



## **MEDICAL MUTUAL SERVICES, L. L. C.**

### **AGREEMENT**

#### **METROHEALTH SELECT PLAN**

This Agreement is entered into between **County of Cuyahoga** [REDACTED] (the "Plan Sponsor") on behalf of itself and Medical Mutual Services, L. L. C. ("Medical Mutual Services").

The Effective Date of the Agreement is **January 1, 2012** at 12:01 a.m., regardless of the date executed by the parties.

### **RECITALS**

- A. The Plan Sponsor has established a benefit plan (the "Plan") for its eligible employees and their eligible dependents ("Covered Persons"); and
- B. Pursuant to the Plan, the Plan Sponsor has agreed to provide certain benefits to Covered Persons; and
- C. The Plan Sponsor has determined that it is advisable to establish an administrative relationship with Medical Mutual Services, located at 2060 East Ninth Street, Cleveland, Ohio 44115, to act as the claims administrator in (1) receiving and processing claims for benefits under the Plan; (2) disbursing claims payments under the Plan; and (3) performing such additional duties as set forth herein; and
- D. The Plan Sponsor and Medical Mutual Services have determined that it is appropriate and necessary to enter into this Agreement to set forth the respective rights and obligations of the Plan Sponsor and Medical Mutual Services in connection with the administration of the benefits pursuant to the Plan.

Now, therefore, in consideration of the mutual promises, covenants and understandings contained herein, the Plan Sponsor and Medical Mutual Services hereby agree as follows:

## **PROVISIONS**

### **ARTICLE I DEFINITIONS**

**Section 1.1** **Amendment** - a document which alters this Agreement.

**Section 1.2** **Benefit Book(s)** - the Summary Plan Description ("SPD") or applicable documents that describe the Covered Services, Benefits, eligibility requirements and other features and limitations of the Plan with respect to the Participants.

**Section 1.3** **Confidential Information** - Any information regarding claims pricing, business practices, systems information, underwriting regulations or other know-how of Medical Mutual Services or any information specifically identified by Medical Mutual Services as proprietary information. The term also includes any individually identifiable information regarding Covered Persons, including medical information.

**Section 1.4** **Covered Person(s)** - the Participant and the Participant's Eligible Dependent(s) as defined in the Benefit Book(s).

**Section 1.5** **Covered Service(s)** - a Provider's service, supply or accommodation described in the Benefit Books, schedules of benefits, riders, addenda or Amendments.

**Section 1.6** **Participant** – a person, employed by the Plan Sponsor who is eligible for and has elected to enroll in the Plan.

**Section 1.7** **Provider** - a Hospital, Other Facility Provider, Physician or other Professional Provider as defined in the Benefit Books.

### **ARTICLE II ADMINISTRATIVE OBLIGATIONS OF MEDICAL MUTUAL SERVICES**

Medical Mutual Services shall perform all duties necessary and proper in connection with the processing of any payment of benefits, including, but not limited to, the following:

- (1) Process and pay, according to the terms of this Agreement and the Benefit Books, claims incurred by Covered Persons and forwarded to Medical Mutual Services within the time periods specified in the Benefit Books and/or Addendum I.

- (2) Notify Covered Persons whose request for benefits has been denied, including the reason for the denial. Such notice will include a general statement of the right to appeal and the name, address and phone number of the appropriate party to contact to initiate an appeal, as set forth in the Benefit Books.
- (3) Provide customer service functions for Covered Persons including the provision of direct toll-free telephone access to Medical Mutual Services for answers to questions about claims.
- (4) If Medical Mutual Services determines or is subsequently informed in writing by the Plan Sponsor that it has paid any Provider more or less than the amount to which it is entitled under the Plan, Medical Mutual Services shall adjust the underpayment and recover the overpayment, except that Medical Mutual Services shall not be required to initiate court proceedings to recover the overpayments. Medical Mutual Services will cooperate with the Plan Sponsor if the Plan Sponsor initiates court proceeding to recover such overpayments.
- (5) Provide coordination of benefits ("COB") and determine whether claims may be subject to or eligible for workers' compensation services.
- (6) Provide subrogation services as part of its administration of claims under this Agreement. Medical Mutual Services will use a contracted vendor to pursue subrogation recoveries on a pay and pursue basis. The vendor will be responsible for sending letters and subrogation questionnaires to Covered Persons regarding potential subrogation claims. The vendor will also intervene in lawsuits where necessary. The subrogation vendor will begin investigation when the aggregate claims related to a subrogation case total \$500 or more. However, if a case is brought to the attention of the vendor through another source, the vendor will investigate and pursue recovery of any amounts paid, regardless of the size of the claims. A fee based on a percentage of the recovery will be retained by the contracted subrogation vendor. All credits to the Plan Sponsor will be net of that fee.
- (7) Prepare identification cards for delivery to Participants by the Plan Sponsor.
- (8) Prepare and deliver Explanation of Benefits Forms ("EOBs") to Participants.
- (9) Maintain enrollment data with updates as received from the Plan Sponsor.
- (10) Maintain and retain custody of the records of claims submitted under the Plan.
- (11) Prepare and file Internal Revenue Form 1099 as necessary for Providers.

**ARTICLE III**  
**ADMINISTRATIVE OBLIGATIONS OF THE PLAN SPONSOR**

**Section 3.1** The Plan Sponsor is solely responsible for establishing and maintaining the Plan. The Plan Sponsor agrees that the Plan shall contain any provisions that are necessary to cause the Plan to be consistent with the provider network contracts. The Plan Sponsor shall be solely responsible for the final content of the Plan and any Summary Plan Description prepared by the Plan Sponsor, except that any references in the documents to Contracting Providers or to Medical Mutual Services or the network or services provided by Medical Mutual Services or the network must be approved in writing by Medical Mutual Services or the network before any distribution of the documents, including distribution to Covered Persons.

**Section 3.2** The Plan Sponsor shall provide Medical Mutual Services with copies of the Summary Plan Description and amendments thereto in a timely manner after adoption and execution of the same. The Plan Sponsor agrees that Benefit Books may be reviewed by Medical Mutual Services to ensure compliance with Medical Mutual Services' claims processing procedures.

If Medical Mutual does not prepare Benefit Books for Plan Sponsor, Plan Sponsor understands that Medical Mutual will not begin processing claims under this Agreement until Plan Sponsor has provided Medical Mutual with its most recent Summary Plan Description and/or benefit plan booklet, to ensure Medical Mutual can accurately administer claims for benefits, utilization review and medical policy under the Plan.

The Plan may be amended by the Plan Sponsor at its discretion. The Plan Sponsor shall give Medical Mutual Services written notice of any such amendment at least sixty (60) days before its effective date. It is the Plan Sponsor's obligation to notify Participants of any changes and the effective dates thereof and provide any required Summary of Material Modification. Any change in the nature of the services provided by Medical Mutual Services under this Agreement that would be caused by their amendment, must be approved in writing by Medical Mutual Services for the change in services to be included under this Agreement. Any such approved change shall also be a basis for Medical Mutual Services to request re-negotiation of the fee paid to Medical Mutual Services by the Plan Sponsor.

In the event the parties cannot agree on a new fee within thirty (30) days of the date Medical Mutual Services received written notice of the amendment, Medical Mutual Services shall have no obligation to provide the changed services and Medical Mutual Services may terminate this Agreement upon thirty (30) days prior written notice to the Plan Sponsor.

**Section 3.3** The Plan Sponsor shall make the payments required by Addendum I attached hereto.

**Section 3.4** If the Plan Sponsor has paid Medical Mutual Services funds under this Agreement that may be returned, in whole or in part, to the Plan Sponsor at some later time, including any advance deposit, claims payments and Administrative Fees, any income or interest Medical Mutual Services has received or may receive from these funds shall be for the sole benefit of Medical Mutual Services and shall be retained by Medical Mutual Services.

**Section 3.5** The Plan Sponsor shall be financially liable for claims incurred by a Covered Person and paid by Medical Mutual Services prior to receipt from the Plan Sponsor of written or electronic notification of the termination of such Covered Person's enrollment in the Plan. The Plan Sponsor must provide Medical Mutual with written notice of any change in a person's eligibility under this Agreement in a prompt and timely manner and, in no circumstance, any later than thirty-one (31) days after the change occurs. In some situations, when an individual pays no premium (including COBRA premium) following termination of eligibility, the Plan Sponsor may be permitted to terminate coverage retroactively to the date of the loss of eligibility. The time periods for such retroactive terminations may be limited and, in many circumstances, coverage will only be able to be terminated prospectively. Medical Mutual will not recoup on behalf of the Plan Sponsor payments made to Providers in situations where rescission is not permitted by law. In the limited instances where retroactive termination is permitted by law, Medical Mutual Services will attempt to recoup payments made for former Participants who have been retroactively deleted from eligibility and credit the amounts recouped in the next billing cycle after the adjustment is processed.

**Section 3.6** The Plan Sponsor shall furnish, in a prompt and timely manner, all information regarding the Plan and Covered Persons required by Medical Mutual Services to perform its obligations under this Agreement.

**Section 3.7** The Plan Sponsor shall be responsible for reimbursing the Centers for Medicare & Medicaid Services (CMS) (or its designee) for any liability which may be imposed on the Plan under the Medicare Secondary Payer laws where the Plan paid claims on behalf of an individual on a secondary basis when in fact the Plan should have been primary to Medicare. The Plan Sponsor's liability shall remain in force and shall survive the termination of this Agreement. In no event will Medical Mutual Services assume responsibility for the Plan's liability under the Medicare Secondary Payer rules. In addition, the Plan Sponsor shall reimburse Medical Mutual Services for any costs or expenses incurred by Medical Mutual Services in determining such liability.

**Section 3.8** Because a reduction in the Plan Sponsor's premium contribution can impact the Plan's grandfathered status, the Plan Sponsor must notify Medical Mutual Services if its contribution toward the cost of coverage decreases at any time by more than five percent (5%) below the contribution rate in effect on March 23, 2010.

## **ARTICLE IV**

### **TERMINATION**

**Section 4.1** The initial term of the Agreement shall be for a period of twelve (12) months. Unless canceled or terminated earlier as provided for by this Agreement, the Agreement will renew for a further period of twelve (12) consecutive months and thereafter, from year to year through the Agreement Period ending on December 31, 2014 (the "Projected Termination Date"). Thereafter, subject to all applicable law, the parties intend to renew or enter into a new contract effective January 1, 2015 and terminating on December 31, 2016. Renewal for each Agreement Period may be subject to new administrative fees as provided in Addendum I and set forth in Exhibit A to Addendum I. Renewal for each Agreement Period may also be subject to new performance guarantees as provided in Addendum III.

The Plan Sponsor is required to solicit bids for its health care coverage every three years. If the Plan Sponsor accepts the bid of another vendor and fails to renew its medical coverage on January 1, 2015, the early termination penalty provisions set forth in Section 6 of Addendum I shall apply.

If the Plan Sponsor renews its medical coverage with Medical Mutual Services on January 1, 2015, the Administrative Fees set forth in Exhibit A of Addendum I for 2015 shall apply.

The Plan Sponsor may cancel or terminate this Agreement without cause only upon thirty (30) days written notice to Medical Mutual Services. If the medical claims administration services performed by Medical Mutual Services pursuant to this Agreement are terminated by the Plan Sponsor and the Termination Effective Date is prior to the Projected Termination Date, the early termination penalty provisions set forth in Section 6 of Addendum I shall apply. Medical Mutual Services may cancel or terminate this Agreement at any time without notice if the Plan Sponsor fails to pay the amounts required by this Agreement.

If, prior to the Projected Termination Date, Medical Mutual Services terminates this Agreement due to the Plan Sponsor's failure to pay the amounts required by this Agreement, the early termination penalty provisions set forth in Section 6 of Addendum I shall apply as if the Plan Sponsor terminated this Agreement. Medical Mutual Services' negotiation of any check sent or deposited into Medical Mutual Services' lockbox after the termination date does not constitute acceptance or reinstatement by Medical Mutual Services. Medical Mutual Services may also cancel or terminate this Agreement with thirty (30) days written notice in the event of fraud or misrepresentation by the Plan Sponsor.

Either party may terminate this Agreement in the event of a material breach of the terms of this Agreement by the other party, other than for a failure to pay as described in the immediately preceding paragraph. Such termination shall be effective thirty (30) days after written notice of the breach is delivered to the breaching party, unless the breach has been cured before the end of the thirty (30) day period. If, prior to the Projected Termination Date, either party terminates this Agreement due to a breach by the other party, the early termination penalty provisions set forth in Section 6 of Addendum I shall apply.

If the Agreement is terminated prior to the Projected Termination Date as a result of Plan Sponsor's filing of a petition for bankruptcy or liquidation, the Deferred Premium repayment provisions set forth in Section 6, Paragraph B of Addendum I shall be effective and Paragraph A of that Section 6 will apply.

If the Agreement is canceled or terminated, the Plan Sponsor must notify in writing all of its Participants of the cancellation or termination.

**Section 4.2** Additionally, this Agreement shall automatically terminate as of the effective date of any legislative enactment which makes illegal the continuation of the Plan and/or this Agreement. Termination pursuant to this provision, if it occurs prior to the Projected Termination Date, will trigger the Deferred Premium repayment provisions set forth in Section 6, Paragraph B of Addendum I; however, Paragraph A of that Section 6 will not apply.

**Section 4.3** If the Plan Sponsor fails to make any payment required by this Agreement when due, Medical Mutual Services may suspend processing of claims commencing on the day after such payment was due.

**Section 4.4** The Plan Sponsor shall be liable for all administrative fees and claim payments due to Medical Mutual Services upon termination of this Agreement, as specifically described in the attached Addendum I.

**Section 4.5** If this Agreement terminates, any claims not paid as of the Termination Effective Date shall be administered as described in Addendum I, Section 5.

## **ARTICLE V** **COVERAGE AND RIGHTS**

### **Section 5.1 Medical Mutual Services as Payor**

- (a) Nothing in this Agreement shall have the effect of imposing upon Medical Mutual Services any obligation to provide any Covered Service, but only to administer benefits for Covered Services in consideration of the amounts paid by the Plan Sponsor under this Agreement.

- (b) Medical Mutual Services shall not be considered the insurer or underwriter of the liability of the Plan Sponsor to provide benefits for Covered Persons. The Plan Sponsor shall be responsible for all expenses incident to the operation of its plan.
- (c) Medical Mutual Services shall have no responsibility to process or pay claims for services that are not Covered Services except where instructed to do so by the Plan Sponsor.
- (d) The method of calculations for deductibles, copayments, coinsurance and benefit maximums is set forth in the Benefit Books or in Addendum III.

#### **Section 5.2 Employee Retirement Income Security Act (ERISA)**

The Plan Sponsor represents that the Plan is established as a governmental plan and is, therefore, exempt from ERISA.

#### **Section 5.3 Consolidated Omnibus Budget Reconciliation Act of 1986, As Amended (COBRA)**

It is the responsibility of the Plan Sponsor to inform participants in the Plan of their COBRA mandated rights according to the provisions of COBRA, as amended, and to comply with all COBRA requirements outlined in the applicable Federal law. The Plan Sponsor may use Medical Mutual Services' contracted COBRA administrator to comply with this provision. The COBRA administrator will retain the 2% premium surcharge as compensation for its services.

#### **Section 5.4 Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

- (a) Medical Mutual Services will provide certificates of creditable coverage to individuals losing coverage under the Plan. Medical Mutual Services will provide such certificates only while this Agreement is in force. If this Agreement is terminated, no certificates will be issued by Medical Mutual Services except as requested by Covered Persons or the Plan Sponsor.
- (b) Except as provided in Paragraph 5.4(a), it is the responsibility of the Plan Sponsor to provide any other notices required by HIPAA.

#### **Section 5.5 Responsibility for Delay in Performance**

Medical Mutual Services shall not be responsible for delay in the performance of this Agreement or for the nonperformance of this Agreement if the delay or nonperformance is caused by the failure of the Plan Sponsor or any participant to comply fully with Article III. The Plan Sponsor shall not be responsible for the delay in the performance of this Agreement or for the nonperformance of this Agreement if the delay or non-performance is caused by the failure of Medical Mutual Services to comply with Article II.



## **Section 5.6 Provider Agreements**

Medical Mutual Services, through an affiliated company, negotiates agreements with providers and networks. These negotiations are undertaken on behalf of Medical Mutual Services, and not on behalf of the Plan Sponsor or the Plan. These negotiations and agreements are not a function Medical Mutual Services has undertaken or will undertake pursuant to this Agreement and Medical Mutual Services and the Plan Sponsor acknowledge that neither Medical Mutual Services nor its affiliates are fiduciaries when performing this function.

Medical Mutual Services has and retains the sole right to choose which Providers or networks it will contract with, and on what terms and to amend and terminate those agreements. Medical Mutual Services has and retains the sole right to designate Providers as contracting and/or network.

## **Section 5.7 Retention of Discretion**

The Plan Sponsor shall have the exclusive right to interpret the terms of the Benefit Book(s) and any Amendments. The decision about whether to pay any claim, in whole or in part, is within the sole discretion of the Plan Sponsor and such decisions shall be final and conclusive, subject to any appeals process as outlined in the Benefit Book(s). Medical Mutual Services and the Plan Sponsor further agree that it is the intention of Medical Mutual Services and the Plan Sponsor that the Plan Sponsor's decision to grant or deny any benefit shall be given judicial deference in any suit for review or such grant or denial of any benefit.

## **Section 5.8 Limitation of Actions**

Neither party may file suit against the other involving a dispute arising under this Agreement more than three (3) years from the date the cause of action arises.

# **ARTICLE VI AUDITS AND RECORDS**

## **Section 6.1 Cost Recovery Audits**

Medical Mutual Services or a third party hired by Medical Mutual Services may perform random cost recovery audits, which do not relate to any specific group. Where there is an adjustment to a specific claim, as a result of the audit, it will be credited to the Plan Sponsor. The credit will be shown on the Plan Sponsor's invoice as a claim adjustment. For certain recoveries where Medical Mutual Services is not responsible for the overpayment and the Medical Mutual Services claims processing system could not stop the overpayment, the cost of the recovery will be included on the Plan Sponsor's monthly invoice. This charge will reflect the percentage of the recovery that is paid to the auditing firm. In no case shall any cost be charged to the Plan Sponsor for any audit performed pursuant to this Section 6.1 for which no recovery is made. In some instances, the claim recovery will be net of the cost of the recovery. In that instance the cost will be subtracted from the credit and no separate charge will be passed on to the Plan Sponsor.

The Plan Sponsor may request that Medical Mutual Services perform specific audits of certain classes or types of claims made by or payments made on behalf of the Plan Sponsor's Covered Persons and Medical Mutual Services will do so for a reasonable fee. Any recoveries which Medical Mutual Services may receive as a result of a Plan Sponsor requested audit shall be credited to the Plan Sponsor's account less the amount of Medical Mutual Services' fee.

## **Section 6.2 Records Retention**

Medical Mutual Services shall maintain, in a form deemed appropriate by Medical Mutual Services, records relating to its responsibilities under this Agreement, including records relating to claims processing. Medical Mutual Services shall retain such records for not less than seven (7) years.

Plan Sponsor shall maintain records relating to the terms and operation of the Plan, including the identification of eligible persons, payments to Medical Mutual Services and payments for Covered Services. The Plan Sponsor shall maintain such records for a period of not less than seven (7) years.

Pursuant to paragraph 6.3 below, each party may have access to the records directly and specifically relating to the Plan and maintained by the other party, during normal business hours and upon reasonable notice, provided, however, that Medical Mutual Services shall not have to disclose provider payment fee schedules or other proprietary information. Each party shall pay the cost of copies of any records that it requests from the other party.

## **Section 6.3 Plan Sponsor's Right to Audit**

The Plan Sponsor shall have the right to audit, once per calendar year, all documents reasonably related to the Plan that are in the possession of Medical Mutual Services or its parent company, including claims submitted, claims paid or denied, application of negotiated amounts, utilization review, claims for Participants included in random cost recovery audits and any records reasonably necessary to detect fraudulent claims. The Plan Sponsor may only audit Paid Claims for the previous two Agreement periods. The Plan Sponsor may also perform such audits during the two year period following termination of this Agreement. Any requested audit following the two year period must be by mutual agreement and will be subject to a reasonable fee.

The purpose of such an audit is to provide assurance to the Plan Sponsor that the Plan Sponsor's claims are being processed and paid in accordance with the terms of this Agreement and the Benefit Book(s). The Plan Sponsor agrees to provide Medical Mutual Services with at least 60 days notice prior to any planned audit.

The Plan Sponsor specifically acknowledges that Medical Mutual Services may only agree to an audit of its own records and in no way does this Agreement give the Plan Sponsor a right to audit the records of any person or entity not a party to this Agreement, nor does Medical Mutual Services represent that it can give the Plan Sponsor such a right.

The Plan Sponsor may hire a mutually agreeable third party auditing firm to conduct the audit of records described above. The Plan Sponsor must provide Medical Mutual Services with written authorization to allow the auditor to have access to Plan records. Such auditing firm must execute a confidentiality agreement in substantially the form of Addendum II, with Exhibits, prior to any data being released to the auditor.

If the Plan Sponsor requests that Medical Mutual Services provide data to any other third party for purposes other than an audit of claims, the Plan Sponsor must provide Medical Mutual Services with a written request for release of such data. The third party receiving the data must execute an appropriate confidentiality agreement if the data request contains any Confidential Information. Depending on the nature of the request, Medical Mutual Services may require payment of a fee prior to the release of the data.

Medical Mutual Services makes no representation or warranty as to the accuracy or reliability of any conclusions or interpretations made by any person reviewing the claims data.

#### **Section 6.4 Confidentiality**

During the term of this Agreement, Plan Sponsor may be given access to Confidential Information in the form of reports, billing statements, information from audit reports, and other data requests made by the Plan Sponsor. The Plan Sponsor shall maintain the confidentiality of the Confidential Information and may not disclose the Confidential Information to any person or entity outside of Medical Mutual Services or the Plan Sponsor, except those auditors or consultants of the Plan Sponsor who have signed a Confidentiality Agreement as referenced above.

During the term of this Agreement, the parties may also be given access to individually identifiable health information that is considered private, privileged and confidential. Such information is deemed to be Covered Information for purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191. The parties are required to, and hereby agree to, maintain the private, privileged and confidential status of the Covered Information. The parties also agree to use the information only for those purposes enumerated in this Agreement as required by HIPAA. In addition, if a party discloses any Covered Information to a business partner (following written permission) pursuant to a written contract, the written contract shall meet the requirements of HIPAA.

The parties may also be given access to non-public personal information about consumers that is considered private. Such information is deemed to be protected by the Gramm-Leach-Bliley Act, P.L. 106-102 (the "GLB Act"). The parties are required to, and hereby agree to, maintain the private status of such information.

Neither the Plan Sponsor nor any of its agents shall contact any provider concerning any Confidential Information, unless said contact is conducted with the express written consent of Medical Mutual Services.

Medical Mutual Services shall maintain the confidentiality of all claims data related to the Plan and may not disclose it to any person or entity outside of Medical Mutual Services or the Plan Sponsor, except those auditors or consultants of the Plan Sponsor who have signed a Confidentiality Agreement as referenced above.

Medical Mutual Services, on behalf of itself and its agents, shall indemnify and hold the Plan Sponsor harmless for loss, damage or liability, including court costs and reasonable attorney's fees, that the Plan Sponsor may suffer by reason of (a) Medical Mutual Services' disclosure of Confidential Information in violation of this Section 6.4; or (b) the improper use of the Confidential Information by Medical Mutual Services or its agents.

The duty to indemnify will survive this Agreement.

The Plan Sponsor, when requesting indemnification, shall give Medical Mutual prompt written notice of any claim made against it by reason of the disclosure and/or use of any Confidential Information provided to it or any of its agents.

Nothing herein shall be construed to prohibit the Plan Sponsor's disclosure of aggregate payment and utilization data to any existing or prospective stop-loss insurer or to any prospective third party administrator ("TPA") or insurance carrier for the purpose of facilitating a proposal from such TPA and/or insurance carrier to administer or insure the Plan Sponsor's health care benefits.

Subject to the confidentiality provisions of this section, the Plan Sponsor shall have the right to obtain copies, upon termination of this Agreement, of claim records maintained by Medical Mutual Services or supplied to Medical Mutual Services by the Plan Sponsor. Medical Mutual Services shall also have the right to retain copies of all such records.

## **ARTICLE VII**

### **COST MANAGEMENT PROGRAMS**

The Plan Sponsor agrees to cooperate with Medical Mutual Services and Providers in cost management and utilization programs which Medical Mutual Services implements from time to time, such as preadmission certification, concurrent review, case management and other carrier liability programs to the extent that these programs do not conflict with the Plan documents.

The Plan Sponsor shall inform eligible Participants of the requirements of Medical Mutual Services' applicable network programs and assist Medical Mutual Services in implementing such requirements, including, but not limited to, financial disincentives for failure to use a network Provider for non-emergency inpatient or outpatient services. The Plan Sponsor shall maintain and set forth in its Benefit Books an incentive plan reasonably calculated to encourage eligible participants and their Eligible Dependents to utilize network providers.

## **ARTICLE VIII** **MISCELLANEOUS**

### **Section 8.1**      **Changes to the Agreement**

No change in the Agreement will be effective until approved in writing by an authorized officer of Medical Mutual Services and the Plan Sponsor. This approval must be endorsed on or attached to the Agreement. No agent, employee or representative of Medical Mutual Services or the Plan Sponsor, other than an authorized officer, may change this Agreement or waive any of its provisions. Medical Mutual Services and the Plan Sponsor shall use best efforts to act on a requested change within thirty (30) days of receipt of the request; however, failure to respond within this time frame shall not automatically validate the request.

### **Section 8.2**      **Amendments**

The terms and conditions of this Agreement may be amended at any time by mutual written agreement of Medical Mutual Services and the Plan Sponsor. It is the responsibility of the Plan Sponsor to notify Covered Persons of any changes in the terms or conditions of this Agreement.

### **Section 8.3**      **Notice**

Any notice required under this Agreement must be in writing. Notice to the Plan Sponsor must be hand-delivered or mailed by first class mail with proper postage, to the Plan Sponsor at the Plan Sponsor's address. Notice to Medical Mutual Services must be hand-delivered or mailed by first class mail with proper postage, to Medical Mutual Services at Medical Mutual Services' address. Notice shall be deemed effectively received on the date of delivery or three (3) days after the date of post mark, whichever is earlier. The Plan Sponsor or Medical Mutual Services may, by written notice, indicate a new notice address.

### **Section 8.4**      **Legal Actions**

The parties shall use reasonable care and due diligence in the exercise of their powers and the performance of their duties under this Agreement.

The defense of any legal action against the Plan Sponsor or the Plan on a claim for benefits under the Plan shall not be an obligation of Medical Mutual. The defense of any legal action against Medical Mutual Services regarding its actions under this Agreement shall not be an obligation of the Plan Sponsor. However, Medical Mutual Services and the Plan Sponsor shall have the right to participate in the defense of such actions if they so choose, at their own expense. The parties to this Agreement shall cooperate with each other by furnishing such evidence as each has available in connection with the defense of any such actions.

### **Section 8.5**      **Severability**

If any provision or any part or any application of this Agreement is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect or impair any other provision or right or remedy.

**Section 8.6**      **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the state of Ohio and all applicable Federal laws and regulations.

**Section 8.7**      **Entire Agreement**

The terms and provisions of this Agreement set forth the entire understanding of the parties and will not be changed other than by a written agreement executed by both parties pursuant to Section 8.2.

**Section 8.8**      **Assignment**

No assignment of the either party's interests under this Agreement shall be binding upon the other party unless the party agrees in writing.

**Section 8.9**      **Counterparts**

This Agreement may be executed concurrently in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**Section 8.10**      **Order of Preference**

In the event of a conflict between this Agreement and the applicable Benefit Book, this Agreement shall govern.

**Section 8.11**      **Wellness Initiative**

This Wellness Initiative will be spent on mutually agreed upon wellness and health education programs. If Medical Mutual Services does not agree with the Plan Sponsor regarding a wellness activity, then the Plan Sponsor may move forward with the activity but may not fund the activity with the Wellness Initiative dollars funded by Medical Mutual Services. The Plan Sponsor will be required to submit detailed invoices to Medical Mutual Services to support the reimbursement of wellness activities by Medical Mutual Services.

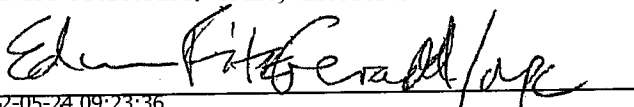
It is the express intention of the Plan Sponsor and Medical Mutual Services that designated funds shown on Exhibit A will be available annually for a three year period for Wellness Activities. Any unused amount of the designated funds after the first year and second year shall be carried over to the subsequent year. However, any unused amount after the third year shall be retained by Medical Mutual Services.

IN WITNESS WHEREOF, Medical Mutual Services and the Plan Sponsor have signed this Agreement to be effective on the Agreement Date first above written.

BY ENTERING INTO THIS AGREEMENT, I AGREE ON BEHALF OF THE CONTRACTING OR SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, AGENTS OR ASSIGNS, TO CONDUCT THIS TRANSACTION BY ELECTRONIC MEANS BY AGREEING THAT ALL DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. I ALSO AGREE ON BEHALF OF THE AFOREMENTIONED ENTITIES AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

**County of Cuyahoga**  
(The Plan Sponsor)

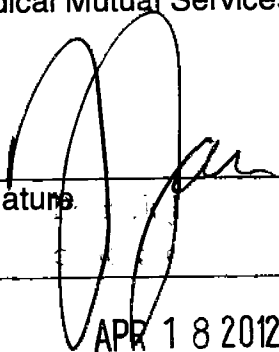
Edward FitzGerald, County Executive

  
2012-05-24 09:23:36  
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Date

**Medical Mutual Services, L. L. C.**  
(Medical Mutual Services)

  
Signature  
\_\_\_\_\_  
Title  
APR 18 2012

\_\_\_\_\_  
Date

## **ADDENDUM I** **ASO WEEKLY INVOICING**

This Addendum to the Agreement between **County of Cuyahoga** [REDACTED] **MetroHealth Select Plan** (the "Plan Sponsor") and Medical Mutual Services, L. L. C. ("Medical Mutual Services") is an amendment to the Agreement and supersedes any prior invoicing Addendum and has been adopted pursuant to the section of the Agreement entitled "Amendments".

### **Section 1: Definitions**

- A. Agreement Period: Each twelve month period that this Agreement is in effect. The parties may extend the Agreement past the Projected Termination Date upon mutual consent.
- B. Projected Termination Date: The last day of the last Agreement Period, as negotiated between the parties, upon which the then current Agreement shall terminate automatically with no further automatic renewal, as provided in Article IV of the Agreement, irrespective of whether the parties have agreed to extend the Agreement Period. The Projected Termination Date of the Agreement shall be December 31, 2016, as set forth on Exhibit A.
- C. Incurred Claim: A claim for Covered Services, as defined in the applicable Benefit Book(s), that has beginning service dates on or after the effective date of the Agreement and prior to the Termination Effective Date of the Agreement.
- D. Adjudicated Claim: An Incurred Claim which has been processed and approved for payment but has not been released for payment by Medical Mutual Services.
- E. Paid Claim: An Adjudicated Claim for which Medical Mutual Services has reimbursed the Provider or Participant on behalf of the Plan Sponsor. A claim is considered a Paid Claim as of the date shown on the check written by Medical Mutual Services.
- F. Paid Claim Amount: The amount Medical Mutual Services pays to the Provider or the Participant for the individual claim, after the claim has been adjudicated and released for payment.
  - (i) For claims at hospitals and other institutions, the Paid Claim Amount shall not include adjustments or settlements due to maximum charge increase limitation violations, prompt payment discounts, or any settlement, incentive, allowance or adjustment that does not accrue to a specific claim at the time of adjudication.
  - (ii) For claims involving physicians or other professional providers, the Paid Claim Amount is not reduced by performance withholds.



- (iii) For claims involving prescription drugs dispensed for use, the Paid Claim Amount does not include any formulary reimbursement savings, volume-based credits or refunds or discount guarantees.
- (iv) In certain circumstances, Medical Mutual Services, through an affiliated company, may have an agreement or arrangement with a vendor which purchases services, supplies or products from Providers instead of Medical Mutual Services contracting directly with Providers themselves. Medical Mutual Services' agreement or arrangement with that vendor may not include the vendor's purchase price from the Provider, but may be based on some other financial arrangement such as a guaranteed discount.

The Paid Claim Amounts, in these circumstances, will be based on the network's re-pricing agreement with the vendor and not upon the vendor's actual purchase price with the Provider, subject to any further conditions or limitations set forth herein. Vendors include, but are not limited to, pharmacy providers, other managed care providers, home health providers and other provider networks.

- (v) When the Covered Person receives services outside of the State of Ohio the claims for Covered Services will be processed whenever possible through a vendor relationship with another provider network with which Medical Mutual Services has contracted. The Paid Claim Amount for a claim submitted by an out of state provider will be based on the contractual arrangement the provider has with the network program. If the Plan's primary network does not have an arrangement with the provider, Medical Mutual Services will attempt to arrange for a discount through a secondary network. In such cases, any fees to obtain the discount will be included in the Paid Claim Amount. If there is no Agreement with a network provider, the Paid Claim Amount will be based on Net Covered Charges. The Plan Sponsor shall not be entitled to any further reduction or adjustment in the price of the claim other than what Medical Mutual Services receives from the network program.

- G. Covered Charges: the charges for Covered Services, as defined in the applicable Benefits Book(s).
- H. Net Covered Charges: Covered Charges less any deductibles, copayments, coinsurance or other patient liabilities and any amounts paid by other parties resulting from coordination of benefits, subrogation, workers' compensation and other party liability.
- I. Administrative Fee: The monthly amount paid to Medical Mutual Services by the Plan Sponsor to cover administrative and other expenses per Participant per month. The Administrative Fee is specified in Exhibit A and will increase at each annual renewal by no more than the increase in the CPI-U, subject to the provisions of Section 4, Paragraph B of this Addendum I.
- J. Discounted Fee: the Administrative Fee minus 20% discount. The Plan Sponsor will be invoiced at the Discounted level beginning January 1, 2012.

- K. Waived Fee Amount: the difference between the Administrative Fee and the Discounted Fee.
- L. Deferred Administrative Fee. The portion of the Administrative Fees incurred by the Plan Sponsor during the calendar year 2010 for which payment to Medical Mutual Services by the Plan Sponsor is deferred. The Deferred Administrative Fee shall be repaid to Medical Mutual Services in equal monthly installments, beginning January 1, 2012, and paid during the remaining 5 years of the Agreement. The Deferred Administrative Fee is shown on Exhibit A.
- M. Provider Discount: Covered Charges minus the Paid Claim Amount.
- N. Out of State Surcharges: The States of New York and Massachusetts have enacted legislation which imposes surcharges on certain health care costs incurred by Covered Persons receiving services in those states. Medical Mutual Services will pay the Out of State Surcharges directly to each state for the Plan Sponsor. The Plan Sponsor will be invoiced for actual Out of State Surcharges paid by Medical Mutual Services. Payment is due in accordance with the terms of the invoice. No additional Administrative Fee will be charged for this service. The same procedure will apply if other states pass similar legislation.
- O. Termination Effective Date: 12:01 a.m. on the date the Agreement terminates for the group, any line(s) of business or any section(s) thereof, as specified pursuant to a written termination notice from one party to the other.
- P. Access Fees: Amounts paid to Medical Mutual Services and/or the provider network(s) by the Plan Sponsor for use of the provider network(s).

## **Section 2: Invoicing**

- A. Weekly Invoices: Throughout the Agreement Period Medical Mutual Services shall invoice the Plan Sponsor each week by Electronic Mail (Email) or Facsimile (Fax) transmission for claims paid by Medical Mutual Services during the preceding week.

The Plan Sponsor will pay the invoiced amounts by Wire Transfer on the second business day following the date of the invoice. Claim Amounts will be paid in accordance with Medical Mutual Service's claims disbursement schedule. If payment of the invoice is not received when due, Medical Mutual Services will suspend payment of the group's claims.

- B. **Monthly Invoices:** Throughout the Agreement Period Medical Mutual Services shall issue on a monthly basis an invoice for the Administrative Fee and the month's claims less weekly invoices for the month. The invoice shall include the Discounted Fee presently due and payable and the monthly Deferred Administrative Fee repayment for the Agreement Periods beginning on January 1, 2012, January 1, 2013, January 1, 2014 and January 1, 2015, as set forth on Exhibit A. The Plan Sponsor shall pay the invoiced amounts due to Medical Mutual Services on the first of each month or within ten (10) days of the date of the invoice, whichever is later. If the invoice is not paid when due, Medical Mutual Services will suspend payment of the group's claims.
- C. Without waiving any other remedies Medical Mutual Services may have for non-payment or late payment by the Plan Sponsor of any amounts billed by Medical Mutual Services, including, but not limited to, Claims, Monthly Invoices and Out of State Surcharges, Medical Mutual Services reserves the right to change the Plan's claims invoicing method, described in 2A above, and will bill for claims adjudicated rather than claims paid. This means that Medical Mutual Services will invoice the Plan Sponsor for claims that are ready to be paid, but will not release those payments until funds for such claims are received from the Plan Sponsor. The change to an adjudicated invoicing method will commence immediately upon notification to the Plan Sponsor.
- D. Medical Mutual Services, through an affiliated company, has Agreements with Providers, including hospitals. Some of these Agreements with Providers allow discounts, allowances, incentives, adjustments and settlements. These amounts are for the sole benefit of Medical Mutual Services and Medical Mutual Services will retain certain of the payments resulting therefrom as more fully set forth in Section 1F hereof. In any event, however, Paid Claim Amounts shall be calculated as provided herein, and deductibles, copayments, coinsurance and benefit accumulations shall be calculated as set forth in Addendum III or the Benefit Book(s). Notwithstanding the above, the Plan Sponsor will receive the full benefit of the Provider Discount.
- E. The Plan Sponsor acknowledges and understands that the Paid Claim Amount may exceed the amount of Net Covered Charges for the Covered Services and that some of its payment responsibilities are nevertheless based on the Paid Claim Amounts and not upon the lesser of Net Covered Charges or the Paid Claim Amount.

### **Section 3: Management Reports**

Medical Mutual Services shall prepare the following standard management reports for the Plan Sponsor:

Monthly Claims Detail  
Quarterly Reporting Package  
Monthly Standard Utilization Report  
Claims Over \$10,000 (no Diagnosis Codes or descriptions) – Monthly

In addition to the reports listed above, Medical Mutual will provide the Plan Sponsor with access to ReportLink. Reports or analyses not listed herein may be provided by Medical Mutual Services for a reasonable fee upon request of the Plan Sponsor.

#### **Section 4: Changes to the Funding Arrangement**

- A. At least ninety (90) days prior to the renewal date of the Agreement, Medical Mutual Services will notify the Plan Sponsor of any changes in the Administrative Fees, Access Fees or other fee(s) and Agreement terms.
- B. Medical Mutual Services reserves the right to adjust the fees, premiums and liability limits for the Agreement Period if the group's monthly enrollment changes, either in aggregate or for a specific line of business, by ten percent (10%) from the expected monthly enrollment specified in Exhibit A. Any adjustment in fees or liability limits will be effective as of the date of the change in enrollment. If, during any Agreement Period the Plan Sponsor's total enrollment for the medical line of business decreases by fifty percent (50%) or more from the expected enrollment set forth on the applicable Exhibit A to Addendum I for the Agreement Period, such decrease in enrollment will be deemed to be a termination of the Agreement by the Plan Sponsor and the provisions set forth in Section 6 below will be applicable.

#### **Section 5: Termination**

If the Agreement terminates for the group, line(s) of business or any section(s) thereof:

- A. Medical Mutual Services will continue to process Incurred Claims where the incurred date(s) preceded the Termination Effective Date and which were received by Medical Mutual Services in accordance with the Plan Sponsor's applicable Benefit Book(s) and this Addendum I.
- B. For the first twelve (12) weeks following the Termination Effective Date, Medical Mutual Services shall continue to invoice the Plan Sponsor weekly as described in Section 2A of this Addendum I.
- C. After the first twelve weeks following the Termination Effective Date, Medical Mutual Services will invoice the Plan Sponsor for Paid Claims monthly or less frequently, through the twelfth (12th) month after the Termination Effective Date. Payment of each invoice is due within ten (10) days of the date of the invoice.
- D. Following the Termination Effective Date, Medical Mutual Services will continue to invoice the Plan Sponsor for Out of State Surcharges.
- E. Medical Mutual Services will not process, pay or adjust any claims after the twelfth (12th) month following the Termination Effective Date and any claims submitted thereafter, if payable, in whole or in part, under the applicable Benefit Book(s) or Certificate(s) shall be the Plan Sponsor's payment responsibility solely and shall not be a liability of Medical Mutual Services.

- F. Following the Termination Effective Date, if Medical Mutual Services receives any checks for payment of subrogation claims, Medical Mutual Services will forward those amounts to the Plan Sponsor.
- G. If the Plan Sponsor does not pay any invoiced amount due on the date specified for payment, Medical Mutual Services may suspend payment of claims and any other responsibilities it may have after the Termination Effective Date until payment is received.

#### **Section 6: Early Termination Penalty**

- A. **Waived Fee Amount:** If the Plan Sponsor terminates or fails to renew the Agreement, for any reason, and the Termination Effective Date is prior to the Projected Termination Date of December 31, 2016, the Plan Sponsor shall pay to Medical Mutual Services the total cumulative Waived Fee Amount for the length of time the Agreement was in effect from January 1, 2012 up to the Termination Effective date, as set forth on Exhibit A.
- B. **Deferred Administrative Fee:** If the Plan Sponsor terminates or fails to renew the Agreement, for any reason, and the Termination Effective Date is prior to the Projected Termination Date of December 31, 2016, as set forth on Exhibit A, the Plan Sponsor will owe the balance of any of the sixty (60) monthly installments not paid

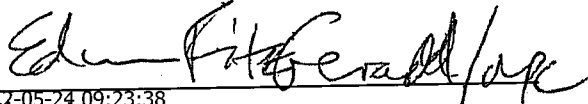
Provided the Plan Sponsor does not terminate the entire Agreement on a Termination Effective Date prior to the Projected Termination Date, all rights of Medical Mutual Services under the Agreement with respect to the Waived Fee Amount and Deferred Administrative Fee shall be automatically extinguished, without further action by either party hereto, on the Projected Termination Date.

- C. The Plan Sponsor represents and warrants that it has made or will make any appropriations necessary to effectuate payment of any applicable early termination penalty.

IN WITNESS WHEREOF, the Plan Sponsor and Medical Mutual Services have signed this Addendum I:

**County of Cuyahoga**  
(the Plan Sponsor)

Edward FitzGerald, County Executive



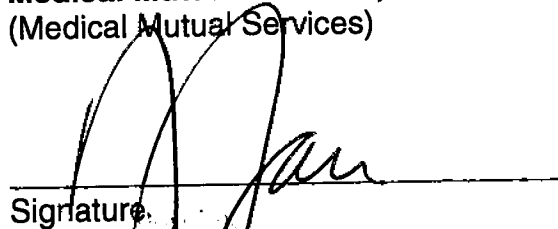
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Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Medical Mutual Services, L.L.C.**  
(Medical Mutual Services)



Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

APR 18 2012

MEDICAL MUTUAL SERVICES, L.L.C.

**EXHIBIT A**  
to  
**Addendum I**  
for  
County of Cuyahoga  
**MetroHealth Select Plan**  
[REDACTED]  
(Page 1 of 2)

**Year 1)** January 1, 2012 through December 31, 2012

<u>Per Participant per Month</u>	<u>Administrative Fees</u> <u>MetroHealth Select</u>	<u>Discounted Administrative Fees</u> <u>MetroHealth Select</u>
	\$27.08	\$21.66

*\*The Plan Sponsor will be invoiced for the Discounted Rate for the period plus the equal monthly installments of the Deferred Administrative Fee from calendar year 2010.*

Expected Monthly Enrollment (based on calendar year 2010 enrollment): 740

Enrollment for calendar year 2012: 1,877

**Deferred Administrative Fee Estimate (based on Expected Monthly Enrollment for the MetroHealth Select Plan): \$237,806**

After the end of the calendar year 2010, Medical Mutual Services will calculate the actual Deferred Administrative Fee based on actual enrollment for the calendar year 2010. The total Deferred Administrative Fee will be billed in sixty (60) equal monthly installments over the five year Agreement beginning January 1, 2012.

Annual Wellness Credit: \$75,000 (total of \$225,000 for the 3 year period from January 1, 2012 through December 31, 2014)

**Year 2)** January 1, 2013 through December 31, 2013

<u>Per Participant per Month</u>	<u>Administrative Fees</u> <u>MetroHealth Select</u> Year 1 fees + CPI-U	<u>Discounted Administrative Fees</u> <u>MetroHealth Select</u> 80% of Administrative Fees
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*\*The Plan Sponsor will be invoiced for the Discounted Rate for the period plus the equal monthly installments of the Deferred Administrative Fee from calendar year 2010.*

MEDICAL MUTUAL SERVICES, L.L.C.

**EXHIBIT A**  
to  
**Addendum I**  
for  
County of Cuyahoga  
**MetroHealth Select Plan**  
[REDACTED]

(Page 2 of 2)

**Year 3)** January 1, 2014 through December 31, 2014

<u>Per Participant per Month</u>	<u>Administrative Fees</u>	<u>Discounted Administrative Fees</u>
	<u>MetroHealth Select</u> Year 2 fees + CPI-U	<u>MetroHealth Select</u> 80% of Administrative Fees

*\*The Plan Sponsor will be invoiced for the Discounted Rates for the period plus the equal monthly installments of the Deferred Administrative Fee from calendar year 2010.*

**Year 4)** January 1, 2015 through December 31, 2015

<u>Per Participant per Month</u>	<u>Administrative Fees</u>	<u>Discounted Administrative Fees</u>
	<u>MetroHealth Select</u> Year 3 fees + CPI-U	<u>MetroHealth Select</u> 80% of Administrative Fees

*\*The Plan Sponsor will be invoiced for the Discounted Rates for the period plus the equal monthly installments of the Deferred Administrative Fee from calendar year 2010.*

**Year 5)** January 1, 2016 through December 31, 2016

<u>Per Participant per Month</u>	<u>Administrative Fees</u>	<u>Discounted Administrative Fees</u>
	<u>MetroHealth Select</u> Year 4 fees + CPI-U	<u>MetroHealth Select</u> 80% of Administrative Fees

*\*The Plan Sponsor will be invoiced for the Discounted Rates for the period plus the equal monthly installments of the Deferred Administrative Fee from calendar year 2010.*

- CPI-U floor is 0%.
- CPI-U is not capped.



**NOTE: This Addendum II is a SAMPLE Confidentiality Agreement to protect Medical Mutual's proprietary and trade secret information and is an example of the type of agreement that would be required in the event the Plan Sponsor requests that Medical Mutual provide data to a third party.**

## **ADDENDUM II**

### **CONSULTANT/AUDITOR CONFIDENTIALITY/INDEMNIFICATION AGREEMENT**

This Agreement is entered into by and between Medical Mutual Services, L. L. C. ("Medical Mutual Services") and \_\_\_\_\_ ("Consultant") this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

WHEREAS, Medical Mutual Services and \_\_\_\_\_ (the "Plan Sponsor") have previously entered into an Agreement for the administration of health care benefits; and

WHEREAS, the Plan Sponsor has requested that Medical Mutual Services make available to Consultant on-site access to certain confidential and/or proprietary information, including but not limited to material relating to the business of Medical Mutual Services, claims information, computer system information, medical records and financial information, in unscrambled form, regarding claims adjudication and payment during the period of \_\_\_\_\_ (the "Confidential Information"). A copy of the request for the Confidential Information is attached to this Agreement as Exhibit "A" and incorporated herein by reference; and

WHEREAS, Consultant represents that the request for the Confidential Information is for the purpose of reviewing claims processing and cost containment measures and is reasonably necessary to the protection or furtherance of such legitimate and lawful business purposes of the Plan Sponsor; and

WHEREAS, the parties to this Agreement undertake to preserve and protect the confidentiality of the Confidential Information.

NOW THEREFORE, in consideration of Medical Mutual Services' compliance with Plan Sponsor's request for the Confidential Information and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Medical Mutual Services will disclose and/or make Confidential Information related to Medical Mutual Services' administration of the Plan Sponsor's claims available for on-site review and/or audit by Consultant.
2. Consultant, on behalf of itself and its employees and agents, will maintain the confidentiality of the Confidential Information subject to the terms of this Agreement.
3. Medical Mutual Services makes no representation or warranty as to the accuracy or reliability of any conclusions or interpretations made by Consultant from the Confidential Information.

4. Consultant will use the Confidential Information only for the purpose of reviewing Medical Mutual Services' claims processing and cost containment measures with respect to the Plan Sponsor's claims, and will not use the Confidential Information for any other purpose.
5. Consultant will not divulge, broadcast, publish, or disseminate the Confidential Information to any person or entity other than the Plan Sponsor and/or Medical Mutual Services unless specifically authorized to do so in writing by a duly authorized representative of Medical Mutual Services. Notwithstanding the foregoing, Consultant will not disclose the data and/or information described in Paragraph 9 below to the Plan Sponsor.
6. Each employee and agent of Consultant who will have on-site access to the Confidential Information or access to work papers, notes, conclusions or reports derived from or based on Confidential Information shall execute a Confidentiality Statement in the form attached hereto as Exhibit B.
7. Neither Consultant, nor any of its employees or agents will contact any health care provider concerning the Confidential Information, unless such contact is with the express written consent of Medical Mutual Services.
8. All reviews of the Confidential Information will be conducted within the scope of the review mutually agreed upon by Consultant and Medical Mutual Services and outlined in Exhibit "A" and in accordance with this Agreement, and any additions or changes thereto must be submitted in writing to Medical Mutual Services for approval prior to implementation. Consultant agrees to provide Medical Mutual Services with a draft of the audit findings ten days prior to release to the Plan Sponsor in order to provide Medical Mutual Services the opportunity to comment on the findings.
9. Consultant acknowledges that Confidential Information to which Consultant, in the course of an on-site audit will have access to, may include data identifying the network or other discounts at a specific hospital(s) or other providers. Consultant shall not disclose any data or information to the Plan Sponsor or any other person whether in the form of notes, work papers, conclusions or report(s) which would allow, either directly or indirectly, the determination of network rates at a specific hospital(s) or other providers and will not use such information for any purpose other than this specific review or audit.
10. Consultant, on behalf of itself and its employees and agents, will indemnify and hold Medical Mutual Services harmless from loss, damage, or liability that Medical Mutual Services may suffer by reason of: (a) a breach of this Agreement; (b) the failure to obtain appropriate Confidentiality Statements as described in Paragraph 6 above; or (c) the provision of the Confidential Information to Consultant or the use of the Confidential Information by its employees or agents. The duty to indemnify Medical Mutual Services will survive this Agreement.
11. Consultant will reimburse Medical Mutual Services for all expenses, attorney's fees and costs incurred by Medical Mutual Services in any suit related to the enforcement of this Agreement where a judgment is rendered against Consultant or Consultant is ordered to pay damages or to specifically perform this Agreement.
12. Medical Mutual Services will provide Consultant with thirty (30) days' notice of any claim made against Medical Mutual Services for which Consultant is or may be liable to indemnify Medical Mutual Services.

13. This Agreement will inure to the benefit of and be binding upon all successors and assignors of the parties hereto.
14. Each provision of this Agreement, and any attachments hereto, shall be interpreted to be effective and valid under applicable law, but if any provision of this Agreement, or any attachment hereto, is prohibited or invalid under applicable law, then such provision will be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of this provision or the remaining provisions of this Agreement, or any attachment hereto.
15. The validity, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Ohio.

**EXHIBIT A to Addendum II**

**(Request For Information and statement of scope of audit to be attached).**

## **EXHIBIT B to Addendum II**

### **CONFIDENTIALITY STATEMENT**

I have been advised and understand that Medical Mutual Services, L. L. C. ("Medical Mutual Services") has an Agreement with \_\_\_\_\_ (the "Plan Sponsor") to administer health care benefits and that the Plan Sponsor requested certain information in order to conduct a review and/or audit of claims processing during the period of \_\_\_\_ (the "Review"). I further understand that such information is confidential and/or proprietary ("Confidential Information"). For the purpose of this Confidentiality Statement, Confidential Information includes any material not generally publicly available relating to the business of Medical Mutual Services, claims information, computer system information, medical records and financial information.

I will not disclose Confidential Information to anyone who is not an employee or agent of MEDICAL MUTUAL SERVICES or the Plan Sponsor, nor to any employee or agent of Consultant except those who have executed a Confidentiality Statement; nor am I to use the Confidential Information in any manner or for any purpose other than the above referenced Review. To the extent that the Confidential Information includes hospital specific discount information, I will not disclose such information to the Plan Sponsor or use it for any purpose other than this specific Review.