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MERITAIN HEALTH, INC.
ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement"), effective as of **July 1, 2014** (the "Effective Date"), is by and between Meritain Health, Inc., (defined to include Meritain Health, Inc. and any of its affiliates and entities that they acquire) having its principal office at 300 Corporate Parkway, Amherst, New York 14226 ("Meritain") and the **Town of Collierville** having its principal office at **500 Poplar View Parkway, Collierville, Tennessee 38017** ("Client"). This Agreement applies to services to be provided by Meritain to the Client in connection with Client's self-funded employee welfare benefit plan(s) (the "Plan") formally known as: **Town of Collierville Employee Benefit Plan**.

ARTICLE I. DEFINITIONS

For the purposes of this Agreement, the following words and phrases have the meanings set forth below.

- 1.1 **Claim** means a request by a Claimant for payment or reimbursement for Covered Services.
- 1.2 **Claimant** means any person or entity submitting expenses for payment or reimbursement.
- 1.3 **Claims Payment Account** means ~~an~~ the Interlocal Health Benefits Plan Asset Trust (the "Trust") ~~account established, owned and funded as set forth in the Trust, as established in connection with the Interlocal Health Benefits Administration Agreement (the "Interlocal Agreement") by the Client for payment or reimbursement of Covered Services, which account constitutes an asset of the Client and not the Plan.~~
- 1.4 **Covered Services** means the care, treatments, services or supplies described in the Plan Document as eligible for payment or reimbursement under the terms of the Plan. Covered Services may include at the Client's request, but are not limited to, utilization review services (including pre-admission certification, second surgical opinion, concurrent review and discharge planning) and case management services (including those related to transplants, premature births, spinal cord injuries, multiple trauma, chemotherapy claims, medical appropriateness, end stage cancer patients, AIDS and large claims over \$50,000 in the aggregate per year).
- 1.5 **HIPAA** means the Health Insurance Portability and Accountability Act of 1996, and the regulations issued thereunder, as amended.
- 1.6 **Meritain** means Meritain Health, Inc. and any of their affiliates and entities that they acquire.
- 1.7 **Participant** means any person who is eligible, properly enrolled and entitled to benefits under the terms of the Plan.
- 1.8 **Plan** means the self-insured employee welfare benefit plan which the Client has established pursuant to the Plan Document and which is made the subject of this Agreement.
- 1.9 **Plan Document(s)** means the instrument or instruments, including the Summary Plan Description that set forth and govern the duties of the Client, as the designated Plan administrator, as well as the eligibility and benefit provisions of the Plan which provide for the payment or reimbursement of Covered Services.
- 1.10 **Provider** means a preferred provider network, physician, dentist, hospital, laboratory or other medical practitioner, or medical care facility, or a vendor of supplies or services, who or which is authorized to receive payment or reimbursement for Covered Services under the terms of the Plan.
- 1.11 **Summary Plan Description** means the written materials which are distributed to Participants by the Client and which describes the terms and conditions under which the Plan operates, including, coverage limits and procedures of the Plan.

ARTICLE II. TERM; TERMINATION

2.1 The term of this Agreement shall begin as of the Effective Date as set forth above and shall continue to and including **June 30, 2017** (the "Term"), unless sooner terminated pursuant to the provisions of this Agreement. Unless either party provides the other with at least forty-five (45) days written notice prior to the end of the then-current Term, the Term of this Agreement shall automatically renew for successive twelve (12) month terms, provided that Meritain reserves the right to increase the fees payable by Client for such renewal Term to a mutually agreed upon rate. In the event the parties fail to agree upon new rates for fees, the existing fees for the prior Term, plus a percentage amount equal to the change in the Consumer Price Index for all Urban Areas for the previous 12 months, shall apply for each renewal Term.

2.2 Meritain's obligations under this Agreement apply only to Claims for Plan benefits that are incurred on or after the Effective Date and prior to the date this Agreement terminates or expires in accordance with its terms.

2.3 In addition to the expiration or non-renewal provisions of this Agreement, this Agreement will terminate: (a) at the discretion of Meritain, after expiration of ~~five (5)~~ ten (10) business days' notice to Client for Client's failure to pay fees or amounts due under this Agreement, except that any amount that has been submitted to the eDispute Resolution procedures under Section 7.10 by Client shall not be considered such a failure to pay; (b) at the discretion of Meritain, upon written notice from Meritain based upon Client's failure to provide funds necessary or required to adequately fund the Claims Payment Account or to otherwise pay for benefits or Covered Services under the Plan; (c) at the discretion of Meritain, upon written notice from Meritain based upon Client's failure to promptly sign and deliver insurance applications and disclosures, or any information or data necessary for Meritain's performance of services under this Agreement; or (d) in the event either party materially breaches a term, provision or warranty of this Agreement or defaults (other than for the foregoing reasons and those set forth in Section 2.4 below), and does not correct the breach to the non-breaching party's reasonable satisfaction within thirty (30) days after receipt of written notice of breach from the non-breaching party. If Meritain fails to receive fees by the due date thereof, Meritain may, in addition to other remedies under this Agreement, and at law or in equity, suspend performance of any or all of Meritain's obligations under or in connection with this Agreement. Meritain agrees to provide Client five (5) business ~~two (2)~~ days prior written notice before suspending services.

2.4 In addition to the above, the occurrence of any one of the following events shall constitute a default under this Agreement, and the party not in default may, at its option, terminate this Agreement upon written notice to the other party:

2.4.1 if the Client fails to pay any monies due Meritain pursuant to this Agreement within the applicable grace period in 2.3 above; or

2.4.2 thirty (30) days after either party (a) becomes insolvent, (b) is unable to pay its debts as they become due, (c) states in writing that it is not able to pay its debts as they become due, (d) makes an assignment for the benefit of its creditors, (e) files, or has filed against it, any proceeding in the United States Bankruptcy Court, (f) is subject to a levy, seizure or sale of a substantial part of its property or assets on behalf of creditors, or (g) is subject to the appointment of a receiver for a period equal to or greater than thirty (30) days.

2.5 Upon expiration or termination of this Agreement:

2.5.1 because the services provided by Meritain include access to provider networks owned or arranged for by Meritain, Client agrees to engage Meritain for a period of six (6) months following the date of expiration or termination of this Agreement to administer all Claims incurred prior to such date, and the Client agrees to tender to Meritain immediately available funds in an amount equal to (i) one-hundred percent (100%) of three (3) months of the then-current Administration due Meritain pursuant to this Agreement based upon enrollment at the time of termination, to be paid to Meritain on or before the termination date of this Agreement, (ii) plus an additional three (3) months of run-out fees at the rate of fifty percent (50%) of Administration fees as of the termination of this Agreement, to be paid to Meritain by the end of the second month after expiration or termination of this Agreement. In addition to Meritain's

run-out administration fees, Meritain will also bill the Client any applicable PPO access, integration or run-out fees due for claims processed during the run-out period; and

2.5.2 unless within sixty (60) days thereof the Client sends Meritain a written request to receive all cases in the Meritain subrogation process, Meritain shall continue subrogation and recovery efforts on all such cases and agrees to remit to the Client all proceeds it receives, minus the subrogation fees set forth in Article V. and Exhibit B hereof. In the event the Client requests to receive subrogation cases from Meritain, it agrees to release Meritain and its subrogation vendor from and against any and all suits, claims, losses, fees and expenses related to the subrogation cases and to reimburse Meritain for all out-of-pocket costs and expenses.

Notwithstanding the expiration or termination date of this Agreement, this Section 2.5 shall be deemed to survive for the purpose of effectuating this Section.

2.6 Any party not in breach of this Agreement shall be entitled to exercise any remedy to which it is entitled at law or in equity and to enforce its rights under this Agreement, including without limitation, enforcement through specific performance, injunctive relief and the recovery of all costs arising from any litigation or arbitration including, but not limited to, reasonable attorneys' fees.

2.7 In the event Client is in default of paying any fees or expenses under this Agreement, Meritain shall have the right to set-off such amounts against any monies due Client under this Agreement, including without limitation, subrogation recoveries.

ARTICLE III. MERITAIN'S RESPONSIBILITIES

Meritain shall provide the following administrative services for the Client during the Term:

3.1 If requested by the Client, prepare, for review and approval by the Client and its counsel, drafts of the Plan document, Summary Plan Description ("SPD") and the Summaries of Benefits and Coverage ("SBCs"). Notwithstanding the foregoing, the Client shall be responsible for ensuring that these documents are fully compliant and timely distributed in accordance with Applicable Laws.

3.2 Receive, on behalf of the Client, Claims data and documentation from Participants and Providers.

3.3 Process Claims submitted by Participants and Providers according to the Plan Documents and Summary Plan Description, as construed by the Client.

3.4 Refer to the Client, for its exclusive and final resolution, any questions concerning the meaning of any part of the Plan Documents and Summary Plan Description, or the validity of any questionable or disputed Claims.

3.5 Refer to the Client, for its exclusive and final resolution, any appeals from any denial of any of the Claims, provided however, Meritain shall conduct all appeals in accordance with applicable law governing health claims, including without limitation, the Patient Protection Affordability Coverage Act.

3.6 Respond to any reasonable request by the Client for information regarding any of the Claims.

3.7 Process, issue and distribute checks from the Claims Payment Account, as instructed by the Client, to Participants, Providers or others as may be applicable.

3.8 Prepare for the Client a monthly written accounting stating: (a) funding provided by the Client; (b) the name of each Participant or Provider that made a Claim; (c) the value of each of the Claims made; (d) the value of each of the Claims satisfied; and (e) the total value of all of the Claims satisfied.

3.9 Prepare for the Client Meritain's standard claim and statistical reports as reasonably requested.

3.10 Deliver to the Client copies of Meritain's electronic files respecting the Claims within thirty (30) days of the termination of this Agreement, subject to both (a) the payment by the Client of all monies due Meritain, and (b) the Client's pre-payment of all packaging and delivery expenses.

3.11 Subject to the terms of Section 6.17 hereof, use commercially reasonable efforts to procure stop-loss insurance proposals (specific and aggregate) for the Client's consideration, which stop-loss insurance shall be an asset of the Client and not of the Plan (the "Stop-Loss Insurance"), remit Stop-Loss insurance premiums on behalf of the Client and prepare and file reinsurance claims associated with Stop-Loss Insurance.

3.12 If Client elects COBRA/HIPAA services, provide a HIPAA-compliant Certificate of Creditable Coverage whenever a Participant terminates Coverage under the Plan; provided the Participant requests the document and Meritain is still providing services to the Client under the Agreement. The document will provide the period of coverage beginning on the Participant's date of enrollment (if provided by the Client) and ending on the Participant's date of termination as verified by eligibility records provided by the Client.

3.13 Offer the use of one or more Preferred Provider Organizations or other provider discount arrangements (collectively "PPOs") as a Covered Service under this Agreement. The Client acknowledges that the decision to use a PPO and which PPO(s) to use is at the sole discretion of the Client. In addition, Meritain makes no representations regarding the value or cost effectiveness of any PPO network adopted by the Client. The Client also acknowledges that each PPO it selects as a Covered Service, and not Meritain, is responsible for its own provider credentialing, contracting with providers, recruiting, licensing, accreditation, maintaining adequate staffing, practice and professional standards and all other activities pertinent to the responsibilities accorded PPOs.

3.14 Provide to the Internal Revenue Service an annual report of tax reportable claim payments made to medical care Providers.

3.15 Provide Plan Participants with a toll-free telephone number for servicing.

3.16 Maintain adequate records of claims made and benefits paid in such form and format as may be convenient for Meritain for a period of six (6) years or longer if required by Applicable Laws.

3.17 Advise the Client as to all matters actually known to Meritain involving threatened or actual legal actions involving the Plan and/or the Client.

3.18 Assist in the setting of Plan contribution levels, upon the request of the Client.

3.19 If it is subsequently determined that any payment has been made to or on behalf of an ineligible Plan Participant, or that any payment made was incorrect as to amount, Meritain will promptly correct underpayments and use reasonable efforts to recover overpayments. In no event shall Meritain be required to initiate court proceedings for any such recovery, except upon instruction of the Client and provision by the Client for expense of any such litigation.

3.20 Provide additional services not specified in this Agreement, as mutually agreed upon in writing by the Client and Meritain.

3.21 Prepare and send explanation of benefits forms to Plan Participants as required by Applicable Laws, which will provide an explanation of the adjudication of the Claim or reason(s) for the denial of benefits.

3.22 Provide reasonable assistance to the Client in pursuing rights of recovery arising from coordination of benefits, bill negotiation, discount programs, cost management, subrogation, and fraud detection. Such services are subject to those fees set forth in Article V. and Exhibit B hereof.

ARTICLE IV. THE CLIENT'S RESPONSIBILITIES

The Client shall perform the following during the Term:

4.1 Maintain and furnish to Meritain current, accurate Plan eligibility and coverage information, and submit to Meritain written notice of any changes respecting the status of any of the Participants within fifteen (15) days after the Client becomes aware of any such change. Such information shall be provided in a format reasonably acceptable to Meritain and shall include the following with respect to each Participant: name and address, social security number, date of birth, type of coverage, sex, relationship to employee, changes in coverage, date coverage begins or ends, and any other information necessary to determine eligibility and coverage levels under the Plan.

4.2 Resolve all ambiguities and disputes relating to the Plan eligibility of a Participant, Plan coverage, denial of Claims and decisions regarding appeals of denials of Claims, as well as any other Plan interpretation questions.

4.3 Establish a Claims Payment Account, and execute and deliver to Meritain and to a mutually agreed-upon depository, any and all documents necessary to empower Meritain to act as a signatory on such account, if requested.

4.4 Provide Meritain with copies of any and all revisions or changes to the Plan within fifteen (15) days of the effective date of the changes.

4.5 Maintain and operate the Plan in accordance with all applicable laws and regulations (collectively the "Applicable Laws"). Client shall provide and timely distribute all notices, information, materials and documents required to be given to Participants under Applicable Laws, and maintain all recordkeeping, and file all forms relative to the Plan, as required under Applicable Laws. In addition, Client shall timely prepare or cause to be prepared, and timely execute, any documents, forms or contracts respecting the Plan that are required by Applicable Laws.

4.6 Pay any and all taxes, licenses and fees levied, if any, by any local, state or federal authority in connection with the Plan.

4.7 Hold confidential such information respecting Meritain which is obtained by or disclosed to the Client, and which is proprietary to Meritain. Such information includes, but is not limited to, Provider contracting arrangements, Meritain's compensation arrangements with third parties, and Claims administration guidelines, practices and procedures of Meritain.

4.8 Promptly notify Meritain of any termination, expiration, lapse or modification of Stop-Loss Insurance.

4.9 In the event that the Client desires Meritain to remit, on the Client's behalf, premiums to insurers, including Stop-Loss Insurers, Client shall forward to Meritain all monies that Meritain requests for such premiums within five (5) business days of any such request.

4.10 Forward to Meritain, by the due date, those fees for services rendered under this Agreement as set forth in Article V. hereof.

4.11 Forward to Meritain, by the due date, all monies that Meritain requests for expenses incurred to print materials for the Client, which expenses shall be borne solely by the Client.

4.12 Forward to Meritain, by the due date, all monies that Meritain requests for pre-approved expenses incurred for professional services rendered to or on behalf of the Client or in connection with Meritain's obligations under this Agreement.

4.13 Deposit into the Claims Payment Account, within 48 hours of the Client's receipt of a funding request, all monies required for the satisfaction of Claims, which expenses shall be borne solely by the Client. Meritain will not be responsible for any consequences resulting from Client's untimely funding of Claims. Client further agrees that upon request by Meritain, it will fund claims within 24 hours as may be necessary for reasons including, meeting stop-loss funding obligations and meeting funding deadlines for provider discounts. Client acknowledges and agrees that if it fails to fund claims in a timely manner as requested, such failure may result in

claim denials by its stop-loss carrier, lost discounts from providers, and/or interest and penalties, all of which may require Client to fund such additional sums.

4.14 Forward to Meritain, within twenty (20) days of the Client's receipt of a funding receipt, all monies that Meritain requests for reimbursement of monies expended to obtain medical records or to investigate Claims, which expenses shall be borne solely by the Client.

4.15 Safeguard the privacy and confidentiality of individually identifiable health information regarding Plan Participants ("Protected Health Information") as defined under HIPAA. Client shall adopt policies and procedures to ensure that it will not use and/or disclose Protected Health Information except as permitted or required by regulations promulgated under HIPAA and any applicable state laws and regulations. Client must establish firewalls to ensure that Protected Health Information is not used or disclosed by an employee who does not need to access such information for purposes of Plan administration, and to provide Meritain a signed certification indicating its compliance with these requirements. Client will not request Meritain to disclose Protected Health Information except as consistent with the HIPAA regulations, the Plan Documents, Exhibit A hereto, and any applicable state laws or regulations. Client will include in its Notice of Practices to Plan Participants a statement that the Plan's third party administrators may use and disclose Protected Health Information on behalf of the Plan as set forth in the Plan Documents and subject to all Applicable Laws. Client will obtain the proper consents and authorizations for Meritain to disclose Protected Health Information if Meritain is directed by the Client to disclose such information. The parties have executed the HIPAA Business Associate Agreement, attached hereto as Exhibit A, authorizing Meritain to act as a business associate of the Plan.

ARTICLE V. FEES

The following services will be provided under this Agreement at the fees and charges indicated below. These fees and charges are collectively referred to in this Agreement as "Fixed Costs." Unless otherwise stated, the monthly Fixed Costs are calculated by multiplying the following rates by the applicable number of employees enrolled in the Plan each month and adding the result to the specific fees stated below or elsewhere in this Agreement.

The rates set forth in this Article V. are based on information provided to Meritain by the Client, including without limitation, information regarding the average number of employees enrolled in the Plan. Meritain has relied on that information in developing these rates. Should there be a material change in this information, Meritain shall be entitled to adjust these rates consistent with its customary rates. All fees listed in this Agreement are subject to change in the event the number of covered employee lives changes by twenty-five (25%) or more during the Term of this Agreement or in the event the fees and expenses described in this Agreement change during the Term.

The Client agrees to pay the Fixed Costs set forth in this Agreement subject to the terms and conditions of this Agreement, as well as other applicable agreements Meritain or its affiliates may have with any network, insurer and/or prescription drug benefit manager.

	Per Employee Per Month		
	July 1, 2014 – June 30, 2015	July 1, 2015 – June 30, 2016	July 1, 2016 – June 30, 2017
Administration Service Rates (Medical, COBRA, HIPAA, CM, UR, Aetna)	\$21.90	\$21.90	\$21.90
Disease Management Fixed Fee	\$1.45	\$1.45	\$1.45
Healthy Merits Run Program	\$3.55	\$3.55	\$3.55
HRA Fee	\$3.00	\$3.00	\$3.00
Specific Accommodation Administrative Service Rates	\$0.50	\$0.50	\$0.50

*Meritain Health for Life – The first Managed Metrics screening event is provided to the Client, subject to the Client's adherence to the program's guidelines. Should the Client elect this service in year(s) two (or three), the Client agrees to pay Meritain's then-current fee for this service. The required program incentives, which the Client has agreed to provide to Participants of the program, are not included in any Administration fees associated with this product.

Optional and Non-Standard Administrative Fees and Premiums:

NY HCRA Reporting and MA, ME, MS, ID and TN State Surcharge and/or Assessment Administration Services Rate - Administration fee per applicable state. Applies to filing, on Client's behalf, reports required and remitting Client's payments of assessments/surcharges under the New York Health Care Reform Act ("HCRA") and filing and remitting Client's payments of other state assessments/surcharges and related fees for state residents. Client shall be responsible for similar charges in other states, as applicable. **None**

Healthy Merits Set-up Fee – The one-time fee: **None**

SBC Fee - **None**

Printing Fees - To be billed at cost.

Stop-Loss Insurance Coverage Premiums – The applicable rates and premiums for these optional coverages will be billed in accordance with the terms of the applicable group insurance agreement.

External Pharmacy Benefits Manager - In the event the Client utilizes an external Pharmacy Benefits Manager ("PBM"), Meritain may be required to provide eligibility information to the PBM on behalf of the Client, issue enrollee ID cards containing information about the prescription drug program, assist on coverage issues, and/or handle Client billing. Meritain shall not charge Client for such services; provided, however, that Client agrees and consents that Meritain is permitted to receive from the PBM a fee, which may be in the form of commission payments, rebates, administrative fees or otherwise, for such services provided to the Plan by Meritain, all as more particularly described in Exhibit B of this Agreement. The Client fees for the dispensation and administration of prescription drugs to Plan participants will be billed in accordance with the terms of the Client's agreement with the PBM.

Other Fees and Services

(a) **Network Access Fee** - If any Networks are accessed on behalf of the Client, Meritain will bill Client Network access and integration fees for use of the following Networks:

Aetna Choice Point of Service II – Included in Admin Rates

In the event that any of the above listed Networks bill access fees during run-out, Meritain will bill the Client for any applicable access, integration and/or run-out fees in addition to Meritain's run-out administration fees referenced in Section 2.5.1 of this Agreement.

(b) **Out-of-Network Discount Program Fees** – Fees to be paid to out-of-network discount programs will be billed by Meritain on a contingent fee basis, based on the program's percentage fee of savings resulting from the discount program.

(c) **Remittance Services** – From time to time, at the Client's request, Meritain may collect certain fees from Client for remittance to a third party, e.g. a broker commission. In these instances, Meritain will pass-through all fees and will not collect or retain an administrative or service fee.

(d) **Other Fees and Services** - The Client agrees to pay vendors' fees for certain additional services including, but not limited to (i) fees for independent case review, (ii) contingency fees for subrogation services, and (iii) contingency fees and other fees for cost management vendors, claim auditors, bill negotiators and discount programs.

In addition, Exhibit B sets forth a description of contingency fees, other administrative fees or similar compensation which Meritain may receive in connection with these vendor services.

Payment of Fees- The Client agrees to pay Meritain the fees as indicated in this Agreement on the first day of each month for that month's administrative services. Meritain will provide appropriate documentation regarding fees due and owing on or about the first day of each month for that month's administrative services and based on

eligible lives at the time the invoice is generated. The Client hereby authorizes Meritain to withdraw the fees from the Claims Payment Account ~~its bank account~~ on or before the fifth (5th) day of each month based on the monthly employee census. If the fees are not received by Meritain by the 15th of the month, the Client will be subject to a 1.5% late charge per month calculated from the first day of the month on all unpaid amounts. Adjustments to eligibility will be accounted for in the next invoice processing period.

ARTICLE VI. ACKNOWLEDGEMENTS AND REPRESENTATIONS

Each of the parties expressly acknowledges and represents to the other party as follows:

6.1 By entering into this Agreement, the Client is delegating to Meritain only those powers and responsibilities with respect to the Plan which are specifically enumerated herein. Any function not specifically delegated to and assumed by Meritain pursuant to this Agreement shall remain the sole responsibility of the Client.

6.2 The parties have entered into this Agreement as independent contractors and not as agents of one another. Neither party shall have any authority to act in any way as the representative of the other, or to bind the other to any third party, except as specifically set forth herein.

6.3 The parties mutually represent and warrant to one another that: (a) no further corporate approval from either of the parties is necessary for this Agreement to be effective; (b) each of the parties has the legal power, authority and right to enter into, and perform its respective obligations under, this Agreement, and (c) each party's execution of, delivery of and performance under this Agreement shall not constitute a violation of any oral or written agreement to which it is a party or by which it is bound.

6.4 With respect to the satisfaction of Claims or other obligations arising under the Plan, Meritain shall not be obligated to disburse more than the amount made available by the Client for disbursement from the Claims Payment Account.

6.5 Meritain shall not, under any circumstance, be responsible to use its corporate assets to satisfy any Claim or expense that is the responsibility of the Client, the Plan or any Participant.

6.6 This Agreement shall not be deemed a contract of insurance under any Applicable Laws. Meritain does not insure, guarantee or underwrite the liability of the Client under the Plan. The Client, and not Meritain, shall remain solely liable for the payment of Claims and all other expenses incidental to the Plan.

6.7 Meritain owes a duty of care only to the Client, which duty is one of reasonable care under the attendant circumstances. Meritain is not liable for any mistake of judgment or for any action taken in good faith.

6.8 Meritain shall not be liable for any payments, underpayments, fines, penalties, interest or other charges assessed by the New York State Department of Health, or any other governmental or regulatory agency, in connection with the surcharge(s) and/or assessments due with respect to the Plan pursuant to the New York Health Care Reform Act of 1996, and Section 111 penalties resulting from Client's failure to cooperate with Meritain's requests for information required by law or other Applicable Laws. The Client shall remain solely liable for any such payments, underpayments, fines, penalties, interest or other charges so assessed, ~~and shall indemnify Meritain in the event same are assessed against Meritain.~~

6.9 The Client acknowledges that it is the "plan sponsor," "plan administrator" and "named fiduciary" with respect to the Plan, as provided under Applicable Laws. As such, the Client shall at all times retain full discretionary control, authority and responsibility with respect to the operation and administration of the Plan and Plan assets. The Client agrees that Meritain's role will be limited to that of a provider of the non-fiduciary services specified under this Agreement, that the services rendered by Meritain under this Agreement will not include the power to exercise discretionary authority over Plan operations or plan assets (if any), and that Meritain will not for any purpose be deemed to be the "Plan Administrator" of the Plan or a "fiduciary" with respect to the Plan. Meritain's services under this Agreement are intended to be "ministerial functions" and will consist only of administrative functions performed within a framework of policies, interpretations, rules, practices, and procedures established by the Client which may include the following: (a) application of rules determining eligibility for

participation or benefits; (b) calculation of services and compensation credits for benefits; (c) preparation of employee communications material; (d) maintenance of Participants' service and employment records; (e) preparation of reports required by government agencies; (f) calculation of benefits; (g) orientation of new Participants and advising Participants of their rights and options under the Plan; (h) collection of contributions and application of contributions as provided in the Plan; (i) preparation of reports concerning Participants' benefits; (j) processing of Claims; and (k) making recommendations to others for decisions with respect to Plan administration. The Plan's benefit and coverage design has been selected by the Client and the Client is solely responsible for that design. The Client retains all discretionary authority with respect to the Plan and the administration of the Plan.

6.10 Meritain shall administer and adjudicate Claims in accordance with Article III. hereof if the Plan Document and Summary Plan Description are clear and unambiguous as to the validity of Claims and the Participants' eligibility for coverage under the Plan. Meritain shall have no discretionary authority to interpret the Plan or to adjudicate Claims. If adjudication of a Claim requires interpretation of ambiguous Plan language, and the Client has not previously indicated to Meritain the proper interpretation of such language, then the Client shall be responsible for resolving the ambiguity or any other dispute arising therefrom. In any event, the Client's decision as to any Claim (whether or not it involves a Plan ambiguity or other dispute) shall be final, subject only to appeals allowed by Applicable Laws.

6.11 The Client represents and warrants to Meritain that the Plan is in full compliance with, and shall at all times during the Term remain in full compliance with, all Applicable Laws.

6.12 The work to be performed by Meritain under this Agreement may, at Meritain's discretion, be performed directly by it or wholly or in part through a subsidiary or affiliate of Meritain, or, subject to the written consent of the Client, by another organization, agent, advisor or other person(s) with which Meritain has an arrangement.

6.13 Meritain shall be entitled to rely, without investigation or inquiry, upon any written or oral information or communication of the Client or its designated agent(s). The Client shall provide Meritain with the name of its designated agent(s), which Meritain shall be authorized to rely on to the exclusion of all others.

6.14 In the event that the Centers for Medicare and Medicaid Services ("CMS") determines that the Plan has underpaid a claim under Medicare Secondary Payor laws, the parties acknowledge that Plan assets will be used to correct such underpayment. Under no circumstances will Meritain be required to make such payment with Meritain funds, regardless of when CMS requires such payment, during or after the term of this Agreement, provided that such underpayment is not due to Meritain's gross negligence, bad faith, or willful misconduct. This provision shall survive the expiration or termination of this Agreement.

6.15 The Client agrees and acknowledges that Meritain is not liable for any act or omission by any Provider or for a Provider's failure or refusal to provide services or supplies. Care and treatment received by Plan Participants are subject to the rules and regulations of the Providers.

6.16 The Client agrees and acknowledges that Meritain and its employees shall not be liable, under any circumstances, for the action or lack thereof by any Provider under theories of vicarious liability, agency, ostensible authority, respondeat superior, imputed liability, or any other theory of liability.

6.17 Meritain may solicit quotes for Stop-Loss Insurance on the Client's behalf. However, the Client agrees and acknowledges that it is solely responsible for selecting the Stop-Loss Insurance broker, carrier, and policy coverage that is utilized in securing Stop-Loss Insurance for the Plan. Stop-Loss Insurance policy coverage includes the Client's deductible/retention exposures, claim submission requirements/limitations, and contract exclusions. The Client agrees to provide Meritain a copy of the insurance binder or policy within 30 days of the effective date of the procurement of Stop-Loss Insurance coverage. The Client agrees and acknowledges that Meritain shall not be liable for any acts or omissions in connection with the placement or administration of the Stop-Loss Insurance policy, unless such acts or omissions were solely due to Meritain's gross negligence, bad faith, or willful misconduct. The Client agrees to promptly notify Meritain if any information provided to the Stop-Loss Insurance carrier on behalf of the Client is incomplete or inaccurate. Meritain does not insure or otherwise provide any guarantees with respect to the adequacy of the Stop-Loss Insurance selected by the Client, nor does Meritain make any representations regarding a Stop-Loss Insurance carrier's obligation to reimburse the Client for

any Plan costs, including state-imposed surcharges, taxes, or assessments. The Client agrees and acknowledges that quotations issued by Stop-Loss insurers are often subject to the insurer's final underwriting guidelines after coverage is placed. Quotations that are subject to final underwriting may allow the insurer to change the terms of the policy, including but not limited to changing the premiums, specific and aggregate retention levels, and excluding or limiting coverage for certain Participants. Meritain shall use commercially reasonable efforts to submit adequate information to the insurer to limit changes the insurer can make in the final underwriting process, but Meritain shall not be liable for Client's failure to provide full, complete and timely information to secure Stop-Loss insurance coverage, or for changes made by the insurer arising out of final underwriting.

6.18 Meritain shall not be liable to Client or a Member for any indirect, consequential, special, exemplary or punitive damages, or for lost profits, loss of use, cost of procurement of substitute services or any similar claim or demand, however caused and on any theory of liability.

ARTICLE VII. MISCELLANEOUS

7.1 **Exclusivity.** Client agrees that, during the term of this Agreement, Meritain shall be the sole and exclusive provider to Client of each of the products and services described in this Agreement.

7.2 **Audit Rights.** Subject to the provisions of this Section, Client may audit Meritain's records in connection with the administration of this Agreement no more frequently than once every 12 months and Meritain agrees to provide Client with reasonable access to such records. Meritain shall only be required to provide access to such information that is in its possession and which is reasonably necessary to administer the Plan, provided that disclosure of such information is not prohibited by Meritain's agreements with third parties or any requirement of Applicable Laws. Client shall give Meritain reasonable prior written notice which shall include: a) a statement of its intent to perform such an audit; b) a statement explaining its need to perform the audit; c) a description of the type(s) of information within the scope of the audit, including dates; and d) Client's representation that the information to be disclosed by Meritain is reasonably necessary for the administration of the Plan. All audits and information disclosures shall occur at a reasonable time and place, in a manner that does not unreasonably interfere with Meritain's ability to conduct its normal business, and at Client's sole cost and expense. Subject to Meritain's approval, which ~~may shall be withheld for any reason~~ not be unreasonably withheld by Meritain, Client may designate a third party to conduct an audit or receive information hereunder. Upon receipt of such approval by Meritain, the Client and such third party shall enter into an agreement with Meritain which shall provide at a minimum: (i) a representation from Client and such third party that no portion of the audit is based upon a contingency fee arrangement; (ii) a representation from Client and such third party that each shall only use the minimally necessary amount of audit information solely for purposes of administering the Plan and that each shall protect and maintain such information as confidential and to not disclose the information to any other person or entity other than Meritain; and (iii) a representation from Client and such third party that each shall provide Meritain with copies of all reports and summaries compiled as a result of the audit.

7.3 **Full Integration.** This Agreement, together with all exhibits and schedules that are attached hereto, supersedes any and all prior representations, conditions, warranties, understandings, proposals or other agreements between the Client and Meritain, whether oral or written, respecting the subject matter hereof. In this regard, the parties, having read and understood this entire Agreement, acknowledge and agree that there are no other representations, conditions, promises, agreements, understandings or warranties that exist outside this Agreement which have been made by either of the parties hereto, which have induced either party or has led to the execution of this Agreement by either party. Any statements, proposals, representations, conditions, warranties, understandings or agreements which may have been heretofore made by either of the parties, and which are not expressly contained herein, are void and of no force or effect.

7.4 **Use of Trade Names.** Client acknowledges that Meritain may do business under the names of any subsidiary, affiliate or service line, including without limitation: Meritain Health, Inc., PERFORMAX, Inc. and/or any combination or derivative of the foregoing. Client hereby waives any right to assert any failure by Meritain and/or any of its affiliates or subsidiaries to register any particular trade name as a defense to, or in avoidance of, any claim or counterclaim made by Meritain and/or its affiliates or subsidiaries against Client arising out of or in connection with the Agreement.

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

7.6 No Oral Modification. No provision of this Agreement may be amended, augmented or in any way modified except in a writing signed by a duly authorized representative of each of the parties.

~~7.7 Indemnification. The Client shall indemnify, defend (with counsel mutually agreed upon by the parties), save and hold Meritain and its affiliates, and their officers, directors, employees and agents harmless from and against any and all claims, suits, actions, liabilities, losses, fines, penalties, damages and expenses of any kind (including, but not limited to, actual attorneys' fees) which Meritain may incur by reason of: (i) Client's or its employees' or agents' failure to perform or abide by any of its duties under this Agreement; (ii) Client's failure to administer the Plan in a prudent or proper manner; (iii) any negligence or misconduct on the part of the Client or its agents or representatives; (iv) any disputes arising out of partial payment or denial of a claim by either the Client or the excess risk carrier; (v) any action taken by Meritain at the direction of the Client; (vi) Meritain's inability to comply with PPO prompt pay discounts due to circumstances beyond its control such as, additional information needed from the Client, Participant, excess stop-loss provider or Provider, incomplete claim, eligibility or coverage information, untimely repricing from the vendor, or Client's failure to fund claims in a timely manner; or (vii) the Client's violation of any of the acknowledgements, warranties or representations made by the Client contained herein. Meritain shall indemnify, defend (with counsel mutually agreed upon by the parties), save and hold the Client harmless from and against any and all claims, suits, actions, liabilities, losses, fines, penalties, damages and expenses of any kind (including, but not limited to, actual attorneys' fees) which Client may incur by reason of: (i) Meritain's gross negligence, willful failure to act or willful misconduct in the performance of its duties under the Agreement; (ii) Meritain's fraud or embezzlement or other financial willful misconduct related to the Agreement; or (iii) Meritain's violation of any of the express warranties of Meritain contained herein; provided, however that Meritain's cumulative liability arising in connection with the performance of services under this Agreement shall not exceed the total fees payable by Client under this Agreement for the specific services giving rise to the claim. Notwithstanding the foregoing, Client acknowledges and agrees that Meritain shall not be liable for any mistake of judgment or for any action taken in good faith, and that any clerical error made by Meritain in the performance of its duties under this Agreement will not be construed as negligence or gross negligence provided that Meritain makes a good faith attempt to correct any such error once it is discovered.~~

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

7.9 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New York/Tennessee, without regard to any conflict of law provisions.

~~7.10 Dispute Resolution; Arbitration. In the event of a dispute by either party related to this Agreement, the parties agree to first attempt to resolve such dispute by having the parties' Chief Executive Officer/s (or their designees) meet in person within thirty (30) days of written notice of dispute issued by either party. In the event the dispute is not resolved after reasonable efforts by the Chief Executive Officers within such thirty (30) day period, either party may then proceed to arbitration/litigation under this Section. All disputes, controversies or claims arising out of or relating to the operation or interpretation of this Agreement shall be governed by the laws of the State of Tennessee and shall be heard in a court of competent jurisdiction within Shelby County, Memphis, Tennessee. The prevailing party shall be entitled to an award of its fees and costs relating to such litigation, including experts' and attorneys' fees.~~

~~settled by arbitration before one arbitrator in accordance with the Commercial Rules of the American Arbitration Association. The arbitrator shall be jointly selected by the Client and Meritain and shall be a former federal judge, unless the parties agree otherwise. Any award rendered by the arbitrator shall be final and binding upon the parties and judgment upon any such award may be entered in any court having jurisdiction thereof. Arbitration shall take place in Buffalo, New York, or at a location mutually agreed upon by the parties. The fees and expenses of the arbitrator shall be borne equally by the parties. Each party shall pay its own fees and costs relating to any arbitral proceedings, including experts' and attorneys' fees. The arbitrator shall render his/her determination in a manner consistent with the terms of this Agreement, and the arbitrator shall not be entitled to award punitive or exemplary damages.~~

7.11 No Third Party Beneficiaries. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or give to any third party (including without limitation, Plan Participants), any rights or remedies against any party hereto. The parties agree that Scrip World, LLC is an independent contractor of Meritain and that Scrip World, LLC shall have no rights, benefits or duties under this Agreement and further, that Meritain shall have no rights, benefits or duties under any agreement between Client and Scrip World, LLC (if any).

7.12 Force Majeure. ~~Meritain~~ Neither party shall not be liable to the Client ~~other party~~ for any failure to satisfy an obligation, representation or warranty under this Agreement due to any cause beyond its reasonable control including, but not limited to, inclement weather, acts of God, war, riot, malicious acts of damage, civil commotion, strike, lockout, industrial dispute, power failure or fire. If such a condition prevents ~~Meritain's~~ either party's performance under this Agreement for a continuous period of ninety (90) days or more, the Client ~~other party~~ may terminate this Agreement by properly delivered written notice.

7.13 Subsequent Documents. The parties agree that each shall timely execute or provide any further documents that will be reasonably necessary to effect any term, condition, warranty or other part or aspect of this Agreement.

7.14 Assignment. ~~The Client~~ Neither party may not assign this Agreement, in whole or in part, without the prior written consent of ~~Meritain~~ the other party, which consent shall not be unreasonably withheld. Any assignment in violation of this provision is null and void.

7.15 Waiver. No waiver of any term or provision of this Agreement, nor consent to any failure to perform under, or breach of this Agreement, shall be binding against either of the parties unless such party delivers a writing, signed by a duly authorized representative, expressly stating that it has waived any such term or provision. There shall be no implied waivers or consents. No waiver respecting an expressly identified term or provision, or consent to an expressly identified act or omission, will have any effect on the balance of this Agreement, or the balance of a party's conduct.

7.16 Approval of Agreement; Binding Nature. Client acknowledges and agrees that it has been provided with the opportunity to engage its own counsel to review this Agreement and any Plan Documents on its behalf. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives and permitted successors.

7.17 Notices. Any notice or other communication permitted or required to be given under this Agreement shall be in writing and shall be (a) delivered in person, (b) mailed, by certified mail, return receipt requested, postage prepaid, (c) sent by recognized overnight courier, or (d) transmitted by facsimile, to the following:

If to Meritain:

Meritain Health, Inc.
300 Corporate Parkway
Amherst, New York 14226
Attention: Chairman and CEO
Facsimile: 716-319-5783

With copies to:

Melissa Elwood
Regional President
300 Corporate Parkway
Amherst, New York 14226

and:

General Counsel

300 Corporate Parkway
Amherst, New York 14226
Facsimile No.: 716-541-6755

If to the Client:

Town of Collierville
500 Poplar View Parkway
Collierville, TN 38017

Attention:

Jay Jeffries
Human Resources Director

Facsimile No.: ☐

With copies to:

Nathan Bicks
Burch, Porter & Johnson, PLLC
130 North Court Ave.
Memphis, TN 38103

7.18 Miscellaneous. Headings and subheadings herein are for convenience of reference only and are not of substantive effect. Terms used herein whether singular or plural shall be deemed to be singular or plural as the context may require.

7.19 Survival. Notwithstanding anything herein to the contrary, the following provisions shall be deemed to survive the expiration or termination of this Agreement: Exhibit A, and Sections 2.2, 2.5, 2.6, 2.7, 3.4, 3.5, 3.10, 3.16, 4.2, 4.3, 4.5, 4.6, 4.7, 4.15, 6.1, 6.8, 6.9, 6.10, 6.11, 6.14, 6.15, 6.17, 7.2, 7.3, 7.7, 7.9, 7.10 and 7.19.

In Witness Whereof, the parties have executed this Agreement on the dates set forth below.

Meritain Health, Inc.

Town of Collierville



Melissa Elwood

Regional President

Date: 6/6/14

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

THIS EXHIBIT to the Administrative Services Agreement between Meritain and Client (the "Agreement") is incorporated by reference therein. Client represents that it has the authority to execute, and hereby executes, this Exhibit A for and on behalf of the Plan Sponsor's health benefit plan for which Meritain provides plan administration services ("the Plan" for the purposes of this Exhibit A).

In conformity with the regulations at 45 C.F.R. Parts 160-164 (the "Privacy and Security Rules") Meritain will under the following conditions and provisions have access to, maintain, transmit, create and/or receive certain Protected Health Information:

1. Definitions. The following terms shall have the meaning set forth below:
 - (a) ARRA. "ARRA" means the American Recovery and Reinvestment Act of 2009
 - (b) Breach. "Breach" has the meaning assigned to such term in 45 C.F.R. 164.402.
 - (c) C.F.R. "C.F.R." means the Code of Federal Regulations.
 - (d) Designated Record Set. "Designated Record Set" has the meaning assigned to such term in 45 C.F.R. 164.501.
 - (e) Discovery. "Discovery" shall mean the first day on which a Breach is known to Meritain (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of Meritain), or should reasonably have been known to Meritain, to have occurred.
 - (f) Electronic Protected Health Information. "Electronic Protected Health Information" means information that comes within paragraphs 1(i) or 1(ii) of the definition of "Protected Health Information", as defined in 45 C.F.R. 160.103.
 - (g) Individual. "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. 164.502 (g).
 - (h) Protected Health Information "Protected Health Information" shall have the same meaning as the term "Protected Health Information", as defined by 45 C.F.R. 160.103, limited to the information created or received by Meritain from or on behalf of Client.
 - (i) Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. 164.103.
 - (j) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (k) Security Incident. "Security Incident" has the meaning assigned to such term in 45 C.F.R. 164.304.
 - (l) Standard Transactions. "Standard Transactions" means the electronic health care transactions for which HIPAA standards have been established, as set forth in 45 C.F.R., Parts 160-162.
 - (m) Unsecured Protected Health Information. "Unsecured Protected Health Information" means Protected Health Information that is not secured through the use of a technology or methodology specified by guidance issued by the Secretary from time to time.
2. Obligations and Activities of Meritain
 - (a) Meritain agrees to not use or disclose Protected Health Information other than as permitted or required by this Exhibit or as Required By Law.
 - (b) Meritain agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Exhibit.
 - (c) Meritain agrees to mitigate, to the extent practicable, any harmful effect that is known to Meritain of a use or disclosure of Protected Health Information by Meritain in violation of the requirements of this Exhibit.
 - (d) Meritain agrees to report to Client any Security Incident of the Protected Health Information not allowed by this Exhibit of which it becomes aware, except that, for purposes of the Security Incident reporting requirement, the term "Security Incident" shall not include inconsequential incidents that occur on a daily basis, such as scans, "pings" or other unsuccessful attempts to penetrate computer networks or servers containing electronic PHI maintained by Meritain.
 - (e) Meritain agrees to report to Client any Breach of Unsecured Protected Health Information without unreasonable delay and in no case later than sixty (60) calendar days after Discovery of a

Breach. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Meritain, to have been, accessed, acquired, or disclosed in connection with such Breach. In addition, Meritain shall provide any additional information reasonably requested by Client for purposes of investigating the Breach. Meritain's notification of a Breach under this section shall comply in all respects with each applicable provision of Section 13400 of Subtitle D (Privacy) of ARRA, 45 C.F.R. 164.410, and related guidance issued by the Secretary from time to time.

- (f) Meritain agrees to ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Meritain agree in writing to the same restrictions and conditions that apply through this Exhibit to Meritain with respect to such information, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable.
- (g) Meritain agrees to provide access, at the request of Client, and in the time and manner designated by Client, to Protected Health Information in a Designated Record Set, to Client or, as directed by Client, to an Individual in order to meet the requirements under 45 C.F.R. 164.524.
- (h) Meritain agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Client directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of Client or an Individual, and in the time and manner designated by Client.
- (i) Meritain agrees to make (i) internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by Meritain on behalf of, Client, and (ii) policies, procedures, and documentation relating to the safeguarding of Electronic Protected Health Information available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Client's or Meritain's compliance with the Privacy and Security Rules.
- (j) Meritain agrees to document such disclosures of Protected Health Information as would be required for Client to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.
- (k) Meritain agrees to provide to Client the information collected in accordance with this Section to permit Client to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.
- (l) With respect to Electronic Protected Health Information, Meritain shall implement and comply with the administrative safeguards set forth at 45 C.F.R. 164.308, the physical safeguards set forth at 45 C.F.R. 310, the technical safeguards set forth at 45 C.F.R. 164.312, and the policies and procedures set forth at 45 C.F.R. 164.316 to reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Client. Meritain acknowledges that, effective the later of the Effective Date of this Exhibit or February 17, 2010, (i) the foregoing safeguards, policies and procedures requirements shall apply to Meritain in the same manner that such requirements apply to Client, and (ii) Meritain shall be subject to the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguards, policies and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements.
- (m) With respect to Electronic Protected Health Information, Meritain shall ensure that any subcontractors that create, receive, maintain, or transmit Electronic Protected Health Information on behalf of Meritain, agree to comply with the applicable requirements of Subpart C of 45 C.F.R. Part 164 by entering into a contract that complies with 45 C.F.R. Section 164.314.
- (n) If Meritain conducts any Standard Transactions on behalf of Client, Meritain shall comply with the applicable requirements of 45 C.F.R. Parts 160-162.
- (o) Meritain acknowledges that, effective the later of the Effective Date of this Exhibit or February 17, 2010, it shall be subject to the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with any of the use and disclosure requirements of this Exhibit and any guidance issued by the Secretary from time to time with respect to such use and disclosure requirements.
- (p) To the extent Meritain is to carry out one or more of Client's obligation(s) under Subpart E of 45 CFR Part 164, Meritain shall comply with the requirements of Subpart E that apply to Client in the performance of such obligation(s).

3. Permitted Uses and Disclosures by Meritain

3.1 General Use and Disclosure

Except as otherwise provided in this Exhibit, Meritain may use or disclose Protected Health Information to perform its obligations under the Agreement, provided that such use or disclosure would not violate the Privacy and Security Rules if done by Client or the minimum necessary policies and procedures of Client.

3.2 Specific Use and Disclosure Provisions

- (a) Except as otherwise provided in this Exhibit, Meritain may use Protected Health Information for the proper management and administration of Meritain or to carry out the legal responsibilities of Meritain.
- (b) Except as otherwise provided in this Exhibit, Meritain may disclose Protected Health Information for the proper management and administration of Meritain, provided that disclosures are Required By Law, or Meritain obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Meritain of any instances of which it is aware in which the confidentiality of the information has been breached in accordance with the Breach and Security Incident notifications requirements of this Exhibit.
- (c) Meritain shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an Individual without Client's prior written approval and notice from Client that it has obtained from the Individual, in accordance with 45 C.F.R. 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by Meritain. The foregoing shall not apply to Client's payments to Meritain for services delivered by Meritain to Client.
- (d) Except as otherwise provided in this Exhibit, Meritain may use Protected Health Information to provide data aggregation services to Client as permitted by 45 C.F.R. 164.504(e)(2)(i)(B).
- (e) Meritain may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. 164.502(j)(1).

4. Obligations of Client.

4.1 Provisions for Client to Inform Meritain of Privacy Practices and Restrictions

- (a) Client shall notify Meritain of any limitation(s) in its notice of privacy practices of Client in accordance with 45 C.F.R. § 164.520, to the extent that such limitation(s) may affect Meritain's use or disclosure of Protected Health Information.
- (b) Client shall provide Meritain with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes affect Meritain's uses or disclosures of Protected Health Information.
- (c) Client agrees that it will not furnish or impose by arrangements with third parties or other Covered Entities or Business Associates special limits or restrictions to the uses and disclosures of its PHI that may impact in any manner the use and disclosure of PHI by Meritain under the Agreement and this Exhibit, including, but not limited to, restrictions on the use and/or disclosure of PHI as provided for in 45 C.F.R. 164.522.

4.2 Permissible Requests by Client

Client shall not request Meritain to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy and Security Rules if done by Client.

5. Term and Termination

- (a) Term. The provisions of this Exhibit shall take effect on the effective date of the Agreement, and shall terminate upon expiration or termination of the Agreement, except as otherwise provided herein.
- (b) Termination for Cause. Without limiting the termination rights of the parties pursuant to the Agreement and upon either party's knowledge of a material breach by the other party, the non-breaching party shall either:
 - i. Provide an opportunity for the breaching party to cure the breach or end the violation, or terminate the Agreement, if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party, or
 - ii. Immediately terminate the Agreement, if cure of such breach is not possible.
- (c) Effect of Termination.

The parties mutually agree that it is essential for Protected Health Information to be maintained after the expiration of the Agreement for regulatory and other business reasons. Except as provided below, upon termination of this Agreement for any reason, Meritain shall return or destroy all Protected Health Information received from Client, or created or received by Meritain on behalf of Client. Notwithstanding the expiration of the Agreement, if Meritain determines that returning or destroying Protected Health Information is infeasible, Meritain shall notify Client of the conditions that make return or destruction infeasible. Meritain shall extend the protections of this Exhibit to such Protected Health Information, and limit further use or disclosure of the Protected Health Information to those purposes that make the return or destruction of the Protected Health Information infeasible.

6. Miscellaneous

- (a) Regulatory References. A reference in this Exhibit to a section in the Privacy and Security Rules means the section as in effect or as amended, and for which compliance is required.
- (b) Amendment. The Parties agree to take such action to amend this Agreement from time to time **as is necessary** for Client and Meritain to comply with the requirements of the HIPAA Privacy Rule, the HIPAA Security Rule, the HITECH Act, and HIPAA, as amended.
- (c) Survival. The respective rights and obligations of Meritain under Section 5(c) of this Exhibit shall survive the termination of this Exhibit.
- (d) Interpretation. Any ambiguity in this Exhibit shall be resolved in favor of a meaning that permits Client to comply with the Privacy and Security Rules.
- (e) No third party beneficiary. Nothing express or implied in this Exhibit in the Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- (f) Governing Law. This Exhibit shall be governed by and construed in accordance with the same internal laws as that of the Agreement.

The parties hereto have executed this Exhibit with the execution of the Agreement.

Meritain Health, Inc.

Town of Collierville



Melissa Elwood

Regional President

Date: 6/6/14

Print Name: _____

Title: _____

Date: _____

Exhibit B

DISCLOSURE NOTICE REGARDING INSURANCE COMMISSIONS AND OTHER COMPENSATION

U.S. Department of Labor rules permit the receipt of insurance commissions and other compensation by service providers such as Meritain (and its affiliates) if proper disclosure is given and an appropriate independent Plan fiduciary acknowledges in writing receipt of the information and approves the transaction. The commissions and other compensation to be paid to Meritain are set forth in this Agreement. By signing this Agreement and any Renewal Schedules of Services and Fees, Client certifies that it is an independent fiduciary of the Plan and that it acknowledges in writing receipt of the following information and approves the transactions referenced herein.

A. Statement of Affiliation

Prodigy Health Group, Inc. is a diversified health care services holding company whose subsidiaries include American Health Holding, Inc., Scrip World, LLC, Precision Benefit Services, Inc., Meritain Health, Inc. and PERFORMAX, Inc. Each affiliate is free to recommend to a client, products and services offered by other companies, which may include another affiliate; however, no affiliate is required to recommend an affiliate and no affiliate is limited or restricted in recommending the products and/or services of any vendor. Affiliates may be entitled to reasonable commissions and fees from other companies, including affiliates, and such commissions and fees are earned in the ordinary course of business in arms' length transactions. In addition, certain inter-company agreements exist amongst the affiliates to provide for the exchange of certain goods, services, and leases of real property at market-based rates of compensation.

B. Description of Charges, Fees, Discounts, Penalties and Adjustments Applicable to any Contracts with Meritain

Meritain may receive compensation from insurance carriers ("Carriers") and managing general underwriters ("MGUs") in the form of fixed or contingent commissions and administrative fees.

Fixed Sales Commissions on Gross Insurance Premiums Payable to Meritain Per Year (if applicable):

Carrier: Aetna Commission Year 1: 0%.

The parties acknowledge and agree that stop-loss insurance policies are issued for one year terms, and therefore, Meritain is unable to disclose future commissions as of execution of this Agreement. Meritain will disclose future commissions (if any) at such time the policy is renewed or reissued.

Contingent Commissions

Contingent commissions may depend on a combination of factors such as growth, profitability, volume, retention and increased services that Meritain provides under agreements with certain Carriers and MGUs. There is no guarantee that Meritain will receive any contingent commissions. Also, in cases where Meritain agrees to provide administrative services that would otherwise be provided by a Carrier or MGU, some Carriers and MGUs pay administrative fees for these services. Below are descriptions of such commissions and fees that Meritain may receive. **None**

PBM-Related Administrative Fees and Rebates

Meritain may provide enrollment and eligibility services, issuance of drug cards, billing and collection, stop-loss claim reimbursement and coordination, reporting, and consultation to Client's prescription drug benefits manager ("PBM"). In exchange for providing these services, Meritain may receive consideration from the PBM which may be in the form of administrative fees and/or prescription drug rebates. Meritain may receive rebates from a PBM based on certain rebate-eligible prescriptions filled for Plan Participants. Client acknowledges and agrees that Meritain may receive the administrative fees and rebates as set forth below: **None**

Other Fees

From time to time, Meritain may engage third party vendors to perform or provide services in connection with this Agreement. In some cases Meritain will pay the vendor as a subcontractor out of fees it has collected pursuant to this Agreement.

Subrogation Recovery Fee – 25% of recovery paid to subrogation vendor and subrogation vendor pays Meritain 10% or 15% depending upon the amount of the recovery.

In the event Meritain engages an out-of-network discount program, claim auditor, independent case reviewer, cost management vendor, bill negotiator, discount program or other contingency fee vendor to provide services on behalf of the Plan, Meritain shall be entitled to retain a contingency fee up to 28% of the net savings resulting from the engagement.

In cases where Meritain provides direct services, through its employees and agents, to negotiate bills, reduce claim amounts, access additional discounts or otherwise increase savings on behalf of the Plan, Meritain shall be entitled to retain a contingency fee up to 25% of the savings resulting from such services.

The disclosures set forth in this Exhibit B, together with the disclosures set forth in Article V. of this Agreement, represent Meritain's best reasonable estimate of the total amount of all direct and indirect compensation Meritain may receive in connection with this Agreement. The actual amount may vary during the course of this Agreement based upon changes in the number of participants, utilization and other factors external to this Agreement. With respect to all compensation Meritain actually receives as a result of this Agreement, Meritain will disclose such amounts to Client annually, upon request, to the extent required to assist Client in filing its Form 5500.

EXHIBIT C

AMENDMENT TO ADMINISTRATIVE SERVICES AGREEMENT

SPECIFIC EXCESS REINSURANCE ADVANCEMENT AGREEMENT

This Amendment ("Amendment"), effective as of **July 1, 2014**, amends that certain administrative services agreement ("Agreement") by and between **Town of Collierville** ("Client") and Meritain Health, Inc. (defined to include Meritain Health, Inc and any of its affiliates and entities that they acquire) ("Meritain").

WITNESSETH:

WHEREAS, Client is the Plan Sponsor of a certain employee benefit plan for the benefit of Client's employees (The Town of Collierville Employee Benefit Plan) ("Plan");

WHEREAS, Client has chosen to reinsure a portion of the cost of the benefits to be provided under the Plan in accordance with and pursuant to the provisions of a certain excess reinsurance agreement between the Client and Aetna dated July 1, 2014 (the "Excess Reinsurance Agreement"); and

WHEREAS, Client desires to employ Meritain to process Client's claims under the Plan and to submit claims under the Excess Reinsurance Agreement and to advance, as necessary, the specific excess reinsurance portion and the aggregate excess reinsurance portion of eligible medical claims on behalf of Client up to the maximum amount specified in this Amendment; and

WHEREAS, Meritain desires to provide such services, all pursuant to the terms and conditions as set forth below.

NOW, THEREFORE, for and in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Advancement of Specific Excess Reinsurance. During the term of this Amendment, Meritain agrees to advance to Client's Claim Payment Account an amount equal to the eligible medical claims, as determined by Meritain, to be due in accordance with the provisions of the Excess Reinsurance Agreement ("Advancement"). The minimum Advancement amount shall be the amount of eligible claims in excess of the specific deductible amount by \$1000 or more. Meritain shall advance such funds subject to receipt by Meritain of the Client's portion of the claim and all information reasonably necessary to process the claim. Meritain will review claims processed on a daily basis to determine the Client's eligibility for Advancement. Prescription drug claims will be reviewed by Meritain for eligibility for an Advancement as they are received by Meritain from Client's pharmacy benefit manager. Meritain shall not be obligated to advance any more than the amount eligible for coverage under the Excess Reinsurance Agreement as determined by Meritain. All amounts and/or fees due under the Agreement must be received by Meritain in a timely manner for the month in which an Advancement is requested by Client, or Meritain shall not be obligated to make any advancement under this Amendment. There will be no Advancement made after the end of the fully paid term of the Excess Reinsurance Agreement. Upon execution of this Amendment, Client shall provide Meritain with a complete copy of its Excess Reinsurance Agreement and its final signed plan document and all endorsements and amendments thereto; this requirement is a condition precedent to Meritain's obligation to perform under this Amendment. Any Advancement made in the twelfth month of the Agreement or later, if applicable, will be subject to the renewal of the Agreement and this Amendment with Meritain for the subsequent twelve-month or longer period. Run-in claims processed and administered by the Client's prior Administrator shall be excluded from claims eligible for Advancement.

2. Client Obligations and Assignment. Meritain agrees to use its due diligence and best efforts to apply for and collect all funds due Client pursuant to its Excess Reinsurance Agreement; however, Client shall be liable to Meritain for all funds advanced by Meritain in accordance with this Amendment, regardless of whether such amounts are reimbursed under the Excess Reinsurance Agreement. Client authorizes Meritain, to endorse on their behalf, "For Deposit Only", any stop loss reimbursements received for claims incurred by its Plan participants. In the event charges are denied under the Client's Excess Reinsurance Agreement, and Meritain has made an Advancement for such charges, the amount denied must be repaid by Client to Meritain within 10 days of notice of such denial. This repayment obligation shall survive expiration or termination of the Agreement, this Amendment and the Excess Reinsurance Agreement. No additional Advancements will be made until any such balance owed to Meritain by the Client has been repaid. To assist Meritain in processing claims and obtaining reimbursement of advanced funds, Client hereby assigns to Meritain all of its rights in and to benefits afforded under Client's Excess Reinsurance Agreement and hereby appoints Meritain as attorney-in-fact for the purpose of submitting claims and collecting proceeds thereunder. Client represents and warrants to Meritain that these assignments and granting of powers of attorney are duly authorized under the terms of the Excess Reinsurance Agreement, Client's charter and bylaws, and applicable law. These assignments and powers of attorney shall be revoked only at such time as this Amendment is terminated, provided Meritain provides written notice that it has been reimbursed all funds which it has advanced on behalf of Client in accordance with this Amendment. Meritain may give the reinsurer notice of these assignments and appointments. This section shall survive termination of the Agreement and this Amendment.

3. Fee for Agreement. In consideration of Meritain's obligations under this Amendment, Client agrees to pay to Meritain a sum equal to **\$0.50** per employee per month covered under the Plan during the term of this Amendment. Payment of fees to Meritain shall be due the same date the reinsurance premium is due under the Excess Reinsurance Agreement. This section shall survive termination of the Agreement and this Amendment.

4. Treatment of Advancement. The Advancement provided under this Amendment shall be an obligation of the Client to Meritain for which no interest shall be charged and shall be repaid, except as provided herein. The Advancement is not a loan. Failure of the Client to repay any Advancement as provided in this Amendment 1) shall result in the assessment of a penalty of 5% per month computed on the total amount of all Advancements outstanding and to be repaid, and 2) may result in the termination of this Amendment and the Agreement upon written notice thereof by Meritain. Termination is at the sole discretion of Meritain. Any Advancement shall at all times be considered funds of Meritain or its related entities, for which the use by the Client of such funds is provided in this Amendment, and shall be limited exclusively to the funding of such eligible medical claim(s) as identified in the request for Advancement. Client shall not be entitled to retain any Advancement which has been paid under the terms of this Amendment or to set-off or deduct any Advancement against amount owed by Meritain. The Client shall be liable for all costs and expenses, including reasonable attorneys' fees, incurred in the collection of any amount of Advancement outstanding. This section shall survive termination of the Agreement and this Amendment.

5. Termination. This Amendment shall be in effect as long as Client continues to pay premiums and fees due pursuant to the terms of the Excess Reinsurance Agreement, the Agreement and this Amendment. In the event premiums and fees are not paid, this Amendment shall terminate immediately at Meritain's discretion. Upon termination of Excess Reinsurance coverage for any reason, Meritain shall have no obligation to advance funds and this Amendment shall terminate at Meritain's discretion. In the event of termination of the Client's Excess Reinsurance Agreement, the Agreement between Meritain and Client and/or this Amendment, Client shall not be entitled to retain any Advancement which has been paid under the terms of this Amendment. Any such Advancement must be repaid to Meritain within 10 days of termination. Meritain may terminate this Amendment at any time, with or without cause, upon written notice to Client. This section

and Client's obligations to repay all amounts under the Agreement and this Amendment shall survive termination of the Agreement and this Amendment.

6. Notices. Any notices required hereunder shall be given, by fax, U.S. Mail or via overnight express courier at the addresses indicated below, or at such other addresses as each party may notify the other in writing:

MERITAIN: Meritain Health, Inc.
300 Corporate Parkway
Amherst, New York 14226
Attn: CEO

Client: **Town of Collierville**
500 Poplar View Parkway
Collierville, TN 38017

With copies to: Nathan Bicks
Burch, Porter & Johnson, PLLC
130 North Court Ave.
Memphis, Tennessee 38103

7. Default. In the event a party defaults under the terms and conditions of this Amendment, the defaulting party shall be liable to the non-defaulting party(ies) for costs incurred, including reasonable attorneys' fees, to enforce this Amendment and collect any sums due hereunder.
8. Modification of Agreement. Any modification of this Amendment or additional obligations assumed by any party in connection with this Amendment shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.
9. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of ~~New York~~Tennessee.
10. Benefit. This Agreement shall inure to the benefit of each party, its successors and assigns.
11. Assignment. This Agreement is not assignable or transferable by Client ~~either party~~ in whole or in part without Meritain's ~~the other party's~~ prior written approval.
12. Domestic Reimbursement. Domestic Reimbursements are benefit payments made payable to the Client for services incurred at the Client's facility where the Client is also a medical provider. Claims that are Domestic Reimbursement shall be excluded from claims eligible for Advancement.
13. Mid-year Takeover. When a Client contracts with Meritain for administrative services on a date other than its Plan year renewal date, Advancement is not available for those claims. Advancement is only available at the start of a Client's Plan year.
14. Governing Law and Venue. This Amendment shall be governed by the laws of the State of ~~New York~~Tennessee. Venue for resolution of any disputes shall be in State Court in ~~Erie~~-Shelby County.
15. Effect of Amendment. This Amendment amends the Agreement. Except as specifically provided in this Amendment, all terms and provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, and in accordance with the provisions outlined above, the parties have executed this Amendment as of the dates set forth below.

Meritain Health, Inc.

Town of Collierville

By: 
Melissa Elwood
Regional President
Date: 6/6/14

By: _____
Print Name: _____
Title: _____
Date: _____

