims, losses, liabilities, damages and expenses arising against or incurred by PAI including court costs, and attorney's fees, arising out of or based upon the Plan, any claims for benefits, or the Plan Sponsor's acts or omissions in the performance of its duties under this Agreement.

4.13 Administrative Responsibility.

a. Plan Sponsor shall provide PAI (in a format reasonably acceptable to PAI) with the Members' information. Plan Sponsor will notify PAI as soon as possible of a change of a Member's employment or a change in coverage, including notifying PAI of terminated Employees, new Employees, and termination of coverage. It is Plan Sponsor's responsibility to ensure any retroactive Member termination forwarded to PAI is in compliance with federal law, specifically, that such termination was due to either a Member's: (aa) fraudulent act, practice or omission; (bb) intentional misrepresentation of material fact, or (cc) failure to timely pay required Premiums or contributions towards the cost of coverage. Plan Sponsor is solely responsible for providing to the Member any notice related to retroactive terminations or rescissions that are required by law.
    1. Claims will be paid in accordance with information supplied by Plan Sponsor and received by PAI.
    2. PAI shall be entitled to rely upon information supplied by Plan Sponsor.
    3. PAI may not seek recovery of Claims Amounts for Members who are terminated more than thirty (30) days retroactively. In the event of retroactive addition or termination of Members, PAI shall not be responsible for denials of claims under Plan Sponsor's Stop-Loss Insurance.
    4. PAI will not be responsible for collection of Claims Amounts paid to Providers or Members prior to notification of a Member's termination. PAI will pursue recoveries in accordance with PAI's policies.
b. Plan Sponsor shall establish and maintain (for a minimum of one (1) year after termination of this Agreement or such longer period as required by law) any accounts and records required in accordance with the terms of this Agreement.
c. Plan Sponsor shall furnish to PAI all information reasonably required by PAI in order to provide the Services. Such information shall include, but is not limited to, Members' social security numbers in order to comply with Medicare secondary payer provisions of federal law.
d. Plan Sponsor shall fund the Group Health Plan and pay all claims in accordance with the terms of the Plan of Benefits and Section .IV of this Agreement.
e. Plan Sponsor shall pay the Administrative Charge and all other fees and charges under this Agreement as provided in Section .IV of this Agreement.
f. Plan Sponsor will comply with all applicable state and federal laws.
g. Plan Sponsor shall furnish PAI with all necessary information regarding any Stop-Loss Insurance.

V. GENERAL PROVISIONS

5.1 Entire Contract. This Agreement, together with any Exhibits, Attachment and Amendments appended hereto, constitutes the entire Agreement between the parties. No representation, understanding or agreements which are not expressly contained herein shall be binding or enforceable. Other than changes to the Service Fee, no modification of the terms or previsions of this Agreement shall be effective unless evidenced by written amendment hereto, signed by an authorized officer of both the Plan Sponsor and of PAI.

5.2 Applicable Law. Subject to, and to the extent permitted by ERISA, this Agreement shall be construed in accordance with the laws of the State of South Carolina and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with the laws of the State of South Carolina without

giving effect to internal choice of law or conflict of law rules. This Agreement is made in the State of South Carolina. Notwithstanding anything herein to the contrary, no provision of this Agreement shall be interpreted as prohibiting any provision, access, use, or disclosure of information to the extent required by applicable law.

5.3 Plan Sponsor Arbitration. If any dispute under this Agreement shall arise between the Plan Sponsor and TCC, either before or after termination of this Agreement, such dispute shall be referred to three arbitrators, one to be chosen by each party and the third by the two so chosen. If either party refuses or neglects to appoint an arbitrator within thirty (30) days after the receipt of written notice from the other party requesting it to do so, the requesting party may nominate two arbitrators who shall choose the third. In the event the two arbitrators do not agree on the selection of the third arbitrator within thirty (30) days after both arbitrators have been named, then the third arbitrator shall be selected pursuant to the commercial arbitration rules of the American Arbitration Association. The decision of a majority of the arbitrators shall be final and binding on both the Plan Sponsor and PAI and judgment upon the award rendered by the arbitrators may be entered into any court having jurisdiction thereof. The expense of the arbitrators and of the arbitration shall be equally divided between the Plan Sponsor and PAI. Arbitration is the sole remedy for disputes arising under this Agreement and by entering into this Agreement, PAI and the Plan Sponsor hereby waive any right each may have had to a jury trial or to maintain an action as a class action with respect to claims under this Agreement.

5.4 Privacy of Protected Health Information.

a. Permitted Uses and Disclosures. PAI is permitted or required to use or disclose Protected Health Information ("PHI" and as further defined in 45 C.F.R. § 164.501 and limited to the information created or received by PAI from or on behalf of Employer or another business associate of Employer) it creates or receives for or from Employer or to request PHI on Employer's behalf as follows:

   i. Functions and Activities on Employer's Behalf. PAI is permitted to request the Minimum Necessary (as defined in 45 C.F.R. § 164.502) PHI on Employer's behalf, and to use and to disclose the Minimum Necessary PHI to perform functions, activities, or services for or on behalf of Employer consistent with HIPAA and the HITECH ACT as specified this Agreement.

   ii. PAI's Operations. PAI may use the Minimum Necessary PHI for TCC BENEFITS'S proper management and administration or to carry out PAI's legal responsibilities.

b. Minimum Necessary and Limited Data Set. PAI's use, disclosure or request of PHI shall utilize a Limited Data Set if practicable. Otherwise, PAI will,

   in its performance of the functions, activities, services, and operations specified in Section 4.4(a)(1)(i) above, make reasonable efforts to use, to disclose, and to request of a Covered Entity only the minimum amount of PHI reasonably necessary to accomplish the intended purpose of the use, disclosure or request.

c. Prohibition on Unauthorized Use or Disclosure. PAI will neither use nor disclose PHI except as permitted or required by this Agreement, as otherwise permitted in writing by Plan Sponsor, or as required by law. This Agreement does not authorize PAI to use or disclose PHI in a manner that would violate the requirements of HIPAA or the HITECH Act if done by Plan Sponsor, except as set forth in Section 4.4(a)(1)(ii).

d. Information Safeguards. PAI will develop, document, implement, maintain, and use appropriate Administrative, Technical, and Physical Safeguards, in compliance with applicable laws. The safeguards will be designed to preserve the Integrity, Availability and Confidentiality of electronic PHI, and to prevent intentional or unintentional non-permitted or violating use or disclosure of, PHI. PAI will additionally develop any safeguards to the extent required by the HITECH Act. PAI will document and keep these safeguards current. PAI agrees to mitigate any harmful

effect that is known to the PAI resulting from a use or disclosure of PHI or electronic PHI by the PAI or its subcontractors in violation of the requirements of this Agreement.

e. Subcontractors and Agents. PAI will require any of its subcontractors and agents to provide reasonable assurance that such subcontractor or agent will comply with the same privacy and security obligations as PAI with respect to PHI.

f. Compliance with Standard Transactions (as defined in 45 C.F.R. § 162.103). If PAI conducts, in whole or part, Standard Transactions for or on behalf of Employer, PAI will comply, and will require any subcontractor or agent involved with the conduct of such Standard Transactions to comply, with 45 C.F.R. Part 162.

g. Access. PAI will, within a reasonable time after Employer's request, make available to Employer or, at Employer's direction, to the individual (or the individual's personal representative) for inspection and obtaining copies, any PHI in PAI's custody or control about the individual, so that Employer may meet its access obligations under 45 C.F.R. § 164.524 and, where applicable, the HITECH ACT.

h. Amendment. PAI will, upon receipt of notice from Employer, promptly amend any applicable portion of the PHI under 45 C.F.R. § 164.526.

i. Disclosure Accounting.

1. Disclosure Tracking. PAI will record information (to the extent required by HIPAA and the HITECH ACT) concerning each disclosure of PHI, not excepted from disclosure tracking Employer under this Agreement Section g (1) (2) below, that PAI makes a third party. For repetitive disclosures made by PAI to the same person or entity for a single purpose, PAI may provide: (a) the disclosure information for the first of these repetitive disclosures; (bb) the frequency, periodicity or number of these repetitive disclosures; and (cc) the date of the last of these repetitive disclosures. PAI will make disclosure information available to Employer within a reasonable time after Employer's request.

2. Exceptions from Disclosure Tracking. PAI need not record disclosure information or otherwise account for disclosures of PHI that this Agreement or Employer in writing permits or requires (aa) for purposes of Treating the individual who is the subject of the PHI disclosed, Payment for that Treatment, or for the Health Care Operations of PAI or Employer (except where such recording or accounting is required by the HITECH ACT, and as of the effective dates for this provision of the HITECH ACT); (bb) to the individual who is the subject of the PHI or to that individual's personal representative; (cc) pursuant to a valid authorization by the person who is the subject of the PHI disclosed; (dd) to persons involved in that individual's health care or Payment related to that individual's health care; (ee) for notification for disaster relief purposes, (ff) for national security or intelligence purposes; (gg) as part of a limited data set; or (hh) to law enforcement officials or correctional institutions regarding inmates or other persons in lawful custody.

3. Disclosure Tracking Time Periods. Unless otherwise provided under the HITECH ACT, PAI must have available for Employer the disclosure information required under g(i)(aa) for the six (6) years preceding Employer's request for the disclosure information (except PAI need have no disclosure information for disclosures occurring before April 14, 2003).). In addition, where PAI is contacted directly by an individual based on information provided to the individual by Company, and where so required by the HITECH Act and/or any accompanying regulations, PAI shall make such Disclosure Information available directly to the individual.

j. Restriction Requests; Confidential Communications. PAI will comply with reasonable requests for restriction requests or confidential communications of which Employer is given written notice and to which Employer reasonably agrees pursuant to 45 C.F.R. § 164.522 (a) or (b).

k. Inspection of Books and Records. PAI will make its internal practices, books, and records, relating to its use and disclosure of PHI, available to Employer and to the U.S. Department of Health and Human Services to determine compliance with 45 C.F.R. Parts 160-64 or this Agreement.

l Notice of Privacy Practices. Plan Sponsor shall promptly provide PAI with Plan Sponsor's notice of privacy practices and any changes to such notice

m. Authorization. Plan Sponsor shall provide PAI with any changes to, or revocation of, authorization by an individual to use or disclose PHI, to the extent such changes affect PAI's permitted or required uses and disclosures.

n. Breach of Privacy & Security Obligations.

i. Breach Reporting**.** PAI will report to Employer any use or disclosure of PHI or electronic PHI not permitted by this Agreement. PAI will make the report to Employer within five (5) business days after PAI learns of such non-permitted use or disclosure. In addition, PAI will report, following discovery and without unreasonable delay, but in no event later than sixty (60) days following discovery, any "Breach" of "Unsecured Protected Health Information" as these terms are defined by the HITECH Act and any implementing regulations. PAI agrees to mitigate, to the extent practicable, any harmful effect it knows to have resulted from Breach. Any such report shall include, to the extent possible, the identification (if known) of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by PAI to have been, accessed, acquired, or disclosed during such Breach, along with any other information required to be reported under the HITECH Act and any accompanying regulations.

ii. Security Incident. If PAI becomes aware of any Security Incident, PAI shall report the same to Employer as provided below. aa) PAI certifies that there are a significant number of meaningless attempts to, without authorization, access, use, disclose, modify or destroy Electronic Protected Health Information such that to report each such unsuccessful incident separately would be impractical. Because there is no significant benefit for data security gained from requiring reporting each such unsuccessful intrusion attempt and the cost of reporting such unsuccessful attempts as they occur outweighs any potential benefit gained from reporting them, Employer and PAI agree that this Agreement shall constitute PAI's notice and written report of such unsuccessful attempts at unauthorized access or system interference as required above and by 45 C.F.R. Part 164 and that no further notice or report of such unsuccessful attempts will be required.

bb) PAI shall, however, separately report to Employer any successful unauthorized access, use, disclosure, modification, or destruction of Employer's Electronic Protected Health Information of which Business Associate becomes aware if such security incident either (i) results in a breach of confidentiality; (ii) results in a breach of integrity but only if such breach results in a significant, unauthorized alteration or destruction of Employer's Electronic Protected Health Information; or (iii) results in a breach of availability of Electronic Protected Health Information, but only if said breach results in a significant interruption to normal business operations. Such reports will be provided in writing within ten

(10) business days after PAI becomes aware of the impact of such Security Incident upon Employer's Electronic Protected Health Information.

iii. Right to Terminate for Breach. Plan Sponsor and PAI (the "Terminating Party") both will have the right to terminate this Agreement if the other (the "Non-Terminating Party") has engaged in a pattern or activity or practice that constitutes a material breach or violation of the Non-Terminating Party's obligations regarding the Terminating Party's Protected Health Information under this Agreement and, on notice of such material breach or violation from the Terminating Party, fails to take reasonable steps to cure the breach or end the violation. If the Non-Terminating Party fails to cure the material breach or end the violation within thirty (30) days after receipt of the Terminating Party's notice, the Terminating Party may terminate this Agreement by providing the Non-Terminating Party with written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. If for any reason the Terminating Party determines that the Non-Terminating Party has breached the terms of this Agreement and such breach has not been cured, but the Terminating Party determines that termination of this Agreement is not feasible, the Terminating Party may report such breach to the U.S. Department of Health and Human Services.

iv Obligations upon Termination.

aa. Return or Destruction. Upon termination, cancellation, expiration or other conclusion of Agreement, PAI will, at its sole discretion and if feasible, return to Employer or destroy all PHI. If PAI agrees to return Employer's PHI, all costs related to the return of such PHI will be paid by Employer. PAI may identify any PHI that cannot feasibly be returned to Employer or destroyed. PAI will limit its further use or disclosure of that PHI that is not returned or destroyed.

bb. Other Obligations and Rights. PAI's other obligations and rights and Employer's obligations and rights upon termination, cancellation, expiration or other conclusion of Agreement will be those set out in the Agreement.

o. Amendment to Agreement. Upon the effective date of any final regulation or amendment to final regulations promulgated by the U.S. Department of Health and Human Services with respect to PHI or Standard Transactions, this Agreement will automatically amend such that the obligations they impose on PAI remain in compliance with these regulations.

p. Definitions. Any capitalized term shall be defined as that term is defined in 45 C.F.R Parts 160-164 or the HITECH Act, as appropriate. Any reference to HIPAA shall be interpreted to refer to the Health Insurance Portability and Accountability Act of 1996, as amended, together with its relevant implementing regulations. Any reference to the HITECH Act shall be interpreted to refer to the Health Information Technology for Economic and Clinical Health Act, as amended and as contained within the American Recovery and Reinvestment Act of 2009 (ARRA), together with any relevant implementing regulations or guidance.

5.5 Assignment. PAI may assign this Agreement (including any and all obligations and liabilities associated with the Agreement) as well as the right to perform under this Agreement (and to receive payment from the Plan Sponsor) to any of its subsidiaries or affiliates with written consent or notice to Plan Sponsor. Plan Sponsor shall not sell, assign, delegate or otherwise transfer its rights or obligations under this Agreement to any third party without first obtaining the prior written consent of PAI, which consent shall be granted or denied in PAI's sole discretion.

5.6 Confidential Information.

a. PAI and Plan Sponsor hereby agree to treat any information disclosed to each other as Confidential Information. The term Confidential Information does not include information which:
   i. Is or becomes generally available to the public other than as a result of disclosure by the owner of the Confidential Information;
   ii. Becomes available to either party on a non-confidential basis from a third party; provided, that the receiving party under this Agreement is not aware that such third party is bound by a confidentiality agreement with respect to the Confidential Information;
   iii. Is identified by the disclosing party as not being Confidential Information.
b. The parties agree that each will keep the other party's Confidential Information confidential and will only use the disclosing party's Confidential Information for purposes contemplated under this Agreement. Neither party will use the Confidential Information in any manner, other than as provided in this Agreement.
c. Confidential Information disclosed pursuant to this Agreement is and shall remain the disclosing party's property. d. If, in the opinion of counsel for the receiving party, disclosure of Confidential Information is required by any federal or state law, the receiving party may only make such disclosure after notifying the disclosing party (if allowed by law) of the receiving party's intention to disclose the Confidential Information ten (10) days prior to making such disclosure.
e. The terms of this Section 5.6 shall survive the termination of this Agreement for a period of five (5) years following the date of termination.

5.7 Prior Agreements. This Agreement supersedes and replaces all prior oral or written agreements regarding the subject matter hereof and shall constitute the sole agreement between the parties hereto.

5.8 Written Notice. All demands and notices required under this Agreement shall be in writing and shall be by registered or certified mail, return receipt requested, nationally recognized overnight carrier, electronic facsimile (confirmed receipt), or other means to the address contained on the title page, or such other address as may hereafter be furnished to the other party by notice. Notice shall be deemed received when actually received by the other party as evidenced by a receipt signed by the other party or its agent.

5.9 Severability. Any part, provision, representation or warranty contained in this Agreement that is prohibited or that is held to be void or unenforceable by a court of competent jurisdiction shall be ineffective to the extent of such prohibition or unenforceable provision without invalidating the remaining provisions hereof.

5.10 Damages. Neither party to this Agreement shall be liable to the other party for any consequential (including lost profits), punitive, special or exemplary damages that result from any breach of this Agreement or any party's performance under this Agreement.

5.11 Effective Date. This Agreement shall be effective on the earlier of the date signed or, if Plan Sponsor shall not return an executed copy prior to the date PAI initially begins providing services, the first date PAI provides Services. If Plan Sponsor has not returned an executed copy of this Agreement prior to the receipt of Services, then the version of this Agreement initially provided to Plan Sponsor shall control.

VI. TERM OF AGREEMENT

6.1 Term. This Agreement shall commence on **DATE:** _____ and shall continue in effect unless terminated as provided herein below.

6.2 Termination

a. **By Notice.** Either Party may terminate this Agreement for any reason at any time by providing written notice to the other party. The notice shall specify an effective date of termination, which

shall be not less than ninety (90) days after the date of receipt of the notice by the other party. If the notice does not specify a date of termination, the effective date of the termination shall be ninety (90) days after the receipt of the notice by the other party

b. **By default.** Should either party default in the performance of any of the terms or conditions of this Agreement, the other party shall deliver (personally or by certified mail) to the defaulting party written notice thereof specifying the matters in default. The defaulting party shall have 10 business days after its receipt of the written notice to cure such default. If the defaulting party fails to cure the default with such ten day period, this Agreement shall terminate at midnight on the 15th business day after receipt of the notice by the defaulting party.

6.3 Effect of Termination. As of the effective date of termination of this Agreement, PAI shall have no further duties of performance here under. The period between notice of termination and the effective date of termination shall be used to effect an orderly transfer of records and funds, if any, from PAI to the Plan sponsor or to such person as the Plan Sponsor may designate in writing. PAI agrees to adjudicate and pay "run-out" claims for a fee in the amount of 10% of claims paid for a maximum period of six (6) months following termination.

IN WITNESS WHEREOF, PAI and Plan Sponsor have caused their names to be signed hereto by their respective officers.

Agreed to this _____day of _____, 20___

BY: _____ Witness: _____

Plan Sponsor – **NAME:** _____

BY: _____ Witness: _____

Philip J. Ericksen

Planned Administrators, Inc.

(PAI)

AGREEMENT WITH BUSINESS ASSOCIATE

This Agreement ("Agreement") is effective upon execution, and is made by and between Planned Administrators, Inc.("Business Associate") and **GROUP NAME: _**_____ ("Client"). This Agreement applies to all work performed by Business Associate on or after the effective date of this Agreement.

Client and Business Associate mutually agree to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64) and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act"), that are applicable to business associates, along with any guidance and/or regulations issued by DHHS. Client and Business Associate agree to incorporate into this Agreement any regulations issued with respect to the HITECH Act that relate to the obligations of business associates. Business Associate recognizes and agrees that it is obligated by law to meet the applicable provisions of the HITECH Act.

A. Privacy & Security of Protected Health Information.

1. Permitted Uses and Disclosures. Business Associate is permitted or required to use or disclose Protected Health Information ("PHI") it creates or receives for or from Client or to request PHI on Client's behalf as follows:

a) Functions and Activities on Client's Behalf. To perform functions, activities, services, and operations on behalf of Client, consistent with HIPAA, the HITECH Act, and their implementing regulations:

b) Business Associate's Operations. Business Associate may use the Minimum Necessary PHI for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities or to provide data aggregation services to Client.

2. Minimum Necessary and Limited Data Set. Business Associate's use, disclosure or request of Protected Health Information shall utilize a Limited Data Set if practicable. Otherwise, Business Associate will, in its performance of the functions, activities, services, and operations specified in Section A.1(a) above, make reasonable efforts to use, to disclose, and to request of a Covered Entity only the minimum amount of Client's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request. In addition, Business Associate also agrees to implement and follow appropriate minimum necessary policies as prescribed by any guidance issued by the United States Department of Health and Human Services.

3. Prohibition on Unauthorized Use or Disclosure. Business Associate will neither use nor disclose PHI or electronic PHI except as permitted or required by this Agreement, as otherwise permitted in writing by Client, or as required by law. This Agreement does not authorize Business Associate to use or disclose PHI or electronic PHI in a manner that would violate the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64) or the HITECH Act and its implementing regulations, if done by Client, except as set forth in Section A(1)(b).

4. Sale of PHI: Business Associate shall not sell PHI except as otherwise permitted by Section 13405(d) of the HITECH Act and 45 C.F.R. §§ 164.501, 164.502(a)(5)(ii), and 164.506(a)(4).

5. Marketing: Business Associate shall abide by any marketing restrictions established by Section 13406 of the HITECH Act and 45 C.F.R. §§ 164.501, 164.506(a)(3).

6. Fundraising: Business Associate shall abide by any fundraising restrictions established by Section 13406 of the HITECH Act.

7. Genetic Information: Business Associate shall abide by any restrictions established by 45 C.F.R. § 164.502(a)(5)(i).

8. To the extent that Client and Business Associate agree that Business Associate is to carry out Client's obligations under 45 C.F.R. Part 164, Subpart E (the Privacy Rule), Business Associate shall comply with the requirements of the Privacy Rule that apply to Client in the performance of such obligation. In addition, Business Associate shall comply with the applicable requirements of 45 C.F.R. Part 164, Subpart C.

9. **Information Safeguards.** Business Associate will develop, document, implement, maintain, and use appropriate administrative, technical, and physical safeguards, in compliance with applicable laws. The safeguards will be designed to preserve the integrity, availability and confidentiality of electronic PHI, and to prevent intentional or unintentional non-permitted or violating use or disclosure of, PHI. Business Associate will additionally develop any safeguards to the extent required by the HITECH Act. Business Associate will document and keep these safeguards current. Business Associate agrees to mitigate any harmful effect that is known to the Business Associate resulting from a use or disclosure of PHI or electronic PHI by the Business Associate or its subcontractors in violation of the requirements of this Agreement.

10. **Subcontractors and Agents.** Business Associate will require any of its subcontractors and agents to provide reasonable assurance that such subcontractor or agent will comply with the same privacy and security obligations as Business Associate with respect to such PHI.

B. **Compliance with Standard Transactions**. If Business Associate conducts, in whole or part, Standard Transactions for or on behalf of Client, Business Associate will comply, and will require any subcontractor or agent involved with the conduct of such Standard Transactions to comply, with 45 C.F.R. Part 162.

C. **Individual Rights.**

1. **Access.** Business Associate will, within a reasonable time after Client's request, make available to Client or, at Client's direction, to the individual (or the individual's personal representative) for inspection and obtaining copies, any PHI about the individual that is in Business Associate's custody or control, so that Client may meet its access obligations under 45 C.F.R. § 164.524 and, where applicable, the HITECH Act.

2. **Amendment.** Business Associate will, upon receipt of notice from Client, promptly amend any applicable portion of the PHI under 45 C.F.R. § 164.526.

3. **Disclosure Accounting.**

a) Disclosure Tracking. Business Associate will record information (to the extent required by HIPAA, the HITECH Act, or their implementing regulations) concerning each disclosure of PHI, not excepted from disclosure tracking under this Agreement Section C.3(b) below, that Business Associate makes a third party. For repetitive disclosures made by Business Associate to the same person or entity for a single purpose, Business Associate may provide (i) the disclosure information for the first of these repetitive disclosures; (ii) the frequency, periodicity or number of these repetitive disclosures; and (iii) the date of the last of these repetitive disclosures. Business Associate will make this disclosure information available to Client within a reasonable time after Client's request.

b) Exceptions from Disclosure Tracking. Business Associate need not record disclosure information or otherwise account for disclosures of PHI that this Agreement or Client in writing permits or requires (i) for purposes of Treating the individual who is the subject of the PHI disclosed, Payment for that treatment, or for the Health Care Operations of Client or Business Associate (except where such recording or accounting is required by the HITECH Act, and as of the effective dates for this provision of the HITECH Act); (ii) to the individual who is the subject of the PHI disclosed or to that individual's personal representative; (iii) pursuant to a valid authorization by the person who is the subject of the PHI disclosed; (iv) to persons involved in that individual's health care or payment related to that individual's health care; (v) for notification for disaster relief purposes, (vi) for national security or intelligence purposes; (vii) as part of a limited

data set; or (viii) to law enforcement officials or correctional institutions regarding inmates or other persons in lawful custody.

c) Disclosure Tracking Time Periods. Unless otherwise provided under the HITECH Act, Business Associate must have available for Client the disclosure information required by this Agreement Section C.3(a) for the six (6) years preceding Client's request for the disclosure information (except Business Associate need have no disclosure information for disclosures occurring before April 14, 2003). In addition, where Business Associate is contacted directly by an individual based on information provided to the individual by Company, and where so required by the HITECH Act and/or any accompanying regulations, Business Associate shall make such Disclosure Information available directly to the individual.

4. Restriction Requests; Confidential Communications. Business Associate will comply with any reasonable requests for restriction requests or confidential communications of which it is given written notice and to which Client reasonably agrees pursuant to 45 C.F.R. § 164.522 (a) or (b).

5. Inspection of Books and Records. Business Associate will make its internal practices, books, and records, relating to its use and disclosure of PHI, available to Client and to the U.S. Department of Health and Human Services to determine compliance with 45 C.F.R. Parts 160-64 or this Agreement.

D. Other Client Responsibilities.

1. Notice of Privacy Practices. Client shall promptly provide Business Associate with Client's notice of privacy practices and any changes to such notice.

2. Authorization. (a) Client shall provide Business Associate with any changes to, or revocation of, authorization by an individual to use or disclose PHI, to the extent such changes affect Business Associate's permitted or required uses and disclosures.

(b) Client shall obtain from Individuals any consents, authorizations and other permissions necessary or required by laws applicable to Client for Business Associate to fulfill its obligations to Client.

3. Safeguards. Client will use appropriate safeguards to maintain the confidentiality, privacy and security of PHI in transmitting same to Business Associate.

4. Confidentiality Restrictions. Client will not agree to any confidentiality restrictions without first obtaining the consent of Business Associate.

E. Breach of Privacy & Security Obligations.

1. Breach Reporting. Business Associate will report to Client any use or disclosure of PHI or electronic PHI not permitted by this Agreement. Business Associate will make the report to Client within five (5) business days after Business Associate learns of such non-permitted use or disclosure. In addition, Business Associate will report, following discovery and without unreasonable delay, but in no event later than sixty (60) days following discovery, any "Breach" of "Unsecured Protected Health Information" as these terms are defined by the HITECH Act and any implementing regulations. Business Associate agrees to mitigate, to the extent practicable, any harmful effect it knows to have resulted from Breach. Any such report shall include, to the extent possible, the identification (if known) of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach, along with any other information required to be reported under the HIPAA Breach Notification Regulations (45 C.F.R. Part 164, Subparts A, D).

2. Security Incident. If Business Associate becomes aware of any Security Incident, Business Associate shall report the same to Client as provided below. .

a) Business Associate certifies that there are a significant number of meaningless attempts

to, without authorization, access, use, disclose, modify or destroy Electronic Protected Health Information such that to report each such unsuccessful incident separately would be impractical. Because there is no significant benefit for data security gained from requiring reporting each such unsuccessful intrusion attempt and the cost of reporting such unsuccessful attempts as they occur outweighs any potential benefit gained from reporting them, Client and Business Associate agree that this Agreement shall constitute Business Associate's notice and written report of such unsuccessful attempts at unauthorized access or system interference as required above and by 45 C.F.R. Part 164 and that no further notice or report of such unsuccessful attempts will be required. By way of example (and not limitation in any way), the Parties consider the following to be illustrative (but not exhaustive) of unsuccessful Breach or Incidents when they do not result in unauthorized access, use, disclosure, modification, or destruction of ePHI or interference with an information system:

(i) Pings on a Party's firewall;
(ii) Port scans;
(iii) Attempts to log on to a system or enter a database with an invalid password or username;
(iv) Denial-of-service attacks that do not result in a server being taken off-line; and
(v) Malware (e.g., worms, viruses, etc.)

b) Business Associate shall, however, separately report to Client any successful unauthorized access, use, disclosure, modification, or destruction of Client's Electronic Protected Health Information of which Business Associate becomes aware if such security incident either (i) results in a breach of confidentiality; (ii) results in a breach of integrity but only if such breach results in a significant, unauthorized alteration or destruction of Client's Electronic Protected Health Information; or (iii) results in a breach of availability of Electronic Protected Health Information, but only if said breach results in a significant interruption to normal business operations. Such reports will be provided in writing within ten (10) business days after Business Associate becomes aware of the impact of such Security Incident upon Client's Electronic Protected Health Information.

3. **Mitigation**. Business Associate will mitigate to the extent practicable any harmful effect of which Business Associate is aware that is directly caused by any use or disclosure of Client's Protected Health Information in violation of this Agreement.

F. **General Provisions.**

1. **Termination of Agreement.**

a) Right to Terminate for Breach.

(i) Client will have the right to terminate this Agreement if Business Associate has engaged in a pattern or activity or practice that constitutes a material breach or violation of Business Associate's obligations regarding Client's Protected Health Information under this Agreement and, on notice of such material breach or violation from Client, fails to take reasonable steps to cure the breach or end the violation. If Business Associate fails to cure the material breach or end the violation within thirty (30) days after receipt of Client's notice, Client may terminate this Agreement by providing Business Associate written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. Unless otherwise agreed upon by the Parties, termination of this Agreement will automatically terminate any agreements specified in Section A.1(a) above. If for any reason Client determines that Business Associate has breached the terms of this Agreement and such breach has not been cured, but Client determines that termination of this Agreement (or any agreement specified in Section A.1(a)) is not feasible, Client may report such breach to the U.S. Department of Health and Human Services.

(ii) Business Associate will have the right to terminate this Agreement if Client has engaged in a pattern of activity or practice that constitutes a material breach or violation of Client's obligations regarding Client's Protected Health Information and, on notice of such material breach or violation from Business Associate, fails to take reasonable steps to cure the breach or end the violation. If Client fails to cure the material breach or end the violation within thirty (30) days after receipt of Business Associate's notice, Business Associate may terminate this Agreement by providing Client written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. Unless otherwise agreed upon by the Parties, termination of this Agreement shall automatically terminate any agreements specified in Section A.1(a) above. If for any reason Business Associate determines that Client has breached the terms of this Agreement and such breach has not been cured, but Business Associate determines that termination of this Agreement (or any agreement specified in Section A.1(a)) is not feasible, Business Associate may report such breach to the U.S. Department of Health and Human Services.

b) Obligations upon Termination.

(i) Return or Destruction. Upon termination, cancellation, expiration or other conclusion of Agreement, Business Associate will, at its sole discretion and if feasible, return to Client or destroy all PHI. If Business Associate agrees to return Client's PHI, all costs related to the return of such PHI will be paid by Client. Business Associate may identify any PHI that cannot feasibly be returned to Client or destroyed. Business Associate will limit its further use or disclosure of that PHI that is not returned or destroyed.

(ii) Other Obligations and Rights. Business Associate's other obligations and rights and Client's obligations and rights upon termination, cancellation, expiration or other conclusion of Agreement will be those set out in the Agreement.

2. Definitions. With respect to any information created, received, maintained, or transmitted by Business Associate from or on behalf of Client or another business associate of Client ("Client's Information"), the following definitions apply:

a) The capitalized terms "Covered Entity," "Electronic Protected Health Information ("electronic PHI" or "ePHI" shall be construed to be "Electronic Protected Health Information"), "Protected Health Information" ("PHI" shall be construed to be "Protected Health Information"), "Standard," "Trading Partner Agreement," and "Transaction" have the meanings set out in 45 C.F.R. § 160.103.

b) The term "Standard Transactions" shall have the meaning set out in 45 C.F.R. § 162.103.

c) The term "Minimum Necessary" shall have the meaning set out in 45 C.F.R. § 164.502.

d) The term "Required by Law" has the meaning set out in 45 C.F.R. § 164.103.

e) The terms "Health Care Operations," "Payment," "Research," and "Treatment" have the meanings set out in 45 C.F.R. § 164.501.

f) The term "Limited Data Set" has the meaning set out in 45 C.F.R. § 164.514(e). The term "use" means, with respect to PHI, utilization, employment, examination, analysis or application within Business Associate.

g) The terms "disclose" and "disclosure" mean, with respect to PHI, release, transfer, providing access to or divulging to a person or entity not within Business Associate.

h) Any other capitalized terms not identified here shall have the meaning as set forth in 45 Code of Federal Regulations ("C.F.R.") Parts 160-64 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), or in the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act").

3. Amendment to Agreement. Upon the effective date of any final regulation or amendment to final regulations promulgated by the U.S. Department of Health and Human Services with respect to PHI or Standard Transactions, this Agreement will automatically amend such that the obligations they impose on Business Associate remain in compliance with these regulations.

4. Intent. The parties agree that there are no intended third party beneficiaries under this Agreement.

5. Choice of Law. The parties agree that this Agreement shall be construed exclusively in accordance with the law of the United States and of the State of South Carolina, without regard to any choice of law principles that may require otherwise.

IN WITNESS WHEREOF, Client and Business Associate execute this Agreement to be effective on the last date written below.

BUSINESS ASSOCIATE:	**CLIENT GROUP**
Planned Administrators, Inc.	**NAME:** _____
(PAI)	
By: _____	By: _____
Title: Sr. Vice President and Chief Marketing Officer	Title: _____
Date: _____	Date: _____

Compliance/Affordable Care Act Provisions	Employer	PAI	Comments
Preventive Services/Womens' Preventive Services		X	PAI is responsible for drafting and updating the plan of benefits to include any updates to the Preventive Services upon the next plan year, 1 year following the recommendation date. Employer is responsible for approving amendments to the schedule of benefits.
Group Health Plan Non-Discrimination by Salary (existing rule for self-funded health benefit plans)	x		Section 105(h) nondiscrimination testing to ensure that the plan does not discriminate in favor of highly compensated individuals (HCIs) as to plan eligibility and benefits. Also, if the plan allows employees to pay premiums on a pre-tax basis through salary reductions, then the plan would also be subject to the Section 125 nondiscrimination rules.
Employer W-2 Reporting	x		Report the aggregate cost of applicable employer sponsored coverage on the employee W-2 Wage & Tax Statement Forms (W-2 Forms, Box 12, using Code DD).
Cafeteria Plan Changes	x		Simple Cafeteria Plans: Employers 100 or fewer employees exempt. Employers with 101 or more employees must perform Section 105(h) nondiscrimination testing.
Internal Claims and Appeals and External Review Processes	x	x	PAI is responsible for handling internal level one and external levels appeals related to claims and benefits. The Employer is responsible for approving TCC's internal level one appeal decisions and also for handling internal appeals regarding eligibility and rescissions of coverage.
Comparative Effectiveness Research Fees ($1 first year, $2 second year, $2+ medical inflation each year to 2019)	x		
Summary of Benefits and Coverage/Uniform Glossary & Notices of Mid-Year Modifications	x	x	PAI is responsible for SBC draft and posting the approved SBC to the member library. Employer is responsible for approval and distributing upon request to Employer as well as during open enrollment.
Individual Mandate	x		The employer shared responsibility requirements of Code Sec. 4980H to file an annual return reporting health coverage provided to qualified employees.
Prohibition of Discrimination Based on Health Status	x		The employer is responsible for enrollment provisions of this plan of benefits.
No Waiting Periods to Exceed 90 Days	x		The employer is responsible for enrollment provisions of this plan of benefits.
Employer Mandate "Play-or-Pay"	x		

Issuer/Employer Annual Reporting to IRS of Minimum Essential Coverage	x		
Cost Sharing Limitations (Max Out-Of-Pocket all non-GF plans)(deductible limit for fully insured SG only)	x	x	PAI is responsible for drafting the various the plan of benefits provisions, to include any benefits available related to the ACA preventive services with no cost share applied for in-network services. The Employer is responsible for final approval of the plan of benefits.
Exchanges - Transitional Reinsurance (payments into program applicable to self-funded plans)	x		
Disclosure of Transparency Information	x		(No dates for this)
Reporting of Annual Quality of Care and Wellness Activities	x		
Auto Enrollment (for employers with 200+ employees)	x		
IRS Information Reporting of Minimum Essential Coverage (and statements issued to individuals)	x	x	The Plan Sponsor/ Plan Administrator is responsible for filing the appropriate IRS Forms 1094 and 1095. PAI provides supporting reports and data regarding coverage as maintained within TCC's eligibility systems.
ERISA/DOL Disclosure or Additional Notice Requirements (including, but not limited to, creating and making available to plan participants a summary plan description (SPD)	x		
HIPAA Electronic Transactions Standards & Operating Rules, Health Plan Identifiers (HPID's)	x	x	PAI is responsible for working with financial vendors and providers on implementing the electronic claim status, eligibility status and electronic fund transfer/protocol standards. The Employer is responsible for providing the appropriate banking/financial information for implementation of provider payment EFT process and for obtaining their HPID as well as any certification or attestation of compliance requirements.
Medicare Part D Notice of Creditable or Non-Creditable Plan, Distribution to Enrollees	x		The Plan Sponsor is responsible for distributing the Medicare Part D notice to all new enrollees that are, or have familiy members that are, Medicare eligible due to age, disability and/or end stage renal disease (ESRD). Also, annually before October 15th.
Medicare Part D Disclosure to CMS	x		The Plan Sponsor is responsible for logging onto CMS's website and reporting whether or not their prescription drug coverage is creditable or non-creditable as compared to Medicare Part D. The Disclosure should be completed annually no later than 60 days from the beginning of a plan year (contract year, renewal year), within 30 days after termination of a prescription drug plan, or within 30 days after any change in creditable coverage status.

PLANNED ADMINISTRATORS INC

Employer Certification for Self-Funding

Many small and mid-size employers invest millions of dollars each year in fully-insured employee benefit plans. This often impacts the employer's employee compensation budget without producing the desired return on investment.

- Insured plan design choices are typically limited, inflexible and restrictive.
- Cost containment programs may be less than effective or even unavailable.
- Insured plans consume employee compensation funds that could be used to decrease staff turnover and attract highly-qualified employees.

For many employers with a stable benefit and financial history, there is an alternative: *Self-Funding*.

Self-Funding: What is it and How Does It Work?

Self-funding is an alternative approach to financing an employee benefit plan. Large employers have long used self-funding to directly fund their expected claims while separately purchasing Excess Loss coverage (often referred to as "Stop Loss") as an extra measure to protect the employer's plan against catastrophic claims.

Here's how it works:

- ✓ **Choose a Plan of Benefits:** The *employer*, with the assistance of an agent, broker and/or a third party administrator (TPA), *decides on a plan of employee benefits*. The plan may be identical or similar to the plan currently provided on a fully-insured basis or it may be a new, innovative plan not available in the fully-insured market.

- ✓ **Select a Professional TPA:** The TPA administers the plan on behalf of the employer. This includes:
  - *Maintaining proper funds* on deposit for claims payment.
  - *Paying Claims*.
  - Preparing *claim reports* or other data necessary for the plan and/or the Excess Loss insurer.
  - Providing plan information for filing *government-required reports*.
  - *Billing and collecting administrative fees and Excess Loss premium* for the plan.

- ✓ **Prepare the Plan Document:** A *plan document is prepared*. It contains all of the plan provisions, including eligibility, benefits covered, benefits limited or excluded, and termination. Materials such as *employee benefit descriptions, employee and dependent I.D. cards*, and other documents needed to administer the plan are usually prepared by the TPA.

- ✓ **Secure Excess Loss Coverage:** Arrangements are made to purchase separate *Excess Loss coverage* in order to cap the plan's medical claim payment responsibility. The amount of risk to be insured by the Excess Loss coverage will vary depending on the employer's size, plan of benefits, employer's location, financial resources, prior experience, the employer's tolerance for risk, and other factors. The cap is determined by the amount the plan is required to pay for an individual's medical claims (*Specific Excess Loss coverage*) and the combined amount of all eligible medical claims the plan must pay during a given period (*Aggregate Excess Loss coverage*). The plan is thus protected against both high individual medical claims costs and high volume medical claims costs.

- **Specific Excess Loss Coverage**
  Specific coverage provides protection for the employer against unexpected, high dollar claims on any one individual. The employer selects a per-person "attachment point" which is the amount of claim responsibility the plan agrees to retain. A minimum amount may be required by law. Eligible claims above this "attachment point" are reimbursed by Excess Loss coverage.
- **Aggregate Excess Loss Coverage**
  Aggregate coverage provides a ceiling on the dollar amount of eligible expenses that an employer would pay, in total, during a Contract Period. Expected monthly claims costs are determined using the number of plan participants, covered dependents and other factors. The amount may change from month to month, but will never be less than 100% of the monthly aggregate "attachment point" determined at the beginning of the contract period. Aggregate Excess Loss coverage accumulates each month to the end of the Contract Period. IMPORTANT NOTE: Since Aggregate Excess Loss coverage is determined by Contract Period and in the event the employer terminates prior to the end of the Contract Period, the employer is responsible for all financial risk for all medical claims that would have been covered by the Aggregate Excess Loss coverage.

✓ **Select a Contract Period:** The Contract Period chosen determines how medical claims are processed. Some Contract Periods may not be available, depending on the employer's group size or other factors. The most common Contract Periods are:

- **12/15 Contract Period:** Eligible medical claims incurred within the Contract Period (12 months) and paid within the Contract Period or paid within three months immediately following the end of the Contract Period (15 months) are covered by the plan or Excess Loss coverage. The plan's total maximum costs for a 12/15 Contract Period include the costs for the three months of run-out claims (i.e. medical claims incurred but not processed and paid before the end of the Contract Period).
- **12/18 Contract Period:** Eligible medical claims incurred within the Contract Period (12 months) and paid within the Contract Period or paid within six months immediately following the end of the Contract Period (18 months) are covered by the plan or Excess Loss coverage. The plan's total maximum costs for a 12/18 Contract Period include the costs for the six months of run-out claims.
- **12/12 Contract Period:** Eligible medical claims incurred and paid within the Contract Period are covered by the plan or Excess Loss coverage. The costs of claims incurred and paid in the 12 month Contract Period are included in the plan cost. NOTE: An option often referred to as a "Terminal Liability Option" may be required with this Contract Period. "Terminal Liability" is an option that must be selected and paid for at the beginning of the contract period; it provides that, if Excess Loss coverage terminates at the end of the Contract Period, claims incurred during the Contract Period and not paid by the end of the Contract Period are eligible for payment.

Self-Funding Advantages

Self-Funding typically offers the employer the following advantages:

- **Elimination of most premium tax:** There is no premium tax for the self-funded claim fund which immediately results in approximately 2-3% cost savings for the plan.
- **Control over Benefit Dollars:** The employer knows where employer funds are going and what they're used for. If medical claims for a plan year do not exceed a predetermined limit, the plan keeps those dollars and they can be used to offset the following year's expenses or reduce contribution levels for the employer or employees.

- **Reduced operational costs:** Employers find that overall administrative costs for a self-funded program incurred through a professional TPA are usually lower than costs charged by the prior insurance carrier.
- **Control of Plan Design:** The employer maintains control of the plan design, including making necessary plan changes to control abuses.
- **Cost-effective claim processing:** A TPA's success depends upon providing accurate and controlled claim processing for each employer.
- **Carrier profit margin and risk charge advantageous:** The insurance carrier's profit margin and risk charge are eliminated for most of the plan.
- **Enhanced Cash Flow:** Employer dollars formerly held in the form of unreported or pending claims reserves by the insurance carrier are available to the employer for other uses.
- **Extra costs for state benefit mandates avoided:** State laws and regulations that require health insurance plans to provide various benefits or to follow other administrative requirements do not apply, since self-funded plans are subject to ERISA.
- **Cost & Utilization Controls:** Depending on the TPA, a variety of cost control programs may be available to the employer such as access to a choice of preferred provider organizations (PPOs), large case management, second surgical opinion, outpatient surgical, and hospital bill audit programs, rather than being restricted to an insurance company's limited in-house programs.
- **Return on Investment for Reserves:** Interest on reserves established by the employer are controlled by the employer.
- **Risk Management through Excess Loss Coverage:** The employer selects the amount of retained risk and the amount of risk to be covered by the Excess Loss coverage. An insurance carrier typically has set pooling levels allowing little flexibility.

Self-Funding Disadvantages

Although self-funding is an excellent alternative for financing an employee benefit plan, it may not be appropriate for every employer. To take full advantage of self-funding, the employer must be willing to exercise discipline – over eligibility for benefits, over the actual payment of claims, and in the incurring of expenses. Regardless, self-funding may not reduce costs every year – or at all. A few potential disadvantages include:

- **Risk Assumption:** The employer assumes all risk up to the Excess Loss coverage attachment points.
- **Provision of Services:** The employer must provide those services normally provide by the insurance carrier. This is normally overcome by contracting with a skilled, professional TPA.
- **Asset Exposure:** The employer's assets are exposed to liability created by legal action against the self-funded plan.

The Employer named below certifies that he/she has read and understands the above information and further understands that the program being offered through Planned Adminstrators, Inc. is a self-funded program and not a fully-insured program.

Employer: _____ Date of Certification: _____

Name: _____ Title: _____ Signature: _____