

# State of New Hampshire

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DEPARTMENT OF ADMINISTRATIVE SERVICES  
OFFICE OF THE COMMISSIONER  
25 Capitol Street – Room 120  
Concord, New Hampshire 03301

LINDA M. HODGDON  
Commissioner  
(603) 271-3201

JOSEPH B. BOUCHARD  
Assistant Commissioner  
(603) 271-3204

December 11, 2014

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

### Requested Action

1. Authorize the Department of Administrative Services (DAS), Risk Management Unit, to amend an existing contract with Anthem Health Plans of New Hampshire, Inc., d/b/a Anthem Blue Cross and Blue Shield (Anthem) (VC#105707) at 1155 Elm Street, Suite 200, Manchester, NH, 03101, in the approximate amount of \$406,100, decreasing the total amount of the contract from \$20,526,000 to an amount not to exceed \$20,119,900 for the administration of the medical benefit provided to state employees and retirees. The original contract was approved by Governor and Council on December 5, 2012, Item #18C, copy attached. This agreement will become effective upon Governor and Council approval through December 31, 2015. Funding source: 32% General, 18% Federal, 3% Enterprise, 12% Highway, 34% Other, and 1% Turnpike Funds.

2. Authorize DAS, Risk Management Unit, to exercise the option to extend the existing contract with Anthem (VC#105707), in an amount not to exceed \$13,250,000, increasing the total contract amount from \$20,119,900 to \$33,369,900 for the administration of the medical benefit provided to state employees and retirees. The original contract was approved by Governor and Council on December 5, 2012, Item #18C, copy attached. This agreement will become effective upon Governor and Council approval through December 30, 2017. Funding source: 32% General, 18% Federal, 3% Enterprise, 12% Highway, 34% Other, and 1% Turnpike Funds.

Funds are available in the Employee Benefit Risk Management Fund, contingent upon availability and continued appropriations for all fiscal years with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified:

**Administration Costs**

**01-14-14-140560-66000000**

**102-500634 Med Admin Fee - Actives**

State Fiscal Year	Current Contract	Increase (Decrease) Amount	Amended/Extended Contract
2013	\$2,221,000	\$0	\$2,221,000
2014	\$4,591,000	\$0	\$4,591,000
2015	\$4,632,000	(\$92,122)	\$4,539,878
2016	\$2,319,000	\$1,369,590	\$3,688,590
2017	\$0	\$2,890,584	\$2,890,584
2018	\$0	\$1,459,254	\$1,459,254
Total - Actives	\$13,763,000	\$5,627,306	\$19,390,306

**01-14-14-140560-66600000**

**102-500634 Med Admin Fee - Troopers**

State Fiscal Year	Current Contract	Increase (Decrease) Amount	Amended/Extended Contract
2013	\$80,000	\$0	\$80,000
2014	\$166,000	\$0	\$166,000
2015	\$168,000	(\$2,847)	\$165,153
2016	\$84,000	\$42,320	\$126,320
2017	\$0	\$89,318	\$89,318
2018	\$0	\$45,091	\$45,091
Total - Troopers	\$498,000	\$173,882	\$671,882

**01-14-14-140560-66500000**

**102-500634 Med Admin Fee – Retirees Under 65**

State Fiscal Year	Current Contract	Increase (Decrease) Amount	Amended/Extended Contract
2013	\$295,000	\$0	\$295,000
2014	\$610,000	\$0	\$610,000
2015	\$615,000	(\$21,962)	\$593,038
2016	\$308,000	\$326,509	\$634,509
2017	\$0	\$689,114	\$689,114
2018	\$0	\$347,885	\$347,885
Total – Retirees Under 65	\$1,828,000	\$1,341,546	\$3,169,546

**01-14-14-140560-66500000**

**102-500653 Med Admin Fee – Retirees Over 65**

State Fiscal Year	Current Contract	Increase (Decrease) Amount	Amended/Extended Contract
2013	\$716,000	\$0	\$716,000
2014	\$1,480,000	\$0	\$1,480,000
2015	\$1,493,000	(\$86,120)	\$1,406,880
2016	\$748,000	\$1,339,032	\$2,087,032
2017	\$0	\$2,955,984	\$2,955,984
2018	\$0	\$1,492,270	\$1,492,270
Total – Retirees Over 65	\$4,437,000	\$5,701,166	\$10,138,166

<b>Total</b>	<b>\$20,526,000</b>	<b>\$12,843,900</b>	<b>\$33,369,900</b>
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### **Explanation**

The Commissioner of DAS is authorized, pursuant to RSA 21-1: 28, to enter into contracts with "any organization necessary to administer and provide a health plan." Governor and Council approved the original contract with Anthem on December 5, 2012, item #18C for \$20,526,000 for the administration of medical benefits to be provided to State employees and retirees and their eligible dependents in accordance with the provisions of RSA 21-1:30 and the state collective bargaining agreements. The contract with Anthem is currently in its second year and it expires at the end of the third year, on December 31, 2015, subject to the option to extend the contract for two additional years. This contract amendment and extension request, as explained below, saves the state \$3 million.

Throughout the State's contractual relationship with Anthem, DAS and Anthem have been working together on strategies to reduce the State's health care spending. In 2010, Anthem implemented the Compass Program that, at the time, was an innovative program designed to incentivize health benefit plan members to choose low cost, quality providers, thereby helping to reduce the health benefit plan's medical claims costs. The Compass Program pays employees, retirees under 65 and their eligible dependents cash incentives to utilize cost effective facilities for certain non-emergency diagnostic and therapeutic procedures. In 2010, when the Compass program was first implemented, the state agreed to pay Anthem a fee of \$2.00 per subscriber per month (PSPM) for the program. In 2011, after early Compass participation rates proved to be low, the Compass fee structure changed from \$2 PSPM to 25% of medical claims savings, with the goal of incentivizing Anthem to promote and support the development of the Compass program. Since 2011, the State, Anthem and Compass have worked together to expand the procedures eligible for incentives and to increase and enhance efforts to market Compass to employees and retirees under 65. Compass participation grew modestly in 2012 and 2013. In 2014, Compass participation increased dramatically when the active employee health benefit plan changed and for the first time ever included a deductible.

On January 1, 2014, as a result of collective bargaining, the State changed its health benefit plan for active employees and their families to include a deductible that applies to inpatient care, outpatient hospital care, lab services, and high cost imaging. In 2014, the deductible is \$500 per individual/\$750 per family; in 2015, this deductible increases to \$500 per individual/\$1000 per family. There are two major ways a member can offset the deductible cost. Members who require lab services or outpatient surgery can avoid the deductible altogether by utilizing a low cost lab or ambulatory surgery center designated by Anthem as a "Site of Service" facility. Members can also earn cash incentives by shopping with Compass and utilizing a low cost facility. As of October 31, 2014 year to date, the medical claims savings realized from the Compass program are \$3.18 million, an increase of 200% over the same period in 2013. Total medical claims savings realized from the Compass program since it was implemented on July 1, 2010 are now \$4.6 million. Although impressed with these claims savings, DAS concluded that the implementation of the deductible proved to be the significant motivator for employees to use Compass; therefore, DAS approached Anthem to renegotiate the Compass fee that pays Anthem 25% of medical claims savings when health benefit plan members shop with Compass and receive care at a low cost facility. Anthem came to these negotiations with a willingness to work with the state to reduce its overall costs of administering the health benefit plan.

Key to the negotiations between DAS and Anthem was the recognition of the need to achieve savings in 2015, the third year of the contract; consequently, this item includes a request to amend the third year of the contract with Anthem and to extend the terms of this agreement for two additional years. DAS negotiated a 6% reduction in the Anthem administrative fee from \$26.46 PSPM to \$24.84 PSPM, resulting in an annual savings of \$406,100. DAS also negotiated a 66% reduction in the Compass administrative fee. The negotiations reduced the current Compass fee of 25% of medical claims savings to \$2.25 PSPM. The new Compass fee, also effective in the third year of the contract, saves the State \$626,000 per year. If approved, this contract amendment will result in a total savings to the health benefit plan of \$1,032,100 in 2015. The contract extension for 2016 and 2017, if approved, will extend this \$1 million in savings into each of the following two years for a total savings of \$3 million.

In addition to these fee reductions, Anthem has agreed to lower its trend guarantees for 2016 and 2017 to 5%, and 4% respectively, as compared to the 6% trend guarantee applicable to 2015. Trend guarantees protect the state from excessive medical claims cost increases. Under the contract approved on December 5, 2012 (Item #18C), Anthem is at risk to pay to the State a performance penalty, calculated as a percentage of the State's annual administrative fee, based on the percentage to which the annual trend increase exceeds the agreed upon trend guarantee. These trend guarantees demonstrate Anthem's confidence in its ability to continue to control the state's medical costs.

In addition to the savings that this amendment and extension achieve, there are other compelling reasons to exercise the option to extend the contract between the State and Anthem. Collective Bargaining discussions extended into late 2013 and the new deductible was only implemented on January 1, 2014. Therefore, the new health benefit plan design is only twelve months old and is, comparatively speaking, in its infancy. Our employees and their families are continuing to adjust to having a deductible and the ability to offset the deductible expense by using a Site of Service location and the Compass program. Results to date are impressive. We are on track to save the \$6.8 million in FY 2015 that was contemplated by the collective bargaining agreements. We are hopeful that these results will improve as our members become more familiar with and increase their utilization of Anthem's Site of Service and Compass programs. Moreover, Anthem has been at the table with the state and health benefit plan members to make adjustments and corrections as required when implementation issues presented. We believe that it would be disruptive to our members and the success we have achieved to change third party administrators at this point in time.

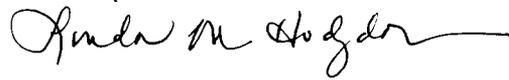
The State has Anthem's commitment to continue to work collaboratively to promote education of the state's health benefit plan design and the tools available to employees and their families, such as Site of Service and Compass, to avoid the deductible and reduce the state's medical costs. Anthem is also committed to expanding the Site of Service network in rural areas. For example, Anthem recently partnered with the State to open a Site of Service lab location operated by its subcontractor at the Glencliff Home two half-days per week.

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
December 11, 2014  
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Anthem's wellness programs continue to see increased employee participation and these efforts help to reduce claims cost in the short and long term. More than 6,977 employees have taken the Health Assessment Tool so far this year compared to 5,543 for all of last year, and employees have participated in more than 10,000 Health Rewards program offerings. In addition, Anthem and DAS staffs have coordinated 3,159 "Know Your Numbers" employee health screenings statewide.

Based on the foregoing, I am respectfully recommending approval of the contract amendment and extension with Anthem.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Linda M. Hodgdon", with a long horizontal flourish extending to the right.

Linda M. Hodgdon  
Commissioner

**FIRST AMENDMENT TO THE CONTRACT  
BY AND BETWEEN THE STATE OF NEW HAMPSHIRE,  
THROUGH THE DEPARTMENT OF ADMINISTRATIVE SERVICES  
AND  
ANTHEM HEALTH PLANS OF NEW HAMPSHIRE, INC.,  
d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD**

This Amendment (hereinafter called the "Amendment") is by and between the State of New Hampshire acting through the Department of Administrative Services (hereinafter referred to as the "State") and Anthem Health Plans of New Hampshire, Inc., a licensed health insurance corporation organized under the laws of the State of New Hampshire doing business as Anthem Blue Cross and Blue Shield (hereinafter referred to as the "Contractor" or "Anthem");

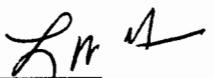
WHEREAS, pursuant to an agreement (hereinafter called the "Agreement") between the parties approved by Governor and Council on December 5, 2012 for the period January 1, 2013 through December 31, 2015, Anthem agreed to perform certain medical benefit administration services upon the terms and conditions specified in the Agreement in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, pursuant to Section 18 of the Agreement, the Agreement may be amended only by an instrument in writing signed by the parties hereto and only after approval of such amendment by the Governor and Executive Council of the State of New Hampshire; and

WHEREAS, Anthem and the State have agreed to amend the Agreement in certain respects as stated herein;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. **Amend Section 1.4 of the P-37** by changing the Contractor Address to "1155 Elm Street Suite 200 Manchester, NH 03101".
2. **Amend Section 1.7 of the P-37** by changing the Completion Date to "December 31, 2017".
3. **Amend Section 1.8 of the P-37** by changing the Price Limitation to \$33,369,900.
4. **Delete Exhibit A, Article 1(b), Agreement Period** and replace with the following:
  - b. **AGREEMENT PERIOD.** The period commencing at 12:00 a.m. on January 1, 2015 and ending at 11:59 p.m. on December 31, 2017, unless otherwise terminated in accordance with the terms of the Agreement. The Agreement Period shall be comprised of three one year terms (each a "Term"). Each Term shall commence at 12:00 a.m. on January 1st and end at 11:59 p.m. on December 31st of the applicable calendar year.

Anthem Initials 

5. **Amend Exhibit A, Article 2, Administrative Services Provided by Anthem**, by adding a new section cc:

cc. Anthem agrees to continue to make the Compass Healthcare Advisers program ("Compass") available to all active State employees and under-65 retirees covered under the State benefit plan.

6. **Delete the first three paragraphs of Exhibit A, Article 18, Schedule of Performance Guarantees**, Section 3: Medical Trend Guarantee and replace with the following three paragraphs:

For the third, fourth and fifth year of the Agreement Period, the Contractor agrees to the following Medical Trend Guarantees:

January 1, 2015-December 31, 2015: 6%

January 1, 2016-December 31, 2016: 5%

January 1, 2017-December 31, 2017: 4%

The Medical Trend Guarantees will apply to all claims incurred through all medical plans administered by the Contractor for all non-Medicare eligible enrollees.

If the medical cost trend for any of the three years exceeds the medical trend guarantee above, Contractor will issue a credit (or other mutually agreed upon payment) to the State (illustrated below) based on a percentage of the administrative service fee as stated in EXHIBIT B, Section 3(b).

All other paragraphs of **Exhibit A, Article 18, Schedule of Performance Guarantees**, Section 3, shall remain unchanged.

7. **Delete Exhibit A, Article 18, Section 3, Other Conditions, (5)** and replace with the following:

The Trend Guarantee assumes an effective date of January 1, 2015 and is applicable for each policy period from 2015-2017.

8. **Delete Exhibit B, Section 3(b)(1) and (2), Amount of Administrative Services Fees** and replace with the following:

(b) Amount of Administrative Services Fees

(1) The Administrative Services Fees for the Agreement Period shall be as follows:

**Base Fee:** \$24.84 per Subscriber per month ("pspm")

**Compass Fee:** \$2.25 per Subscriber per month ("pspm")

Anthem Initials 

Except as specifically amended herein, all other provisions of the Agreement, approved by the Governor and the Council, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

STATE OF NEW HAMPSHIRE  
Department of Administrative Services

By: *Giulio M. Holyer*  
\_\_\_\_\_, Commissioner

Date: 12/15/14

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Anthem Health Plans of New Hampshire, Inc., d/b/a Anthem Blue Cross and Blue Shield

By: *[Signature]*

Date: 12/12/2014

STATE OF NEW HAMPSHIRE  
COUNTY OF Hillsborough

On this 12<sup>th</sup> day of December 2014 before me, *Sara Wagner*, the undersigned officer, personally appeared Lisa Guertin who acknowledged herself to be the President of Anthem Health Plans of New Hampshire, Inc., a licensed health insurance corporation, and that she, as such and being duly authorized to do so, executed the foregoing instrument of the purposes therein contained, by signing the name of the corporation by herself as President.

In witness whereof I hereunto set my hand and official seal.

*Sara Wagner*  
Notary Public

**SARA A. WAGNER, Notary Public**  
**My Commission Expires April 17, 2018**

My Commission expires: \_\_\_\_\_

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Anthem Initials *[Signature]*



State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify ANTHEM HEALTH PLANS OF NEW HAMPSHIRE, INC. is a New Hampshire corporation registered on June 30, 1999. I further certify that articles of dissolution have not been filed with this office.

INFORMATION REGARDING ANNUAL REPORTS AND/OR FEES MUST BE  
OBTAINED FROM THE NEW HAMPSHIRE INSURANCE DEPARTMENT.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 8<sup>th</sup> day of December, A.D. 2014

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

**CERTIFICATION  
OF  
KATHY KIEFER, SECRETARY  
ANTHEM HEALTH PLANS OF NEW HAMPSHIRE, INC.**

I, Kathy S. Kiefer, Corporate Secretary of Anthem Health Plans of New Hampshire, Inc. certify that Lisa M. Guertin is the President and General Manager of Anthem Health Plans of New Hampshire, Inc. d/b/a Anthem Blue Cross and Blue Shield ("Anthem"), and as such President and General Manager, and consistent with Anthem policies, has the signatory authority to bind Anthem in contracts with the State of New Hampshire.

  
\_\_\_\_\_  
Kathy S. Kiefer, Secretary

STATE OF INDIANA

COUNTY OF MARION

On this the 9<sup>th</sup> day of December, 2014, before me, Deborah Wells, the undersigned officer, personally appeared Kathy S. Kiefer who acknowledged herself to be the Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., d/b/a Anthem Blue Cross and Blue Shield, a corporation, and that she, as such Corporate Secretary being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as Corporate Secretary.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My commission expires:

2/28/15

Deborah S. Wells  
Notary Public/Justice of the Peace

My county of Residence is Morgan



**CERTIFICATE**

(Corporation With Seal)

I, Kathy S. Kiefer, Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., do hereby certify that: (1) I am the duly elected and acting Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., doing business as Anthem Blue Cross and Blue Shield, a New Hampshire corporation (the "Corporation"); (2) I maintain and have custody of and am familiar with the Seal and Minute Books of the Corporation; (3) I am duly authorized to issue certificates with respect to the contents of such books and to affix such seal to such certificates; (4) the following is a true and complete copy of Bylaws adopted at a meeting on June 30, 1999; (5) the foregoing Bylaws are in full force and effect, unamended, as of the date hereof; and (6) the following person(s) lawfully occupy the office(s) indicated below:

Lisa M. Guertin President

R. David Kretschmer Treasurer

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Corporation this 8th day of December, 2014

(Corporate Seal)

Kathy S. Kiefer  
Kathy S. Kiefer, Corporate Secretary

STATE OF INDIANA

COUNTY OF MARION

On this the 8th day of December, 2014, before me, Deborah Wells, the undersigned officer, personally appeared Kathy S. Kiefer who acknowledged herself to be the Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., d/b/a Anthem Blue Cross and Blue Shield, a corporation, and that she, as such Corporate Secretary being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as Corporate Secretary.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My commission expires: 2/28/15 Deborah S. Wells  
Notary Public/Justice of the Peace



residence is Morgan

**Applicant Name: Anthem Health Plans of NH, Inc.**  
**d/b/a Anthem Blue Cross and Blue Shield**

**NAIC No.: 53759**  
**FEIN: 02-0510530**

## CERTIFICATE OF COMPLIANCE

State of New Hampshire Office of Commissioner  
(Domiciliary state of applicant) (Commissioner, Superintendent, Officer)

I, Roger A. Sevigny, hereby certify that I am the  
(name)

Commissioner of the State of New Hampshire  
(position)

and have supervision of insurance business in said State and as such I hereby certify that

**ANTHEM HEALTH PLANS OF NH, INC.**  
**d/b/a Anthem Blue Cross and Blue Shield**  
(Name of Insurer)

of Manchester, New Hampshire is duly organized under the laws of said State and is authorized  
(city, state)

to transact the business of Accident & Health  
(lines of insurance)\*\*

(Paragraph IV, of RSA 401:1) in this State.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Concord, New Hampshire  
(location)

on this 5th day of December A.D. 2014.  
(month)



(signature)

Roger A. Sevigny, Commissioner  
(printed name)



**THE STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

License No: 100649

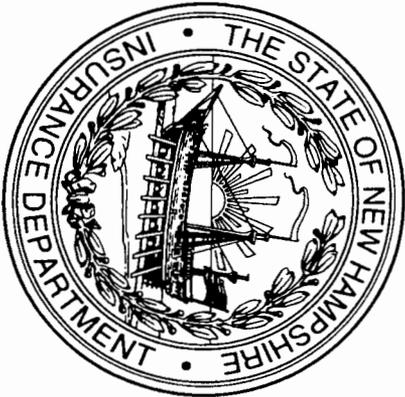
Presents that ANTHEM HEALTH PLANS OF NH, INC. (DBA ANTHEM BLUE CROSS AND BLUE SHIELD) is hereby authorized to transact Accident & Health lines of Insurance in accordance with paragraphs IV of NH RSA 401:1.  
Exclusions:

Effective Date: 06/15/2014

Expiration Date: 06/14/2015



Roger A. Sevigny  
Commissioner of Insurance



**BYLAWS  
OF  
ANTHEM HEALTH PLANS OF NEW HAMPSHIRE, INC.**

**ARTICLE I  
OFFICES**

**1.1 Business Office.**

The principal office of the Corporation shall be located at any place within the State of New Hampshire as designated in the Corporation's most current Annual Report filed with the Secretary of State of New Hampshire. The Corporation may have such other offices, either within or without the State of New Hampshire, as the Board of Directors may designate or as the business of the Corporation may require from time to time.

**1.2 Registered Office.**

The registered office of the Corporation as required by the relevant provisions of New Hampshire RSA 293-A (New Hampshire RSA 293-A as from time to time amended is sometimes referred to herein as the "New Hampshire Business Corporation Act") and New Hampshire RSA 401 (New Hampshire RSA 401 as from time to time amended is sometimes referred to herein as the "New Hampshire Insurance Company Act") shall be located within the State of New Hampshire and may be, but need not be, identical with the Corporation's principal office; provided, however, that the registered office of the Corporation shall at all times be the same as the residence or business office of the registered agent. The address of the registered office may be changed from time to time in accordance with the relevant provisions of the New Hampshire Business Corporation Act and the New Hampshire Insurance Company Act.

**ARTICLE II  
SHAREHOLDERS**

**2.1 Annual Shareholder Meeting.**

(a) The annual meeting of the shareholders shall be held during the month of May in each year, beginning with the year 2000, on the specific day within such month as shall be fixed by the Board of Directors from time to time, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of New Hampshire, such meeting shall be held on the next succeeding business day.

(b) If the election of directors shall not be held on the day designated herein for any annual meeting of the shareholders, or at any subsequent continuation after adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the shareholders as soon thereafter as convenient.

## **2.2 Special Shareholder Meetings.**

Special meetings of the shareholders, for any purpose or purposes, described in the meeting notice, may be called by the President, and shall be called by the President or Secretary at the request of the Board of Directors or the holders of not less than one-tenth of all outstanding votes of the Corporation entitled to be cast on any issue at the meeting.

## **2.3 Place of Shareholder Meetings.**

The Board of Directors may designate any place, either within or without the State of New Hampshire as the place of meeting for any annual or any special meeting of the shareholders, unless all the shareholders entitled to vote at the meeting agree by written consents (which may be in the form of waiver of notice or otherwise) to another location, which may be either within or without the State of New Hampshire. If no designation is made, the place of meeting shall be the principal office of the Corporation in the State of New Hampshire.

## **2.4 Notice of Shareholder Meetings.**

(a) Required Notice. Written notice stating the place, day and hour of any annual or special shareholder meeting shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Board of Directors, or other persons calling the meeting, to each shareholder of record, entitled to vote at such meeting and to any other shareholder entitled by the relevant provisions of New Hampshire RSA 293-A or the Articles of Incorporation of the Corporation to receive notice of the meeting. Notices to shareholders shall be deemed to be effective at the time and in the manner described in New Hampshire RSA 293-A:1.41, as may be amended.

(b) Adjourned Meeting. If any shareholder meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, and place, if the new date, time, and place is announced at the meeting before adjournment. But if a new record date for the adjourned meeting is, or must be fixed (e.g. Article II, Section 2.5 hereof), then notice must be given pursuant to the requirements of paragraph (a) of this Section 2.4, to those persons who are shareholders as of the new record date.

(c) Waiver of Notice. Any shareholder may waive notice of a meeting (or any notice required by the New Hampshire Business Corporation Act, the Corporation's Articles of Incorporation or By-Laws), by a writing signed by the shareholder entitled to the notice, which is delivered to the Corporation (either before or after the date and time stated in the notice) for inclusion in the minutes or filing with the corporate records. Under certain circumstances, a shareholder's attendance at a meeting may constitute a waiver of notice, unless the shareholder takes certain actions to preserve his/her objections as described in the New Hampshire Business Corporation Act.

(d) Contents of Notice. The notice of each special shareholder meeting shall include a description of the purpose or purposes for which the meeting is called and any other

information required by applicable law. Except as provided herein, or as provided in the Corporation's Articles of Incorporation, or otherwise in the New Hampshire Business Corporation Act, the notice of an annual shareholder meeting need not include a description of the purpose or purposes for which the meeting is called.

## **2.5 Fixing of Record Date.**

For the purpose of determining shareholders of any voting group entitled to notice of or to vote at any meeting of shareholders, or shareholders entitled to receive payment of any distribution or dividend, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors may fix in advance a date as the record date. Such record date shall not be more than seventy (70) days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If no record date is so fixed by the Board of Directors for the determination of shareholders entitled to notice of, or to vote at a meeting of shareholders, or shareholders entitled to receive a share dividend or other distribution, the record date for determination of such shareholders shall be at the close of business on:

- (a) With respect to an annual shareholder meeting or any special shareholder meeting called by the Board of Directors or any person specifically authorized by the Board of Directors or these By-Laws to call a meeting, the day before the first notice is delivered to shareholders;
- (b) With respect to a special shareholders' meeting demanded by the shareholders, the date the first shareholder signs the demand;
- (c) With respect to the payment of a share dividend, the date the Board of Directors authorizes the share dividend;
- (d) With respect to actions taken in writing without a meeting pursuant to Article II, Section 2.10 hereof, the date the first shareholder signs a consent; and
- (e) With respect to a dividend or distribution to shareholders, (other than one involving a repurchase or reacquisition of shares), the date the Board of Directors authorizes the dividend or distribution.

When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this Section, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

## **2.6 Shareholder List.**

The officer or agent having charge of the stock transfer books for shares of the Corporation shall make a complete record of the shareholders entitled to vote at each meeting of shareholders thereof, arranged in alphabetical order, listing the address and the number of shares

held by each. The list shall be arranged by voting group (if such exists, see Article II, Section 2.7 hereof) and within each voting group by class or series of shares. The shareholder list shall be available for inspection by any shareholder, beginning two (2) business days after notice of the meeting is given for which the list was prepared and continuing through the meeting. The list shall be available at the Corporation's principal office or at a place identified in the meeting notice in the city where the meeting is to be held. A shareholder, his agent, or attorney is entitled on written demand to inspect and, subject to the requirements of Article II, Section 2.12 hereof, to copy the list during regular business hours and at his/her expense, during the period it is available for inspection. The Corporation shall maintain the shareholder list in written form or in another form capable of conversion into written form within a reasonable time.

## **2.7 Shareholder Quorum and Voting Requirements.**

(a) If the Articles of Incorporation or the New Hampshire Business Corporation Act provides for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group.

(b) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the Articles of Incorporation or the New Hampshire Business Corporation Act provide otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(c) If the Articles of Incorporation or the New Hampshire Business Corporation Act provide for voting by two (2) or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately. Action may be taken by one (1) voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

(d) Once a share is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new record date is or must be set for that adjourned meeting.

(e) If a quorum exists, action on a matter (other than the election of directors) by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the Articles of Incorporation or the New Hampshire Business Corporation Act require a greater number of affirmative votes.

## **2.8 Proxies.**

At all meetings of shareholders, a shareholder may vote in person, or vote by proxy, which is executed in writing by the shareholder, or which is executed by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Corporation or other person authorized to tabulate votes before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. All

proxies are revocable unless they meet specific requirements of irrevocability set forth in New Hampshire RSA 293-A:7.22(d) as may be amended. The death or incapacity of the shareholder appointing a proxy does not invalidate the right of the Corporation to accept the proxy unless the Corporation is put on notice before the proxy exercises his/her authority under the appointment. A transferee for value, who receives shares subject to an irrevocable proxy, can remove the proxy, if s/he had no notice of the proxy, and if such appointment was not conspicuously noted on the share certificate. Proxies transmitted by mailgrams or other telegraphic means or by any other electronic, electrical or telephonic means, which result in or produce a written or printed document or facsimile thereof shall be deemed a valid proxy, provided, however, that any such transmission must provide a reasonable means of assuring its authenticity and the identity of its sender.

## **2.9 Voting of Shares.**

Unless otherwise provided in the Articles of Incorporation or by a relevant provision of the New Hampshire Business Corporation Act, each outstanding share entitled to vote shall be entitled to one (1) vote upon each matter submitted to a vote at a meeting of shareholders.

## **2.10 Shareholder Action by Written Consent.**

Any action required or permitted to be taken at a meeting of the shareholders may be taken without a meeting if one (1) or more consents in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof and the consents are delivered to the Corporation for inclusion in the minute book. If the act to be taken requires that notice be given to non-voting shareholders, the Corporation shall give the non-voting shareholders written notice of the proposed action at least ten (10) days before the action is taken, which notice shall contain or be accompanied by the same material that would have been required if a formal meeting had been called to consider the action. Action taken by consent is effective when the last shareholder signs the consent, unless the consent specifies a different effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

## **2.11 Voting for Directors.**

Unless otherwise provided in the Articles of Incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

## **2.12 Shareholder's Rights to Inspect Corporate Records.**

(a) Minutes and Accounting Records. The Corporation shall keep as permanent records minutes of all meetings of its shareholders and Board of Directors, a record of all actions taken by the shareholders or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Corporation. The Corporation shall maintain appropriate accounting records.

(b) Inspection Rights. Subject to compliance with the applicable provisions of the New Hampshire Business Corporation Act, the shareholders of the Corporation have certain inspection rights with respect to certain enumerated corporate records and materials as described in New Hampshire RSA 293-A:16.02, as may be amended.

### **2.13 Financial Statements Shall be Furnished to the Shareholders.**

The Corporation shall furnish its shareholders with annual financial statements, which may be consolidated or combined statements of the Corporation and one (1) or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year, and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements.

### **2.14 Dissenters' Rights.**

Each shareholder shall have the right to dissent from and obtain payment for the Corporation's shares as issued to such shareholder when so authorized or required by the New Hampshire Business Corporation Act, the Articles of Incorporation, these Bylaws, or in a resolution of the Board of Directors.

## **ARTICLE III BOARD OF DIRECTORS**

### **3.1 General Powers**

All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under, the direction of the Board of Directors.

### **3.2 Number, Tenure, and Qualification of Directors.**

Unless otherwise provided in the Articles of Incorporation, the authorized number of directors shall be not less than one (1) nor more than ten (10). The current number of directors shall be within the limits specified above, and as determined (or as amended from time-to-time) by elective vote of the shareholders or by resolution adopted by the shareholders. Each director shall hold office until the next annual meeting of shareholders, his/her resignation or until removed. However, if his/her term expires, s/he shall continue to serve until his/her successor shall have been elected and qualified, or until there is a decrease in the number of directors. Unless required by the Articles of Incorporation, directors do not need to be residents of the State of New Hampshire or shareholders of the Corporation.

### **3.3 Regular Meetings of the Board of Directors.**

A regular meeting of the Board of Directors shall be held without notice other than this By-Law immediately after, and at the same place as, the annual meeting of shareholders. The Board of Directors may provide, by resolution, the time and place, either within or without the State of New Hampshire, for the holding of additional regular meetings without notice other than such resolution.

### **3.4 Special Meetings of the Board of Directors.**

Special meetings of the Board of Directors may be called by or at the request of the President or any one (1) director. The person authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of New Hampshire, as the place for holding any special meeting of the Board of Directors; if permitted by Section 3.7 hereof, such meeting may be held by telephone.

### **3.5 Notice of, and Waiver of Notice for, Special Directors Meetings.**

Notice of any special directors meeting shall be given at least two (2) days prior thereto either orally or in writing. If mailed, notice of any directors meeting shall be deemed to be effective at the time and in the manner described in New Hampshire RSA 293-A:1.41 as may be amended. Any director may waive notice of any meeting. Except as provided in the next sentence, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business and at the beginning of the meeting (or promptly upon his/her arrival) objects to holding the meeting or transacting business at the meeting, and does not thereafter vote for or assent to action taken at the meeting.

### **3.6 Director Quorum.**

A majority of the number of directors prescribed by resolution, (or if no number is prescribed the number in office immediately before the meeting begins) shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, unless the Articles of Incorporation require a greater number.

### **3.7 Directors, Manner of Acting.**

(a) The act of a majority of the directors present at a meeting at which a quorum is present when the vote is taken shall be the act of the Board of Directors unless the Articles of Incorporation require a greater percentage.

(b) Unless the Articles of Incorporation provide otherwise, any or all directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other

during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(c) A director who is present at a meeting of the Board of Directors or a committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless: (1) s/he objects at the beginning of the meeting (or promptly upon his/her arrival) to holding it or transacting business at the meeting; or (2) his/her dissent or abstention from the action taken is entered in the minutes of the meeting; or (3) s/he delivers written notice of his/her dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

### **3.8 Director Action Without a Meeting.**

Unless the Articles of Incorporation provide otherwise, any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if the action is taken by unanimous written consent of the Board of Directors as evidenced by one (1) or more written consents describing the action taken, signed by each director and filed with the minutes or corporate records. Action taken by consent is effective when the last director signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be described as such in any document.

### **3.9 Removal of Directors.**

The shareholders may remove one (1) or more directors at a meeting called for that purpose if notice has been given that a purpose of the meeting is such removal. The removal may be with or without cause unless the Articles of Incorporation provide that directors may only be removed with cause. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove him exceeds the number of votes cast not to remove him.

### **3.10 Board of Director Vacancies.**

(a) Unless the Articles of Incorporation provide otherwise, if a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of directors, the shareholders may fill the vacancy. During such time that the shareholders fail or are unable to fill such vacancies, then and until the shareholders act the Board of Directors may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders.

(c) A vacancy that will occur at a specific later date (by reason of resignation effective at a later date) may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

(d) The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

### **3.11 Director Compensation.**

Unless otherwise provided in the Articles of Incorporation, by resolution of the Board of Directors, each director may be paid his/her expenses, if any, of attendance at each meeting of the Board of Directors, and may be paid a stated salary as director or a fixed sum for attendance at each meeting of the Board of Directors or both; provided, however, that any director that contemporaneously serves as a salaried officer of the Corporation or any of its affiliates shall not be entitled to receive a salary as a director or a fixed sum for attendance at meetings of the Board of Directors. Notwithstanding the foregoing, no such payment shall preclude any director from serving the Corporation in any capacity and receiving compensation therefor.

### **3.12 Director Committees.**

(a) Creation of Committees. Unless the Articles of Incorporation provide otherwise, the Board of Directors may create one (1) or more committees and appoint members of the Board of Directors to serve on them. Each committee must have two (2) or more members, who serve at the pleasure of the Board of Directors.

(b) Selection of Members. The creation of a committee and appointment of members to it must be approved by the greater of (1) a majority of all the directors in office when the action is taken or (2) the number of directors required by the Articles of Incorporation to take such action, (or if not specified in the Articles, the number required by Section 3.7 of this Article III to take action).

(c) Required Procedures. Sections 3.4, 3.5, 3.6, 3.7 and 3.8 of this Article III, which govern meetings, action without meetings, notice and waiver of notice, quorum and voting requirements of the Board of Directors, apply to committees and their members.

(d) Authority. Unless limited by the Articles of Incorporation, each committee may exercise those aspects of the authority of the Board of Directors which the Board of Directors confers upon such committee in the resolution creating the committee. Provided, however, a committee may not: (1) authorize distributions; (2) approve or propose to shareholders action that the New Hampshire Business Corporation Act requires be approved by shareholders; (3) fill vacancies on the Board of Directors or on any of its committees; (4) amend the Articles of Incorporation pursuant to the authority of directors, to do so granted by RSA 293-A:10.02 of the New Hampshire Business Corporation Act as may be amended; (5) adopt, amend or repeal these By-Laws; (6) approve a plan of merger not requiring shareholder approval; (7) authorize or approve reacquisition of shares, except according to a formula or method prescribed by the Board

of Directors; or (8) authorize or approve the issuance or sale or contract for sale of shares or determine the designation and relative rights, preferences and limitations of a class or series of shares, except that the Board of Directors may authorize a committee (or a senior executive officer of the Corporation) to do so within limits specifically prescribed by the Board of Directors.

## **ARTICLE IV OFFICERS**

### **4.1 Number of Officers.**

The officers of the Corporation shall be a President, a Secretary, and a Treasurer, each of whom shall be appointed by the Board of Directors or, except with respect to the office of the President itself, the President. Such other officers and assistant officers as may be deemed necessary, including any vice-presidents, may be appointed by the Board of Directors or by the President. In the event a conflict arises between the Board of Directors and the President with respect to an appointment (including, but not limited to, the identity of the individual appointed or the designated term of office), the appointment made by the Board of Directors shall control. The same individual may simultaneously hold more than one (1) office in the Corporation. The Chairman of the Board shall be chosen by the Board of Directors from among the officers of the Corporation and shall have such powers and duties as are delegated to him/her pursuant to Section 4.9 below.

### **4.2 Appointment and Term of Office.**

The officers of the Corporation shall be appointed by the Board of Directors or the President for a term as determined by the appointing authority. In the event a conflict arises between the Board of Directors and the President with respect to an appointment (including, but not limited to, the identity of the individual appointed or the designated term of office), the appointment made by the Board of Directors shall control. The designation of a specified term grants to the officer no contract rights, and the Board of Directors or the President, acting independently, can remove the officer at any time prior to the termination of such term. If no term is specified, they shall hold office until they resign, die, or until they are removed in the manner provided in Section 4.3 of this Article IV.

### **4.3 Removal of Officers.**

Any officer or agent may be removed by the Board of Directors or the President at any time, with or without cause. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer or agent shall not of itself create contract rights.

#### **4.4 President.**

The President shall be the principal executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. S/he shall, when present, and in the absence of a Chairman of the Board, preside at all meetings of the shareholders and of the Board of Directors. S/he may sign, with the Secretary or any other proper officer of the Corporation thereunto authorized by the Board of Directors, certificates for shares of the Corporation the issuance of which shall have been authorized by resolution of the Board of Directors and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

#### **4.5 The Vice-Presidents.**

If appointed, in the absence of the President or in the event of his/her death, inability or refusal to act, the Vice-President (or in the event there be more than one Vice-President, the Vice-Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their appointment) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. If there is no Vice-President, then the Treasurer shall perform such duties of the President. Any Vice-President may sign, with the Secretary or any other proper officer, certificates for shares of the Corporation the issuance of which have been authorized by resolution of the Board of Directors; and shall perform such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors.

#### **4.6 The Secretary.**

The Secretary shall: (a) keep the minutes of the proceedings of the shareholders and of the Board of Directors in one (1) or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records and of any seal of the Corporation and if there is a seal of the Corporation, see that it is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each shareholder which shall be furnished to the Secretary by such shareholder; (f) sign with the Chairman of the Board (if any), President, or a Vice-President, certificates for shares of the Corporation, the issuance of which shall have been authorized by resolution of the Board of Directors; (g) have general charge of the stock transfer books of the Corporation; (h) serve as the Corporation's registered agent, as required pursuant to Section 13 of the New Hampshire Insurance Company Act; and (i) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors.

In the absence of the Secretary, a secretary pro tempore may be chosen by the directors or shareholders as appropriate to perform the duties of the Secretary.

**4.7 The Treasurer.**

The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such bank, trust companies, or other depositories as shall be selected by the Board of Directors; (c) sign with the Chairman of the Board (if any), President, or a Vice-President, certificates for shares of the Corporation, the issuance of which shall have been authorized by resolution of the Board of Directors; and (d) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors shall determine.

**4.8 Assistant Secretaries and Assistant Treasurers.**

The Assistant Secretaries and the Assistant Treasurers, when authorized by the Board of Directors, may sign with the President or a Vice-President certificates for shares of the Corporation the issuance of which shall have been authorized by a resolution of the Board of Directors. In addition, the Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively or by the President or the Board of Directors.

**4.9 Chairman of the Board.**

The Chairman of the Board shall be chosen as provided in Section 4.1 above, and shall preside at all meetings of the shareholders and directors. S/he shall, in general, perform all the duties incident to the office of Chairman of the Board, subject, however, to the direction and control of the Board of Directors, and such other duties as from time to time may be assigned to him/her by the Board of Directors.

**ARTICLE V  
INDEMNIFICATION OF DIRECTORS, OFFICERS,  
AGENTS, AND EMPLOYEES**

**5.1 Indemnification of Directors and Officers.**

To the extent not otherwise restricted by the Articles of Incorporation, the Corporation shall, to the fullest extent permitted by New Hampshire RSA 293-A:8.50 - 8.58, as the same may

be amended and supplemented, indemnify all present and future directors and officers of the Corporation from and against any and all of the expenses, liabilities or other matters referred to in, or covered by, said provisions and may to the extent permitted by the New Hampshire Business Corporation Act advance reasonable expenses in advance of the final disposition of any proceeding. The indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under the Articles of Incorporation, any agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person. Any repeal or modification of the foregoing provision by the shareholders or directors of the Corporation shall not adversely affect any right or protection of any director or officer of the Corporation existing or accrued at the time of such repeal or modification.

**5.2 Indemnification of Agents, and Employees Who Are Not Directors or Officers.**

Unless otherwise provided in the Articles of Incorporation, the Board of Directors may indemnify and advance expenses to any employee or agent of the Corporation, who is not a director or officer of the Corporation, to any extent consistent with public policy, as determined by the general or specific action of the Board of Directors.

**5.3 Notice to Shareholders of Indemnification.**

If the Corporation indemnifies or advances expenses to a director under New Hampshire RSA 293-A:8.51-8.54, as may be amended, in connection with a proceeding by or in the right of the Corporation, the Corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.

**ARTICLE VI  
CERTIFICATES FOR SHARES AND THEIR TRANSFER**

**6.1 Certificates for Shares.**

(a) Content. Certificates representing shares of the Corporation shall at minimum, state on their face the name of the issuing Corporation and that it is formed under the laws of New Hampshire; the name of the person to whom issued; and the number and class of shares and the designation of the series, if any, the certificate represents; and be in such form as determined by the Board of Directors. Such certificates shall be signed (either manually or by facsimile) by the Chairman of the Board (if any), President or a Vice-President and by the Secretary or an Assistant Secretary or the Treasurer or the Assistant Treasurer and may be sealed with a corporate seal or a facsimile thereof. Each certificate for shares shall be consecutively numbered or otherwise identified.

(b) Legend as to Class or Series. If the Corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the Board of Directors to determine variations for future series) must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the Corporation will furnish the shareholder this information on request in writing and without charge.

(c) Shareholder List. The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer books of the Corporation.

(d) Transferring Shares. All certificates surrendered to the Corporation for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and cancelled, except that in case of a lost, destroyed, or mutilated certificate a new one may be issued therefor upon such terms and indemnity to the Corporation as the Board of Directors may prescribe.

## **6.2 Shares Without Certificates.**

The Board of Directors shall not be authorized to issue any shares of stock without certificates.

## **6.3 Registration of the Transfer of Shares.**

Registration of the transfer of shares of the Corporation shall be made only on the stock transfer books of the Corporation. In order to register a transfer, the record owner shall surrender the shares to the Corporation for cancellation, properly endorsed by the appropriate person or persons with reasonable assurances that the endorsements are genuine and effective. Unless the Corporation has established a procedure by which a beneficial owner of shares held by a nominee is to be recognized by the Corporation as the owner, the person in whose name shares stand on the books of the Corporation shall be deemed by the Corporation to be the owner thereof for all purposes.

## **6.4 Restrictions on Transfer of Shares Permitted.**

(a) The Board of Directors (or shareholders) may impose restrictions on the transfer or registration of transfer of shares (including any security convertible into, or carrying a right to subscribe for or acquire shares) to the extent permitted by the applicable provisions of the New Hampshire Business Corporation Act and the New Hampshire Insurance Company Act. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(b) A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this

section and its existence is noted conspicuously on the front or back of the certificate. Unless so noted, a restriction is not enforceable against a person without knowledge of the restrictions.

**6.5 Acquisition of Shares.**

(a) The Corporation may acquire its own shares and unless otherwise provided in the Articles of Incorporation, the shares so acquired constitute authorized but unissued shares.

(b) If the Articles of Incorporation prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the Articles of Incorporation, which amendment shall be adopted by the shareholders or the Board of Directors without shareholder action and filed by the Corporation with the New Hampshire Secretary of State in a form approved by the Secretary of State.

**ARTICLE VII  
DISTRIBUTIONS**

**7.1 Distributions.**

The Board of Directors may authorize, and the Corporation may make, distributions (including dividends on its outstanding shares) in the manner and upon the terms and conditions provided by applicable law and in the Corporation's Articles of Incorporation.

**ARTICLE VIII  
CORPORATE SEAL**

**8.1 Corporate Seal.**

The Board of Directors may provide a corporate seal which may be circular in form and have inscribed thereon any designation including the name of the Corporation, New Hampshire as the state of incorporation, the year of incorporation and the words "Corporate Seal."

**ARTICLE IX  
AMENDMENTS**

**9.1 Amendments.**

The Corporation's Board of Directors may amend or repeal the Corporation's By-Laws unless:

- (1) the Articles of Incorporation, the New Hampshire Business Corporation Act, the New Hampshire Insurance Company

Act, or any other applicable law reserves this power exclusively to the shareholders in whole or part; or

- (2) the shareholders in adopting, amending, or repealing a particular By-Law provide expressly that the Board of Directors may not amend or repeal that By-Law; or
- (3) the By-Law either establishes, amends, or deletes, a supermajority shareholder quorum or voting requirement.

The Corporation's shareholders may amend or repeal the Corporation's By-Laws even though the By-Laws may also be amended or repealed by its Board of Directors.

**ARTICLE X  
EFFECT OF THE ARTICLES OF INCORPORATION  
AND THE NEW HAMPSHIRE BUSINESS CORPORATION ACT**

To the extent not otherwise expressly varied by the terms of the Corporation's Articles of Incorporation or these By-Laws, the provisions of the New Hampshire Business Corporation Act and the New Hampshire Insurance Company Act, as the same may from time to time be amended, shall govern all matters concerning the powers, conduct and regulation of the business and affairs of the Corporation, its officers, directors and shareholders. All of the provisions of the Articles of Incorporation of the Corporation, as from time to time amended, shall be deemed incorporated into these By-Laws by reference and in the event of any inconsistency between the provisions of the Corporation's Articles of Incorporation and these By-Laws, the terms of the Articles of Incorporation shall govern and the relevant provisions of the these By-Laws shall be deemed amended accordingly.



# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES  
OFFICE OF THE COMMISSIONER  
25 Capitol Street - Room 120  
Concord, New Hampshire 03301

LINDA M. HODGDON  
Commissioner  
(603) 271-3201

JOSEPH B. BOUCHARD  
Assistant Commissioner  
(603) 271-3204

November 29, 2012

His Excellency, Governor John H. Lynch  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

## REQUESTED ACTION

Authorize the Department of Administrative Services (DAS), Risk Management Unit, to enter into a contract with Anthem Health Plans of New Hampshire, Inc., d/b/a Anthem Blue Cross and Blue Shield (hereinafter referred to as "Anthem") (VC#105707), 3000 Goffs Falls Road, Manchester, NH, 03111-0001 in the amount of \$20,526,000 for a period of thirty six (36) months from January 1, 2013 through December 31, 2015, with the option to renew for an additional term of two years subject to the approval of the Governor and Council, for the administration of the medical benefit provided to state employees and retirees pursuant to RSA 21-I:30 and consistent with state collective bargaining agreements. Approximately 40% General Funds, 16% Federal Funds, 26% Enterprise funds, 16% Highway funds, and 2% Turnpike funds.

Funding is available in the Employee Benefit Risk Management Fund, contingent upon availability and continued appropriations for all fiscal years with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified:

### Administration Costs

	<u>SFY2013</u>	<u>SFY2014</u>	<u>SFY2015</u>	<u>SFY2016</u>
01-14-14-140560-66000000				
102-500634 MED ADMIN FEE - ACTIVES	\$2,221,000	\$4,591,000	\$4,632,000	\$2,319,000
01-14-14-140560-66600000				
102-500634 MED ADMIN FEE - TROOPERS	80,000	166,000	168,000	84,000
01-14-14-140560-66500000				
102-500634 MED ADMIN FEE - RETIREE UNDER 65	295,000	610,000	615,000	308,000
102-500653 MED ADMIN FEE - RETIREE OVER 65	716,000	1,480,000	1,493,000	748,000
FISCAL YEAR TOTALS	\$ 3,312,000	\$6,847,000	\$ 6,908,000	\$ 3,459,000
GRAND TOTAL	\$ 20,526,000			

### EXPLANATION

The Commissioner of DAS is authorized, pursuant to RSA 21-I: 28, to enter into contracts with "any organization necessary to administer and provide a health plan."

The current contract with Anthem is set to expire on December 31, 2012. This contract provides medical benefit coverage for state employees, retirees, spouses and eligible dependents in accordance with the provisions of RSA 21-I:30 and the state collective bargaining agreements.

DAS, with the assistance of The Segal Company ("Segal") issued a Request for Proposal ("RFP") for the administration of medical benefits on July 18, 2012. (Segal provides the Risk Management Unit with consultant services for actuarial, claim audit, request for proposal assistance, and general health benefits.) Nine firms received direct notification of this solicitation, public notice was provided through the Concord Monitor, and the proposal was posted on the Bureau of Purchase and Property website. On August 20, 2012, proposals were received from Anthem, CIGNA, and Harvard Pilgrim Health Care. Of the three proposals submitted, all three were evaluated. This RFP was a re-issue from the original RFP issued in February 2012, with proposals due in April. The original RFP was canceled due to a discovery during the bid analysis process, when it was learned one of the bidders had made certain assumptions in its re-pricing of the State's medical claims that were inconsistent with the RFP instructions.

The scoring was based upon the areas of: Financial (40%), Future Financial Impact (15%), Administrative, Member & Claim Paying Services, and Reporting Services (10%), Health Management Programs (10%), Wellness Services (10%), and Innovative Products and Value-Added Services, and Healthcare Reform Initiatives (5%). Based on the foregoing, the proposal submitted by Anthem received the highest ranking score and was accepted by unanimous vote by the evaluation team members. The evaluation team consisted of the following members: Monica Cioffi (Administrator, Risk Management Unit), Karen Benincasa (Financial Reporting Administrator, Budget Office), Diana Lacey (President, SEIU Local 1984), Michael Loomis (Wellness Specialist, Risk Management Unit), Matthew Newland (Manager, Employee Relations), Eric Remillard (Health Benefit Program Finance Director, Risk Management Unit), Robert Stowell (Administrator, Bureau of Purchase & Property) and Segal. The evaluation scoring sheet is attached.

For the first year of the contract, Anthem guarantees a network discount of 44%, which is one percent higher than the next closest bidder, or an estimated difference in medical claim savings of \$3.3 million. In the second and third years of the contract, Anthem guarantees a medical trend of 6.5% and 6%, respectively. The administrative fee negotiated with Anthem is \$26.46 per subscriber per month (PSPM) for the contract period and represents a 10% reduction in fee from our current contract. Overall, the State estimates the Anthem contract will result in \$6,126,333 million in additional savings over the next highest bidder, based on total projected claims paid for the contract period. The projected medical claims over the life of the contract are estimated to be \$606.7 million.

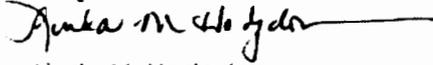
Anthem's wellness programs employ a full spectrum of effective and engaging initiatives to support the employee's total well-being. Through strategies including a health risk assessment, online lifestyle management, worksite biometric screenings, and wellness incentive management, the State is better positioned in providing employees the resources and guidance they need to become engaged in improving their lifestyle and changing behaviors - ultimately helping control the cost of health care and enhancing employee productivity.

His Excellency, Governor John H. Lynch  
and the Honorable Council  
November 28, 2012  
Page 3 of 3

of the administrative fees are at risk for the Network Discount Guarantee in CY2013, and up to ten percent of the administrative fee is at risk for the Medical Trend Guarantee.

Based on the foregoing, I am respectfully recommending approval of the contract with Anthem.

Respectfully submitted,



Linda M. Hodgdon  
Commissioner

Administration of Medical Benefits  
Total Score

Weight	Weight	Weight	Weight
<b>FINANCIAL</b>			<b>HPHC</b>
Financial Score	40%	40.0%	37.4%
	Projected Costs* difference from lowest bidder	\$628,882,000	\$835,008,333 \$6,126,333 1.0%
<b>TECHNICAL QUESTIONNAIRE</b>			
Future Financial Impact	15%	11.7%	6.8%
Administrative, Member, Claims Paying Services, Reporting Services	10%	9.2%	8.2%
Health Management Programs	10%	9.2%	9.4%
Wellness Services	10%	7.0%	8.1%
Innovative Products and Value-Added Services & Health Care Reform	5%	4.2%	2.7%
<b>Technical Score</b>	<b>60%</b>	<b>41.3%</b>	<b>34.1%</b>
<b>Total Score by Bidder</b>	<b>90%</b>	<b>81.3%</b>	<b>71.6%</b>
<b>Total Rank</b>		[1]	[2]
			[3]

\* Projected costs include administrative costs and medical claims.

**RFP 1450-13**  
**Addendum to Scoring Sheet**

	<b>Anthem</b>	<b>CIGNA</b>	<b>HPHC</b>
<b>Medical Claims</b>			
Year 1 (Jan 1 to Dec 31, 2013)	\$ 189,444,000	\$ 194,284,000	\$ 192,441,333
Year 2 (Jan 1 to Dec 31, 2014)	\$ 201,343,000	\$ 206,491,000	\$ 204,528,000
Year 3 (Jan 1 to Dec 31, 2015)	\$ 215,871,000	\$ 221,390,000	\$ 219,286,000
<b>Total Projected Claims</b>	<b>\$ 606,658,000</b>	<b>\$ 622,165,000</b>	<b>\$ 616,255,333</b>
 <b>Administrative Costs*</b>			
Year 1 (Jan 1 to Dec 31, 2013)	\$ 7,408,000	\$ 7,620,000	\$ 6,251,000
Year 2 (Jan 1 to Dec 31, 2014)	\$ 7,408,000	\$ 7,620,000	\$ 6,251,000
Year 3 (Jan 1 to Dec 31, 2015)	\$ 7,408,000	\$ 7,620,000	\$ 6,251,000
<b>Total Projected Admin Costs</b>	<b>\$ 22,224,000</b>	<b>\$ 22,860,000</b>	<b>\$ 18,753,000</b>
 <b>Total Projected Claims and Admin Costs</b>			
	<b>\$ 628,882,000</b>	<b>\$ 645,025,000</b>	<b>\$ 635,008,333</b>
difference from lowest bidder		\$ 16,143,000	\$ 6,126,333
		2.6%	1.0%

\* The projected administrative costs assumes the State participates in all proposed wellness programs, and no change in enrollment for the contract period. The State choose to not participate in all proposed Wellness programs. Subsequently, the negotiated contract resulted in the lesser amount of \$20,526,000.

## RFP 1450-13 – ADMINISTRATION OF MEDICAL BENEFITS

### Evaluation Committee Members

#### **MONICA CIOLFI**

Current Position: Administrator of Risk and Benefits, Department of Administrative Services

Background: Monica has overall responsibility for administering the State's \$275m self-funded employee and retiree health benefits program. She has held this position since 2005. Prior to that time, Monica was in private legal practice with Sheehan, Phinney, Bass + Green, PA in Manchester, where she represented employer health plan sponsors. Before that she was the NH Deputy Insurance Commissioner, focusing largely on managed care issues and HMO mergers during the mid to late 1990's. Monica began her career as a lawyer in the Civil Bureau of the State Attorney General's Office.

#### **KAREN BENINCASA**

Current Position: Budget and Policy Administrator, Department of Administrative Services

Background: Karen is a CPA with 5 years of State service in the Commissioner's Office /Budget Office of the Department of Administrative Services. In her current position of Budget and Policy Administrator for DAS, she has been assisting the RMU with financial analysis and oversight at the request of the Commissioner. Prior to working for the State of NH, Ms. Benincasa was employed by Polyclad Laminates (manufacturing) in various financial positions including Worldwide Controller as well as Ernst & Young as an Accountant/Auditor.

#### **DIANA LACEY**

Current Position: President, SEIU

Background: Diana is a twenty year employee of the NH Department of Health and Human Services, including eight years of contract administration responsibilities, such as RFP development, contract negotiation and administration. She also served on the State of NH - SEA Health Benefits Advisory Committee for five years, led state employee health care negotiations for the SEA for five years and served on a national health care reform task force for the Service Employees International Union (SEIU). Ms. Lacey is currently the President of the State Employees Association and serves on the International Executive Board of SEIU -- the nation's largest health care workers union.

#### **MICHAEL LOOMIS, MPH**

Current Position: Wellness Program Specialist, Risk Management Unit, Department of Administrative Services

Background: Mike has worked in State service for 2 years. His experience with health/medical benefit programming resides in his current role with the State of New Hampshire Health Benefit Program. Mike's responsibility in this role is to organize and implement wellness offerings for state employees and retirees that are fully integrated with the state health benefit plans. In this position, he works with the Administrator of Risk and Benefits, the designated staff from the

Division of Personnel and such other designated staff, as well as the Health Benefit Committee Wellness Workgroup to develop and manage a comprehensive statewide employee and retiree health promotion and wellness program through the deployment of state government resources and procured services. He holds a Master of Public Health Degree from A.T. Still University of Health Sciences and a Bachelors Degree from the University of New England. Related experience in health care includes working as a Community Program Specialist in a Federally Qualified Health Care Center and Public Health Network in New Hampshire where he facilitated diabetes management, environmental health, and obesity prevention programming.

#### **MATTHEW NEWLAND**

Current Position: Manager of Employee Relations, Division of Personnel, Department of Administrative Services

Background: Matt has been in his current position for 1.5 years. He has an additional 14 years of Full/Part-Time State Service. In his current position as Manager of Employee Relations, he conducts negotiations with the unions, administers all collective bargaining agreements and represents the state in all grievance actions including the public employee labor relations board. Prior to working in this position, Mr. Newland was employed by BAE Systems (defense contractor) as a Principal Contract Negotiator for 13 years.

#### **ERIC REMILLARD**

Current Position: Finance Director, Risk Management Unit, Department of Administrative Services

Background: Eric has been employed with the State of New Hampshire for the past 10 years. During this time, he worked more than five years as an insurance company Examiner for the Insurance Department, and since has been employed in the Risk Management Unit for the Department of Administrative Services. His current position is Finance Director for the Health Benefit Program responsible for all the day-to-day financial management of the program. Eric is a Certified Business Manager with 15 years work experience in governmental consulting, auditing, accounting and finance.

#### **ROBERT STOWELL**

Current Position: Administrator IV, Bureau of Purchase & Property, Department of Administrative Services

Background: Robert has worked for the State of New Hampshire for 10 years and is presently the Administrator of the Bureau of Purchase and Property. Additionally, Bob has 30 years of contract experience in the private sector as the Director of Materials, Director of Logistics and Sales Administration. Bob has an MBA from Rivier College.

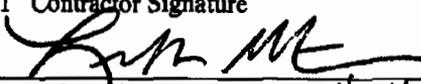
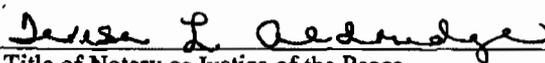
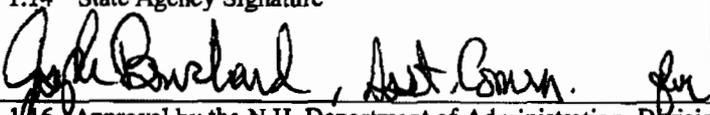
Subject: ADMINISTRATION OF MEDICAL BENEFITS

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name Department of Administrative Services		1.2 State Agency Address 25 Capitol Street, Concord, NH 03301	
1.3 Contractor Name Anthem Health Plans of NH, Inc. d/b/a Anthem Blue Cross and Blue Shield		1.4 Contractor Address 3000 Goffs Falls Road Manchester, NH 03111-0001	
1.5 Contractor Phone Number	1.6 Account Number	1.7 Completion Date December 31, 2015	1.8 Price Limitation \$ 20,526,000
1.9 Contracting Officer for State Agency Michael O'Mahony, Administrator Risk Management Unit		1.10 State Agency Telephone Number (603) 271-2059	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Lisa M. Guertin President	
1.13 Acknowledgement: State of <del>New Hampshire</del> , County of Hillsborough  On Nov. 28, 2012, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal] 			
1.13.2 Name and Title of Notary or Justice of the Peace  Teresa L. Adridge, Executive Assistant			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Linda M. Hodgdon, Commissioner Department of Administrative Services	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)  By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution)  By: Catherine A. Keane On: 11/29/12			
1.18 Approval by the Governor and Executive Council  By:  <b>DEPUTY SECRETARY OF STATE</b> DEC 05 2012			

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.** Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

## **7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

## **8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

## **9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

## EXHIBIT A – SERVICES TO BE PERFORMED

This EXHIBIT A is made a part of the Agreement between the State of New Hampshire ("State") and Anthem Health Plans of New Hampshire, Inc. dba Anthem Blue Cross and Blue Shield (hereinafter referred to as "Anthem" or "Contractor") and sets forth the services and obligations to be performed by Anthem.

### ARTICLE 1 - DEFINITIONS

For purposes of this EXHIBIT A and any addenda, attachments or schedules to the Agreement, the following words and terms have the following meanings unless the context or use clearly indicates another meaning or intent.

- a. **ADMINISTRATIVE SERVICES FEE.** The amount payable to Anthem in consideration of its administrative services and operating expenses as specified in EXHIBIT B to this Agreement, excluding any cost for administration of external review, if applicable. Administrative Services Fee does not include any expenses associated with subrogation or any other recovery activities by Anthem referred to under this Agreement. Administrative Services Fee may include network access charges, if applicable. All additional charges not included in the Administrative Services Fee are specified elsewhere in this Agreement.
- b. **AGREEMENT PERIOD.** The period commencing at 12:00 a.m. on January 1, 2013 and ending at 11:59 p.m. on December 31, 2015, unless otherwise terminated in accordance with the terms of the Agreement. The Agreement Period shall be comprised of three one year terms (each a "Term"). Each Term shall commence at 12:00 a.m. on January 1<sup>st</sup> and end at 11:59 p.m. on December 31<sup>st</sup> of the applicable calendar year. Agreement Period shall also include any extension of the Agreement for a period of up to two (2) additional years upon terms and conditions as the parties may mutually agree and upon the approval of the Governor and Executive Council.
- c. **BENEFIT BOOKLET or BOOKLET.** A description of the portion of the health care benefits provided under the Program that is administered by Anthem. A copy of said Benefit Booklet is available on the State's Human Resources website.
- d. **BILLED CHARGES.** The amount which appears on an Enrollee's Claim form (or other written notification acceptable to Anthem that Covered Services have been provided) as the Provider's charge for the services rendered to a Enrollee, without any adjustment or reduction and irrespective of any separate reimbursement contract between the Provider and Anthem.
- e. **INTER-PLAN PROGRAMS.** Blue Cross and Blue Shield Association programs, including the BlueCard Program, where Anthem can process certain Claims for Covered Services received by Members, which may include accessing the reimbursement arrangement of a Provider that has contracted with another Blue Cross and/or Blue Shield plan.
- f. **CLAIM.** Written or electronic notice of a request for reimbursement of any hospital, medical, pharmacy, dental, vision or other health related service in a format acceptable to Anthem.

- g. **CLAIM INCURRED DATE.** The date of hospital admission if the Claim is for in-patient hospital services or the date that the service is provided to an Enrollee if the Claim is for any other services.
- h. **CLAIMS RUNOUT SERVICES.** Processing and payment of Claims which are incurred but unreported and/or unpaid as of the effective date of termination of the Agreement.
- i. **COVERED SERVICE.** Any hospital, medical, pharmacy, dental, vision or other health related service rendered to Enrollees for which benefits are eligible for reimbursement pursuant to the terms of the Benefit Booklet.
- j. **EFFECTIVE DATE.** The date as set forth in Section 3 of the Agreement (P37).
- k. **ENROLLEE.** The individuals, including the State of New Hampshire employees and retirees and their dependents, as defined in the Benefit Booklet, who have satisfied the eligibility requirements of the employee and retiree health benefit program of the State, applied for coverage, and been enrolled for benefits. Enrollee may also be referred to herein as Member or Program Member.
- l. This provision left intentionally blank.
- m. This provision left intentionally blank.
- n. **GROUP HEALTH PROGRAM.** See the definition of Program and Group Health Program.
- o. **GROUP IDENTIFICATION NUMBER (GID).** The identifying number assigned to the State or subgroups of the State.
- p. **HOSPITAL.** A facility which provides medical or surgical care to patients for a continuous period longer than twenty-four (24) hours and which is not primarily providing psychiatric, rehabilitative, drug or alcoholism treatment.
- q. This provision left intentionally blank.
- r. **LINES OF COVERAGE.** The benefit plans, such as HMO, POS, or PPO, available to Enrollees under this Agreement, as determined by the Benefit Booklet.
- s. This provision left intentionally blank.
- t. **PAID CLAIM.** The amount charged to the State for Covered Services or services provided during the term of this Agreement. Paid Claims shall also include any applicable interest, Claim surcharges or other surcharges assessed by a state or government agency and any Claims paid pursuant to pilot or test programs as described more fully in Article 2(g). Paid Claims shall be determined as follows:
  - 1. Hospital, Provider and Vendor Claims. Except as otherwise provided in this Agreement, Paid Claims shall mean the amount Anthem actually pays the Hospital, Provider or Vendor (whether Anthem reimburses a Hospital on a percentage of charges basis, a fixed payment basis, or a global fee basis, etc. or whether such amount is more or less than the Hospital's, Provider's or Vendor's actual Billed Charges for a particular service or supply). In the event that the Hospital, Provider, or Vendor participates in any Anthem program where

performance incentives or bonuses are paid (the "Performance Payments"), Paid Claims shall also mean an amount Anthem adds to the Hospital, Provider, or Vendor payment for services or supplies under the terms of that program designed to reward for effectively managing the care of Enrollees. Such Performance Payments may be added on a per claim, lump sum, per Enrollee, or per Member basis or on a pro-rata apportionment. The amount charged to the State may be greater than the amount actually paid to any one particular Provider or Vendor pursuant to the terms of the contract with such Provider or Vendor. In no event shall the amount charged to the State be greater than its proportionate share of total Performance Payments. Paid Claims may also include a portion of Anthem's negotiated discounts with Hospitals, Providers or Vendors. Paid Claims may also include fees paid to Providers or Vendors for managing the care or cost of care for Enrollees. In addition, Paid Claims may also include an amount Anthem charges to oversee programs. The parties shall meet to negotiate in good faith if the State's participation in these Anthem programs described herein will result in an additional administrative charge.

2. Providers or Vendors Reimbursed on a Capitated Basis. Paid Claims shall mean the amount per Member per month which Anthem actually pays the Provider or Vendor, irrespective of whether services are actually rendered to Enrollees, plus any portion of the capitation or percent of premium equivalent that is retained by Anthem to fund Performance Payments designed to support effective quality and utilization or reward Providers or Vendors for effective management under the terms of the contracts with such Providers and Vendors. Paid Claims shall also include any sums paid to a Provider as administrative fees charged by and retained by Anthem to manage the Providers or Vendors. The State acknowledges and agrees that a portion of the amounts discussed in this paragraph may be retained or withheld by Anthem and that, as a result, the capitation fee or percent of the premium equivalent charged to the State may be greater than the fees actually paid to the Providers or Vendors pursuant to the terms of the contracts with such Providers or Vendors. The parties shall meet to negotiate in good faith if the State's participation in these Anthem programs described herein will result in an additional administrative charge.
3. Claims Payment Pursuant to any Judgment, Settlement, Legal or Administrative Proceeding. Paid Claims shall include any amount paid as the result of a settlement, judgment, or legal, regulatory or administrative proceeding brought against the Program and/or Anthem with respect to the decisions made by Anthem, which are authorized by the Agreement or otherwise approved by the State, regarding the coverage of services under the terms of the Program, as well as any legal fees and costs awarded to any adverse party or incurred by Anthem in such litigation, regulatory or administrative proceeding. Paid Claims also includes any amount paid as a result of Anthem's billing dispute resolution procedures.
4. Claims Payment Pursuant to Inter-Plan Programs and other BCBSA Programs. Paid Claims shall include any amount paid for Covered Services that are processed through Inter-Plan Programs or for any amounts paid for Covered Services provided through another BCBSA program (e.g., BCBSA Blue Distinction Centers for Transplant) More information about the Inter-Plan Program is found in Article 12 of this EXHIBIT A.

- u. This provision left intentionally blank.
- v. **PARTICIPATING PROVIDER.** A physician, health professional, hospital, pharmacy, or other individual, organization and/or facility that has entered into a contract, either directly or indirectly, with Anthem to provide Covered Services to Enrollees at negotiated fees.
- w. **PROGRAM and GROUP HEALTH PROGRAM.** The employee and retiree health benefit program established by the State, in effect during the Agreement Period, as it may be amended from time to time.
- x. **PROGRAM ADMINISTRATOR.** The Program Administrator is the State.
- y. **PROGRAM DOCUMENTS.** The documents that set forth the terms of the Program, which documents include the Benefit Booklet.
- z. **PROVIDER.** A duly licensed person, organization or facility that provides health services or supplies within the scope of an applicable license and meets any other requirements set forth in the Benefit Booklet.
- aa. **SUBSCRIBER or PROGRAM SUBSCRIBER.** An employee or retiree of the State or other eligible person (other than a dependant) who is enrolled in the Program.
- bb. **PROPRIETARY INFORMATION AND CONFIDENTIAL INFORMATION.** Anthem's Proprietary Information is non-public, trade secret, commercially valuable, or competitively sensitive information, or other material and information relating to the products, business, or activities of Anthem or an Anthem Affiliate, including but not limited to: (1) information about Anthem's Provider networks, Provider negotiated fees, Provider discounts, and Provider contract terms; (2) information about the systems, procedures, methodologies, and practices used by Anthem and Anthem Affiliates in performing their services such as underwriting, Claims processing, Claims payment, and health care management activities; and (3) combinations of data elements that could enable information of this kind to be derived or calculated. Anthem's Confidential Information is information that Anthem or an Anthem Affiliate is obligated by law or contract to protect, including but not limited to: (1) Social Security numbers; (2) Provider tax identification numbers (TINs); (3) National Provider Identification Numbers (NPIs); (4) Provider names, Provider addresses, and other identifying information about Providers; and (5) drug enforcement administration (DEA) numbers, pharmacy numbers, and other indentifying information about pharmacies.
- cc. This provision left intentionally blank.
- dd. **VENDOR.** A person or entity other than a Provider or an affiliate of Anthem that provides services pursuant to a written contract with Anthem. Anthem shall be responsible to the State for the functions performed by Vendors. Anthem shall demonstrate to the State's satisfaction adequate oversight of any functions performed by or responsibilities assumed by Anthem's Vendors and compliance with all federal and state laws, rules, and regulations. Anthem shall provide the State with 90 days notice prior to engaging a Vendor that impacts the State's health benefit program.

## ARTICLE 2 - ADMINISTRATIVE SERVICES PROVIDED BY ANTHEM

- a. Anthem shall administer the enrollment of eligible persons and termination of Enrollees as directed by the State, subject to the provisions of this EXHIBIT A. Anthem shall, with the assistance of the State, respond to all direct routine inquiries made to it by employees and other persons concerning eligibility in the Program. Unless otherwise specifically provided in the Benefit Booklet or under this Agreement Anthem shall apply its standard administrative practices and procedures and enrollment policies, which may be revised or modified from time to time, in connection with the performance of its responsibilities hereunder.
1. Anthem shall administer the current Active Employee Point of Service (POS) plan with no benefit or plan design deviations.
  2. Anthem shall administer the non-Medicare Retiree POS plan with no benefit or plan design deviations. Anthem agrees to offer two plans available to non-Medicare Retirees: BlueChoice New England POS plan, intended for retirees who maintain full or part-time residence in New England, and Preferred Blue PPO plan, intended for retirees residing full-time outside of New England. Benefits, cost-sharing and premium contributions will be equal under these plans.
  3. Anthem will process enrollment files received from the State as mutually agreed to.
- b. Anthem shall perform the following Claims administration services:
1. Process Claims with a Claim Incurred Date during the Agreement Period, including investigating and reviewing such Claims to determine what amount, if any, is due and payable with respect thereto in accordance with the terms and conditions of the Benefit Booklet, and this Agreement. In processing Claims, Anthem shall perform coordination of benefits ("COB") services, and the State hereby authorizes Anthem to perform such services in accordance with Anthem's standard policies, procedures and practices which may be revised or modified from time to time, unless alternative provisions for COB are indicated in the Benefit Booklet.
  2. In connection with its Claims processing function, disburse to the person or entities entitled thereto (including any Provider and Vendor entitled to payment under an appropriate contract with Anthem or otherwise under the terms of the Benefit Booklet) payments that it determines to be due in accordance with the provisions of the Benefit Booklet. If applicable to the Program benefits as indicated in EXHIBIT B to this Agreement, Anthem may utilize its standard medical policy, utilization management and quality improvement policies, case management and administrative practices and procedures (including any Claims bundling procedures) which may be revised or modified from time to time to determine benefit payments.
- c. The State designates Anthem to serve as a fiduciary solely to determine claims for benefits under the Plan and authority to determine appeals of any adverse benefit determinations under the Plan. Anthem shall have all the powers necessary and appropriate to enable it to carry out its Claims appeal processing duties. This includes, without limitation, the right and discretion to interpret and construe the terms and

conditions of the Program benefits described in the Benefit Booklet, subject to the Claims review provisions as described in this Agreement. Anthem's interpretation and construction of this Agreement and Benefit Booklet in the course of its processing of any appeal of an adverse benefit determination shall be binding upon the Program, the State, and Enrollees. Anthem shall be deemed to have properly exercised such authority unless an Enrollee proves that Anthem has abused its discretion or that its decision is arbitrary and capricious. The State designates Anthem to undertake fiduciary responsibilities exclusively in connection with the processing of appeals of adverse benefit determinations. Anthem and the State agree that Anthem shall not act as the administrator of the Plan and shall have no fiduciary responsibility in connection with any other element of the administration of the Program.

- d. Anthem shall administer complaints, appeals and requests for independent review according to any applicable law and regulations and Anthem's complaint and appeals policy, unless the Benefit Booklet provides otherwise. Enrollees shall be provided with a mandatory first level internal appeal, a voluntary second level internal appeal, and provided a mandatory first level appeal has been completed, an independent External Review of eligible adverse benefit determinations pursuant to federal law. Anthem shall provide External Review services which are comparable to those offered to residents of New Hampshire according to RSA 420-J:5-a *et seq* and in compliance with federal law applicable to governmental group health plans. In addition, Anthem reserves the right to exclude any such extra-contractual payments from performance guarantee calculations
  
- e. Anthem shall have the authority to build and maintain its Provider network. Anthem shall administer referral, authorization or certification requirements. Anthem shall also have the authority to waive any such referral, authorization or certification requirement if such waiver will not adversely impact the effective and efficient Claims administration. In addition, Anthem shall have the authority to change its administrative practices and procedures which it deems are necessary or appropriate for the effective utilization and administration of Covered Services. Anthem shall provide the State with advance notice of any material change to any of its practices and/or procedures contemplated in this paragraph e. In addition, Anthem shall provide notice to the State of the number and identity of the Enrollees impacted by such change.
  1. Anthem agrees to guarantee the network discount for calendar year 2013, as set forth in the attachments to the Schedule of Performance Guarantees.
  2. The Parties agree that the guarantee for network discounts shall be reviewed and appropriately adjusted in the event: (i) the State's total enrolled membership increases or decreases by 10% during Calendar year 2013 ; (ii) the geographic distribution of the State's actively employed enrolled membership, as provided in the RFP, materially changes during any Term of the Agreement Period; (iii) federal and/or State legislation is enacted which materially changes the obligations of the Parties under this Agreement; or, (iv) the State's biennial budget is re-opened and that such re-opening of the budget will have a material, adverse affect on the obligations of the Parties.
  3. Provider Contracting Partnership: Anthem shall notify the State sixty (60) days in advance of facility and /or physician group contract negotiations taking place with Accountable Care Organizations (ACO) with State membership; as well as at the State's top five hospitals and physician groups, by volume. Once agreement

has been reached between Anthem and the ACO, facility and/or physician group. Anthem agrees to provide the State with an estimated percentage change in contracting terms so that the State can perform financial impact analysis.

Anthem will inform the State every six months regarding the alternative contracting strategies being employed by Anthem. This shall include receipt of reports which detail the portions of the State's population that are utilizing providers contracted in a certain manner. The State shall be notified of Anthem's strategies regarding these alternative contracting methods and shall be notified when assessment of these strategies is completed.

4. **Provider Access.** Anthem shall make a reasonable effort to encourage primary care providers within Anthem's New Hampshire network to extend their office hours as a way of increasing access to care for State employees. On an annual basis, Anthem shall provide the State with a listing of primary care providers who offer non-standard hours. Non-standard hours shall mean weekdays after 6:00 PM and any weekend hours.
  
- f. If applicable to the Program benefits and as indicated in EXHIBIT B of this Agreement, and after consultation with the State, Anthem shall have the authority, in its discretion, to institute from time to time, pilot or test programs regarding case management, disease management or health improvement and wellness services which may result in the payment of benefits not otherwise specified in the Benefit Booklet. Anthem reserves the right to discontinue a pilot or test program at any time with advance notice.
  
- g. In the event that Anthem determines that it has paid a Claim in an amount less than the amount due under the Benefit Booklet, Anthem will promptly adjust the underpayment. If it is determined by Anthem or the State that any benefit payment has been made for an ineligible person, that an overpayment has been made, or that a sum is due to the State under the coordination of benefits or subrogation provisions, Anthem will make reasonable efforts to collect such amounts but shall not be required to initiate or maintain any judicial proceeding to make the recovery as described in Article 17 of this EXHIBIT A. Anthem shall, during the term of this Agreement, refund to the State any overpaid amounts only if Anthem successfully recovers such amounts.  
  
Upon request Anthem shall provide the State with information about Anthem's recovery programs and the success of those programs.
  
- h. Anthem shall respond to inquiries by Enrollees regarding Claims for benefits under the Program.
  
- i. In processing Claims in accordance with the Benefit Booklet, Anthem shall provide notice in writing when a Claim for benefits has been denied, setting forth the reasons for the denial, the right to a full and fair review of the denial under the terms of the Program, and otherwise satisfying applicable regulatory requirements governing notice of a denied Claim.
  
- j. This provision left intentionally blank.

- k. Anthem shall issue identification cards to each Enrollee, unless otherwise agreed upon by Anthem and the State. Web Online Enrollment and Employer Access tools are available for the State to request ID Cards as well as print temporary ID Cards as needed in "real time". Such identification cards shall be for the administration of Enrollees' health care benefits under the Program only.
- l. Anthem shall provide certificates of creditable coverage as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") with respect to Enrollees' participation in the Program for which Anthem provides services, unless otherwise instructed by the State. The State agrees to provide Anthem, within a reasonable timeframe, with any information relating to a Subscriber's employment history as may be necessary for Anthem to provide the certificates of creditable coverage.
- m. Anthem shall provide the State access to an online directory of providers contracted with Anthem ("Provider Directories"). Such Provider Directories shall also be available and distributed in booklet format upon the State's request. The Provider Directories shall contain information such as medical specialty, office addresses and telephone number(s).
- n. Anthem shall provide the State with information necessary to enable Enrollees to effectively access Program benefits described in the Benefit Booklet, including, but not limited to, Claim forms and Claim filing instructions. Anthem shall periodically update the State on changes which may affect Enrollees ability to access Program benefits.
- o. Anthem reserves the right to make benefit payments to either Providers or Subscribers. The State agrees that during the Agreement Period, the terms of the Program will provide for such discretion in determining the direction of payment (including, but not limited to, the inclusion of a provision in the Program that an Enrollee may not assign rights to receive payment under the Program).
- p. Anthem is the responsible reporting entity ("RRE") for the Plan as that term is defined pursuant to Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007. In order to fulfill its RRE obligation, Anthem requires information from the State, including, but not limited to, Member Social Security Numbers. State shall cooperate with Anthem and timely respond to any request for information made by Anthem.
- q. Anthem will provide the State with Summary of Benefits and Coverage ("SBC") accurately reflecting plan information related to the elements of the Plan that Anthem administers. Anthem will provide assistance in the preparation of the SBC. The State is responsible for ensuring the accuracy of the SBC and for finalizing and distributing SBCs to subscribers. Notwithstanding the provisions in Article 18(a), if the State's open enrollment period is at a time other than 30 days prior to the end of an Agreement Period, the State agrees to provide Anthem with any changes to the benefits Anthem administers at least 60 days prior to the start of the open enrollment period.
- r. If applicable to the Program benefits and as indicated in EXHIBIT B to this Agreement, Anthem will provide or arrange for the following managed care services. Anthem may subcontract any and all of such managed care services to another entity without the prior approval of the State. Anthem managed care services shall include, but are not limited to:

1. Conduct utilization review. Such review may include preadmission review to evaluate and certify the medical necessity of an admission or procedure and appropriate level of care, and to authorize an initial length of stay for inpatient admissions, with concurrent review throughout the admission for certification of additional days of care as warranted by the patient's medical condition.
  2. Provide access to a specialty network of Providers if the Program includes a specialty network. Anthem reserves the right to establish specialty networks for certain specialty or referral care.
  3. Provide any other managed care services incidental or necessary to perform the services set forth in Article 2 or other managed care services, including the right to make benefit exceptions from time to time on a case by case basis.
- s. If a catastrophic event (whether weather-related, caused by a natural disaster, or caused by war, terrorism, or similar event) occurs that affects Members in one or more locations, and such catastrophic event prevents or interferes with Anthem's ability to conduct its normal business with respect to such Members or prevents or interferes with Members' ability to access their benefits, Anthem shall have the right, without first seeking consent from the State, to take reasonable and necessary steps to process Claims and provide managed care services in a manner that may be inconsistent with the Benefits Booklet in order to minimize the effect such catastrophic event has on Members. As soon as practicable after a catastrophic event, Anthem shall report its actions to the State. The State shall reimburse Anthem for amounts paid in good faith under the circumstances and such amounts shall constitute Paid Claims, even if the charges incurred were not for services otherwise covered under the Benefits Booklet.
- t. Upon request of the State, Anthem will produce and maintain a master copy of the Benefit Booklet and make changes and amendments to the master copy of the Benefit Booklet and incorporate the approved changes or amendments pursuant to Article 10 of this EXHIBIT A.
- u. Upon written request, Anthem will provide the State with Program data and assistance necessary for preparation of the State's information returns and forms required by federal or state laws. Anthem shall prepare and mail all IRS Form 1099's and any other similar form that is given to Providers or brokers.
- v. Anthem shall have the authority to build and maintain its Provider network. Nothing in this Agreement shall be interpreted to require Anthem to maintain negotiated fees or reimbursement arrangements or other relationships with certain Providers or Vendors. Anthem will be solely responsible for acting as a liaison with Providers including, but not limited to, responding to Provider inquiries, negotiating rates with Providers or auditing Providers. Anthem has oversight responsibility for compliance with Provider and Vendor contracts, including discount and multi-year compliance audits. Anthem shall have authority to enter into a settlement or compromise regarding enforcement of these contracts. The State acknowledges and agrees that Anthem shall retain any recoveries made from a Provider or Vendor resulting from these audits if the total recovery from one Provider or Vendor with respect to all of Anthem's group-sponsored health benefit plans is \$1,000 or less.
- w. If Anthem retains outside Vendors, auditors, or counsel to conduct audits or reviews of or to enforce Provider or Vendor contracts or activities, and recoveries or cost avoidance is a result of such audits, reviews or enforcement activities, then Anthem shall provide the

State a credit, after a reduction in such recovery or cost avoidance amount of its expenses and a five percent (5%) fee. Anthem shall credit the State a proportionate share of the net recovery equal to the ratio of (1) Enrollees' Paid Claims to such Provider or Vendor for the audit/review period, to (2) all Paid Claims to such Provider or Vendor for the audit/review period. The State acknowledges and agrees to Anthem's retention of such 5% fee, and agrees that the fee will be charged on all recoveries or cost avoidance resulting from such audits, reviews or enforcement activities, including audits or reviews of Claims incurred prior to the Agreement Period.

- x. Anthem shall provide conversion rights to Subscribers upon their termination from the Program.
- y. Anthem agrees to provide a dedicated IT resource to assist the State with transition, system and data issues that may arise during the term of this Agreement.
- z. The obligations, responsibilities, promises and statements as to scope of services to be provided contained in Anthem's Response to the State's Request for Proposal (RFP), is incorporated as if fully set forth herein (see EXHIBIT D). In the event of a conflict between the RFP responses (EXHIBIT D) and EXHIBIT A, EXHIBIT A shall control.
- aa. Anthem shall be responsible for any notice, election form, collection of fees, or communication regarding Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), or any other applicable law governing continuation of health care coverage. Select state' laws require employers to finance health related initiatives through residency-based assessments and/or surcharges added to certain Paid Claims. After The State completes the applicable forms, Anthem shall make all assessment and/or surcharge payments on behalf of The State to the appropriate pools administered by the respective states, based primarily upon Anthem's Paid Claims information and Member information provided to Anthem by The State. Examples of such assessments and surcharges include but are not limited to, the Massachusetts Health Safety Net Trust Fund, the New York Health Care Reform Act and the Michigan Health Insurance Claims Assessment Act.
- bb. Healthcare Reform Initiatives: Anthem shall actively support such payment reform and other initiatives undertaken by the State of New Hampshire Employee and Retiree Health Benefit Program to control costs and improve the quality of health care in New Hampshire as may be reasonably requested by the Department.

### ARTICLE 3 - OBLIGATIONS OF STATE

- a. The State, or its vendor, shall furnish to Anthem initial information regarding Enrollees. The State is responsible for determining eligibility of persons and advising Anthem in a timely manner, through a method agreed upon by Anthem, including eligibility reports, electronic transmissions and individual applications, as to which employees, dependents, and other persons are to be enrolled Enrollees. The State shall keep such records and furnish to Anthem such notification and other information as may be required by Anthem for the purpose of enrolling Enrollees, processing terminations, effecting COBRA coverage elections, effecting changes in single or family contract status, effecting changes due to a Enrollee becoming eligible for Medicare, effecting changes due to a Enrollee becoming disabled or being eligible for short-term or long-term disability.

determining the amount payable under this Agreement, or for any other purpose reasonably related to the administration of this Agreement.

Anthem will have no obligation to pay Claims for persons no longer eligible for coverage. Further, if Anthem has paid Claims for persons no longer eligible because Anthem was provided inaccurate eligibility information, Anthem did not receive timely notification of termination, or Anthem received notice of a retroactive change to enrollment, then State shall reimburse Anthem for all unrecovered amounts it has paid on Claims. In the event that the State has already reimbursed Anthem for such unrecovered amounts paid on Claims, no further sums are owed under this Article 3(a).

Anthem reserves the right to limit retroactive changes to enrollment to a maximum of sixty (60) days from the date notice is received. Acceptance of payment of fees from the State or the payment of benefits to persons no longer eligible will not obligate Anthem to continue to administer benefits.

- b. In determining any individual's right to benefits under the Benefit Booklet, and in performing its other obligations as set forth in Article 2, Anthem shall rely on eligibility information furnished by the State. It is mutually understood that the effective performance of this Agreement by Anthem will require that it be advised on a timely basis by the State during the term of this Agreement of the identity of employees, dependents, and other persons eligible for benefits under the Program. Such information shall identify the effective date of eligibility and the termination date of eligibility and shall be provided in accordance with the terms of this Agreement with such other information as may reasonably be required by Anthem for the proper administration of Program benefits described in the Benefit Booklet. The State acknowledges that prompt and complete furnishing of the required eligibility information is essential to the timely and efficient administration by Anthem of Claims.
- c. The State acknowledges that it serves as Program Administrator, and shall have all discretionary authority and control over the management of the Program, and all discretionary authority and responsibility for the administration of the Program except as provided in Article 2 (c) of this Agreement. Anthem does not serve either as Program Administrator or as a Named Fiduciary of the Program other than as a fiduciary for processing appeals of Claims. All functions, duties and responsibilities of Anthem are governed exclusively by this Agreement and the Benefit Booklet.
- d. This provision left intentionally blank.
- e. The State acknowledges that it is the State's sole responsibility, and not Anthem's, to comply with the Family and Medical Leave Act ("FMLA") in connection with certain Subscribers on leave.
- f. The State agrees to and shall notify Subscribers of their right to apply for health benefits and make available to them Claim forms and Claim filing instructions. Claim forms and Claim filing instructions shall also be supplied to the Enrollees by Anthem upon request.
- g. The State agrees to and shall notify all Subscribers in the event of termination of this Agreement.
- h. This provision left intentionally blank.

- i. The Parties shall agree upon the terms of the Benefit Booklet to be provided to Enrollees. Material changes and/or modifications to the Benefit Booklet shall be made according to Article 10. The State shall be responsible for making Benefit Booklets available to Subscribers and Enrollees.
- j. The State shall prepare and is responsible to make all governmental filings.
- k. The State shall reimburse Anthem for all payments made on behalf of the State pursuant to demand letters forwarded by the Centers for Medicare and Medicaid Services (CMS) or other government agency to recover a refund when Medicare has erroneously paid as the primary coverage.
- l. This provision left intentionally blank.
- m. The Parties agree during the implementation period to collaborate and establish protocols and processes for managing dependent eligibility, including such things as "qualified" medical child support orders, as more fully set forth in paragraph n below, and the age when dependents "age-off" the State's Program.
- n. The State shall have the responsibility to develop procedures and determine if a medical child support order is a "qualified" medical child support order, and shall perform all administration relating to such determinations, including providing all appropriate notification to Anthem.
- o. The State is responsible for complying with all unclaimed property or escheat laws, and for making any required payment or filing any required reports under such laws.
- p. The State shall provide or designate others to provide all other services required to operate and administer the Program that is not expressly the responsibility of Anthem under this Agreement.

#### ARTICLE 4 - CLAIMS PAYMENT METHOD

- a. The State shall pay Anthem for Paid Claims according to the Claims Payment Method described in Section 3 of EXHIBIT B. In addition, from time to time, the Parties acknowledge that the appropriateness of a Claim payment may be reviewed. During the course of the period of time for review, Anthem shall not hold the Claim payment and the State shall reimburse Anthem for such Claim payment.
- b. The Parties acknowledge that, from time to time, a Claims adjustment is necessary as a result of coordination of benefits, subrogation, workers' compensation, payment errors and the like, and that the adjustment takes the form of a debit (for an additional amount paid by Anthem) or a credit (for an amount refunded to Anthem). The Parties agree that such Claims adjustments shall be treated as an adjustment to the Claims payment made in the billing period in which the adjustment occurs, rather than as a retroactive adjustment to the Claim as initially paid. No Claims adjustment shall be made beyond the Claims Runout period following termination of this Agreement.

#### **ARTICLE 5 - ADMINISTRATIVE SERVICES FEE**

The State shall pay Anthem the Administrative Services Fee, as described in Section 4 of EXHIBIT B, during the term of this Agreement.

#### **ARTICLE 6 - CLAIMS RUNOUT**

- a. Anthem shall pay the Claims Runout for the period of time described in Section 5 of EXHIBIT B. Following termination of this Agreement, the terms of this Agreement shall continue to apply with respect to the processing and payment of such Claims Runout and Administrative Services Fee. The State acknowledges and agrees that Anthem shall have no obligation to process or pay any Claims Runout or return Claims filed with Anthem to the State beyond the Claims Runout period designated in Section 5 of EXHIBIT B, including any Claims incurred by a Enrollee under a continuation of coverage provision of the Benefit Booklet, and the State acknowledges and agrees that any amounts recovered beyond the Claims Runout period shall be retained by Anthem.
- b. This provision intentionally left blank.
- c. This provision intentionally left blank.

#### **ARTICLE 7 - INTEREST CHARGES**

This Article intentionally left blank.

#### **ARTICLE 8 - RENEWAL SCHEDULES**

- a. The State reserves the right, during the second and third Terms of the Agreement Period, to implement other retiree coverages and/or programs for its eligible retirees which may be administered in whole or in part by administrators other than Anthem.

#### **ARTICLE 9 - NOTICES**

This Article left intentionally blank.

#### **ARTICLE 10 - CHANGES IN THE BENEFIT BOOKLET AND AGREEMENT**

- a. Anthem and the State shall agree upon any changes to the Benefit Booklets that may be necessary and/or in the best interest of Enrollees. In the event changes to the provisions of the Benefit Booklet are mandated as a result of a change to any state and/or federal law, the Parties shall meet and determine the best manner to change the terms of the Benefit Booklets to conform to such law. In the event of material changes to a Benefit Booklet, the State will provide timely notice of such changes to Enrollees.
- b. Upon the occurrence of one or more of the following events: (1) a change to the Plan benefits initiated by the State that results in a substantial change in the services to be provided by Anthem; (2) a change in the total number of Members resulting in either an increase or decrease of 10% or more of the number of Members enrolled for coverage on the date the Administrative Services Fee was last modified; (3) a change in The State contribution (4) a change in applicable law that results in an increase in the cost of administrative services from those currently being provided by Anthem under this

Agreement, the Parties shall meet to negotiate in good faith a corresponding adjustment in the Administrative Services Fee and such adjustment shall be made in accordance with Article 18 of the P-37. To the extent that the parties are unable to come to a mutually agreeable adjustment to the Administrative Services Fee, either Party shall have the right to terminate this Agreement by giving written notice of one hundred and twenty (120) days.

- d. No change to a Benefit Booklet shall be effective unless and until approved in writing by an authorized representative of Anthem and the State.

#### **ARTICLE 11 - TERMINATION AND/OR SUSPENSION OF PERFORMANCE**

- a. This Article left intentionally blank.

#### **ARTICLE 12 - INTER-PLAN ARRANGEMENTS**

- a. Out of Area Services. Anthem has a variety of relationships with other Blue Cross and/or Blue Shield Licensees referred to generally as "Inter-Plan Programs." Claims for certain services may be processed through one of these Inter-Plan Programs and presented to Anthem for payment in accordance with the rules of the Inter-Plan Programs policies then in effect. The Inter-Plan Programs available to Members under this Agreement are described generally below. Typically, Members' Claims are processed through an Inter-Plan Program when Members obtain care from health care Providers that have a contractual agreement (i.e., are "Network Providers") with a local Blue Cross and/or Blue Shield Licensee ("Host Blue"). In some instances, Members may obtain care from non-Network Providers. Anthem's payment practices in both instances are described below.
- b. BlueCard® Program. Under the BlueCard® Program, when Members access Covered Services within the geographic area served by a Host Blue, Anthem will remain responsible to the State for fulfilling Anthem's contractual obligations. However, in accordance with applicable Inter-Plan Programs policies then in effect, the Host Blue will be responsible for providing such services as contracting and handling substantially all interactions with its Network Providers. The financial terms of the BlueCard Program are described generally below. Individual circumstances may arise that are not directly covered by this description; however, in those instances, Anthem's action will be consistent with the spirit of this description.
  - 1. Liability Calculation Method Per Claim. The calculation of the Member liability on Claims for Covered Services processed through the BlueCard Program will be based on the lower of the Network Provider's Billed Charges or the negotiated price made available to Anthem by the Host Blue.

The calculation of the State liability on Claims for Covered Services processed through the BlueCard Program will be based on the negotiated price made available to Anthem by the Host Blue. Sometimes, this negotiated price may be greater than Billed Charges if the Host Blue has negotiated with its Network Provider(s) an inclusive allowance (e.g., per case or per day amount) for specific health care services. Host Blues may use various methods to determine a negotiated price, depending on the terms of each Host Blue's health care Provider contracts. The negotiated price made available to Anthem by the Host Blue may represent a

payment negotiated by a Host Blue with a health care Provider that is one of the following:

- (i) an actual price. An actual price is a negotiated payment without any other increases or decreases, or
- (ii) an estimated price. An estimated price is a negotiated payment reduced or increased by a percentage to take into account certain payments negotiated with the Provider and other Claim- and non-Claim-related transactions. Such transactions may include, but are not limited to, anti-fraud and abuse recoveries, Provider refunds not applied on a Claim-specific basis, retrospective settlements, and performance-related bonuses or incentives, or
- (iii) an average price. An average price is a percentage of Billed Charges representing the aggregate payments negotiated by the Host Blue with all of its health care Providers or a similar classification of its Providers and other Claim- and non-Claim-related transactions. Such transactions may include the same ones as noted above for an estimated price.

Host Blues using either an estimated price or an average price may, in accordance with Inter-Plan Programs policies, prospectively increase or reduce such prices to correct for over- or underestimation of past prices (i.e., prospective adjustments may mean that a current price reflects additional amounts or credits for Claims already paid to Providers or anticipated to be paid to or received from Providers). However, the amount paid by the Member and the State is a final price; no future price adjustment will result in increases or decreases to the pricing of past Claims. The BlueCard Program requires that the price submitted by a Host Blue to Anthem is a final price irrespective of any future adjustments based on the use of estimated or average pricing. If a Host Blue uses either an estimated price or an average price on a Claim, it may also hold some portion of the amount that the State pays in a variance account, pending settlement with its Network Providers. Because all amounts paid are final, neither variance account funds held to be paid, nor the funds expected to be received, are due to or from the State. Such payable or receivable would be eventually exhausted by health care Provider settlements and/or through prospective adjustment to the negotiated prices. Some Host Blues may retain interest earned, if any, on funds held in variance accounts.

A small number of states require Host Blues either (i) to use a basis for determining Member liability for Covered Services that does not reflect the entire savings realized, or expected to be realized, on a particular Claim, or (ii) to add a surcharge. Should the state in which health care services are accessed mandate liability calculation methods that differ from the negotiated price methodology or require a surcharge, Anthem would then calculate Member liability and the State liability in accordance with applicable law.

2. Return of Overpayments. Under the BlueCard Program, recoveries from a Host Blue or its Network Providers can arise in several ways, including, but not limited to, anti-fraud and abuse recoveries, health care Provider/hospital audits, credit balance audits, utilization review refunds, and unsolicited refunds. In some cases, the Host Blue will engage a third party to assist in identification or collection of recovery amounts. The fees of such a third party may be netted against the recovery. Recovery amounts determined in this way will be applied in accordance with applicable Inter-

Plan Programs policies, which generally require correction on a Claim-by-Claim or prospective basis.

- c. **Negotiated National Account Arrangements.** As an alternative to the BlueCard Program, Member Claims for Covered Services may be processed through a negotiated National Account arrangement with a Host Blue. For purposes of this Article, a "National Account" is the State that has membership in more than one state.

If Anthem and the State have agreed that (a) Host Blue(s) shall make available (a) custom health care Provider network(s) in connection with this Agreement, then the terms and conditions set forth in Anthem's negotiated National Account arrangement(s) with such Host Blue(s) shall apply. In negotiating such arrangement(s), Anthem is not acting on behalf of or as an agent for the State, the Plan or Members.

the State agrees that Anthem will not have any responsibility in connection with the processing and payment of Claims when Members access such network(s), except as may be set forth in the relevant participation agreement.

**Member Liability Calculation.** Member liability calculation will be based on the lower of either Billed Charges or negotiated price made available to Anthem by the Host Blue that allows Members access to negotiated participation agreement networks of specified Network Providers outside of Anthem's service area.

- d. **Non-Network Providers Outside Anthem's Service Area.**

[1. **Member Liability Calculation.** When Covered Services are provided outside of Anthem's service area by non-Network Providers, the amount a Member pays for such services will generally be based on either the Host Blue's non-Network Provider local payment or the pricing arrangements required by applicable state law. In these situations, the Member may be responsible for the difference between the amount that the Non-Network Provider bills and the payment Anthem will make for the Covered Services as set forth in this paragraph.

2. **Exceptions.** In some exception cases, Anthem may pay Claims from non-Network Providers outside of Anthem's service area based on the Provider's Billed Charges, such as in situations where a Member did not have reasonable access to a Network Provider, as determined by Anthem in Anthem's sole and absolute discretion or by applicable state law. In other exception cases, Anthem may pay such a Claim based on the payment it would make if Anthem were paying a non-Network Provider inside of Anthem's service area, as described elsewhere in this Agreement, where the Host Blue's corresponding payment would be more than Anthem's in-service area non-Network Provider payment, or in its sole and absolute discretion. Anthem may negotiate a payment with such a Provider on an exception basis. In any of these exception situations, the Member may be responsible for the difference between the amount that the non-Network Provider bills and the payment Anthem will make for the Covered Services as set forth in this paragraph.]

- e. **Inter-Plan Program Fees and Compensation.** the State understands and agrees to reimburse Anthem for certain fees and compensation which it is obligated under BlueCard or any other Inter-Plan Program, to pay to the Host Blues, to the BCBSA, and/or to BlueCard or Inter-Plan Program vendors, as described below. Fees and compensation under BlueCard and other Inter-Plan Programs may be revised in accordance with the specific Program's standard procedures for revising such fees and compensation, which do not provide for prior approval by any groups. Such revisions typically are made annually as a result of Program policy changes and/or vendor

negotiations. These revisions may occur at any time during the course of a given calendar year, and they do not necessarily coincide with the Agreement Period. With respect to Negotiated National Account Arrangements, the participation with the Host Blue may provide that Anthem must pay an administrative and/or network access fee to the Host Blue. For this type of negotiated participation arrangement, any such administrative and/or network access fee will not be greater than the comparable fees that would be charged under the BlueCard Program.

### ARTICLE 13 – LIABILITY AND INDEMNITY

This Article left intentionally blank.

### ARTICLE 14 – REPORTING, IT and DATA REPORTS

Upon the State's request and as permitted by the Business Associate Agreement entered into between the Parties, Anthem will provide data reports pursuant to Anthem's standard reporting package. Anthem's standard utilization reporting package is available online via Client Information Insights. In addition, the State will have access to reports such as:

- (1) A monthly accounting of Paid Claims paid by Anthem in accordance with this Agreement and this EXHIBIT A and of payments to Anthem for Administrative Services Fee and other costs, if any;
- (2) A summary annual accounting of Paid Claims during the Agreement Period (Annual Claims Utilization Report) which were paid by Anthem in accordance with this Agreement and EXHIBIT B and of payments to Anthem of Administrative Services Fee and other costs during the Agreement Period and assistance in interpretation of such report will be provided within 90 days of the end of the contract year
- (3) A summary annual statement of Post-Settlement Amounts allocated to the State, if any, including the methodology used to determine the such allocation; and
- (4) Additional reports mutually agreed to by the State and Anthem.

Anthem will also provide clinical and analytical reports and support in interpretation of same.

Call Center reporting will identify incoming calls that originated from the State's Program Staff and Agency HR Staff, and the associated metrics, including "issue type". These calls are considered escalated and should be included in general reporting by category, and should be segregated and reported as requested by the State.

Call Center reporting shall be delivered to the State quarterly and shall contain detailed reporting broken out by call type, allowing for meaningful analysis of the types of issues received as they relate to plan administration.

Ad-Hoc Requests: Anthem agrees to provide data to the State within three (3) business days for a standard request, and within seven (7) business days for the majority of ad-hoc requests (certain ad-hoc requests that require additional programming in order to access appropriate data may extend beyond this seven day period). Standard reports are existing reports that Anthem can run by changing report parameters, of which such parameters are limited to incurred date, paid date and maximum dollar amount. Ad-hoc requests include non-standard

reports, or reports entailing actuarial or underwriting analysis. Such reports shall be provided by Anthem at no additional cost to the State.

- a. If the State requests Anthem to provide a data extract or report to any third party engaged by the State (a "Plan Contractor") for use on The State's behalf and Anthem agrees to do so: (i) to the extent such extract or report includes protected health information ("PHI") as defined in HIPAA, Anthem's disclosure of the PHI and Plan Contractor's subsequent obligations with respect to the protection, use, and disclosure of the PHI will be governed by the State's applicable business associate agreements with Anthem and the Plan Contractor; and (ii) to the extent such data or report includes Anthem's Proprietary Information and/or Anthem's Confidential Information, the State acknowledges and agrees that the State shall protect Anthem's proprietary and confidential information and any third party engaged by the State shall enter into a confidentiality agreement with Anthem (or amend an existing one, as applicable) prior to Anthem's release of the extract or report.
- b. The State agrees not to contact, or to engage or permit a Plan Contractor to contact on the State's behalf, any Provider concerning the information in any reports or data extracts provided by Anthem unless the contact is coordinated by Anthem.
- c. In addition to their unlimited rights to use Anthem's Proprietary Information and Confidential Information, Anthem and Anthem Affiliates shall also have the right to use and disclose other Claim-related data collected in the performance of services under this Agreement or any other agreement between the Parties, so long as: (1) the data is de-identified in a manner consistent with the requirements of HIPAA; or (2) the data is used or disclosed for research, health oversight activities, or other purposes permitted by law; or (3) a Member has consented to the release of his or her individually identifiable data. The data used or disclosed shall be used for a variety of lawful purposes including, but not limited to, research, monitoring, benchmarking and analysis of industry and health care trends.

#### ARTICLE 15 - CLAIMS AUDIT

- a. At the State's expense, the State shall have the right to audit Claims on Anthem's premises, during regular business hours and in accordance with Anthem's audit policy, which may be revised from time to time. A copy of the audit policy shall be made available to the State upon request.
- b. If the State elects to utilize a third-party auditor to conduct an audit pursuant to this Agreement and Anthem's audit policy, Anthem will agree to work with the third party auditor provided they are not paid on a contingency fee or other similar basis. An auditor or consultant must execute a confidentiality and indemnification agreement with Anthem pertaining to Anthem's Proprietary and Confidential Information prior to conducting an audit.
- c. The State may conduct an audit once each calendar year and the audit may only relate to Claims processed during the current year or immediately preceding calendar year (the "Audit Period") and neither the State nor anyone acting on the State's or the Plan's behalf, shall have a right to audit Claims processed prior to the Audit Period. The scope of the audit shall be agreed to in writing by the Parties prior to the commencement of the audit.

- d. The State shall provide to Anthem copies of all drafts, interim and/or final audit reports at such time as they are made available by the auditor or consultants to the State. Any errors identified and/or amounts identified as owed to the State as the result of the audit shall be subject to Anthem's review and approval prior to initiating any recoveries of Paid Claims pursuant to Article 13 of this Agreement. Anthem reserves the right to terminate any audit being performed by or for the State if Anthem determines that the confidentiality of its information is not properly being maintained or if Anthem determines that the State or auditor is not following Anthem audit policy.

#### ARTICLE 16 - CONTRACT ADMINISTRATION

- a. The State shall be solely and directly liable for the payment of any and all benefits due and payable under the Program.
- b. Anthem is providing administrative services only with respect to the portion of the Program described in the Benefit Booklet. Anthem only has the authority granted it pursuant to this Agreement. Anthem is not the insurer or underwriter of any portion of the Program, notwithstanding any monetary advances that might be made by Anthem.
- c. Anthem does not insure or underwrite the liability of the State under this Agreement. Anthem is strictly an independent contractor. Anthem has no responsibility or liability for funding benefits provided by the Program, notwithstanding any advances that might be made by Anthem. The State retains the ultimate responsibility and liability for all benefits and expenses incident to the Program, including but not limited to, any state or local taxes that might be imposed relating to the Program.
- d. The Parties acknowledge that the portion of the Program described in the Benefit Booklet is a self-insured plan and as such is not subject to state insurance laws or regulations.
- e. The State shall ensure that sufficient amounts are available to cover Claims payments, the monthly Administrative Services Fee, and other fees or charges.
- f. The State shall reimburse Anthem for the actual costs charged Anthem by any external reviewer. Anthem shall provide the actual costs charged by Anthem as a part of the itemized weekly invoice.

#### ARTICLE 17 - ANTHEM AS RECOVERY AGENT

- a. The State grants to Anthem the sole right, to pursue recovery of Paid Claims administered on behalf of Enrollees under this Agreement. Anthem shall establish recovery policies, determine which recoveries are to be pursued, initiate and pursue litigation when it deems this appropriate, incur costs and expenses and settle or compromise recovery amounts.
- b. Anthem will not pursue recoveries for overpayments if the cost of collection exceeds the overpayment amount or for overpayment amount of twenty-five dollars (\$25.00) or less. If the amount is seventy-five dollars (\$75.00) or less, the State and Anthem agree that Anthem shall not initiate overpayment recovery efforts more than 18 months after a payment was received by a provider. The dollar amounts in this section may be revised from time to time, upon agreement by the parties.

c. Unless otherwise provided in EXHIBIT B, Anthem shall charge a fixed percentage fee 25% (twenty-five percent) of gross subrogation recovery, or, if outside counsel is retained, 15% (fifteen percent) of net recovery after a deduction for outside counsel fees for subrogation-related services. For these purposes, "subrogation-related services" are services in which Anthem pursues recoveries to Enrollees by any other person, insurance company or other entity on account of any action, claim, request, demand, settlement judgment, liability or expense that is related to a Claim for Covered Services. These fixed subrogation fees will be charged on all subrogation matters, including any that may have Claims incurred and paid in any prior Agreement Period. The Administrative Services Fee does not include any expenses associated with subrogation. Such subrogation expenses shall reduce amounts recovered for purposes of any adjustments applied toward the State's Claims as described in Article 4 of this Agreement.

## ARTICLE 18 – SCHEDULE OF PERFORMANCE GUARANTEES

### Section 1. General Conditions

- A. The Performance Guarantees described in the Attachments to this Schedule shall be in effect only for the Performance Period indicated above, unless specifically indicated otherwise in the Attachments. The Contractor shall be required to meet performance guarantees or pay the State a penalty as enumerated in this Section. The performance guarantees are:
1. Operations Performance Guarantees
  2. Network Discount Guarantee  
Medical Trend Guarantee
- B. The Performance Guarantees shall contain a measurement period (the "Measurement Period") for which any Performance Guarantee will be calculated. If there are any inconsistencies between the terms contained in this Schedule, and the terms contained in any of the Attachments to this Schedule, the terms of the Attachments to this Schedule shall control.
- C. Anthem shall conduct an analysis of the data necessary to calculate any one of the Performance Guarantees within the timeframes provided in the Attachments to this Schedule. In addition, any calculation of Performance Guarantees, reports provided, or analysis performed by Anthem shall be based on Anthem's then current measurement methodology.
- D. Any audits performed by Anthem to test compliance with any of the Performance Guarantees shall be based on a statistically valid sample size with a 95% confidence level.
- E. If the Parties do not have an executed Agreement, Anthem shall have no obligation to make payment under these Performance Guarantees.
- F. Unless otherwise specified in the Attachments to this Schedule, the measurement of the Performance Guarantee shall be based on: data that is maintained and stored by Anthem or its Vendors. Unless otherwise noted, the guarantees are measured and settled annually.
- G. If The State terminates the Agreement between the Parties prior to the end of the Agreement Period, or if the Agreement is terminated for non-payment, the State shall forfeit any right to collect any further payments under any outstanding Performance Guarantees for the one-year term during which such termination occurs.
- H. If any of the below changes occur, the Parties shall meet to negotiate in good faith to determine whether any changes should be made to any of the Performance Guarantees provided in the Attachments to this Schedule:
- (1) a change to the Plan benefits or the administration of the Plan initiated by The State that results in a substantial change in the services to be performed by Anthem or the measurement of a Performance Guarantee; or
  - (2) an increase or decrease of 10% or more of the number of Members that were enrolled for coverage on the latter of the effective date or renewal date of this Agreement] or
- I. For the purposes of calculating compliance with the Performance Guarantees contained in the Schedule of Performance Guarantees, if a delay in performance

of, or inability to perform, a service underlying any of the Performance Guarantees is due to circumstances which are beyond the control of Anthem, including but not limited to any act of God, civil riot, floods, fire, acts of terrorists, acts of war terrorism or, power outage, such delayed or non-performed service will not count towards the measurement of the applicable Performance Guarantee.

**Section 2. Payment:**

- A. If Anthem fails to meet any of the obligations specifically described in a Performance Guarantee, Anthem shall pay The State the amount set forth in the Attachment describing the Performance Guarantee. Payment shall be in the form of a check.
- B. Notwithstanding the above, Anthem has the right to offset any amounts owed to The State under any of the Performance Guarantees contained in the Attachments to this Schedule against any amounts owed by The State to Anthem under: (1) any Performance Guarantees contained in the Attachments to this Schedule; (2) the Agreement, or (3) any applicable Stop Loss Policy.
- C. Notwithstanding the foregoing, Anthem's obligation to make payment under the Performance Guarantees is conditioned upon the State's timely performance of its obligations provided in the Agreement in this Schedule and the Attachments, including providing Anthem with the information required by Anthem in the Attachments. Anthem shall not be obligated to make payment under a Performance Guarantee if The State fails to meet any of its obligations provided in the Attachments related to such Performance Guarantee.

**Schedule of Performance Guarantees**

**1: Operations Performance Guarantees**

Standard Reports	\$25,000	A minimum of 95% of standard reports delivered within 3 business days	100% of Amount at Risk	Annual
Claims Timeliness (10 business Days)	\$25,000	<p>A minimum of 90 % of Non-investigated medical Claims (paper) that do not require clarification within 10 business days.</p> <p>Non-investigated Claims are defined as medical Claims that process through the system without the need to obtain additional information from either the Provider, Subscriber or other external sources. Processed Timely is defined as Non-investigated medical Claims that have been finalized within 10 business days of receipt.</p> <p>This Guarantee will be calculated based on the number of Non-investigated Claims that Processed Timely divided by the total number of Non-investigated Claims. The calculation of this Guarantee does not include Claim adjustments The calculation of this Guarantee also excludes any quarter Claims for the State that requests changes to Plan benefits, until all such changes have been implemented.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Claims Timeliness (14 Calendar Days)	\$80,000	<p>A minimum of 90 % of Non-investigated medical Claims (paper and electronic) within 14 calendar days.</p> <p>Non-investigated Claims are defined as medical Claims that process through the system without the need to obtain additional information from either the Provider, Subscriber or other external sources. Processed Timely is defined as Non-investigated medical Claims that have been finalized within 14 calendar days of receipt.</p> <p>This Guarantee will be calculated based on the number of Non-investigated Claims that Processed Timely divided by the total number of Non-investigated Claims. The calculation of this Guarantee does not include Claim adjustments The calculation of this Guarantee also excludes any quarter Claims for the State that requests changes to Plan benefits, until all such changes have been implemented.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual

Anthem's Initials: RMAA  
Date: 11/28/12

Claim Timeliness (30 Calendar Days)	\$60,000	<p>A minimum of 99% of Non-investigated medical Claims will be processed within 30 calendar days.</p> <p>Non-investigated medical Claims are defined as Claims that process through the system without the need to obtain additional information from either the Provider, Subscriber, or other external sources. Processed Timely is defined as Non-investigated medical Claims that have been finalized within 30 calendar days of receipt.</p> <p>This Guarantee will be calculated based on the number of Non-investigated Claims that Processed Timely divided by the total number of in-investigated Claims. The calculation of this Guarantee does not include Claim adjustments. The calculation of this Guarantee also excludes any quarter Claims for the State that requests changes to Plan benefits, until all such changes have been implemented.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Claims Financial Accuracy	\$100,000	<p>A minimum of 99% of medical Claim dollars will be processed accurately</p> <p>This Guarantee will be calculated based on the total dollar amount of audited medical Claims paid correctly divided by the total dollar amount of audited medical Paid Claims. The calculation of this Guarantee does not include Claim adjustments. The calculation of this Guarantee also excludes in any quarter Claims for the State that requests changes to Plan benefits, until all such changes have been implemented.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Claims Accuracy	\$100,000	<p>A minimum of 97% of medical Claims will be paid or denied correctly.</p> <p>This Guarantee will be calculated based on the number of audited medical Claims paid and denied correctly divided by the total number of audited medical Claims paid and denied. The calculation of this Guarantee excludes in any quarter Claims for the State that requests changes to Plan benefits, until all such changes have been implemented.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual

Anthem's Initials: SMY  
Date: 11/25/12

Audit Requests	\$25,000 at risk per audit	<p>Anthem will respond within 30 calendar days to all independent auditor requests for clarification, following claims audits.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Processing of Ongoing Eligibility Information	\$50,000	<p>99% of the State's ongoing eligibility updates will be processed within 48 hours of receipt of a clean and complete eligibility file in an agreed upon format</p> <p>This Guarantee only applies to the processing of eligibility files submitted by the State outside of an open enrollment period. This Guarantee does not apply to a defective eligibility file. Defective Eligibility File is defined as an eligibility file that has issues that prevent Anthem's processing of the file. Anthem's payment of this Guarantee is conditioned upon receipt of eligibility files in a format mutually agreed upon by the Parties.</p> <p>This Guarantee will be calculated by (1) dividing total number of eligibility files processed within the timeframe set forth above by (2) the number of the State's eligibility files processed.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Settlement Reports	\$25,000	<p>Anthem will deliver Settlement Reports within 180 calendar days of policy year-end</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Average Speed to Answer	\$20,000	<p>The average speed to answer (ASA) will be 45 seconds or less.</p> <p>ASA is defined as the average number of seconds members wait and/or are in the telephone system before receiving a response from a customer care representative (CCR) or an interactive voice response unit (IVR). This Guarantee will be calculated based on the total number of calls received in the customer service telephone system.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual

Anthem's Initials: RMA  
Date: 11/26/12

Call Abandoned Rate	\$20,000	<p>A maximum of 3.0% of member calls will be abandoned.</p> <p>Abandoned Calls are defined as member calls that are waiting for a customer care representative (CCR), but are abandoned before connecting with a CCR. This Guarantee will be calculated based on the number of calls abandoned divided by the total number of calls received in the customer service telephone system.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
First Call Resolution	\$20,000	<p>A minimum of 85% of member calls will be resolved during the initial contact with no further follow up required.</p> <p>First Call Resolution is defined as member callers receiving a response to their inquiry during an initial contact with no further follow-up required. This Guarantee will be calculated based on the total number of members who receive a First Call Resolution divided by the total number of calls received into the customer service telephone system.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Written Inquires	\$25,000	<p>A minimum of 95% of written inquires received in customer services from plan participants will be responded to by an Anthem representative within 10 business days.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Marketing Materials	\$20,000 per occurrence	<p>A minimum of 100% of all marketing materials that will be distributed to State Members will be pre-approved by the State prior to distribution to Members.</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual
Member Communication	\$5 per incorrect Member document up to \$75,000 penalty per contract year	<p>A minimum of 100% of all Member communications will be accurate</p> <p>This will be measured with State specific data.</p>	100% of Amount at Risk	Annual

Anthem's Initials: *AMC*  
Date: *11/26/12*

Ad hoc Reports

\$25,000

A minimum of 90% of Ad hoc reports requested by the State will be delivered within 7 business days of the request. An Ad hoc report is defined as a report that is not part of Anthem's standard reporting package.

This will be measured with State specific data.

100% of Amount at Risk Annual

Anthem's Initials: *AMEJ*

Date: 1/28/12

**2: Network Discount Guarantee**

Performance Measure	Amount at Risk	Guarantee	Penalty Calculation		Reporting Period
Network Provider Discount	10.0% of ASO fee	A minimum Network Provider Discount of 44.0%. Eligible Claim Charges are defined as charges for Covered Services provided to Members enrolled in State plans, excluding Medicaomp Participants. Eligible Claim Charges will not include charges related to Medicare Claims, Prescription Drug Claims, Inter-Plan Program fees, COB, state surcharges, or services rendered outside the United States and Puerto Rico. Allowed Amount is defined as the amount paid by Anthem to Network Providers on Eligible Claim Charges plus any Member cost shares.	Result	Penalty	Annual
			44.0% or Greater	None	
			43.9% to 43.0%	2.5%	
			42.9% to 42.0%	5.0%	
			41.9% to 41.0%	7.5%	
			Less than 40%	10%	

This Guarantee will be calculated by dividing the [HMO, PPO, POS] Network Provider Allowed Amount by the [HMO, PPO, POS] Network Provider Eligible Claim Charges. The resulting percentage shall be subtracted from 100% to determine the Network Provider Discount.

The Guarantee will be based on incurred claims for the period of January 1, 2013 through December 31, 2013 and paid through June 30, 2014. The settlement shall be finalized no later than eight months after the conclusion of each policy year with any applicable fee credits to occur no later than the end of the ninth month following each policy year.

This Guarantee does not apply if the State moves its employees to exchanges in 2014.

Anthem's Initials: *SMJ*  
Date: *11/28/12*

### 3: Medical Trend Guarantee

For the second and third year of the Agreement Period, the Contractor agrees to the following Medical Trend Guarantees:

Year 2	Year 3
<u>(1/1/14-12/31/14)</u>	<u>(1/1/15-12/31/15)</u>
6.5%	6.0%

The Medical Trend Guarantees will apply to all claims incurred through all medical plans administered by the Contractor for all non-Medicare eligible Enrollees.

If the medical cost trend for any of the two years exceeds the medical trend guaranteed above, Contractor will issue a credit (or other mutually agreed upon payment) to the State (illustrated below) based on a percentage of the administrative service fee as stated EXHIBIT B, Section 3(b).

#### Calculation of Guaranteed Trend

The trend guarantee will be adjusted for significant benefits that are added or removed. Using total costs (including member cost sharing) for the trend analysis mitigates the need for plan value adjustments in most situations. However, when significant benefits are added or removed, such as in-vitro fertilization and bariatric surgery, an adjustment needs to be made since the total costs in the baseline period do not reflect this benefit. A significant shift in the distribution of enrollment by plan design and/or significant change in offered plan designs as measured by a change in actuarial value of 5% will require a change in methodology to adjust for the impact on utilization due to plan design changes. The methodology for calculating actuarial value will be mutually agreed upon by the Parties.

#### Administration and Settlement of Guarantee

1. A baseline claims cost will be established for each year using incurred medical claims on a per member per month ("PMPM") basis. This will be based on claims incurred in the prior year and paid through June of the following year by the State of New Hampshire. For example, the 2014 guarantee will be based on claims incurred in 2013 and paid through June of 2014. Claims will include amounts that are the responsibility of both the member and the State of New Hampshire so that results are not distorted by any plan design changes or other cost sharing differences from year to year. In order to determine the baseline PMPM amount, the claims will be divided by the total number of enrolled members.
2. To promote a result that is not skewed by random fluctuation of catastrophic claims, Anthem will remove individual claims in excess of \$250,000 from both the baseline period and the experience period.
3. In order to accurately measure year over year trend levels the baseline claims cost must be developed using the same or a similar enrolled population each year. The demographic profile, driven by age, gender, contract class and area, of each year's enrollment will be used to determine whether the population is the same or similar. The demographic profile must be within 5% of the demographic profile of the prior year's enrollment for the Trend Guarantee to apply. The baseline medical costs will be adjusted to reflect the change in the demographic profile.

The demographic profile for each year will be determined using a census from July of that same year.

4. If enrollment on July 1st of each policy year varies by +/- 10% from enrollment as of July 1st of the prior year, trend will be calculated using only membership continuously covered from January 1st of the prior year through December 31st of the policy year.

5. The G.T. will be adjusted each year to reflect benefits added or deleted including but not limited to new state or federal mandates not known at the time of the development of the Trend Guarantee.

6. Claims experience will be adjusted to remove the impact of catastrophic events such as a pandemic as defined by the World Health Organization.

7. The Observed Trend for each policy year will equal the medical claims incurred in that year as determined by the steps set forth within this section divided by the baseline claims.

8. If the Observed Trend is greater than the trend guarantee, the Contractor will issue a fee credit to the State of New Hampshire that will be calculated separately for each policy year as follows: Trend Guarantee Fee Schedule:

Should the Contractor not meet the Guarantee, the Contractor shall pay State a penalty based on the following fee schedule, as a Percentage of Annual Administrative Fees, referenced in EXHIBIT B, Section 3(b).

<u>Trend Guarantee</u>	<u>Percentage of Administrative Service Fee</u>
Plus 1.0% to 2.0%	2.5%
Plus 2.1% to 3.0%	5.0%
Plus 3.1% to 4.0%	7.5%
Greater than 4.0%	10.0%

The ASO fees subject to the Trend Guarantee include medical and care management program fees paid by the State of New Hampshire in each year.

Any Trend Guarantee settlement shall be finalized no later than eight months after the conclusion of each policy year with any applicable fee credits to occur no later than the end of the ninth month following each policy year.

#### Other Conditions

1. In order for the Trend Guarantee to apply, Contractor must be the sole medical carrier for the State of New Hampshire.

2. The Trend Guarantee is invalid if the State of New Hampshire moves its employees to exchanges in 2014.

3. State surcharges and network access fees will be excluded from both the baseline and experience periods.

4. The Trend Guarantee for each policy period shall be invalid if the State of New Hampshire terminates coverage prior to the end of any individual policy period.

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5. The Trend Guarantee assumes an effective date of January 1, 2014 and is applicable for each policy period from 2014-2015.

6. The performance guarantee shall be subject to verification by annual audit.

Anthem's Initials: RMM  
Date: 11/28/12

**ARTICLE 19 – ORDER OF PRECEDENCE / CONTRACT DOCUMENTS**

This Contract consists of the following documents in order of precedence:

- a. State of New Hampshire Terms and Conditions, General Provisions, Form P-37, including Exhibit A, B, C, D, and Appendix A.
- b. Department of Administrative Services, Risk Management Unit, RFP 1450-13, Administration of Medical Benefits dated July 18, 2012, including Addendum 1, are incorporated here within.

Anthem's Initials: *SM*  
Date: 1/25/12

- **EXHIBIT B - CONTRACT PRICE: LIMITATION ON PRICE: PAYMENT**

This EXHIBIT B shall govern the Agreement Period and each Term of the Agreement Period. This EXHIBIT B shall supplement the terms and provisions of EXHIBIT A. Words defined in EXHIBIT A shall have the same meaning in this EXHIBIT B unless expressly defined otherwise herein. If there are any inconsistencies between the terms of EXHIBIT A and this EXHIBIT B, the terms of this EXHIBIT B shall control.

**Section 1. Agreement Period:**

The terms and conditions of this EXHIBIT B shall apply to and govern the Agreement Period and each Term of the Agreement Period, including any extension thereof.

The initial Claim Incurred Date for purposes of this Agreement shall be the first date of the Agreement Period, except that Contractor will administer Claims on behalf of the State as provided in the Agreement for Covered Persons who are inpatients in a facility on and after the first date of the Agreement Period.

**Section 2. Claims Payment Method:**

The State shall reimburse Contractor for all Claims Contractor pays for and on behalf of Enrollees in the Program. Contractor shall pay benefits for Claims incurred by Enrollees according to the terms of the Agreement. Contractor shall provide notice to the State via electronic means, or other means acceptable to the Parties, of the amount of Claims paid by Contractor no later 12:00 p.m. on each Monday of the Agreement Period and the first Monday following the end of the Agreement Period (including any extensions thereof). The notice shall be for Claims paid during the week immediately preceding the date of notice. Contractor shall supply to the State supporting documentation, as mutually agreed to by the Parties, documenting the Claim payments made. The State shall issue payment to Contractor via wire transfer to a bank account specified by Contractor not later than close of business on Friday in same week as the State receives notice from Contractor. In the event any Monday or Friday falls on a holiday for the State and/or Contractor, notice shall be sent or payment shall be made on the next regular business day.

The State shall not issue payment to Contractor for Claims paid based upon verbal instruction or information from Contractor.

**Section 3. Administrative Services Fee:**

(a) Payment of Administrative Services Fee

- (1) Administrative Services Fees shall be billed to the State on a monthly basis.
- (2) Contractor shall provide the State with an invoice and other documentation as mutually agreed to by the Parties which display the services and costs which make up the Administrative Services Fee. The invoice and documentations shall be provided by Contractor to the State not later than three (3) business days following the end of each month during the Agreement Period. The State shall issue payment to Contractor for Administrative Services Fees within fourteen (14) business days following receipt of the invoice and documentation from Contractor.

- (3) The State shall not issue payment to Contractor for the Administrative Services Fee based upon verbal instruction or information from Contractor.

(b) Amount of Administrative Services Fees

- (1) The Administrative Services Fee for the Agreement Period shall be as follows:

**\$26.46 per Subscriber per month ("pspm")**

- (2) In the event the State exercises its right to extend the duration of this Agreement beyond the Agreement Period, the Parties shall agree not later than ninety (90) days prior to the commencement of any such extension to the amount of the Administrative Services Fee.

(c) Reconciliation and Settlement

- (1) Reconciliation and Settlement. The Parties agree that Administrative Services Fees will be reconciled from time to time and settlements shall occur as defined herein. For purposes of all reconciliation and settlements, enrollment data supplied by the State shall be considered the "source of truth".
- (2) Fiscal Year Reconciliation and Settlement Calculations. The Parties agree that an interim reconciliation and settlement shall occur no later than thirty-one (31) days following the close of the State's Fiscal Year. The State's Fiscal Year is July 1 through June 30.
- (3) Calendar Year End Reconciliation and Settlement Calculation. The Parties agree that a final calendar year end reconciliation and settlement shall occur no later than ninety (90) days following the close of each calendar year.
- (4) Settlement Payments. If, based on the reconciliation and settlement calculations, Contractor owes the State a settlement payment under the terms of the Agreement, then Contractor shall pay the State said amount no later than thirty-one (31) days after the close of the State's Fiscal Year for the interim settlements and no later than ninety (90) days after the close of the calendar year for each year end settlement. If, based on the reconciliation and settlement calculations, the State owes Contractor a settlement payment under the terms of this Agreement, then the State shall pay Contractor said amount no later than thirty-one (31) days after the close of the State's Fiscal Year for the interim settlements and no later than ninety (90) days after the close of the calendar year for each year end settlement.

**Section 4. Fees on Claims Runout:**

There shall be no Administrative Services Fee for Claims Runout Services. Fees on Claims Runout means those Administrative Services Fee and other fees for services provided by Contractor following the Termination of the Agreement.

(a) Claims Runout Services

- (1) Claim Processing. Contractor will process and pay Claims on behalf of the State any Claim covered by the State's Program which has a Claim Incurred Date

during the Agreement Period (or portion thereof if the Agreement is terminated prior to the end of the Agreement Period), provided, however, that Contractor shall have no responsibility to process or pay any Claim with a Claim Incurred Date after the Agreement Period (or portion thereof if the Agreement is terminated prior to the end of the Agreement Period) or after the expiration of twelve (12) months following the Termination Date of this Agreement (the "Runout Period"), unless a different period is otherwise described in the Benefit booklet.

- (2) C.O.B. Coordination of benefit payments that are received by Contractor during the Claims Runout Period shall be credited to the State in accordance with the Agreement. All such payments received by Contractor after the end of the applicable Claims Runout Period will be retained by Contractor.
- (3) Right of Recovery. Recovery amounts recovered during the Claims Runout Period by Contractor shall be credited to the State in accordance with this Agreement. All such amounts received after the Claims Runout Period will be retained by Contractor.

**Section 5. Special Services:**

- (a) External Review. Contractor shall make available to Enrollees External Review services once Enrollees have exhausted first and second level appeals. Contractor shall invoice the State, either in conjunction with the invoice for Administrative Services Fees or separately, the fees and costs associated with administration of External Review. Costs incurred for engaging the services of an Independent Review Organization ("IRO") shall be billed "at cost" to the State. Upon reasonable request by the State, Contractor shall supply to the State of copy of the IRO's invoice.

**Section 6. Wellness Program Administrative Fees:**

- (1) Upon implementation of the various components of the Wellness Programs as provided in Exhibit E, the Wellness Program Administrative Fee(s) shall be as follows:

(a) Healthy Lifestyles

\$91 per Subscriber per month

(b) Know Your Numbers

\$44 per screening

(c) Physician Fax Form

\$13 per form

(d) Health Rewards Points

\$.50 per Subscriber per month

- (2) The Wellness Administrative Fees shall be billed to the State on a monthly basis.
- (3) The Contractor shall provide the State with an invoice and other documentation as mutually agreed to by the Parties which display the services and costs which make up the Wellness Program Administrative Fee. The invoice and documentations shall be provided by the Contractor to the State no later than three (3) business days following the end of each month during the Agreement Period. The State shall issue payment to the Contractor for Administrative Services Fees within fourteen (14) business days following receipt of the invoice and documentation from the Contractor.

Anthem's Initials: EMM  
Date: 1/28/12

### EXHIBIT C – SPECIAL PROVISIONS

This EXHIBIT C – Special Provisions is made a part of the Agreement and is made according to the terms of paragraph 20 of the Agreement (P37). Words defined in Exhibit A shall have the same meaning in this Exhibit C unless expressly defined otherwise herein.

Form P-37, is amended as follows:

#### Event of Default, Remedies (Paragraph 8)

1. Any one or more of the following acts or omissions of the State shall constitute an event of default hereunder ("Events of Default"):
  - (a) failure to perform under the terms of the Agreement and attached Exhibits, Schedules and Attachments;
  - (b) failure to perform any other covenant or condition of this Agreement.
2. Upon the occurrence of any Event of Default, Contractor may take any one, or more, or all, of the following actions:
  - (a) give the State a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and, if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the State notice of termination; and
  - (b) give the State a written notice specifying the Event of Default and suspending all services required by this Agreement; and
  - (c) treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.
3. In connection with the termination of this Agreement and upon Employer's request, Anthem shall provide reports that are part of Anthem's standard Employer reporting package at no extra charge. The PCP report will be considered a standard report. However, Anthem shall have no obligation to provide the reports after the termination date of this Agreement if such termination is due to non-payment pursuant to Exhibit C of this Agreement. Upon Employer's request, Anthem shall also provide data extract files and nonstandard reports to Employer for an additional fee mutually agreed to by the Parties. In no event shall Anthem be obligated to produce more than two sets of reports following the termination date of this Agreement.

#### Data: Access; Confidentiality; Preservation (Paragraph 9)

1. Contractor agrees to treat all proprietary information concerning the State's operations and the Program in a confidential manner.

2. Contractor owns and shall own all rights, title and interest in and to the systems, procedures, methodologies and practices used by it in connection with the Claims processing, Claims payment and utilization monitoring functions of the Program, together with the Participating Provider network, the negotiated fees, terms and discounts with Providers, Claims processing, Claims history and utilization data and information (collectively, the "Contractor Proprietary Information"), all of which is proprietary, confidential and a trade secret of Contractor. The State shall have no right, title or interest in or to Contractor Proprietary Information. The State agrees to treat all Contractor Proprietary Information in a confidential manner.
3. Neither Party shall disclose proprietary information (whether that of the State or Contractor Proprietary Information) to any other person without the prior written consent of the Party that holds the right, title and interest in the information. Nothing in this provision shall prohibit the disclosure of any information required by law, but in the event of any such disclosure, the disclosing Party shall immediately notify the other Party in writing, describing the circumstances of and extent of the disclosure. This provision shall survive termination of this Agreement.

#### **Contractor's Relation to the State (Paragraph 11)**

1. The State is not responsible for the services and benefits provided by Contractor, but are simply agreeing that its eligible employees, dependents and other eligible persons have the option of enrolling in the portion of the Program administered by Contractor. In holding itself out to administer the services specified under this Agreement, Contractor does not act for the benefit of the State.
4. The State acknowledges and agrees that Contractor is obligated to administer Claims for Enrollees only so long as it receives from the State the appropriate payments described in this Agreement and so long as the State is in compliance with the terms, conditions, covenants and obligations set forth in this Agreement.

In connection with the termination of this Agreement and upon Employer's request, Anthem shall provide reports that are part of Anthem's standard Employer reporting package at no extra charge. However Anthem shall have no obligation to provide the reports after the termination date of this Agreement if such termination is due to non-payment pursuant to Exhibit C of this Agreement. Upon Employer's request, Anthem shall also provide data extract files to Employer for an additional fee mutually agreed to by the Parties. In no event shall Anthem be obligated to produce more than two sets of reports following the termination date of this Agreement.

#### **Assignment, Delegation and Subcontracts (Paragraph 12)**

1. Unless it has first obtained the written consent of an officer of the other Party, neither Party may assign this Agreement to any other person. Contractor may, however, with notice to the State, assign or otherwise transfer its rights and obligations hereunder, in whole or in part, to: (i) any affiliate of Contractor; or (ii) any entity surviving a transaction involving the merger, acquisition, consolidation, or reorganization of Contractor, or in which all or substantially all of Contractor's assets are sold. Any assignee of rights or benefits under this Agreement shall be subject to all of the terms and provisions of this Agreement. Contractor may subcontract any of its duties under this Agreement to an affiliate or a Vendor.

### **Indemnification (Paragraph 13)**

1. In performing its obligations under this Agreement, Contractor neither insures nor underwrites any liability of the State under the Program, or any liability of the Program itself, and Contractor is not the provider of benefits or medical services under the Program and does not assume any liability therefore. It is expressly understood and agreed by the State that in performing its obligations under this Agreement, Contractor is not engaged in the practice of medicine and that no Hospital or Provider acts as agent for or on behalf of Contractor. Contractor shall be responsible only for performing the administrative services described in this Agreement. The State, acknowledges and agrees that nothing contained in this Agreement shall confer upon the State, the Program, or Enrollees any right or cause of action, either at law or in equity, against Contractor for acts or omissions of any Hospital or other Providers or Vendors from which any Enrollees receive services.
2. Contractor shall defend against any legal action or proceeding brought against Contractor to recover a claim for benefits under the Program Documents as administered by Contractor. If a demand is asserted or litigation, investigation, or other proceedings are commenced against Contractor by an Enrollee, or by any other party on behalf of an Enrollee, in connection with the Program, Contractor shall provide written notice to the State as soon as practicable. Contractor will select and retain counsel. If the State or Program is also named, the State reserves the right to retain separate counsel for itself and separate counsel for the Program. The State and Contractor shall provide to the other Party reasonable cooperation in the defense of any such matter.

In the event of any legal action or proceeding against the State or Program respecting benefits described in the Benefit Booklet, Contractor shall make available to the State, the Program, and its counsel such evidence that is not privileged and is relevant to such action or proceeding as Contractor may have as a result of its administration of the contested benefit determination.

Contractor is authorized to settle or compromise any claim concerning Program benefits with the approval of the State, which approval shall not be unreasonably withheld.

### **Waiver and Breach (Paragraph 15)**

No failure by Contractor to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express failure of any Event of Default shall be deemed a waiver of the rights of Contractor to enforce each and all of the provisions hereof upon any further or other default on the part of the State.

### **Dispute Resolution**

In the event that any dispute, claim, or controversy relating to this Agreement arises between the Parties, the Parties agree to meet and make a good faith effort to resolve the dispute. If the Parties are unable to amicably resolve the dispute, claim or controversy, either Party seeks resolution at law or in equity, or both.

### **HIPAA Compliance**

The Program will be in compliance with all requirements involving the use or disclosure of protected health information as provided for in 45 C.F.R. Part 164. Contractor's duties and responsibilities in connection with the requirements imposed by HIPAA and regulations promulgated there under will be set forth in a separate agreement between the Parties.

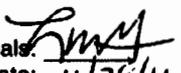
#### Miscellaneous Provisions

1. Limitation of Action. No lawsuit may be filed on a Claim made in connection with this Agreement after the expiration of three (3) years from the date on which the claim arose. Any disputes between the Parties in connection with this Agreement shall be resolved pursuant to the dispute resolution provisions of this EXHIBIT C.
2. Severability. In the event that any provision of this Agreement or the applicability thereof to any person or circumstance is held invalid by competent judiciary or regulatory authority, it shall not affect the validity or enforceability of any other provision of this Agreement.
3. Service Marks. The State, on behalf of itself and its Enrollees acknowledges its understanding that this Agreement constitutes a contract solely between the State and Contractor, that Contractor is an independent corporation operating under a license with the Blue Cross and Blue Shield Association, an association of independent Blue Cross and Blue Shield Plans, permitting Contractor to use the Blue Cross and Blue Shield Service Marks in the State of New Hampshire, and that the State further acknowledges and agrees that it has not entered into this Agreement based upon representations by any person other than Contractor and that no person, entity or organization other than Contractor shall be held accountable or liable to it for any of Contractor's obligations to the State created under this Agreement. This paragraph shall not create any additional obligations whatsoever on the part of Contractor other than those obligations created under other provisions of this Agreement.
4. Unforeseeable Acts. Neither the State nor Contractor shall be required to perform any term, condition, or covenant in this Agreement as long as such performance is delayed or prevented by any acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, acts of terrorists, acts of war or terrorism, or any other cause not reasonably within the control of the State or Contractor and which by the exercise of due diligence the State or Contractor is unable, wholly or in part, to prevent or overcome.
5. Non-Agency. Nothing contained herein shall be deemed to constitute Contractor as an agent for service of legal process for the Program or the State.
6. Use of Name. Contractor shall not use the State and the State shall not use Contractor's name in any release or printed forms making material representations about the other Party's processes or obligations hereunder without the prior written approval of the other Party.
7. Vendor Disclosure. Anthem may pay Performance Payments to Providers or Vendors as described in the definition of Paid Claim in this Agreement. Anthem may perform a periodic settlement or reconciliation based on the Provider's or Vendor's performance and experience against established Performance Targets that would: (1) require the

Provider or Vendor to repay a portion of a Performance Payment previously paid by Anthem; or (2) require Anthem to make additional payments. The state acknowledges and agrees that it has no responsibility for additional payments to Providers or Vendors nor any right in any discounts or excess money refunded or paid to Anthem from Providers or Vendors pursuant to such settlement/reconciliation arrangements, and neither it nor the Plan has any legal right or beneficial interest in such sums retained by Anthem. Similarly, if Providers or Vendors do not achieve established Performance Targets, Anthem is not obligated to refund any amounts previously charged the state. In turn, if under any such settlement/reconciliation Anthem is required to pay Providers or Vendors excess compensation for Member management performance, risk-sharing rewards, or other performance incentives, it shall not seek payment from the state or the Plan, and neither the state nor the Plan shall have any liability in connection with such amounts. Such Providers or Vendors may include Anthem Affiliates. In calculating any Member co-insurance amounts in accordance with the Benefits Booklet, Anthem does not take into account these settlement/reconciliation arrangements.

**EXHIBIT D**

Anthem's response to RFP 1450-13 is hereby incorporated herein.

Anthem's Initials:   
Date: 11/28/11

## **EXHIBIT E**

### **WELLNESS PROGRAM DESCRIPTION**

#### Wellness Programs

1. Beginning on January 1, 2013, Anthem shall implement and support the successful management and operation of the Healthy Lifestyles Program, administered by HealthWays, that offers a Well-Being Assessment tool and on-line lifestyle management tools as an interactive approach to help all enrollees to address key behaviors and set appropriate goals associated with identified health risks.
  - a. Anthem shall provide Web-based coaching for all members which shall include: (1) the ability to ask an online question by clicking on the Coaching Section of the website, and (2) the ability to engage in a live on-line chat with a health coach. The average response time for a coach to respond to members shall not exceed 8 hours and in no event shall the response time exceed 24 hours.
  - b. Anthem shall provide to the State aggregate reporting regarding monthly participation and customer satisfaction to measure program effectiveness. The state and Anthem shall agree on the outcome measures to be contained in such reports.
  - c. The State may at any time discontinue the Healthy Lifestyles Program upon 45 days notice, or as mutually agreed to by the parties, to Anthem and upon termination all associated PSPM administrative charges and payments shall cease.
  - d. Anthem shall at all times protect the privacy of all enrollees in accordance with all applicable state and federal laws and regulations and including any applicable Collective Bargaining Agreement between the State and a state employee association.
  
2. Anthem shall work with the State to implement the Healthy Lifestyles Well-Being Assessment tool using options that maximize enrollee completion of the Well-Being Assessment and other incentives.
  - a. Anthem shall provide access to the existing on-line tutorial outlining how to access Anthem's online tools.
  - b. Anthem shall provide a four-page (4) tutorial outlining how to access and complete the Healthy Lifestyles Well-Being Assessment. Anthem will keep this document current, should there be changes.
  - c. During the peak open enrollment months of November, December, January and February, Anthem shall hold a weekly one-hour telephone conference/web-based meeting for enrollees to educate them about the Healthy Lifestyles Program and the Healthy Lifestyles Well-Being Assessment.
  - d. Within seven business days of a request by the State, Anthem shall provide staff to conduct an on-site educational session about the Wellness Program and all applicable on-line wellness tools, including but not limited to the Well-Being Assessment.
  - e. This provision shall be null and void within seven (7) days of notice by the State to Anthem of the State's intention to discontinue the use of the Well-Being Assessment.

3. Anthem shall provide the Know Your Numbers Plus Worksite Biometric Screening Program ("Know Your Numbers") which shall provide enrollees the opportunity for screening by competent professional staff for the following: total cholesterol and high density lipids (TC/HDL), blood pressure, body mass index, and glucose.

- a. Participants shall receive a Results Scorecard with their screening results and other relevant health information.
- b. Screening staff shall review the results with each participant, providing education on managing any identified health issues and referring enrollees to further health management programs or their primary care provider for follow-up.
- c. The Know Your Numbers Worksite Biometric Screening Program will integrate with the Health Rewards Points Incentive Administration Program to allow members to meet screening outcomes-based incentives to earn an incentive based on their results from engaging in a healthy activity.
- d. The Know Your Numbers Program will be made available to all active State employees and under-65 retiree Subscribers.
- e. Aggregate reporting regarding participation, screening outcomes and customer satisfaction shall be provided to the State to measure effectiveness. The State and Anthem shall agree on the outcome measures to be contained in such reports.
- f. The State may at any time discontinue the Know Your Numbers Program upon 45 days notice to Anthem, or a time as mutually agreed to by the parties, and upon termination all associated screening charges and payments shall cease.

4. Anthem shall provide a Physician Fax Form as an alternative to worksite health screenings to obtain biometric data. The Physician Fax Form will be made available to all active State employees and under-65 retiree Subscribers. Upon receipt of the Physician Fax Form, the member's data will be entered into the Anthem member management system and be used by Anthem as an additional method of outreach for enrollment in health management and wellness coaching programs, or to generate preventive health reminders.

- a. The Physician Fax Form will integrate with the Health Rewards Points Incentive Administration Program to allow members to meet screening outcomes-based measures to earn an incentive based on their results from engaging in a healthy activity.
- b. The State may at any time discontinue the Physician Fax Form upon 45 days notice to Anthem, or a time as mutually agreed to by the parties, and the associated per form charges and payments shall cease.

5. Anthem shall provide Health Rewards Points Incentive Administration Program (Health Rewards Points) as the wellness incentive management program. The State may link incentives to one or more health management programs, including health assessment completion, maternity management program participation, disease management program participation, lifestyle management program participation, and wellness activities, including biometric screenings, preventive care, online fitness and nutrition trackers, and adherence to standards of care.

- a. Health Rewards Points shall be customized by the state and will include results-based outcomes enabling employees to earn incentives based on the results of a healthy activity or lifestyle.

- b. The State through the Manager of Employee Relations shall consult with all employee organizations as provided by their respective Collective Bargaining Agreements regarding the design and implementation of the program.
- c. Nothing herein shall obligate the State to any specific level of incentives. The State will be solely responsible for funding the incentives used in administering the program.
- d. Aggregate reporting regarding participation and customer satisfaction shall be provided to the State to measure effectiveness. The State and Anthem shall agree on the outcome measures to be contained in such reports.
- e. The State may at any time discontinue the Healthy Rewards Incentive Program upon 45 days notice to Anthem, or a time as mutually agreed to by the parties, and the associated PSPM charge and payment shall cease.

6. Anthem shall assist the State in developing material that will outline the State's health benefit plan and will reinforce the existing wellness initiatives at such time. The materials shall be distributed by mail only to new employees as identified by the State. The cost of the material development and printing are included in the existing administrative fees. The State shall assume postage costs and the responsibility for developing the targeted mailing list for new employees. Anthem will, upon request of the State, perform mailings to new employees and the State will reimburse Anthem for postage costs.

7. Anthem agrees to provide a dedicated Wellness Facilitator to the State to support health improvement and wellness services. The Anthem staff member will assist the state with contract program and service integration and participate in monthly State Wellness Workgroup meetings.

- a. The Anthem Wellness Facilitator will assist the State Wellness Coordinators in achieving participation in health screenings, health fairs, and health education programming offered to State employees.
- b. Such support shall include the performance of blood pressure and BMI screenings, health & wellness presentations, facilitating the Stanford Chronic Disease Self-Management Program, as well as assisting in the setup of health screening and influenza vaccination clinics to be administered by a vendor as selected by the State. Whenever possible, the costs associated with any screenings administered by a vendor will be passed to the State as claims for standard reimbursement.
- c. The Anthem Wellness Facilitator will also participate in State and National health initiatives such as the NH Citizen's Health Initiative, NH Comprehensive Cancer Collaboration, NH Wellness Coordinators Council, Wellness Council of America, and the Centers for Disease Control's National Healthy Worksite Initiative to assist the State in implementing science and practice-based prevention and wellness strategies.

8. Anthem shall assist the State by proactively communicating to all active state employees and under-65 retiree subscribers to remind them about wellness benefits such as tobacco cessation, preventive services, and weight management. Anthem shall provide campaign material for approval by the State prior to mailing and the State shall approve the targeted mailing lists. Mailings shall consist of four (4) separate mailings per calendar year. Reporting regarding mailings and response rates shall be provided to the State to measure effectiveness.

9. Anthem shall conduct periodic meetings for new hire employees for the purpose of educating such employees regarding the State's health benefit plan and the ability to utilize the Nurse Line services. Meetings shall not exceed one (1) per month and may be less frequent based on need. Anthem will provide reporting on a quarterly basis regarding the utilization of the Nurse Line by enrollees. In the event that the Nurse Line service is discontinued, this provision shall become null and void.

10. Anthem shall satisfy the following wellness service requirements:

- Ability to customize the Anthem health management and wellness website with State wellness program logo and health improvement benefit information
- Send electronic reminders to member's that have registered on anthem.com who have partially completed or have not completed health improvement wellness services regarding eligibility for the Well-Being Assessment, health coaching and Healthy Rewards Incentives.
- The Well-Being Assessment is compliant with Genetic Information Nondiscrimination ACT (GINA) regulations.
- Upon completion of the Well-Being Assessment, the member can choose to be contacted by a health coach or representative to discuss the member's Well-Being report, and if eligible, enroll in health improvement programming.
- Provide quarterly aggregate member satisfaction results regarding health improvement/wellness services including the Well-Being Assessment, health coaching, and Healthy Rewards Incentive Program.
- Send names of members that have completed the Well-Being Assessment to other State vendors for the administration of a health reimbursement arrangement at no additional cost.
- Accept the Physician Fax Form from medical providers as a means for members to meet outcomes-based incentives that allows members to earn an incentive based on their results from engaging in a healthy activity.

The capability to award monetary rewards to members eligible for incentives

**Table of Contents for Appendices**

Appendix A Business Associate Agreement

Anthem's Initials: *ZMAJ*  
Date: *11/28/12*

**APPENDIX A**  
**STANDARD EXHIBIT I**

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 and those parts of the HITECH Act applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire Department of Administrative Services Employee and Retiree Health Benefit Program.

**BUSINESS ASSOCIATE AGREEMENT**

(1) **Definitions.**

- a. "**Breach**" shall have the same meaning as the term "Breach" in Public Law 111-5, Subtitle D § 13400, as amended from time to time.
- b. "**Business Associate**" is the Contractor to this Agreement, including any subcontractors and agents of the Contractor, and shall have the same meaning as the term "business associate" in 45 CFR § 160.103, as amended from time to time.
- c. "**Covered Entity**" is the State of New Hampshire Employee and Retiree Health Benefit Program, and shall have the same meaning as the term "covered entity" in 45 CFR § 160.103, as amended from time to time.
- d. "**Designated Record Set**" shall have the same meaning as "designated record set" in 45 CFR § 164.501, as amended from time to time.
- e. "**Data Aggregation**" shall have the same meaning as "data aggregation" in 45 CFR § 164.501, as amended from time to time.
- f. "**Electronic Protected Health Information**" or "ePHI" shall have the same meaning as reflected in 45 CFR § 160.103, as amended from time to time.
- g. "**Health Care Operations**" shall have the same meaning as "health care operations" in 45 CFR § 164.501, as amended from time to time.
- h. "**HITECH Act**" means the Health Information Technology for Economic and Clinical Health Act, Public Law 111-5, Subtitle D, enacted as part of the American Recovery and Reinvestment Act of 2009.
- i. "**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164.
- j. "**Individual**" means the person who is subject to the HIPAA Privacy Regulations, and shall have the same meaning as "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g)(1), as amended from time to time.
- k. "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 164, subparts A and E, as amended from time to time.
- l. "**Protected Health Information**" shall have the same meaning as "protected health information" in 45 CFR § 160.103, as amended from time to time.

- m. "Required by Law" shall have the same meaning as "required by law" in 45 CFR § 164.512, as amended from time to time.
- n. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- o. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164 subparts A and C, as amended from time to time.
- p. "Unsecured Protected Health Information" shall have the same meaning as "unsecured protected health information" in 45 CFR § 164.402, as amended from time to time.
- q. Other Definitions - All terms not otherwise defined herein shall have the meaning as those set forth in the Privacy Rule, the Security Rule, and the HITECH Act.

(2) **Use and Disclosure of Protected Health Information.**

- a. Except as set forth herein, Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate shall ensure that its directors, officers, employees and agents do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
  - I. For the proper management and administration of the Business Associate;
  - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
  - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with Sec. 13402 of the HITECH Act of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis it is required by law without first notifying the Covered Entity. In the event the Covered Entity objects to the disclosure it shall see the appropriate relief and the Business Associate shall refrain from disclosing the PHI until the Covered Entity has exhausted all remedies.
- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed pursuant to 45 CFR 164.522 to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) **Obligations and Activities of Business Associate.**

- a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving PHI, ePHI, or Unsecured Protected Health Information, in accordance with the Privacy Rule, the Security Rule and Sec. 13402 of the HITECH Act.

- b. The Business Associate shall comply with all sections of the Privacy and Security Rule as set forth in Sec. 13401 and Sec. 13404 of the HITECH Act and the corresponding regulations under 45 CFR Part 164.
- c. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for the purpose of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- d. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section (3)b and (3)k herein. The Covered Entity shall be considered a direct third party beneficiary of the Business Associate's corresponding business associate agreements with any of its contracted business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of the use and disclosure of protected health information.
- e. To the extent Business Associate creates, receives, maintains or transmits ePHI, Business Associate agrees to implement administrative physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI.
- f. Within five (5) business days of receiving a written request from Covered Entity, Business Associate shall make available to the Covered Entity during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI for the purpose of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.

g. **Individual Rights and Protected Health Information**

a. **Access**

- a. Business Associate will respond to an Individual's request for access to his or her Protected Health Information as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
- b. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right of access under the HIPAA Privacy Regulation by performing the following functions:

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will make available for inspection and obtaining copies by the Plan, or at the Plan's direction by the Individual (or the Individual's personal representative), any Protected Health Information about the Individual created or received for or from the Plan in Business Associate's custody or control, so that the Plan may meet its access obligations under 45 Code of Federal Regulations § 164.524, and, where applicable, the HITECH Act. Business Associate will make such information available in an electronic format where required by the HITECH Act..

b. **Amendment**

- a. Business Associate will respond to an Individual's request to amend his or her Protected Health Information as part of Business Associate's normal customer service functions, if the

request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.

- b. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right to amend under the HIPAA Privacy Regulation by performing the following functions:
- c. Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will amend any portion of the Protected Health Information created or received for or from the Plan in Business Associate's custody or control, so that the Plan may meet its amendment obligations under 45 Code of Federal Regulations §164.526.

c. **Disclosure Accounting**

- a. Business Associate will respond to an Individual's request for an accounting of disclosures of his or her Protected Health Information as part of Business Associate's normal customer service function, if the request is communicated to the Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
- b. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right to an accounting of disclosures under the HIPAA Privacy Regulation by performing the following functions so that the Plan may meet its disclosure accounting obligation under 45 Code of Federal Regulations § 164.528:

c. **Disclosure Tracking**

- i. Business Associate will record each disclosure that Business Associate makes of Individuals' Protected Health Information, which is not excepted from disclosure accounting under Section II.C.2.b.
- ii. The information about each disclosure that Business Associate must record ("Disclosure Information") is (a) the disclosure date, (b) the name and (if known) address of the person or entity to whom Business Associate made the disclosure, (c) a brief description of the Protected Health Information disclosed, and (d) a brief statement of the purpose of the disclosure or a copy of any written request for disclosure under 45 Code of Federal Regulations §164.502(a)(2)(ii) or §164.512. Disclosure Information also includes any information required to be provided by the HITECH Act.
- iii. For repetitive disclosures of Individuals' Protected Health Information that Business Associate makes for a single purpose to the same person or entity (including to the Plan or Employer), Business Associate may record (a) the Disclosure Information for the first of these repetitive disclosures, (b) the frequency, periodicity or number of these repetitive disclosures, and (c) the date of the last of these repetitive disclosures.
- iv. **Exceptions from Disclosure Tracking**
  - a. Business Associate will not be required to record Disclosure Information or otherwise account for disclosures of Individuals' Protected Health Information (a) for Treatment, Payment or Health Care Operations, (except where required by the HITECH Act, as of the effective dates of such requirements) (b) to the Individual who is the subject of the Protected Health Information, to that

Individual's personal representative, or to another person or entity authorized by the Individual (c) to persons involved in that Individual's health care or payment for health care as provided by 45 Code of Federal Regulations § 164.510, (d) for notification for disaster relief purposes as provided by 45 Code of Federal Regulations § 164.510, (e) for national security or intelligence purposes, (f) to law enforcement officials or correctional institutions regarding inmates, (g) that are incident to a use or disclosure that is permitted by this Agreement or the ASO Agreement, (h) as part of a limited data set in accordance with 45 Code of Federal Regulations § 164.514(e), or (i) that occurred prior to the Plan's compliance date.

v. **Disclosure Tracking Time Periods**

Unless otherwise provided by the HITECH Act and/or any accompanying regulations, Business Associate will have available for the Plan the Disclosure Information required by Section II.C.2.a above for the six (6) years immediately preceding the date of the Plan's request for the Disclosure Information.

vi. **Provision of Disclosure Accounting**

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will make available to the Plan, or at the Plan's direction to the Individual (or the Individual's personal representative), the Disclosure Information regarding the Individual, so the Plan may meet its disclosure accounting obligations under 45 Code of Federal Regulations § 164.528 and the HITECH Act.

d. **Confidential Communications**

a. Business Associate will respond to an Individual's request for a confidential communication as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation. If an Individual's request, made to Business Associate, extends beyond information held by Business Associate or Business Associate's subcontractors, Business Associate will inform the Individual to direct the request to the Plan, so that Plan may coordinate the request. Business Associate assumes no obligation to coordinate any request for a confidential communication of Protected Health Information maintained by other business associates of Plan.

b. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right of confidential communication under the HIPAA Privacy Regulation by performing the following functions:

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will begin to send all communications of Protected Health Information directed to the Individual to the identified alternate address so that the Plan may meet its access obligations under 45 Code of Federal Regulations § 164.524.

**5. Restrictions**

a. Business Associate will respond to an Individual's request for a restriction as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate

will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.

- b. In addition, Business Associate will promptly, upon receipt of notice from Plan, restrict the use or disclosure of Individuals' Protected Health Information, provided the Business Associate has agreed to such a restriction. Plan and Employer understand that Business Associate administers a variety of different complex health benefit arrangements, both insured and self-insured, and that Business Associate has limited capacity to agree to special privacy restrictions requested by Individuals. Accordingly, Plan and Employer agree that it will not commit Business Associate to any restriction on the use or disclosure of Individuals' Protected Health Information for Treatment, Payment or Health Care Operations without Business Associate's prior written approval.
  
- h. The parties agree that upon cancellation, termination, expiration or other conclusion of the ASO Agreement, destruction or return of all Protected Health Information, in whatever form or medium (including in any electronic medium under Business Associate's custody or control) is not feasible given the regulatory requirements to maintain and produce such information for extended periods of time after such termination. In addition, Business Associate is required to maintain such records to support its contractual obligations with its vendors and network providers. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those consistent with applicable law for so long as Business Associate, or its subcontractors or agents, maintains such Protected Health Information. Business Associate may destroy such records in accordance with applicable law and its record retention policy that it applies to similar records.

(4) **OBLIGATIONS OF COVERED ENTITY**

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR § 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
  
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR § 164.506 or 45 CFR § 164.508.
  
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) **Termination for Cause**

In addition to standard provision #10 of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) **Miscellaneous**

- a. **Definitions and Regulatory References.** All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, and the HITECH Act as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.

- b. **Amendment.** Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. **Data Ownership.** The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. **Interpretation.** The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule and the HITECH Act.
- e. **Segregation.** If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. **Survival.** Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3)k, the defense and indemnification provisions of section (3)d and provision #13 of the standard contract P-37, shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

The State of New Hampshire Employee  
and Retiree Health Benefit Program

Joseph Bouchard  
Signature of Authorized Representative

Joseph Bouchard  
Name of Authorized Representative

Assistant Commissioner  
Title of Authorized Representative

11/28/12  
Date

Anthem Health Plans of NH, Inc.  
d/b/a Anthem Blue Cross and Blue Shield

[Signature]  
Signature of Authorized Representative

Lisa M. Guertin  
Name of Authorized Representative

President  
Title of Authorized Representative

11/28/12  
Date

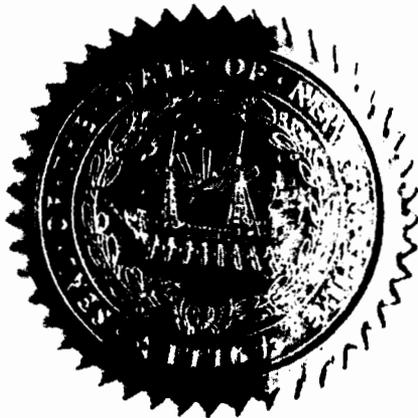
Anthem's Initials: [Signature]  
Date: 11/28/12



# State of New Hampshire Department of State

## CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Anthem Blue Cross and Blue Shield is a New Hampshire trade name registered on April 9, 2010 and that Anthem Health Plans of New Hampshire, Inc. presently own(s) this trade name. I further certify that it is in good standing as far as this office is concerned, having paid the fees required by law.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 28<sup>th</sup> day of November, A.D. 2012

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

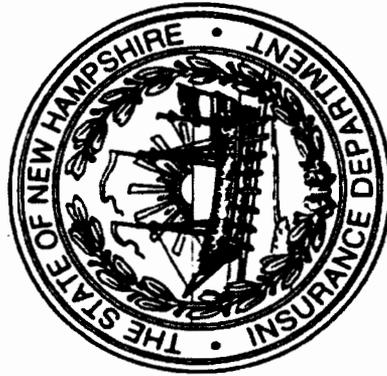
**THE STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**DUPLICATE**  
License No: 100649

Presents that **ANTHEM HEALTH PLANS OF NH, INC. (d/b/a ANTHEM BLUE CROSS AND  
BLUE SHIELD)**  
is hereby authorized to transact **Accident & Health** lines of Insurance  
in accordance with paragraphs **IV** of NH RSA 401:1.

Exclusions:

Effective Date: 06/15/2012  
Expiration Date: 06/14/2013

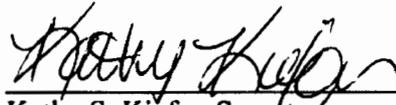


*MA 477*

**Roger A. Sevigny**  
Commissioner of Insurance

**CERTIFICATION  
OF  
KATHY KIEFER, SECRETARY  
ANTHEM HEALTH PLANS OF NEW HAMPSHIRE, INC.**

I, Kathy S. Kiefer, Corporate Secretary of Anthem Health Plans of New Hampshire, Inc. certify that Lisa M. Guertin is the President and General Manager of Anthem Health Plans of New Hampshire, Inc. d/b/a Anthem Blue Cross and Blue Shield ("Anthem"), and as such President and General Manager, and consistent with Anthem policies, has the signatory authority to bind Anthem in contracts with the State of New Hampshire.

  
\_\_\_\_\_  
Kathy S. Kiefer, Secretary

STATE OF INDIANA

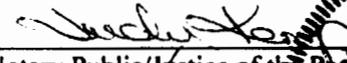
COUNTY OF MARION

On this the 28<sup>th</sup> day of November, 2012, before me, JUDY KEMP, the undersigned officer, personally appeared Kathy S. Kiefer who acknowledged herself to be the Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., d/b/a Anthem Blue Cross and Blue Shield, a corporation, and that she, as such Corporate Secretary being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as Corporate Secretary.

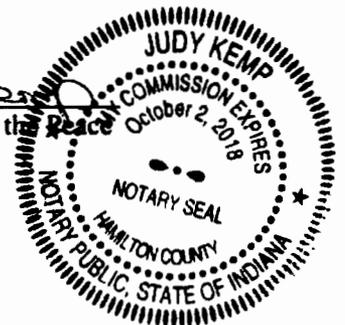
IN WITNESS WHEREOF I hereunto set my hand and official seal.

My commission expires:

10/02/2018

  
\_\_\_\_\_  
Notary Public/Justice of the Peace

My county of Residence is Hamilton



**CERTIFICATE**

(Corporation With Seal)

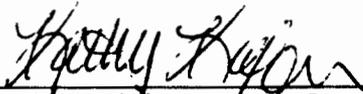
I, Kathy S. Kiefer, Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., do hereby certify that: (1) I am the duly elected and acting Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., doing business as Anthem Blue Cross and Blue Shield, a New Hampshire corporation (the "Corporation"); (2) I maintain and have custody of and am familiar with the Seal and Minute Books of the Corporation; (3) I am duly authorized to issue certificates with respect to the contents of such books and to affix such seal to such certificates; (4) the following is a true and complete copy of Bylaws adopted at a meeting on June 30, 1999; (5) the foregoing Bylaws are in full force and effect, unamended, as of the date hereof; and (6) the following person(s) lawfully occupy the office(s) indicated below:

Lisa M. Guertin President

R. David Kretschmer Treasurer

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Corporation this 28<sup>th</sup> day of November 2012.

(Corporate Seal)

  
Kathy S. Kiefer, Corporate Secretary

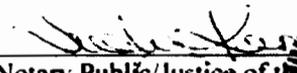
STATE OF INDIANA

COUNTY OF MARION

On this the 28<sup>th</sup> day of November, 2012, before me, JUDY KEMP, the undersigned officer, personally appeared Kathy S. Kiefer who acknowledged herself to be the Corporate Secretary of Anthem Health Plans of New Hampshire, Inc., d/b/a Anthem Blue Cross and Blue Shield, a corporation, and that she, as such Corporate Secretary being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as Corporate Secretary.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My commission expires: 10/02/2018

  
Notary Public/Justice of the Peace

My county of Residence is Hamilton



**BYLAWS  
OF  
ANTHEM HEALTH PLANS OF NEW HAMPSHIRE, INC.**

**ARTICLE I  
OFFICES**

**1.1 Business Office.**

The principal office of the Corporation shall be located at any place within the State of New Hampshire as designated in the Corporation's most current Annual Report filed with the Secretary of State of New Hampshire. The Corporation may have such other offices, either within or without the State of New Hampshire, as the Board of Directors may designate or as the business of the Corporation may require from time to time.

**1.2 Registered Office.**

The registered office of the Corporation as required by the relevant provisions of New Hampshire RSA 293-A (New Hampshire RSA 293-A as from time to time amended is sometimes referred to herein as the "New Hampshire Business Corporation Act") and New Hampshire RSA 401 (New Hampshire RSA 401 as from time to time amended is sometimes referred to herein as the "New Hampshire Insurance Company Act") shall be located within the State of New Hampshire and may be, but need not be, identical with the Corporation's principal office; provided, however, that the registered office of the Corporation shall at all times be the same as the residence or business office of the registered agent. The address of the registered office may be changed from time to time in accordance with the relevant provisions of the New Hampshire Business Corporation Act and the New Hampshire Insurance Company Act.

**ARTICLE II  
SHAREHOLDERS**

**2.1 Annual Shareholder Meeting.**

(a) The annual meeting of the shareholders shall be held during the month of May in each year, beginning with the year 2000, on the specific day within such month as shall be fixed by the Board of Directors from time to time, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of New Hampshire, such meeting shall be held on the next succeeding business day.

(b) If the election of directors shall not be held on the day designated herein for any annual meeting of the shareholders, or at any subsequent continuation after adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the shareholders as soon thereafter as convenient.

## **2.2 Special Shareholder Meetings.**

Special meetings of the shareholders, for any purpose or purposes, described in the meeting notice, may be called by the President, and shall be called by the President or Secretary at the request of the Board of Directors or the holders of not less than one-tenth of all outstanding votes of the Corporation entitled to be cast on any issue at the meeting.

## **2.3 Place of Shareholder Meetings.**

The Board of Directors may designate any place, either within or without the State of New Hampshire as the place of meeting for any annual or any special meeting of the shareholders, unless all the shareholders entitled to vote at the meeting agree by written consents (which may be in the form of waiver of notice or otherwise) to another location, which may be either within or without the State of New Hampshire. If no designation is made, the place of meeting shall be the principal office of the Corporation in the State of New Hampshire.

## **2.4 Notice of Shareholder Meetings.**

(a) **Required Notice.** Written notice stating the place, day and hour of any annual or special shareholder meeting shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Board of Directors, or other persons calling the meeting, to each shareholder of record, entitled to vote at such meeting and to any other shareholder entitled by the relevant provisions of New Hampshire RSA 293-A or the Articles of Incorporation of the Corporation to receive notice of the meeting. Notices to shareholders shall be deemed to be effective at the time and in the manner described in New Hampshire RSA 293-A:1.41, as may be amended.

(b) **Adjourned Meeting.** If any shareholder meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, and place, if the new date, time, and place is announced at the meeting before adjournment. But if a new record date for the adjourned meeting is, or must be fixed (e.g. Article II, Section 2.5 hereof), then notice must be given pursuant to the requirements of paragraph (a) of this Section 2.4, to those persons who are shareholders as of the new record date.

(c) **Waiver of Notice.** Any shareholder may waive notice of a meeting (or any notice required by the New Hampshire Business Corporation Act, the Corporation's Articles of Incorporation or By-Laws), by a writing signed by the shareholder entitled to the notice, which is delivered to the Corporation (either before or after the date and time stated in the notice) for inclusion in the minutes or filing with the corporate records. Under certain circumstances, a shareholder's attendance at a meeting may constitute a waiver of notice, unless the shareholder takes certain actions to preserve his/her objections as described in the New Hampshire Business Corporation Act.

(d) **Contents of Notice.** The notice of each special shareholder meeting shall include a description of the purpose or purposes for which the meeting is called and any other

information required by applicable law. Except as provided herein, or as provided in the Corporation's Articles of Incorporation, or otherwise in the New Hampshire Business Corporation Act, the notice of an annual shareholder meeting need not include a description of the purpose or purposes for which the meeting is called.

## **2.5 Fixing of Record Date.**

For the purpose of determining shareholders of any voting group entitled to notice of or to vote at any meeting of shareholders, or shareholders entitled to receive payment of any distribution or dividend, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors may fix in advance a date as the record date. Such record date shall not be more than seventy (70) days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If no record date is so fixed by the Board of Directors for the determination of shareholders entitled to notice of, or to vote at a meeting of shareholders, or shareholders entitled to receive a share dividend or other distribution, the record date for determination of such shareholders shall be at the close of business on:

(a) With respect to an annual shareholder meeting or any special shareholder meeting called by the Board of Directors or any person specifically authorized by the Board of Directors or these By-Laws to call a meeting, the day before the first notice is delivered to shareholders;

(b) With respect to a special shareholders' meeting demanded by the shareholders, the date the first shareholder signs the demand;

(c) With respect to the payment of a share dividend, the date the Board of Directors authorizes the share dividend;

(d) With respect to actions taken in writing without a meeting pursuant to Article II, Section 2.10 hereof, the date the first shareholder signs a consent; and

(e) With respect to a dividend or distribution to shareholders, (other than one involving a repurchase or reacquisition of shares), the date the Board of Directors authorizes the dividend or distribution.

When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this Section, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

## **2.6 Shareholder List.**

The officer or agent having charge of the stock transfer books for shares of the Corporation shall make a complete record of the shareholders entitled to vote at each meeting of shareholders thereof, arranged in alphabetical order, listing the address and the number of shares

held by each. The list shall be arranged by voting group (if such exists, see Article II, Section 2.7 hereof) and within each voting group by class or series of shares. The shareholder list shall be available for inspection by any shareholder, beginning two (2) business days after notice of the meeting is given for which the list was prepared and continuing through the meeting. The list shall be available at the Corporation's principal office or at a place identified in the meeting notice in the city where the meeting is to be held. A shareholder, his agent, or attorney is entitled on written demand to inspect and, subject to the requirements of Article II, Section 2.12 hereof, to copy the list during regular business hours and at his/her expense, during the period it is available for inspection. The Corporation shall maintain the shareholder list in written form or in another form capable of conversion into written form within a reasonable time.

## **2.7 Shareholder Quorum and Voting Requirements.**

(a) If the Articles of Incorporation or the New Hampshire Business Corporation Act provides for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group.

(b) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the Articles of Incorporation or the New Hampshire Business Corporation Act provide otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(c) If the Articles of Incorporation or the New Hampshire Business Corporation Act provide for voting by two (2) or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately. Action may be taken by one (1) voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

(d) Once a share is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new record date is or must be set for that adjourned meeting.

(e) If a quorum exists, action on a matter (other than the election of directors) by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the Articles of Incorporation or the New Hampshire Business Corporation Act require a greater number of affirmative votes.

## **2.8 Proxies.**

At all meetings of shareholders, a shareholder may vote in person, or vote by proxy, which is executed in writing by the shareholder, or which is executed by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Corporation or other person authorized to tabulate votes before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. All

proxies are revocable unless they meet specific requirements of irrevocability set forth in New Hampshire RSA 293-A:7.22(d) as may be amended. The death or incapacity of the shareholder appointing a proxy does not invalidate the right of the Corporation to accept the proxy unless the Corporation is put on notice before the proxy exercises his/her authority under the appointment. A transferee for value, who receives shares subject to an irrevocable proxy, can remove the proxy, if s/he had no notice of the proxy, and if such appointment was not conspicuously noted on the share certificate. Proxies transmitted by mailgrams or other telegraphic means or by any other electronic, electrical or telephonic means, which result in or produce a written or printed document or facsimile thereof shall be deemed a valid proxy, provided, however, that any such transmission must provide a reasonable means of assuring its authenticity and the identity of its sender.

#### **2.9 Voting of Shares.**

Unless otherwise provided in the Articles of Incorporation or by a relevant provision of the New Hampshire Business Corporation Act, each outstanding share entitled to vote shall be entitled to one (1) vote upon each matter submitted to a vote at a meeting of shareholders.

#### **2.10 Shareholder Action by Written Consent.**

Any action required or permitted to be taken at a meeting of the shareholders may be taken without a meeting if one (1) or more consents in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof and the consents are delivered to the Corporation for inclusion in the minute book. If the act to be taken requires that notice be given to non-voting shareholders, the Corporation shall give the non-voting shareholders written notice of the proposed action at least ten (10) days before the action is taken, which notice shall contain or be accompanied by the same material that would have been required if a formal meeting had been called to consider the action. Action taken by consent is effective when the last shareholder signs the consent, unless the consent specifies a different effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

#### **2.11 Voting for Directors.**

Unless otherwise provided in the Articles of Incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

#### **2.12 Shareholder's Rights to Inspect Corporate Records.**

(a) Minutes and Accounting Records. The Corporation shall keep as permanent records minutes of all meetings of its shareholders and Board of Directors, a record of all actions taken by the shareholders or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Corporation. The Corporation shall maintain appropriate accounting records.

(b) **Inspection Rights.** Subject to compliance with the applicable provisions of the New Hampshire Business Corporation Act, the shareholders of the Corporation have certain inspection rights with respect to certain enumerated corporate records and materials as described in New Hampshire RSA 293-A:16.02, as may be amended.

**2.13 Financial Statements Shall be Furnished to the Shareholders.**

The Corporation shall furnish its shareholders with annual financial statements, which may be consolidated or combined statements of the Corporation and one (1) or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year, and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements.

**2.14 Dissenters' Rights.**

Each shareholder shall have the right to dissent from and obtain payment for the Corporation's shares as issued to such shareholder when so authorized or required by the New Hampshire Business Corporation Act, the Articles of Incorporation, these Bylaws, or in a resolution of the Board of Directors.

**ARTICLE III  
BOARD OF DIRECTORS**

**3.1 General Powers**

All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under, the direction of the Board of Directors.

**3.2 Number, Tenure, and Qualification of Directors.**

Unless otherwise provided in the Articles of Incorporation, the authorized number of directors shall be not less than one (1) nor more than ten (10). The current number of directors shall be within the limits specified above, and as determined (or as amended from time-to-time) by elective vote of the shareholders or by resolution adopted by the shareholders. Each director shall hold office until the next annual meeting of shareholders, his/her resignation or until removed. However, if his/her term expires, s/he shall continue to serve until his/her successor shall have been elected and qualified, or until there is a decrease in the number of directors. Unless required by the Articles of Incorporation, directors do not need to be residents of the State of New Hampshire or shareholders of the Corporation.

### **3.3 Regular Meetings of the Board of Directors.**

A regular meeting of the Board of Directors shall be held without notice other than this By-Law immediately after, and at the same place as, the annual meeting of shareholders. The Board of Directors may provide, by resolution, the time and place, either within or without the State of New Hampshire, for the holding of additional regular meetings without notice other than such resolution.

### **3.4 Special Meetings of the Board of Directors.**

Special meetings of the Board of Directors may be called by or at the request of the President or any one (1) director. The person authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of New Hampshire, as the place for holding any special meeting of the Board of Directors; if permitted by Section 3.7 hereof, such meeting may be held by telephone.

### **3.5 Notice of, and Waiver of Notice for, Special Directors Meetings.**

Notice of any special directors meeting shall be given at least two (2) days prior thereto either orally or in writing. If mailed, notice of any directors meeting shall be deemed to be effective at the time and in the manner described in New Hampshire RSA 293-A:1.41 as may be amended. Any director may waive notice of any meeting. Except as provided in the next sentence, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business and at the beginning of the meeting (or promptly upon his/her arrival) objects to holding the meeting or transacting business at the meeting, and does not thereafter vote for or assent to action taken at the meeting.

### **3.6 Director Quorum.**

A majority of the number of directors prescribed by resolution, (or if no number is prescribed the number in office immediately before the meeting begins) shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, unless the Articles of Incorporation require a greater number.

### **3.7 Directors, Manner of Acting.**

(a) The act of a majority of the directors present at a meeting at which a quorum is present when the vote is taken shall be the act of the Board of Directors unless the Articles of Incorporation require a greater percentage.

(b) Unless the Articles of Incorporation provide otherwise, any or all directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other

during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(c) A director who is present at a meeting of the Board of Directors or a committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless: (1) s/he objects at the beginning of the meeting (or promptly upon his/her arrival) to holding it or transacting business at the meeting; or (2) his/her dissent or abstention from the action taken is entered in the minutes of the meeting; or (3) s/he delivers written notice of his/her dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

### **3.8 Director Action Without a Meeting.**

Unless the Articles of Incorporation provide otherwise, any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if the action is taken by unanimous written consent of the Board of Directors as evidenced by one (1) or more written consents describing the action taken, signed by each director and filed with the minutes or corporate records. Action taken by consent is effective when the last director signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be described as such in any document.

### **3.9 Removal of Directors.**

The shareholders may remove one (1) or more directors at a meeting called for that purpose if notice has been given that a purpose of the meeting is such removal. The removal may be with or without cause unless the Articles of Incorporation provide that directors may only be removed with cause. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove him exceeds the number of votes cast not to remove him.

### **3.10 Board of Director Vacancies.**

(a) Unless the Articles of Incorporation provide otherwise, if a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of directors, the shareholders may fill the vacancy. During such time that the shareholders fail or are unable to fill such vacancies, then and until the shareholders act the Board of Directors may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders.

(c) A vacancy that will occur at a specific later date (by reason of resignation effective at a later date) may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

(d) The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

### **3.11 Director Compensation.**

Unless otherwise provided in the Articles of Incorporation, by resolution of the Board of Directors, each director may be paid his/her expenses, if any, of attendance at each meeting of the Board of Directors, and may be paid a stated salary as director or a fixed sum for attendance at each meeting of the Board of Directors or both; provided, however, that any director that contemporaneously serves as a salaried officer of the Corporation or any of its affiliates shall not be entitled to receive a salary as a director or a fixed sum for attendance at meetings of the Board of Directors. Notwithstanding the foregoing, no such payment shall preclude any director from serving the Corporation in any capacity and receiving compensation therefor.

### **3.12 Director Committees.**

(a) Creation of Committees. Unless the Articles of Incorporation provide otherwise, the Board of Directors may create one (1) or more committees and appoint members of the Board of Directors to serve on them. Each committee must have two (2) or more members, who serve at the pleasure of the Board of Directors.

(b) Selection of Members. The creation of a committee and appointment of members to it must be approved by the greater of (1) a majority of all the directors in office when the action is taken or (2) the number of directors required by the Articles of Incorporation to take such action, (or if not specified in the Articles, the number required by Section 3.7 of this Article III to take action).

(c) Required Procedures. Sections 3.4, 3.5, 3.6, 3.7 and 3.8 of this Article III, which govern meetings, action without meetings, notice and waiver of notice, quorum and voting requirements of the Board of Directors, apply to committees and their members.

(d) Authority. Unless limited by the Articles of Incorporation, each committee may exercise those aspects of the authority of the Board of Directors which the Board of Directors confers upon such committee in the resolution creating the committee. Provided, however, a committee may not: (1) authorize distributions; (2) approve or propose to shareholders action that the New Hampshire Business Corporation Act requires be approved by shareholders; (3) fill vacancies on the Board of Directors or on any of its committees; (4) amend the Articles of Incorporation pursuant to the authority of directors, to do so granted by RSA 293-A:10.02 of the New Hampshire Business Corporation Act as may be amended; (5) adopt, amend or repeal these By-Laws; (6) approve a plan of merger not requiring shareholder approval; (7) authorize or approve reacquisition of shares, except according to a formula or method prescribed by the Board

of Directors; or (8) authorize or approve the issuance or sale or contract for sale of shares or determine the designation and relative rights, preferences and limitations of a class or series of shares, except that the Board of Directors may authorize a committee (or a senior executive officer of the Corporation) to do so within limits specifically prescribed by the Board of Directors.

## **ARTICLE IV OFFICERS**

### **4.1 Number of Officers.**

The officers of the Corporation shall be a President, a Secretary, and a Treasurer, each of whom shall be appointed by the Board of Directors or, except with respect to the office of the President itself, the President. Such other officers and assistant officers as may be deemed necessary, including any vice-presidents, may be appointed by the Board of Directors or by the President. In the event a conflict arises between the Board of Directors and the President with respect to an appointment (including, but not limited to, the identity of the individual appointed or the designated term of office), the appointment made by the Board of Directors shall control. The same individual may simultaneously hold more than one (1) office in the Corporation. The Chairman of the Board shall be chosen by the Board of Directors from among the officers of the Corporation and shall have such powers and duties as are delegated to him/her pursuant to Section 4.9 below.

### **4.2 Appointment and Term of Office.**

The officers of the Corporation shall be appointed by the Board of Directors or the President for a term as determined by the appointing authority. In the event a conflict arises between the Board of Directors and the President with respect to an appointment (including, but not limited to, the identity of the individual appointed or the designated term of office), the appointment made by the Board of Directors shall control. The designation of a specified term grants to the officer no contract rights, and the Board of Directors or the President, acting independently, can remove the officer at any time prior to the termination of such term. If no term is specified, they shall hold office until they resign, die, or until they are removed in the manner provided in Section 4.3 of this Article IV.

### **4.3 Removal of Officers.**

Any officer or agent may be removed by the Board of Directors or the President at any time, with or without cause. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer or agent shall not of itself create contract rights.

#### **4.4 President.**

The President shall be the principal executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. S/he shall, when present, and in the absence of a Chairman of the Board, preside at all meetings of the shareholders and of the Board of Directors. S/he may sign, with the Secretary or any other proper officer of the Corporation thereunto authorized by the Board of Directors, certificates for shares of the Corporation the issuance of which shall have been authorized by resolution of the Board of Directors and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

#### **4.5 The Vice-Presidents.**

If appointed, in the absence of the President or in the event of his/her death, inability or refusal to act, the Vice-President (or in the event there be more than one Vice-President, the Vice-Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their appointment) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. If there is no Vice-President, then the Treasurer shall perform such duties of the President. Any Vice-President may sign, with the Secretary or any other proper officer, certificates for shares of the Corporation the issuance of which have been authorized by resolution of the Board of Directors; and shall perform such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors.

#### **4.6 The Secretary.**

The Secretary shall: (a) keep the minutes of the proceedings of the shareholders and of the Board of Directors in one (1) or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records and of any seal of the Corporation and if there is a seal of the Corporation, see that it is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each shareholder which shall be furnished to the Secretary by such shareholder; (f) sign with the Chairman of the Board (if any), President, or a Vice-President, certificates for shares of the Corporation, the issuance of which shall have been authorized by resolution of the Board of Directors; (g) have general charge of the stock transfer books of the Corporation; (h) serve as the Corporation's registered agent, as required pursuant to Section 13 of the New Hampshire Insurance Company Act; and (i) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors.

In the absence of the Secretary, a secretary pro tempore may be chosen by the directors or shareholders as appropriate to perform the duties of the Secretary.

#### **4.7 The Treasurer.**

The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such bank, trust companies, or other depositories as shall be selected by the Board of Directors; (c) sign with the Chairman of the Board (if any), President, or a Vice-President, certificates for shares of the Corporation, the issuance of which shall have been authorized by resolution of the Board of Directors; and (d) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors shall determine.

#### **4.8 Assistant Secretaries and Assistant Treasurers.**

The Assistant Secretaries and the Assistant Treasurers, when authorized by the Board of Directors, may sign with the President or a Vice-President certificates for shares of the Corporation the issuance of which shall have been authorized by a resolution of the Board of Directors. In addition, the Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively or by the President or the Board of Directors.

#### **4.9 Chairman of the Board.**

The Chairman of the Board shall be chosen as provided in Section 4.1 above, and shall preside at all meetings of the shareholders and directors. S/he shall, in general, perform all the duties incident to the office of Chairman of the Board, subject, however, to the direction and control of the Board of Directors, and such other duties as from time to time may be assigned to him/her by the Board of Directors.

### **ARTICLE V INDEMNIFICATION OF DIRECTORS, OFFICERS, AGENTS, AND EMPLOYEES**

#### **5.1 Indemnification of Directors and Officers.**

To the extent not otherwise restricted by the Articles of Incorporation, the Corporation shall, to the fullest extent permitted by New Hampshire RSA 293-A:8.50 - 8.58, as the same may

be amended and supplemented, indemnify all present and future directors and officers of the Corporation from and against any and all of the expenses, liabilities or other matters referred to in, or covered by, said provisions and may to the extent permitted by the New Hampshire Business Corporation Act advance reasonable expenses in advance of the final disposition of any proceeding. The indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under the Articles of Incorporation, any agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person. Any repeal or modification of the foregoing provision by the shareholders or directors of the Corporation shall not adversely affect any right or protection of any director or officer of the Corporation existing or accrued at the time of such repeal or modification.

**5.2 Indemnification of Agents, and Employees Who Are Not Directors or Officers.**

Unless otherwise provided in the Articles of Incorporation, the Board of Directors may indemnify and advance expenses to any employee or agent of the Corporation, who is not a director or officer of the Corporation, to any extent consistent with public policy, as determined by the general or specific action of the Board of Directors.

**5.3 Notice to Shareholders of Indemnification.**

If the Corporation indemnifies or advances expenses to a director under New Hampshire RSA 293-A:8.51-8.54, as may be amended, in connection with a proceeding by or in the right of the Corporation, the Corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.

**ARTICLE VI  
CERTIFICATES FOR SHARES AND THEIR TRANSFER**

**6.1 Certificates for Shares.**

(a) Content. Certificates representing shares of the Corporation shall at minimum, state on their face the name of the issuing Corporation and that it is formed under the laws of New Hampshire; the name of the person to whom issued; and the number and class of shares and the designation of the series, if any, the certificate represents; and be in such form as determined by the Board of Directors. Such certificates shall be signed (either manually or by facsimile) by the Chairman of the Board (if any), President or a Vice-President and by the Secretary or an Assistant Secretary or the Treasurer or the Assistant Treasurer and may be sealed with a corporate seal or a facsimile thereof. Each certificate for shares shall be consecutively numbered or otherwise identified.

(b) **Legend as to Class or Series.** If the Corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the Board of Directors to determine variations for future series) must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the Corporation will furnish the shareholder this information on request in writing and without charge.

(c) **Shareholder List.** The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer books of the Corporation.

(d) **Transferring Shares.** All certificates surrendered to the Corporation for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and cancelled, except that in case of a lost, destroyed, or mutilated certificate a new one may be issued therefor upon such terms and indemnity to the Corporation as the Board of Directors may prescribe.

#### **6.2 Shares Without Certificates.**

The Board of Directors shall not be authorized to issue any shares of stock without certificates.

#### **6.3 Registration of the Transfer of Shares.**

Registration of the transfer of shares of the Corporation shall be made only on the stock transfer books of the Corporation. In order to register a transfer, the record owner shall surrender the shares to the Corporation for cancellation, properly endorsed by the appropriate person or persons with reasonable assurances that the endorsements are genuine and effective. Unless the Corporation has established a procedure by which a beneficial owner of shares held by a nominee is to be recognized by the Corporation as the owner, the person in whose name shares stand on the books of the Corporation shall be deemed by the Corporation to be the owner thereof for all purposes.

#### **6.4 Restrictions on Transfer of Shares Permitted.**

(a) The Board of Directors (or shareholders) may impose restrictions on the transfer or registration of transfer of shares (including any security convertible into, or carrying a right to subscribe for or acquire shares) to the extent permitted by the applicable provisions of the New Hampshire Business Corporation Act and the New Hampshire Insurance Company Act. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(b) A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this

section and its existence is noted conspicuously on the front or back of the certificate. Unless so noted, a restriction is not enforceable against a person without knowledge of the restrictions.

**6.5 Acquisition of Shares.**

(a) The Corporation may acquire its own shares and unless otherwise provided in the Articles of Incorporation, the shares so acquired constitute authorized but unissued shares.

(b) If the Articles of Incorporation prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the Articles of Incorporation, which amendment shall be adopted by the shareholders or the Board of Directors without shareholder action and filed by the Corporation with the New Hampshire Secretary of State in a form approved by the Secretary of State.

**ARTICLE VII  
DISTRIBUTIONS**

**7.1 Distributions.**

The Board of Directors may authorize, and the Corporation may make, distributions (including dividends on its outstanding shares) in the manner and upon the terms and conditions provided by applicable law and in the Corporation's Articles of Incorporation.

**ARTICLE VIII  
CORPORATE SEAL**

**8.1 Corporate Seal.**

The Board of Directors may provide a corporate seal which may be circular in form and have inscribed thereon any designation including the name of the Corporation, New Hampshire as the state of incorporation, the year of incorporation and the words "Corporate Seal."

**ARTICLE IX  
AMENDMENTS**

**9.1 Amendments.**

The Corporation's Board of Directors may amend or repeal the Corporation's By-Laws unless:

- (1) the Articles of Incorporation, the New Hampshire Business Corporation Act, the New Hampshire Insurance Company

Act, or any other applicable law reserves this power exclusively to the shareholders in whole or part; or

- (2) the shareholders in adopting, amending, or repealing a particular By-Law provide expressly that the Board of Directors may not amend or repeal that By-Law; or
- (3) the By-Law either establishes, amends, or deletes, a supermajority shareholder quorum or voting requirement.

The Corporation's shareholders may amend or repeal the Corporation's By-Laws even though the By-Laws may also be amended or repealed by its Board of Directors.

**ARTICLE X  
EFFECT OF THE ARTICLES OF INCORPORATION  
AND THE NEW HAMPSHIRE BUSINESS CORPORATION ACT**

To the extent not otherwise expressly varied by the terms of the Corporation's Articles of Incorporation or these By-Laws, the provisions of the New Hampshire Business Corporation Act and the New Hampshire Insurance Company Act, as the same may from time to time be amended, shall govern all matters concerning the powers, conduct and regulation of the business and affairs of the Corporation, its officers, directors and shareholders. All of the provisions of the Articles of Incorporation of the Corporation, as from time to time amended, shall be deemed incorporated into these By-Laws by reference and in the event of any inconsistency between the provisions of the Corporation's Articles of Incorporation and these By-Laws, the terms of the Articles of Incorporation shall govern and the relevant provisions of the these By-Laws shall be deemed amended accordingly.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/29/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Arthur J. Gallagher & Co. Insurance Brokers of California, Inc. License #0726293 505 North Brand Boulevard, Suite 600  Glendale, CA 91201-3944	1-818-539-2300	<b>CONTACT NAME:</b> Robin Johnston <b>PHONE (A/C No. Ext):</b> 818-539-1354 <b>E-MAIL ADDRESS:</b> Robin_Johnston@ajg.com <b>FAX (A/C No):</b> 818-539-1654
<b>INSURED</b> WellPoint, Inc. And Its Subsidiaries 2015 Staples Mill Road Mail Drop VA2001-N350 Richmond, VA 23230	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A:</b> ACE AMER INS CO	NAIC # 22667
	<b>INSURER B:</b> Great American Ins Co of NY	22136
	<b>INSURER C:</b> AMERICAN ZURICH INS CO	40142
	<b>INSURER D:</b> Zurich American Ins Co	16539
	<b>INSURER E:</b> ZURICH AMER INS CO	16535
	<b>INSURER F:</b>	

**COVERAGES**

CERTIFICATE NUMBER: 30430034

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		HDO G27010052	05/01/12	05/01/13	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGR GATH \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS HIRFD AUTOS  SCHEDULED AUTOS NON-OWNED AUTOS		ISA H08696159	05/01/12	05/01/13	COMBINED SINCL LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per pers:n) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB CLAIMS-MADE  DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		UMB 8635110	05/01/12	05/01/13	EACH OCCURRENCE \$ 25,000,000 AGGREGATE \$ 25,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	WC9299269-11 (Deductible) EW85347154-07 (OH Excess) WC9376766-10 (Retro)	01/01/12 01/01/12 01/01/12	01/01/13 01/01/13 01/01/13	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - FAT EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Subject to policy terms, conditions &amp; exclusions

Named Insured includes Anthem Health Plans of New Hampshire, Inc. Evidence of Insurance Only.

**CERTIFICATE HOLDER**State of New Hampshire  
Risk Management Unit

25 Capitol Street

Concord, NH 03301

USA

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Robin Johnston*

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