

**Administrative Services  
Agreement**

**Between**

**The City of La Crosse**



**and**

**Custom Benefits Administrators**

Effective January 1, 2014

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**ADMINISTRATIVE SERVICES/  
PREFERRED PROVIDER NETWORK AGREEMENT**

**Between**

**The City of La Crosse and Custom Benefit Administrators a Benefit Plan  
Administrators of Eau Claire, Inc affiliate**

**THIS AGREEMENT**, effective on January 1, 2014 by and between the City of La Crosse, a municipal corporation organized and existing under the laws of the State of Wisconsin with principal offices at 400 La Crosse Street, La Crosse, Wisconsin 54601 (hereinafter referred to as the "City"), and Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate (hereinafter referred to as "CBA") with principal offices at 305 5<sup>th</sup> Avenue South, P.O. Box 1385, La Crosse, Wisconsin 54602-1385.

**WHEREAS**, the City has established a self-funded employee medical benefit plan with a preferred provider network for certain employees, including retirees, and their dependents; and

**WHEREAS**, the City desires to have Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate administer the self-funded employee medical benefit plan on its behalf for those employees and retirees in the Health Tradition Network:

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Agreement, the City and Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agree as follows:

**Section I  
Definitions**

Plan: Means the medical plan benefits for certain employees as set forth in the Master Plan Document & Summary Plan Document annexed hereto.

Plan Member: Means employees, retirees and dependents covered under the Plan.

**Section II  
Services to Be Provided by  
Custom Benefit Administrators a Benefit Plan  
Administrators of Eau Claire, Inc. affiliate**

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agrees to perform the services and provide the supplies, forms and materials set forth below or as mutually agreed to in writing by the City and Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate. Unless otherwise specifically provided in this Agreement, in the discharge of its obligations under this Agreement, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate acts solely as a claims administrator for the City and only

as expressly stated in this Agreement. The City is the plan sponsor and plan administrator of the Plan. As used in this Agreement, all references to the City include the City Director of Human Resources.

A. Administrative Services

1. Furnish advice and assistance in a consultative capacity regarding Plan design and revisions, including advice and assistance with respect to eligibility for participation in the Plan and effective dates and cessation of Plan coverage.
2. Furnish advice and assistance in a consultative capacity periodically regarding changes applicable to the Plan under federal and state government laws and other matters, which may affect plan administration.
3. Furnish advice and assistance in a consultative capacity regarding the preparation of communication materials to be distributed by the City to Plan members.
4. Furnish advice and assistance in a consultative capacity with regard to providing employees with information as to enrollment in the Plan and any changes in benefits or coverage provided there under.
5. Prepare and file reports of un-cashed checks drawn on the bank account described in the Agreement to comply with applicable abandoned property laws.
6. Prepare and furnish the following reports summarizing financial experience:
  - a. Monthly summary of checks drawn, amount of checks, checks voided, refunds and checks paid.
  - b. Monthly reports for each designated employee plan code and in total by line of coverage.
  - c. Annual claim totals for each designated employee plan code and in total by line of coverage.
  - d. Annual report of un-recovered overpayments and subrogation cases.
  - e. All monthly reports shall be provided by the 15th day of each month commencing January 15, 2014 with the final annual report due January 15, 2017.
  - f. Annual incurred and paid claim reports shall be provided by March 31st of each year commencing March 31, 2015 with the final annual report due March 31, 2017.
  - g. Additional quarterly reports, that must be provided on a total basis and group divisions as determined by the City, to be received by City of La Crosse and designees:

- a. Enrollment (Alphabetical by Subscribers and Dependents)
  - b. Number of Enrollment by Tier (i.e. Single, Ltd Family, Family) by Month
  - c. Individual Summary of Paid Claims
  - d. Deductible Report by Participant
  - e. Claims by Cause by Type of Service
  - f. Information Required to Meet W-2 Reporting Requirements and any Health Care Reform Provisions as Enacted by The Health Care Reform Patient Protection and Affordable Act (PPACA), also known as The Affordable Care Act
  - g. Paid Claims (Weekly, Monthly and Rolling Twelve Month)
  - h. Incurred Claim Analysis (Lag Report)
  - i. Medical and Rx Utilization and Cost Analysis (if possible to integrate with Navitus)
  - j. Most Utilized Hospitals and Physicians
  - k. Large Claims Report/indicating claims amounts and diagnoses
  - l. Savings Reports, Coordination of Benefit Savings, Subrogation Savings
  - m. Reports, PPO Savings
  - n. Claims Reserve Analysis Report
  - o. Medical and Rx Network Utilization/Cost Analysis (if possible to integrate with Navitus)
  - p. Paid Claims by Provider Category
  - q. Paid Claims by Procedure Category
  - r. Top Ten (10) MDC Report
  - s. Top Ten (10) DRG Report
  - t. Top Twenty-five (25) Physician's Utilized
  - u. Top Ten (10) Hospital's Utilized
  - v. Lifetime maximum reports as necessary
7. Develop and install a benefit accounting structure for each employee class or division requested by the City.
  8. Draft proposed text to amend the Plan and Summary Plan Description as may be desired by the City from time to time.
  9. In addition to providing our standard reporting as noted in this agreement we agree to receive monthly downloads from the GHP plan and incorporate in our PHX online reporting portal at no additional cost.

B. Claim Payment Services

1. Receive claims directly from the City Plan members or health care providers and verify whether the person is enrolled in the Plan on the date the service was incurred. Furnish advice and assistance on procedures to be followed for verification of employee and family member coverage and for submission of claims.

2. Provide standard forms necessary for submission and processing of claims in accordance with the term of the Plan.
3. Establish adequate procedures and safeguards to facilitate a proper evaluation of claims submitted consistent with the terms and provisions of the Plan. This evaluation of claims shall include the following:
  - a. Professional review of claims by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate in conjunction with Health Traditions or other mutually agreed upon contracted vendors (for utilization review and case management) as required for medical necessity. The City shall have access to the standard administrative guidelines used by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate in making such review.
  - b. Critical examination of charges for medical services that appear:
    - (1) Excessive;
    - (2) Duplicative of prior claims; or
    - (3) Fraudulent and discussion for such charges with the providers of these services.
  - c. Determination of the amount of Plan benefits payable, if any, when a claimant is eligible for Medicare benefits as a primary payor.
4. Aggressively administer the coordination of benefits and subrogation provisions of the Plan including advance consultation with the City whenever: (a) a settlement is to be offered by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate/ or (b) a lawsuit is anticipated with respect to a pending subrogation case.

The City shall send written notice to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate of each claim or lawsuit coming to the attention of the City involving the City's subrogation interest. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall identify injury and accident claims received by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate for processing involving a City subrogation interest or possible workers' compensation claim.

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall send written notice of each subrogation or workers' compensation claim involving lawsuit to their subrogation vendor and Director of Human Resources in a timely basis following the date upon which Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate receives process and pleading or otherwise becomes aware of the claim. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall accompany the notice with process, pleading and its subrogation file.

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall keep the Plan member and/or the Plan member's attorney updated as to the City's subrogation interest, and may be authorized to negotiate a settlement of the City's subrogation interest with the Plan member of the Plan member's attorney if authorized to do so by the City's Human Resources department. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall refer all claim files involving lawsuits to CBA's subrogation vendor.

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate subrogation vendor (The Phia Group) shall be authorized to retain a 30% contingency fee on all amounts recovered in cases where another party or insurer is liable or contractually responsible for the injury or illness sustained by the plan participant. Note that of the 30% subrogation fee on amounts recovered, 5% will be remitted to CBA. All legal fees and expenses shall be paid by the subrogation vendor solely from the cash recoveries. When outside lawyers or experts are retained, the subrogation vendor's contingency fee will be 30% of the net recovery after the subtraction of any legal fees and/or expenses. Note that of the 30% subrogation fee on amounts recovered, 5% will be remitted to CBA. The vendor shall exercise reasonable care and accuracy in the performance of the preceding obligations.

In the event Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate is named as a party to a subrogation lawsuit, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall refer said lawsuit to the City's legal department. The City, unless otherwise mutually agreed to, shall prosecute or defend any third-party liability subrogation lawsuit. Subrogation recovery by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall be credited promptly to the City's account in accordance with this Agreement.

5. To provide Credit Balance Recovery services secured through on-site audits of health care provider's records. This service is outsourced and the vendor will retain 30% of recoveries for their services. Credit balances will not be audited sooner than 60 days from receipt of payment.
6. Compute and verify the amounts of benefits, and prepare and furnish to each claimant an appropriate statement of the amount of benefits on a form. The City's name shall be included.
7. Issue checks in payment of approved claims.
8. Notify claimants of declined claims and the reason for the declination in accordance with federal and state laws.
9. Resolve disputed claims. Cooperate fully by providing the City upon request all available information and documents within Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate's control relating to disputed claim resolution.

10. Maintain and update statistical data to enable Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate to effectively administer the Plan's UCR and discount fee basis, where applicable, for benefit payments.
11. Make reports to the Internal Revenue Service of the United States Department of the Treasury, and any other necessary reports to Federal and State agencies as required of claims administrators and send separate statements to providers of medical services furnishing information as required by the Internal Revenue Code and Regulations thereunder regarding amounts paid to those providers.
12. Maintain records regarding Plan members, including prompt incorporation of changes for individuals. Data will be furnished and updated monthly via hard copy by the City.
13. To the extent permitted by law, and when the claimant has furnished an appropriate authorization if required by law, furnish to the City upon request copies of benefit statements prepared for claimants.
14. Administer reduction of benefits in accordance with the provisions of the Plan.
15. Conduct regular audits to measure compliance with the terms of the Plan and this Agreement. Such audits shall include, but not be limited to, review of a representative sample of claims regarding:
  - a. Authenticity of signatures on submitted forms where applicable;
  - b. Validity, consistency and reconciliation of all data;
  - c. Eligibility of claimant at times services were incurred;
  - d. Mathematical accuracy of all claim payment calculations;
  - e. Proper licensing of each health care provider for which a claim is made;
  - f. Proper conformance with coding and processing procedures set forth in Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate' standard administrative guide or manual.
16. Maintain procedures, which assure compliance with applicable state and federal laws for the processing of appeals by Plan members for denied claims. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall promptly notify the City of each claim placed in the Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate formal claims appeal process; or to direct Custom Benefit Administrators a Benefit Plan



Administrators of Eau Claire, Inc. affiliate in making final decisions regarding any appeal that does not involve a determination of medical necessity.

C. Account Representative Services

The Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate designated account representative(s) will perform the following services:

1. Act as liaison with administration, technical services, claims and other departments of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate on all aspects of the contract, including without limitation, the identification and resolution of administrative, benefit payment and communication problems.
2. Assist in developing Plan design revisions
3. Obtain price quotation for extra services.
4. Arrange for extra services.
5. Assure effective and efficient operation of the contracted services.
6. Advise the City as to matters that come to its attention involving potential legal actions against the Plan and promptly advise the City of legal actions concerning the Plan commenced against Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate and/or the City. The City shall immediately furnish to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate copies of all legal process served or received which directly involve any Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate service provided under the Plan.
7. At least one account representative shall be located at offices within the corporate limits of the City of La Crosse with regular business hours during the term of this Agreement.

D. Statistical Reports and Analysis

Provide the following computer generated reports (as further described below) monthly, quarterly and annually which segregate the claims experience by: (1) plan codes (itemized for each employee class); (b) employee Plan member, spouse and children; and (c) designated operating units of the City.

1. Enrollment Report: This report summarizes the number and percentage distribution of participants by age, sex and dependency class in force as of a specified valuation date.
2. Gross Payments Report: This report consists of a monthly and cumulative summary of paid claims by incurred month. The monthly report summarizes by

incurred month all claims paid in a specified report month, whereas the cumulative report totals the paid claims data for each incurred month through the end of the incurred claims study period. The output columns detail the amounts billed by providers, amounts paid and amounts excluded from payment, including an itemization of savings from deductibles, UCR limits, discount schedule, COB, Medicare offset and subrogation. Claims should be grouped by broad categories such as hospital, physician, drugs and other medical services.

3. Utilization and Cost Analysis: Related estimated incurred claims over a particular exposure period to the exposure for that period permits an analysis of the monthly utilization of services and claim cost per Plan member. Again, the analysis is summarized by age, sex and type of service. Further analysis by specific hospitals compares charges, number of admissions and total days to the number of employee classification and by type of diagnosis (ICD-9 code).
4. Large Claim Analysis: A quarterly cost analysis report summarizing by Plan member all payments aggregating over \$10,000 per Plan member in the preceding 12 months by claim amount, diagnosis, medical provider identification and dates of service.
5. Monthly Paid Claims Summary. A monthly paid claims summary for all benefit payments made during the month. The summary should show separately for employees and dependents, the eligible charges submitted, amount paid during the month, and the number of paid claims (i.e. number of checks or drafts issued.)
6. Network Utilization. Monthly in and out of network utilization showing information noted in #7 above.
7. Gross Submitted Charges. Quarterly gross submitted charge amounts, amounts determined to be ineligible, amounts applied to deductible, copayments and coinsurance, and amount adjusted for coordination of benefits (COB).
8. Hospital Utilization. An annual report showing hospital admissions, average charge per approved day, average lengths of stay by claimant by hospital.
9. Turn Around Times. A quarterly report indicating the turnaround times on coordination of benefits (COB) claims, non-coordination of benefits (COB) claims and total claims.
10. Adhoc Programming Requests. To be determined upon request.

#### E. Communication Materials

1. Print the standard identification cards, at the City's discretion to include the City logo, complete with the necessary plan code information for new Plan members or changes by Plan members.
2. Present standard enrollment forms.

3. Print standardized explanation of benefits statements.
4. Print standard paper stock for payment checks issued.
5. Print other standard forms used in connection with the administration of the Plan.

The City will have the responsibility for reviewing for final approval all necessary forms.

**Section III**  
**Certain Responsibilities of the City**  
**&**  
**Custom Benefit Administrators a Benefit Plan**  
**Administrators of Eau Claire, Inc. affiliate**

- A. The City retains all final authority and the responsibility for the Plan. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate is empowered to act as claims administrator on behalf of the City in connection with the Plan only as expressly stated in this Agreement or as mutually agreed in writing by the City and Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate.
- B. The determination of the extent of the benefits to which any claimant is entitled under the Plan shall initially rest with Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate. However, in the event that the City determines that Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate has misinterpreted the Plan and so informs Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate in writing, all claims reported after delivery of such writing to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall be processed and paid in accordance with the City's interpretation as set forth in such writing.
- C. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall advise the City as to matters, which come to its attention involving potential legal actions against the Plan and shall promptly advise the City of legal actions commenced against Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate as the administrator and/or the City. The City shall furnish to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate copies of all legal process served or received which directly involve any Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate service provided under the Plan. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall provide the City's law department with all available claims information, and immediately furnish the City's law department with copies of all legal process served or received.

- D. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agrees to indemnify and hold harmless the City against any and all claims, lawsuits, settlements, judgments, costs, penalties and expenses, including attorney's fees, resulting from or arising out of the negligent, fraudulent or criminal acts, bad faith of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate or its employees acting alone or in collusion with others in the administration of this Agreement. For purposes of this provision, "bad faith" shall mean actions taken by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, its employees or agents, without a reasonable basis or which are in intentional or reckless disregard of the provisions of this Agreement and/or The Plan and shall include, but not be limited to, cases in which Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate improperly denied a claim. "Reasonable" includes, but is not limited to, situations when the City has provided specific written directives to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate that are contrary to the initial recommendations of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate.

The City agrees to indemnify and hold harmless Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate against all other claims, lawsuits, settlements, judgments, costs, penalties, expenses and attorneys' fees, provided they result from Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate' performance required by this Agreement and do not result from conduct or omissions by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate referred to in the first sentence of this paragraph.

In addition, in case of liability of the City resulting from determinations of medical necessity by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate independent of the requirements of Section IV.B. for which there is otherwise no liability of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate under this paragraph, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agrees to indemnify and hold harmless the City for 50% of the liability of the City which would be subject to indemnification by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate if Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate were otherwise liable for indemnification under this paragraph less payment of benefits and costs of the action.

- E. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall, in accordance with the terms and conditions of the Plan, pay the scheduled benefits for the services under the Plan. If it is determined that any payment has been made under this Agreement on account of an ineligible person, or if it is determined that an incorrect amount has been paid by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will make a diligent attempt to recover the payment made on account of the ineligible person or the overpayment or will adjust the underpayment. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will indemnify and hold harmless the City from any liability on account of payment on account of an ineligible person, as determined in accordance with Section IV. B. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc.

affiliate shall reimburse the City for any recovered overpayments. The City shall cooperate wherever possible in the recovery of overpayments.

- F. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. **affiliate shall (a) timely pay Network Providers the Contract Rates, (b) comply with the applicable terms and conditions of the Network Provider Agreements, and (c) comply with any applicable terms in third party network agreements, including but not limited to HealthEOS and Health Traditions, with regard to the administration of the network Programs and maintaining the confidentiality of the third party information, the Contract Rates and the terms of the Network Provider Agreements and other applicable terms.**

## **Section IV Additional Duties of the City**

- A. In order for Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate to perform the claim payment service and other services for the City as set forth in Section II., the City shall furnish to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate all information concerning the Plan and employees, retirees and dependents covered under the Plan as may from time to time be required by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate.
- B. In determining any person's right to benefits under the Plan, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall rely on the most current enrollment information furnished by the City prior to submission of the claim. It is mutually understood that the effective performance of this Agreement by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will require that it be advised by the City periodically, but not less frequently than monthly on a mutually-agreeable basis, during the term of this Agreement of the identity of persons enrolled for benefits under the Plan, the effective date or the termination date (as the case may be) of their enrollment and the extent of the benefits to which they are entitled.
- C. It is mutually agreed that Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall not be responsible for delay in the performance of this Agreement or for the non-performance of this Agreement to the extent that such delay or non-performance is caused by, or contributed to, the failure of the City to furnish any such information.
- D. Plan Amendments During Life of Contract
1. The City shall have the right to amend the Plan at anytime. Any amendment of the Plan shall be duly communicated in detail and in writing by the City to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate. Such communication shall also set forth the effective date of the amendment. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate may request a delay in the date for implementation of the amendment, which will be effective if mutually agreed upon by the City and Custom Benefit

Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate in advance of the implementation date. Agreement will be based upon a reasonable appraisal of the effect thereof on Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate's functions and duties under this Agreement, including the effect, if any, of making additional benefit payments on account of an effective date prior to the implementation date. Material changes may be subject to additional administrative fees to be determined upon mutual consent.

2. In connection with implementation of new benefits mandated by law during the term of this Agreement and in connection with implementation of changes in existing benefits mandated by law during the term of this Agreement, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall timely provide the City with the text of the applicable law or regulation and a written explanation of how Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate proposes to administer the subject mandated benefits if applicable. The City shall notify Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate of whether the mandated benefits should be included as an amendment to the Plan and the manner of the amendment's implementation. The decision of the City shall be final. The City shall be responsible for consulting with legal counsel with respect to any revisions or amendments to the plan. Additionally, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will provide all necessary data to assist the City in complying with regulatory requirements including but not limited to medical loss ratios, employee cost of health care reporting, etc.
- E. The City shall furnish Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate with a copy of each amendment of the Plan as soon as is practicable and, if possible, in advance of the effective date of such amendment. After receipt by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate of a copy of the amendment, the term "Plan", as used in this Agreement, shall include each such modification or amendment as of the implementation date.
- F. The City shall be responsible for establishing a twenty percent (20%) benefit differential between:
1. The covered services available from the facilities and professionals contracted through Health Tradition Network; and
  2. The covered services available from facilities and professionals that are not contracted through Health Tradition Network.
- G. The City hereby designates Health Tradition Network as one of the dual choice preferred provider networks in the Service Area for the various groups that have negotiated a dual choice preferred provider network agreement.
- H. The City hereby designates HealthEOS Network as a preferred provider network outside of the Health Tradition service area but within the state of Wisconsin,

**Section V**  
**Additional Duties and Conditions of**  
**Custom Benefit Administrators a Benefit Plan Administrators of Eau**  
**Claire, Inc. affiliate**

- A. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall be responsible to the City for any delay or nonperformance of any portion of this Agreement when Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate has been provided with pertinent and timely information, to the extent to which the City has not contributed to the delay or non-performance. In providing claim administration services for the City, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will provide a level of performance based on the following measurements of quality:
1. Claim Accuracy: A statistically valid representative sample of all claims processed by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall be audited on a quarterly basis for each processor, data entry staff member, and system-processed claims. Audit results shall be provided to the City on a quarterly basis. The parties agree to meet and negotiate progressive penalties and incentives for performance.
  2. Claim Processing Time: Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will process within 30 calendar days of receipt 85% of all claims received during each calendar quarter specific to the City. Claim processing time is the period from Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate's receipt of a claim until the transaction is completely processed and the appropriate denial notice or the appropriate check and an explanation of benefits ("EOB") is issued. A claim submitted to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will be regarded as received even though it requires additional information from sources either inside or outside Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate other than the City.
  3. Telephone Inquiries: Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will answer 95% of all telephone inquiries from Plan members the initial call.
  4. Written Grievances: Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will respond to 100% of written grievances within 14 calendar days of initial receipt. A quarterly summary report segmenting grievances by type specific to the City shall be provided.
  5. Coordination of Benefit Savings: Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will achieve optimum savings of claim dollars paid under the Plan for claims of active employees, non-Medicare-eligible retirees and their enrolled dependents. The dollar amount of savings will not include savings for Medicare-eligible redraws, subrogation, workers' compensation or other

Medicare integration. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will provide a quarterly summary report to the City itemizing the dollar amount and percentage of savings achieved. "Optimum" is the optimum percentage of paid claims determined by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate and the City effective January 1, 2014.

6. Customer Service: Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall establish a Customer Service Center for the City of La Crosse by January 1, 2014 and maintain such center for the City of La Crosse for the duration of this Agreement. Such service center shall be staffed by service representatives available to assist the City Plan members from 7:30 a.m. to 4:30 p.m. Monday through Friday. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall provide a toll-free number that any provider or Plan member can call from outside the La Crosse area to verify eligibility and benefits coverage and the status of claims processing. Toll-free number coverage and eligibility assistance shall be available from 7:30 a.m. to 4:30 p.m. Monday through Friday. Toll-free number recorded information shall be available during non-working hours. The out-of-state toll-free number shall be printed on identification cards for the convenience of the City plan members and out-of-state retirees.
7. Qualified Staff: Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall provide a fully qualified and fully trained staff for claims processing and customer service for the City.
8. Notice of Significant Events: Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall notify the City in writing of significant events which may impact the timeliness, quality or cost of services provided under this Agreement. Such events include, without limitation by enumeration, changes in the;
  - a. Assigned local account representative.
  - b. Claim unit or supervisor assigned to process claims by the City.
  - c. Location of the servicing claim office.
  - d. Data processing system when it is of a material nature.
  - e. Standard administrative guidelines used by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate for determining medical necessity, usual and customary or discount schedule levels and subrogation.

Such notice shall be made no later than five business days after Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate decides to make such a change, regardless of when the change is expected to be implemented.



## Section VI

### Financial Administration/Administrative Charges

- A. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will invoice the City weekly for claims paid in the previous week . The City will make a check from its account to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate within 10 days of receipt of the weekly invoice.
- B. The administrative fee shall cover processing of claims for a mature 12-month period. The administrative fee shall be calculated on the basis of the count of the aggregate number of enrolled active and retired employees including COBRA employees during that month as reported to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate by the City. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will itemize the administrative fee and the claims billed for each month. Payment will cover administrative fees for the previous month. Administrative fees are as follows per calendar year:
- 2014: \$15.00 per month for each enrollee active and eligible retired employee.  
2015: \$15.00 per month for each enrollee active and eligible retired employee  
2016: \$15.00 per month for each enrollee active and eligible retired employee
- Payment of monthly administration fees is for a mature month of claims and will include three months of claim run out upon expiration of the Third Party Administrative Services Agreement
- C. Large Case Management Fee  
There will be a per hourly charge for Large Case Management Fee of \$113 per hour . The outside vendor utilized for this service is American Health Holding (AHH).
- D. Out of Network PPO Plan (Fees based on % savings on specific claim)  
There will be a 25% of Savings fee for the PPO Vendor with 5% remitted to CBA for all savings generated on a per claim basis. The outside vendor utilized for this service is Multiplan.
- E. Claim editing/repricing Service  
There will be a 30% of Savings fee with 5% remitted to CBA for all savings generated on a per claim basis. The outside vendor utilized for this service is PHX
- D. Monthly Billing Fee  
There will be a monthly billing fee of \$.10 per member per month for each month's administrative services invoice.
- E. HIPPA administrative services will be performed by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate at a per member per month fee of \$.75

## **Section VII Agreement Period**

This agreement shall be effective for all claims incurred under the Plan between January 1, 2014 and December 31, 2016. This Agreement shall expire on December 31, 2016.

## **Section IIX Termination**

- A. This Agreement may be terminated prior to expiration at the earliest time specified below:
1. As of the date of termination of the Plan, subject to C of this Section.
  2. With no less than 90 days written notice, either party may terminate this Agreement without cause effective with the next succeeding December 31.
  3. In the event the City fails to make any payment or deposit when due under Section VI and such failure shall continue for 45 days, thereupon, unless Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate give written notice to the City extending the time within which a payment or deposit is due, the Agreement, and all rights of the participants to receive services under the Plan, shall cease and terminate as of such due date.
  4. In the event Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate fails to perform this Agreement or any of the terms of conditions thereof, the City may in addition to any legal and equitable remedies provided by law, terminate this Agreement upon 30 days prior written notice to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate unless such breach of contract is due to circumstances beyond the control of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate. In the event of termination, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall promptly deliver to the City all reports and such other information, materials and medical records as may be accumulated by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate in performing the services included in this Agreement, whether completed or in progress. In the event payments have been made to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate may be required to return any money given to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate should said sums previously given not be utilized for payment of claims or administrative fees as provided for therein.

- B. Termination of the Agreement shall not terminate, limit or impair the rights, obligations or liabilities of either party arising out of a period prior to such termination and not discharged prior to such termination.
- C. Upon termination of this Agreement due to termination of the Plan, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall complete the processing of all requests for benefit payments under the Plan received by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate for medical services provided prior to the termination date.
- D. Upon termination of this Agreement in a case where the Plan continues in force, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall complete the processing of all requests for benefit payments under the Plan received by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate prior to the date of termination under the terms and conditions which would be applicable if this Agreement was still otherwise in full force and effect.

The City shall be liable for reimbursement of all checks issued by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate for payment of proper claims under the Plan within the terms of this Agreement during the continuance of this Agreement and within a reasonable time following termination of this Agreement. All checks issued by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, which are outstanding upon the termination of this Agreement or issued thereafter in accordance with the immediately preceding paragraphs C. and D. will continue to be the responsibility and liability of the City. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall seek stop payment orders on any and all checks not cashed within 120 days from date of issuance and shall credit the City's account as to such uncashed checks as mutually agreed upon by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate and the City.

- E. Notice to the City or Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall be sufficient if written notice is mailed to the following:

To the City:                    Director of Human Resources  
    City of La Crosse  
    400 La Crosse Street  
    City Hall - 6th Floor  
    La Crosse, WI 54601

To Custom Benefit Administrators  
 a Benefit Plan Administrators of  
 Eau Claire, Inc. affiliate:  
    Beth Dee  
    Custom Benefit Administrators a Benefit Plan Administrators of Eau  
    Claire, Inc. affiliate  
    305 5<sup>th</sup> Avenue South; Suite 206  
    PO Box 1385  
    La Crosse, WI 54602-1385

Notice to any plan member shall be sufficient if mailed to that person's last known address.

- F. In the event the Agreement terminates for any reason, the City will be liable for reimbursement of the actual claims paid in accordance with this Agreement after termination, but will not be liable for any additional per capita administrative fees with respect to each plan member whose claim is processed. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall not be obligated to process claims received during the last business week prior to the termination date.

## **Section IX**

### **Examination and Maintenance of Records**

- A. As a condition of payment of claims, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate is authorized to require any plan member to execute a medical authorization to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate as claims administrator for the City to have access to pertinent confidential individual medical records and to permit the City to examine and copy such records for purposes of payment of claims, third-party indemnification, auditing and cost containment measures.
- B. Retention of Records
1. Period of Maintenance  
For the duration of this AGREEMENT and for such period of seven (7) years thereafter, or longer if required by applicable law, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall maintain:
    - a. papers, books, files, documents, records, and correspondence of any kind which may come into Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate's possession or control as a result of this AGREEMENT, and
    - b. computerized or data-base information of all transactions relating to the processing of claims, the submission of claims, the payment or denial of claims, and
    - c. any correspondence or other documents relating to instructions given to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate by the City including a current copy of this AGREEMENT and as such may be revised from time to time, and the most current list of plan members furnished to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate by the City.
    - d. Additionally, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall keep any disputed records for the latter of seven (7) years or seven (7) after the resolution of the dispute should the dispute extend beyond the length of this Agreement.

- e. In accordance with the Patient Protection and Affordable Care Act (the Affordable Care Act), Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will keep all necessary records for compliance including but not limited to grandfathered status, etc.

2. Ownership and Access

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agrees that it is temporary custodian of the City records and that the City maintains its status as legal custodian and the right to access and obtain the information contained therein in a prompt manner upon request. The City maintains the right to access and obtain the information contained therein in a prompt manner upon request. The City may inspect, upon written request to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, all books and records relating to the provision of services hereunder for any proper reason without additional fees being assessed by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate may restrict access to such books and records to reasonable places and times.

The City and the City's representatives shall have the right to examine, during normal business hours, any and all books, records, accounts, manuals and procedures required to be performed by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate under this AGREEMENT, including confidential individual medical records relating to claim determinations under the PLAN or which directly pertain to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate's performance of its obligations under this AGREEMENT. The City agrees to protect the confidentiality of the individual's medical information when provided by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate.

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall also provide the City with all such information concerning the City's affairs under this AGREEMENT as the City may reasonably request for auditing purposes. No extra fees shall accrue to the City for gathering medical or other records or interacting with auditors.

- C. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall provide to the City any record, which the City is obligated to release to the public or Plan member under the Wisconsin Open Records Law (sec. 19.36 (3), Stats.) and other applicable laws affecting medical related records.
- D. The City agrees to hold harmless Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate from any and all liability for damages and shall defend any litigation or other proceeding of a legal nature to which Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate is a party on account of use of any information by the City or the City's representative pursuant to this section.

- E. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall properly maintain all records in a manner as to admissible in a court of law for at least seven years relating to all the City claims submitted and benefit payment actions for such time and in such a manner as to comply with all applicable state and federal laws. If such records are maintained on microfilm or similar media, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall assure that such records are eligible, complete and exact copies of the originals. Upon termination or expiration of the Agreement and as permitted by law, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall upon request release to the City in Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate standard format claims data for Plan members accumulated under the Plan.
  
- F To the extent legally permissible, all files including aggregate year to date claims paid data will be made available to the City upon request both in hard copy and readable magnetic media at the end of each calendar year. When the contract is terminated for whatever reason all files including membership records, payment histories and paid claims data shall be made available promptly to the City in both hard copy and readable magnetic media.

## **Section X**

### **Independent Contractor**

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, its officers, agents and employees under this Agreement constitute an independent contractor. In no event shall the officers, agents and employees of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate be considered employees of the City. The City shall not be liable to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate's employees for, but not limited to, workers' compensation or unemployment compensation benefits.

## **Section XI**

### **Discrimination Prohibited**

- A. In all hiring or employment made possible by or resulting from this agreement, there will not be any discrimination against any employee or applicant for employment because of race, color, sex orientation, religion, sex, or national origin.
  
- B. Affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex orientation, sex or national origin. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required to be provided by federal or state agencies involved setting for the provisions of the clause. All solicitation or advertisements will state

that Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate is a EEO/AA employer.

- C. No person in the United States shall, on the grounds or race, color, sex orientation, religion, sex or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964 and any amendments thereto.

- D. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will attempt to cause the foregoing provision to be inserted in all subcontracts, if any, for work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

## **Section XII Assignment**

No assignment by either Party pertaining to this Agreement shall be valid without the written consent of the other Party.

## **Section XIIV Headings**

The headings in this Agreement are for information and convenience only and should not be given any legal interpretation.

## **Section XIV Amendments**

This Agreement may be modified at any time by amendment thereto signed by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate and the City.

## **Section XV Disputes between Parties**

It is expected that any disputes or differences that may arise under this Agreement will be resolved in the usual course of business. If, however, any dispute does arise between CBA and the City that relates to or arises from this Agreement, whatever its nature, the Parties agree to proceed as follows: Either Party may notify the other Party of the matter

in dispute and that it wishes to begin the dispute resolution procedure. Within thirty (30) days after notification, a designated executive of CBA and a designated representative of the City will meet and confer in an effort to resolve the problem. The Parties may, if they wish, agree to mediation or other voluntary form of dispute resolution in accordance with procedures to be agreed to by the Parties. Unless otherwise agreed, the Parties do not waive their right to pursue remedies in a court of law.

To the extent permitted by applicable law, all negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

The provisions of this Article will survive termination of this AGREEMENT.

## **Section XVI**

### **Proprietary Information**

Each Party may, in the course of the relationship established by this AGREEMENT, disclose to the other Party in confidence non-public information governing patient treatment and/or finances and such Parties earnings, volume of business, methods, systems, practices plans and other confidential commercially valuable proprietary information (collectively, "Confidential Information"). Each Party acknowledges that the disclosing Party shall at all times be and remain the owner of all confidential information disclosed by such Party, and that the Party to whom confidential information is disclosed may use such confidential information only in furtherance of the purposes and obligations of the AGREEMENT. The Party to whom any confidential information is disclosed shall use its best efforts, consistent with the manner in which it protects its own confidential information to preserve the confidentiality of any such confidential information which such Party shows or reasonably should know that the other Party deems to be confidential information. Neither Party shall use for its own benefit, or disclose to third parties any confidential information of the other Party without such other Parties written consent.

This confidentiality clause is also applicable to third party contracts and their proprietary information that may be disclosed to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, including but not limited to HealthEOS, etc.

## **Section XVII**

### **Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

Pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996, and its implementing regulation, the Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82,462 *et seq.* (Dec. 28, 2000) (hereinafter the "HIPAA Privacy Rule"), the City and Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate (hereinafter, collectively referred to as "Parties") agree to address the requirements of the HIPAA Privacy Rule as follows:



Specifically, this section is intended to ensure that effective no later than April 14, 2003, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will establish and implement appropriate safeguards (including certain administrative requirements) for "Protected Health Information" that Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate may create, receive, use, or disclose in connection with certain functions, activities, or services as defined under this agreement.

The Parties acknowledge and agree that in connection with the services to be provided, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will create, receive, use or disclose Protected Health Information. As set forth in the HIPAA Privacy Rule and as used herein, Protected Health Information ("PHI") is defined as individually identifiable health information maintained or transmitted in any form or medium, including, without limitation, all information (including demographic, medical, and financial information), data, documentation, and materials that relate to: (i) the past, present, or future physical or mental health or condition of an individual; (ii) the provision of health care to an individual; or (iii) the past, present, or future payment for the provision of health care to an individual. PHI does not include health information that has been de-identified in accordance with the standards for de-identification provided for in the HIPAA Privacy Rule.

In connection with Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate's creation, receipt, use or disclosure of PHI, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate and the City agree as follows:

#### **GENERAL TERMS**

In the event of an inconsistency between this section and the mandatory terms of the HIPAA Privacy Rule, as may be expressly amended from time to time by the Department of Health and Human Services (HHS) or as a result of interpretations by HHS, a court, or another regulatory agency with authority over the Parties, the interpretation of HHS, such court or regulatory agency shall prevail. In the event of a conflict among the interpretations of these entities, the conflict shall be resolved in accordance with rules of precedence.

Where provisions of this Agreement are different from those mandated by the HIPAA Privacy Rule, but are nonetheless permitted by the Rule, the provisions of the Agreement shall control.

Except as expressly provided in the HIPAA Privacy Rule or this Agreement, this provision does not create any rights for third parties.

#### **SPECIFIC REQUIREMENTS**

- a. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agrees to create, receive, use, or disclose PHI only in a manner that is consistent with this Agreement or the HIPAA Privacy Rule and only in connection with providing the services to the City as defined in this Agreement.
  - i. The use relates to (1) the proper management and administration of the Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate

or to carry out legal responsibilities of the Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, or (2) data aggregation services relating to the health care operations of the City; or

- ii. The *disclosure* of information received in such capacity will be made in connection with a function, responsibility, or service identified in (i)(1), *and* such disclosure is required by law *or* the Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidential and the person agrees to notify the Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate of any breaches of confidentiality.
- b. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall include in all contracts with its agents or subcontractors, if such contracts involve the disclosure of PHI to the agents or subcontractors, the same restrictions and conditions on the use and disclosure of PHI that are set forth in this provision.
  - c. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall maintain safeguards as necessary to ensure that PHI is not used or disclosed except as provided for by this provision.
  - d. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall report to the City any use or disclosure of PHI that is not provided for in this Agreement.
  - e. In accordance with 45 C.F.R. 164.524 of the HIPAA Privacy Rule, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate will make available to those individuals who are subjects of PHI, their PHI by providing the PHI to: the City (who then will share the PHI with the individual); by forwarding the PHI directly to the individual; or by making the PHI available to such individual at a reasonable time and at a reasonable location.
  - f. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall make available the information necessary to provide an accounting of disclosures of PHI as provided for in 45 C.F.R. 164.528 of the HIPAA Privacy Rule.
  - g. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall make available PHI for amendment and incorporate any amendment to PHI in accordance with 45 C.F.R. 164.526 of the HIPAA Privacy Rule.
  - h. Upon the termination or expiration of this Agreement, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agrees to return the PHI to the City, destroy the PHI (and retain no copies), or further protect the PHI if return or destruction is not feasible.
  - i. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate shall make available to the HHS or its agents, Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate internal practices, books and records relating to the use and disclosure of PHI.
  - j. The Parties agree that the City shall have the right to terminate this Agreement or seek other remedies if Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate violates a material term of this provision.
  - k. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate agrees to indemnify, defend and hold harmless the City, its directors, officers, agents, shareholders and employees from and against all claims, demands, or causes of action arising or related to Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate improper disclosure of PHI or to any intentional or negligent acts or omissions of Custom

Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate employees, agents or independent contractors.

1. The City agrees to indemnify, defend and hold harmless Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate, its directors, officers, agents, shareholders and employees from and against all claims, demands or causes of action arising or related to the City's improper disclosure of PHI or to any intentional or negligent acts or omissions of the City's employees, agents or independent contractors.

## **Section XVIII**

### **Compliance with the Gramm-Leach-Bliley Act**

Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate is required to comply with the Gramm-Leach-Bliley Act (hereinafter referred to as "GLBA"), a federal privacy law that took effect July 1, 2001. Pursuant to GLBA, all agreements that Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate enters into with persons or entities that deal with personal information of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate members must include confidentiality provisions that comply with GLBA. Therefore, the Parties agree as follows:

1. **Protection of Personal Information.** The City agrees that Personal Information will be kept strictly confidential by the City and its representatives, that it will not be used for any other purpose except to perform your duties under this agreement and that it will not be disclosed to any other parties unless such other parties need to know about such information for the sole purpose of assisting the City in the performance of the City's duties under this agreement. The City's disclosure to other parties will only be done if the other parties have agreed in writing to be bound by a confidentiality agreement similar to the confidentiality requirements specified in this section.
2. **Definitions of Terms used in 1.**
  - a. **Personal Information.** The term "Personal Information" shall mean financial and health information furnished to the City or its representatives by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate or by a potential member ("applicant") or member of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate in connection with the application and administration of health benefits administered by Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate.
  - b. **Public Information.** This Endorsement is not applicable to Public Information which means:
    - i. Personal Information that becomes generally available to the public other than as a result of any disclosure by the City or its representatives.
    - ii. Personal Information that is available to the City or its

representatives on a non-confidential basis prior to its disclosure to the City or Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate or by a potential member or member of Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate.

- iii. Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate and the applicable potential member or member give their prior written consent to the disclosure; or
- iv. The City or its representatives are obligated by applicable law to make disclosure, supported by the written opinion of the City's counsel to the effect disclosure is required by law.

## **Section XIX Non-Waiver**

The failure of either the City or Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate to insist in any one or more instance upon the performance of any one or more of the duties or obligations of this Agreement, or the failure to perform any duty or obligations of the Agreement, shall not be construed as a waiver or relinquishment for the future performance of such one or more duties or obligations of this Agreement, or of the exercise of any such right, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission.

## **Section XX Notification of Lawsuit**

Each Party hereto agrees to notify the other Parties at the time a lawsuit is initiated concerning any dispute with any third person or entity that is relevant to any rights, obligations, or other responsibilities or duties provided for under this Agreement.

## **Section XXI Modifications**

This agreement constitutes the entire agreement between the parties and no modification or amendment of this Agreement shall be valid unless made in writing and signed by the parties. The City's specifications and requests for proposals for claims administration of the medical benefit plan dated July 2013 shall also be part of the agreement between the parties. In the event that the Terms and Conditions herein are in conflict with the Terms and Conditions stated in the City's specifications and requests for proposals for claims administration of the medical plan dated July 2013, the City's Terms and Conditions shall be the applicable Terms and Conditions used henceforth.

Notice to or consent of Plan member shall not be required to effect any modifications to this Agreement provided, however, that if this Agreement or any portion shall be determined to be in violation of any statute, rule and/or regulation under state or federal law, the Parties agree to amend this Agreement to conform to such statute rule and/or regulation.

## **Section XXII**

### **Invalidity or Unenforceability**

If any provision of this Agreement is found invalid by any court or competent jurisdiction, then such provision shall be deemed automatically adjusted to conform to the requirements for validity as declared at such time and, as so adjusted, shall be deemed a provision of this Agreement as though originally included herein. In the event that the provision invalidated is of such nature that it cannot be so adjusted, the provision shall be deemed deleted from this Agreement and though the provision had never been included herein. In either case, the remaining provisions of this Agreement shall remain in effect. The invalidity or unenforceability of any terms or provisions hereof shall in no way affect the validity or enforceability of any other term or provision.

## **Section XXIII**

### **Third Party Beneficiaries**

Except as specifically provided herein, the Agreement shall not create nor be construed to create any rights in any manner whatsoever in any other person or entity as a third-party beneficiary.

## **Section XXIV**

### **Force Majeure**

In the event that any Party's activities are substantially interrupted by fire, insurrection, riots, the elements, acts of God, or without limiting the foregoing, any other cause beyond the control of such Party, such Party shall be relieved of its obligations as to all services affected for the duration of such interruption.

## **Section XXV**

### **Authority**

Each signatory to this Agreement represents and warrants that he or she has full authority to enter into this Agreement on behalf of the respective Parties hereto. The Parties represent and warrant that they have full authority to enter into and negotiate the terms of this Agreement.

**Section XXVI  
Governing Law**

This agreement shall be governed by the laws in the State of Wisconsin.

IN WITNESS HEREOF, the PARTIES hereto have caused this AGREEMENT to be executed in duplicate by their respective officers duly authorized to do so, to take effect on January 1, 2014.

CITY OF LA CROSSE:

Sign: Wendy K Oestreich Date: 5-13-14

Wendy Oestreich  
Director of Human Resources  
City of La Crosse

CUSTOM BENEFIT ADMINISTRATORS A BENEFIT PLAN ADMINISTRATORS OF EAU  
CLAIRE, INC. AFFILIATE, INC.:

Sign: Beth Dee Date: 5/14/14

Beth Dee  
Custom Benefit Administrators a Benefit Plan Administrators of Eau Claire, Inc. affiliate