

AGREEMENT FOR PRODUCTS AND SERVICES ("Agreement") COVER PAGE A&B

Ceridian Corporation or subsidiary ("Ceridian") 3311 East Old Shakopee Road Minneapolis, MN 55425	County of Cuyahoga ("Client") 1255 Euclid Avenue, Room 310 Cleveland, OH 44115
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Except as identified below, all services are furnished by Ceridian Corporation. This Agreement consists of the attached General Terms and Conditions and the Client Quotation(s) (Exhibit A(s)) and the Service Agreement(s) (Exhibit B(s)) identified below.

Services furnished by Ceridian Corporation <input type="checkbox"/> Ceridian HR/Payroll <input type="checkbox"/> Ceridian Hosted Services <input type="checkbox"/> Ceridian Software License <input type="checkbox"/> Ceridian Self-Service <input type="checkbox"/> Ceridian HR Data Exchange <input type="checkbox"/> Ceridian Unemployment Compensation Services <input type="checkbox"/> Ceridian Tax Service (stand-alone) <input type="checkbox"/> Ceridian Check Print & Image Services (stand-alone) <input type="checkbox"/> Ceridian W2 Print & Image Services (stand-alone) <input type="checkbox"/> Ceridian SeeMyW2 Services <input type="checkbox"/> Ceridian Wage Garnishment Disbursements <input type="checkbox"/> Ceridian Payment Solutions (stand-alone) <input type="checkbox"/> Ceridian Interface Software and Services (stand-alone) <input type="checkbox"/> Ceridian Time and Attendance <input type="checkbox"/> Ceridian Professional Services <input type="checkbox"/> Ceridian Employment and Salary Verification Services <input type="checkbox"/> Ceridian Paycard Services <input type="checkbox"/> Ceridian Performance Management Express Services <input type="checkbox"/> Ceridian Basic Compliance Solution <input type="checkbox"/> Ceridian Wage Garnishment Services <input type="checkbox"/> Ceridian Business Intelligence – Analytics (otherwise known as Enterprise Ad Hoc Reporting) <input type="checkbox"/> Ceridian Dayforce Workforce Management <input type="checkbox"/> Ceridian Data Conversion Consulting Services <input type="checkbox"/> Ceridian Workforce Management Compliance Solutions		Services furnished by Ceridian Corporation <input type="checkbox"/> Ceridian Integrated EAP & Work-Life Services <input type="checkbox"/> Ceridian Employee Assistance Program (EAP) <input type="checkbox"/> Ceridian Work-Life Services <input type="checkbox"/> Ceridian Employee Discount Access Program <input type="checkbox"/> Ceridian Backup Care Solutions <input type="checkbox"/> Ceridian LifeWorks Online <input type="checkbox"/> Ceridian Nurseline <input type="checkbox"/> Ceridian Backup Care Reimbursement <input type="checkbox"/> Ceridian Corporate Lactation Program <input type="checkbox"/> Ceridian Concierge Services <input type="checkbox"/> Ceridian Multinational EAP <input type="checkbox"/> Ceridian Expatriate EAP <input type="checkbox"/> Ceridian Life Health Assessment <input type="checkbox"/> Ceridian Elder Care Management Services <input type="checkbox"/> Ceridian Hospitality & Retail EAP/Work-Life <input type="checkbox"/> Ceridian Online Health Coaching <input type="checkbox"/> Ceridian Outreach and Engagement Services <input type="checkbox"/> Ceridian Physician Notification Services <input type="checkbox"/> Ceridian Telephonic Health Coaching <input type="checkbox"/> Ceridian Bariatric Surgery Management <input type="checkbox"/> Ceridian Incentive Tracking Reports Services <input type="checkbox"/> Ceridian Online Health Resources <input type="checkbox"/> Ceridian Nicotine Replacement Therapy <input type="checkbox"/> Ceridian Health & Productivity Incentives <input type="checkbox"/> Ceridian Adoption Administration <input type="checkbox"/> Ceridian HR Compliance Solutions <input type="checkbox"/> Ceridian Online EAP WL–Wellness Embedded	
	A1, B1 B3 B4 A1, B5 A1, B10 A1, B11 A1, B12 A1, B13 A1, B60 A1, B14 A1, B62 A1, A1-a, B63 A1, B64 A1, B16 A1, B17 A1, B69 A1, B109 A1, B110 A1, B111 A1, B112 A1, B115 A1, B120 A1, B122 A1, B128		A17, B28 A17, B29 A17, B30 A17, B31 A17, B32 A17, B35 A17, B43 A17, B45 A17, B47 A17, B50 A17, B52 A17, B53 A17, B65 A17, B66 A17, B88 A17, B90 A17, B91 A17, B93 A17, B94 A17, B95 A17, B96 A17, B97 A17, B99 A17, B100 A17, B101 A17, B114 A17, B116
Services furnished by Ceridian Benefits Services, Inc. <input checked="" type="checkbox"/> Ceridian COBRA and HIPAA Services <input type="checkbox"/> Ceridian COBRA Continuation Services <input type="checkbox"/> Ceridian HIPAA Services <input type="checkbox"/> Ceridian Benefits Billing Service <input type="checkbox"/> Ceridian FSA Services <input type="checkbox"/> Ceridian Commuter Solutions <input type="checkbox"/> Ceridian QMCSO Services <input type="checkbox"/> Ceridian Health & Welfare Services <input type="checkbox"/> Ceridian Tuition Reimbursement Services <input type="checkbox"/> Ceridian HR Communications - Total Compensation <input type="checkbox"/> Ceridian Health Savings Account (HSA) Services <input type="checkbox"/> Ceridian Health Reimbursement Account (HRA) Services <input type="checkbox"/> Ceridian Online EAP/WL-Wellness Embedded		Recruiting Services <input type="checkbox"/> Ceridian Recruiting Solutions <input type="checkbox"/> Ceridian Screening Services <input type="checkbox"/> Ceridian I-9/E-Verify Services Miscellaneous Service Exhibits <input type="checkbox"/> HR/PR Wage Garnishment Services – Hosted PR Clients Only <input type="checkbox"/> Ceridian National Notification Services <input type="checkbox"/> Ceridian Insurance Continuation Services	
	A1 or A19, B61 A19, B18 A19, B19 A9, B20 A1 or A10, B21 A11, B22 A13, B24 A14, B25 A15, B26 A20, B83 A23, B27 A24, B106 A17, A14, B117		A1, B70 A21, B86 A1, B104 B123 A31, B125 A30, B126

Client acknowledges receipt of this Agreement and acknowledges that it has read, understands, and it is bound by this order and the terms and conditions which are contained in this document.

ACCEPTED BY:
CERIDIAN BENEFITS SERVICES, INC.

Authorized Signature

Printed Name and Title

Date

Edward FitzGerald, County Executive
ACCEPTED BY
CLIENT: COUNTY OF CUYAHOGA

Authorized Signature

Printed Name and Title

Date

General Terms and Conditions

1. **Parties:** This Agreement is between the client identified on the cover page ("Client") and Ceridian Corporation and/or its subsidiaries ("Ceridian"), each of which may be referred to in the singular as "Party" or in the plural as "Parties".
2. **Term and Termination:** This Agreement will become effective when signed by Client and accepted by Ceridian (the "Effective Date"). It will, except as provided in Article 6, continue for an initial term of three years (unless otherwise stated in an Exhibit or Amendment to this Agreement) beginning with the Effective Date (the "Initial Term") and shall continue thereafter until terminated by either Party upon 60 days prior written notice.
3. **Fees and Payments:** Client will pay the fees set forth in the attached Service Quotation(s) and/or Exhibit A(s), including any applicable taxes. Ceridian shall not increase fees during the Initial Term of the Agreement. After the Initial Term Ceridian reserves the right to increase prices once annually with thirty days prior written notice to Client. All reasonable, pre-approved and customary travel expenses incurred by Ceridian in support of the Services will be billed at actual cost to the Client. Ceridian may charge a late payment fee in the amount of 1½% per month for delinquent payments made by Client. Client agrees to pay late payment fees and any costs of collection.
4. **Services:** Except as provided herein, Ceridian shall provide the services ("Services") identified on the cover page and described in the attached Exhibit B(s). Services provided to Client that are not within the scope of this Agreement will be mutually agreed upon between the Parties, subject to the terms and conditions of this Agreement and billed at Ceridian's then current price. Any exception fees, late fees, or miscellaneous fees will be subject to the terms of this Agreement and billed at Ceridian's then current price.
5. **Changes:** In the event of a change in federal or state laws or regulations affecting the Services provided under the terms of this Agreement, Ceridian may make changes to the Agreement, including the Exhibits, with 30 days' prior written notice to Client. If, upon notification of the change, Client elects not to continue Services, Client may terminate this Agreement upon 30 days' prior written notice without penalty or cancellation fees.
6. **Termination for Cause:** If either Party does not meet its obligations as set forth in this Agreement within 90 days after receiving written notice of the breach, then the other Party shall have the immediate right to provide written notice of termination of this Agreement. Additional termination rights may be set forth in the attached Exhibit B(s). Client's obligation to pay all charges that have accrued will survive any termination of this Agreement.
7. **Confidentiality and Privacy:** Neither Party shall disclose Confidential Information of the other Party, except as provided herein. The receiving Party shall use the same degree of care as it uses to protect its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the confidential information of the disclosing Party. The foregoing obligations shall not apply to any information that (a) is at the time of disclosure, or thereafter becomes, part of the public domain through a source other than the receiving Party, (b) is subsequently learned from a third party that does not impose an obligation of confidentiality on the receiving Party, (c) was known to the receiving Party at the time of disclosure, (d) was generated independently by the receiving Party, or (e) is required to be disclosed by law, subpoena or other process. Ceridian may transfer Client's Confidential Information to a governmental agency or other third party to the extent necessary for Ceridian to perform its obligations under this Agreement or if Client has given Ceridian written authorization to do so. For purposes of this paragraph, Confidential Information shall mean any information identified by either Party as "Confidential" and/or "Proprietary", or which, under the circumstances, ought to be treated as confidential or proprietary, including non-public information related to the disclosing Party's business, employees, service methods, software, documentation, financial information, prices and product plans. Ceridian reserves the right to independently use its experience and know-how, including processes, ideas, concepts and techniques developed in the course of performing Services under this Agreement. Ceridian shall appropriately safeguard all Protected Health Care Information ("PHI") made available to Ceridian while rendering Services. Ceridian will comply with all laws applicable to its Services.
8. **Disposition of Data:** Except as expressly provided in an applicable Exhibit B(s), Ceridian will not be responsible for storing copies of Client's records when Ceridian no longer requires such information in order to provide Services to Client. Client will reimburse Ceridian for the costs of producing any information in Ceridian's possession or control relating to Client's business or employees that Ceridian is obligated to produce in response to a Client request or court order. Upon termination of this Agreement, Ceridian will dispose of Client's records and data unless otherwise previously directed in writing by Client.
9. **Intellectual Property:** All materials, including but not limited to forms (including data collection forms provided by Ceridian), brochures, tip sheets, posters, and online content ("Materials") furnished by Ceridian to Client are licensed (not sold). Client is granted a personal, non-transferable and nonexclusive license to use Materials solely for Client's own internal business use. Client does not have the right to copy, distribute, reproduce, alter, display, or use these Materials or any Ceridian trademarks for any other purpose. Client agrees that (a) it will keep Materials confidential and will use commercially reasonable efforts to prevent and protect the content of Materials from unauthorized use and (b) its license to use Materials ends on the termination date of this Agreement. Upon termination, Client agrees to destroy Materials or, if requested by Ceridian, return them to Ceridian.
10. **Limitation of Remedies:** Ceridian will indemnify and hold Client harmless from and against any and all claims alleging that the Services and Materials furnished by Ceridian violate any third party's patent, trade secret, copyright, or other intellectual property right. Ceridian will also indemnify and hold Client harmless from and against any and all claims for bodily injury allegedly caused by Ceridian. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE MAXIMUM TOTAL LIABILITY OF CERIDIAN TO CLIENT SHALL BE LIMITED TO DIRECT MONEY DAMAGES IN AN AMOUNT NOT TO EXCEED THE GREATER OF (A) THE TOTAL AMOUNT PAID BY CLIENT DURING THE 24 MONTHS IMMEDIATELY PRECEDING THE LOSS, OR (B) \$50,000. THIS REMEDY IS CLIENT'S SOLE AND EXCLUSIVE REMEDY.

NEITHER PARTY SHALL BE RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES EVEN IF SUCH PARTY HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. CERIDIAN WILL NOT BE RESPONSIBLE FOR FAILURE TO PROVIDE SERVICES IF DUE TO ANY CAUSE OR CONDITION BEYOND THE REASONABLE CONTROL OF CERIDIAN.
11. **Warranty Disclaimer:** THE EXPRESS WARRANTIES SPECIFIED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CERIDIAN DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES.
12. **Notices:** All notices, requests and communications to the Parties shall be in writing (including fax or similar writing) and shall be given to the Parties at their respective address identified on the cover page or to such other address or fax number as either Party may hereafter specify by notice to the other Party. Each such notice, request or communication shall be effective upon receipt, provided that if the day of receipt is not a business day, then the notice shall be deemed to have been received on the next succeeding business day.
13. **General Provisions:** (a) This Agreement and the Parties rights and obligations shall be governed and construed pursuant to the laws of the state of Ohio.; (b) Client may not assign this Agreement except with Ceridian's prior written approval; (c) No action under this Agreement may be brought by Client more than two years after the cause of action has accrued.
14. **Electronic Transactions:** The Parties agree that facsimile or electronic copies will constitute evidence of the existence of this Agreement. Thereafter, the parties agree that all documents may be executed by electronic means and the electronic signatures shall have the same legal effect as if that signature was manually affixed to a paper version of the document. Both parties expressly permit transactions and communication via facsimile or electronic exchange in accordance and to the extent allowed by applicable laws and regulations for dissemination in that manner.
15. **Entire Agreement:** This Agreement, including Schedules, Exhibits, or SOW's hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and understandings regarding the subject matter hereof, whether written or verbal. Any amendment to this Agreement must be in writing and signed by authorized representatives of both Parties.

Exhibit A19: Ceridian Benefits Services, Inc.**Client Quotation****Ceridian COBRA and HIPAA Services**

Service Start Date: January 1, 2013

Term end date: December 31, 2015

Standard Services**Setup Fee:****\$ Include**

Includes:

- Administration Kit, forms, toll-free hotline, and establishment of all plans and rates
- Up to 6 rate plans per employer (additional fee applies if greater than 6)
- Set up fees for Carrier Eligibility Reporting (☒ Electronic ☐ Paper ☐ Decline)

Annual Renewal Fee:**\$ 315.00**

- Includes all required updates for rate and plan changes and toll-free help hotline.

Monthly Administration Fees:**Fee per Qualifying Event:****\$ Included****Fee per Employee per Month:****\$ NA****Fee per Employee per Month (Inclusive):****\$ 0.29****Monthly Administration Fee Includes:**

- Takeover audit of current continuants
- Qualifying Event notification sent by first-class mail with proof-of-mailing
- Election processing
- Accounting/auditing reports to customer
- Monthly invoices
- Collection processing
- Correspondence
- Archiving of all records
- Bad check collections
- Web access for customer and participants
- Toll-free telephone support to continuants and customer
- Premium allocation reports
- Eligibility reporting to carriers
- Premium distribution to employer
- Updates required by law
- HIPAA Certificates (COBRA Loss)

Takeover Fee for Current Continuants**\$ 15.00 per takeover****Optional Services****New Hire Notification:****\$ Included per notice**

Notification of "newly covered" employees and dependents of their COBRA rights and obligations, as they become covered under Client's plan

Total Population Notification:**\$ 2.25 per notice**

Notification of all current covered employees and dependents of their rights and obligations

HIPAA Certificates of Creditable Coverage (Active Loss)**\$ Included per loss of coverage event****Premium Disbursement to Carriers****\$ 15.00 per carrier per month****Open Enrollment Fee****\$ Declined one time charge****NOTE: If declined service, please notate in shaded area.**

Edward FitzGerald, County Executive

Ceridian Authorized Signature

Date

Client Authorized Signature

Date

Exhibit A19: Ceridian Benefits Services, Inc.
Client Quotation
Ceridian COBRA and HIPAA Services

Additional Fees

Additional Rate Plans Setup for >6 rate plans	\$ 50.00 each
Additional Locations Setup for >3 locations	\$ 25.00 each
Surcharge for Qualifying Events in Excess of 15% of the Covered Employees	\$ 15.00 per event
Additional Eligibility Reporting for >6 carriers	\$ 20.00 per carrier per month

Ceridian will retain the 2% administrative charge paid by continuants and any earnings on the paid premiums retained by Ceridian.

Client agrees to pay the full balance of all service fees detailed in a monthly invoice, due upon receipt. If payment for services is not made after 30 days of the date of the invoice, a late charge of one and one-half percent (1½%) of any outstanding amounts may be charged to Client's account.

Ceridian reserves the right to increase fees at any time that are caused by a Federal postal rate increase or are due to Federal legislative changes affecting the services provided. Notwithstanding anything in this Agreement to the contrary, if at any time Client ceases reporting qualifying events to Ceridian, Ceridian may charge Client a monthly fee for the continuation of services under this Agreement during the period in which qualifying events were not reported to Ceridian.

ACCEPTED BY:
CERIDIAN BENEFITS SERVICES, INC.

Authorized Signature

Bart Valdez, EUP

Printed Name and Title

11/19/12

Date

ACCEPTED BY
Edward Fitzgerald, County Executive
CLIENT: COUNTY OF CUYAHOGA

Ed Fitzgerald/apc

Authorized Signature

Printed Name and Title

Date

Exhibit B61: Ceridian Benefits Services, Inc.
Service Agreement
Ceridian COBRA and HIPAA Services

A. DUTIES OF CERIDIAN

Commencing on the effective date of this Agreement, Ceridian is authorized and instructed by Client to implement and follow the COBRA and HIPAA statutes and the regulations thereunder to provide the following services with respect to the Plan(s) for consideration, as stated in the Client Quotation attached.

1. COBRA

Ceridian shall:

- (a) Advise covered employees and qualified beneficiaries under COBRA in writing of their rights to elect and continue to receive COBRA continuation coverage under the Plan(s), after Client has notified Ceridian of the occurrence of one of the events set forth in Section B (1)(a)(i) through (vii), below, with respect to such individual;
- (b) Collect premiums (plus administrative charges) from or on behalf of continuants, who elect to continue coverage under the Plan(s), and forward the amount of the paid premiums (excluding the 2% administrative charge paid by continuants and any earnings on the paid premiums retained by Ceridian) to Client (or as otherwise mutually agreed between the parties) on a monthly basis unless Client chooses optional service (for a fee) to have Ceridian remit premiums directly to the insurance carrier (HMO premiums are forwarded weekly and non-HMO premiums are forwarded monthly);
- (c) Advise Client in writing of the status of each continuant electing continued coverage under the Plan(s) within 10 business days after the end of each month. These status reports will include continuants who are current on their payments, and those cancelled for failing to remit payments pursuant to the requirements of COBRA, as implemented in accordance with this Agreement;
- (d) Provide Client, upon request, with forms to be used to notify Ceridian of a "qualifying event," as that term is defined under COBRA;
- (e) Provide notification containing the information required to be included in the COBRA initial notification (ERISA Section 606(A)(1)) to all employees of Client and dependents who are participants under the Plan(s) and whose names and addresses are furnished by Client;
- (f) With respect to services provided by Ceridian under this Agreement, Ceridian shall maintain proof of services performed by Ceridian for a period of seven years.

Ceridian shall consider COBRA premiums to be timely paid if, within 30 days of the due date, such premiums are actually delivered to Ceridian, postmarked by the U.S. Postal Service or sent by express delivery service (with evidence thereof), unless Client advises Ceridian in writing that a longer period applies under the Plan(s). Actual delivery, postmark or evidence of express delivery will also be used to determine timeliness of COBRA elections based on applicable statutory periods. Ceridian shall not be responsible for reviewing the Plan(s) in any respect or for comparing the Plan(s) with the group health plan sponsored by another employer or Medicare.

2. HIPAA

- (a) Issuance of Certificates of Creditable Coverage ("Certificates")

- (1) Ceridian shall issue a Certificate with respect to each Plan(s) participant or dependent entitled to receive a Certificate under HIPAA, provided that Ceridian is notified in writing (or as otherwise agreed to by the parties) of the individual's loss of coverage (or entitlement to COBRA coverage) or of the individual's request for a Certificate in accordance with Section B (2) of this Agreement.

Exhibit B61: Ceridian Benefits Services, Inc.
Service Agreement
Ceridian COBRA and HIPAA Services

- (2) All Certificates issued by Ceridian shall indicate the date of issuance of the Certificate and all information required by HIPAA and the Regulations.
 - (3) All Certificates shall be sent by Ceridian by U.S. Postal Service first class mail (with proof of mailing) to the affected participant or dependent or to the party requesting a Certificate or otherwise designated by a participant or dependent to receive a Certificate and shall be sent to the address provided to Ceridian by Client pursuant to Section B (2) of this Agreement.
 - (4) Ceridian shall send a duplicate Certificate with respect to each individual covered under the Plan(s), at no additional cost, where an initial Certificate already has been issued, provided that the written request for such duplicate Certificate is made within 24 months of the individual's loss of coverage under the Plan(s).
 - (5) Notwithstanding any other provision herein to the contrary, Certificates shall be issued by Ceridian on behalf of Client only to the extent required by applicable law and only in connection with losses of group health coverage (or entitlement to COBRA coverage) occurring on or after October 1, 1996 (and occurring between July 1, 1996 and September 30, 1996 if requested by a participant or dependent), unless otherwise agreed to in writing between the parties, and shall only include information regarding periods of coverage retroactive to July 1, 1996. Any services requested by Client that are not within the scope of the foregoing shall be governed by a separately negotiated agreement between the parties.
- (b) Certificates that Ceridian is authorized to issue pursuant to Section A (2) (a), above, shall be issued by Ceridian within a reasonable period of time following the date upon which Ceridian receives from Client all of the information required for the issuance of the Certificate as set forth in Section A (2) (a) (2). In the event that all of the information required to be included in a Certificate is not provided by Client, Ceridian shall request from Client the missing information and, if such information is not provided within three (3) business days from the date the request is made, Ceridian shall notify Client that a Certificate will not be issued. Ceridian shall not issue a Certificate unless and until Ceridian receives (i) all of the required information; or (ii) written instructions to issue the Certificate without all of the required information and a written indemnification from Client in the form provided by or otherwise satisfactory to Ceridian.
 - (c) Ceridian shall provide Client with a written summary confirming the individuals to whom Certificates were issued.
 - (d) Ceridian shall store data provided by Client with respect to periods of coverage of participants and dependents under the Plan(s) retroactive to October 1, 1996 (or July 1, 1996, if requested in writing) and shall retrieve such data in connection with the issuance of Certificates.
 - (e) With respect to services provided by Ceridian under this Agreement, Ceridian shall maintain proof of services performed by Ceridian for a period of seven years.

3. General

Ceridian shall provide a toll-free telephone number for access to a Customer Service Representative, who will be available during normal Ceridian business hours (8:00 a.m. to 8:00 p.m. Eastern Time, Monday through Friday, except Ceridian holidays) that may be used by Plan(s) participants and dependents (or their authorized representatives) in connection with the services provided by Ceridian under this Agreement.

With respect to Ceridian's HIPAA and COBRA responsibilities above in addressing correspondence to qualified beneficiaries and other individuals, Ceridian is instructed, where practicable, to use zip+4, (through United States Postal Service approved Accumail or other computer program) for those addresses that are furnished to Ceridian without such information, and to use its best efforts to correct or complete addresses that it recognizes to be incorrect or incomplete.

Exhibit B61: Ceridian Benefits Services, Inc.
Service Agreement
Ceridian COBRA and HIPAA Services

B. DUTIES OF CLIENT

1. COBRA

Client shall advise Ceridian of any of the following events, but in the case of (a)(i) through (vii) below only those events that would result in the loss of coverage by a participant under Client's Plan(s):

- (a) (i) Death of a covered employee/retiree; (ii) Termination of employment of a covered employee (for reasons other than gross misconduct) or reduction in the employee's hours; (iii) Divorce/legal separation from the covered employee; (iv) Covered employee/retiree becoming entitled to benefits under Title XVIII of the Social Security Act (Medicare); (v) Dependent children who cease to be eligible as "dependents" under the terms of the Plan(s); (vi) Client filing for bankruptcy (provided that if Client files for bankruptcy under title 11, U.S.C., Client shall advise Ceridian of any loss or substantial elimination of coverage under the Plan(s) (with respect to employees, dependents, retirees, surviving spouses and their dependents) occurring within one year before or after the commencement of the bankruptcy proceeding); and (vii) Any other event resulting in a covered employee and/or dependent becoming qualified to continue coverage under the provisions of COBRA;
- (b) A qualified beneficiary being determined, under Title II or XVI of the Social Security Act, to have been disabled at any time during the first 60 days of continuation coverage or that the qualified beneficiary is no longer disabled. Such notice(s) shall be provided to Ceridian as soon as practicable, but in no event later than 5 business days after the date Client becomes aware of such event; and
- (c) The termination of any of the Plan(s), such notice(s) to be provided at least 30 days prior to, or, if less, as soon as practicable in advance of, the termination of the Plan(s).

The notices described in Section B (1)(a)(i) through (vii), above, are to be sent in writing to Ceridian on forms provided by Ceridian or in such other form as is agreed to in writing between the parties within 14 days of the date of the occurrence of the event described therein (irrespective of the date of loss of coverage under the Plan(s)). Client shall be solely responsible for determining whether or not an employee has had a qualifying event, has been terminated for gross misconduct or is or has been incompetent.

Client shall be solely responsible for selecting a determination period, and establishing and advising Ceridian of the applicable premium rates to be charged for COBRA continuation coverage. Client shall notify Ceridian in writing: (i) at least 30 days in advance of the applicable billing date of any changes in premium rates affecting participants electing continued coverage under the Plan(s), and (ii) at least 30 days in advance of the applicable billing date of any changes in premiums applicable to participants during an open enrollment period.

2. HIPAA

- (a) Within 14 days following the occurrence of an event that entitles a participant or dependent covered or formerly covered under the Plan(s) to receive a Certificate under HIPAA (as determined by Client), Client shall advise Ceridian of the information required to be included in the Certificate, as set forth in Section A (2) (a) (2). This information must be provided to Ceridian by Client in writing on forms provided by Ceridian, or in such other form as is agreed to in writing between the parties. Client shall be solely responsible for determining whether or not a participant or dependent (or an individual acting on a participant's or dependent's behalf) is entitled to or should be sent a Certificate pursuant to HIPAA. Client acknowledges and agrees that Ceridian shall use the information furnished by Client to prepare the Certificate to be issued; all such information will be true and accurate as of the date such information is sent to Ceridian. If any information furnished to Ceridian by Client changes following the date sent by Client, Ceridian shall not be responsible for issuing a Certificate reflecting such new information, unless requested by Client in writing. Any such additional Certificates shall be treated as separate Certificates, and the appropriate fee shall be charged to Client. Where Client is aware that information furnished to Ceridian is not accurate, Client shall promptly notify Ceridian by a form of media designated by Ceridian) that clearly identifies the affected individual and

Exhibit B61: Ceridian Benefits Services, Inc.
Service Agreement
Ceridian COBRA and HIPAA Services

provides the correct information as of the date of transmission.

- (b) Client shall be solely responsible for providing Ceridian with the appropriate last known address for the individual or entity to whom a Certificate is being issued in accordance with HIPAA and the regulations.

3. General

Client represents that the Plan(s) will be maintained during the term of this Agreement in accordance with HIPAA, COBRA, ERISA, the Internal Revenue Code of 1986, as amended (the "Code") and other applicable law. Client, the Plan(s)' administrator and/or the Plan(s) (and their agents or assigns), and not Ceridian, shall be solely responsible for the review and payment of claims for benefits under the Plan(s) and all appeals under ERISA, including, without limitation, with respect to claims, benefits and eligibility determinations under the Plan(s).

C. CLAIMS

Notwithstanding anything in this Agreement to the contrary, Ceridian shall not be responsible to receive or review claims for benefits under the Plan(s) or be liable for the payment of any claims for benefits under or in connection with the Plan(s) or any group health plan, including, without limitation, where sought as damages in an action against Client, Ceridian or otherwise. Client agrees to hold Ceridian harmless (including reasonable attorneys fees and costs) and expressly releases all claims against Ceridian in connection with any claim or cause of action, which results from the failure or alleged failure of Client (its officers and employees, and any entity related to or performing services on behalf of Client, including, without limitation, any insurance company providing services to or on behalf of the Plan(s)) to comply with HIPAA, COBRA, ERISA, other applicable law or the provisions of this Agreement, and any occurrences prior to the effective date of this Agreement.

D. AUDIT RIGHTS

Client may during the term of this Agreement and for a period of two (2) years thereafter inspect any HIPAA creditable coverage or COBRA compliance transactions, procedures, records and files relating to Client's employees (and their dependents), at Ceridian's office and at a time reasonably acceptable to Ceridian, upon providing 10 business days advance written notice to Ceridian.

E. RELATIONSHIP OF PARTIES

Client and Ceridian acknowledge and agree that Ceridian is retained under this Agreement as a representative of Client, the Plan(s) and/or the plan administrator of the Plan(s) to assist them with their obligations to comply with the provisions of HIPAA relating to the certification of creditable coverage and the continuation coverage provisions of COBRA, and that Ceridian is not a fiduciary under ERISA and lacks any discretion hereunder. The parties hereto further acknowledge that Ceridian is an independent contractor and not a joint venturer with or partner, agent or employee of Client. Nothing contained in this Agreement shall be deemed to permit either party to conduct business in the name of or on account of the other party, to incur or assume any expense, debt, obligation, liability, tax or responsibility on behalf of or in the name of the other party, or to act on behalf of or bind the other party in any manner whatsoever, except for the taking of actions by Ceridian on behalf of Client in the course of fulfilling its duties under this Agreement. The parties agree that Client shall for all purposes be considered under HIPAA as the entity that issued the Certificates that are distributed by Ceridian pursuant to this Agreement.

F. RELIANCE BY CERIDIAN

Client has authorized and instructed Ceridian in Section A to implement its standard administrative procedures to provide services in accordance with this Agreement. Ceridian shall be fully protected in relying upon representations made by or on behalf of Client. Ceridian shall also be fully protected and indemnified and held harmless by Client in relying on the accuracy of any information provided by Client, either orally, in writing or otherwise, in effecting its actions and obligations under this Agreement. Client and Ceridian agree that if Client provides Ceridian with specific instructions to provide

Exhibit B61: Ceridian Benefits Services, Inc.
Service Agreement
Ceridian COBRA and HIPAA Services

services in a manner other than in accordance with Ceridian's standard procedures, Ceridian may (but need not) comply with Client's written instructions, provided that, if Ceridian complies with such instructions, Client and not Ceridian shall be solely responsible for Ceridian's actions so taken, and Client agrees to hold Ceridian harmless (including reasonable attorneys fees and costs) and expressly releases all claims against Ceridian in connection with any claim or cause of action, which results from or in connection with Ceridian's following Client's written instructions. Ceridian may require that requested changes be provided in writing in a form acceptable to Ceridian, within its sole discretion. Client represents that the signatory to this Agreement is authorized to enter into such Agreement on behalf of Client. Client (and its agents or assigns), and not Ceridian, shall be responsible for the administration of the Plan(s) and all appeals under COBRA, ERISA, HIPAA and other applicable law, including, without limitation, with respect to claims, benefits and eligibility determinations under the Plan(s), COBRA, ERISA, and/or HIPAA.

G. ELECTRONIC DATA FILE TRANSFERS

The provisions of this Section shall apply to any electronic data file transfers between Client and Ceridian.

- (a) Each party shall properly use those security procedures, if any, which are reasonably sufficient to ensure that all transmissions of documents are authorized and to protect its business records and data from improper access.
- (b) Ceridian shall not be required to confirm or verify the accuracy, authenticity or completeness of any information provided by Client. Ceridian's only obligation shall be to compile such information accurately and to utilize such information in performing its responsibilities.
- (c) Client is responsible for verifying the receipt of data by Ceridian from monthly reports sent to Client.
- (d) Documents shall not be deemed to have been properly received, and no document shall give rise to any obligation, until accessible to the receiving party. Any document properly transmitted pursuant to this Agreement shall be considered to be a "writing" or "in writing," and any such document when containing, or to which there is affixed, a signature shall be deemed for all purposes (i) to have been "signed," and (ii) to constitute an "original" when printed from electronic fields or records established and maintained in the normal course of business.
- (e) Ceridian shall not be liable for and Client shall indemnify Ceridian with respect to any damages (including reasonable attorney fees and court costs) that may result from its utilization of inaccurate or incomplete information received from Client.
- (f) Email can be used to supplement or replace telephone calls to Ceridian. During email use, Ceridian is not responsible for any message or data that is lost or altered in transit, misinterpreted upon receipt, or electronically directed to the wrong employee at Ceridian. Email is not an acceptable method of transmitting COBRA or HIPAA data.
- (g) The following methods are acceptable methods of transmitting COBRA or HIPAA messages or data: EFT, CD, 3 ½" diskettes (in tape specifications as agreed by both parties); Ceridian Web enabled applications; and manual paper forms (provided by Ceridian.)

H. RESPONSIBILITY OF PARTIES

Except as expressly provided to the contrary herein, neither Ceridian nor Client shall be responsible for any damages to the other under the terms of the Agreement or arising out of their respective responsibilities hereunder, unless such damages directly result from: (i) the failure of one of the parties to fulfill any of its duties under this Agreement, or (ii) the dishonest, fraudulent, or criminal acts of a party, its employees, directors, or officers, acting alone or in collusion with others.

In reference to COBRA services under this Agreement, Ceridian and Client each agree to protect, defend and indemnify the other from and against any Charges (as defined below) arising out of or resulting from the breach by the other party of any provision of this Agreement, such amounts payable upon a Determination of Liability (as defined below) in accordance with the terms set forth below. For purposes of this Section:

Exhibit B61: Ceridian Benefits Services, Inc.
Service Agreement
Ceridian COBRA and HIPAA Services

- (a) The parties acknowledge and agree that this Agreement is a legally enforceable written agreement within the meaning of Section 4980B(e)(2)(A) with respect to and to the extent of the services that Ceridian is obligated to provide hereunder. Ceridian shall pay for excise taxes imposed upon it under Section 4980B(e)(1)(B) of the Code based on the Agreement, subject to the aggregate limits under Section 4980B(c)(4)(C) of the Code, provided that Ceridian retains all rights to challenge or seek a waiver from the Internal Revenue Service with respect to all or any portion of such excise taxes, and provided further that Client, and not Ceridian, shall have responsibility with respect to such excise taxes in cases where such tax assessments arises out of Client's act or failure to act or Ceridian following the instructions provided by Client.
- (b) "Charges" means (i) excise taxes imposed under Code Section 4980B(e)(1), subject to the provisions of the aggregate limitations set forth in Code Section 4980B(c)(4)(C) and the right of the assessed party to challenge the Internal Revenue Service with respect to all or part of the imposition of such excise taxes; and/or (ii) penalties (in an amount up to \$110 per day) that are imposed by a court under Section 502(c)(1) of ERISA and that are paid, but shall exclude the payment of the claims for medical benefits under the terms of any group health plan, and, which in the case of (i) or (ii) are incurred as a direct result of the other party breaching the Agreement;
- (c) "Determination of Liability" means: (i) the agreement by the indemnifying party ("Indemnitor") that it has committed a breach of the Agreement that directly resulted in the incurrence of a Charge by the party seeking indemnification ("Indemnitee") in response to a notice from the Indemnitee to the Indemnitor via certified mail asserting liability under this provision, and requesting payment; or (ii) a determination by a court of competent jurisdiction in a final nonappealable decision issued in a case in which the Indemnitor is a party, which decision finds that the Indemnitor has committed a breach of the Agreement that directly resulted in the Indemnitee incurring a Charge; and
- (d) Notwithstanding anything in this Section to the contrary, neither party shall be entitled to indemnification under this Section in circumstances where the Charge(s) sought hereunder result from: (i) the Indemnitor following the written instruction of the Indemnitee; (ii) reasonable reliance by the Indemnitor on information furnished by the Indemnitee; (iii) the actions or inactions of the Indemnitor in circumstances where the Indemnitor requested, but did not receive, information or guidance from the Indemnitee, which information or guidance the Indemnitee is obligated to provide under the Agreement or which is within the sole control of the Indemnitee under the applicable group health plan; (iv) the improper, illegal, fraudulent or negligent actions of the Indemnitee; or (v) a matter in which the Indemnitee fails to notify the Indemnitor within fifteen days after the Indemnitee first becomes aware of the assessment or suit against it for which indemnification will be or is sought hereunder.

I. Monies Received Are General Assets

Notwithstanding any provision in this Agreement to the contrary, Client and Ceridian intend and agree that the monies received by Ceridian and forwarded to Client as provided in this Agreement: (i) are and shall remain the general assets of Client; (ii) are not the general assets of Ceridian; and (iii) are not "plan assets" within the meaning of ERISA.