

**ADDENDUM  
TO  
AGENDA**

**CITY COUNCIL MEETING**

**MONDAY, MAY 15, 2017**

7:00 p.m.

City Council Chambers, City Hall - 45 Lyon Terrace  
Bridgeport, Connecticut

**ADDED:**

**COMMUNICATION TO BE REFERRED TO COMMITTEES:**

- 79-16** Communication from City Attorney re: Proposed Workers' Compensation Stipulation with Aida Remele, referred to Miscellaneous Matters Committee.



# AGENDA

## CITY COUNCIL MEETING

MONDAY, MAY 15, 2017

7:00 P.M.

CITY COUNCIL CHAMBERS, CITY HALL – 45 LYON TERRACE  
BRIDGEPORT, CONNECTICUT

Prayer

Pledge of Allegiance

Roll Call

Mayoral and City Council Citation(s): Recognizing Mary Evette Brantley for receiving the Connecticut Alliance of Foster and Adoptive Families “CAFAF Outstanding Social Worker Award”.

City Council Citation(s): In Recognition of My Brother’s Keeper “Agents of Change” Leadership and Violence Prevention Program Graduates.

Council President Appointments to the School Building Committee

### **MINUTES FOR APPROVAL:**

Approval of City Council Minutes: April 17, 2017

### **COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

- 72-16** Communication from Labor Relations & Benefits Administration re: Proposed Pharmacy Benefit Management Agreement with Express Scripts, Inc. for the Term of October 1, 2016 through December 31, 2019, referred to Contracts Committee.
- 73-16** Communication from City Attorney re: Twenty Day Notice to Settle Pending Litigation Pursuant to Municipal Code Section 2.10.130 with Woodrow Vereen, **ACCEPTED AND MADE PART OF THE RECORD.**
- 74-16** Communication from Central Grants re: Grants Submission: Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Bridgeport Senior Center Recreation Activities Program (Project #18533), referred to Economic and Community Development and Environment Committee.
- 75-16** Communication from Central Grants re: Grants Submission: Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Elderly Hispanic Program (Project #18270), referred to Economic and Community Development and Environment Committee.
- 76-16** Communication from Central Grants re: Grants Submission: Connecticut State Library FY 2018 Targeted Grant for Historic Documents Preservation Program (Project #18213), referred to Economic and Community Development and Environment Committee.

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES CONTINUED:**

- 78-16** Communication from OPED re: Proposed Resolution regarding the 2017-2018 Citizen's Union Participation Plan, referred to Miscellaneous Matters Committee.

**RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.:**

- 77-16** Resolution presented by Council Member(s) Bukovsky and Nieves re: (Ref. #40-16) Proposed Amendments to the Municipal Code of Ordinances, Chapter 10.12 – Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally – Violations – Penalties – Exemption, amend Subsection A (5) (6), referred to Ordinance Committee.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

- \*51-16** Contracts Committee Report re: (Ref. #195-14) Amendment to the Resolution regarding the Agreement for Solar Power at Wonderland of Ice Facility.
- \*69-16** Contracts Committee Report re: Agreement with the Bridgeport Firefighters, IAFF, Local 834 regarding their Bargaining Unit Contract.

**MATTERS TO BE ACTED UPON:**

- 36-16** Public Safety and Transportation Committee Report re: Resolution requesting that the City of Bridgeport be declared a "WELCOMING CITY".

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, MAY 15, 2017 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

| NAME  | SUBJECT   |
|---|---|
| Michelle A. Lyons<br>Councilmember, D-134 <sup>th</sup><br>91 Jewett Avenue<br>Bridgeport, CT 06606                   | Community.  |
| Christine Connor<br>105 Linwood Avenue<br>Bridgeport, CT 06605  | Drugs in the area and street pavement issues.           |
| Clyde Nicholson<br>54 Wallace Street<br>Bridgeport, CT 06604  | Guns.   |
| Dasha Spell<br>144 Golden Hill Street<br>Bridgeport, CT 06604   | Education Budget.                                       |
| Jorge Cruz, Bridgeport<br>Community Rally in Peace Project<br>251 Black Rock Avenue, Apt. 2-R<br>Bridgeport, CT 06605 | Community meetings/June 3 <sup>rd</sup> Rally in Peace. |
| Cecil C. Young<br>99 Carroll Avenue<br>Bridgeport, CT 06607   | Unjust termination.                                     |

**CITY COUNCIL MEETING  
PUBLIC SPEAKING  
MONDAY, MAY 15, 2017  
6:30 PM  
City Council Chambers, City Hall  
45 Lyon Terrace  
Bridgeport, CT**

**CALL TO ORDER**

Council President McCarthy called the Public Speaking Session to order at 6:33 p.m.

The following members were present:

- 130<sup>th</sup> District: Kathryn Bukovsky, Scott Burns
- 131<sup>st</sup> District: Jack O. Banta, Denese Taylor-Moye,
- 132<sup>nd</sup> District: M. Evette Brantley, John Olson
- 133<sup>rd</sup> District: Thomas McCarthy, Jeanette Herron
- 134<sup>th</sup> District: Michelle Lyons, AmyMarie Vizzo-Paniccia
- 135<sup>th</sup> District: Mary McBride-Lee, Richard Salter
- 136<sup>th</sup> District: José Casco, Alfredo Castillo
- 137<sup>th</sup> District: Aidee Nieves, Milta Feliciano
- 138<sup>th</sup> District: Anthony Paoletto, Nessah Smith
- 139<sup>th</sup> District: Eneida Martinez, James Holloway

RECEIVED  
CITY CLERK'S OFFICE  
2017 MAY 23 P 1:23  
ATTEST  
CITY CLERK

**THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, MAY 15, 2017 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.**

| NAME   | SUBJECT    |
|--|------------|
| <b>Michelle A. Lyons</b><br>Councilmember, D-134th<br>91 Jewett Avenue<br>Bridgeport, CT 06606 | Community. |

Council President McCarthy announced that Council Member Lyons had decided not to speak at this time.

|   |   |
|---|---|
| <b>Christine Connor</b><br>105 Linwood Avenue<br>Bridgeport, CT 06605 | Drugs in the area and street pavement issues. |
|---|---|

Ms. Connor greeted the Council and said that she was a resident of Bridgeport. She said that she lives on Maple Avenue and she had been trying to get her street paved since the prior administration. She spoke about a particular area of the street where the water just settles.

Ms. Connor said that there has been an increase in the number of people parking on her street. There are people who are just parking in front of driveways and the residents can't even find street parking for themselves. Park Avenue and State Street were paved but the cross streets weren't. Now she is asking for these streets to be paved. If people are trying to rent or sell, they can't do it because there is no parking.

Ms. Connor said that she was also trying to figure out why there has been such a large increase in the drug deals going down on her street. There are drug dealers who are actually getting people's face. There has also been an increase in the number of homicides. Ms. Connor said that she wanted to make Bridgeport a better place.

**Clyde Nicholson**  
54 Wallace Street  
Bridgeport, CT 06604

Guns.

Mr. Clyde Nicholson came forward and said that he was present to speak about guns that were floating around Bridgeport. He said that it was time to put this on hold and he has been speaking about this for years.

Mr. Nicholson said that last week there had been a shooting involving a police officer. He said that the Mayor doesn't care because he can find money for everything else but can't find the money for police body cams.

*Council Members Brantley and Salter joined the meeting at 6:48 p.m.*

He said that there was no reason for the police officer to shoot the teen. With body cams, the City will know what is going on. He said that he had been pushing for 35 years for body cams. It is time to put cameras on the officers. He said that he was not against police officers because the City needs them. However, the City has been putting cameras on property, but not on police officers. Fire the Mayor and put the body cams on the police officers.

**Dasha Spell**  
144 Golden Hill Street  
Bridgeport, CT 06604

Education Budget.

Council President McCarthy called for the speaker to come forward. There was no response. He repeated the call two more times. There was no response.

**Jorge Cruz, Bridgeport**  
Community Rally in Peace Project  
251 Black Rock Avenue, Apt. 2-R  
Bridgeport, CT 06605

Community meetings/June 3rd Rally in Peace.

Mr. Jorge Cruz came forward and said that he was present to support Sanctuary City. He said that there would be a June 3rd rally for peace. While he respects the police, Mr. Cruz noted that he has two sisters, some nieces and other female relatives.

*Council Member Burns joined the meeting at 6:52 p.m.*

He said that there was a President Pro tempore who was trying to tell him what he could and could not do.

*Council Member McBride-Lee left the meeting at 6:53 p.m.*

Mr. Cruz then aired a number of issues that he had with Council Member Taylor-Moye. He spoke about a pile of debris that had been left on the sidewalk following a demolition. Mr. Cruz said that he had made many calls about the debris because there was a disabled child living near the pile and it was affecting his health.

Mr. Cruz then went on to make a number of claims against Council Member Taylor-Moye until his time ran out.

**Cecil C. Young**  
99 Carroll Avenue  
Bridgeport, CT 06607

Unjust termination.

Mr. Young said that he wanted to speak about the police department. He said that they should focus on serious crimes and not misdemeanors.

Mr. Young then spoke about how he worked for the City for 27 and a half years, and helped a number of people. He said that he was unjustly terminated. He claimed that several people had lied about his actions and cause his termination. Mr. Young then listed the numerous issues he had with the City's termination of his employment and mentioned a photograph that he had distributed earlier to the Council Members that showed him in the Chambers for an event.

The City needs the police officers and the criminals should be taken off the streets. Mr. Young went on to speak about the details of the recent events until his time ran out.

### **ADJOURNMENT.**

Council President McCarthy adjourned the public speaking portion of the Council meeting at 7:00 p.m.

Respectfully submitted,

S. L. Soltes  
Telesco Secretarial Services

**CITY OF BRIDGEPORT  
CITY COUNCIL MEETING  
MONDAY, MAY 15, 2017**

**7:00 PM**

**City Council Chambers, City Hall - 45 Lyon Terrace**

**Bridgeport, Connecticut**

**CALL TO ORDER**

Mayor Ganim called the meeting to order at 7:07 p.m.

**PRAYER**

Mayor Ganim requested Council Member McBride-Lee lead those present in prayer.

**PLEDGE OF ALLEGIANCE**

Mayor Ganim then requested Council Member Holloway to lead those present in reciting the Pledge of Allegiance.

**ROLL CALL**

City Clerk Martinez called the roll.

The following members were present:

130<sup>th</sup> District: Kathryn Bukovsky, Scott Burns  
131<sup>st</sup> District: Jack O. Banta, Denese Taylor-Moye  
132<sup>nd</sup> District: M. Evette Brantley, John Olson  
133<sup>rd</sup> District: Thomas McCarthy, Jeanette Herron  
134<sup>th</sup> District: AmyMarie Vizzo-Paniccia, Michelle Lyons  
135<sup>th</sup> District: Mary McBride-Lee, Richard Salter  
136<sup>th</sup> District: Alfredo Castillo, Jose Casco  
137<sup>th</sup> District: Aidee Nieves, Milta Feliciano  
138<sup>th</sup> District: Anthony Paoletto, Nessah Smith  
139<sup>th</sup> District: Eneida Martinez, James Holloway

A quorum was present.

**Mayoral and City Council Citation(s): Recognizing Mary Evette Brantley for receiving the Connecticut Alliance of Foster and Adoptive Families “CAF AF Outstanding Social Worker Award”.**

Council President McCarthy said that he was so pleased when the Council is able to honor one of their own.

Rev. Olson said that he was pleased to be a District Representative with Council Member Brantley.

Council Member Lyons said that Council Member Brantley works day and night for the children of Bridgeport.

Council President McCarthy then presented Council Member Brantley with the Council Citation.

Mayor Ganim said that he and Council Member Brantley and Council Member Holloway go back a ways. He was pleased to present her with the City Citation recognizing her Connecticut Alliance of Foster and Adoptive Families Outstanding Social Worker Award.

Council Member Brantley said that this month was Foster and Adoptive Families Month. She encouraged all those present to consider whether they could become foster parents so that Bridgeport children can be kept in Bridgeport. She thanked everyone for their support.

**City Council Citation(s): In Recognition of My Brother's Keeper "Agents of Change" Leadership and Violence Prevention Program Graduates.**

*This presentation was deferred to a future meeting.*

Council President McCarthy said that he had a City Citation for Mr. Jack Ferreira. Mr. Ferreira came forward and said that he loved doing entrepreneurial work.

At the conclusion of this presentation, Council Member Holloway asked for a point of personal privilege. He then spoke about his concerns regarding chemicals that were polluting the water. He said that it would be important to have the Council look into this matter. Council Member Holloway said that the Council should sit down with CCM to discuss releasing the information on the subject and to do what is right.

Council Member McBride-Lee asked for a point of personal privilege. She said that this was her fourth year in the Council seat and she has not seen a white man publicly disrespect a white woman but she has seen a black man publicly disrespect a black woman. Council Member McBride-Lee said that this needs to stop because it shows disrespect to all black women.

Council Member Taylor-Moye asked for a point of personal privilege. She said that people have been posting negative things on Facebook and using bullying tactics online. She said that she does her job as Council Member and represents her district. She said that she was a good Council Member and works for all the Bridgeport residents.

Council Member Casco asked for a point of personal privilege. He said that he would support Council Member Taylor-Moye in this and her work is important to the City.



**COUNCIL PRESIDENT APPOINTMENTS TO THE SCHOOL  
BUILDING COMMITTEE**

Council President McCarthy said that Council Member Holloway resigned from the School Building Committee. Council President McCarthy said that he would like to recognize Council Member Holloway for all the hard work he had done on the schools and said he had done a wonderful job on the committee.

- \*\* COUNCIL PRESIDENT MCCARTHY MOVED TO APPOINT COUNCIL MEMBER JACK O. BANTA TO THE SCHOOL BUILDING COMMITTEE AND APPOINT COUNCIL MEMBER AIDEE NIEVES AS CHAIR TO THE COMMITTEE.**
- \*\* COUNCIL MEMBER PAOLETTO SECONDED.**
- \*\* THE MOTION PASSED UNANIMOUSLY.**

**MINUTES FOR APPROVAL:**

**Approval of City Council Minutes: April 17, 2017.**

- \*\* COUNCIL MEMBER HOLLOWAY MOVED THE MINUTES OF APRIL 17, 2017.**
- \*\* COUNCIL MEMBER PAOLETTO SECONDED.**
- \*\* THE MOTION PASSED UNANIMOUSLY.**

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

- \*\* COUNCIL MEMBER HERRON MOVED TO COMBINE THE FOLLOWING COMMUNICATIONS TO BE REFERRED TO COMMITTEES ALONG WITH THE FOLLOWING RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS:**

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

**72-16 COMMUNICATION FROM LABOR RELATIONS & BENEFITS ADMINISTRATION RE: PROPOSED PHARMACY BENEFIT MANAGEMENT AGREEMENT WITH EXPRESS SCRIPTS, INC. FOR THE TERM OF OCTOBER 1, 2016 THROUGH DECEMBER 31, 2019, REFERRED TO CONTRACTS COMMITTEE.**

**73-16 COMMUNICATION FROM CITY ATTORNEY RE: TWENTY DAY NOTICE TO SETTLE PENDING LITIGATION PURSUANT TO MUNICIPAL CODE SECTION 2.10.130 WITH WOODROW VEREEN, ACCEPTED AND MADE PART OF THE RECORD.**

**74-16 COMMUNICATION FROM CENTRAL GRANTS RE: GRANTS SUBMISSION: SOUTHWESTERN CONNECTICUT AGENCY ON AGING (SWCAA) TITLE III FUNDING OLDER AMERICANS ACT GRANT PROGRAM – BRIDGEPORT SENIOR CENTER RECREATION ACTIVITIES PROGRAM (PROJECT #18533), REFERRED TO ECONOMIC AND COMMUNITY DEVELOPMENT AND ENVIRONMENT COMMITTEE.**

**75-16 COMMUNICATION FROM CENTRAL GRANTS RE: GRANTS SUBMISSION: SOUTHWESTERN CONNECTICUT AGENCY ON AGING (SWCAA) TITLE III FUNDING OLDER AMERICANS ACT GRANT PROGRAM – ELDERLY HISPANIC PROGRAM (PROJECT #18270), REFERRED TO ECONOMIC AND COMMUNITY DEVELOPMENT AND ENVIRONMENT COMMITTEE.**

**76-16 COMMUNICATION FROM CENTRAL GRANTS RE: GRANTS SUBMISSION: CONNECTICUT STATE LIBRARY FY 2018 TARGETED GRANT FOR HISTORIC DOCUMENTS PRESERVATION PROGRAM (PROJECT #18213), REFERRED TO ECONOMIC AND COMMUNITY DEVELOPMENT AND ENVIRONMENT COMMITTEE.**

**79-16 COMMUNICATION FROM CITY ATTORNEY RE: PROPOSED WORKERS’ COMPENSATION STIPULATION WITH AIDA REMELE, REFERRED TO MISCELLANEOUS MATTERS COMMITTEE.**

**RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.:**

**77-16 RESOLUTION PRESENTED BY COUNCIL MEMBER(S) BUKOVSKY AND NIEVES RE: (REF. #40-16) PROPOSED AMENDMENTS TO THE MUNICIPAL CODE OF ORDINANCES, CHAPTER 10.12 – STOPPING, STANDING AND PARKING GENERALLY, SECTION 10.12.010 – RESTRICTIONS ON STOPPING OR PARKING GENERALLY – VIOLATIONS – PENALTIES – EXEMPTION, AMEND SUBSECTION A (5) (6), REFERRED TO ORDINANCE COMMITTEE.**

**\*\* COUNCIL MEMBER HOLLOWAY SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

Mayor Ganim asked if there was any Council Member who would like to remove an item from the Consent Calendar. Hearing none, Mayor Ganim requested that the City Clerk read the Consent Calendar into the record.

**\*\* COUNCIL MEMBER HERRON MOVED TO ADD ITEM 68-16 PROPOSED MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT WITH VERIZON CREDIT INC. REGARDING SERVICES AND EQUIPMENT FOR THE POLICE, FIRE AND EOC DEPARTMENTS UNDER THE NEXGEN SOFTWARE PURCHASE TO THE AGENDA.**

**\*\* COUNCIL MEMBER BUKOVSKY SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

The discussion then returned to the Consent Calendar as read into the record.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR) CONT'D:**

**\*\* COUNCIL MEMBER HERRON MOVED THE FOLLOWING ITEMS ON THE CONSENT CALENDAR:**

**\*51-16 CONTRACTS COMMITTEE REPORT RE: (REF. #195-14) AMENDMENT TO THE RESOLUTION REGARDING THE AGREEMENT FOR SOLAR POWER AT WONDERLAND OF ICE FACILITY.**

**\*69-16 CONTRACTS COMMITTEE REPORT RE: AGREEMENT WITH THE BRIDGEPORT FIREFIGHTERS, IAFF, LOCAL 834 REGARDING THEIR BARGAINING UNIT CONTRACT.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**MATTERS TO BE ACTED UPON:**

**36-16 Public Safety and Transportation Committee Report re: Resolution requesting that the City of Bridgeport be declared a "WELCOMING CITY".**

**\*\* COUNCIL MEMBER BRANTLEY MOVED THE ITEM.**

**\*\* COUNCIL PRESIDENT MCCARTHY SECONDED.**

**\*\* THE MOTION TO APPROVE AGENDA ITEM 36-16 PUBLIC SAFETY AND TRANSPORTATION COMMITTEE REPORT RE: RESOLUTION REQUESTING THAT THE CITY OF BRIDGEPORT BE DECLARED A "WELCOMING CITY" PASSED WITH SIXTEEN (16) IN FAVOR (BUKOVSKY, BURNS, BANTA, TAYLOR-MOYE, BRANTLEY, OLSON, MCCARTHY, HERRON, SALTER, CASCO, CASTILLO, NIEVES, FELICIANO, SMITH, MARTINEZ AND HOLLOWAY) AND FOUR (4) OPPOSED (LYONS, VIZZO-PANICCIA, MCBRIDE-LEE AND PAOLETTO).**

Mayor Gamin said that he would like to express his appreciation to all the Council Members who worked so hard to see that this item passed.

**68-16 Proposed Master Equipment Lease-Purchase Agreement with Verizon Credit Inc. regarding Services and Equipment for the Police, Fire and EOC Departments under the Nexgen Software Purchase.**

**\*\* COUNCIL MEMBER HERRON MOVED THE ITEM.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION TO APPROVE AGENDA ITEM 68-16 PROPOSED MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT WITH VERIZON CREDIT INC. REGARDING SERVICES AND EQUIPMENT FOR THE POLICE, FIRE AND EOC DEPARTMENTS UNDER THE NEXGEN SOFTWARE PURCHASE PASSED UNANIMOUSLY.**

Council President McCarthy said that he would like to announce this was the last meeting for the Junior Council Members. He requested that all the Junior Council Members present stand and thanked them for their efforts. He went on to say that this was the most impressive and enthusiastic group that the Council Members had seen and they exceeded all expectations.

Mayor Gamin then thanked Ms. Papa for her contributions to this program.

Council Member Olson then spoke about how important it was to protect minority groups like the homosexuals, the Muslims and the illegal aliens. He thanked those who supported the measure.

Council Member Martinez said that she would like to send a shout out to the Bridgeport Police Department. She reminded everyone that that residents need the police to keep them safe. She said she thanked them from the bottom of her heart.

Council Member Casco then spoke about the fact that today Bridgeport became a welcoming city.

Council Member Brantley said that if there was anyone present who wished to become a foster parent, to please come and see her after the conclusion of the meeting.

Council Member Bukovsky said she would like to thank Council Member Holloway for his implementation of a recent program.

**ADJOURNMENT.**

**\*\* COUNCIL MEMBER PAOLETTO MOVED TO ADJOURN.**

**\*\* COUNCIL MEMBER MCBRIDE-LEE SECONDED.**

**\*\* THE MOTION TO ADJOURN PASSED UNANIMOUSLY.**

The meeting adjourned at 7:44 p.m.

Respectfully submitted,  
S. L. Soltes  
Telesco Secretarial Services



*City of Bridgeport*  
*Labor Relations and Benefits Administration*

*45 Lyon Terrace*  
*Bridgeport, Connecticut 06604*  
*Telephone 203-576-7843*

*Joseph P. Ganim*  
*Mayor*

*Janene Hawkins*  
*Director*

*Richard D. Weiner*  
*Benefits Manager*

COMM. #72-16 Ref'd to Contracts Committee on 05/15/2017.

May 4, 2017

Honorable Lydia Martinez  
City Clerk  
City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

Dear Madam Clerk:

Attached please find thirteen copies of the Pharmacy Benefit Management Agreement between Express Scripts, Inc. and the City.

The term of the Agreement is from October 1, 2016 and December 31, 2019.

I respectfully request that these documents be referred to the Contracts Committee at the Council meeting of May 15, 2017.

Sincerely,

Richard D. Weiner  
Benefits Manager

ATTEST  
CITY CLERK

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2011 MAY -4 P 2:34

**EXPRESS SCRIPTS, INC.  
PHARMACY BENEFIT MANAGEMENT AGREEMENT**

THIS PHARMACY BENEFIT MANAGEMENT AGREEMENT ("Agreement") will be effective as of the date set forth in Section 6.1 and is entered into by and between EXPRESS SCRIPTS, INC., a Delaware corporation ("ESI"), and CITY OF BRIDGEPORT, organized under the laws of the state of Connecticut ("Sponsor").

**RECITALS**

A. The Connecticut Public Sector Coalition (the "Coalition") issued a Request for Proposal for the provision of prescription drug benefit services for the Coalition Members to be provided under separate agreements to be executed between ESI and each Coalition Member.

B. ESI, either directly or through its subsidiaries, engages in pharmacy benefit management services, including, among other things, pharmacy network contracting; pharmacy claims processing; mail and specialty drug pharmacy; cost containment, clinical, safety, adherence, and other like programs; and formulary administration ("PBM Services").

C. Coalition desires to retain the services of ESI on behalf of Coalition Members.

D. Sponsor provides or arranges for the provision of health benefits, including a prescription drug benefit.

E. ESI and Sponsor desire that ESI be the exclusive provider of PBM Services for Sponsor's Plan (as defined below) under the terms and conditions set forth herein.

THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

**TERMS OF AGREEMENT**

**ARTICLE I - DEFINITIONS**

"Ancillary Supplies, Equipment, and Services" or "ASES" means ancillary supplies, equipment, and services provided or coordinated by ESI Specialty Pharmacy in connection with ESI Specialty Pharmacy's dispensing of Specialty Products. ASES may include all or some of the following: telephonic and/or in-person training, nursing/clinical services, in-home infusion and related support, patient monitoring, medication pumps, tubing, syringes, gauze pads, sharps containers, lancets, test strips, other supplies, and durable medical equipment. The aforementioned list is illustrative only (not exhaustive) and may include other supplies, equipment, and services based on the patient's needs, prescriber instructions, payer requirements, and/or the Specialty Product manufacturer's requirements.

"Average Wholesale Price" or "AWP" means the average wholesale price of a prescription drug as identified by drug pricing services such as Medi-Span or other source recognized in the retail prescription drug industry selected by ESI (the "Pricing Source"). The applicable AWP shall be the 11-digit NDC for the product on the date dispensed, and for prescriptions filled in Participating Pharmacies, Mail Service Pharmacy, and ESI Specialty Pharmacy will be the AWP for the package size from which the prescription drug was dispensed. If the Pricing Source discontinues the reporting of AWP or Multi-Source Indicator code identifiers or materially changes the manner in which AWP is calculated or its Multi-Source Indicator code identifiers are reported, then ESI reserves the right to make an equitable adjustment as necessary to maintain the parties' relative economics and the pricing intent of this Agreement.

"Brand/Generic Algorithm" or "BGA" means ESI's standard and proprietary brand/generic algorithm, a copy of which may be made available for review by Sponsor or its Auditor upon request. The purposes of the algorithm are to utilize a comprehensive and logical algorithm to determine the brand or generic status of products in the ESI master drug file using a combination of industry standard attributes, to stabilize products "flipping" between brand and generic status as may be the case when a single indicator is used from industry pricing sources, and to reduce Sponsor, Member and provider confusion due to fluctuations in brand/generic status. Sponsor or its Auditor may audit ESI's application of its BGA to confirm that ESI is making brand and generic drug determinations consistent with such algorithm.



“Brand Drug” means a prescription drug identified as such in ESI’s master drug file using indicators from First Databank (or other source nationally recognized in the prescription drug industry) on the basis of a standard Brand/Generic Algorithm, a copy of which may be made available for review by Sponsor or its Auditor upon request.

“Coalition” means the Connecticut Public Sector Coalition. The parties recognize however that there is no such legal entity as the Coalition.

“Coalition Member” means each entity that participates in the Coalition, as mutually agreed between the Coalition and ESI.

“Copayment” means that portion of the charge for each Covered Drug dispensed to the Member that is the responsibility of the Member (e.g., copayment, coinsurance and/or deductible) as indicated on the Set-Up Forms.

“Covered Drug(s)” means those prescription drugs, supplies, Specialty Products and other items that are covered under the Plan, each as indicated on the Set-Up Forms.

“Eligibility Files” means the list submitted by Sponsor to ESI in reasonably acceptable electronic format indicating persons eligible for drug benefit coverage services under the Plan.

“ESI National Plus Network” means ESI’s broadest Participating Pharmacy network.

“ESI Specialty Pharmacy” means CuraScript, Inc., Accredo Health Group, Inc., Express Scripts Specialty Distribution Services, Inc., or another pharmacy or home health agency wholly-owned or operated by ESI or one or more of its affiliates that primarily dispenses Specialty Products or provides services related thereto; provided, however, that when the Mail Service Pharmacy dispenses a Specialty Product, it shall be considered an ESI Specialty Pharmacy hereunder.

“Formulary” means the list of FDA-approved prescription drugs and supplies developed by ESI’s Pharmacy and Therapeutics Committee and/or customized by Sponsor, and which is selected and/or adopted by Sponsor. The drugs and supplies included on the Formulary will be modified by ESI from time to time as a result of factors, including, but not limited to, medical appropriateness, manufacturer Rebate arrangements, and patent expirations. Additions and/or deletions to the Formulary are hereby adopted by Sponsor, subject to Sponsor’s discretion to elect not to implement any such addition or deletion through the Set-Up Form process, which such election shall be considered a Sponsor change to the Formulary.

“Generic Drug” means a prescription drug, whether identified by its chemical, proprietary, or non-proprietary name, that is therapeutically equivalent and interchangeable with drugs having an identical amount of the same active ingredient(s) and approved by the FDA, and which is identified as such in ESI’s master drug file using indicators from First Databank (or other source nationally recognized in the prescription drug industry) on the basis of a standard Brand/Generic Algorithm, a copy of which may be made available for review by Sponsor or its Auditor upon request.

“MAC List” means a list of off-patent prescription drugs or supplies subject to maximum reimbursement payment schedules developed or selected by ESI.

“Mail Service Pharmacy” means a pharmacy wholly-owned or operated by ESI or one or more of its affiliates, other than an ESI Specialty Pharmacy, where prescriptions are filled and delivered to Members via mail delivery service.

“Manufacturer Administrative Fees” means those administrative fees paid by manufacturers to ESI in connection with ESI’s invoicing, allocating and collecting the Rebates under the Rebate program.

“Maximum Reimbursement Amount” or “MRA” means the maximum unit ingredient cost payable by Sponsor for a drug on the MAC List based on maximum reimbursement payment schedule(s) developed or selected by ESI. The application of MRA pricing may be subject to certain “dispensed as written” (DAW) protocols and Sponsor defined plan design and coverage policies.

“Member” means each person who Sponsor determines is eligible to receive prescription drug benefits as indicated in the Eligibility Files.

“Member Submitted Claim” means a paper claim submitted by a Member for Covered Drugs dispensed by a pharmacy for which the Member paid cash.

“Participating Pharmacy” means any licensed retail pharmacy with which ESI or one or more of its affiliates has executed an agreement to provide Covered Drugs to Members, but shall not include any mail order or specialty pharmacy affiliated with any such Participating Pharmacy. Participating Pharmacies are independent contractors of ESI.

“PMPM” means per Member per month fee, if applicable, as determined by ESI from the Eligibility Files.

“Plan” means any self-funded prescription drug benefit plan(s) administered by Sponsor or a subsidiary or affiliate of Sponsor (including any retiree or Medicare employer group waiver plans).

“Prescription Drug Claim” means a Member Submitted Claim, Subrogation Claim or claim for payment submitted to ESI by a Participating Pharmacy, Mail Service Pharmacy, or ESI Specialty Pharmacy as a result of dispensing Covered Drugs to a Member.

“Rebates” mean retrospective formulary rebates that are paid to ESI pursuant to the terms of a formulary rebate contract negotiated independently by ESI and directly attributable to the utilization of certain Covered Drugs by Members. For sake of clarity, Rebates do not include, for example, Manufacturer Administrative Fees; inflation payments; product discounts or fees related to the procurement of prescription drug inventories by ESI Specialty Pharmacy or the Mail Service Pharmacy; fees received by ESI from pharmaceutical manufacturers for care management or other services provided in connection with the dispensing of products; or other fee-for-service arrangements whereby pharmaceutical manufacturers generally report the fees paid to ESI or its wholly-owned subsidiaries for services rendered as “bona fide service fees” pursuant to federal laws and regulations (collectively, “Other Pharma Revenue”). Such laws and regulations, as well as ESI’s contracts with pharmaceutical manufacturers, generally prohibit ESI from sharing any such “bona fide service fees” earned by ESI, whether wholly or in part, with any ESI client.

“Set-Up Forms” means any standard ESI document or form, which when completed and signed by Sponsor (electronic communications from Sponsor indicating Sponsor’s approval of a Set-Up Form shall satisfy the foregoing), will describe the essential benefit elements and coverage rules adopted by Sponsor for its Plan.

“Specialty Product List” means the standard list of Specialty Products and their reimbursement rates applicable to Sponsor under the applicable (exclusive or open) option maintained and updated by ESI from time to time. The Specialty Product List is available to Sponsor upon request.

“Specialty Products” means those injectable and non-injectable drugs on the Specialty Product List. Specialty Products, which may be administered by any route of administration, are typically used to treat chronic or complex conditions, and typically have one or more of several key characteristics, including frequent dosing adjustments and intensive clinical monitoring to decrease the potential for drug toxicity and increase the probability for beneficial treatment outcomes; intensive patient training and compliance assistance to facilitate therapeutic goals; limited or exclusive product availability and distribution (if a drug is only available through limited specialty pharmacy distribution it is always considered a Specialty Product); specialized product handling and/or administration requirements.

“Subrogation Claim” means subrogation claims submitted by any state or a person or entity acting on behalf of a state under Medicaid or similar United States or state government health care programs, for which Sponsor is deemed to be the primary payor by operation of applicable federal or state laws.

“UM Company” means MCMC, LLC or other independent third party utilization management company contracted by ESI, subject to and as further described in Sections 2.3 (d) and (e).



"Usual and Customary Price" or "U&C" means the retail price charged by a Participating Pharmacy for the particular drug in a cash transaction on the date the drug is dispensed as reported to ESI by the Participating Pharmacy.

"Vaccine Claim" means a claim for a Covered Drug which is a vaccine.

"Vendor Transaction Fee" means the data interchange fee that ESI is charged by its third party vendor to convert Vaccine Claims submitted electronically by physicians to NCPDP 5.1 format in order for ESI to process the claim.

## ARTICLE II - PBM SERVICES

2.1 Eligibility/Set Up. Sponsor will submit completed Set-Up Forms and Eligibility Files (initial and updated) on a mutually determined basis, which ESI will accurately implement. Changes to the Set-Up Forms must be documented on ESI's standard amendment forms. Eligibility performed manually by ESI for Sponsor, or material changes to the Eligibility File processes requested by Sponsor during the term may be subject to additional fees set forth on Exhibit A. Sponsor will be responsible for all Prescription Drug Claims during the period of the Member's eligibility as indicated on the Eligibility File including for retroactively termed Members, except in the event of ESI's negligence.

### 2.2 Pharmacy Network.

(a) Participating Pharmacies. ESI will maintain a network(s) of Participating Pharmacies as identified in Exhibit A, and will make available an updated list of Participating Pharmacies on-line. ESI maintains multiple networks and subnetworks, and periodically consolidates networks or migrates clients to other networks and subnetworks. If, due to an access concern, Sponsor requests that ESI attempt to add a particular retail pharmacy to the network of Participating Pharmacies serving Sponsor and its Members hereunder, ESI will make commercially reasonable efforts to add any such pharmacy to the Participating Pharmacy network for Sponsor, provided that such pharmacy meets ESI's network participation requirements and agrees to ESI's standard terms and conditions. If any such pharmacy meets ESI's network participation requirements and agrees to ESI's standard terms and conditions except for ESI's standard network rates (i.e., the particular pharmacy will only agree to higher than standard reimbursement rates), and Sponsor nevertheless requests that ESI add such pharmacy, the rate charged to Sponsor for Prescription Drug Claims processed through such pharmacy (assuming ESI agrees to contract with such pharmacy) will be the net ingredient cost plus the dispensing fee paid by ESI to such Participating Pharmacy (plus applicable sales or excise tax or other governmental surcharge, if any). All such Prescription Drug Claims will be excluded from the pricing guarantees set forth in Exhibit A.

(i) ESI will require each Participating Pharmacy to meet ESI's network participation requirements, including but not limited to licensure, insurance and provider agreement requirements. ESI also provides a standard suite of pharmacy audit services to determine Participating Pharmacies' compliance with their provider agreement billing requirements. ESI will attempt recovery of identified overpayments through offset, demand or other reasonable means; provided that ESI will not be required to institute litigation. Recovered overpayments are credited to Sponsor. Copies of participation requirements and auditing processes are available upon request.

(ii) ESI does not direct or exercise any control over the Participating Pharmacies or the professional judgment exercised by any pharmacist in dispensing prescriptions or otherwise providing pharmaceutical related services at a Participating Pharmacy. ESI shall have no liability to Sponsor, any Member or any other person or entity for any act or omission of any Participating Pharmacy or its agents or employees.

(b) Mail Service Pharmacy. Members may have prescriptions filled through the Mail Service Pharmacy. Subject to applicable law, ESI may communicate with Members regarding benefit design, cost savings, availability and use of the Mail Service Pharmacy, as well as provide supporting services. ESI may suspend Mail Service Pharmacy services to a Member who is in default of any Copayment amount due ESI.

(c) Specialty Products and ASES. As elected by Sponsor on the Set-Up Forms, Members may have prescriptions filled through ESI Specialty Pharmacy on an exclusive basis (i.e., "ESI Specialty Pharmacy –

Exclusive Care”) or at Participating Pharmacies and through ESI Specialty Pharmacy (i.e., “ESI Specialty Pharmacy – Open Care”). Subject to applicable law, ESI and ESI Specialty Pharmacy may communicate with Members and physicians to advise Members filling Specialty Products at Participating Pharmacies of the availability of filling prescriptions through ESI Specialty Pharmacy. Specialty Products will be excluded from any price guarantees set forth in the Agreement. In no event will the Mail Service Pharmacy or Participating Pharmacy pricing specified in the Agreement apply to Specialty Products.

(i) ESI will notify Sponsor no more frequently than monthly of new Specialty Products that are introduced to the market on or after the Effective Date of this Agreement with their applicable reimbursement rates (“Notice”). The parties agree as follows:

(A) If Sponsor has expressly excluded a specific therapy class or product on a Set-Up Form, Specialty Products in such excluded classes will automatically be deemed excluded from coverage and will reject as “NDC Not Covered” through Participating Pharmacies, Mail Service Pharmacy and ESI Specialty Pharmacy; otherwise, subject to (B) below, all other Specialty Products will be implemented as Covered Drugs at the rate specified in the applicable Specialty Drug list or Notice. If Sponsor desires to cover otherwise excluded Specialty Products, Sponsor must notify ESI in writing that it desires to cover the Specialty Product before ESI will adjudicate as a Covered Drug, and if ESI receives such confirmation of coverage from Sponsor such Specialty Product will be loaded thereafter as a Covered Drug at the applicable reimbursement rate set forth in the Notice.

(B) Sponsor must notify ESI in writing if it wants to exclude the Specialty Product from coverage. The exclusion will be implemented within seven (7) business days after the date of ESI’s receipt of such notification. There will not be any retroactive denials for Prescription Drug Claims processed prior to ESI’s receipt of the rejection notice and implementation of the exclusion as provided above and Sponsor will be responsible for the payment of such Prescription Drug Claims processed prior to the rejection of coverage.

(ii) For Specialty Products filled through ESI Specialty Pharmacy only, Members may receive the following services from ESI Specialty Pharmacy, depending on the particular therapy class or disease state: ASES; patient intake services; pharmacy dispensing services and/or social services (patient advocacy, hardship reimbursement support, and indigent and patient assistance programs).

(iii) Subject to Sponsor’s prior authorization requirements, if applicable, at the rates set forth in Exhibit A, ESI will provide or coordinate ASES for Members through ESI Specialty Pharmacy or through other specialty pharmacies or other independent third party providers of ASES when ASES is required. If ESI or ESI Specialty Pharmacy engages a third party provider of ASES, ESI or ESI Specialty Pharmacy shall contractually obligate such third party provider of ASES to comply with all applicable laws, including, without limitation, all applicable laws relating to professional licensure. ESI does not direct or exercise any control over any third party provider of ASES in administering Specialty Products or otherwise providing ASES.

(iv) If Sponsor elects the ESI Specialty Pharmacy - Open Care option, then any ancillary supplies, equipment, and services provided or coordinated in connection with the dispensing of Specialty Products at Participating Pharmacies (for example, limited distribution products not then available through ESI Specialty Pharmacy or overrides) will be billed to Sponsor at the cost charged to ESI for such ancillary supplies, equipment, and services provided or coordinated, unless such ancillary supplies, equipment, and services provided or coordinated are included in the ingredient cost of the Specialty Product.

## 2.3 Claims Processing.

### (a) Claims Processing.

(i) ESI will perform claims processing services for Covered Drugs dispensed by Participating Pharmacies, Mail Service and ESI Specialty Pharmacy.

(ii) In connection with each prescription submitted for processing on-line by a Participating Pharmacy, ESI will perform standard drug utilization review (“DUR”) in order to assist the dispensing

pharmacist and prescribing physician in identifying potential drug interactions, incorrect prescriptions or dosages, and certain other circumstances that may be indicative of inappropriate prescription drug usage. ESI's DUR processes are not intended to substitute for the professional judgment of the prescriber, the dispensing pharmacist or any other health care professional providing services to the Member.

(iii) If elected by Sponsor, ESI will process Member Submitted Claims in accordance with the rules in the Set-Up Forms and ESI's standard procedures.

(iv) If authorized by Sponsor on the Set-Up Forms, ESI will process Subrogation Claims in accordance with applicable federal and state laws, in which case Sponsor will pay such Subrogation Claims in accordance with Article III and Exhibit A. If Sponsor does not authorize ESI to process Subrogation Claims, ESI will reject the claim and refer claimants to Sponsor regarding such claims, in accordance with applicable federal and state laws. ESI is not legally responsible to pay Subrogation Claims to the extent Sponsor is not timely paying ESI with respect to such Subrogation Claims.

(v) Sponsor or its third party designee (as applicable) will have the final responsibility for all decisions with respect to coverage of a Prescription Drug Claim and the benefits allowable under the Plan, including determining whether any rejected or disputed claim will be allowed.

(b) Prior Authorization. For the fees set forth in the Clinical Addendum described in Exhibit A-2 (if applicable), ESI will provide prior authorization ("PA") services as specified and directed by Sponsor for drugs designated on the Set-Up Form. Prior authorized drugs must meet Sponsor-approved guidelines ("Guidelines") before they are deemed to be Covered Drugs. Unless Sponsor otherwise directs, Sponsor hereby authorizes coverage for an otherwise excluded use in the event of co-morbidities, complications and other factors not otherwise expressly set forth in the Guidelines. In determining whether to authorize coverage of such drug under the PA Program, ESI will apply only the Guidelines and may rely entirely upon information about the Member and the diagnosis of the Member's condition provided to it from the prescriber. ESI will not undertake to determine medical necessity, make diagnoses or substitute ESI's judgment for the professional judgment and responsibility of the prescriber.

(c) Claims for Benefits. ESI will process initial "claims for benefits" for Member Submitted Claims and PA requests consistent with the ERISA claims rules set forth in 29 CFR Part 2560 (or applicable state law if a non-ERISA plan) ("Claims Rules"). Sponsor may elect to have ESI perform appeals services in connection with denied "claims for benefits" for the fees set forth in Exhibit A, or facilitate such services through Sponsor or a third party of Sponsor's choice. If Sponsor elects to conduct its own appeals or facilitate through a third party of Sponsor's choice, ESI will route Member appeals to Sponsor or other Sponsor designated entity. If Sponsor elects to have ESI perform appeals services, Sponsor agrees that ESI may perform such services through the UM Company. Through its contract with ESI, the UM Company has agreed to be, and will serve as, the named fiduciary for its performance of such appeals. ESI also agrees to accept fiduciary status solely with respect to its performance of any appeal.

(d) UM Company. In the event ESI performs appeals services, or facilitates the performance of appeals services through the UM Company, ESI or the UM Company, as applicable, will be responsible for conducting the appeal on behalf of Sponsor in accordance with the Claims Rules. ESI represents to Sponsor that UM Company has contractually agreed that: (A) UM Company will conduct appeals in accordance with the Claims Rules and Sponsor's plan, (B) Sponsor is a third party beneficiary of UM Company's agreement with ESI (a copy of which is available upon request) and the remedies set forth therein, and (C) UM Company will indemnify Sponsor for third party claims caused by the UM Company's negligence or willful misconduct in providing the appeal services.

(e) External Review Services.

ESI will not conduct any external review services (as defined in the Patient Protection and Affordable Care Act of 2010 and its implementing regulations ("PPACA")); provided, however, Sponsor may elect to have UM Company facilitate the provision of external review services through UM company contracted IROs (as such term is defined in PPACA), for the fees set forth on Exhibit A below (if applicable). Sponsor must execute a standard ESI "External Appeals Services" Set-Up Form, which may be requested through ESI Account Management, in order to receive such services from UM Company.

In the event that Sponsor elects to utilize UM Company to facilitate the provision of external review services through UM Company contracted IROs, UM Company will be responsible for facilitating all such appeals (and the IROs will be responsible for providing all such appeals) in accordance with PPACA and all other applicable federal and state laws, and Sponsor hereby acknowledges and agrees that:

(i) UM Company (with respect to facilitating the external reviews) and the IROs (with respect to performing the external reviews), and not ESI, will be providing external review services; UM Company is an independent contractor of ESI; the IROs are independent contractors of UM Company and not ESI; and ESI does not in any way control or direct either UM Company or the IROs with respect to facilitation or performance of external review services provided by each respectively.

(ii) ESI represents to Sponsor that UM Company has contractually agreed that: (A) UM Company will facilitate all external review services in accordance with PPACA and all other applicable federal and state laws; (B) UM Company will contractually require its contracted IROs to perform all external reviews in accordance with PPACA and all other applicable federal and state laws; (C) to the extent not prohibited by law, UM Company will indemnify, defend and hold Sponsor harmless from and against any and all losses, damages, injuries, causes of action, claims, demands and expenses (including reasonable attorney's fees, costs and expenses), arising out of, resulting from, or related to any act, omission or default by the IROs in their performance of the external reviews; and (D) Sponsor has third party beneficiary rights to enforce the preceding indemnification and hold harmless provision.

(f) Call Center. ESI will provide 24-hours a day, 7-days a week toll-free telephone, IVR and Internet support to assist Sponsor, Sponsor's agents and Members with Member eligibility and benefits verification, location of Participating Pharmacies or other related Member concerns.

#### 2.4 Formulary Support and Rebate Management.

(a) Formulary Adherence and Clinical Programs. ESI may provide clinical, safety, adherence, and other like programs as appropriate. The Clinical Addendum described in Exhibit A-2 sets forth certain available adherence, clinical, safety and/or trend programs that require additional fees hereunder. ESI will not implement any program for which Sponsor may incur an additional fee without Sponsor's prior written approval and election of such program.

(b) Rebate Program. Subject to the remaining terms of this Agreement, ESI will pay to Sponsor the amounts set forth on Exhibit A.

#### 2.5 Program Operations.

(a) Reporting. ESI will make available to Sponsor ESI's on-line standard management information reporting applications. Upon Sponsor's request, ESI may develop special reporting packages or perform custom programming at ESI's standard hourly rate for such services, as set forth in Exhibit A.

(b) Claims Data.

(i) Claims Data Retention. ESI will retain Sponsor's claims data for a total of ten (10) years from the date the prescription is filled. Thereafter ESI will dispose of such data in accordance with its standard policies and practices and applicable state and federal law. Disposition of PHI shall be in accordance with the Business Associate Agreement.

(ii) Claims Data to Vendors. Upon Sponsor's written request and at no additional charge, ESI will provide regular prescription claims data in ESI's standard format(s) to Sponsor's vendors ("Vendors") for disease management, flexible savings account and other "payment," "treatment" and "healthcare operations" purposes (as defined under HIPAA). Requests for retrieval of data beyond thirty (30) months are subject to the hourly custom programming charge set forth in Exhibit A.

(iii) De-Identified Claims Data. ESI or its affiliates may use and disclose both during and after the term of this Agreement the anonymized claims data (de-identified in accordance with HIPAA) including drug and related medical data collected by ESI or provided to ESI by Sponsor for research; provider profiling; benchmarking, drug trend, and cost and other internal analyses and comparisons; clinical, safety



and/or trend programs; ASES; or other business purposes of ESI or its affiliates, in all cases subject to applicable law.

(c) Sponsor Audits. Provided that this Agreement has been duly executed by Sponsor and Sponsor is current in the payment of invoices under this Agreement, Sponsor may, upon no less than thirty (30) days prior written request, audit ESI's provision of services hereunder, the scope of which shall be to verify compliance with the financial terms of this Agreement, on an annual basis consistent with the Audit Protocol set forth in Exhibit B. Sponsor may use an independent third party auditor ("Auditor"), so long as such Auditor is not engaged in providing services for Sponsor or otherwise that conflict with the scope or independent nature of the audit (as determined by ESI acting reasonably and in good faith), and provided that Sponsor's Auditor executes a mutually acceptable confidentiality agreement. Any request by Sponsor to permit an Auditor to perform an audit will constitute Sponsor's direction and authorization to ESI to disclose PHI to the Auditor.

(d) Performance Standards. ESI will conform to the performance standards set forth on Exhibit E hereto. The payments set forth in Exhibit E will be Sponsor's sole monetary remedy for any failure by ESI to meet a performance standard in addition to any correction or reimbursement associated with payment or billing errors.

## 2.6 Pharmacy Management Funds ("PMF").

(a) ESI will provide up to \$4.00 per Member implemented as of the Effective Date, to reimburse the actual, fair market value of: (i) expense items and services related to transitioning, administering, and implementing the pharmacy benefit initially and throughout the term, such as, custom ID Cards, IT programming, custom formulary letters, member communications, and benefit set-up quality assurance; and/or (ii) mutually agreed upon expense items and services related to implementation of additional clinical or other similar programs provided by ESI throughout the Term; in either case subject to submission of adequate documentation to support reimbursement within 180 days of incurring the applicable expense. Both Sponsor and ESI (upon agreement from Sponsor) may use the PMF to cover the fair market value of expenses for projects requiring joint resources. All reimbursement under the PMF is subject to ESI's standard PMF business practices for all clients.

(b) Sponsor represents and warrants that: (i) it will only request reimbursement under the PMF for its actual expenses incurred in transitioning, administering, and implementing the pharmacy benefit managed by ESI hereunder, and/or the additional clinical or other similar program provided by ESI throughout the Term; (ii) that the applicable service, item or program was actually performed or provided; (iii) the amount of the reimbursement is equal to or less than the reasonable fair market value of the actual expenses incurred by Sponsor; (iv) it will notify and disclose the amount and the terms of any PMF reimbursements to Members and other third parties to the extent required by applicable laws and regulations. In addition, if the Sponsor and the Plan are subject to ERISA, Sponsor represents and warrants that it will only request reimbursement under the PMF for items or services for which Sponsor, in the absence of the PMF, would be allowed reimbursement from the Plan (i.e., not "settlor functions").

(c) Sponsor shall comply with all applicable federal and state requirements, including, but not limited to, all applicable federal and state reporting requirements with respect to any expense, item or service reimbursed under this Section 2.6. ESI reserves the right to periodically audit the books and records of Sponsor on-site, during normal business hours and after giving reasonable advance notice, for the purposes of verifying Sponsor's compliance with the PMF requirements set forth in this Agreement.

(d) ESI intends to amortize the PMF over the Initial Term of the Agreement on a straight-line basis. In the event of a termination of this Agreement for any reason other than ESI's uncured material breach prior to the expiration of the Initial Term, Sponsor will reimburse ESI an amount equal to any paid but unamortized portion of the PMF. Reimbursement to ESI by Sponsor pursuant to this Section will not be in lieu of any other rights or remedies ESI may have in connection with the termination of this Agreement, including monetary or other damages. PMF reimbursements shall not be paid prior to the Effective Date of this Agreement and are not payable until this Agreement is executed. Sponsor will have no right to interest on, or the time value of, any PMF, and unused funds shall be retained by ESI.

## **ARTICLE III - FEES; BILLING AND PAYMENT**

3.1 Fees. In consideration of the PBM Services provided by ESI, Sponsor will pay the applicable claims reimbursement amounts ("Claims Reimbursements") and other administrative fees ("Administrative Fees")

pursuant to the terms set forth on Exhibit A ("Claims Reimbursements," "Administrative Fees" and any other charge or fee that is the responsibility of Sponsor as may be described elsewhere in this Agreement are hereinafter referred to collectively as "Fees"). ESI may use any excess achieved in any guarantee offered pursuant to this Agreement to make up for, and offset, a shortfall in any other guarantee set forth in this Agreement.

### 3.2 Billing and Payment.

(a) Billing. ESI will invoice Sponsor bi-weekly for all applicable Fees.

(b) Payment. Sponsor will pay ESI by wire, ACH transfer or pre-authorized debit within two (2) days from the date of Sponsor's receipt of each ESI invoice. Sponsor will be responsible for all costs of collection, and agrees to reimburse ESI for such costs and expenses, including reasonable attorneys' fees. All amounts not paid by the due date thereof will bear interest at the rate of 1.5% per month or, if lower, the highest interest rate permitted by law. In addition to any rights under Section 6.2, ESI may apply Rebate amounts otherwise owed to Sponsor against any unpaid Fees.

(c) Deposit. If, at any time: (i) Sponsor has two or more invoices past due and outstanding, or (ii) ESI has reasonable grounds to believe Sponsor may be delinquent in payment of fees based on Sponsor's financial data (e.g., persistent negative cash flow, bankruptcy or insolvency), ESI may require that the Sponsor provide to ESI a deposit in an amount equal to the average of the last three (3) months of billing history as the basis for determining the one (1) month deposit amount or, if three (3) months billing history is not available, the most recent month of billing history as the basis. ESI will retain the deposit until the earlier of termination of this Agreement (following any run-off period), or six (6) consecutive months of timely payments of all Fees following submission of the deposit, and may apply the deposit to delinquent fees until return of the deposit.

## **ARTICLE IV – HIPAA; CONFIDENTIAL INFORMATION**

4.1 HIPAA. The parties agree that as relates to use and disclosure of PHI, electronic transaction standards and security of electronic PHI under the Health Insurance Portability and Accountability Act of 1996, as amended, they are subject to the terms of the Business Associate Agreement set forth in Exhibit C. Notwithstanding the foregoing, the parties acknowledge that in providing services to Members, ESI Specialty Pharmacy and the Mail Service Pharmacy are acting as separate health care provider covered entities under HIPAA and not as business associates to the Plan covered by the Business Associate Agreement. In providing services, ESI Specialty Pharmacy and the Mail Services Pharmacy shall abide by all HIPAA requirements applicable to covered entities and shall safeguard, use and disclose Member PHI accordingly.

### 4.2 Confidential Information.

(a) Each party agrees that the terms of this Agreement and information of the other party, including, but not limited to the following, will constitute confidential and proprietary information ("Confidential Information"): (i) with respect to ESI: ESI's reporting and other web-based applications, eligibility and adjudication systems, system formats and databanks (collectively, "ESI's Systems"), clinical or formulary management operations or programs, fraud, waste and abuse tools and programs, anonymized claims data (de-identified in accordance with HIPAA); ESI Specialty Pharmacy and Mail Service Pharmacy data; information and contracts relating to Rebates and Manufacturer Administrative Fees, prescription drug evaluation criteria, drug pricing information, and Participating Pharmacy agreements; and (ii) with respect to Sponsor: Sponsor and Member identifiable health information and data, Eligibility Files, Set-Up Form information, business operations and strategies. Neither party will use the other's Confidential Information, or disclose it or this Agreement to any third party (other than Sponsor attorneys and accountants), at any time during or after termination of this Agreement, except as specifically contemplated by this Agreement or upon prior written consent, which will not unreasonably be withheld. Upon termination of this Agreement, each party will cease using the other's Confidential Information, and all such information will be returned or destroyed upon the owner's direction. Confidential Information does not include information which is or becomes generally available to the public; was within the recipient's possession or knowledge prior to its being furnished to the recipient pursuant to this Agreement, or is independently developed by the recipient under circumstances not involving a breach of this Agreement.

(b) Sponsor will not, and will not permit any third party acting on Sponsor's behalf to, access, attempt to access, test or audit ESI's Systems or any other system or network connected to ESI's Systems. Without limiting the foregoing, Sponsor will not: access or attempt to access any portion or feature of ESI's Systems, by

circumventing ESI's Systems access control measures, either by hacking, password "mining" or any other means; or probe, scan, audit or test the vulnerability of ESI's Systems, nor breach the security or authentication measures of ESI's Systems.

## **ARTICLE V - COMPLIANCE WITH LAW; FIDUCIARY ACKNOWLEDGEMENTS; FINANCIAL DISCLOSURE**

5.1 Compliance with Law; Change in Law. Each party shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits. Sponsor shall be responsible for any governmental or regulatory charges and taxes imposed upon or related to the services provided hereunder. With respect to any Plan that is subject to the provisions of ERISA, the Sponsor or the plan sponsor shall ensure that its activities in regard to such program are in compliance with ERISA, and shall be responsible for disclosing to Members any and all information relating to the Plan and this Agreement as required by law to be disclosed, including any information relating to Plan coverage and eligibility requirements, commissions, rebates, discounts, or provider discounts referred to in Section 5.3 hereof. If there is a new or change in federal or state laws or regulations or the interpretation thereof, or any government, judicial or legal action that, among other things, materially burdens ESI, requires ESI to increase payments or shorten payment times for Covered Drugs to Participating Pharmacies, or materially changes the scope of services hereunder (a "Change in Law"), then there shall be an appropriate modification of the services, reimbursement rates, Administrative Fees and/or Rebates hereunder. If the parties cannot agree on a modification or adjusted fee or rates, then either party may terminate the Agreement on thirty (30) days prior written notice to the other.

5.2 Fiduciary Acknowledgements. ESI offers pharmacy benefit management services, products and programs ("PBM Products") for consideration by all clients, including Sponsor. The general parameters of the PBM Products, and the systems that support these products, have been developed by ESI as part of ESI's administration of its business as a PBM. The parties agree that they have negotiated the financial terms of this Agreement in an arm's-length fashion. Sponsor acknowledges and agrees that, except for the limited purpose set forth in Section 2.3(c), neither it nor the Plan intends for ESI to be a fiduciary (as defined under ERISA or state law) of the Plan, and, except for the limited purpose as set forth in Section 2.3(c), neither will name ESI or any of ESI's wholly-owned subsidiaries or affiliates as a "plan fiduciary." Sponsor further acknowledges and agrees that neither ESI nor any of ESI's wholly-owned subsidiaries or affiliates: (a) have any discretionary authority or control respecting management of the Plan's prescription benefit program, except as set forth in Section 2.3(c), or (b) exercise any authority or control respecting management or disposition of the assets of the Plan or Sponsor. Sponsor further acknowledges that all such discretionary authority and control with respect to the management of the Plan and plan assets is retained by Sponsor or the Plan. Upon reasonable notice, ESI will have the right to terminate PBM Services to any Plan (or, if applicable, Members) located in a state requiring a pharmacy benefit manager to be a fiduciary to Sponsor, a Plan, or a Member in any capacity.

5.3 Disclosure of Certain Financial Matters. In addition to the Administrative Fees paid to ESI by Sponsor, ESI and ESI's wholly-owned subsidiaries or affiliates derive revenue in one or more of the ways as further described in the Financial Disclosure to ESI PBM Clients set forth in Exhibit D hereto ("Financial Disclosure"), as updated by ESI from time to time. Unlike the Administrative Fees, the revenues described in the Financial Disclosure are not direct or indirect compensation to ESI from Sponsor for services rendered to Sponsor or the Plan under this Agreement. In negotiating any of the fees and revenues described in the Financial Disclosure or in this Agreement, ESI and ESI's wholly-owned subsidiaries and affiliates act on their own behalf, and not for the benefit of or as agents for Sponsor, Members or the Plan. ESI and ESI's wholly-owned subsidiaries and affiliates retain all proprietary rights and beneficial interest in such fees and revenues described in the Financial Disclosure and, accordingly, Sponsor acknowledges that neither it, any Member, nor the Plan, has a right to receive, or possesses any beneficial interest in, any such fees or revenues; provided, that ESI will pay Sponsor amounts equal to the amounts expressly set forth on Exhibit A.

## **ARTICLE VI - TERM AND TERMINATION; DEFAULT AND REMEDIES**

6.1 Term.

(a) This Agreement will commence effective October 1, 2016 ("Effective Date"), and will continue for a period of three (3) years and three (3) months, until December 31, 2019 ("Initial Term"), and may be terminated earlier or extended in accordance with the terms of Section 6.2 below. Thereafter, this Agreement will automatically renew with the same terms and conditions as set forth herein for successive one (1) year renewal terms, subject to the right of termination as otherwise provided herein.



(b) Not less than ninety (90) days prior to the end of the Initial Term or any renewal term of this Agreement either party may notify the other party in writing that it desires to terminate this Agreement effective as of the end of the then current term.

(c) Market Check. Following the initial 27 months of this Agreement (but not before), Coalition or its designee may provide ESI with a written comparison, prepared by an independent pharmacy benefit management consultant, for pharmacy benefit management services offered by a third party PBM provider which includes and takes into account similar plan design, Formulary, clinical and trend programs, retail pharmacy, mail pharmacy, and specialty pharmacy mix and utilization, demographics and other relevant factors necessary to provide an appropriate comparison ("Coalition's Current Market Price"). Coalition's Current Market Price will be measured on the basis of a total, aggregate comparison of the pricing terms offered by a single vendor to a single plan, and not on the basis of individual or best price points available from multiple vendors to a single plan or a single vendor to multiple plans. A copy Coalition's Current Market Price analysis prepared by the consultant will be submitted to both Coalition and to ESI. The consultant will also provide a reasonably detailed description of the methods and assumptions used in the analysis including the methods and assumptions related to the calculation of the individual pricing components and the Net Plan Costs, as defined below. At ESI's request, Coalition or Coalition's consultant will provide ESI with a list of specific, individual clients (on a blinded basis to address confidentiality restraints) used for the comparison that will show, on an individual client basis, a comparison of each of the plan design and other factors outlined above. ESI shall have a reasonable opportunity (i.e., not less than ten (10) business days) to evaluate Coalition's Current Market Price. If the comparison analysis concludes that Coalition's Current Market Price would yield an annual three percent ( 3%) or more savings of "Net Plan Costs" (with Net Plan Costs defined as the sum of the cost of Covered Drugs, dispensing fees, and claims Administrative Fees, less Rebates received by Coalition) under the Agreement, then the parties shall negotiate in good faith a modification of the pricing terms herein. The revised pricing terms will become effective on the first day of the contract year following the issuance of the report or sixty (60) days following a fully executed amendment or agreement memorializing the revised pricing terms, whichever is later. The market check shall be at Coalition's expense, except that ESI shall be responsible for its costs related to responding to the market check.

## 6.2 Termination.

(a) Without Cause. Following the initial twelve (15) months of this Agreement (but not before), either party may terminate this Agreement for any reason or for no reason upon ninety (90) days prior written notice of such termination to the other party.

(b) Breach or Default. Either party may give the other written notice of a material, substantial and continuing breach of this Agreement. If the breaching party has not cured said breach within thirty (30) days from the date such notice was sent, this Agreement may be terminated at the option of the non-breaching party. If the amount of time commercially reasonable for the breach to be cured is longer than thirty (30) days, this Agreement may not be terminated by the non-breaching party pursuant to this provision until such commercially reasonable period of time has elapsed; provided, however, that in no event will such period exceed sixty (60) days.

(c) Non-Payment. Notwithstanding anything to the contrary herein, ESI (and its wholly-owned subsidiaries) may terminate or suspend their performance hereunder and cease providing or authorizing provision of Covered Drugs to Members upon forty-eight (48) hours written notice if Sponsor fails to pay ESI or provide a deposit, if required, in accordance with the terms of this Agreement. ESI attempts collection through written and verbal communications with Sponsor prior to sending the notice described herein.

(d) Obligations Upon Termination. Upon notice of termination of this Agreement, the parties will mutually develop a run-off plan providing for: (i) Sponsor notification to Members of the timing of any transition to a successor pharmacy benefit manager at least thirty (30) days prior to the effective date of such termination; (ii) ESI provision of open Mail Service Pharmacy refill files and standard claims data and PA files for transition to the successor pharmacy benefit manager in accordance with then existing industry protocol; and (iii) whether Sponsor elects for ESI to process Participating Pharmacy or Member Submitted Claims for prescriptions filled during the Term but filed with ESI after the effective date of termination ("Termination Date"). Sponsor will continue to pay ESI in accordance with this Agreement for any Fees for PBM Services provided during the term and any run-off period. ESI will continue filing for Rebates for claims incurred prior to the Termination Date and will, subject to final reconciliation of any outstanding amounts owed by Sponsor to ESI, pay Sponsor Rebates for such claims in accordance with the Rebate payment schedule set out herein. Notwithstanding anything in this Agreement to the



contrary, ESI shall not be obligated to provide post-transition services following the transition to the successor pharmacy benefit manager and conclusion of the run-off period, including, but not limited to, the provision of continued data reporting, reporting, consultation, or analysis.

### 6.3 Remedies.

(a) Remedies Not Exclusive. A party's right to terminate this Agreement under Article VI will not be exclusive of any other remedies available to the terminating party under this Agreement or otherwise, at law or in equity.

(b) Force Majeure. Neither party will lose any rights under this Agreement or be liable in any manner for any delay to perform its obligations under this Agreement that are beyond a party's reasonable control, including, without limitation, any delay or failure due to riots, earthquakes, storms, floods or other extreme weather conditions, fires, acts of terrorism, epidemics, embargoes, war or other outbreak of hostilities, government acts or regulations, the failure or inability of carriers, suppliers, or telecommunications providers to provide services necessary to enable a party to perform its obligations hereunder, or any other reason where failure to perform is beyond the party's reasonable control, and is not caused by the negligence, intentional conduct or misconduct of the defaulting party; *provided, however*, that this clause may not be invoked to excuse a party's payment obligations hereunder. ESI represents that it maintains and continually updates a business continuity plan designed to mitigate any disruption to the services provided by ESI under this Agreement.

(c) Limitation of Liability. Except for the indemnification obligations set forth in Section 6.3(d), each party's liability to the other hereunder will in no event exceed the actual proximate losses or damages caused by breach of this Agreement. In no event will either party or any of their respective affiliates, directors, employees or agents, be liable for any indirect, special, incidental, consequential, exemplary or punitive damages, or any damages for lost profits relating to a relationship with a third party, however caused or arising, whether or not they have been informed of the possibility of their occurrence.

#### (d) Indemnification.

(i) In addition to any indemnification obligations set forth in the Business Associate Agreement, ESI will indemnify and hold Sponsor harmless from and against any loss, cost, damage, expense or other liability, including, without limitation, reasonable costs and attorney fees ("Costs") incurred in connection with any and all third party claims, suits, investigations or enforcement actions ("Claims") which may be asserted against, imposed upon or incurred by Sponsor and arising as a result of (A) ESI's negligent acts or omissions or willful misconduct (including those of the Mail Service Pharmacy and ESI Specialty Pharmacy), or (B) ESI's breach of this Agreement.

(ii) Sponsor will indemnify and hold ESI harmless from and against any Costs for Claims which may be asserted against, imposed upon or incurred by ESI and arising as a result of (A) Sponsor's negligent acts or omissions or willful misconduct, benefit design and coverage decisions, or breach of this Agreement, or (B) any improper use Sponsor, an Auditor or Vendor may make of PHI or ESI System access provided to such party.

(iii) As a condition of indemnification, the party seeking indemnification will notify the indemnifying party in writing promptly upon learning of any Claim for which indemnification may be sought hereunder, and will tender the defense of such claim to the indemnifying party. No party will be obligated to indemnify the other with respect to any claim settled without the written consent of the other.

6.4 Survival. The parties' rights and obligations under the Sections 2.5, Articles III, IV and V; and Sections 6.2(d), 6.3, 6.4, 7.2, 7.3, 7.4 and 7.6 will survive the termination of this Agreement for any reason.

## ARTICLE VII – MISCELLANEOUS

7.1 Liability Insurance. Each party will maintain such policies of general liability, professional liability and other insurance of the types, including self-insurance, and in amounts customarily carried by their respective businesses. Proof of such insurance will be available upon request. ESI agrees, at its sole expense, to maintain during the term of this Agreement or any renewal hereof, commercial general liability insurance, pharmacists professional liability insurance for the Mail Service and ESI Specialty Pharmacy pharmacies, and managed care

liability with limits, excess of a self-insured retention, in amounts of not less than \$5,000,000 per occurrence and in the aggregate. ESI does not maintain liability insurance on behalf of any Participating Pharmacy, but does contractually require such pharmacies to maintain a minimum amount of commercial liability insurance or, when deemed acceptable by ESI, to have in place a self-insurance program.

7.2 Notice. Any notice or document required or permitted to be delivered pursuant to this Agreement must be in writing and will be deemed to be effective upon mailing and must be either (a) deposited in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, or (b) sent by recognized overnight delivery service, in either case properly addressed to the other party at the address set forth below, or at such other address as such party will specify from time to time by written notice delivered in accordance herewith:

Express Scripts, Inc.  
Attn: President  
One Express Way  
St. Louis, Missouri 63121  
With copy to Legal Department  
Fax No. (800) 417-8163

City of Bridgeport  
Attn: Rich Weiner  
45 Lyon Terrace  
Bridgeport, Connecticut 06604

7.3 Independent Parties. No provision of this Agreement is intended to create or will be construed to create any relationship between ESI and Sponsor other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither party, nor any of their respective representatives, will be construed to be the partner, agent, fiduciary, employee, or representative of the other and neither party will have the right to make any representations concerning the duties, obligations or services of the other except as consistent with the express terms of this Agreement or as otherwise authorized in writing by the party about which such representation is asserted.

7.4 Assignment and Subcontracting. Sponsor may assign this Agreement upon first obtaining ESI's written consent, which consent will not be unreasonably withheld following a standard credit review of the proposed assignee. Sponsor acknowledges and agrees that ESI may perform certain services hereunder (e.g., mail service pharmacy and specialty pharmacy services) through one or more ESI subsidiaries, affiliates, or designees. ESI is responsible and liable for the performance of its subsidiaries and affiliates in the course of their performance of any such service. To the extent that ESI subcontracts any PBM Service under this Agreement to a third party, ESI is responsible and liable for the performance of any such third party. In addition, ESI may contract with third party vendors to provide information technology support services and other ancillary services, which services are not PBM Services hereunder, but rather are services that support ESI's conduct of its business operations. This Agreement will be binding upon, and inure to the benefit of and be enforceable by, the respective successors and permitted assigns of the parties hereto.

7.5 Integration; Amendments. This Agreement and any Exhibits hereto constitute the entire understanding of the parties hereto and supersedes any prior oral or written communication between the parties with respect to the subject matter hereof. If there is a separate Business Associate Agreement between the parties, such an agreement will be incorporated herein for all applicable purposes. No modification, alteration, or waiver of any term, covenant, or condition of this Agreement will be valid unless in writing and signed by the parties or the agents of the parties who are authorized in writing, except as may be otherwise permitted pursuant to the terms and conditions of this Agreement or any Exhibit hereto.

7.6 Choice of Law. This Agreement will be construed and governed in all respects according to the laws in the State of Missouri, without regard to the rules of conflict of laws thereof.

7.7 Waiver. The failure of either party to insist upon the strict observation or performance of this Agreement or to exercise any right or remedy will not be construed as a waiver of any subsequent breach of this Agreement or impair or waive any available right or remedy.

7.8 Trademarks. Each party acknowledges each other party's sole and exclusive ownership of its respective trade names, commercial symbols, trademarks, and service marks, whether presently existing or later established (collectively "Marks"). No party shall use the other party's Marks in advertising or promotional materials or otherwise without the owner's prior written consent.

7.9 Taxes and Assessments. Any applicable sales, use, excise, or other similarly assessed and administered tax, surcharge, or fee imposed on items dispensed, or services provided hereunder, or the fees or revenues generated by the items dispensed or services provided hereunder, or any other amounts ESI or one or more of its subsidiaries or affiliates may incur or be required to pay arising from or relating to ESI's or its subsidiaries' or affiliates' performance of services as a pharmacy benefit manager, third-party administrator, or otherwise in any jurisdiction, will be the sole responsibility of Sponsor or the Member. If ESI is legally obligated to collect and remit, or to incur or pay, any such sales, use, excise, or other similarly assessed and administered tax, surcharge, or fee in a particular jurisdiction, such amount will be reflected on the applicable invoice or subsequently invoiced at such time as ESI becomes aware of such obligation or as such obligation becomes due. ESI reserves the right to charge a reasonable administrative fee for collection and remittance services provided on behalf of Sponsor.

7.10 Third Party Beneficiary Exclusion. This Agreement is not a third party beneficiary contract, nor will this Agreement create any rights on behalf of Members as against ESI. Sponsor and ESI reserve the right to amend, cancel or terminate this Agreement without notice to, or consent of, any Member.

7.11 Authority to Contract. Sponsor hereby represents and warrants that it has obtained due and proper authority to enter into this Agreement through its governing body.

7.12 Open Records Requests. ESI acknowledges that Sponsor, as a government agency, may be subject to applicable freedom of information or open records laws and must, upon request, disclose such materials as are covered by and not exempted from such laws. Pursuant to Section 4.2 hereof, Sponsor acknowledges that certain information contained herein or subject to this Agreement is proprietary and confidential to ESI and shall be exempt from that Act to the fullest extent permitted by law. Sponsor agrees to give ESI notice and the minimum statutory or regulatory period of time to oppose, request redactions or limitations on any disclosures under a third party freedom of information or open records request pertaining to this Agreement or any proposal related hereto. This provision shall survive termination of the Agreement.

7.13 EGWP Addendum. The parties agree to comply with the terms and conditions of the EGWP Addendum attached hereto as Exhibit F.

IN WITNESS WHEREOF, the undersigned have executed this Pharmacy Benefit Management Agreement as of the day and year below set forth.

EXPRESS SCRIPTS, INC.

CITY OF BRIDGEPORT

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **PHARMACY PROGRAM FEES**

ESI shall be Sponsor's exclusive provider of PBM Services for Sponsor's Plans offering a prescription benefit. The financial terms set forth in Exhibit A are conditioned on such exclusive arrangement and all other specified conditions expressly incorporated in such exhibits, including, but not limited to the adoption by Sponsor of the specified network, qualifying co-payment structures, Formulary, a minimum of 49,000 Members implemented on the Effective Date of this Agreement, a minimum of 300 EGWP Members implemented on the Effective Date of this Agreement if Sponsor implements an EGWP Benefit, no Members in a 100% co-payment plan, and no greater than ten percent of total utilization for all Plans attributable to a consumer driven health plan (CDHP). In the event one or more of the following occurs (whether between the date of the Cost Proposal and the Effective Date, or during the Term), ESI will have the right, upon notice, to make an equitable adjustment to the rates, Administrative Fees and/or Rebates, solely as necessary to return ESI to its contracted economic position as of the effective date of such event:

(a) There is a material change in: (i) the conditions or assumptions stated in this Agreement; or (ii) the size, demographics or gender distribution of Sponsor's Membership compared to data provided by Sponsor; and/or

(b) Sponsor changes its Formulary, benefit designs, implements OTC plans, clinical or trend programs or otherwise takes an action that has the effect of lowering the amount of Rebates earned hereunder or materially impacting any guarantee; and/or

(c) Sponsor elects to use on-site clinics or pharmacies to dispense prescription drugs to Members which materially reduces Rebates and/or the number of Covered Drug claims submitted on-line; and/or

(d) More than 5% of claims are incurred in Massachusetts, Hawaii, Alaska, or Puerto Rico; and/or

(e) Rebate revenue is materially decreased due to a Change in Law.

Exhibit A includes the following:

#### **Exhibit A-1**

Pharmacy Reimbursement Rates

#### **Exhibit A-2**

Administrative and Clinical Program Fees

#### **Exhibit A-3**

Rebates – Non-Specialty Products

#### **Exhibit A-4**

Rebates – Specialty Products



**Exhibit A-1**

**Pharmacy Reimbursement Rates**

Sponsor will pay to ESI the amounts set forth below, net of applicable Copayments. The application of brand and generic pricing below may be subject to certain “dispensed as written” (DAW) protocols and Sponsor defined plan design and coverage policies for adjudication and Member Copayment purposes. Sales or excise tax or other governmental surcharge, if any, will be the responsibility of Sponsor.

A Member’s Copayment charged for a Covered Drug will be the lesser of the applicable Copayment, AWP discount or U&C.

**I. Participating Pharmacy Reimbursement Rates (Does Not Apply to Specialty Products)**

(a) Commercial Rates

| Network                          | ESI National Plus Network                                 |                                      |
|----------------------------------|---|--------------------------------------|
|                                  | (1 – 83 Days Supply)                                      | (84 - 90 Days Supply) <sup>(1)</sup> |
| Ingredient Cost - Brand          | Lesser of AWP – 18.00% or U&C                             | Lesser of AWP – 21.50% or U&C        |
| Ingredient Cost – Generic        | Lesser of AWP – 18.00%, MRA or U&C                        | Lesser of AWP – 21.50%, MRA or U&C   |
| Ingredient Cost - Compound Drugs | Lesser of U&C or combined AWP plus applicable service fee |                                      |
| Brand Dispensing Fee/Rx          | \$0.60  |                                      |
| Generic Dispensing Fee/Rx        | \$0.60  |                                      |
| Administrative Fee/Rx            | \$0.00  |                                      |

<sup>(1)</sup> Certain Participating Pharmacies have agreed to participate in the extended (84 – 90) day supply network (“Maintenance Network”) for maintenance drugs. Pricing in the 84 – 90 Days Supply column in the table set forth above is applicable only if Sponsor implements a plan design that requires Members to fill such days supply at a Maintenance Network Participating Pharmacy (i.e., Sponsor must implement a plan design whereby Members who fill extended days supply prescriptions at a Participating Pharmacy other than a Maintenance Network Participating Pharmacy do not receive benefit coverage under the Plan for such prescription). If no such plan design is implemented, the pricing for such days supply will be the same as for Prescription Drug Claims for less than an 84 days supply, and pricing for an 84 – 90 days supply in the table set forth above shall not apply, even if a Maintenance Network Participating Pharmacy is used.

(b) EGWP Rates

| Network                          | Medicare Network  |                                       |
|----------------------------------|---|---------------------------------------|
|                                  | (1 – 34 Days' Supply)                                     | (35 - 90 Days' Supply) <sup>(1)</sup> |
| Ingredient Cost - Brand          | Lesser of AWP – 18.00%, or U&C                            | Lesser of AWP – 21.50%, or U&C        |
| Ingredient Cost - Generic        | Lesser of AWP – 18.00%, MRA or U&C                        | Lesser of AWP – 21.50%, MRA or U&C    |
| Ingredient Cost - Compound Drugs | Lesser of U&C or combined AWP plus applicable service fee |                                       |
| Brand Dispensing Fee/Rx          | \$0.60  |                                       |
| Generic Dispensing Fee/Rx        | \$0.60  |                                       |
| Administrative Fee/Rx            | \$0.00  |                                       |

<sup>(1)</sup> Certain Participating Pharmacies have agreed to participate in the extended (35 – 90) day supply network (“Maintenance Network”) for maintenance drugs. Pricing in the 35 – 90 Days Supply column in the table set forth above is applicable only if Sponsor implements a plan design that requires Members to fill such days supply at a Maintenance Network Participating Pharmacy (i.e., Sponsor must implement a plan design whereby Members who fill extended days supply prescriptions at a Participating Pharmacy other than a Maintenance Network Participating Pharmacy do not receive benefit coverage under the Plan for such prescription). If no such plan design is implemented, the pricing for such days supply will be the same as for Prescription Drug Claims for less than an 35 days supply, and pricing for an 35 – 90 days supply in the table set forth above shall not apply, even if a Maintenance Network Participating Pharmacy is used.

Notwithstanding the preceding, ESI will guarantee an average aggregate annual discount for Generic Drugs as set forth in the table in Section III below.

**II. Mail Pharmacy Reimbursement Rates (Does Not Apply to Specialty Products).**

(a) Commercial Rates

|  |                                |
|--|--------------------------------|
| <b>Ingredient Cost - Brand Drugs</b>   | AWP – 25.50%                   |
| <b>Ingredient Cost – Generic Drugs</b> | AWP – 25.50% or, if lower, MRA |
| <b>Brand Dispensing Fee/Rx*</b>        | \$0.00                         |
| <b>Generic Dispensing Fee/Rx*</b>      | \$0.00                         |
| <b>Administrative Fee/Rx</b>           | \$0.00                         |

\*Dispensing Fees are inclusive of shipping and handling. If carrier rates (i.e., U.S. mail and/or applicable commercial courier services) increase during the term of this Agreement, the Dispensing Fee will be increased to reflect such increase(s).

(b) EGWP Rates

|  |                                |
|--|--------------------------------|
| <b>Ingredient Cost - Brand Drugs</b>   | AWP – 25.50%                   |
| <b>Ingredient Cost – Generic Drugs</b> | AWP – 25.50% or, if lower, MRA |
| <b>Brand Dispensing Fee/Rx*</b>        | \$0.00                         |
| <b>Generic Dispensing Fee/Rx*</b>      | \$0.00                         |
| <b>Administrative Fee/Rx</b>           | \$0.00                         |

\*Dispensing Fees are inclusive of shipping and handling. If carrier rates (i.e., U.S. mail and/or applicable commercial courier services) increase during the term of this Agreement, the Dispensing Fee will be increased to reflect such increase(s).

Notwithstanding the preceding, ESI will guarantee an average aggregate annual discount for Generic Drugs as set forth in the table in Section III below.

### III. Pricing Guarantees.

Ingredient Cost Guarantee. ESI will guarantee an average aggregate annual discount as reflected below on Sponsor utilization to be calculated as follows:

[1-(total discounted AWP ingredient cost (excluding dispensing fees and claims with ancillary charges, and prior to application of Copayments) of applicable Prescription Drug Claims for the annual period divided by total undiscounted AWP ingredient cost (both amounts will be calculated as of the date of adjudication) for the annual period)]. Discounted ingredient cost will be the lesser of MRA (as applicable), U&C or AWP discount adjudication methodology.

Notwithstanding anything herein to the contrary, a Prescription Drug Claim that processes at the Generic rates set forth in Section I (Participating Pharmacy Reimbursement Rates) and Section II (Mail Pharmacy Reimbursement Rates) above, as indicated on the ingredient cost field of the Prescription Drug Claim's data record, shall be reconciled as part of the Generic guarantee below. All single-source and all multi-source generic products will be included in the generic guarantee (unless otherwise excluded). The only Prescription Drug Claims that shall be excluded from the reconciliation of the pricing guarantee are as identified in the "Claims Excluded" column of the table below. All other Prescription Drug Claims shall be included in the reconciliation of the guarantee.

#### (a) Commercial Guarantees

| Type of Guarantee  | Participating Pharmacy                       | Mail Service Pharmacy | Claims Excluded  |
|--|--|-----------------------|--|
| <b>Generic Ingredient Cost</b><br>10/1/16 – 12/31/17<br>1/1/18 – 12/31/18<br>1/1/19 – 12/31/19 | AWP – 81.00%<br>AWP – 81.50%<br>AWP – 82.00% | AWP – 85.00%          | OTC, compounds, Member Submitted Claims, Subrogation Claims, long term care pharmacy claims, home infusion, I/T/U, IHS, vaccines, Specialty Products, biosimilar products, and products filled through in-house or 340b pharmacies (if applicable) |

#### (b) EGWP Guarantees

| Type of Guarantee  | Participating Pharmacy                       | Mail Service Pharmacy                        | Claims Excluded <sup>(1)</sup>  |
|--|--|--|---|
| <b>Generic Ingredient Cost</b><br>10/1/16 – 12/31/17<br>1/1/18 – 12/31/18<br>1/1/19 – 12/31/19 | AWP – 81.00%<br>AWP – 81.50%<br>AWP – 82.00% | AWP – 85.00%<br>AWP – 85.00%<br>AWP – 85.00% | OTC, compounds, Enrollee Submitted Claims, Subrogation, long term care pharmacy claims, home infusion, I/T/U, IHS, vaccines, Specialty Products, biosimilar products, and products filled through in-house or 340b pharmacies (if applicable) |

Guarantees will be measured and reconciled on an annual basis within 90 days of the end of each contract year. The above guarantees are annual guarantees - if this Agreement is terminated prior to the completion of the then current contract year (hereinafter, a "Partial Contract Year"), then the above guarantees will not apply for such Partial Contract Year. To the extent Sponsor changes its benefit design or Formulary during the term of the Agreement, the guarantee will be equitably adjusted if there is a material impact on the discount achieved. Subject to the remaining terms of this Agreement, ESI will pay the difference attributable to any shortfall between the actual result and the guaranteed result.

### IV. Specialty Products

#### (a) Commercial

Exclusive Care. ESI Specialty Pharmacy is the exclusive provider of Specialty Products for the reimbursement rates shown on the Exclusive ESI Specialty Pharmacy Specialty Product List. Any Specialty Product dispensed at a Participating Pharmacy (for example, limited distribution products not then available through ESI Specialty Pharmacy or overrides) will be reimbursed at the standard Participating Pharmacy Specialty Product rates shown



below. Upon ESI Specialty Pharmacy acquisition of limited distribution products, Members will obtain prescriptions through ESI Specialty Pharmacy.

|  | <b>Ingredient Cost</b>  | <b>Dispensing Fee</b> |
|--|---|-----------------------|
| <b>Exclusive ESI Specialty Pharmacy</b>          | See Exclusive Specialty Product List<br>Lesser of AWP discount or MRA (as applicable)               | \$0.00                |
| <b>Participating Pharmacy Specialty Products</b> | Participating Pharmacy Specialty Product List<br>Lesser of AWP discount, U&C or MRA (as applicable) | \$0.60                |

Open Care. Specialty Products shall be available through ESI Specialty Pharmacy and at Participating Pharmacies for the Participating Pharmacy Specialty Product reimbursement rates.

|  | <b>Ingredient Cost</b>  | <b>Dispensing Fee</b> |
|--|---|-----------------------|
| <b>Open ESI Specialty Pharmacy</b>               | Open Specialty Product List<br>Lesser of AWP discount or MRA (as applicable)                        | \$0.00                |
| <b>Participating Pharmacy Specialty Products</b> | Participating Pharmacy Specialty Product List<br>Lesser of AWP discount, U&C or MRA (as applicable) | \$0.60                |

(b) EGWP Care

Open Care. Specialty Products shall be available through ESI Specialty Pharmacy and at Participating Pharmacies for the Specialty Product List for ESI Specialty Pharmacy – Open, and Participating Pharmacy reimbursement rates.

|  | <b>Ingredient Cost</b>  | <b>Dispensing Fee</b> |
|--|---|-----------------------|
| <b>Open ESI Specialty Pharmacy</b>               | Open Specialty Product List<br>Lesser of AWP discount or MRA                        | \$0.00                |
| <b>Participating Pharmacy Specialty Products</b> | Participating Pharmacy Specialty Product List<br>Lesser of AWP discount, U&C or MRA | \$0.60                |

(c) For Specialty Products needing an additional charge to cover costs of all ASES required to administer the Specialty Products, the following standard per diem and nursing fee rates shall apply.

| <b>Therapeutic Class</b> | <b>Brand Name</b>                       | <b>Nursing &amp; Per Diem</b>  |
|--------------------------|---|--|
| Immune Deficiency        | All                                     | \$65.00 / Infusion   |
| Metabolic Disorder       | All                                     | \$65.00 / Infusion   |
| PAH                      | Flolan , Veletri and Remodulin          | \$65.00 / Day  |
| PAH                      | Epoprostenol Sodium (Generic Flolan)    | \$65.00 / Day  |
| PAH                      | Ventavis                                | \$65.00 / Day  |
| PAH                      | Tyvaso                                  | \$30.00 / Day  |
| Pulmonary                | All                                     | \$55.00 / Infusion   |
| Nursing Rates            | All drugs / therapies requiring nursing | \$150.00 per Initial Visit up to two(2) hours / \$75.00 per add'l hour or a fraction thereof |

(d) Specialty Products will be excluded from any price guarantees set forth in the Agreement. In no event will the Mail Service Pharmacy or Participating Pharmacy pricing terms specified in the Agreement, including, but not limited to, the annual average ingredient cost discount guarantees, apply to Specialty Products.

(e) Unless otherwise set forth in an agreement directly between ESI Specialty Pharmacy and Sponsor, if a Specialty Product dispensed or ASES provided by ESI Specialty Pharmacy is billed to Sponsor directly by ESI Specialty Pharmacy instead of being processed through ESI, Sponsor agrees to timely pay ESI Specialty Pharmacy for such claim pursuant to the rates above and within thirty (30) days of Sponsor's, or its

designee's, receipt of such electronic or paper claim from ESI Specialty Pharmacy. ESI Specialty Pharmacy shall have 360 days from the date of service to submit such electronic or paper claim.

(f) Notwithstanding the Specialty Product pricing terms set forth above, ESI will guarantee an average aggregate annual ingredient cost discount for commercial (non-EGWP) Specialty Product dispensed through ESI Specialty Pharmacy as follows:

| Type of Guarantee   | ESI Specialty Pharmacy      | Claims Excluded  |
|---|-----------------------------|--|
| Average Aggregate Annual Ingredient Cost Discount Guarantee | AWP – 17.00% <sup>(1)</sup> | All Specialty Products Prescription Drug Claims <u>except</u> Specialty Product Prescription Drug Claims dispensed through ESI Specialty Pharmacy (excluding Limited Distribution medications dispensed through ESI Specialty Pharmacy, which are also excluded) |

<sup>(1)</sup>This guarantee shall only apply to Plans for which Sponsor elects the ESI Specialty Pharmacy "exclusive" option.

The above Specialty Product guarantee will be reconciled in accordance with the terms of Section III above.

**V. Vaccine Claims (No vaccine claims will be included in any pricing or rebate guarantee set forth in the Agreement).**

(a) General Terms applicable to Vaccine Claims

(i) Vaccine Claims shall adjudicate at the lower of U&C or the amounts shown in the table below. In the case of Vaccine Claims, the U&C shall be the retail price charged by a Participating Pharmacy for the particular vaccine, plus administration and dispensing fees, in a cash transaction on the date the vaccine is dispensed as reported to ESI by the Participating Pharmacy.

(ii) The Vaccine Administration Fee for Vaccine Claims for Members enrolled in Sponsor's Medicaid programs, if any, will be capped at the maximum reimbursable amount under the state Medicaid program in which the Member is enrolled.

(iii) All Vaccine Claims will be subject to any Administrative Fees set forth in the Agreement.

(iv) Vaccine Claims will be charged a program fee of \$2.50 per Vaccine Claim. The Vaccine Program Fee will be billed separately to Sponsor as part of the administrative invoice according to the billing frequency set forth in this Agreement.

(b) Commercial Vaccine Claim Pricing

|                                  | Participating Pharmacy<br>INFLUENZA  | Participating Pharmacy<br>ALL OTHER VACCINES                               | Member Submitted Vaccine<br>Claims (excluding foreign<br>claims)  |
|----------------------------------|--|--|---|
| Vaccine Administration Fee       | Pass-Through<br>(capped at \$15 per vaccine claim)                           | Pass-Through<br>(capped at \$20 per vaccine claim)                         | Submitted amount  |
| Ingredient Cost                  | Participating Pharmacy<br>Ingredient Cost as set forth in<br>the Agreement   | Participating Pharmacy<br>Ingredient Cost as set forth in<br>the Agreement | Submitted amount  |
| Dispensing Fee                   | Participating Pharmacy<br>Dispensing Fee as set forth<br>in the Agreement    | Participating Pharmacy<br>Dispensing Fee as set forth in<br>the Agreement  | Submitted amount  |
| Administrative Fee/Vaccine Claim | Administrative Fee per Prescription Drug Claim as set forth in the Agreement |  | Administrative Fee per Prescription Drug Claim (plus manual claim administrative fee) as set forth in the Agreement |
| Vaccine Program Fee              | \$2.50 per vaccine claim   |  |   |

(c) Medicare Part D Covered Vaccine Claims

Medicare Part D Vaccine Claims shall adjudicate at the lower of U&C or the amounts shown in the table below.

|                            | Participating Pharmacies/Mail<br>Service Pharmacy/ESI<br>Specialty Pharmacy | Member Submitted Vaccine<br>Claims (excluding foreign<br>claims)  | Vaccine Claims Submitted<br>Electronically by Physicians                                  |
|----------------------------|---|---|---|
| Vaccine Administration Fee | Pass-Through<br>(capped at \$20 per Vaccine Claim)                          | Lower of submitted amount or pharmacy contracted rate (capped at \$20.00 if administered at a Participating Pharmacy) | Pass-Through<br>(capped at \$20 per Vaccine Claim)  |
| Ingredient Cost            | Pass-Through  | Lower of submitted amount or pharmacy contracted rate   | Pass-Through  |
| Dispensing Fee             | Pass-Through  | Lower of submitted amount or pharmacy contracted rate   | Pass-Through  |
| Vendor Transaction Fee     | N/A   | N/A   | Pass through at ESI cost for Vendor Transaction Fee (currently \$3.75, subject to change) |

(d) Medicare Part B Covered Vaccine Claims

Medicare Part B covered Vaccine Claims shall adjudicate at the amounts shown in the table below.

|                            | Participating Pharmacy<br>INFLUENZA                | Participating Pharmacy<br>PNEUMONIA                |
|----------------------------|--|--|
| Vaccine Administration Fee | Pass-Through<br>(capped at \$15 per Vaccine Claim) | Pass-Through<br>(capped at \$20 per Vaccine Claim) |
| Ingredient Cost            | Pass-Through                                       | Pass-Through                                       |
| Dispensing Fee             | Pass-Through                                       | Pass-Through                                       |

**VI. Long Term Care; I/T/U and IHS; Home Infusion Pricing**

I/T/U and IHS Prescription Services: Pass-through pricing – Rates vary by state

| <b>LONG TERM CARE NETWORK PROVIDERS</b> | <b>Pricing</b>               |
|---|------------------------------|
| Brand Discount                          | Lower of AWP – 10.18 or U&C  |
| Generic Discount                        | Lower of AWP – 10.18% or U&C |
| Brand Dispensing Fee Per Claim          | \$4.50                       |
| Generic Dispensing Fee Per Claim        | \$4.50                       |
| Administrative Fee Per Claim            | \$0.00                       |
| <b>HOME INFUSION PROVIDERS</b>          | <b>Pricing</b>               |
| Brand Discount                          | Lower of AWP – 10.18% or U&C |
| Generic Discount                        | Lower of AWP – 10.18% or U&C |
| Brand Dispensing Fee Per Claim          | \$0.00                       |
| Generic Dispensing Fee Per Claim        | \$0.00                       |
| Administrative Fee Per Claim            | \$0.00                       |

**Exhibit A-2**

**Administrative Services and Clinical Program Fees**

**I. Commercial Administrative Services**

|  |   |
|--|---|
| <b>PBM Services – No Additional Fee</b>  |   |
| Customer service for Members   | Electronic claims processing  |
| Electronic/on-line eligibility submission  | Plan setup  |
| Standard coordination of benefits (COB)<br>(reject for primary carrier)  | Software training for access to our on-line system(s)   |
| FSA eligibility feeds  |   |
| <b>Network Pharmacy Services</b>   |   |
| Pharmacy help desk   | Pharmacy reimbursement  |
| Pharmacy network management  | Network development (upon request)  |
| Network Pharmacy Audit Program   | Network Pharmacy Reporting  |
| <b>Home Delivery Services</b>  |   |
| Benefit education  | Prescription delivery – standard  |
| <b>Reporting Services</b>  |   |
| Web-based client reporting – produced by Sponsor   | Web-based client reporting – produced by ESI  |
| Ad-hoc desktop parametric reports  | Annual Strategic Account Plan report  |
| Claims detail extract file electronic (NCPDP format)   | Billing reports   |
| Load 12 months claims history for clinical reports and reporting   | Inquiry access to claims processing system  |
| <b>Website Services</b>  |   |
| Sponsor Website — eService Delivery (Eligibility, Claims, and Benefit Administration), Coverage Management and Appeals, Eligibility File Transfer, Reporting Solutions and Resources Area. | My Rx Choices – helps members make informed medication choices based on cost, health and safety. Member website portion only.   |
| Express-Scripts.com for Members — access to benefit, drug, health, and wellness information; prescription ordering capability; and customer service.                                       | Online Benefit Management – eService web-based application with Claims History, Eligibility Maintenance, and Prior Authorization Add.   |
| Mobile App for Members – includes My Rx Choices, My Medicine Cabinet, Pharmacy Care Alerts, Refills and Renewals, and virtual prescription ID card.  |   |
| <b>Implementation Package and Member Communications</b>  |   |
| New Member packets (includes two standard resin ID cards)<br>Member replacement cards printed via web  | Implementation support  |
| <b>Clinical</b>  |   |
| Concurrent Drug Utilization Review (DUR)   | Prior Authorization – Administrative <ul style="list-style-type: none"> <li>• Non-clinical Prior Authorization</li> <li>• Lost/stolen overrides</li> <li>• Vacation supplies</li> </ul> |

| <b>PBM Services</b>                             | <b>Fees</b>  |
|---|--|
| Manual/hardcopy eligibility submission          | \$10.00/update (includes initial entry)  |
| Member-submitted paper claims processing fee    | \$3.00/claim   |
| Medicaid subrogation claims fee                 | \$3.00/claim   |
| Electronic Prescribing                          | Pass-through charge for ePrescribing Eligibility and Formulary transaction fees charged to Sponsor at ESI's preferred rate with data switch such as Surescripts. |
| <b>Reporting Services</b>                       |  |
| Custom ad-hoc reporting                         | \$150/hour, with a minimum of \$500  |
| <b>Replacement Member Communication Packets</b> |  |
| Member requested replacement packets            | \$1.50 + postage per packet  |
| Sponsor requested re-carding                    | \$1.50 + postage per packet  |



| <b>PBM Services</b>  | <b>Fees</b>  |
|--|--|
| <b>Communication Fee</b>   |  |
| Smart90 and Mail (EHD, SHD & HDE) Programs   | \$2.50 per employee upon implementation of program (one-time charge)   |
| <b>Reviews and Appeals Management</b>  |  |
| Initial Determinations (i.e. coverage reviews) and Level One Appeals for the Coverage Authorization Program, consisting of: <ul style="list-style-type: none"> <li>• Prior Authorization</li> <li>• Step Therapy</li> <li>• Drug Quantity Management</li> </ul>  | Included in the existing UM PMPM charge  |
| Initial Determinations and Level One Appeals for the Benefit Review Program, consisting of reviews known as: <ul style="list-style-type: none"> <li>• Plan Design Related Requests</li> <li>• Plan Exclusion Reviews (clinical or administrative reviews of non-covered drugs)</li> <li>• Copay Reviews</li> <li>• Plan Limit Reviews (e.g. age, gender, days' supply limits)</li> <li>• Plan Rule/Administrative Reviews/Non-clinical Reviews</li> <li>• Clinical Benefit Reviews</li> <li>• Direct Claim Reject Reviews</li> </ul> | \$55 per review  |
| Final and Binding Appeals – Level Two Appeals * and/or Urgent Appeals** <p>*Level One for clients with only one level of appeal<br/> ** Appeals can be urgent at Level One or Level Two and decisions are final and binding.</p>   | \$10.00 per review* (incremental to PMPM fees or per review fees above)<br><b>* this additional fee is applied to each initial determination.</b>  |
| External Reviews by Independent Review Organizations - for non-grandfathered plans   | \$800 per review   |
| <b>Comprehensive Consumer Driven Health (CDH) Solution</b>   |  |
| <b>Required Services and Fee for all CDH enrolled Members</b>  |  |
| <b>Foundational Services</b> <ul style="list-style-type: none"> <li>• Technical</li> </ul> Bi-directional data exchange; dedicated operations; 24-hour a day, seven-days a week monitoring and quality control; performance reporting; and analytics <ul style="list-style-type: none"> <li>• Member Advocacy</li> </ul> Dedicated CDH member services, My Rx Choices Plus, open enrollment tools and member communications library, robust online features, and preventive care   | Technical and Member Advocacy: \$0.35 PMPM<br><br>Additional services will be quoted upon request.<br>Postage charges are not included and will be billed to Sponsor.  |
| <b>Optional Service and Fee for all CDH enrolled Members</b>   |  |
| <b>Comprehensive Member Engagement Services</b> <ul style="list-style-type: none"> <li>• Health Choices</li> </ul> Medication Adherence Monitoring and Outreach and proactive, personalized member communications <ul style="list-style-type: none"> <li>• Drug Choices</li> </ul> Benefit Coaching, Prescription Benefit Review Statements, proactive, personalized member communications   | Comprehensive Services: \$0.30 PMPM<br><br>All Services (Foundational & Comprehensive): \$0.65 PMPM<br><br>Additional services will be quoted upon request.<br>Postage charges are not included and will be billed to Sponsor. |

| PBM Services  | Fees   |
|---|--|
| <b>Required Service and Fee for all Non-CDH enrolled Members – If Sharing Data Only</b>   |  |
| <b>Combined Benefit Management</b><br>Services to manage combined medical-pharmacy benefits that are not a consumer-directed health (CDH) plan.<br>Services include ongoing management of the data exchange platform with the medical vendor/TPA, production monitoring and quality control, and dedicated operations team. Combined benefit types may include deductible, out of pocket, spending account, and lifetime maximum.               | \$0.10 PMPM per combined accumulator up to maximum of \$0.20 PMPM for existing connection with medical carrier or TPA.<br>Fees to establish connection with new medical carrier or TPA will be quoted upon request.<br>Additional services will be quoted upon request.<br>Postage charges are not included and will be billed to Sponsor. |
| <b>Medicare Part D – Retiree Drug Subsidy (RDS)</b>   |  |
| RDS enhanced service (ESI sends reports to CMS on behalf of Sponsor) <ul style="list-style-type: none"> <li>• Notice of Creditable Coverage</li> </ul>  | \$1.12 PMPM for Medicare-qualified Members with a minimum annual fee of \$7,500<br>\$1.35/letter + postage   |
| RDS standard service (ESI sends reports to Sponsor) <ul style="list-style-type: none"> <li>• Notice of Creditable Coverage</li> </ul>   | \$0.62 PMPM for Medicare-qualified Members with a minimum annual fee of \$5,000<br>\$1.35/letter + postage   |
| <b>Electronic Medicare Part D EOB</b>   |  |
| Electronic Medicare EOB is an e-mail notification to the Member informing them at the time of EOB production that their Medicare Part D Explanation of Benefits is available for viewing. Members can opt in/opt out at any time.<br>Electronic EOB includes: <ul style="list-style-type: none"> <li>• Email notification to the Member</li> <li>• Solicitation e-mail sent to registered Members</li> <li>• Prominent Web messaging</li> </ul> | \$0.15/per EOB   |
| <b>Cost Exceeds Maximum</b>   |  |
| ESI-Managed Cost Exceeds Maximum (CEM) edit (For non-compound drugs)  | \$10,000 CEM limit – included in pricing<br>Custom CEM limit less than \$10,000 - \$0.01PMPM fee   |
| ESI-Managed Cost Exceeds Maximum (CEM) edit (For compound drugs)  | Included in pricing  |
| Client Managed Cost Exceeds Maximum (CEM) edit (For non-compound and compound drugs)  | Included in pricing  |

## II. Clinical/Trend Programs.

ESI offers a comprehensive suite of trend and integrated health management programs. These offerings may change or be discontinued from time to time as ESI updates its offerings to meet the needs of the marketplace.

The programs (and corresponding pricing and guarantees) outlined in the Clinical Addendum (executed separately by Sponsor) represent the programs currently adopted by Sponsor as of the Effective Date. ESI also offers additional programs, as well as savings guarantees, under certain conditions. Information concerning such programs, guarantees, and fees, if applicable, is available on request. In addition, the ESI Account Management Team will periodically discuss new programs, guarantees, and fees with Sponsor, which Sponsor may adopt through ESI's standard Set-Up Form process.

Sponsor will select clinical/trend programs during implementation by checking selected options on the Clinical Addendum and on the applicable Set-Up Form. Such Set-Up Forms are incorporated herein by reference as and when executed by the parties.

Please refer to the Clinical Addendum for a listing of Sponsor's programs.

### III. EGWP Administrative Fees

#### Optional PBM Services

| Additional PBM Services  | Fees  |
|--|---|
| <b>Claims Processing</b>   |   |
| Member Submit Fee (includes Medicaid subrogation claims)<br>Electronic Prescribing   | \$10.00 per claim<br><br>Pass through charge for ePrescribing Eligibility and Formulary transaction fees charged to [Client] at Express Scripts' preferred rate with data switch such as Surescripts. |
| <b>Custom Client Reporting</b>   |   |
| Custom Ad Hoc Reports – applies for reporting outside of self-services reporting tool  | \$150 per hour; minimum \$500 charge  |
| <b>Premium Billing</b>   |   |
| EGWP Enrollee Premium Billing  | Pricing available upon request  |
| <b>Account and EGWP Enrollee Services</b>  |   |
| EGWP Enrollee Requested Materials<br>Client requested Re-carding<br>Custom materials<br>Mailings over five pages in length   | \$1.50 + postage per packet<br>\$1.50 + postage per packet<br>Priced upon request<br>Priced upon request  |
| <b>Reviews and Appeals Management</b>  |   |
| Initial Determinations (i.e. coverage reviews) and Level One Appeals for the Coverage Authorization Program, consisting of: <ul style="list-style-type: none"> <li>• Prior Authorization</li> <li>• Step Therapy</li> <li>• Drug Quantity Management</li> </ul>  | Included in EGWP Admin Fee  |
| Initial Determinations and Level One Appeals for the Benefit Review Program, consisting of reviews known as: <ul style="list-style-type: none"> <li>• Plan Design Related Requests</li> <li>• Plan Exclusion Reviews (clinical or administrative reviews of non-covered drugs)</li> <li>• Copay Reviews</li> <li>• Plan Limit Reviews (e.g. age, gender, days' supply limits)</li> <li>• Plan Rule/Administrative Reviews/Non-clinical Reviews</li> <li>• Clinical Benefit Reviews</li> <li>• Direct Claim Reject Reviews</li> </ul> | Included in EGWP Admin Fee  |

#### PDP Services

| PDP Services                 |              |
|------------------------------|--------------|
| EGWP Plus Administrative Fee | \$10.85 PMPM |

**Express Scripts' EGWP Plus administrative fee includes the following services:**

|   |
|---|
| <b>Implementation</b>   |
| Implementation and support for plan designs – no limit  |
| <b>Medicare Part D Formulary and Network Management</b>   |
| Contracting of retail, long term care, and home infusion networks to conform to CMS access requirements<br>Establishment of a CMS approved Formulary and P&T Committee support<br>Formulary management and change notification communications<br>Administration of manufacturer rebate contracts in compliance with CMS requirements  |
| <b>Claims Processing</b>  |
| Electronic Claims Processing  |
| <b>Enrollment Management</b>  |
| Electronic Eligibility submission<br>Initial enrollment, age-in members, low-income management<br>Eligibility/Enrollment status reporting   |
| <b>Home Delivery Services</b>   |
| Processing and delivery of prescriptions received via Internet, fax, phone or mail<br>Prescription Delivery - Standard<br>Therapeutic Resource Center services where appropriate<br>Mail Programs where appropriate<br>Participation in Mail Marketing Programs where appropriate<br>Refill orders received by phone or Internet 24 hours a day, 7 days a week<br>Handling and postage expense of mail-order prescriptions. If postage rates (i.e., U.S. mail and/or applicable commercial courier services) increase during the term of this Agreement, the Dispensing Fee will be increased to reflect such increase(s)<br>Braille prescription labels for visually impaired<br>Communication/educational materials included in medication packages: <ul style="list-style-type: none"> <li>• Summary statement of benefit account</li> <li>• Drug Information Leaflet with each new prescription</li> <li>• Buck slips highlighting benefit components</li> <li>• Pre-addressed pharmacy order form/envelope</li> <li>• Refill or renewal form (when appropriate)</li> </ul> |

**Specialty Pharmacy Services**

Clinical support, including:

- Patient tele-counseling from specially trained pharmacists and nurses
- Care management including information and support directly to the patient
- Coordination of care with the patient's case manager and/or home care agency
- Specialty drug educational materials and product information

Toll-free telephone line for members using specialty drugs

Ancillary supplies (such as needles and syringes) provided with self-inject able medications

Logistics coordination of delivery to patient's home or physician's office

Express delivery to physician's office or patient's home

- Standard two-day delivery
- Overnight delivery if required by physician (excluding Sundays)

Comprehensive drug utilization management review applied to specialty pharmacy related medical and prescription claims

Enhanced physician services including communication materials, forms, informational hotline

Analysis of integrated pharmacy and medical claims databases to identify persons using specialty medications.

Targeted communications, including:

- an initial mailing upon enrollment notifying members of the change in plan coverage;
- follow-up mailings and outbound phone calls notifying members of their eligibility for services from the specialty pharmacy

Additional services available:

Mailings direct to members, physicians or plan location - Quoted Upon Request

**Medicare Processing and Reporting Services**

Interaction with CMS and federal agencies to ensure compliance and applicable laws

**Manage contact with CMS**

Evaluate actuarial equivalence and report to CMS as required

Processing, reconciliation, and reporting of CMS Direct Subsidy, CMS Low-Income Premium and Cost-Sharing, Coverage Gap Discount Payments, and CMS Catastrophic Reinsurance (subject to plan design)

LIS Premium Refund Service

*Subsidies will only be received on behalf of members approved by CMS as eligible for the PDP. Any member rejected by CMS will not be eligible for any of the subsidies outlined above. To the extent that CMS, for any reason, re-opens a reconciliation window with the PDP, the PDP has the right to re-open reconciliation with the client for any of the above subsidies*

Client management and financial reporting

Preparation of all data necessary to meet Medicare Part D Reporting Requirements

Development and transmission of applicable files to CMS as part of program administration

All CMS reporting requirements related to rebates, network access, TrOOP, clinical program management, claims administration, operational compliance, and other reports as required by CMS

Maintenance and support of CMS "Prescription Drug Event" (claim) process

- Maintenance and distribution of PDE files
- Process to manage CMS responses
- Resolution of PDE rejects

Support of up to one regulatory audit CMS might perform on behalf of [Client] if applicable

**Website**

Express-Scripts.com for Clients & Advisors — access to:

- Reporting tools
- Eligibility EGWP Enrollee status reporting
- Contact directory
- Sales and marketing information
- Benefit and enrollment support secured through Risk Base Authentication

Express-Scripts.com for EGWP Enrollees — access to

- Benefit, drug, health and wellness information
- Prescription ordering capability
- Customer service



|  |
|--|
| <p><b>Account and EGWP Enrollee Service</b></p> <p>Assigned account team<br/> Annual pharmacy benefit strategic planning with quarterly review<br/> Medicare Call-Center Services including support for client's open enrollment (open enrollment support is dependent on [Client] submitting benefit information within the required timeframe for support)<br/> Grievance management<br/> Centralized administration for payment of claim and administrative fees<br/> Training for online tools<br/> Care and Safety Management Education</p>   |
| <p><b>EGWP Enrollee Communications</b></p> <p>Development of communication templates, customer service scripting, and other communication tools<br/> Development of template language to be included in open enrollment materials<br/> Mailing of Medicare required member communications, as applicable.</p> <ul style="list-style-type: none"> <li>• Pre-notification Letters (Including benefit overview)</li> </ul> <p><b>New Enrollee Packets</b></p> <ul style="list-style-type: none"> <li>• EGWP Enrollee ID card</li> <li>• Quick Reference Guide</li> <li>• Welcome Letter</li> <li>• Benefit Overview</li> <li>• Evidence of Coverage (EOC)</li> <li>• Formulary Guidebook</li> <li>• Pharmacy directory</li> <li>• HIPAA Notice</li> <li>• Home Delivery Order Form</li> </ul> <p><b>On-Going</b></p> <ul style="list-style-type: none"> <li>• Transition Supply Letters</li> <li>• Explanation of Benefits (EOBs)</li> <li>• Medication Therapy Management (MTM) Letters</li> <li>• Coverage Determination Letters</li> <li>• Grievance and Appeals Letters</li> <li>• Low Income Subsidy (LIS) Riders</li> <li>• Late Enrollment Penalty (LEP) Attestation Letters</li> <li>• Enrollment/Disenrollment Letters</li> <li>• 60 Day Formulary Notification Letters</li> <li>• Other CMS required notifications</li> </ul> <p><b>Renewal EGWP Enrollee Packet</b></p> <ul style="list-style-type: none"> <li>• Annual Notice of Changes (ANOC)</li> <li>• Evidence of Coverage (EOC)</li> <li>• Formulary Guidebook</li> <li>• Home Delivery Order Form</li> </ul> |
| <p><b>Clinical Services</b></p> <p>Concurrent Drug Utilization Reporting (DUR)<br/> Retrospective DUR<br/> Medication Therapy Management and reporting<br/> Fraud, Waste, and Abuse Program<br/> CMS Approved Utilization Management Programs including Drug Quantity Management, Prior Authorization, and Step Therapy</p>  |

| <b>Participating Pharmacies</b>   |
|---|
| Pharmacy Audit<br>Pharmacy Help Desk<br>Pharmacy Network Management<br>Network Development Upon Request<br>Pharmacy Reimbursement |

**IV. EGWP Clinical/Trend Programs.**

ESI offers a comprehensive suite of trend and integrated health management programs. With a 360-degree view of the patient, ESI promotes changes that maximize health outcomes and value – reducing prescription waste, enabling better overall health and value, enriching the care continuum and managing medication therapy and safety. These offerings may change or be discontinued from time to time as ESI updates its offerings to meet the needs of the marketplace.

| <b>Health Choices</b>   | <b>Fees</b>   |
|---|---|
| Concurrent DUR  | No charge (included in base offering)   |
| ScreenRx  | \$0.25 PMPM   |
| Pharmacogenomics  | 2C9/ VKORC1 Warfarin Testing: \$450 per completed test<br>2C19 Clopidogrel (Plavix) Testing: \$480 per completed test<br>HLA-B*5701 Abacavir Testing: \$625 per completed test<br>CCR5 Maraviroc (Selzentry) Testing: \$2,800 per completed test<br>BCR-ABL Gleevec, Sprycel, Tasigna Testing: \$660 per completed test |
| Retrospective DUR   | Included in EGWP Admin Fee  |
| Physician Report Card – Mailed Profiles Only  | Fixed Quarterly Fee: \$1,350 per quarter<br>Cost per package mailed-enrolled:<br>1-4 pages: \$3.00 per package<br>5-8 pages: \$4.00 per package<br>9-12 pages: \$5.00 per package<br>12-14 pages: \$5.50 per package  |
| Physician Consultation  | Phone based consultation: \$100 per consulted physician/provider<br>Face-to-face consultation: Client specific upon request   |
| <b>Medicare</b>   | <b>Fees</b>   |
| Medicare Medication Therapy Management (MTM)  | Included in EGWP Admin Fee  |
| eMTM (for clients with Medicare MTM)  | Prescriber Outreach: \$0.26 PMPM<br>Member and Prescriber Outreach: \$0.52 PMPM   |
| <b>Drug Choice Programs</b>   | <b>Fees</b>   |
| Formulary Notification  | No charge for standard  |
| Fraud, Waste, & Abuse   | Included in EGWP Admin Fee  |
| My RxChoices  | No Charge (included in base offering)   |
| <b>Utilization Management</b><br><b>Drug Quantity Management</b> - quantity dispensed per prescription<br><b>Prior Authorization</b> – intervene to support appropriate use at the point of service through pre-established clinical criteria<br><b>Step Therapy</b> – intervene to support the use of less expensive and clinically appropriate medications at the point of sale | Standard Offering included in EGWP Admin Fee <ul style="list-style-type: none"> <li>All rules included in the standard formulary selected</li> <li>CMS required rules</li> </ul> Custom Rules have a \$50,000 annual set-up fee   |

**EXHIBIT A-3**

**Rebates**  
**(Does Not Apply to Specialty Products)**

**1. Rebate Amounts**

A. Subject to the conditions set forth in Sections 2. – 4. below and elsewhere in this Agreement, ESI will pay to Sponsor an amount equal to the greater of:

(i) 100% of the Rebates received by ESI, excluding Rebates received by ESI for Specialty Products;

**Or**

(ii) Subject to Sponsor meeting the Plan design conditions identified in the table below, the following guaranteed amounts, excluding claims for Specialty Products:

(a) Commercial Rebates

| <b>Formulary:</b>        | <b>ESI National Preferred</b>                       |  |                              |   |  |                              |
|--------------------------|---|--|------------------------------|---|--|------------------------------|
| <b>Copayment Design:</b> | <b>Less than \$15 Copayment differential</b>        |  |                              | <b>Minimum \$15 Copayment differential</b>          |  |                              |
|                          | <b>Participating Pharmacies</b><br>1-83 Days Supply | <b>Participating Pharmacies<sup>(1)</sup></b><br>84-90 Days Supply | <b>Mail Service Pharmacy</b> | <b>Participating Pharmacies</b><br>1-83 Days Supply | <b>Participating Pharmacies<sup>(1)</sup></b><br>84-90 Days Supply | <b>Mail Service Pharmacy</b> |
| <b>Per Brand Claim</b>   |   |  |                              |   |  |                              |
| 10/1/16 – 12/31/17       | \$91.76   | \$238.57   | \$238.57                     | \$101.96  | \$265.08   | \$265.08                     |
| 1/1/18 – 12/31/18        | \$108.40  | \$281.51   | \$281.51                     | \$120.45  | \$312.79   | \$312.79                     |
| 1/1/19 – 12/31/19        | \$127.70  | \$331.84   | \$331.84                     | \$141.89  | \$368.71   | \$368.71                     |

| <b>Formulary:</b>        | <b>ESI Basic</b>                                    |  |                              |   |  |                              |
|--------------------------|---|--|------------------------------|---|--|------------------------------|
| <b>Copayment Design:</b> | <b>Less than \$15 Copayment differential</b>        |  |                              | <b>Minimum \$15 Copayment differential</b>          |  |                              |
|                          | <b>Participating Pharmacies</b><br>1-83 Days Supply | <b>Participating Pharmacies<sup>(1)</sup></b><br>84-90 Days Supply | <b>Mail Service Pharmacy</b> | <b>Participating Pharmacies</b><br>1-83 Days Supply | <b>Participating Pharmacies<sup>(1)</sup></b><br>84-90 Days Supply | <b>Mail Service Pharmacy</b> |
| <b>Per Brand Claim</b>   |   |  |                              |   |  |                              |
| 10/1/16 – 12/31/17       | \$68.31   | \$179.05   | \$179.05                     | \$85.39   | \$223.81   | \$223.81                     |
| 1/1/18 – 12/31/18        | \$77.89   | \$207.39   | \$207.39                     | \$97.36   | \$259.24   | \$259.24                     |
| 1/1/19 – 12/31/19        | \$90.78   | \$244.08   | \$244.08                     | \$113.47  | \$305.10   | \$305.10                     |

<sup>(1)</sup> Certain Participating Pharmacies have agreed to participate in the extended (84 – 90) day supply network (“Maintenance Network”) for maintenance drugs. Rebate Amounts in the 84 – 90 Days’ Supply column in the table set forth above are applicable only if Sponsor implements a plan design that requires Members to fill such days’ supply at a Maintenance Network Participating Pharmacy (i.e., Sponsor must implement a plan design whereby Members who fill extended days’ supply prescriptions at a Participating Pharmacy other than a Maintenance Network Participating Pharmacy do not receive benefit coverage under the Plan for such prescription). If no such plan design is implemented, Rebate Amounts for such days’ supply will be the same as for Prescription Drug Claims for less than an 84 days’ supply, and Rebate Amounts for an 84 – 90 days’ supply in the table set forth above shall not apply, even if a Maintenance Network Participating Pharmacy is used.

(b) EGWP Rebates

| Formulary:         | Medicare Premier Access Formulary                 |  |                       |
|--------------------|---|--|-----------------------|
| Copayment Design:  | Minimum \$15 Copayment Differential               |  |                       |
|                    | Participating Pharmacies<br>(1 – 34 Days' Supply) | Participating Pharmacies<br>(35 – 90 Days' Supply) | Mail Service Pharmacy |
| Per Brand Claim    |   |  |                       |
| 10/1/16 – 12/31/17 | \$87.71   | \$160.38   | \$160.38              |
| 1/1/18 – 12/31/18  | \$104.58  | \$187.43   | \$187.43              |
| 1/1/19 – 12/31/19  | \$123.95  | \$219.68   | \$219.68              |

<sup>(1)</sup> Certain Participating Pharmacies have agreed to participate in the extended (35 – 90) day supply network (“Maintenance Network”) for maintenance drugs. Rebate Amounts in the 35 – 90 Days' Supply column in the table set forth above are applicable only if Sponsor implements a plan design that requires Members to fill such days' supply at a Maintenance Network Participating Pharmacy (i.e., Sponsor must implement a plan design whereby Members who fill extended days' supply prescriptions at a Participating Pharmacy other than a Maintenance Network Participating Pharmacy do not receive benefit coverage under the Plan for such prescription). If no such plan design is implemented, Rebate Amounts for such days' supply will be the same as for Prescription Drug Claims for less than an 35 days' supply, and Rebate Amounts for an 35 – 90 days' supply in the table set forth above shall not apply, even if a Maintenance Network Participating Pharmacy is used.

B. If the Plan design conditions identified in the table in Section 1.A.(ii) above are not met, the “greater of” methodology and the guaranteed amounts shall not apply, and ESI will, subject to the remaining terms of this Agreement, pay Sponsor Rebate amounts pursuant to the percentage set forth in Section 1.A.(i) above.

**2. Exclusions**

Member Submitted Claims, Specialty Products, Subrogation Claims, biosimilar products, OTC products, claims older than 180 days, claims through Sponsor-owned, in-house, or on-site pharmacies, 340b pharmacies, and claims pursuant to a 100% Member Copayment plan are not eligible for the guaranteed Rebate amounts set forth in Section 1.A.(ii) above.

**3. Rebate Payment Terms**

A. Subject to the conditions set forth herein, ESI shall pay Sponsor the percentage amount set forth in Section 1.A.(i) above for Rebates collected by ESI during each calendar quarter hereunder within approximately one hundred and fifty (150) days following the end of such calendar quarter. ESI shall also pay Sponsor the percentage amount set forth in Section 1.A.(i) above for residual Rebates collected by ESI, if any, related to such calendar quarter, which are collected by ESI in subsequent quarters.

B. On an annual and aggregate basis, ESI shall reconcile the guaranteed amounts set forth in Section 1.A.(ii) above (against the percentage amount paid to Sponsor quarterly) within two hundred and forty (240) days following the end of each calendar year and shall credit Sponsor for any deficit on the next invoice immediately following the reconciliation to the extent such deficit is not offset by ESI against excesses achieved in other guarantees offered pursuant to this Agreement. If, upon reconciliation, the annual aggregate percentage amount paid to Sponsor for the calendar year pursuant to Section 1.A.(i) and 3.A. above is greater than the guaranteed aggregate amounts set forth in Section 1.A.(ii) above, ESI shall be entitled to make up for, and offset, a shortfall in other guarantee(s) set forth in this Agreement with such excess annual aggregate percentage amount, and such excess amount shall be applied either directly to the other shortfall guarantee(s) or applied as a credit against future Rebate payments (or as a direct invoice amount to be paid by Sponsor, if a credit is not feasible).

**4. Conditions**

A. ESI contracts for Rebates on its own behalf and for its own benefit, and not on behalf of Sponsor. Accordingly, ESI retains all right, title and interest to any and all actual Rebates received. ESI will pay Sponsor amounts equal to the Rebate amounts allocated to Sponsor, as specified above, from ESI's

general assets (neither Sponsor, its Members, nor Sponsor's plan retains any beneficial or proprietary interest in ESI's general assets). Sponsor acknowledges and agrees that neither it, its Members, nor its Plan will have a right to interest on, or the time value of, any Rebate payments received by ESI during the collection period or moneys payable under this Section. No amounts for Rebates will be paid until this Agreement is executed by Sponsor. ESI will have the right to apply Sponsor's allocated Rebate amount to unpaid Fees.

- B. Sponsor acknowledges that it may be eligible for Rebate amounts under this Agreement only so long as Sponsor, its affiliates, or its agents do not contract directly or indirectly with anyone else for discounts, utilization limits, rebates or other financial incentives on pharmaceutical products or formulary programs for claims processed by ESI pursuant to the Agreement, without the prior written consent of ESI. In the event that Sponsor negotiates or arranges for Rebates or similar discounts for any Covered Drugs hereunder, but without limiting ESI's right to other remedies, ESI may immediately withhold any Rebate amounts earned by, but not yet paid to, Sponsor as necessary to prevent duplicative rebates on Covered Drugs. To the extent Sponsor knowingly negotiates and/or contracts for discounts or rebates on claims for Covered Drugs without prior written approval of ESI, such activity will be deemed to be a material breach of this Agreement, entitling ESI to suspend payment of Rebate amounts hereunder and to renegotiate the terms and conditions of this Agreement.
- C. Under its Rebate program, ESI may implement ESI's Formulary management programs and controls, which may include, among other things, cost containment initiatives, and communications with Members, Participating Pharmacies, and/or physicians. ESI reserves the right to modify or replace such programs from time to time. Guaranteed Rebate amounts, if any, set forth herein, are conditioned on adherence to various Formulary management controls, benefit design requirements, claims volume, and other factors stated in the applicable pharmaceutical manufacturer agreements, as communicated by ESI to Sponsor from time to time. If any government action, change in law or regulation, change in the interpretation of any law or regulation, or any action by a pharmaceutical manufacturer has an adverse effect on the availability of Rebates, then ESI may make an adjustment to the Rebate terms and guaranteed Rebate amounts, if any, hereunder.
- D. Rebate amounts paid to Sponsor pursuant to this Agreement are intended to be treated as "discounts" pursuant to the federal anti-kickback statute set forth at 42 U.S.C. §1320a-7b and implementing regulations. Sponsor is obligated if requested by the Secretary of the United States Department of Health and Human Services, or as otherwise required by applicable law, to report the Rebate amounts and to provide a copy of this notice. ESI will refrain from doing anything that would impede Sponsor from meeting any such obligation.



**EXHIBIT A-4**

**Rebates (Specialty Products)**

1. **Rebate Amounts**

A. Subject to the conditions set forth in Sections 2. – 4. below and elsewhere in this Agreement, ESI will pay to Sponsor an amount equal to the greater of:

(i) 100% of the Rebates received by ESI;

**Or**

(ii) Subject to Sponsor meeting the Plan design conditions identified in the table below, the following guaranteed amounts:

(a) Commercial

| Formulary:             | ESI National Preferred                |                                     |
|------------------------|---------------------------------------|-------------------------------------|
| Copayment Design:      | Less than \$15 Copayment differential | Minimum \$15 Copayment differential |
|                        | ESI Specialty Pharmacy                | ESI Specialty Pharmacy              |
| <b>Per Brand Claim</b> |                                       |                                     |
| 10/1/16 – 12/31/17     | \$1,341.00                            | \$1,341.00                          |
| 1/1/18 – 12/31/18      | \$1,498.00                            | \$1,498.00                          |
| 1/1/19 – 12/31/19      | \$1,675.00                            | \$1,675.00                          |

| Formulary:             | ESI Basic                             |                                     |
|------------------------|---------------------------------------|-------------------------------------|
| Copayment Design:      | Less than \$15 Copayment differential | Minimum \$15 Copayment differential |
|                        | ESI Specialty Pharmacy                | ESI Specialty Pharmacy              |
| <b>Per Brand Claim</b> |                                       |                                     |
| 10/1/16 – 12/31/17     | \$528.00                              | \$528.00                            |
| 1/1/18 – 12/31/18      | \$584.00                              | \$584.00                            |
| 1/1/19 – 12/31/19      | \$652.00                              | \$652.00                            |

(b) EGWP

| Formulary:             | Medicare Premier Access Formulary   |
|------------------------|-------------------------------------|
| Copayment Design:      | Minimum \$15 Copayment Differential |
|                        | ESI Service Pharmacy                |
| <b>Per Brand Claim</b> |                                     |
| 10/1/16 – 12/31/17     | \$528.00                            |
| 1/1/18 – 12/31/18      | \$584.00                            |
| 1/1/19 – 12/31/19      | \$652.00                            |

B. If the Plan design conditions identified in the table in Section 1.A.(ii) above are not met, the “greater of” methodology and the guaranteed amounts shall not apply, and ESI will, subject to the remaining terms of this Agreement, pay Sponsor Rebate amounts pursuant to the percentage set forth in Section 1.A.(i)

above.

## **2. Exclusions**

Member Submitted Claims, Subrogation Claims, biosimilar products, OTC products, claims older than 180 days, claims through Sponsor-owned, in-house, or on-site pharmacies, 340b pharmacies, and claims pursuant to a 100% Member Copayment plan are not eligible for the guaranteed Rebate amounts set forth in Section 1.A.(ii) above.

## **3. Rebate Payment Terms**

- A. Subject to the conditions set forth herein, ESI shall pay Sponsor the percentage amount set forth in Section 1.A.(i) above for Rebates collected by ESI during each calendar quarter hereunder within approximately one hundred and fifty (150) days following the end of such calendar quarter. ESI shall also pay Sponsor the percentage amount set forth in Section 1.A.(i) above for residual Rebates collected by ESI, if any, related to such calendar quarter, which are collected by ESI in subsequent quarters.
- B. On an annual and aggregate basis, ESI shall reconcile the guaranteed amounts set forth in Section 1.A.(ii) above (against the percentage amount paid to Sponsor quarterly) within two hundred and forty (240) days following the end of each calendar year and shall credit Sponsor for any deficit on the next invoice immediately following the reconciliation to the extent such deficit is not offset by ESI against excesses achieved in other guarantees offered pursuant to this Agreement. If, upon reconciliation, the annual aggregate percentage amount paid to Sponsor for the calendar year pursuant to Section 1.A.(i) and 3.A. above is greater than the guaranteed aggregate amounts set forth in Section 1.A.(ii) above, ESI shall be entitled to make up for, and offset, a shortfall in other guarantee(s) set forth in this Agreement with such excess annual aggregate percentage amount, and such excess amount shall be applied either directly to the other shortfall guarantee(s) or applied as a credit against future Rebate payments (or as a direct invoice amount to be paid by Sponsor, if a credit is not feasible).

## **4. Conditions**

- A. ESI contracts for Rebates on its own behalf and for its own benefit, and not on behalf of Sponsor. Accordingly, ESI retains all right, title and interest to any and all actual Rebates received. ESI will pay Sponsor amounts equal to the Rebate amounts allocated to Sponsor, as specified above, from ESI's general assets (neither Sponsor, its Members, nor Sponsor's plan retains any beneficial or proprietary interest in ESI's general assets). Sponsor acknowledges and agrees that neither it, its Members, nor its Plan will have a right to interest on, or the time value of, any Rebate payments received by ESI during the collection period or moneys payable under this Section. No amounts for Rebates will be paid until this Agreement is executed by Sponsor. ESI will have the right to apply Sponsor's allocated Rebate amount to unpaid Fees.
- B. Sponsor acknowledges that it may be eligible for Rebate amounts under this Agreement only so long as Sponsor, its affiliates, or its agents do not contract directly or indirectly with anyone else for discounts, utilization limits, rebates or other financial incentives on pharmaceutical products or formulary programs for claims processed by ESI pursuant to the Agreement, without the prior written consent of ESI. In the event that Sponsor negotiates or arranges for Rebates or similar discounts for any Covered Drugs hereunder, but without limiting ESI's right to other remedies, ESI may immediately withhold any Rebate amounts earned by, but not yet paid to, Sponsor as necessary to prevent duplicative rebates on Covered Drugs. To the extent Sponsor knowingly negotiates and/or contracts for discounts or rebates on claims for Covered Drugs without prior written approval of ESI, such activity will be deemed to be a material breach of this Agreement, entitling ESI to suspend payment of Rebate amounts hereunder and to renegotiate the terms and conditions of this Agreement.
- C. Under its Rebate program, ESI may implement ESI's Formulary management programs and controls, which may include, among other things, cost containment initiatives, and communications with Members, Participating Pharmacies, and/or physicians. ESI reserves the right to modify or replace such programs from time to time. Guaranteed Rebate amounts, if any, set forth herein, are conditioned on adherence to various Formulary management controls, benefit design requirements,

claims volume, and other factors stated in the applicable pharmaceutical manufacturer agreements, as communicated by ESI to Sponsor from time to time. If any government action, change in law or regulation, change in the interpretation of any law or regulation, or any action by a pharmaceutical manufacturer has an adverse effect on the availability of Rebates, then ESI may make an adjustment to the Rebate terms and guaranteed Rebate amounts, if any, hereunder.

- D. Rebate amounts paid to Sponsor pursuant to this Agreement are intended to be treated as “discounts” pursuant to the federal anti-kickback statute set forth at 42 U.S.C. §1320a-7b and implementing regulations. Sponsor is obligated if requested by the Secretary of the United States Department of Health and Human Services, or as otherwise required by applicable law, to report the Rebate amounts and to provide a copy of this notice. ESI will refrain from doing anything that would impede Sponsor from meeting any such obligation.

## EXHIBIT B

### AUDIT PROTOCOL

#### 1. AUDIT PRINCIPLES

ESI recognizes the importance of its clients ensuring the integrity of their business relationship by engaging in annual audits of their financial arrangements with ESI, and, where applicable (i.e., Medicare Part D), by auditing compliance with applicable regulatory requirements. ESI provides this audit right to each and every client. In granting this right, ESI's primary interest is to facilitate a responsive and responsible audit process. In order to accomplish this goal, for all clients, ESI has established the following Protocol. Our intent is in no way to limit Sponsor's ability to determine that ESI has properly and accurately administered the financial aspects of the Agreement or complied with applicable regulatory requirements, but rather to create a manageable process in order to be responsive to our clients and the independent auditors that they may engage.

ESI strongly encourages clients to have their auditors, without jeopardizing the independent nature of the audit, review the auditor's initial findings and reports with ESI prior to discussing with the client in order to avoid any unnecessary client confusion. In addition, clients should not initiate a new audit until all parties have agreed that the prior audit is closed. We have found often times that items identified as issues during the initial audit turn out to be non-findings once a dialogue takes place between the auditor and ESI. In other words, we believe it is in everyone's interest to ensure that the auditor and ESI are not simply "missing each other" in the exchange of information prior to the auditor reviewing its findings with the client.

#### 2. AUDIT PREREQUISITES

A. There are four components of your arrangement with ESI eligible for audit on an annual basis from February through October:

- Retrospective Claims
- Rebates
- Performance Guarantees
- Compliance with Regulatory Requirements (i.e., Medicare Part D)

Balancing the need to adequately support the audit process for all ESI clients, with an efficient allocation of resources, we encourage clients to audit all four components, as applicable, through a single annual audit. If you choose to audit the above components separately throughout the year, rather than combining all components into a single annual audit, you will be subject to ESI's standard charges for each additional audit. All such fees shall be reasonable and based on ESI's costs for supporting such additional audits.

- B. ESI will provide all data reasonably necessary for Sponsor to determine that ESI has performed in accordance with contractual terms. ESI will use commercially reasonable best efforts to provide the retrospective claims and benefit information in no more than fifteen (15) days from audit kickoff call and having an executed confidentiality agreement. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.
- C. ESI engages a national accounting firm, at its sole cost and expense, to conduct a SSAE 16 audit on behalf of its clients. Upon request, ESI will provide the results of its most recent SSAE 16 audit. Testing of the areas covered by the SSAE 16 is not within the scope of Sponsor's audit rights (i.e., to confirm the financial aspects of the Agreement) and is therefore not permitted. However, if requested, ESI will explain the SSAE 16 audit process and findings to Sponsor in order for Sponsor to gain an understanding of the SSAE 16.

#### 3. AUDITS

- A. ESI recommends that the initial audit period for a claims audit cover a timeframe not to exceed twenty-four (24) months immediately preceding the request to audit (the "Audit Period"). This Audit Period allows a reasonable amount of time for both parties to conclude the audit before claims data is archived off the adjudication system. ESI will accommodate reasonable requests to extend the Audit Period, but this may delay ESI's response time to audit findings due to the age of the claims. Due to the additional resources necessary to pull claims data older than twenty-four (24) months, if you request to extend the Audit Period, you will be subject to ESI's standard charges for such additional data pulls. All such fees shall be reasonable and based on ESI's additional costs associated with retrieval and reporting of such data. If the parties mutually determine, acting in good faith, that the initial audit demonstrates in any material respects that ESI has not administered the financial arrangement consistent with the contract terms of the Agreement, then ESI will support additional auditing beyond the Audit Period at no additional charge.
- B. CMS generally modifies its requirements for administering the Medicare Part D annually. For this reason, ESI recommends that the initial audit period for a Medicare Part D compliance audit cover a timeframe not to exceed the twelve (12) months immediately preceding the request to audit (collectively, the "Medicare Part D Audit Period"). This Medicare Part D Audit Period is intended to assist our clients with the CMS annual oversight requirements. Due to the additional resources necessary to pull data older than twelve (12) months, if you request to extend the Audit

Period, you will be subject to ESI's standard charges for such additional data pulls. All such fees shall be reasonable and based on ESI's additional costs associated with retrieval and reporting of such data.

- C. When performing a Rebate audit, Sponsor may perform an on-site review of the applicable components of manufacturer agreements, selected by Sponsor, as reasonably necessary to audit the calculation of the Rebate payments made to Sponsor by ESI. Our ability to drive value through the supply chain and in our negotiations with manufacturers is dependent upon the strict confidentiality and use of these agreements. Providing access to these agreements to third parties that perform services in the industry beyond traditional financial auditing jeopardizes our ability to competitively drive value. For this reason, unless otherwise agreed by the Parties, access to and audit of manufacturer agreements is restricted to a mutually agreed upon CPA accounting firm whose audit department is a separate stand-alone division of the business, which carries insurance for professional malpractice of at least Two Million Dollars (\$2,000,000).
- D. ESI recommends that Sponsor select an initial number of manufacturer contracts to enable Sponsor to audit fifty percent (50%) of the total Rebate payments due to Sponsor for two (2) calendar quarters during the twelve (12) month period immediately preceding the audit (the "Rebate Audit Scope and Timeframe"). ESI will accommodate reasonable requests to extend this Rebate Audit Scope and Timeframe, but this may delay ESI's on-site preparation time as well as response time to audit findings. Due to the additional resources necessary to support a Rebate audit beyond the Rebate Audit Scope and Timeframe, if you request to extend the Rebate Audit Scope and Timeframe, you will be subject to ESI's standard charges for such additional audit support. All such fees shall be reasonable and based on ESI's additional costs. If the parties mutually determine, acting in good faith, that the initial Rebate audit demonstrates in any material respects that ESI has not administered Rebates consistent with the contract terms of the Agreement, then ESI will support additional auditing beyond the Rebate Audit Scope and Timeframe at no additional charge.
- E. If you have a Pass-Through pricing arrangement for Participating Pharmacy claims, ESI will provide the billable and payable amount for a sampling of claims provided by you or your auditor (i.e., ESI will provide the actual documented claim record) during the audit to verify that ESI has administered such Pass-Through pricing arrangement consistent with the terms of the Agreement. If further documentation is required, ESI may provide a statistically valid sample of claims remittances to the Participating Pharmacies to demonstrate ESI's administration of Pass-Through pricing. In any instance where the audit demonstrates that the amount billed to you does not equal the Pass-Through amount paid to the Participating Pharmacy, you or your auditor may perform an on-site audit of the applicable Participating Pharmacy contract rate sheet(s).

#### **4. AUDIT FINDINGS**

- A. Following Sponsor's initial audit, Sponsor (or its Auditor) will provide ESI with suspected errors, if any. In order for ESI to evaluate Sponsor's suspected errors, Sponsor shall provide an electronic data file in a mutually agreed upon format containing up to 300 claims for further investigation by ESI. ESI will use commercially reasonable best efforts to respond to the suspected errors in no more than sixty (60) days from ESI's receipt of such findings. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.
- B. Following Sponsor's initial audit of Medicare Part D compliance, Sponsor (or its Auditor) will provide ESI with a written report of suspected non-compliant issues, if any. In order for ESI to evaluate Sponsor's suspected errors, Sponsor shall provide ESI with specific regulatory criteria and Medicare Part D program requirements used to cite each suspected non-compliant and payment reconciliation issue. ESI will use commercially reasonable best efforts to respond to the audit report in no more than thirty (30) days from ESI's receipt of the report. Please be aware, however, that audits that require evaluation of six (6) or more findings typically require additional time to respond. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.
- C. Upon receipt and review of ESI's responses to Sponsor (or its Auditor), Sponsor (or its Auditor) will provide ESI with a written report of draft findings and recommendations. ESI will use commercially reasonable best efforts to respond to the audit report in no more than fifteen (15) days from ESI's receipt of the report. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.
- D. Sponsor agrees that once audit results are accepted by both parties, the audit shall be considered closed and final. To the extent the mutually accepted audit results demonstrate claims errors, ESI will reprocess the claims and make corresponding adjustments to Sponsor through credits to a future invoice(s). If we are unable to reprocess claims and issue corresponding credits to Sponsor through this process, ESI will make adjustments to Sponsor via a check or credit.

#### **5. AUDITS BY GOVERNMENT ENTITIES**

- A. In the event CMS, the OIG, MEDIC, or another government agency has engaged in an audit of Sponsor and/or its "first tier" and "downstream entities", Sponsor shall contact the ESI Account Management team and provide a written copy of the audit notice or request from the government agency promptly upon receipt.
- B. Sponsor agrees that CMS may have direct access to ESI's and any such "downstream entity's" pertinent contracts, books, documents, papers, records, premises and physical facilities, and that ESI and such "downstream entity" will provide requested information directly to CMS unless otherwise agreed upon by ESI and Sponsor.



- C. Following the government audit of Sponsor and its "first tier" and "downstream entities", Sponsor shall provide ESI with a written report of suspected non-compliant issues noted in the government audit that relate to services provided by ESI, if any. If there are such findings, ESI will work with Sponsor and/or government agency to respond to any suspected non-compliant issues.
- D. Support for all such audits by government entities will be subject to ESI's standard charges. All such fees shall be reasonable and based on ESI's costs for supporting such audits.

## **6. CONFIDENTIALITY**

ESI's contracts are highly confidential and proprietary. For this reason, ESI only permits on-site review rather than provide copies to our clients. During on-site contract review, Sponsor (or its Auditor) may take and retain notes to the extent necessary to document any identified errors, but may not copy (through handwritten notes or otherwise) or retain any contracts (in part or in whole) or related documents provided or made available by ESI in connection with the audit. ESI will be entitled to review any notes to affirm compliance with this paragraph.

## EXHIBIT C

### BUSINESS ASSOCIATE AGREEMENT

Express Scripts, Inc. and one or more of its subsidiaries ("ESI"), and Sponsor or one of its affiliates ("Sponsor"), are parties to an agreement ("PBM Agreement") whereby ESI provides certain pharmacy benefit management services to the Sponsor's prescription drug plan (Sponsor and Sponsor's prescription drug plan collectively referred to hereinafter as "Plan"). The PBM Agreement addresses the parties' rights and obligations concerning the use and disclosure of patients' protected health information. The HIPAA Rules (as defined below) require ESI and Plan to enter into a "business associate agreement" to comply with applicable sections of the HIPAA Rules.

#### 1. Definitions.

- (a) "Breach" shall have the same meaning as the term "breach" in 45 C.F.R. § 164.402.
- (b) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
- (c) "Electronic Health Record" shall mean an electronic record of health-related information on an Individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- (d) "Electronic PHI" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103.
- (e) "HIPAA Rules" means the collective privacy, transaction and code sets, and security regulations promulgated pursuant to the Health Insurance Portability and Accountability Act, as codified at 45 C.F.R. Parts 160, 162 and 164, as amended from time to time.
- (f) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- (g) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subpart A and Subpart E, as amended from time to time.
- (h) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by ESI from or on behalf of Plan.
- (i) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- (j) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- (k) "Security Incident" shall have the same meaning as "security incident" in 45 C.F.R. § 164.304
- (l) "Security Standards" shall mean the Security Standards, 45 C.F.R. Part 164, Subpart C, as amended from time to time.
- (m) "Transactions Standards" shall mean the Standards for Electronic Transactions, 45 C.F.R. Part 162, Subpart I, as amended from time to time.
- (n) "Unsecured PHI" shall have the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402.

Capitalized terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA Rules.

#### 2. General Use and Disclosure Provisions. ESI and Plan acknowledge and agree as follows:

- (a) *Use or Disclosure.* ESI agrees not to use or further disclose PHI other than as expressly permitted or required by this Business Associate Agreement or the HIPAA Rules or as Required by Law.
- (b) *Minimum Necessary.* ESI will take reasonable efforts to limit requests for, use and disclosure of PHI to the minimum necessary to accomplish the intended request, use or disclosure.

(c) *Specific Use or Disclosure Provisions.* Except as otherwise limited in this Business Associate Agreement, ESI may use and disclose PHI to properly provide, manage and administer the services required under the PBM Agreement and consistent with applicable law to assist Plan in its operations, as long as such use or disclosure would not violate the HIPAA Rules if done by Plan, or such use or disclosure is expressly permitted in (i) through (iii) below:

- (i) ESI may use PHI for the proper management and administration of ESI or to carry out ESI's legal responsibilities.
- (ii) ESI may disclose PHI to third parties for the proper management and administration of ESI or to carry out the legal responsibilities of ESI provided that the disclosures are Required by Law, or ESI obtains reasonable assurances from the person to whom the information is disclosed that: (A) the information will remain confidential, (B) the information will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and (C) the person notifies ESI of any instances of which it is aware in which the confidentiality of the information has been breached.
- (iii) ESI may use PHI to perform Data Aggregation services on behalf of Plan as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(d) *Reporting.* ESI agrees to promptly notify the Plan if ESI has knowledge that PHI has been used or disclosed by ESI in a manner that violates this Business Associate Agreement. To the extent that ESI creates, receives, maintains or transmits Electronic PHI, ESI agrees to report promptly to the Plan any Security Incident, as determined by ESI, involving PHI of which ESI becomes aware. ESI shall comply with 45 C.F.R. § 164.402 and shall, following the discovery of a Breach of Unsecured PHI, notify the Plan of such Breach, in accordance with 45 C.F.R. § 164.410.

(e) *Safeguards.* ESI agrees to use appropriate safeguards, consistent with applicable law, to prevent use or disclosure of PHI in a manner that would violate this Business Associate Agreement. ESI shall provide Plan with such information concerning such safeguards as Plan may reasonably request from time to time. To the extent that ESI creates, receives, maintains or transmits Electronic PHI, ESI agrees to use appropriate administrative, physical and technical safeguards, and comply with the Security Standards, to protect the confidentiality, integrity and availability of the Electronic PHI that ESI creates, receives, maintains or transmits on behalf of Plan.

(f) *Mitigation.* ESI agrees to mitigate, to the extent practicable, any harmful effect that is known to ESI of a use or disclosure of PHI by ESI in violation of this Business Associate Agreement or the PBM Agreement.

(g) *Subcontractors and Agents.* ESI agrees to ensure that any agent, including a Subcontractor, to whom it provides PHI received from, or created or received by ESI on behalf of Plan, agrees, in writing, to the same restrictions, terms and conditions that apply through this Agreement to ESI with respect to such information, including the requirement that it implement reasonable and appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164, to protect any Electronic PHI that is disclosed to it by ESI.

(h) *Access.* Within fifteen (15) business days of a request by Plan, ESI shall provide access to Plan to PHI in a Designated Record Set in order to meet the requirements under 45 C.F.R. § 164.524. If ESI receives a request directly from an Individual, or if requested by Plan that access be provided to the Individual, ESI shall provide access to the Individual to PHI in a Designated Record Set within thirty (30) days in order to meet the requirements under 45 C.F.R. § 164.524.

(i) *Amendment.* Within sixty (60) days of a request by Plan or subject Individual, ESI agrees to make any appropriate amendment(s) to PHI in a Designated Record Set that Plan directs or agrees to pursuant to 45 C.F.R. § 164.526.

(j) *Accounting.* Within thirty (30) days of a proper request by Plan, ESI agrees to document and make available to Plan, for a reasonable cost-based fee (under conditions permitted by HIPAA if an Individual requests an accounting more than once during a twelve month period), such disclosures of PHI and information related to such disclosures necessary to respond to such request for an accounting of disclosures of PHI, in accordance with 45 C.F.R. § 164.528. Within sixty (60) days of proper request by subject Individual, ESI agrees to make available to the Individual the information described above. ESI shall retain copies of any accountings for a period of six (6) years from the date the accounting was created.

(k) *Restrictions on Use or Disclosure.* Within fifteen (15) business days of a request of Plan, ESI agrees to consider restrictions on the use or disclosure of PHI agreed to by Plan on behalf of an Individual in accordance with 45 C.F.R. § 164.522.

(l) *Audit and Inspection.* ESI agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by ESI on behalf of Plan, available to Plan within ten (10) business

days, or at the request of Plan or the Secretary, to the Secretary in a time and manner directed by the Secretary, for purposes of the Secretary determining Plan's compliance with the HIPAA Rules. Any release of information regarding ESI's practices, books and records is proprietary to ESI and shall be treated as confidential and shall not be further disclosed without the written permission of ESI, except as necessary to comply with the HIPAA Rules.

(m) *Privacy of Individually Identifiable Health Information.* To the extent ESI is to carry out one or more of Plan's obligations under Subpart E of 45 C.F.R. Part 164, ESI agrees to comply with the requirements of subpart E that apply to the covered entity in the performance of such obligations.

### 3. Plan Obligations.

(a) Plan shall notify ESI of any limitation(s) in the notice of privacy practices of Plan in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect ESI's use or disclosure of PHI.

(b) Plan shall notify ESI of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect ESI's use or disclosure of PHI.

(c) Plan shall notify ESI of any restriction to the use or disclosure of PHI that Plan has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect ESI's use or disclosure of PHI.

(d) Plan shall not request that ESI use or disclose PHI in any manner that would exceed that which is minimally necessary under the HIPAA Rules or that would not be permitted by a Covered Entity.

(e) Plan agrees that it will have entered into "Business Associate Agreements" with any third parties (e.g., case managers, brokers or third party administrators) to which Plan directs and authorizes ESI to disclose PHI.

4. Transactions Standards. The HIPAA Rules provide for certain Transactions Standards for transfer of data between trading partners. While certain of the standards may or may not be adopted by Plan (e.g., for eligibility), ESI will be prepared to accept the following in accordance with 45 C.F.R. Part 162.1502: ASC X12N 834 – Benefit Enrollment and Maintenance. In addition, to the extent applicable, ESI shall comply with other applicable transactions standards for claims processing functions between ESI and provider pharmacies. Each party hereby agrees that it shall not change any definition, data condition or use of a data element or segment in a standard, add any data elements or segment to the maximum defined data set, use any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the implementation specification, or change the meaning or intent of the implementation specification.

### 5. Material Breach of Business Associate Agreement; Termination.

(a) Without limiting the termination rights of the parties pursuant to the PBM Agreement, upon either party's knowledge of a material breach by the other of this Business Associate Agreement, the non-breaching party shall notify the breaching party of such material breach and the breaching party shall have thirty (30) days to cure such material breach. In the event the breach is not cured, or cure is infeasible, the non-breaching party shall have the right to immediately terminate this Business Associate Agreement and the PBM Agreement or if cure of the material breach is infeasible, report the violation to the Secretary.

(b) To the extent feasible, upon termination of the PBM Agreement for any reason, ESI shall, and shall cause any subcontractors and agents to, return or destroy and retain no copies of all PHI received from, or created or received by ESI on behalf of, Plan. If ESI determines, in its sole discretion, that return or destruction of such information is not feasible, ESI shall continue to limit the use or disclosure of such information as set forth in this Agreement as if the PBM Agreement had not been terminated.

6. Indemnification. Each party (the "Indemnifying Party") shall indemnify and hold the other party and its officers, directors, employees and agents (each an "Indemnified Party") harmless from and against any claim, cause of action, liability, damage, cost or expense ("Liabilities") to which the Indemnified Party becomes subject to as a result of third party claims (including reasonable attorneys' fees and court or proceeding costs) brought against the Indemnified Party, which arise as a result of: (i) the material breach of this Business Associate Agreement by the Indemnifying Party; or (ii) the gross negligence or willful misconduct of the Indemnifying Party, except to the extent such Liabilities were caused by the Indemnified Party. A party entitled to indemnification under this Section 6 shall give prompt written notification to the Indemnifying Party of the commencement of any action, suit or proceeding relating to a third party claim for which indemnification is sought, subject to applicable confidentiality constraints. The Indemnifying Party shall be entitled to assume control of the defense of such action, suit, proceeding or claim with competent counsel of its choosing. Indemnification shall not be required if any claim is settled without the Indemnifying Party's consent, which such consent shall not be unreasonably withheld. **NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION 6, IN NO EVENT WILL AN INDEMNIFYING PARTY BE LIABLE TO AN INDEMNIFIED PARTY UNDER CONTRACT, TORT, OR ANY OTHER LEGAL THEORY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR SPECIAL LOSSES OR DAMAGES OF ANY KIND.**

7. **Miscellaneous.**

(a) **Amendment.** The parties acknowledge that the foregoing provisions are designed to comply with the mandates of the HIPAA Rules. ESI shall provide written notice to Plan to the extent that any regulation or amendment to regulations promulgated by the Secretary requires changes to this Business Associate Agreement. Such written notice shall include any additional amendment required by any such final regulation and the Business Associate Agreement shall be automatically amended to incorporate the changes set forth in such amendment provided by ESI to Plan, unless Plan objects to such amendment in writing within fifteen (15) days of receipt of such written notice. In the event that Plan objects timely to such amendment, the parties shall work in good faith to reach agreement on an amendment to the Business Associate Agreement that complies with the final regulations. If the parties are unable to reach agreement regarding an amendment to the Business Associate Agreement within thirty (30) days of the date that ESI receives any written objection from Plan, either ESI or Sponsor may terminate this Business Associate Agreement upon ninety (90) days written notice to the other party. Any other amendment to this Business Associate Agreement unrelated to compliance with applicable law and regulations shall be effective only upon execution of a written agreement between the parties.

(b) **Effect on PBM Agreement.** Except as relates to the use, security and disclosure of PHI and electronic transactions, this Business Associate Agreement is not intended to change the terms and conditions of, or the rights and obligations of the parties under, the PBM Agreement.

(c) **No Third-Party Beneficiaries.** Nothing express or implied in the PBM Agreement or in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.

(d) **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits both parties to comply with the HIPAA Rules.

(e) **Effective Date.** This Business Associate Agreement shall be effective as of the effective date of the PBM Agreement.



**EXHIBIT D**  
**FINANCIAL DISCLOSURE TO ESI PBM CLIENTS**

This disclosure provides an overview of the principal revenue sources of Express Scripts, Inc. and Medco Health Solutions, Inc. (individually and collectively referred to herein as "ESI"), as well as ESI's affiliates. In addition to administrative and dispensing fees paid to ESI by our clients for pharmaceutical benefit management ("PBM") services, ESI and its affiliates derive revenue from other sources, including arrangements with pharmaceutical manufacturers, wholesale distributors, and retail pharmacies. Some of this revenue relates to utilization of prescription drugs by members of the clients receiving PBM services. ESI may pass through certain manufacturer payments to its clients or may retain those payments for itself, depending on the contract terms between ESI and the client.

Network Pharmacies – ESI contracts for its own account with retail pharmacies to dispense prescription drugs to client members. Rates paid by ESI to these pharmacies may differ among networks (e.g., Medicare, Worker's Comp, open and limited), and among pharmacies within a network, and by client arrangements. PBM agreements generally provide that a client pays ESI an ingredient cost, plus dispensing fee, for drug claims. If the rate paid by a client exceeds the rate contracted with a particular pharmacy, ESI will realize a positive margin on the applicable claim. The reverse also may be true, resulting in negative margin for ESI. ESI also enters into pass-through arrangements where the client pays ESI the actual ingredient cost and dispensing fee amount paid by ESI for the particular claim when the claim is adjudicated to the pharmacy. In addition, when ESI receives payment from a client before payment to a pharmacy, ESI retains the benefit of the use of the funds between these payments. ESI may maintain non-client specific aggregate guarantees with pharmacies and may realize positive margin. ESI may charge pharmacies standard transaction fees to access ESI's pharmacy claims systems and for other related administrative purposes.

Brand/Generic Classifications – Prescription drugs may be classified as either a "brand" or "generic;" however, the reference to a drug by its chemical name does not necessarily mean that the product is recognized as a generic for adjudication, pricing or copay purposes. For the purposes of pharmacy reimbursement, ESI distinguishes brands and generics through a proprietary algorithm ("BGA") that uses certain published elements provided by First DataBank (FDB) including price indicators, Generic Indicator, Generic Manufacturer Indicator, Generic Name Drug Indicator, Innovator, Drug Class and ANDA. The BGA uses these data elements in a hierarchical process to categorize the products as brand or generic. The BGA also has processes to resolve discrepancies and prevent "flipping" between brand and generic status due to price fluctuations and marketplace availability changes. The elements listed above and sources are subject to change based on the availability of the specific fields. Updated summaries of the BGA are available upon request. Brand or generic classification for client reimbursement purposes is either based on the BGA or specific code indicators from Medi-Span or a combination of the two as reflected in the client's specific contract terms. Application of an alternative methodology based on specific client contract terms does not affect ESI's application of its BGA for ESI's other contracts.

Maximum Allowable Cost ("MAC")/Maximum Reimbursement Amount ("MRA") – As part of the administration of the PBM services, ESI maintains a MAC List of drug products identified as requiring pricing management due to the number of manufacturers, utilization and/or pricing volatility. The criteria for inclusion on the MAC List are based on whether the drug has readily available generic product(s), is generally equivalent to a brand drug, is cleared of any negative clinical implications, and has a cost basis that will allow for pricing below brand rates. ESI also maintains MRA price lists for drug products on the MAC List based on current price reference data provided by MediSpan or other nationally recognized pricing source, market pricing and availability information from generic manufacturers and on-line research of national wholesale drug company files, and client arrangements. Similar to the BGA, the elements listed above and sources are subject to change based on the availability of the specific fields. Updated summaries of the MAC methodology are available upon request.

Manufacturer Programs Formulary Rebates, Associated Administrative Fees, and PBM Service Fees – ESI contracts for its own account to obtain formulary rebates attributable to the utilization of certain brand drugs and supplies (and possibly certain authorized generics marketed under a brand manufacturer's new drug application). Formulary rebate amounts received vary based on client specific utilization, the volume of utilization as well as formulary position applicable to the drug or supplies, and adherence to various formulary management controls, benefit design requirements, claims volume, and other similar factors, and in certain instances also may vary based on the product's market-share. ESI often pays an amount equal to all or a portion of the formulary rebates it receives to a client based on the client's PBM agreement terms. ESI or its affiliates may maintain non-client specific aggregate guarantees and may realize positive margin. In addition, ESI provides administrative services to contracted manufacturers, which include, for example, maintenance and operation of systems and other infrastructure necessary for invoicing and processing rebates, pharmacy discount programs, access to drug utilization data, as allowed by law, for purposes of verifying and evaluating applicable payments, and for other purposes related to the manufacturer's products. ESI receives administrative fees from the participating manufacturers for these services. These administrative fees are calculated based on the price of the drug or supplies along with the volume of utilization and do not exceed the greater of (i) 4.58% of the average wholesale price, or (ii) 5.5% of the wholesale acquisition cost of the products. In its capacity as a PBM company, ESI also may receive other compensation from manufacturers for the performance of various programs or services, including, for example, formulary compliance initiatives, clinical services, therapy management services, education services, inflation protection programs, medical benefit management services, cost containment programs, discount programs, and the sale of non-patient identifiable claim information. This compensation is not part of the formulary rebates or associated administrative fees, and ESI may realize positive margin between amounts paid to clients and amounts received from pharmaceutical manufacturers. ESI retains the financial benefit of the use of any funds held until payment is made to the client.



Copies of ESI's standard formularies may be reviewed at [www.express-scripts.com/wps/portal/](http://www.express-scripts.com/wps/portal/). In addition to formulary considerations, other plan design elements are described in ESI's Plan Design Review Guide, which may be reviewed at [www.express-scripts.com/wps/portal/](http://www.express-scripts.com/wps/portal/).

ESI Subsidiary Pharmacies – ESI has several licensed pharmacy subsidiaries, including our specialty pharmacies. These entities may maintain product purchase discount arrangements and/or fee-for-service arrangements with pharmaceutical manufacturers, wholesale distributors, and other health care providers. These subsidiary pharmacies contract for these arrangements on their own account in support of their various pharmacy operations. Many of these subsidiary arrangements relate to services provided outside of PBM arrangements, and may be entered into irrespective of whether the particular drug is on one of ESI's national formularies. Discounts and fee-for-service payments received by ESI's subsidiary pharmacies are not part of the PBM formulary rebates or associated administrative fees paid to ESI in connection with ESI's PBM formulary rebate programs. However, certain purchase discounts received by ESI's subsidiary pharmacies, whether directly or through ESI, may be considered for formulary purposes if the value of such purchase discounts is used by ESI to supplement the discount on the ingredient cost of the drug to the client based on the client's PBM agreement terms. From time to time, ESI and its affiliates also may pursue and maintain for its own account other supply chain sourcing relationships not described below as beneficial to maximize ESI's drug purchasing capabilities and efficiencies, and ESI or affiliates may realize an overall positive margin with regard to these initiatives.

The following provides additional information regarding examples of ESI subsidiary discount arrangements and fee-for-service arrangements with pharmaceutical manufacturers, and wholesale distributors:

ESI Subsidiary Pharmacy Discount Arrangements – ESI subsidiary pharmacies purchase prescription drug inventories, either from manufacturers or wholesalers, for dispensing to patients. Often, purchase discounts off the acquisition cost of these products are made available by manufacturers and wholesalers in the form of either up-front discounts or retrospective discounts. These purchase discounts, obtained through separate purchase contracts, are not formulary rebates paid in connection with our PBM formulary rebate programs. Drug purchase discounts are based on a pharmacy's inventory needs and, at times, the performance of related patient care services and other performance requirements. When a subsidiary pharmacy dispenses a product from its inventory, the purchase price paid for the dispensed product, including applicable dispensing fees, may be greater or less than that pharmacy's acquisition cost for the product net of purchase discounts. In general, our pharmacies realize an overall positive margin between the net acquisition cost and the amounts paid for the dispensed drugs.

ESI Subsidiary Fee-For-Service Arrangements – One or more of ESI's subsidiaries, including, but not limited to, its subsidiary pharmacies also may receive fee-for-service payments from manufacturers, wholesalers, or other health care providers in conjunction with various programs or services, including, for example, patient assistance programs for indigent patients, dispensing prescription medications to patients enrolled in clinical trials, various therapy adherence and fertility programs, administering FDA compliance requirements related to the drug, 340B contract pharmacy services, product reimbursement support services, and various other clinical or pharmacy programs or services. As a condition to having access to certain products, and sometimes related to certain therapy adherence criteria or FDA requirements, a pharmaceutical manufacturer may require a pharmacy to report selected information to the manufacturer regarding the pharmacy's service levels and other dispensing-related data with respect to patients who receive that manufacturer's product. A portion of the discounts or other fee-for-service payments made available to our pharmacies may represent compensation for such reporting.

Other Manufacturer Arrangements – ESI also maintains other lines of business that may involve discount and service fee relationships with pharmaceutical manufacturers and wholesale distributors. Examples of these businesses include a wholesale distribution business, group purchasing organizations (and related group purchasing organization fees), a medical benefit management company, and United BioSource Corporation ("UBC"). Compensation derived through these business arrangements is not considered for PBM formulary placement, and is in addition to other amounts described herein. Of particular note, UBC partners with life sciences and pharmaceutical companies to develop, commercialize, and support safe, effective use and access to pharmaceutical products. UBC maintains a team of research scientists, biomedical experts, research operations professionals, technologists and clinicians who work with clients to conduct and support clinical trials, create, and validate and administer pre and post product safety and risk management programs. UBC also works on behalf of pharmaceutical manufacturers to provide product and disease state education programs, reimbursement assistance, and other support services to the public at large. These service fees are not part of the formulary rebates or associated administrative fees.

Third Party Data Sales – Consistent with any client contract limitations, ESI or its affiliates may sell HIPAA compliant information maintained in their capacity as a PBM, pharmacy, or otherwise to data aggregators, manufacturers, or other third parties on a fee-for-service basis or as a condition of discount eligibility. All such activities are conducted in compliance with applicable patient and pharmacy privacy laws and client contract restrictions.

October 1, 2015

**THIS EXHIBIT REPRESENTS ESI'S FINANCIAL POLICIES. ESI MAY PERIODICALLY UPDATE THIS EXHIBIT AND THE FINANCIAL DISCLOSURES CONTAINED HEREIN TO REFLECT CHANGES IN ITS BUSINESS PROCESSES; THE CURRENT FINANCIAL DISCLOSURE IS AVAILABLE UPON REQUEST AND ACCESSIBLE ON EXPRESS-SCRIPTS.COM AT WWW.EXPRESS-SCRIPTS.COM/WPS/PORTAL/.**

**EXHIBIT E**

**PERFORMANCE STANDARDS**

In the event that any failure by ESI to meet any performance standard is due to a "force majeure" as defined in the Agreement, failure of Sponsor to perform its obligations under the Agreement, or actions or inactions of Sponsor that adversely impact ESI's ability to maintain the subject standard (e.g., faulty eligibility, changes in benefit design not adequately communicated to Members and benefit designs that substantially change the Members' rights under the Plan), ESI will be excused from compliance with such performance standards until such circumstances have been resolved and any existing backlogs or other related effects have been eliminated.

Within ninety (90) days after the end of each year, ESI shall report to Sponsor ESI's performance under each performance standard. Notwithstanding the foregoing, for purposes of determining whether ESI has met or failed to meet each performance standard, performance standards will be measured and reconciled on an annual basis and amounts due resulting from an ESI failure to meet any performance standard(s), if any, shall be calculated and paid to Sponsor within thirty (30) days following Sponsors receipt of reconciliation report.

No performance penalties, if any, will be paid until this Agreement is executed by Sponsor. In no event will the sum of the payments to Sponsor, as a result of ESI's failure to meet the performance standards exceed \$10.00 per Member per year for the annual performance standards.

Performance standards for ESI's Mail Service Pharmacy assume a minimum of 1,000 Mail Service Pharmacy prescriptions submitted annually.

Sponsor may reallocate performance guarantee penalty amounts across each guarantee listed in this Exhibit provided, that (i) no greater than 20% of the total performance guarantee risk pool can be allocated to an individual guarantee, (ii) any reallocation is provided in writing to ESI no later than 30 days prior to the start of each contract year, and (iii) the sum of all penalty allocations equal 100% of the total performance guarantee risk pool.

The following performance standards are based on 10,930 members as of the effective date and throughout the term. Any material change below such number may result in a renegotiation of the standards and penalties set forth below.

Performance standards are for Commercial Benefit only.

| Service Feature  | Standard   | Penalty   |
|--|--|---|
| <b>Implementation (for new Connecticut Coalition Member Groups only)</b> |  |   |
| Implementation and Start-up  | Express Scripts will guarantee the implementation of Sponsor to be completed in accordance within the mutually agreed upon timelines. Each of ESI' standards is dependent upon receiving specific information from Sponsor. Loading of eligibility and production of ID cards are dependent upon receiving group structure and benefit plan design sign-off from Sponsor. A delay in receipt of data or information from Sponsor may require rescheduling of all subsequent deliverable dates. The recommended implementation time frame is 90 days.<br>The implementation performance guarantee is a one-time only guarantee valid 90 days from Sponsor's effective date. ESI shall provide a draft Implementation Guarantee Tracking Document at implementation kick off meeting.<br>Implementation Performance Guarantees must be agreed to and documented within thirty (30) days of the kick off meeting or they will be considered void. | The following dollars will be paid to Sponsor if ESI does not complete the deliverables by the dates noted in the performance standard, assuming that Sponsor has provided the information necessary to complete these deliverables:<br>Benefit Plan Design — \$0.00<br>Eligibility Load — \$0.00<br>ID Cards — \$0.00<br>Toll-Free Telephone Number — \$0.00<br>Initial File Loads: Claims History —\$0.00<br>Initial File Loads: Prior Authorization History — \$0.00<br>Initial File Loads: Open Refill Transfers - \$0.00<br>The above reference our standard Implementation PGs.<br>The maximum implementation penalty will be \$0.00. |

| Service Feature                                 | Standard   | Penalty   |
|---|--|---|
| Implementation Satisfaction                     | <p>ESI agrees to provide an Implementation satisfaction assessment. The assessment will be comprised of specific implementation project plan milestones and any new solutions/business practices that were created by both parties throughout the process. A satisfaction rating of 1-5 will be used based on meeting the milestone dates and/or if the new solutions/business practices fulfilled the business requirement need. ESI guarantees an average rating of 4 or greater. This is dependent on the Sponsor providing the necessary information by the agreed upon dates.</p> <p>5 – Date met or exceeded with anticipated results and/or solution better than business requirement need<br/> 4 – Date met with anticipated results and/or solution fulfilled business requirement need<br/> 3 – Date missed by one (1) business day or more, but less than seven (7) business days, due to fault of ESI and/or solution fulfilled minimal business requirement<br/> 2 – Date missed by seven (7) business days or more, but less than fourteen (14) business days, due to fault of ESI and/or solution fulfilled partial business requirement<br/> 1 – Date missed by fourteen (14) or more business days due to fault of ESI and/or solution did not fulfil any part of business requirement</p> <p>Implementation Performance Guarantees must be agreed to and documented within thirty (30) days of the kick off meeting or they will be considered void.</p> | <p>ESI will pay \$0.00 for an average rating less than 4. ESI will pay \$0.00 for an average rating less than or equal to 3. ESI will pay \$0.00 for an average rating less than or equal to 2. ESI will pay \$0.00 for an average rating less than or equal to 1. In no event shall the total penalty exceed \$0.00.</p> |
| <b>Account Management</b>                       |  |   |
| Account Management Performance Guarantee Survey | <p>ESI agrees to provide an annual Account Management Satisfaction Survey. ESI guarantees that the Sponsor's overall satisfaction with Account Management will be greater than or equal to Meets Expectations. For the purposes of this guarantee, Sponsor's rating shall be defined on the following scale: Exceeds Expectations, Meets Expectations, Does Not Meet Expectations in any contract year. ESI shall be responsible for survey design, data collection, analysis, and all costs associated with conducting the surveys.</p>   | <p>ESI will put \$21,860.00 as a total amount of penalty at risk.</p>   |
| <b>Client Services Administration</b>           |  |   |
| Client-Specific Member Satisfaction Survey      | <p>One random sample member survey will be completed annually specific to the Sponsor. ESI guarantees a patient satisfaction rate of 90% or greater based on overall satisfaction. Guarantee assumes the number of responses is statistically significant.</p>   | <p>ESI will put \$16,395.00 as a total amount of penalty at risk.</p>   |
| <b>Contact Center</b>                           |  |   |
| Average Speed of Answer                         | <p>ESI guarantees that calls will be answered in an average of 30 seconds or less. This guarantee is predicated on the installation of a toll-free number unique to the sponsor. Measurement includes calls routed to the IVR.</p>   | <p>ESI will pay Sponsor \$0.00 for each full second above the standard 30 seconds on an annual basis. The maximum annual penalty will be \$0.00. The calculation will be based on the average speed of answer.</p>  |
| Blockage Rate (Busy Signal)                     | <p>ESI will guarantee a blockage rate of 1% or less. Blockage is defined as a caller receiving a busy signal. Measured at a book of business level.</p>  | <p>ESI will pay Sponsor \$0.00 for each full percentage point above the standard 1% on an annual basis. The maximum annual</p>  |

| Service Feature   | Standard   | Penalty   |
|---|--|---|
|   |  | penalty will be \$0.00. The calculation will be based on the blockage percentage.   |
| Percent of Calls Abandoned                                | The Telephone Abandonment Rate of the Member Service Telephone Line will be 3% or less of all incoming calls received during each Contract Year.   | ESI will pay Sponsor \$0.00 for each full percentage point above the standard 3% on an annual basis. The maximum annual penalty will be \$0.00. The calculation will be based on the average percentage of calls abandoned. |
| <b>Home Delivery Pharmacy</b>                             |  |   |
| Dispensing Accuracy                                       | The Dispensing Accuracy Rate for each Contract Year will be 99.996% or greater. Guarantee is measure at book of business.  | ESI will pay Sponsor \$0.00 for each full percentage point below the standard of 99.996% on an annual basis. The maximum annual penalty will be \$0.00. The calculation will be based on the average prescription accuracy. |
| Turnaround Time for Routine (Clean) Prescriptions         | ESI guarantees to dispense prescriptions not subject to intervention within an average of two (2) business days.   | ESI will pay Sponsor \$0.00 for each full day above the standard two (2) business days on an annual basis. The maximum annual penalty will be \$0.00.   |
| Turnaround Time for Prescriptions Subject to Intervention | ESI guarantees to dispense prescriptions subject to intervention within an average of four (4) business days.  | ESI will pay Sponsor \$0.00 for each full day above the standard four (4) business days on an annual basis. The maximum annual penalty will be \$0.00   |
| <b>Data Systems</b>                                       |  |   |
| Data Systems Availability and Adjudication                | ESI guarantees an annual average 99% system availability of the point-of-sale adjudication system on a book of business basis.<br>This guarantee excludes systems downtime attributed to regularly scheduled systems maintenance or systems downtime attributed to telecommunications failure or other circumstances outside the control of ESI. | ESI will pay Sponsor \$0.00 for each full percentage point which the yearly average of the online computer systems availability is below 99%. The maximum annual penalty for availability and adjudication will be \$0.00.  |
| <b>Reporting</b>  |  |   |
| Timely Production of Management Reports-                  | ESI guarantees access to the online Trend Central reporting suite will be available within an annual average of fifteen (15) business days after the billing cycle that contains the last day of the month.  | ESI will put \$0.00 as a total amount of penalty at risk.   |
| Claims Detail Files                                       | ESI guarantees that all claims detail files sent to external vendors will be provided within eight (8) days of scheduled delivery date   | ESI will put \$0.00 as a total amount of penalty at risk.   |
| <b>Replacement ID Card Production</b>                     |  |   |
| Timely Production of Replacement ID Cards                 | ESI guarantees that standard replacement ID cards will be produced within an annual average of five (5) business days of the receipt and update of machine-readable eligibility information.   | ESI will put \$0.00 as a total amount of penalty at risk.   |
| <b>Eligibility</b>  |  |   |
| Eligibility — Timeliness of Installations                 | Accurate and complete eligibility files electronically transmitted by 10:00 A.M. EST, via secured processes acceptable to ESI, will be updated within one (1) business day of receipt.   | ESI will put \$0.00 as a total amount of penalty at risk.   |
| <b>Retail Pharmacy Network</b>                            |  |   |
| Network Pharmacy Geographic Access                        | ESI guarantees that at least 95% of members, based on client-supplied eligibility, will have access to a network pharmacy within a five-mile radius of their residence in the National Plus Network, if there is an existing pharmacy within that radius. ESI has 90 days to cure, if the percent drops below the above stated percentages.      | ESI will pay Sponsor \$0.00 if this standard is not met.  |



| Service Feature                                       | Standard   | Penalty   |
|---|--|---|
|   | This standard will be measured and reported annually using information provided by GeoAccess or similar service.   |   |
| On-site Network Audits                                | ESI guarantees that 4% of pharmacies that adjudicated at least 250 claims annually will be audited on-site based across our book of business.<br>This standard will be measured and reported annually.   | ESI will pay Sponsor \$16,395.00 if this standard is not met.   |
| <b>Benefit Changes</b>                                |  |   |
| Benefit Additions or Changes — Accuracy               | ESI guarantees a 98.5% set up accuracy based upon the receipt of complete information on a signed benefit add/change form from the client.   | ESI will pay Sponsor \$16,395.00 per every full percentage point below the standard.<br>Payment based on annual average with total maximum payout of \$16,395.00. |
| <b>POS Claims Accuracy</b>                            |  |   |
| POS Accuracy  | ESI guarantees that 99% of POS claims will be processed accurately. This is contingent upon the claims adjudication system being 100% accurate, which will be tested prior to contract start date and signed off on.   | ESI will put \$0.00 as a total amount of penalty at risk.   |
| <b>Account Service</b>                                |  |   |
| Account Service Reporting                             | ESI guarantees that standard reports provided by ESI will be delivered within thirty (30) business days after the reporting period. Reports requiring customization will be delivered on a mutually agreed upon date.  | ESI will pay \$0.00 for every quarter the standard is not met. ESI will put \$TBD as a total amount of penalty at risk.   |
| Account Team Continuity                               | ESI guarantees that, except for circumstances beyond ESI's control (such as promotions, resignations, leave, etc.), Sponsor's designated account team will remain constant for at least the first eighteen (18) months of the contract period, unless a change in account management staff is requested by Participating Member Groups or the Connecticut Coalition. | ESI will put \$0.00 as a total amount of penalty at risk.   |
| <b>Paper Claims</b>                                   |  |   |
| Paper Claims Requiring No Development Processing Time | ESI guarantees member-submitted paper claims requiring no development (clean) will be processed within an average of 10 business days.   | ESI will put \$0.00 as the total amount of penalty at risk.   |
| Paper Claims Requiring Development Processing Time    | ESI guarantees member-submitted paper claims requiring development (non-clean) will be processed within an average of 14 business days.  | ESI will put \$0.00 as the total amount of penalty at risk.   |
| <b>Customer Service</b>                               |  |   |
| Customer Service — First Call Resolution              | ESI guarantees that 94% or greater of patient calls will be resolved on the first call.  | ESI will pay Sponsor \$16,395.00 for each full percentage point below 94%. The maximum annual penalty will be \$16,395.00.  |
| Customer Service Response Time to Written Inquiries   | ESI will guarantee that annually 95% or more of written inquiries will be responded to within five (5) business days and that annually 100% of written inquiries will be responded to within ten (10) business days.   | ESI will put \$0.00 as a total amount of penalty at risk.   |
| Client Satisfaction                                   | ESI agrees to provide an annual Client Satisfaction Survey. ESI guarantees that the Sponsor's overall satisfaction with ESI will be greater than or equal to an average of 5 on a scale of 1 to 7. ESI shall be responsible for survey design, data collection, analysis, and all costs associated with conducting the surveys.                                      | ESI will put \$21,860.00 as a total amount of penalty at risk.  |

## EXHIBIT F

### Employer-Only Sponsored Group Waiver Plan (EGWP) Addendum

1. **Construction.** Unless otherwise stated herein, the terms and conditions of the Agreement shall apply to services provided by ESI by and through its affiliate, Medco Containment Life Insurance Company, a Pennsylvania corporation, ("MCLIC") only insofar as such services are provided to Sponsor's EGWP Members (as defined herein). In addition, the terms and conditions set forth in this EGWP Addendum shall apply to services provided by MCLIC to Sponsor's EGWP Members. In the event there is a conflict between the terms and conditions in the Agreement and in this EGWP Addendum, the terms and conditions in this EGWP Addendum shall control, but only as they relate to services provided to EGWP Members. Capitalized terms not otherwise defined in this EGWP Addendum shall have the meaning ascribed to them in the Agreement.
2. **Acknowledgements.** The parties agree and acknowledge as follows:
  - A. MCLIC is an approved CMS-contracted prescription drug plan ("PDP") sponsor for an Employer Group Waiver Plan PDP in accordance with CMS regulations and has received approval from the Centers for Medicare and Medicaid Services ("CMS") to serve as a Prescription Drug Plan Sponsor (a "PDP Sponsor") and to provide prescription drug coverage that meets the requirements of, and pursuant to, the Voluntary Prescription Drug Benefit Program set forth in Part D of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, 42 U.S.C. §1395w-101 through 42 U.S.C. §1395w-152 (the "Act") and all applicable and related rules, regulations, and guidance promulgated, issued or adopted by CMS or other governmental agencies with jurisdiction over enforcement of the Act, including, but not limited to, 42 C.F.R. §423.1 through 42 C.F.R. §423.910 (with the exception of Subparts Q, R, and S), and the terms of any PDP Sponsor contract between CMS and MCLIC (collectively, the "Medicare Drug Rules"); and
  - B. Pursuant to the waivers granted by CMS under 42 U.S.C. §1395w-132(b), MCLIC offers employer-only sponsored group waiver plans ("EGWPs") to employers that wish to provide prescription drug benefits to their Part D Eligible Retirees (as defined below) in accordance with the Medicare Drug Rules; and
  - C. MCLIC provides services hereunder through itself and its affiliates, including Express Scripts, Inc. ("ESI"); and
  - D. Sponsor currently provides a prescription drug benefit (the "Current Benefit") to its Part D Eligible Retirees (as defined below) pursuant to a non-Medicare, self-insured welfare benefit plan; and
  - E. Sponsor desires to contract with MCLIC to offer a prescription drug benefit to Sponsor's Part D Eligible Retirees pursuant to an EGWP that is substantially similar in design to the Current Benefit (the "EGWP Benefit," as further defined below); and
  - F. Provided that the EGWP Benefit meets the actuarial equivalence standards of the Medicare Drug Rules, as more fully described below, MCLIC desires to offer the EGWP Benefit to Sponsor's Part D Eligible Retirees in accordance with the Medicare Drug Rules and pursuant to the terms and conditions of the Agreement and this EGWP Addendum.
3. **Definitions.**

"Commercial Benefit" means the prescription drug benefit covering Sponsor's Members and administered pursuant to the Agreement.

"Coverage Gap" means the stage of the benefit between the initial coverage limit and the catastrophic coverage threshold, as described in the Medicare Part D prescription drug program administered by the United States federal government.



"Coverage Gap Discount" means the manufacturer discounts available to eligible Medicare Part D beneficiaries receiving applicable, covered Medicare Part D drugs, while in the Coverage Gap.

"Coverage Gap Discount Program" means the Medicare program that makes manufacturer discounts available to eligible Medicare Part D beneficiaries receiving applicable, covered Medicare Part D drugs, while in the Coverage Gap.

"EGWP Eligibility File" means the list(s) submitted by Sponsor to MCLIC, in accordance with Article II, indicating the Part D Eligible Retirees that Sponsor has submitted for enrollment in the EGWP Benefit, as verified by MCLIC through CMS eligibility files. For all other purposes under the Agreement, the "EGWP Eligibility File" shall also be considered an "Eligibility File."

"EGWP Benefit" means the prescription drug benefit to be administered by MCLIC under this EGWP Addendum, as defined in the Recitals above and as further described in the Sponsor plan document, its summary plan description, and its summary of benefits, as may be amended from time to time in accordance with the terms of this EGWP Addendum.

"EGWP Member" means each Part D Eligible Retiree who is enrolled in the EGWP Benefit in accordance with the terms of this EGWP Addendum. For all other purposes under the Agreement, every EGWP Member shall also be deemed to be a Member.

"EGWP Plus" means a prescription drug benefit plan design that provides non-Medicare EGWP coverage supplemental to the standard Part D benefit, and is defined by CMS as other health or prescription drug coverage, and as such, the Coverage Gap Discount is applied before any additional coverage beyond the standard Part D benefit.

"Late Enrollment Penalty" or "LEP" means the financial penalty incurred under the Medicare Drug Rules by Medicare Part D beneficiaries who have had a continued gap in creditable coverage of sixty-three (63) days or more after the end of the beneficiary's initial election period, adjusted from time to time by CMS.

"Medicare Formulary" means the list of prescription drugs and supplies developed, implemented and maintained in accordance with the Medicare Drug Rules for the EGWP Benefit.

"Medicare Rebate Program" means MCLIC's or its affiliates' manufacturer rebate program under which MCLIC or its affiliates contract with pharmaceutical manufacturers for Rebates payable on selected Covered Drugs that are reimbursed, in whole or in part, through Medicare Part D, as such program may change from time to time.

"Part D" or "Medicare Part D" means the Voluntary Prescription Drug Benefit Program set forth in Part D of the Act.

"Part D Eligible Retiree" means an individual who is (a) eligible for Part D in accordance with the Medicare Drug Rules, (b) not enrolled in a Part D plan (other than the EGWP Benefit), and (c) eligible to participate in Sponsor's Current Benefit.

"Prescription Drug Plan" or "PDP" shall have the meaning set forth in the Medicare Drug Rules.

"True Out-of-Pocket Costs" or "TrOOP" means costs incurred by an EGWP Member or by another person on behalf of an EGWP Member, such as a deductible or other cost-sharing amount, with respect to Covered Drugs, as further defined in the Medicare Drug Rules.

"Vaccine Claim" means a claim for a Covered Drug which is a vaccine.

#### **4. Plan Status Under Applicable Laws; Enrollment and Disenrollment in the EGWP Benefit.**

- A. Medicare Part D. Sponsor and MCLIC acknowledge and agree as follows:

1. The design of and administration of the EGWP Benefit is subject to the applicable requirements of the Medicare Drug Rules. Sponsor shall provide all information and documents as may be reasonably required to administer the EGWP Benefit.
  2. If the number of Sponsor's Part D Eligible Retirees is materially reduced or eliminated for any reason, MCLIC may communicate with those persons at MCLIC's expense regarding alternative Medicare Part D options, including alternative Medicare Part D services offered by MCLIC or one or more of its affiliates, and the program pricing terms hereunder may be equitably modified by MCLIC to reflect the reduction or elimination of the number of Part D Eligible Retirees.
- B. Group Enrollment. Subject to each individual's right to opt out, as described below, Sponsor shall enroll Part D Eligible Retirees in the EGWP Benefit through a group enrollment process, as further described in and permitted under the Medicare Drug Rules. Sponsor agrees that it will comply with all applicable requirements for group enrollment in EGWPs as set forth in the Medicare Drug Rules, and as described and required by MCLIC's policies and procedures.
- C. EGWP Eligibility File. No later than sixty (60) days prior to the Effective Date and the first day of each EGWP Benefit enrollment period thereafter, so long as this EGWP Addendum is in effect, Sponsor shall provide an EGWP Eligibility File to MCLIC via the communication medium reasonably requested by MCLIC that lists those Part D Eligible Retirees for whom Sponsor intends to make application for enrollment in the EGWP Benefit (i.e., those Part D Eligible Retirees who have not opted out of the group enrollment process) for that contract year. Sponsor represents and warrants that all information it provides to MCLIC in the EGWP Eligibility File will be complete and correct. Sponsor shall communicate all new enrollments (i.e., individuals who become eligible to participate in the EGWP Benefit outside of an annual election period), requested retroactive enrollments of Part D Eligible Retirees, and disenrollments from the EGWP Benefit via the communication medium reasonably requested by MCLIC. MCLIC agrees to process retroactive enrollment requests pursuant to the requirements of the Medicare Drug Rules.
- D. Implementation.
1. MCLIC's Responsibilities. MCLIC shall implement the EGWP Eligibility File following confirmation of the Medicare Part D eligibility of the Part D Eligible Retirees listed on the EGWP Eligibility File with CMS eligibility files. A Part D Eligible Retiree will not be enrolled in the EGWP Benefit unless such individual is listed on both the EGWP Eligibility File submitted by Sponsor and the CMS eligibility files. Sponsor acknowledges and agrees that MCLIC may update in the EGWP Eligibility File any information concerning Part D Eligible Retirees upon receipt of corrected information from CMS, and MCLIC may use such corrected information to obtain a Part D Eligible Retiree's enrollment. For all Part D Eligible Retirees that have been included by Sponsor in the EGWP Eligibility File, but who are ultimately determined to be ineligible for participation in the EGWP Benefit, MCLIC or its affiliates shall notify the individual of his or her ineligibility in the EGWP Benefit and take all other action as required by applicable law. MCLIC shall communicate to Sponsor any changes to a Part D Eligible Retiree's information in the EGWP Eligibility File based upon updates or corrections received from CMS.
  2. Incomplete EGWP Eligibility File Information. Sponsor's submission to MCLIC of an inaccurate or incomplete EGWP Eligibility File (e.g., missing Health Insurance Claim Number, date of birth, last name, first name, gender, address, etc.) or otherwise incomplete information with respect to any individual Part D Eligible Retiree may result in a rejection of the Part D Eligible Retiree's enrollment in the EGWP Benefit. Sponsor acknowledges and agrees that MCLIC may contact Sponsor's Part D Eligible Retirees to obtain the information required hereunder and that MCLIC will update the EGWP Eligibility File on Sponsor's behalf to reflect additional information needed to complete enrollment of the Part D Eligible Retirees. If MCLIC, using reasonable efforts, is not able to obtain all missing information from a Part D Eligible Retiree within twenty-one (21) days after receiving Sponsor's initial request for enrollment of the Part D Eligible Retiree in the EGWP Benefit, then Sponsor's request shall be deemed cancelled and MCLIC or its

affiliates shall notify the individual of his or her enrollment denial and non-enrollment in the EGWP Benefit and shall take all other action as required by applicable law.

3. Effective Date of Enrollment into EGWP Benefit. Notwithstanding any provision of this EGWP Addendum to the contrary, the effective date of enrollment for any Part D Eligible Retiree who MCLIC seeks to enroll in the EGWP Benefit hereunder shall be the date of enrollment requested for that Part D Eligible Retiree by Sponsor on the EGWP Eligibility File, subject to any adjustments that MCLIC may make relating to eligibility verification or eligibility processing rules reasonably agreed upon by the parties.
- E. Involuntary Disenrollment. If Sponsor determines that an EGWP Member is no longer eligible to participate as an EGWP Member in the EGWP Benefit for reasons such as loss of Sponsor's eligibility or residence outside of the service area (an "Ineligible Enrollee"), Sponsor shall notify MCLIC at least twenty-five (25) days before disenrollment effective date. Such Ineligible Enrollee shall be notified about involuntary disenrollment and disenrolled in accordance with the Medicare Drug Rules. If CMS determines that an EGWP Enrollee is no longer eligible to participate as an EGWP Enrollee in the EGWP Benefit (an "Ineligible Enrollee"), upon notification to MCLIC, such Ineligible Enrollee shall be notified and disenrolled in accordance with the Medicare Drug Rules.
  - F. Voluntary Disenrollment. If an EGWP Member makes a voluntary request to be disenrolled from the EGWP Benefit (the "Voluntary Disenrollee") to Sponsor, then Sponsor shall notify MCLIC within two (2) business days of its receipt of the request for disenrollment, in a manner and format agreed upon by the parties. If Sponsor does not timely notify MCLIC of such Voluntary Disenrollee's disenrollment in the EGWP Benefit, then MCLIC shall submit a retroactive disenrollment request to CMS. Sponsor acknowledges that CMS may only grant up to a ninety (90) day retroactive disenrollment in such instances. If the Voluntary Disenrollee makes his or her request directly to MCLIC, then MCLIC shall direct the Voluntary Disenrollee to initiate the disenrollment with the Sponsor.
  - G. Group Disenrollment. If, upon the expiration of the then current term of this EGWP Addendum, Sponsor plans to disenroll its EGWP Members from the EGWP Benefit using a group disenrollment process, then Sponsor shall implement the following procedures:
    1. Notification to EGWP Members. Sponsor shall provide at least twenty-one (21) days (or such other minimum days' notice as required by the Medicare Drug Rules, if longer) prior written notice to each EGWP Member that Sponsor plans to disenroll him or her from the EGWP Benefit and shall include with such written notification an explanation as to how the EGWP Member may contact CMS for information on other Medicare Part D options that might be available to the EGWP Member; and
    2. Information to MCLIC. Sponsor shall provide all the information to MCLIC that is required for MCLIC to submit a complete disenrollment request transaction to CMS, as set forth in the Medicare Drug Rules. Sponsor shall transmit the complete and accurate disenrollment file to MCLIC: (i) no later than twenty-five (25) days prior to the group disenrollment effective date, and (ii) in the case of a group disenrollment with an effective date of January 1 of the applicable calendar year, by no later than the deadline communicated to Sponsor by MCLIC.
  - H. Responsibility for Claims After Loss of Eligibility or Disenrollment. Sponsor shall be responsible for reimbursing MCLIC pursuant to the billing provisions of the Agreement for all Prescription Drug Claims processed by MCLIC, including those: (a) with respect to an Ineligible Enrollee during any period in which the EGWP Eligibility File indicated that such Ineligible Enrollee was eligible; and (b) with respect to a Voluntary Disenrollee, in the event Sponsor did not provide timely notice to MCLIC of such disenrollment as set forth herein.
  - I. Effect On Commercial Benefit. By requesting a Member's enrollment as an EGWP Member in the EGWP Benefit, Sponsor represents that such EGWP Member's eligibility as a Member in the Commercial Benefit (except for EGWP supplemental coverage) will immediately terminate. Upon a Member's enrollment as an EGWP Member in the EGWP Benefit, Sponsor must communicate

to MCLIC that the EGWP Member's eligibility as a Member in the Commercial Benefit has terminated through the Eligibility Files. Until Sponsor communicates to MCLIC that the Member's eligibility in the Commercial Benefit has terminated, coverage under the Commercial Benefit and the terms and conditions applicable thereto will remain in effect for that Member.

- J. Effect of Termination of Commercial Benefit. Termination of services with respect to the Commercial Benefit will not automatically terminate the provision of services with respect to the EGWP Benefit.
- K. Retroactive Payments / Enrollment and Disenrollment. MCLIC may receive or recoup payments from CMS based upon retroactive enrollments to the EGWP Benefit or retroactive disenrollments from the EGWP Benefit under this EGWP Addendum. To the extent MCLIC has agreed in this EGWP Addendum to pay Sponsor amounts equal to such payments, MCLIC shall pay such amounts to Sponsor within forty-five (45) days of MCLIC's receipt of payments from CMS; provided, further, that any related EGWP PMPM Fees (as defined below) associated with the retroactive enrollment or disenrollment shall be adjusted in accordance with the applicable terms of this EGWP Addendum.

## 5. Prescription Drug Services.

- A. Prescription Drug Services. In exchange for the fees set forth in Exhibit A of the Agreement, MCLIC will administer the EGWP Benefit for EGWP Members in accordance with the terms and conditions of this EGWP Addendum. All such administrative services shall be provided by MCLIC in accordance with the Medicare Drug Rules and the terms of the EGWP Benefit.
- B. Actuarial Equivalence. The EGWP Benefit must satisfy all actuarial equivalence standards set forth in the Medicare Drug Rules. If MCLIC performs a review, Sponsor hereby agrees to cooperate with MCLIC to perform the necessary actuarial equivalence calculations to determine whether the EGWP Benefit meets the foregoing actuarial equivalence standards prior to the Effective Date. If MCLIC determines that the EGWP Benefit does not meet the actuarial equivalence standards, then Sponsor shall cooperate with MCLIC to make necessary adjustments to the EGWP Benefit design to meet the actuarial equivalence standards.
- C. Changes to the EGWP Benefit. Sponsor shall have the right to request changes to the terms of the EGWP Benefit from time to time by providing written notice to MCLIC. MCLIC shall implement any such requested changes, subject to the following conditions: (a) all changes to the EGWP Benefit must be consistent with and implemented in the time and manner permitted by the Medicare Drug Rules; (b) the EGWP Benefit, after implementation of such changes, must continue to meet the actuarial equivalence standards referenced above; and (c) any requested change that would increase MCLIC's costs of administering the EGWP Benefit without an equivalent increase in reimbursement to MCLIC from Sponsor shall not be implemented unless and until Sponsor and MCLIC agree in writing upon a corresponding amendment to the reimbursement terms of this EGWP Addendum.
- D. EGWP Member Communications. All standard EGWP Member communications concerning the EGWP Benefit (e.g., benefit overview document, formulary booklet, etc.) shall be mutually developed by MCLIC and Sponsor pursuant to the Medicare Drug Rules, including the CMS Marketing Guidelines contained therein. Pursuant to the Medicare Drug Rules, MCLIC must ensure all such EGWP Member communications, whether created and/or distributed by either Sponsor or MCLIC, are CMS compliant, and provide such to CMS upon request. If CMS notifies MCLIC that any such EGWP Member communication is deficient, Sponsor agrees to assist MCLIC to make necessary revisions to correct such deficiency.
- E. Claims Processing.
  - 1. COB. MCLIC will coordinate benefits with state pharmaceutical assistance programs and entities providing other prescription drug coverage consistent with the Medicare Drug Rules.



2. TrOOP. MCLIC will establish and maintain a system to record EGWP Members' TrOOP balances, and shall communicate TrOOP balances to EGWP Members upon request. MCLIC will provide 24-hours a day, 7-days a week toll-free telephone, IVR and Internet support to assist Sponsor and EGWP Members with TrOOP verification.
  3. EOBs. MCLIC will furnish EGWP Members, in a manner specified by CMS, a written or electronic explanation of benefits ("EOB") when prescription drug benefits are provided under qualified prescription drug coverage consistent with the requirements of the Medicare Drug Rules.
- F. Formulary and Medication Management. MCLIC or its affiliates will maintain a pharmacy and therapeutics committee ("P&T Committee") in accordance with the Medicare Drug Rules, which will develop a Medicare Formulary to be selected by Sponsor for the EGWP Benefit. All Covered Drugs on the Medicare Formulary shall be Part D drugs or otherwise permitted to be covered by a PDP under the Medicare Drug Rules. Sponsor acknowledges and agrees that the Medicare Formulary may not be modified by removing Covered Drugs, adding additional utilization management restrictions, making the cost-sharing status of a drug less beneficial or otherwise modified in a manner not consistent with the Medicare Drug Rules.
- G. Medication Therapy Management. For the fees identified on Exhibit A of the Agreement, MCLIC or its affiliates will implement a Medication Therapy Management program that is designed to ensure that Covered Drugs prescribed to targeted EGWP Members are appropriately used to optimize therapeutic outcomes through improved medication use; and reduce the risk of adverse events, including adverse drug interactions.
- H. Late Enrollment Penalty. Sponsor agrees to and attests that it shall comply with the applicable CMS requirements of the LEP and shall comply with MCLIC's LEP policy, including participating with MCLIC in the following process:
1. Sponsor has an option to: (i) provide an initial global attestation to MCLIC to attest to creditable coverage for all of its EGWP Members; or (ii) periodically provide an attestation to MCLIC to attest to creditable coverage for its EGWP Members listed on the LEP report provided to Sponsor by MCLIC.
  2. If Sponsor elects to periodically attest to MCLIC under the preceding subsection, then:
    - a. Sponsor's response shall be delivered to MCLIC within five (5) business days from the receipt of LEP report from MCLIC;
    - b. Sponsor shall provide MCLIC with the file listing all EGWP Members for whom Sponsor was unable to attest; and
    - c. MCLIC shall also mail an attestation to each EGWP Member that has a gap in coverage as defined by CMS.
  3. Sponsor will provide MCLIC with an attestation in MCLIC's standard form, which will be provided to Sponsor upon request, and a file listing of all the EGWP Members included in the attestation.
  4. MCLIC will collect responses to the attestations from Sponsor or EGWP Members and submits EGWP Members information to CMS for processing and determination of applicable LEP.
  5. CMS calculates the LEP amount and transmits the LEP amount to MCLIC on the daily TRR file, which is communicated to Sponsor. MCLIC shall invoice Sponsor for payment of the LEP. Sponsor may elect to either pay for the LEP on behalf of the EGWP Member, or seek reimbursement of the LEP amount from the EGWP Member. This election must be made prior to the beginning of each plan year and must be applied consistently by Sponsor for all EGWP Members throughout each plan year.

- I. Organized Health Care Arrangement. The parties agree that with respect to the EGWP Benefit, Sponsor and MCLIC are party to an Organized Health Care Arrangement under 45 C.F.R. § 160.103.

## 6. Document Retention and Government Audit.

- A. Document Retention. MCLIC and Sponsor will maintain, for a period of the then current plan year plus an additional ten (10) years, the applicable books, contracts, medical records, patient care documentation, and other records relating to covered services under this Amendment, including those relating to the collection of monthly premiums as set forth herein. MCLIC and its affiliates may use and disclose both during and after the term of this EGWP Addendum the anonymized claims data (de-identified in accordance with HIPAA) including drug and related medical data collected by MCLIC or provided to MCLIC by Sponsor for research; provider profiling; benchmarking, drug trend, and cost and other internal analyses and comparisons; clinical, safety and/or trend programs; ASES; or other MCLIC business purposes, in all cases subject to applicable law.
- B. Government Audit. MCLIC and Sponsor agree to allow the United States Department of Health and Human Services ("DHHS") and the Comptroller General, or their designees, the right to audit, evaluate, collect, and inspect books, contracts, medical records, patient care documentation and other records relating to covered services under this EGWP Addendum, as are reasonably necessary to verify the nature and extent of the costs of the services provided to EGWP Members under this EGWP Addendum, for a period of the then current plan year, plus an additional ten (10) years following termination or expiration of the EGWP Addendum for any reason, or until completion of any audit, whichever is later.

## 7. Monthly Premiums; Fees; Billing and Payment.

### A. Monthly Premiums.

1. Collection of Monthly Premium Amounts. In accordance with the Medicare Drug Rules, MCLIC hereby delegates the premium collection function to Sponsor and hereby directs Sponsor, on behalf of MCLIC, to collect all monthly premium payments due from EGWP Members for participation in the EGWP Benefit. In connection with MCLIC's delegation of the premium collection function to Sponsor under this Section 7.A.1, Sponsor hereby agrees as follows:
  - a. That in no event, including, but not limited to, nonpayment by MCLIC of any amounts due by MCLIC to Sponsor pursuant to this EGWP Addendum, MCLIC's insolvency, or MCLIC's breach of this EGWP Addendum, will Sponsor bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against an EGWP Member or persons acting on his or her behalf for payments that are the financial responsibility of MCLIC under this EGWP Addendum. The foregoing is not intended to prohibit Sponsor from collecting premium amounts due by EGWP Members for participation in the EGWP Benefit.
2. Determination of Monthly Premium Amounts (if any) to be Subsidized by Sponsor. In determining the amount of the EGWP Member's monthly premium for participation in the EGWP Benefit that Sponsor will subsidize, if any, Sponsor shall make such determination subject to the following restrictions and any other restrictions that may be imposed by CMS:
  - a. Sponsor may subsidize different amounts for different classes of EGWP Members provided such classes are reasonable and based on objective business criteria, such as years of service, business location, job category, and nature of compensation (e.g., salaried vs. hourly). Different classes cannot be based on eligibility for the Low Income Subsidy;



- b. Sponsor may not vary the premium subsidy for individuals within a given class of EGWP Members;
  - c. Sponsor may not charge an EGWP Member more than the sum of his or her monthly beneficiary premium attributable to basic prescription drug coverage and 100% of the monthly beneficiary premium attributable to his or her supplemental prescription drug coverage, if any;
  - d. MCLIC will, as directed by Sponsor, directly refund to the EGWP Member, within forty-five (45) days of original receipt from CMS of the Low Income Subsidy premium, the full premium subsidy amount up to the monthly beneficiary premium amount previously collected from the EGWP Member; provided, however, that to the extent there are Low Income Subsidy premium amounts remaining after MCLIC refunds the full monthly beneficiary premium amount to the EGWP Member, then that remaining portion of the Low Income Subsidy premium may be applied to the portion of the monthly premium paid by Sponsor;
  - e. If Sponsor is not able to reduce the up-front monthly beneficiary premium as described in subsection (d) above, MCLIC, as directed by Sponsor, shall directly refund to the EGWP Member, within forty-five (45) days of original receipt from CMS of the Low Income Subsidy premium, the full premium subsidy amount up to the monthly beneficiary premium amount previously collected from the EGWP Member;
  - f. If the Low Income Subsidy amount for which an EGWP Member is eligible is less than the portion of the monthly beneficiary premium paid by the EGWP Member, then MCLIC will communicate to the EGWP Member the financial consequences for the beneficiary of enrolling in the EGWP Benefit as compared to enrolling in another Medicare Part D plan with a monthly beneficiary premium equal to or below the Low Income Subsidy amount; and
  - g. In the event of a change in an EGWP Member's Low Income Subsidy status or an EGWP Member otherwise becomes ineligible to receive the Low Income Subsidy after payment of the Low Income Subsidy premium amount to the EGWP Member, and upon MCLIC's receipt of notification from CMS that such Low Income Subsidy premium amount will be recovered from MCLIC or withheld from future payments to MCLIC, then MCLIC in its sole discretion will invoice Sponsor or set off from amounts otherwise owed from MCLIC to Sponsor, and in either case Sponsor shall reimburse MCLIC for, all amounts deemed by CMS to be ineligible Low Income Subsidy premium payments with respect to the EGWP Member.
3. Reporting and Auditing of Premium Amounts; Non-Payment by EGWP Members. Upon reasonable advance written notice, MCLIC or its affiliates shall have access to Sponsor's records, including evidence of Sponsor's calculations of monthly premium amounts, in order to audit the monthly premium amounts collected from EGWP Members for the purposes of fulfilling reporting requirements under the Medicare Drug Rules or applicable state insurance laws related to collection of such premium amounts or to otherwise assess compliance with the Medicare Drug Rules in connection with the collection of such premium amounts. Any audits performed by MCLIC or its affiliates pursuant to this Section 7.A.3 will be at MCLIC's expense. Sponsor acknowledges and agrees that neither MCLIC nor its affiliates shall be responsible to Sponsor for non-payment by any EGWP Member of any monthly premium amount due by such EGWP Member for participation in the EGWP Benefit. Sponsor further acknowledges and agrees that in the event that either Sponsor or MCLIC (through any audit) determines that Sponsor has collected a greater premium amount from an EGWP Member than is due, that Sponsor shall promptly refund any such overpayment to the EGWP Member.

B. Billing. MCLIC or its affiliates will bill Sponsor for, and Sponsor shall pay MCLIC or its affiliates, (i) every two weeks for the EGWP Claims Reimbursement Amount (as defined below) for such billing period; and (ii) once per month for any EGWP Administrative Services Fees (as defined below) incurred by Sponsor during the previous month (or earlier if not yet invoiced to Sponsor) and EGWP PMPM Fees (as defined below) due for such period. The EGWP Claims Reimbursement Amount, EGWP PMPM Fees, and EGWP Administrative Services Fees shall be referred to collectively as "EGWP Fees". For purposes of this Section 7.B:

1. "EGWP Claims Reimbursement Amount" means, with respect to any period, the amount equal to the aggregate amount of reimbursement due from Sponsor to MCLIC for Covered Drugs dispensed to EGWP Members by the Pharmacies, and, if applicable, for Member Submitted Claims during such period, including dispensing fees and all associated claims processing administrative fees, based on the reimbursement rates and pricing terms set forth on Exhibit A of the Agreement;
2. "EGWP PMPM Fees" means, with respect to any period, all per EGWP Member per month administrative fees as set forth on Exhibit A-2 of the Agreement for such period.
3. "EGWP Administrative Services Fees" means the fees incurred by Sponsor, if any, for MCLIC's or its affiliates' performance of the administrative services listed in the EGWP Administrative Fees table set forth on Exhibit A of the Agreement.

C. CMS Reimbursement.

1. CMS Reimbursement Payment Terms.

(a) CMS Reimbursement Payment Terms (Direct Subsidy/Low-Income Subsidy). MCLIC will pay Sponsor an amount equal to the total amount paid to MCLIC by CMS for the following: (1) advance direct subsidy monthly payments paid to MCLIC, if any, by CMS with respect to EGWP Members and (2) low-income subsidy payments paid to MCLIC by CMS, if any, with respect to EGWP Members and subject to the provisions of Section 5.1(b) of this Agreement (collectively, "CMS Subsidy Reimbursement"). MCLIC will pay amounts equal to the CMS Subsidy Reimbursement, allocated pursuant to the terms of this Agreement, on a monthly basis approximately thirty (30) days after MCLIC's receipt of the CMS Subsidy Reimbursement from CMS. MCLIC and its affiliates retain all right, title and interest to any and all actual CMS Subsidy Reimbursement received from CMS, except that MCLIC shall pay Sponsor amounts equal to the CMS Subsidy Reimbursement amounts allocated to Sponsor, as specified in this Agreement, from MCLIC's or its affiliates' general assets (neither Sponsor nor its EGWP Member's retain any beneficial or proprietary interest in MCLIC's or its affiliates' general assets). Sponsor acknowledges and agrees that neither it nor its EGWP Members shall have a right to interest on, or the time value of, any CMS Subsidy Reimbursement payments received by MCLIC or its affiliates during the collection period or moneys payable under this Section. No CMS Subsidy Reimbursements shall be paid until this Agreement is executed by Sponsor. MCLIC shall have the right to retain or apply Sponsor's allocated CMS Subsidy Reimbursement amounts or Rebates with respect to EGWP Member utilization to unpaid Fees and shall have the right to delay payment of CMS Subsidy Reimbursement amounts to allow for final adjustments upon termination of this Agreement.

(b) CMS Reimbursement Payment Terms (Prospective Reinsurance). MCLIC will pay Sponsor prospective reinsurance payments based on the lesser of the CMS defined per member per month prospective reinsurance for the effective plan year or the Sponsor's per member per month reinsurance for the most recent plan year closed by CMS for reconciliation purposes. For Sponsor's first year as an EGWP administered by MCLIC, MCLIC will pay Sponsor prospective reinsurance payments based on the lesser of the CMS defined per member per month prospective reinsurance for the effective plan year or the Sponsor's projected per member per month reinsurance for the effective plan year based on claims experience of Sponsor's EGWP Members. MCLIC will pay amounts on

a monthly basis approximately thirty (30) days after MCLIC's receipt of the prospective reinsurance reimbursement from CMS ("Prospective Reinsurance CMS Reimbursement"). MCLIC and its affiliates retain all right, title, and interest to any and all actual Prospective Reinsurance CMS Reimbursement amounts allocated to Sponsor, except that MCLIC shall pay Sponsor Prospective Reinsurance CMS Reimbursement amounts allocated to Sponsor, as specified in this Agreement, from MCLIC's or its affiliates' general assets (neither Sponsor nor its EGWP Members retain any beneficial or proprietary interest in MCLIC's or its affiliates' general assets). Sponsor acknowledges and agrees that neither it nor its EGWP Members shall have a right to interest on, or the time value of, any Prospective Reinsurance CMS Reimbursement payments received by MCLIC or its affiliates during the collection period or moneys payable under this Section. No Prospective Reinsurance CMS Reimbursements shall be paid until this Agreement is executed by Sponsor. MCLIC shall have the right to retain or apply Sponsor's allocated Prospective Reinsurance CMS Reimbursement amounts or Rebates with respect to EGWP Member utilization to unpaid Fees and shall have the right to delay payment of Prospective Reinsurance CMS Reimbursement amounts to allow for final adjustments upon termination of this Agreement.

2. CMS Reimbursement Reporting. At least annually, MCLIC will provide Sponsor an accounting of all CMS Subsidy Reimbursement and Prospective Reinsurance CMS Reimbursement received by MCLIC from CMS pursuant to the Medicare Drug Rules with respect to the EGWP Benefit.

D. CMS-Required Reconciliation / Reinsurance.

1. End-of-Year Reconciliation. The parties acknowledge that after the conclusion of each plan year, CMS will reconcile payment year disbursements with updated enrollment and health status data, actual low-income cost-sharing costs, actual allowable reinsurance costs, and other pertinent information. Upon final CMS end-of-year reconciliation, the following shall occur: (i) in the event that the actual incurred reinsurance amount calculated during reconciliation exceeds the prospective amounts paid to Sponsor by MCLIC, MCLIC will pay such amounts to Sponsor subject to the remaining terms of this agreement, and (ii) in the event that the actual incurred reinsurance amount calculated during reconciliation is less than the prospective amounts paid to Sponsor by MCLIC, Sponsor shall repay to MCLIC such amounts previously paid by MCLIC in accordance with the payment terms of the Agreement. MCLIC shall have the right to retain or apply Sponsor's allocated CMS End of Year Reconciliation amounts with respect to EGWP Member utilization to unpaid Fees and shall have the right to delay payment of CMS End of Year Reconciliation amounts to allow for final adjustments upon termination of this Agreement. MCLIC shall have the right to apply reconciliation amounts owed from Sponsor to rebates, CMS Subsidy Reimbursements, Prospective Reinsurance CMS Reimbursements, or Manufacturer Coverage Gap Discount amounts. All such payments resulting from a CMS reconciliation will be paid to Sponsor no later than January 31 of the calendar year immediately following the date of MCLIC's receipt of the reconciliation payments from CMS. If CMS subsequently recovers any end of year reconciliation payments from MCLIC due to a CMS Plan Year reopening or other process described in the Medicare Drug Rules, then Sponsor shall be obligated to repay to MCLIC such amounts previously paid to Sponsor. If CMS subsequently reimburses MCLIC for end of year reconciliations payments due to a CMS Plan Year reopening or other process described in the Medicare Drug rules, then MCLIC will pay such amounts to Sponsor. MCLIC shall have the right to apply reconciliation amounts owed from Sponsor due to a CMS Plan Year reopening to rebates, CMS Subsidy Reimbursements, Prospective Reinsurance CMS Reimbursements, or Manufacturer Coverage Gap Discount amounts.
2. Plan-to-Plan Reconciliation. MCLIC will perform plan-to-plan coordination of EGWP Members' prescription drug benefits with other provider of prescription drug coverage as set forth in the Medicare Drug Rules and any related reconciliation; provided, that

no later than January 31 of the calendar year immediately following completion of such coordination or reconciliation process, MCLIC shall pay to Sponsor an amount equal to payments recovered for the EGWP Benefit, but at the same time MCLIC shall have a right to recoup from Sponsor any amount which MCLIC is obligated to pay to any other prescription drug plan pursuant to a plan-to-plan reconciliation.

E. Manufacturer Coverage Gap Discount.

1. Pursuant to its CMS contract, MCLIC has agreed to administer for EGWP Members at point-of-sale the Coverage Gap Discount authorized by section 1860D-14A of the Social Security Act. In connection with the Coverage Gap Discount, CMS will coordinate the collection of discount payments from manufacturers, and payment to MCLIC, through a CMS contractor (the "Coverage Gap Discount Payments"). Subject to Section 5.4(a) above, MCLIC agrees to periodically remit to Sponsor amounts equal to 100% of the Coverage Gap Discount Payments received by MCLIC within forty-five (45) days of the CMS Manufacturer Payment Date. MCLIC and its affiliates retain all right, title and interest to any and all actual Coverage Gap Discount Payments received from CMS, except that MCLIC shall pay Sponsor amounts equal to the Coverage Gap Discount Payments amounts allocated to Sponsor, as specified in this Agreement, from MCLIC's or its affiliates' general assets (neither Sponsor nor its EGWP Members retain any beneficial or proprietary interest in MCLIC's or its affiliates' general assets). Sponsor acknowledges and agrees that neither it nor its EGWP Members shall have a right to interest on, or the time value of, any Coverage Gap Discount Payments received by MCLIC or its affiliates during the collection period or moneys payable under this Section. No Coverage Gap Discount Payments shall be paid until this Agreement is executed by Sponsor. MCLIC shall have the right to apply Sponsor's allocated Coverage Gap Discount Payments amount to unpaid Fees and shall have the right to delay payment of Coverage Gap Discount Payments to allow for final adjustments upon termination of this Agreement. Notwithstanding anything contained in this Section 7, Sponsor shall retain all right, title, and interest to the amounts that MCLIC is contractually obligated to pay Sponsor hereunder, and failure by MCLIC to pay such amounts will constitute a breach of this Agreement.
2. If the EGWP Benefit administered by MCLIC under this EGWP Addendum for Sponsor includes EGWP Plus design elements, then the Coverage Gap Discount will be coordinated with the Commercial Benefit consistent with the Medicare Drug Rules.

8. **Term and Termination; Default and Remedies.**

- A. Termination of MCLIC's Contract with CMS. If at any time throughout the term of this EGWP Addendum, CMS either does not renew its contract with MCLIC or terminates its contract with MCLIC such that MCLIC may no longer provide services as a PDP Sponsor under the Medicare Drug Rules, then this EGWP Addendum shall be automatically terminated conterminously with such CMS contract termination.
- B. Obligations Upon Termination. Sponsor or its agent shall pay MCLIC, or its affiliate, in accordance with this Agreement for all claims for Covered Drugs dispensed and services provided to Sponsor and EGWP Members on or before the later of: (i) the effective date of termination, or (ii) the final date that all EGWP Members have been transitioned to a new Part D plan, as applicable (the "Termination Date"). Claims submitted by Participating Pharmacies or EGWP Member Submitted Claims filed with MCLIC after the Termination Date shall be processed and adjudicated in accordance with a mutually determined run-off plan, provided that, in any event, and subject to all applicable payment terms of the Agreement: (i) MCLIC shall re-process or re-adjudicate claims originally processed and adjudicated on or before the Termination date, as necessary, for a period of five (5) years from the end of the plan year in which the applicable claim was processed and adjudicated; (ii) MCLIC shall process and adjudicate EGWP Member Submitted Claims for Covered Drugs dispensed and services provided on or before the Termination Date for a period of three (3) years from the termination of this Agreement; and (iii) MCLIC shall process and adjudicate claims submitted by Participating Pharmacies for Covered Drugs dispensed and



services provided on or before the Termination Date for a period of ninety (90) days from the termination of this Agreement. The parties shall cooperate regarding the transition of Sponsor and its EGWP Members to a successor PDP Sponsor in accordance with all applicable Medicare Drug Rules and MCLIC will take all reasonable steps to mitigate any disruption in service to EGWP Members. Notwithstanding the preceding, MCLIC may (a) delay payment of any final CMS reimbursement amounts, Rebate amounts or other amounts due Sponsor, if any, to allow for final reconciliation of any outstanding amount owed by Sponsor to MCLIC, or (b) request that Sponsor pay a reasonable deposit in the event MCLIC is requested to process after the Termination Date claims incurred on or prior to such date. If CMS subsequently recovers any end of year reconciliation payments from MCLIC due to a CMS Plan Year reopening or other process described in the Medicare Drug Rules after the effective date of termination, then Sponsor shall be obligated to repay to MCLIC such amounts previously paid to Sponsor. If CMS subsequently reimburses MCLIC for end of year reconciliations payments due to a CMS Plan Year reopening or other process described in the Medicare Drug rules after the effective date of termination, then MCLIC will pay such amounts to Sponsor.

IN WITNESS WHEREOF, the undersigned have executed this EGWP Addendum as of the day and year below set forth.

MEDCO CONTAINMENT LIFE INSURANCE  
COMPANY

CITY OF BRIDGEPORT

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_



CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

CITY ATTORNEY  
R. Christopher Meyer

999 Broad Street  
Bridgeport, CT 06604-4328

DEPUTY CITY ATTORNEY  
John P. Bohannon, Jr.

ASSOCIATE CITY ATTORNEYS

Mark T. Anastasi  
Richard G. Kascak, Jr.  
Bruce L. Levin  
Russell D. Liskov  
John R. Mitola  
Lawrence A. Ouellette, Jr.  
Ronald J. Pacacha  
Tyisha S. Toms  
Lisa R. Trachtenburg



ASSISTANT CITY ATTORNEYS

Eroll V. Skyers  
Tamara J. Titre

Telephone (203) 576-7647  
Facsimile (203) 576-8252

COMM. #73-16 ACCEPTED AND MADE PART OF THE RECORD  
ON 5/15/2017

May 8, 2017

The Honorable City Council  
City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

RECEIVED  
CITY CLERK'S OFFICE  
2017 MAY -9 P 3:50  
ARREST  
CITY CLERK

**RE: Settlement of Claim**

***Woodrow Vereen v. Keith Ruffin, et al.; Docket No: 3:16-CV-00599-VLB***

Dear Honorable Members:

The Office of the City Attorney proposes to settle the above referenced litigation in the amount of \$16,000.00 payable to Dan Barrett, Esq., Trustee for Woodrow Vereen. The action claims police misconduct during the course of a motor vehicle stop and arrest May 30, 2015.

Pursuant to the City Council's Ordinance Section 2.10.130, this office hereby provides notice of its intent to settle this matter in accordance with the terms set forth in said Section 2.10.130.

If you wish to discuss the details of this case or have any questions, please feel free to contact me. If I am not immediately available, please speak with paralegal, Danielle Kripps, who will then follow-up with me. Further, if I do not hear from you within the twenty (20) day time period provided by the Ordinance, I will proceed to finalize settlement of this matter.

Very truly yours,

R. Christopher Meyer  
City Attorney

RCM/dk



City of Bridgeport, Connecticut  
**CENTRAL GRANTS OFFICE**

999 Broad Street  
Bridgeport, Connecticut 06604  
Telephone (203) 332-5662  
Fax (203) 332-5657

**ISOLINA DeJESUS**  
Administrative Manager  
Central Grants

JOSEPH P. GANIM  
Mayor

May 10, 2017

Office of the City Clerk  
City of Bridgeport  
45 Lyon Terrace, Room 204  
Bridgeport, Connecticut 06604

**Comm. #74-16 Referred to ECD&E Committee  
On 5/15/2017**

Re: Resolution – **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Bridgeport Senior Center Recreation Activities Program (#18533)**

Attached, please find a Grant Summary and Resolution for the **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Bridgeport Senior Center Recreation Activities Program (#18533)** to be referred to the **Committee on Economic and Community Development and Environment** of the City Council.

Grant: City of Bridgeport application to the **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Bridgeport Senior Center Recreation Activities Program (#18533)**

If you have any questions or require any additional information, please contact me at 203-332-5664 or [autumn.hurst@bridgeportct.gov](mailto:autumn.hurst@bridgeportct.gov).

Thank you,

Autumn Hurst  
Central Grants Office

RECEIVED  
CITY CLERK'S OFFICE  
2017 MAY 10 P 3:42  
ATTEST  
CITY CLERK



## GRANT SUMMARY

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PROJECT TITLE: **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Bridgeport Senior Center Recreation Activities Program (#18533)**

NEW  RENEWAL  CONTINUING

DEPARTMENT SUBMITTING INFORMATION: **Central Grants Office**

CONTACT NAME: **Autumn Hurst**

PHONE NUMBER: **203-332-5664**

**PROJECT SUMMARY/DESCRIPTION:** The City of Bridgeport **Department on Aging** seeks funding to support the Bridgeport Senior Center Recreation Activities Program. The senior centers are committed to promoting the physical and mental health of seniors across Bridgeport. Enrollment for current recreational offerings generates significant interest and often fills very quickly. As a result, the Department on Aging is seeking funding to increase the number and availability of recreational offerings at Bridgeport senior centers. Funding from SWCAA will cover the costs of adding more recreational activities to the city's senior centers including weekly painting classes at the Eisenhower and North End senior centers as well as expanding Eisenhower's successful Tai Chi program to the North End and Black Rock senior centers. In addition, grant funding will allow Line Dancing classes to continue at Eisenhower Senior Center free of charge.

**CONTRACT PERIOD:** October 1, 2017 – September 30, 2018

| FUNDING SOURCES (include matching/in-kind funds): |                    |
|---|--------------------|
| Federal:  | \$16,300           |
| State:  | \$0                |
| City:   | \$14,034 (In-Kind) |
| Other:  | N/A                |

| GRANT FUNDED PROJECT FUNDS REQUESTED |          |
|--------------------------------------|----------|
| Contractors:                         | \$14,300 |
| Supplies:                            | \$2,000  |
| Equipment:                           | \$0      |
| Other:                               | \$0      |

| IN-KIND MATCH PROJECT FUNDS REQUESTED |                                      |
|---------------------------------------|--------------------------------------|
| Salaries/Benefits:                    | \$12,480 (supervision, data reports) |
| Supplies:                             | \$0                                  |
| Equipment:                            | \$0                                  |
| Other:                                | \$0                                  |

**A Resolution by the Bridgeport City Council**

**Regarding the**

**Southwestern Connecticut Agency on Aging (SWCAA)**

**Title III Funding Older Americans Act Grant Program**

**WHEREAS**, the **Southwestern Connecticut Agency on Aging (SWCAA)** is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through the **Title III Funding Older Americans Act Grant Program**; and

**WHEREAS**, funds under this grant will be used to support Bridgeport senior center recreation activities; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport submits an application to the **Southwestern Connecticut Agency on Aging (SWCAA)** to support recreational activities at the city's senior centers.

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:**

1. That it is cognizant of the City's grant application to and contract with the **Southwestern Connecticut Agency on Aging (SWCAA)** for the purpose of its **Title III Funding Older Americans Act Grant Program**; and
2. That it hereby authorizes, directs and empowers the Mayor or his designee, the **Central Grants Director**, to execute and file such application with the **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program** and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.



City of Bridgeport, Connecticut  
**CENTRAL GRANTS OFFICE**

999 Broad Street  
Bridgeport, Connecticut 06604  
Telephone (203) 332-5662  
Fax (203) 332-5657

ISOLINA DeJESUS  
Administrative Manager  
Central Grants

JOSEPH P. GANIM  
Mayor

May 10, 2017

**Comm. #75-16 Referred to ECD&E Committee  
On 5/15/2017**

Office of the City Clerk  
City of Bridgeport  
45 Lyon Terrace, Room 204  
Bridgeport, Connecticut 06604

Re: **Resolution – Southwestern Connecticut Agency on Aging (SWCAA) Title III  
Funding Older Americans Act Grant Program – Elderly Hispanic Program  
(#18270)**

Attached, please find a Grant Summary and Resolution for the **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Elderly Hispanic Program (#18270)** to be referred to the **Committee on Economic and Community Development and Environment** of the City Council.

**Grant:** City of Bridgeport application to the **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Elderly Hispanic Program (#18270)**

If you have any questions or require any additional information, please contact me at 203-332-5664 or [autumn.hurst@bridgeportct.gov](mailto:autumn.hurst@bridgeportct.gov).

Thank you,

Autumn Hurst  
Central Grants Office

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CITY CLERK

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2017 MAY 10 P 3:43





## GRANT SUMMARY

PROJECT TITLE: **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program – Elderly Hispanic Program (#18270)**

NEW  RENEWAL  CONTINUING

DEPARTMENT SUBMITTING INFORMATION: **Central Grants Office**

CONTACT NAME: **Autumn Hurst**

PHONE NUMBER: **203-332-5664**

**PROJECT SUMMARY/DESCRIPTION:** The City of Bridgeport **Department of Health and Social Services** seeks funding to support the Elderly Hispanic Program. Funding from SWCAA will cover the salary of a part-time (19 hours/week) employee providing information and assistance to low-income, Hispanic, older adults aged 60+ in Bridgeport as well as provide light snacks to seniors attending group meetings. The Elderly Hispanic Program aims to improve the quality-of-life and independence of Bridgeport seniors with limited English proficiency. The program supplies information on public benefits programs and other local services and opportunities and provides case management and follow-up services to seniors in a culturally sensitive and welcoming environment.

**CONTRACT PERIOD:** October 1, 2017 – September 30, 2018

| FUNDING SOURCES (include matching/in-kind funds): |                    |
|---|--------------------|
| Federal:  | \$23,750           |
| State:  | \$0                |
| City:   | \$26,305 (In-Kind) |
| Other:  | N/A                |

| GRANT FUNDED PROJECT FUNDS REQUESTED |                                |
|--------------------------------------|--------------------------------|
| Salaries/Benefits:                   | \$21,203 (Program Coordinator) |
| Supplies:                            | \$0                            |
| Equipment:                           | \$0                            |
| Other:                               | \$2,547 (food/beverage)        |

| IN-KIND MATCH PROJECT FUNDS REQUESTED |                                     |
|---------------------------------------|-------------------------------------|
| Salaries/Benefits:                    | \$7,360 (supervision, data reports) |
| Supplies:                             | \$0                                 |
| Equipment:                            | \$0                                 |
| Other:                                | \$18,500 (office space, printing)   |

**A Resolution by the Bridgeport City Council**

**Regarding the**

**Southwestern Connecticut Agency on Aging (SWCAA)**

**Title III Funding Older Americans Act Grant Program**

**WHEREAS**, the **Southwestern Connecticut Agency on Aging (SWCAA)** is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through the **Title III Funding Older Americans Act Grant Program**; and

**WHEREAS**, funds under this grant will be used to support the Elderly Hispanic Program; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport submits an application to the **Southwestern Connecticut Agency on Aging (SWCAA)** to support the provision of information and assistance to low-income, Hispanic, older adults aged 60+ in Bridgeport.

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:**

1. That it is cognizant of the City's grant application to and contract with the **Southwestern Connecticut Agency on Aging (SWCAA)** for the purpose of its **Title III Funding Older Americans Act Grant Program**; and
2. That it hereby authorizes, directs and empowers the Mayor or his designee, the **Central Grants Director**, to execute and file such application with the **Southwestern Connecticut Agency on Aging (SWCAA) Title III Funding Older Americans Act Grant Program** and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.



JOSEPH P. GANIM  
Mayor

City of Bridgeport, Connecticut  
**CENTRAL GRANTS OFFICE**

999 Broad Street  
Bridgeport, Connecticut 06604  
Telephone (203) 332-5662  
Fax (203) 332-5657

**ISOLINA DeJESUS**  
Administrative Manager  
Central Grants

**Comm. #76-16 Referred to ECD&E Committee  
On 5/15/2017**

May 10, 2017

Office of the City Clerk  
City of Bridgeport  
45 Lyon Terrace, Room 204  
Bridgeport, Connecticut 06604

Re: Resolution – **Connecticut State Library FY 2018 Targeted Grant for Historic Documents Preservation Program (#18213)**

Attached, please find a Grant Summary and Resolution for the **Connecticut State Library FY 2018 Targeted Grant for Historic Documents Preservation Program (#18213)** to be referred to the **Committee on Economic and Community Development and Environment** of the City Council.

**Grant:** City of Bridgeport application to the **Connecticut State Library FY 2018 Targeted Grant for Historic Documents Preservation Program (#18213)**

If you have any questions or require any additional information, please contact me at 203-576-7134  
[isolina.dejesus@bridgeportct.gov](mailto:isolina.dejesus@bridgeportct.gov).

Thank you,

Isolina DeJesus  
Central Grants Office

ATTEST  
CITY CLERK  
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2017 MAY 10 P 3:43



## GRANT SUMMARY

PROJECT TITLE: **Connecticut State Library FY 2018 Targeted Grant for Historic Documents Preservation Program (#18213)**

NEW                      RENEWAL                      CONTINUING

DEPARTMENT SUBMITTING INFORMATION: **Central Grants Office**

CONTACT NAME: **Isolina DeJesus**

PHONE NUMBER: **203-576-7732**

**PROJECT SUMMARY/DESCRIPTION:** The City of Bridgeport **Office of Planning and Economic Development (OPED)** is seeking \$7,500 in grant funding to continue a project that aims to promote efficient record preservation and management in the Building and Zoning Departments. These Departments at one time used a hard copy index card system for collecting and storing public information related to building and zoning permits called "field cards." These field cards contain data that is required to remain available to the public. Funding from the Connecticut State Library in 2015 allowed for the purchase of scanning software that digitized the field card process. Now, OPED is apply for funds that will allow the city to hire two part-time employees to continue the historic documentation process, scanning existing hard copy field cards dating as far back as 1916 that are currently filling the cabinets throughout the offices.

**CONTRACT PERIOD:** July 1, 2017 – June 30, 2018

**FUNDING SOURCES** (include matching/in-kind funds):

|          |                 |
|----------|-----------------|
| Federal: | \$0             |
| State:   | \$7,500         |
| City:    | \$573.76 (Cash) |
| Other:   | \$0             |
| Total:   | \$8,073.76      |

**PROJECT FUNDS REQUESTED**

|                    |         |
|--------------------|---------|
| Salaries/Benefits: | \$7,500 |
| Other:             | \$0     |

**MATCH FUNDS REQUESTED**

|                    |   |
|--------------------|---|
| Salaries/Benefits: | \$573.76 (Social Security and Medicare) |
| Other:             | \$0                                     |

**A Resolution by the Bridgeport City Council**

**Regarding the**

**Connecticut State Library**

**FY 2018 Targeted Grant for Historic Documents Preservation Program**

**WHEREAS**, the **Connecticut State Library** is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through the **FY 2018 Targeted Grant for Historic Documents Preservation Program**; and

**WHEREAS**, funds under this grant will be used to digitize Building and Zoning records and ensure record preservation; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport submits an application to the **Connecticut State Library** to support historic document preservation and access.

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:**

1. That it is cognizant of the City's grant application to and contract with **Connecticut State Library** for the purpose of its **FY 2018 Targeted Grant for Historic Documents Preservation Program**; and
2. That it hereby authorizes, directs and empowers the Mayor or his designee, the **Central Grants Director**, to execute and file such application with the **Connecticut State Library** and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.





JOSEPH P. GANIM  
Mayor

*City of Bridgeport, Connecticut*  
**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT**  
**OFFICE OF HOUSING & COMMUNITY DEVELOPMENT**

999 Broad Street  
Bridgeport, Connecticut 06604  
Telephone (203) 576-7221 • Fax (203)332-5611

THOMAS GILL  
Director

GINNE-RAE CLAY  
Deputy Director

May 9, 2017

**Comm. #78-16 Ref'd to Miscellaneous Matters Committee**  
**On 5/15/2017**

Office of the City Clerk  
City of Bridgeport  
45 Lyon Terrace, Room 204  
Bridgeport, CT 06604

RECEIVED  
CITY CLERK'S OFFICE  
2017 MAY 11 P 12: 22  
ATTEST  
CITY CLERK

Dear City Clerk:

Attached, please find the list of the 2017-2018 nominees (18) to the Bridgeport Citizens Union. Each nominee is selected by a member of the Bridgeport City Council (20). This year two city council members, Councilwoman Lyons and Councilman Salters did not submit names.

Citizens Union members are charged with reviewing applications and making recommendations to the City Council on how Community Development Block Grant funds will be allocated and awarded, among other tasks.

This item/list is being transmitted to the City Council for referral to the Miscellaneous Matters Committee for recommendation of approval by the full council. Please contact me if you have questions or require additional information.

Sincerely,

Ginne-Rae Clay  
Office of Housing and Community Development

cc: Tom Gill, Director OPED

**CITIZEN PARTICIPATION PLAN  
AND  
CITIZENS UNION RESOLUTION**

WHEREAS, Bridgeport City Ordinance 2.108.010 establishes a Bridgeport Citizens Union; and

WHEREAS, the Citizen's Union is incorporated into Bridgeport's Citizens Participation Plan; and

WHEREAS, the purpose of the Citizen's Union is to provide citizens of Bridgeport with an organized structure and opportunity to participate in the planning and development of the City's Annual Action Plan which implement the goals and objectives articulated in the Consolidated Plan; and

WHERE, one representative can be appointed by each of the twenty Bridgeport City Council members for up to twenty Citizen Union members; and,

WHEREAS, a total of 18 members have been selected to serve on the 2017-2018 Citizens Union; and

WHEREAS, the proposed list of members is subject to City Council approval;

Now, therefore be it resolved, that the Bridgeport City Council hereby approves the attached *2017-2018 Bridgeport Citizen's Union* as selected by members of the Bridgeport City Council.

| District/Council Member             | Nominee   |
|-------------------------------------|---|
| 130th - Kathryn M. Bukovsky (D)     | <b>Name: Prof. Anna Greer</b><br>Address: 59 Harborview Place<br>Bridgeport, CT 06605             |
| 130th - Scott Burns (D)             | <b>Name: Tammy Roseboro</b><br>Address: 225 Anthony St, Bldg 15, Apt. 105<br>Bridgeport, CT 06605 |
| 131st - Jack O. Banta (D)           | <b>Name: Jorge Cruz</b><br>Address: 251 Black Rock Ave Apt 2R<br>Bridgeport, CT 06605             |
| 131st - Denese Taylor-Moye (D)      | <b>Name: Dion Lake</b><br>Address: 695 Park Ave Apt 405<br>Bridgeport, CT                         |
| 132nd - Evette Brantley (D)         | <b>Name: Andrea Sellers</b><br>Address: 80 Hughes Ave<br>Bridgeport, CT 06604                     |
| 132nd - John W. Olson (D)           | <b>Name: Rolanda Smith</b><br>Address: 1099 Iranistan Ave<br>Bridgeport, CT 06604                 |
| 133rd - Jeanette Herron (D)         | <b>Name: Hernan Illingworth</b><br>Address: 133 Bronx Avenue<br>Bridgeport, CT 06606              |
| 133rd - Thomas C. McCarthy (D)      | <b>Name: Lisa Nelson</b><br>Address: 330 Fairview Ave.<br>Bridgeport, CT 06606                    |
| 134th - Michelle A. Lyons (D)       | <b>Name:</b><br>Address:<br>Bridgeport, CT  |
| 134th - AmyMarie Vizzo-Paniccia (D) | <b>Charles Hebert</b><br>Address: 254 Thorne St<br>Bridgeport, CT                                 |
| 135th - Mary A. McBride (D)         | <b>Name: Fred Gee</b><br>Address: 125 Hillcrest Rd<br>Bridgeport, CT 06606                        |

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2017 MAY 11 P 12: 22

|   |  |
|---|--|
| <b>135th - Richard D. Salter, Sr. (D)</b> | <b>Name:</b>                             |
|   | Address:                                 |
|   | Bridgeport, CT                           |
|   |  |
| <b>136th - Jose R. Casco (D)</b>          | <b>Name: Monica M. Valerio</b>           |
|   | Address: 248 Madison Ave                 |
|   | Bridgeport, CT 06604                     |
|   |  |
| <b>136th - Alfredo Castillo (D)</b>       | <b>Name: Nancy Bonilla</b>               |
|   | Address: 1737 Noble Ave                  |
|   | Bridgeport, CT 06610                     |
|   |  |
| <b>137th - Milta I. Felciano (D)</b>      | <b>Name: Charlie J. Roque</b>            |
|   | Address: 772 William St                  |
|   | Bridgeport, CT 06608                     |
|   |  |
| <b>137th - Aidee Nieves (D)</b>           | <b>Name: Cornelius Medas</b>             |
|   | Address: 24 Jane Street                  |
|   | Bridgeport, CT 06608                     |
|   |  |
| <b>138th - Anthony R. Paoletto (D)</b>    | <b>Name: Samia Sulliman</b>              |
|   | Address:                                 |
|   |  |
|   |  |
| <b>138th - Nessah J. Smith (D)</b>        | <b>Name: Amy Espinosa</b>                |
|   | 146 Court D, Building 65 Success Village |
|   | Bridgeport, CT 06610                     |
|   |  |
| <b>139th - Eneida L. Martinez (D)</b>     | <b>Name: David Hines</b>                 |
|   | Address: 175 Jefferson St.               |
|   | Bridgeport, CT 06607                     |
|   |  |
| <b>139th - James Holloway (D)</b>         | <b>Name: Barbara Pouchet</b>             |
|   | Address: 10 Ordnannce Court #2           |
|   | Bridgeport, CT 06607                     |
| updated 5/5/2017                          |  |
|   |  |
|   |  |
|   |  |
|   |  |

CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

999 Broad Street  
Bridgeport, Connecticut 06604-4328

CITY ATTORNEY  
R. Christopher Meyer

DEPUTY CITY ATTORNEY  
John P. Bohannon, Jr.

ASSOCIATE CITY ATTORNEYS

Mark T. Anastasi  
Richard G. Kascak, Jr.  
Bruce L. Levin  
Russell D. Liskov  
John R. Mitola  
Lawrence A. Ouellette, Jr.  
Ronald J. Pacacha  
Tyisha S. Toms  
Lisa R. Trachtenburg

ASSISTANT CITY ATTORNEYS

Eroll V. Skyers  
Tamara J. Titre

Telephone (203) 576-7647  
Facsimile (203) 576- 8252



**Comm. #79-16 Ref'd to Miscellaneous Matters Committee  
On 5/15/2017**

May 11, 2017

The Honorable City Council  
of the City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

**Re: Proposed Settlement of Workers' Compensation Claim in the Matter of  
Aida Remele v. City of Bridgeport**

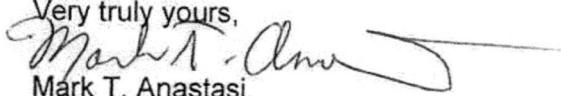
Dear Councilpersons:

The Office of the City Attorney respectfully recommends the following workers' compensation matter be settled as set forth below. It is our professional opinion that resolving this matter for the consideration agreed to between the parties is in the best interests of the City of Bridgeport.

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2017 MAY 11 PM 12:19  
ATTEST  
CITY CLERK

| <u>Plaintiff</u> | <u>Nature of Claim</u> | <u>Plaintiff's Attorney</u> | <u>Consideration</u> |
|------------------|------------------------|-----------------------------|----------------------|
| Aida Remele      | Workers' Compensation  | David Morrissey, Esq.       | \$125,000.00         |

Kindly place this matter on the agenda for the City Council meeting on May 15, 2017 for referral to the Miscellaneous Matters Committee only. Thank you for your assistance in this matter.

Very truly yours,  
  
Mark T. Anastasi,  
Associate City Attorney

cc: Joseph P. Ganim, Mayor  
Lydia Martinez, City Clerk  
R. Christopher Meyer, City Attorney





## OFFICE OF THE CITY CLERK RESOLUTION FORM

| SECTION I                      | CITY COUNCIL SUBMISSION INFORMATION  |
|--------------------------------|--|
| Log ID/Item Number:            | 77-16 (Ref. #40-16)  |
| Submitted by Councilmember(s): | Kathryn M. Bukovsky  |
| Co-Sponsors(s):                | Aidee Nieves    Choose an item.    Choose an item.    Choose an item.  |
| District:                      | 130TH  |
| Subject:                       | Proposed Amendments to the Municipal Code of Ordinances, Chapter 10.12-Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally – Violations –Penalties-Exemption, amend subsection A (5)(6). |
| Referred to:                   | Ordinance Committee  |
| City Council Date:             | May 15, 2017   |

| SECTION II | RESOLUTION (PLEASE TYPE BELOW) |
|------------|--------------------------------|
|------------|--------------------------------|

WHEREAS, Bridgeport, Connecticut Municipal Code, Ordinance 10.12.010 (prior code 20-31 dated 5/1/89) reads as follows:

10.12.010 - Restrictions on stopping or parking generally—Violations—Penalties—Exemption.

- A. Violations. No person driving or controlling a vehicle shall stop or cause or permit the same to be stopped or parked:
1. Beyond the legal parking time established for such area or parked overtime in any parking meter space;
  2. More than twelve (12) inches from the curb;
  3. Upon or obstruct any crossing of any street;
  4. Within the intersection of any street;
  5. Within twenty-five (25) feet of any intersection or a marked crosswalk;
  6. Within twenty-five (25) feet of a duly erected stop sign;
  7. So to obstruct a driveway;
  8. On a public sidewalk and/or any other portion (including, but not limited to, the curb and the grassy or dirt strip between the curb and the paved portion of the sidewalk) of the city's right-of-way other than the paved portion of the street;
  9. So to obstruct the free movement of traffic and/or constitute a traffic hazard;
  10. Within a designated handicapped parking space and who does not display an official state handicapped parking permit on their vehicle;
  11. Within an established bus stop zone;
  12. Within a fire zone marked "No Parking Fire Zone Tow Away Zone" and
  13. Within ten feet of a hydrant; and

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 2017 MAY 10 P 4:41  
 ATTEST  
 CITY CLERK

## Pettway, Lonnette

---

**From:** Ortiz, Frances  
**Sent:** Friday, May 19, 2017 1:06 PM  
**To:** Bukovsky, Kathryn; Pettway, Lonnette  
**Cc:** ODonnell, Nancy; Ricci, John; Nieves, Aidee; Papazachariu, Pawel; Fernandes, Emilio; Anastasi, Mark T; Martinez, Eneida; Roach, Daniel; McCarthy, Tom; Casco, Jose  
**Subject:** RE: Withdrawal of Resolution #40-16

Hi Kathie –

The agenda was set but we didn't email yet. I will have Lonnette Pettway remove item from the agenda per your email below. The item will be filed Withdrawn. Have a nice weekend!!!!!!!!!!

Thank you,

Frances

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2017 MAY 19 P 1:17  
ATTEST  
CITY CLERK

---

**From:** Bukovsky, Kathryn  
**Sent:** Friday, May 19, 2017 1:02 PM  
**To:** Ortiz, Frances <Frances.Ortiz@Bridgeportct.gov>  
**Cc:** ODonnell, Nancy <Nancy.Odonnell@Bridgeportct.gov>; Ricci, John <John.Ricci@Bridgeportct.gov>; Nieves, Aidee <Aidee.Nieves@Bridgeportct.gov>; Papazachariu, Pawel <Pawel.Papazachariu@Bridgeportct.gov>; Fernandes, Emilio <Emilio.Fernandes@Bridgeportct.gov>; Anastasi, Mark T <Mark.Anastasi@Bridgeportct.gov>; Martinez, Eneida <Eneida.Martinez@Bridgeportct.gov>; Roach, Daniel <Daniel.Roach@Bridgeportct.gov>; McCarthy, Tom <Tom.McCarthy@Bridgeportct.gov>  
**Subject:** Withdrawal of Resolution #40-16  
**Importance:** High

Good afternoon Frances,

Per our conversation earlier this week, I am officially withdrawing Resolution #40-16: Amendment to the Municipal Code of Ordinances, Chapter 10.12-Stopping, Standing and Parking Generally, Section 10.20.010 - Restrictions on stopping or parking generally - Violations-Penalties-Exemption, amended Subsection A (5)(6) due to the conflict with existing Connecticut State Statutes. Please remove this from the pending Ordinance Committee Meeting scheduled for Tuesday, May 23rd.

Please let me know if you have any questions or need additional information. Thank you for your attention to this matter.

Katie

Katie Bukovsky  
City Council Representative - 130th District  
(203) 395-6854  
[Kathryn.bukovsky@bridgeportct.gov](mailto:Kathryn.bukovsky@bridgeportct.gov)  
[www.bridgeportct.gov](http://www.bridgeportct.gov)



## OFFICE OF THE CITY CLERK RESOLUTION FORM

**WHEREAS**, the original Ordinance is dated 1989, when the number of vehicles owned by city residents and used within the city by non-residents was significantly lower than it is today; and

**WHEREAS**, the amount of on-street parking needed to accommodate such vehicles has increased significantly, both in residential neighborhoods and business corridors, the latter subject to the loss of business due to lack of on-street parking; and

**WHEREAS**, newly-erected 'No Parking Here to Corner' signs at intersections have been placed well within the twenty-five (25) feet mandatory no-parking zones as outlined in sections 5 and 6 within the above Ordinance, causing confusion among residents; and

**WHEREAS**, decreasing the twenty-five (25 feet) mandatory no-parking zones within any intersection, crosswalk or duly-erected stop sign will allow for a meaningful number of additional on-street parking spaces, and provide a better quality of life for residents and more opportunities for local businesses; and Now, Therefore

**BE IT ORDAINED:** By the City Council of the City of Bridgeport that the Municipal Code of Ordinances, Chapter 10.12-Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally –Violations –Penalties-Exemption ,amend subsection A (5)(6) to read as follows:

10.12.010 - Restrictions on stopping or parking generally—Violations—Penalties—Exemption.

- A. Violations. No person driving or controlling a vehicle shall stop or cause or permit the same to be stopped or parked:
5. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of any intersection or a marked crosswalk;
  6. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of a duly erected stop sign;



# OFFICE OF THE CITY CLERK RESOLUTION FORM

## SECTION III SUBSEQUENT REFERRALS/REPLIES AND DATE SENT/RECEIVED

| DEPARTMENT      | Referral date sent | Response Received  | Date reply received |
|-----------------|--------------------|--|---------------------|
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |
| Choose an item. |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |                     |

## SECTION IV PUBLIC HEARING INFORMATION

| Public Hearing Required                                  | Details                      | Date |
|--|------------------------------|------|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Public Hearing Ordered on:   |      |
|  | CT Post Publication Date(s): |      |
|  | Public Hearing Held on:      |      |

## SECTION V AMENDMENTS/EXHIBITS

|                 |  |       |
|-----------------|--|-------|
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
|-----------------|--|-------|

## SECTION VI COMMITTEE ACTION/APPROVAL INFORMATION

|                 |  |       |
|-----------------|--|-------|
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |

## SECTION VII WITHDRAWN/SINE DIE INFORMATION

|                 |  |       |
|-----------------|--|-------|
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
|-----------------|--|-------|

## SECTION VIII DATE OF APPROVAL/DENIAL FROM CITY COUNCIL

City Council Approval Date:

## SECTION IX COMMENTS (if any)

RES. #77-16 (Ref. #40-16) Ref'd to Ordinance Committee on 05/15/2017.

**PROPOSED AMENDMENTS TO THE BRIDGEPORT MUNICIPAL CODE OF ORDINANCES, CHAPTER 10.12 – STOPPING, STANDING AND PARKING GENERALLY, SECTION 10.12.010 – Restrictions on stopping or parking generally-Violations-Penalties-Exemption, amend subsection A (5) (6) as follows:**

10.12.010 - Restrictions on stopping or parking generally—Violations—Penalties—Exemption.

- A. Violations. No person driving or controlling a vehicle shall stop or cause or permit the same to be stopped or parked:
1. Beyond the legal parking time established for such area or parked overtime in any parking meter space;
  2. More than twelve (12) inches from the curb;
  3. Upon or obstruct any crossing of any street;
  4. Within the intersection of any street;
  5. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of any intersection or a marked crosswalk;
  6. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of a duly erected stop sign;
  7. So to obstruct a driveway;
  8. On a public sidewalk and/or any other portion (including, but not limited to, the curb and the grassy or dirt strip between the curb and the paved portion of the sidewalk) of the city's right-of-way other than the paved portion of the street;
  9. So to obstruct the free movement of traffic and/or constitute a traffic hazard;
  10. Within a designated handicapped parking space and who does not display an official state handicapped parking permit on their vehicle;
  11. Within an established bus stop zone;
  12. Within a fire zone marked "No Parking Fire Zone Tow Away Zone" and
  13. Within ten feet of a hydrant.
- B. Penalty. Any person who shall receive a notice from the police department of the city to appear at the office of police headquarters to the effect that his vehicle was parked in violation of this section shall pay to the clerk of the police department the following sums:
1. Beyond the legal parking time established for such area or parked overtime in any parking meter space, thirty-five dollars (\$35.00);
  2. More than twelve (12) inches from the curb, thirty dollars (\$30.00);
  3. Upon or obstruct any crossing of any street, forty dollars (\$40.00);
  4. Within the intersection of any street, forty dollars (\$40.00);
  5. Within twenty-five (25) feet of any intersection or a marked crosswalk, thirty-five dollars (\$35.00);
  6. Within twenty-five (25) feet of a duly erected stop sign, thirty-five dollars (\$35.00);
  7. So to obstruct a driveway, thirty-five dollars (\$35.00);
  8. On a public sidewalk, fifty dollars (\$50.00);
  9. So to obstruct the free movement of traffic and/or constitute a traffic hazard, fifty-five dollars (\$55.00);



10. Within a designated handicapped parking space and who does not display an official state handicapped overtime parking permit on their vehicle, one hundred and twenty-five dollars (\$125.00);
  11. Within an established bus stop zone, forty-five dollars (\$45.00);
  12. Within a fire zone marked "No Parking Fire Zone - Tow Away Zone," fifty-five dollars (\$55.00);
  13. Within ten feet of a hydrant, seventy dollars (\$70.00);
  14. Night time parking tractor weighing more than 10,000 pounds, one hundred and fifteen dollars (\$115.00).
- C. Additional Penalty. In the event any person fails to comply within fourteen (14) days from the date of issuance thereof, such person shall pay an additional sum as indicated in this subsection:
1. A violation of thirty dollars (\$30.00) increases to sixty dollars (\$60.00) per violation;
  2. A violation of thirty-five dollars (\$35.00) increases to seventy dollars (\$70.00) per violation;
  3. A violation of forty dollars (\$40.00) increases to eighty dollars (\$80.00) per violation;
  4. A violation of forty-five dollars (\$45.00) increases to ninety dollars (\$90.00) per violation;
  5. A violation of fifty dollars (\$50.00) increases to one hundred dollars (\$100.00) per violation;
  6. A violation of fifty-five dollars (\$55.00) increases to one hundred and ten dollars (\$110.00) per violation;
  7. A violation of seventy dollars (\$70.00) increases to one hundred and forty dollars (\$140.00) per violation;
  8. A violation of seventy-five dollars (\$75.00) increases to one hundred and fifty dollars (\$150.00) per violation;
  9. A violation of one hundred and fifteen dollars (\$115.00) increases to two hundred and thirty dollars (\$230.00);
  10. A violation of one hundred and twenty-five dollars (\$125.00) increases to two hundred and fifty dollars (\$250.00).
- D. Exemption. A vehicle shall not be in violation of this section which has become disabled to such an extent that it is impossible or impracticable to remove it, may be permitted to so remain for a reasonable time for the purpose of making repairs thereto or of obtaining sufficient assistance to remove it. Nothing in this section shall be construed to prohibit a vehicle from stopping or being held stationary by any police officer in an emergency to avoid accident or to give the right-of-way to any vehicle or pedestrian as provided by law.

(Ord. dated 7/5/05; Ord. dated 6/6/05; Ord. dated 10/2/00; Ord. dated 5/15/89: prior code § 20-31)

(Ord. dated 11/3/08; Ord. dated 2/2/09)

February 22, 2017

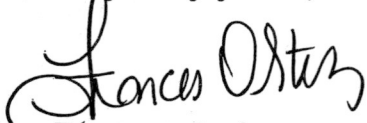
Board of Police Commissioners  
City of Bridgeport, Connecticut

Dear Police Commissioners:

The City Council of Bridgeport on February 21, 2017 referred the following resolution to the Board of Police Commissioners:

Resolution **#40-16** presented by Councilmember(s) Kathryn M. Bukovsky, Aidee Nieves and Michelle Lyons re: Amendment to the Municipal Code of Ordinances, Chapter 10.12 – Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally – violations – Penalties – Exemption, amend Subsection A (5)(6).

Very truly yours,



Frances Ortiz  
Assistant City Clerk

FO: aw



# OFFICE OF THE CITY CLERK RESOLUTION FORM

## SECTION I CITY COUNCIL SUBMISSION INFORMATION

|                                       |  |  |                                |
|---------------------------------------|--|--|--------------------------------|
| <b>Log ID/Item Number:</b>            | 40-16  |  |                                |
| <b>Submitted by Councilmember(s):</b> | Kathryn M. Bukovsky  |  |                                |
| <b>Co-Sponsors(s):</b>                | Aidee Nieves   | Michelle Lyons<br><small>Choose an item.</small> | <small>Choose an item.</small> |
| <b>District:</b>                      | 130TH  |  |                                |
| <b>Subject:</b>                       | Proposed Amendments to the Municipal Code of Ordinances, Chapter 10.12-Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally –Violations –Penalties-Exemption , amend subsection A (5)(6). |  |                                |
| <b>Referred to:</b>                   | Board of Police Commissioners  |  |                                |
| <b>City Council Date:</b>             | February 21, 2017  |  |                                |

## SECTION II RESOLUTION (PLEASE TYPE BELOW)

**WHEREAS**, Bridgeport, Connecticut Municipal Code, Ordinance 10.12.010 (prior code 20-31 dated 5/1/89) reads as follows:

10.12.010 - Restrictions on stopping or parking generally—Violations—Penalties—Exemption.

- A. Violations. No person driving or controlling a vehicle shall stop or cause or permit the same to be stopped or parked:
1. Beyond the legal parking time established for such area or parked overtime in any parking meter space;
  2. More than twelve (12) inches from the curb;
  3. Upon or obstruct any crossing of any street;
  4. Within the intersection of any street;
  5. Within twenty-five (25) feet of any intersection or a marked crosswalk;
  6. Within twenty-five (25) feet of a duly erected stop sign;
  7. So to obstruct a driveway;
  8. On a public sidewalk and/or any other portion (including, but not limited to, the curb and the grassy or dirt strip between the curb and the paved portion of the sidewalk) of the city's right-of-way other than the paved portion of the street;
  9. So to obstruct the free movement of traffic and/or constitute a traffic hazard;
  10. Within a designated handicapped parking space and who does not display an official state handicapped parking permit on their vehicle;
  11. Within an established bus stop zone;
  12. Within a fire zone marked "No Parking Fire Zone Tow Away Zone" and
  13. Within ten feet of a hydrant; and

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 2017 FEB 17 A 9:52  
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# OFFICE OF THE CITY CLERK RESOLUTION FORM

### SECTION III SUBSEQUENT REFERRALS/REPLIES AND DATE SENT/RECEIVED

| DEPARTMENT                    | Referral date sent | Response Received   | Date reply received |
|-------------------------------|--------------------|---|---------------------|
| Board of Police Commissioners | February 22, 2017  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | April 25, 2017      |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |
| Choose an item.               |                    | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                     |

### SECTION IV PUBLIC HEARING INFORMATION

| Public Hearing Required                                  | Details                      | Date |
|--|------------------------------|------|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Public Hearing Ordered on:   |      |
|  | CT Post Publication Date(s): |      |
|  | Public Hearing Held on:      |      |

### SECTION V AMENDMENTS/EXHIBITS

|                 |  |       |
|-----------------|--|-------|
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
|-----------------|--|-------|

### SECTION VI COMMITTEE ACTION/APPROVAL INFORMATION

|                 |  |       |
|-----------------|--|-------|
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |

### SECTION VII WITHDRAWN/SINE DIE INFORMATION

|                 |  |       |
|-----------------|--|-------|
| Choose an item. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Date: |
|-----------------|--|-------|

### SECTION VIII DATE OF APPROVAL/DENIAL FROM CITY COUNCIL

City Council Approval Date: \_\_\_\_\_

### SECTION IX COMMENTS (if any)



## OFFICE OF THE CITY CLERK RESOLUTION FORM

**WHEREAS**, the original Ordinance is dated 1989, when the number of vehicles owned by city residents and used within the city by non-residents was significantly lower than it is today; and

**WHEREAS**, the amount of on-street parking needed to accommodate such vehicles has increased significantly, both in residential neighborhoods and business corridors, the latter subject to the loss of business due to lack of on-street parking; and

**WHEREAS**, newly-erected 'No Parking Here to Corner' signs at intersections have been placed well within the twenty-five (25) feet mandatory no-parking zones as outlined in sections 5 and 6 within the above Ordinance, causing confusion among residents; and

**WHEREAS**, decreasing the twenty-five (25 feet) mandatory no-parking zones within any intersection, crosswalk or duly-erected stop sign will allow for a meaningful number of additional on-street parking spaces, and provide a better quality of life for residents and more opportunities for local businesses; and Now, Therefore

**BE IT ORDAINED:** By the City Council of the City of Bridgeport that the Municipal Code of Ordinances, Chapter 10.12-Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally –Violations –Penalties-Exemption ,amend subsection A (5)(6) to read as follows:

10.12.010 - Restrictions on stopping or parking generally—Violations—Penalties—Exemption.

- A. Violations. No person driving or controlling a vehicle shall stop or cause or permit the same to be stopped or parked:
5. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of any intersection or a marked crosswalk;
  6. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of a duly erected stop sign;



**PROPOSED AMENDMENTS TO THE BRIDGEPORT MUNICIPAL CODE OF ORDINANCES, CHAPTER 10.12 – STOPPING, STANDING AND PARKING GENERALLY, SECTION 10.12.010 – Restrictions on stopping or parking generally-Violations-Penalties-Exemption, amend subsection A (5) (6) as follows:**

10.12.010 - Restrictions on stopping or parking generally—Violations—Penalties—Exemption.

- A. Violations. No person driving or controlling a vehicle shall stop or cause or permit the same to be stopped or parked:
1. Beyond the legal parking time established for such area or parked overtime in any parking meter space;
  2. More than twelve (12) inches from the curb;
  3. Upon or obstruct any crossing of any street;
  4. Within the intersection of any street;
  5. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of any intersection or a marked crosswalk;
  6. Within [~~twenty-five (25) feet~~] **fifteen (15) feet** of a duly erected stop sign;
  7. So to obstruct a driveway;
  8. On a public sidewalk and/or any other portion (including, but not limited to, the curb and the grassy or dirt strip between the curb and the paved portion of the sidewalk) of the city's right-of-way other than the paved portion of the street;
  9. So to obstruct the free movement of traffic and/or constitute a traffic hazard;
  10. Within a designated handicapped parking space and who does not display an official state handicapped parking permit on their vehicle;
  11. Within an established bus stop zone;
  12. Within a fire zone marked "No Parking Fire Zone Tow Away Zone" and
  13. Within ten feet of a hydrant.
- B. Penalty. Any person who shall receive a notice from the police department of the city to appear at the office of police headquarters to the effect that his vehicle was parked in violation of this section shall pay to the clerk of the police department the following sums:
1. Beyond the legal parking time established for such area or parked overtime in any parking meter space, thirty-five dollars (\$35.00);
  2. More than twelve (12) inches from the curb, thirty dollars (\$30.00);
  3. Upon or obstruct any crossing of any street, forty dollars (\$40.00);
  4. Within the intersection of any street, forty dollars (\$40.00);
  5. Within twenty-five (25) feet of any intersection or a marked crosswalk, thirty-five dollars (\$35.00);
  6. Within twenty-five (25) feet of a duly erected stop sign, thirty-five dollars (\$35.00);
  7. So to obstruct a driveway, thirty-five dollars (\$35.00);
  8. On a public sidewalk, fifty dollars (\$50.00);
  9. So to obstruct the free movement of traffic and/or constitute a traffic hazard, fifty-five dollars (\$55.00);

10. Within a designated handicapped parking space and who does not display an official state handicapped overtime parking permit on their vehicle, one hundred and twenty-five dollars (\$125.00);
  11. Within an established bus stop zone, forty-five dollars (\$45.00);
  12. Within a fire zone marked "No Parking Fire Zone - Tow Away Zone," fifty-five dollars (\$55.00);
  13. Within ten feet of a hydrant, seventy dollars (\$70.00);
  14. Night time parking tractor weighing more than 10,000 pounds, one hundred and fifteen dollars (\$115.00).
- C. Additional Penalty. In the event any person fails to comply within fourteen (14) days from the date of issuance thereof, such person shall pay an additional sum as indicated in this subsection:
1. A violation of thirty dollars (\$30.00) increases to sixty dollars (\$60.00) per violation;
  2. A violation of thirty-five dollars (\$35.00) increases to seventy dollars (\$70.00) per violation;
  3. A violation of forty dollars (\$40.00) increases to eighty dollars (\$80.00) per violation;
  4. A violation of forty-five dollars (\$45.00) increases to ninety dollars (\$90.00) per violation;
  5. A violation of fifty dollars (\$50.00) increases to one hundred dollars (\$100.00) per violation;
  6. A violation of fifty-five dollars (\$55.00) increases to one hundred and ten dollars (\$110.00) per violation;
  7. A violation of seventy dollars (\$70.00) increases to one hundred and forty dollars (\$140.00) per violation;
  8. A violation of seventy-five dollars (\$75.00) increases to one hundred and fifty dollars (\$150.00) per violation;
  9. A violation of one hundred and fifteen dollars (\$115.00) increases to two hundred and thirty dollars (\$230.00);
  10. A violation of one hundred and twenty-five dollars (\$125.00) increases to two hundred and fifty dollars (\$250.00).
- D. Exemption. A vehicle shall not be in violation of this section which has become disabled to such an extent that it is impossible or impracticable to remove it, may be permitted to so remain for a reasonable time for the purpose of making repairs thereto or of obtaining sufficient assistance to remove it. Nothing in this section shall be construed to prohibit a vehicle from stopping or being held stationary by any police officer in an emergency to avoid accident or to give the right-of-way to any vehicle or pedestrian as provided by law.

(Ord. dated 7/5/05; Ord. dated 6/6/05; Ord. dated 10/2/00; Ord. dated 5/15/89; prior code § 20-31)

(Ord. dated 11/3/08; Ord. dated 2/2/09)

# Fw: Amendment of ordinance regarding length of no parking zones at intersections and stop signs

Ortiz, Frances

Fri 2/17/2017 9:28 AM

To: Bukovsky, Kathryn <Kathryn.Bukovsky@Bridgeportct.gov>;

Cc: mccarthybpt@gmail.com <mccarthybpt@gmail.com>;

Katie -

I just spoke with Tom and he stated to put on the agenda for referral to the BOP.

---

**From:** Bukovsky, Kathryn

**Sent:** Friday, February 17, 2017 9:11 AM

**To:** Ortiz, Frances

**Cc:** McCarthy, Tom

**Subject:** Re: Amendment of ordinance regarding length of no parking zones at intersections and stop signs

Now I'm seeing this. Unless Tom thinks it's okay to move forward, we'll hold off and I'll send it to the city attorney to get their opinion. Thanks!

Sent from my iPhone

On Feb 16, 2017, at 4:32 PM, Ortiz, Frances <[Frances.Ortiz@Bridgeportct.gov](mailto:Frances.Ortiz@Bridgeportct.gov)> wrote:

Katie –

In regards, to this proposed Ordinance that you are working on before you submit to BOP/Council you might want to read the **CT General Statue Chapter 248 VEHICLE HIGHWAY USE** Section 14-215 below. (after reading this it clearly states “**25 feet**” don’t think the Ordinance could be amended because it will conflict with the state statue below). Again, I’m not an attorney but feel free to consult with the City Attorney’s Office if needed.

-  
Sec. 14-251. Parking vehicles. No vehicle shall be permitted to remain stationary within ten feet of any fire hydrant, or upon the traveled portion of any highway except upon the right-hand side of such highway in the direction in which such vehicle is headed; and, if such highway is curbed, such vehicle shall be so placed that its right-hand wheels, when stationary, shall, when safety will permit, be within a distance of twelve inches from the curb. **No vehicle shall be permitted to remain parked within twenty-five feet of an**

**intersection or a marked crosswalk thereat, or within twenty-five feet of a stop sign caused to be erected by the traffic authority in accordance with the provisions of section 14-301.** No vehicle shall be permitted to remain stationary upon the traveled portion of any highway at any curve or turn or at the top of any grade where a clear view of such vehicle may not be had from a distance of at least one hundred and fifty feet in either direction. The Commissioner of Transportation may post signs upon any highway at any place where the keeping of a vehicle stationary is dangerous to traffic, and the keeping of any vehicle stationary contrary to the directions of such signs shall be a violation of this section. No vehicle shall be permitted to remain stationary upon the traveled portion of any highway within fifty feet of the point where another vehicle, which had previously stopped, continues to remain stationary on the opposite side of the traveled portion of the same highway. No vehicle shall be permitted to remain stationary within the limits of a public highway in such a manner as to constitute a traffic hazard or obstruct the free movement of traffic thereon, provided a vehicle which has become disabled to such an extent that it is impossible or impracticable to remove it may be permitted to so remain for a reasonable time for the purpose of making repairs thereto or of obtaining sufficient assistance to remove it. Nothing in this section shall be construed to apply to emergency vehicles and to maintenance vehicles displaying flashing lights or to prohibit a vehicle from stopping, or being held stationary by any officer, in an emergency to avoid accident or to give a right-of-way to any vehicle or pedestrian as provided in this chapter, or from stopping on any highway within the limits of an incorporated city, town or borough where the parking of vehicles is regulated by local ordinances. Violation of any provision of this section shall be an infraction.

Sincerely,  
Frances Ortiz

---

**From:** Ortiz, Frances

**Sent:** Wednesday, February 15, 2017 10:41 AM

**To:** Bukovsky, Kathryn

**Cc:** Burns, Scott; Nieves, Aidee; Boyer, Mike; Pettway, Lonnelle; McCarthy, Tom

**Subject:** Re: Amendment of ordinance regarding length of no parking zones at intersections and stop signs

Ortiz, Frances has shared OneDrive for Business files with you. To view them, click the links below.

Good Morning Katie-

Please see attached **corrected resolution & attachment re: Chapter 10.12.010** the **brackets "[ ]"** were inserted in the wrong place. They should've gone next to text being removed.

My apologies was multi-tasking yesterday.

Sincerely,  
Frances

**From:** Bukovsky, Kathryn  
**Sent:** Tuesday, February 14, 2017 4:05:43 PM  
**To:** Ortiz, Frances  
**Cc:** Burns, Scott; Nieves, Aidee; Boyer, Mike; Pettway, Lonneta; McCarthy, Tom  
**Subject:** Re: Amendment of ordinance regarding length of no parking zones at intersections and stop signs

And same to you!

Sent from my iPhone

On Feb 14, 2017, at 2:45 PM, Ortiz, Frances <[Frances.Ortiz@Bridgeportct.gov](mailto:Frances.Ortiz@Bridgeportct.gov)> wrote:

Okay, great and no problem glad to have been of assistance.

Happy Valentine's Day to you and yours. <OutlookEmoji-❤️.png>

---

**From:** Bukovsky, Kathryn  
**Sent:** Tuesday, February 14, 2017 2:42:11 PM  
**To:** Ortiz, Frances  
**Cc:** Burns, Scott; Nieves, Aidee; Boyer, Mike; Pettway, Lonneta; McCarthy, Tom  
**Subject:** Re: Amendment of ordinance regarding length of no parking zones at intersections and stop signs

Thanks Frances. I'll talk this through with Tom later this afternoon. If I have any other questions, I'll let you know.

Thanks again for always being so supportive!

Sent from my iPhone

On Feb 14, 2017, at 1:47 PM, Ortiz, Frances <[Frances.Ortiz@Bridgeportct.gov](mailto:Frances.Ortiz@Bridgeportct.gov)> wrote:

Hi Kathie-

Attached you will find the revised resolution template with the completed fields. I added Aidee Nieves for now as co-sponsor but we can always remove if she doesn't want to be a co-sponsor. I think it should go the BOP (Board of Police Commission) as the acting traffic authority first and then submitted to City Council after the BOP/City Engineer reviews etc....I remember about a year ago, Attorney Pacacha submitted an amendment regarding proposed Ordinance re: parking





City of Bridgeport, Connecticut

**OFFICE OF THE CITY CLERK**

LEGISLATIVE DEPARTMENT

45 Lyon Terrace • Bridgeport, Connecticut 06604 • Telephone (203) 576-7081 • Fax (203) 332-5608

LYDIA N. MARTINEZ  
City Clerk

Item

FRANCES ORTIZ  
Assistant City Clerk

6b  
Approved  
Lyons  
Quarles

RBM  
04-18-2017

February 22, 2017

Board of Police Commissioners  
City of Bridgeport, Connecticut

Dear Police Commissioners:

The City Council of Bridgeport on February 21, 2017 referred the following resolution to the Board of Police Commissioners:

Resolution **#40-16** presented by Councilmember(s) Kathryn M. Bukovsky, Aidee Nieves and Michelle Lyons re: Amendment to the Municipal Code of Ordinances, Chapter 10.12 – Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally – violations – Penalties – Exemption, amend Subsection A (5)(6).

Very truly yours,

Frances Ortiz  
Assistant City Clerk

FO: aw



OFFICE OF THE  
**BOARD OF POLICE COMMISSIONERS**

300 CONGRESS STREET • BRIDGEPORT, CONNECTICUT 06604 • TELEPHONE (203) 581-5121

April 25, 2017

Ms. Frances Ortiz  
Assistant City Clerk  
45 Lyon Terrace  
Bridgeport, CT. 06604

Dear Ms. Ortiz:

Re: **Resolution#: 40-16: Amendment to the Municipal Code of Ordinances, Chapter 10.12- Stopping, Standing and Parking Generally, Section 10.12.010 – Restrictions on stopping or parking generally – violations-Penalties-Exemption, amended Subsection A (5)(6).**

At the Regular Board Meeting that was held on April 18, 2017 the Honorable Board of Police Commissioners voted to **approve the request of Resolution#:40-16.**

Please refer to the letter dated February 22, 2017 for specific details of the approval.

Sincerely,

*Lieutenant Nancy E O'Donnell*

Lieutenant Nancy E. O'Donnell  
Department Clerk

CC: John Ricci, Director-Public Facilities  
Councilmember Kathryn M. Bukovsky  
Councilmember Aidee Nieves  
Councilmember Michelle Lyons  
Pawel Papazachariu, Traffic Engineer  
Emilio Fernandes, Lines and Signs  
File

ATTEST  
CITY CLERK

RECEIVED  
CITY CLERK'S OFFICE  
2011 APR 25 P 2:18

**Item# \*51-16 (Ref. #195-14) Consent Calendar**

Power Purchase Agreement between the Connecticut Green Bank aka the State of Connecticut's Clean Energy Finance and Investment Authority for the Solar Power at Wonderland of Ice Facility.



**Report  
of  
Committee  
on  
Contracts**

City Council Meeting Date: MAY 15, 2017

Attest: *Lydia N. Martinez*  
Lydia N. Martinez, City Clerk

Approved by: \_\_\_\_\_  
Joseph P. Ganim, Mayor

Date Signed: \_\_\_\_\_

Notified on: June 8, 2017

- Mr. M. Anastasi, Assoc. City Attorney
- Mr. R.C. Meyer, City Attorney
- Mr. J. Gresko, Mayor's Office
- Mr. C. Harrigan, Principal 64 Solar
- Mr. B. Healey, CT Greenbank
- Mr. R. Liskoff, Assoc. City Attorney
- Mr. J. Ricci, Director, Pub. Facilities
- Mr. N. Masciangelo, Dir., Construction Management Services.

In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution was approved by the City Council of the City of Bridgeport on May 15, 2017, and does not require Mayoral signature; said approval effective as of June 6, 2017.

ATTEST  
CITY CLERK

RECEIVED  
CITY CLERK'S OFFICE  
2017 JUN - 6 A 10: 23



# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

**Item No. \*51-16 (Ref. #195-14) Consent Calendar**

**RESOLVED**, that Resolution No. 51-16 amendment to the Agreement for Solar Power at Wonderland of Ice facility (originally approved as Item# 195-14) is hereby authorized and approved; and to authorize and empower the Mayor and other appropriate City officials to enter into, execute and deliver the proposed amended Power Purchase Agreement (“PPA”) between the Connecticut Green Bank (“CGB”) aka the State of Connecticut’s Clean Energy Finance and Investment Authority “CEFIA”), and the City of Bridgeport as well as such other necessary and proper documents reasonably required for the implementation of the proposed solar power project at the City’s Wonderland of Ice facility.

**Be it further Resolved**, that this approval is expressly subject to, and conditioned upon:

1. Issuance of all necessary and appropriate authorizations, approvals, licenses and permits by and from the Parks Board pursuant to its authority to manage, care for, and control all park property and to determine the places and manner within the parks for erecting wires and infrastructure support. (See BPT Charter, Ch. 12, Sec. 10, 11 and 14).
2. Agreement by Tenant Wonderland of Ice Associates, Inc. to purchase from CGB clean, green and sustainable alternative energy from the project sufficient to meet the energy demands of the Wonderland of Ice facility, at a rate of approximately \$.065 per kilowatt hour and amendment of tenant’s Lease with the City as appropriate.
3. The PPA and all other pertinent documentation shall be in final form and substance satisfactory to the City’s Parks Board, Parks Director, Public Facilities Director, Chief Administrative Officer, Finance Director and City Attorney.



# City of Bridgeport, Connecticut Office of the City Clerk

---


Report of Committee on **Contracts**

Item No. \*51-16 (Ref.# 195-14) Consent Calendar

-2-

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**CONTRACTS**

  
\_\_\_\_\_  
Jack O. Banta, D-131st, **Co-Chair**

  
\_\_\_\_\_  
Jeanette Herron, D-133rd, **Co-Chair**

  
\_\_\_\_\_  
Milta I. Feliciano, D-137th

  
\_\_\_\_\_  
AmyMarie Vizzo-Paniccia, D-134th

\_\_\_\_\_  
James Holloway, D-139th

  
\_\_\_\_\_  
Alfredo Castillo, D-136th

  
\_\_\_\_\_  
Anthony R. Paoletto, D-138th

**City Council Date:** May 15, 2017

**POWER PURCHASE AGREEMENT**

**BETWEEN**

**WONDERLAND OF ICE ASSOCIATES, INC. and the CITY OF BRIDGEPORT**

**AND**

**CEFIA HOLDINGS LLC**

**DATED AS OF MAY \_\_, 2017**



## EXECUTIVE SUMMARY

### **PROJECT: INSTALLATION OF SOLAR PANELS AT WONDERLAND OF ICE FACILITY and POWER PURCHASE AGREEMENT**

The City of Bridgeport (owner of parkland at 123 Glenwood Avenue hosting the Wonderland of Ice facility) proposes to engage in a joint venture with its tenant at said site (Wonderland of Ice Associates, Inc.) and Connecticut Green Bank (“CGB” aka the State of Connecticut’s Clean Energy Finance and Investment Authority “CEFIA”) for the installation, operation and maintenance of a solar power generation system at the Wonderland of Ice facility.

This proposed solar power project is designed to provide clean, green alternative energy sufficient towards meeting the energy demands of the Wonderland of Ice facility, thereby rendering the facility more sustainable and furthering the goals of the City’s *BGreen 2020 Sustainability Plan*.

Pursuant to the business terms of this solar project, CGB will install, operate and maintain a solar power generation system at the Wonderland of Ice facility. It is anticipated that 64 Solar LLC, a commercial and residential solar design and installation firm, will provide installation services. The solar power projected to be produced by this system is not anticipated to be sufficient to fully satisfy the future energy demands of the Wonderland of Ice facility. The solar power produced by the CGB generation system will be utilized first to meet the energy demands of the Wonderland of Ice facility. In the event and to the extent that the system produces solar power exceeding the operational demands of the Wonderland of Ice facility, such surplus product will be purchased by Wonderland of Ice Associates, Inc. (or by a successor tenant or the City in the event the tenant vacates the premises during the term of the Solar Power Purchase Agreement) and resold to United Illuminating Co. (“UI”), the local utility provider, or sold directly by CGB in accordance with the prevailing Net Metering Rules.

This proposed project site is City owned parkland and thus is under the jurisdiction of the Bridgeport Board of Park Commissioners (Parks Board). The project was the subject of discussions with the Parks Board in the Fall of 2015 and on September 13, 2016 the Parks Board adopted a Resolution (authorizing the project subject to final approval of the City Council and appropriate City officials) pursuant to Parks Board authority to manage, care for, and control all park property and to determine the places and manner within the parks for the erecting of wires and other infrastructure support. (See BPT Charter, Ch. 12, Sec.10, 11 and 14).

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## POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this “**PPA**”) is made and entered into as of May 2017 (the “**Effective Date**”), by and between CEFIA Holdings LLC, a Connecticut limited liability company with offices at 845 Brook Street, Rocky Hill, CT 06067 (“**Seller**”), and Wonderland of Ice Associates, Inc., a Connecticut corporation with offices at 123 Glenwood Ave., Bridgeport, CT, 06610 and the City of Bridgeport (“**City**”), a municipal corporation organized and existing under the laws of the State of Connecticut with offices at 45 Lyon Terrace, Bridgeport, CT 06604 (together, “**Buyer**”). Seller and Buyer are sometimes hereinafter referred to individually as a Party and collectively as the Parties.

### RECITALS

- A. Seller intends to finance, own and operate a solar energy facility (the “**SEF**”) as more particularly described in Exhibit A attached hereto on premises sublicensed by Seller (the “**Premises**”) described in Exhibit B hereto.
- B. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, all of the Energy generated by the SEF during the Term and otherwise in accordance with the terms of this PPA.
- C. Buyer City is the fee simple owner and Buyer WIA is the lessee/ tenant of that certain building located at 123 Glenwood Avenue, Bridgeport, CT 06610 (the “**Building**”).

### AGREEMENT

In consideration of the foregoing recitals, the mutual agreements, representations, warranties and covenants set forth in this PPA and the Schedules and Exhibits hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

#### ARTICLE 1. DEFINED TERMS; RULES OF INTERPRETATION

**1.1 Defined Terms.** Capitalized terms used in this PPA shall have the meanings ascribed to them in the Schedule of Definitions and Rules of Interpretation attached hereto as Exhibit C and made a part of this PPA by this reference, or elsewhere in this PPA.

**1.2 Rules of Interpretation.** The rules of interpretation in the Schedule of Definitions and Rules of Interpretation shall apply to this PPA unless expressly provided otherwise.

#### ARTICLE 2. TERM

**2.1 Term.** The initial term of this PPA (the “**Term**”) shall commence on the Effective Date and shall be in effect until the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date, provided that, upon the subsequent mutual agreement in writing of the Parties, the Term may be extended for two (2) successive, additional terms of five (5) years each.

**2.2 Conditions Precedent.** The respective rights and obligations of the Parties under this PPA (subject to Section 2.4) are conditioned upon the satisfaction in full (or waiver by Seller) within three hundred and sixty-five (365) days after the Effective Date of (i) the receipt by Seller of final approval from Buyer's Serving Utility to operate and interconnect the SEF, and (ii) the following:

(a) Seller shall have received financing sufficient to enable it to purchase, construct, operate and maintain the SEF as required by this PPA on terms acceptable to the Seller in its sole discretion;

(b) Seller shall have obtained all Governmental Approvals and approvals from Buyer's Serving Utility, which approvals shall include conditions and terms satisfactory to Seller in its sole discretion, which discretion shall include the right to terminate this PPA if capital improvements are required to be made as a condition to receiving an interconnection agreement from Buyer's Serving Utility and such improvements exceed \$0.10/watt and/or are otherwise not economically acceptable to Seller;

(c) Seller shall have entered into an Interconnection Agreement with Buyer's Serving Utility that qualifies under applicable net metering programs, under which any over-production of energy is carried as a credit on Buyer's utility bill against later shortfalls in production of the SEF compared to Buyer's electricity consumption; and

(d) Completion of a physical inspection of the Premises, including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Premises for the SEF.

**2.3 Notice of Commercial Operation.** Unless otherwise agreed by the Parties, and subject to the remaining provisions of this PPA, Seller shall notify Buyer when the SEF has achieved Commercial Operation (the "*Notice of Commercial Operation*").

(a) **Construction Commencement Notice.** Seller shall provide Buyer with no less than three (3) days advance written notice of the commencement of construction of the SEF.

(b) **Construction Completion Deadline.** If Commercial Operation of the SEF does not occur on or before the date that is three hundred and sixty-five (365) days after the date construction commenced as referenced in the notice provided pursuant to Section 2.3(a) herein, either Party hereto shall have the right to terminate this PPA by providing written notice to the other at any time prior to the date upon which Commercial Operation is achieved.

**2.4 Survival.** The terms and conditions of this PPA shall survive the termination or expiration of this PPA only (i) to the extent necessary to enforce any rights and obligations of the Parties, including payment obligations and with respect to indemnification; and/or (ii) as otherwise specified herein.



**ARTICLE 3.**  
**PURCHASE AND SALE; DELIVERY, GOVERNMENTAL CHARGES**

**3.1 Purchase and Sale of Energy Output.** During the Term, Seller shall deliver to Buyer, and Buyer shall take delivery of and consume, at the Delivery Point, all of the Energy in accordance with the terms of this PPA.

**3.2 Price for Energy Output.** Buyer shall pay Seller for all of the Energy delivered to the Delivery Point, as metered at the Metering Device, and for any Imputed Energy, at the applicable Energy Payment Rate. The payment to be made by Buyer to Seller shall equal the Energy and Imputed Energy for the relevant period multiplied by the Energy Payment Rate for such period.

**3.3 Energy Payment Rate.** During the period commencing on the Effective Date and ending on the last day of the Term before the first anniversary of the Commercial Operations Date Buyer shall pay for Energy delivered to the Delivery Point at a rate (the "***Energy Payment Rate***") equal to six and ninety-nine hundredths cents (\$0.06<sup>99</sup>) per kilowatt hour. In addition, beginning on the first anniversary of the Commercial Operation Date and on each subsequent anniversary of the Commercial Operation Date thereafter, the Energy Payment Rate in effect during the prior twelve (12) month period shall be increased by 2.99%. Seller shall not make or add any demand, delivery or other incidental charges to the Energy Payment Rate. In all cases, any adjustments in the Energy Payment Rate shall be made to the nearest thousandth (.001) of a cent.

**3.4 Title and Risk of Loss of Energy Output.** Title to and risk of loss of the Energy will pass from Seller to Buyer at the Delivery Point. As between the Parties, Seller shall be deemed to be in exclusive control of all Energy prior to the Delivery Point, and Buyer shall be deemed to be in exclusive control of all Energy at and from the Delivery Point. Except as otherwise provided herein, Seller warrants that it will deliver the Energy to Buyer at the Delivery Point, free and clear of all liens, security interests, claims, and other encumbrances created by Seller.

**3.5 Governmental Charges.**

(a) Except as set forth in Section 3.5(b), Seller is responsible for paying all local, state and federal income taxes attributable to Seller for income received under this PPA.

(b) Buyer is responsible for paying all sales & use taxes ("***SUT***") assessed against Buyer due to Buyer's purchase of Energy. Such SUT shall also be reimbursed to Seller, should Seller, not Buyer, be assessed such SUT due to the Buyer's purchase of Energy.

(c) The Parties shall use reasonable efforts to administer this PPA and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Energy hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's request therefor, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion.

### **3.6 Minimum Output Requirements.**

(a) The applicable “*Minimum Energy Output Requirements*” for the SEF shall be three hundred thousand kilowatt hours (300,000 kWh) annually, beginning with the fifth (5th) anniversary of Commercial Operation, declining by one half of one percent (0.5%) on each anniversary of Commercial Operation thereafter, and may be met, at the Seller’s discretion, either by (i) SEF performance, (ii) by Seller’s delivery of substitute renewable energy sufficient to meet such requirements, provided that any substitute energy must be provided at the Energy Payment Rate provided for in Section 3.3; or, if Seller fails to perform under either (i) or (ii) herein, at Buyer’s discretion (iii) by Buyer procuring delivery of substitute renewable energy sufficient to meet such requirements, in which case Buyer shall be excused from procuring from Seller the quantity of purchased substitute renewable energy. Failure to meet any applicable Minimum Energy Output Requirement shall be judged on the basis of a three (3) year rolling average, with Seller permitted to offset underperformance in any annual period with performance in excess of applicable Minimum Energy Output Requirements in the year immediately preceding or following the year in which the underperformance occurred. Thus, the Seller’s satisfaction of the annual Minimum Energy Output Requirements shall be measured based upon three (3) consecutive years of performance, starting in Year 2 of the Initial Term. The Parties agree that the Minimum Energy Output Requirements are based on estimated output, and that the SEF size and output of a SEF may be modified prior to Commercial Operation of such SEF due to engineering, governmental or utility requirements, or site conditions.

(b) Seller shall not be required to meet the Minimum Energy Output Requirement to the extent the failure to meet such Minimum Energy Output Requirement arises out of or results from: (i) a Person other than Seller or its approved service providers installing, removing or repairing the SEF; (ii) destruction, damage, modification or alteration to the SEF or its ability to produce energy not caused by Seller or its approved service providers while servicing the SEF; (iii) Buyer’s failure to perform, or breach of, its obligations under this PPA; (iv) any event of Force Majeure; (v) a power or voltage surge caused by a Person other than Seller; (vi) any SEF failure not caused by a SEF defect; or (vii) theft of the SEF.

**3.7 Insolation.** Buyer understands that unobstructed access to sunlight (“*Insolation*”) is essential to Seller’s performance of its obligations and a material term of this PPA. Buyer shall not in any way **intentionally** cause and, where possible, shall not in any way permit any interference with the SEF’s Insolation. If Buyer becomes aware of any activity or condition that could diminish the Insolation of the SEF, Buyer shall notify Seller immediately and shall cooperate with Seller in preserving the SEF’s existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 3.7 against Buyer.

**3.8 Maintenance of Premises; Alterations to Premises.** Buyer shall, at its sole cost and expense, maintain the Premises in good condition and repair. Buyer will ensure that the Premises remains interconnected to the local utility grid at all times and will not permit cessation of electric service to the Premises from the local utility. Buyer is fully responsible for the maintenance and repair of the Premises electrical system and of all of Buyer’s equipment that utilizes the SEF’s outputs. Buyer shall properly maintain in full working order all of Buyer’s

electric supply or generation equipment that Buyer may shut down while utilizing the SEF. Buyer shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the SEF or that could reasonably be expected to adversely affect the SEF. Buyer shall not make any alterations or repairs to the Premises which may adversely affect the operation and maintenance of the SEF without Seller's prior written consent. If Buyer wishes to make such alterations or repairs, Buyer shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Buyer in making such alterations or repairs in a manner that avoids damage to the SEF, but, notwithstanding any such advice, Buyer shall be responsible for all damage to the SEF caused by Buyer or its contractors. To the extent that temporary disconnection or removal of the SEF is necessary to perform such alterations or repairs, such work and any replacement of the SEF after completion of Buyer's alterations and repairs shall be done by Seller or its contractors at Buyer's cost. All of Buyer's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

#### **ARTICLE 4. ENVIRONMENTAL ATTRIBUTES AND TAX BENEFITS**

**4.1 Title to Environmental Attributes and Tax Benefits.** All Environmental Attributes relating to the SEF or the Energy will be and shall remain property of Seller including, without limitation, Solar Renewable Energy Certificates or any comparable instruments. All Tax Benefits will be and shall remain property of Seller. Buyer shall assign to Seller all rights to and income from rebates, credits, or reimbursements attributable to the SEF. Buyer shall not report to a Person that any Environmental Attributes, Tax Benefits, rebates, credits, or reimbursements as assigned to Seller herein belong to any Person other than Seller. Seller shall be the sole owner and title holder of the SEFs at all times during the Term of this Agreement, which SEFs shall (i) at all times retain the legal status of personal property of Seller as defined under Article 9 of the Uniform Commercial Code and (ii) not attach to or be deemed a part of, or fixture to, the Premises. Without limiting the generality of the foregoing, Seller may file one or more precautionary financing statements, including fixture filings in such jurisdictions as it deems appropriate with respect to the SEFs to protect Seller's rights therein. Buyer shall take no position on any tax return or other filings suggesting that it is anything other than a purchaser of electricity from the SEFs. In this regard, the Parties intend this PPA to be treated as a "service contract" within the meaning of section 7701(e)(3) of the Internal Revenue Code.

**4.2 Further Assurances.** Promptly upon Seller's request and provided Seller is not in default hereunder, Buyer shall execute all such documents and instruments reasonably necessary or desirable to effect, evidence or transfer to Seller all right, title and interest in and to the Environmental Attributes and Tax Benefits. If the standards used to qualify the Environmental Attributes to which Seller is entitled under this PPA are changed or modified, Buyer shall promptly upon Seller's request and without cost to Buyer use all commercially reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified.

**4.3 Promotion and Branding.** Nothing in this PPA is intended to preclude Buyer or Seller from distributing advertising or other promotional material highlighting the purchase and use of renewable energy from the SEF for commercial or branding purposes, provided that neither

Party shall be permitted to release to the public any such material regarding the SEF or the use of renewable energy therefrom without the prior review and approval of the other Party, which approval shall not be unreasonably withheld, conditioned or delayed. Subject to the foregoing, Buyer and Seller are mutually permitted to use the SEF for promotional purposes, which shall be limited to distribution of written materials, and may not include site visits or signs. Notwithstanding the foregoing, neither Party will use the other Party's (or any Financing Party's) corporate name, logo or other identification in any marketing, promotion, branding or other written, spoken or electronic communications without the express written permission of the other Party.

## **ARTICLE 5. CONSTRUCTION, MAINTENANCE AND MONITORING**

### **5.1 Construction, Maintenance, and Monitoring of SEF by Seller.**

(a) Seller shall, at its sole cost and expense, (i) on or before one (1) year after the Effective Date, construct the SEF and achieve Commercial Operation in a good and workmanlike manner and in accordance with all Laws and Prudent Utility Practices in all material respects, (ii) maintain the SEF in good condition (including any necessary cleaning of solar panels) and repair in accordance with Prudent Utility Practices and the terms of this PPA and all Laws in all material respects, and (iii) monitor the SEF's performance to ensure that any SEF malfunction causing a loss of Energy will be discovered and rectified in accordance with Prudent Utility Practices in all material respects. Buyer hereby consents to the construction of the SEF's connection to Buyer's Building, including, without limitation, mounting substrates or supports, wiring and connections, power inverters, service equipment, Metering Devices and equipment and utility interconnections, and, in the case of metering equipment and utility interconnections, on portions of the Building and surrounding property so long as Seller does not unreasonably interfere with Buyer's ability to conduct its business. Seller shall have the right to take reasonable action to restrict the right of persons to obtain access to the SEF and Buyer will cooperate with Seller in connection with these actions.

(b) Buyer grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the SEF; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the SEF to Buyer's electric system at the Premises and/or to the utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the SEF. Seller shall notify Buyer prior to entering the Premises except in situations where there is imminent risk of damage to persons or property or otherwise requiring Emergency Repairs. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the "**License Term**"). During the License Term, Buyer shall ensure that Seller's rights under the License and Seller's access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this agreement by

either Party. Buyer agrees that Seller, upon request to Buyer, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the parties.

(c) Seller shall provide Buyer reasonable notice of all activities conducted by or on behalf of Seller on the Building. During any such activities, Seller, and its sub-contractors, agents, consultants, and representatives shall comply with Buyer's safety, insurance and security procedures (as may reasonably be promulgated from time to time), and Seller and its sub-contractors, agents, consultants and representatives shall conduct such activities in such a manner and such a time and day as to not unreasonably interfere with Buyer's activities. This requirement of access shall not be construed to confer a leasehold on the Seller.

(d) Notwithstanding any provision of Section 5.1(b) or 5.1(c) to the contrary, Seller shall have access to the Buyer's Building to effect Emergency Repairs of the Interconnection Equipment located on Buyer's Building immediately upon, or as soon as practicable after, notice to Buyer of the need for access. For purposes of this Agreement, "Emergency Repairs" means any maintenance or repair necessary to address or prevent an unplanned interruption or reduction of Energy transmitted through the Interconnection Equipment from the SEF.

(e) Seller may curtail deliveries (inclusive of discontinuing or reducing Energy) if Seller reasonably believes that curtailment is necessary to construct, install, repair, replace, remove, maintain or inspect any of its equipment or facilities; or in connection with an emergency or an event of Force Majeure. To the extent practical, all maintenance and repairs shall be performed during off-peak hours and in a manner that would not require a complete interruption in Energy of the SEF. Seller shall notify Buyer of any curtailments of which Seller has advance knowledge, and will endeavor to mitigate the time periods and causes of such curtailments to the extent that such cause is within Seller's reasonable control. Subject to available sunlight, Seller shall resume deliveries of Energy as soon as is reasonably possible and safe in accordance with Prudent Utility Practices.

(f) Seller may modify, alter, expand or otherwise change the SEF without the prior written consent of Buyer as required by Prudent Utility Practices or applicable Law, so long as such modifications, alterations, expansions or other changes would not reasonably be expected to result in a material change in the capacity of the SEF or a material adverse impact on the operations of the SEF or the SEF's capability to operate. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.

## **5.2 Buyer's Obligations.**

(a) Buyer shall maintain Buyer's Building and shall not take any actions on Buyer's Building that would cause shading of the SEF or otherwise interfere with the operation of the SEF, reduce the production of Energy from the SEF or damage or otherwise increase the cost of maintenance of the SEF.



(b) Buyer shall provide or assist Seller and its agents and contractors in obtaining convenient access to and from the Interconnection Equipment located on Buyer's Building during normal business hours as is reasonably necessary or appropriate for Seller to complete the electrical interconnection to the Building.

(c) Buyer shall assist Seller and cooperate with Seller, as reasonably necessary and appropriate, to acquire and maintain the Governmental Approvals required for the construction, operation, maintenance and repair of the SEF's connection to Buyer's Building, including, but not limited to, signing the Interconnection Agreement or any applications or consents for permits, local utility interconnection, SREC creation and verification, and rebate applications as are required to be signed by a person in the position of Buyer and reasonably approved by Buyer's counsel.

(d) Buyer shall maintain the Site Electrical System in good condition and repair so as to be able to receive the Energy. Buyer will maintain its connection and service contract(s) with Buyer's Serving Utility or any successors thereto, so that the SEF may continuously generate and deliver Energy and so that Buyer may procure its full requirements for electricity that are not served by the SEF.

(e) Buyer shall not cause, or allow any Person under Buyer's control to cause the SEF's equipment on Buyer's Building to be disconnected or shut down, temporarily or otherwise, unless in the case of emergency or as a result of an event of Force Majeure. In the event of a disconnect or shut down on Buyer's Building of a portion of the SEF caused by Buyer or a Person under Buyer's control, damages and lost revenue will be assessed pursuant to the terms of Section 7.5, which is the sole measure of damages. At the request of Buyer, Seller may consent, such consent not to be unreasonably withheld, conditioned or delayed, to temporarily shut down all or a portion of the SEF for a predetermined period of time; provided that nothing herein shall require Seller's consent to a shutdown of the SEF if necessary as a result of an emergency. Seller will be compensated in connection with any such shutdown in accordance with Section 7.5. No damages will be due if the shutdown is due to a Force Majeure event.

**5.3 Telemetry.** Seller shall provide a means for Buyer to access real-time data or telemetry with respect to the SEF's performance [through means that may reasonably be incorporated into advertising and promotional materials]. Subject to Section 4.3 above, Seller retains the right to use telemetry and monitoring other data concerning the performance of the SEF for evaluative, maintenance, and promotional purposes.

## **ARTICLE 6. METERING DEVICE AND METERING**

**6.1 Metering Equipment.** Seller shall provide, install, own, operate and maintain the Metering Device with the ability and right for Buyer to access real-time via internet connection to monitor the Metering Device. Buyer grants Seller a right of access to the Metering Device on Buyer's Building as needed to inspect, repair and maintain such Metering Device. Buyer shall allow for the installation of necessary communication lines in connection with the Metering Device and shall reasonably cooperate in providing access for such installation. The Metering Device shall be kept under seal, such seal to be broken only by Seller when the Metering Device



is to be tested, adjusted, modified or relocated. In the event that Seller or Buyer breaks a seal, the applicable Party shall notify the other as soon as practicable.

**6.2 Measurements.** Readings of the Metering Device shall be conclusive as to the amount of Energy output; *provided, however*, that if the Metering Device is out of service, is discovered to be inaccurate pursuant to Section 6.3, or registers inaccurately, measurement of Energy to the Delivery Point shall be determined in the following sequence: (a) by estimating by reference to quantities measured during periods of similar conditions when Metering Device was registering accurately; or (b) if no reliable information exists as to the period of time during which such Metering Device was registering inaccurately, it shall be assumed for correction purposes hereunder that the period of such inaccuracy for the purposes of the correction under Section 6.3 was equal to (i) if the period of inaccuracy can be determined, the actual period during which inaccurate measurements were made; or (ii) if the period of inaccuracy cannot be determined, one-half of the period from the date of the last previous test of such Metering Device through the date of the adjustments; *provided, however*, that, in the case of clause (ii), the period covered by the correction under Section 6.3 shall not exceed twelve (12) months.

**6.3 Testing and Correction.**

(a) Upon Buyer's reasonable request, but in no event more than once every twelve (12) months, Seller shall inspect and test the Metering Device for accuracy. Each Party and its consultants and Representatives shall have the right to witness each test of the Metering Device to verify the accuracy of its measurements and recordings. Seller shall provide at least ten (10) days prior written notice to Buyer of the date upon which any such test is to occur. Seller shall prepare a written report setting forth the results of each such test, and shall provide Buyer with copies of such written report not later than thirty (30) days after completion of such test. Subject to Section 6.3(b) below, Seller shall bear the cost of the testing of the Metering Device and the preparation of the Metering Device test reports.

(b) The following steps shall be taken to resolve any disputes regarding the accuracy of the Metering Device:

- (i) If either Party disputes the accuracy or condition of the Metering Device, such Party shall so advise the other Party in writing.
- (ii) Seller shall, within thirty (30) days after receiving such notice from Buyer or Buyer shall, within such time after having received such notice from Seller, advise the other Party in writing as to its position concerning the accuracy of such Metering Device and state reasons for taking such position.
- (iii) If the Parties are unable to resolve the dispute through reasonable negotiations, then either Party may cause the Third Party Monitor to test the Meter.
- (iv) If the Metering Device is found to be inaccurate by not more than five percent (5%), any previous recordings of the Metering Device shall be adjusted in accordance with Section 6.2(b)(i) and the party claiming such

inaccuracy shall bear the cost of inspection and testing of the Metering Device.

- (v) If the Metering Device is found to be inaccurate by more than five percent (5%) or if such Metering Device is for any reason out of service or fails to register, then (A) Seller shall promptly cause any Metering Device found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (B) the Parties shall estimate the correct amounts of Energy delivered during the periods affected by such inaccuracy, service outage or failure to register as provided in Section 6.2, and (C) Seller shall bear the cost of inspection and testing of the Metering Device. If as a result of such adjustment the quantity of Energy output for any period is decreased, Seller shall reimburse Buyer within thirty (30) days for the amount paid by Buyer in consideration for the decrease. If as a result of such adjustment the quantity of Energy output for any period is increased, Buyer shall pay Seller within thirty (30) days for the additional quantity of Energy at the Energy Payment Rate applicable during the applicable period.

**6.4 Live Meter Maintenance.** Buyer acknowledges and understands that the SEF is installed behind the current electric utility meter located on Buyer's Building (the "**Meter**") and that the Meter remaining live is critical to the proper operation of the SEF. Therefore, Buyer agrees that, in the event Buyer defaults in an obligation to Buyer's Serving Utility, becomes insolvent, Bankrupt, or enters into any condition that threatens the live nature of the Meter, Seller shall have the unilateral and exclusive right to transfer the account for the Meter into Seller's name for the duration of the Term.

## **ARTICLE 7.**

### **LOSS, DAMAGE OR DESTRUCTION OF SEF; INSURANCE; FORCE MAJEURE; PAYMENTS FOR TEMPORARY SHUT DOWN**

#### **7.1 SEF Loss.**

(a) Seller shall bear the risk of any SEF Loss excluding, however, any SEF Loss arising out of or resulting from (i) any acts or omissions of Buyer or Buyer's agents, Representatives, customers, vendors, visitors, or invitees or (ii) any breach of the PPA by Buyer (collectively, the circumstances set forth in clause (i) or (ii), "**Buyer Act**").

(b) In the event of any SEF Loss that, in the reasonable judgment of Seller, results in less than total damage, destruction or loss of the SEF and more than five (5) years remains in the Term, this PPA will remain in full force and effect and Seller will, at Seller's sole cost and expense, subject to Section 7.1(c) below, repair or replace the SEF as quickly as practicable.

(c) To the extent that any SEF Loss, which in the reasonable judgment of Seller, results in less than total damage or destruction or loss of the SEF, is caused by Buyer Act, Buyer shall promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement.

(d) In the event of any SEF Loss that, in the reasonable judgment of Seller, results in total damage, destruction or loss of the SEF, or to the extent the SEF is damaged during the last five (5) years of the Term, Seller shall, within thirty (30) Business Days following written notice from the Buyer of the occurrence of such SEF Loss, notify Buyer whether Seller is willing, notwithstanding such SEF Loss, to repair or replace the SEF, it being understood that in such instance Seller shall have no obligation to restore the SEF.

(e) In the event that Seller notifies Buyer that Seller is not willing to repair or replace the SEF, this PPA will terminate automatically effective upon the effectiveness of such notice unless Buyer agrees to pay the restoration cost. If such SEF Loss has been caused solely by Buyer Act, Buyer shall, within ten (10) Business Days following such termination, pay to Seller, as liquidated damages, the Termination Payment applicable as of such termination date.

(f) In the event that Seller notifies Buyer that Seller is willing to repair or replace the SEF, the following shall occur: (A) this PPA will remain in full force and effect, and (B) Seller will repair or replace the SEF as quickly as practicable but in any event within six (6) months of the casualty and, in addition, if such SEF Loss has been caused, in total or partially, by Buyer Act, Buyer shall promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement caused by such Buyer Act.

## **7.2 Insurance.**

(a) Each Party will, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$3,000,000 for injury to or death of one or more persons in any one occurrence and \$1,000,000 for damage or destruction to property in any one occurrence, with aggregate limits of \$5,000,000. Coverage may be part of a blanket and/or umbrella policy.

(b) Buyer and Seller (or Seller's subcontractors), will maintain worker's compensation and employer's liability insurance, including stop gap coverage, in compliance with applicable laws. The limits of employers' liability insurance shall not be less than \$1,000,000.

(c) Each Party will name the other Party as an additional insured in each such policy provided in this Section 7.2 using the form CG 2010 or the equivalent. The policies insuring a Party against loss or destruction to property shall waive any right of subrogation against the other Party. As to each such policy, the insured Party shall furnish to the other Party a certificate of insurance from the insurer, which certificate shall evidence the insurance coverage required by this Section 7.2. At the request of a Party, the other Party shall furnish to such Party applicable endorsements evidencing the required coverages.

(d) The provision of this PPA shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

(e) Seller shall be permitted to satisfy the insurance requirements in this Section 7.2 with any combination of general liability and umbrella policies or self-insured retentions.

(f) Notwithstanding anything herein to the contrary the Buyer City may satisfy the insurance requirements by its self-insurance status.

**7.3 Performance excused by Force Majeure.** To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this PPA and such Party (the “*Claiming Party*”) gives notice and details of the Force Majeure event to the other Party as soon as practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, then the Claiming Party will be excused from the performance of its obligations under this PPA affected by the Force Majeure event (other than the obligation to make payments under this PPA) for a period equal to the effect of the disabling Force Majeure circumstances. The Party affected by Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; *provided, however*, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion.

**7.4 Termination due to Force Majeure.** If a Claiming Party claims a Force Majeure for a consecutive period of twelve (12) calendar months or longer, the non-Claiming Party may terminate this PPA, in whole or in part, without any liability to the Claiming Party as a result of such termination (except with respect to payment of amounts accrued prior to termination and actions or omissions that occur prior to termination) by providing written notice of such termination at any time prior to the date upon which the obligation prevented by such Force Majeure has been satisfied. Without limiting the generality of the foregoing, if Seller does not deliver Energy from the SEF to Buyer for a continuous period of twelve (12) months for any reason other than Buyer’s default hereunder, Buyer shall have the right to terminate this PPA by delivering written notice of such termination at any time prior to the date upon which the SEF resumes the production of Energy.

**7.5 Payment for Temporary Shutdown of SEF or Reduced Energy Output.** In the event (a) Buyer needs to conduct any type of work on the Building or Site Electrical System that will require the shutdown of the SEF, (b) Buyer or any Person within Buyer’s control causes any disruption on Buyer’s Building which will require, or otherwise causes, Seller to cease making deliveries of Energy, or otherwise causes the SEF to shut down, or (c) Buyer or any Person in Buyer’s control causes a reduction in Energy output from the SEF, whether from disruption on the Buyer’s Building or otherwise, Buyer’s payments due hereunder shall be adjusted to compensate Seller for the Imputed Energy during the period in which Energy cannot be or is not generated and delivered to Buyer during such shutdown, together with the value of Environmental Attributes and Tax Benefits relating to such Imputed Energy. The payment adjustment shall be equal to the sum of: (1) the value of Imputed Energy determined on the basis of the historical performance of the SEF during the applicable time period during the calendar year immediately prior to the suspension (i.e. based on seasonality and actual performance, e.g. if the interruption is from June 1 through June 10 then the lost revenue shall be based on the SEF’s performance from June 1 – June 10 of the previous year – and if such interruption occurs during the first calendar year following the Commercial Operation Date, such lost revenue shall be measured using the Expected System Output for the applicable time period); (2) the value of Environmental Attributes relating to such Imputed Energy; (3) the value of lost Tax Benefits; and (4) Seller’s actual costs of connecting or disconnecting the SEF from or to Buyer’s Building. For purposes of this PPA, the value of Environmental Attributes shall be determined based on the greater of the

value at which Seller had contracted to sell those Environmental Attributes or the spot market value.

## **ARTICLE 8. EVENTS OF DEFAULT; REMEDIES**

**8.1 Events of Default.** An Event of Default means, with respect to a Party (a “*Defaulting Party*”), the occurrence of any of the following:

(a) the failure to make, when due, any payment required under this PPA if such failure is not remedied within ten (10) Business Days after receipt of written notice from the Party claiming the failure (a “*Non-Defaulting Party*”);

(b) any representation or warranty made by such Party in this PPA is intentionally false or misleading in any material respect when made or when deemed made or repeated;

(c) the failure to perform any material covenant or obligation set forth in this PPA if such failure is not remedied within thirty (30) days after receipt of written notice from the Non-Defaulting Party; provided, however, that, if despite due diligence such default is not capable of cure within thirty (30) days, the Defaulting Party shall have such additional time as is reasonably necessary to cure such default, provided the Defaulting Party diligently pursues such cure and completes same within ninety (90) days after the receipt of such notice;

(d) such Party becomes Bankrupt; or

(e) solely as to Buyer, (i) the closure or shutdown of Buyer’s operations or other shutdown of the SEF caused by the action or inaction of Buyer or of any Person under Buyer’s control; (ii) Buyer loses its rights to occupy and enjoy the Premises; or (iii) Buyer prevents Seller from installing the SEF or otherwise fails to perform in a way that prevents the delivery of electronic energy from the SEF.

**8.2 Buyer Remedies.** Upon the occurrence and during the continuance of an Event of Default where Seller is the Defaulting Party (a “*Seller Event of Default*”), Buyer shall have all rights available to it at law and in equity; however, notwithstanding the foregoing, it is agreed that Buyer shall have the right to terminate this PPA as a result of a Seller Event of Default only in the event such Seller Event of Default is a monetary Event of Default or a material non-monetary Event of Default that has resulted in substantial harm, economically or otherwise, to Buyer (each such default being a “*Seller Termination Default*”). In the event any Seller Termination Default remains uncured following any applicable notice and cure period, Buyer shall have the right to provide Seller with written notice of its intent to terminate this PPA. In the event such specified Seller Termination Default and any other subsequent termination event is not cured within forty five (45) days of Seller’s receipt of such notice of intent to terminate (which notice shall specify the exact Seller Termination Default and any other being claimed) then thereafter, and only thereafter, Buyer shall have the right to terminate this PPA as of such date by providing written notice of such termination to Seller.



**8.3 Seller Remedies.** (a) If an Event of Default of Buyer has occurred and is continuing, Seller has the right in its sole discretion, without obligation, to take any and all action reasonably necessary to cure such Buyer Event of Default. In the event that Seller exercises such right, Buyer shall promptly reimburse Seller for any and all reasonable costs and expenses incurred by Seller (including reasonable attorney's fees) in connection with the exercise of Seller's rights hereunder.

(b) Upon the occurrence and during the continuance of an Event of Default where Buyer is the Defaulting Party (a "***Buyer Event of Default***"), Seller shall have the right to (i) terminate this PPA by providing five (5) days prior written notice of such termination to Seller and (ii) Buyer shall pay a Termination Payment to Seller.

**8.4 Termination Payment Notice.** In the event that Seller elects to require payment of the Termination Payment by Buyer as provided in Section 8.3, then, as soon as practicable after calculation of the Termination Payment by Seller, Seller will notify Buyer of the amount of the Termination Payment and any amount otherwise due and outstanding under this PPA. Such notice will include a written statement explaining in reasonable detail the calculation of such amount. Buyer shall be required to pay the Termination Payment and any amount otherwise due and outstanding under this PPA to Seller within ten (10) Business Days after the effectiveness of such notice.

**8.5 Remedies Cumulative.** Except as specifically provided to the contrary, the rights and remedies contained in this Article 8 are cumulative with the other rights and remedies available under this PPA or at law or in equity.

**8.6 Unpaid Obligations.** The Non-Defaulting Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available under this PPA. Notwithstanding anything to the contrary herein, the Defaulting Party shall in all events remain liable to the Non-Defaulting Party for any amount payable by the Defaulting Party in respect of any of its obligations remaining outstanding after any such exercise of rights or remedies.

## **ARTICLE 9. INVOICING AND PAYMENT**

**9.1 Invoicing and Payment.** Seller will issue monthly invoices within ten (10) days after the conclusion of the preceding calendar month for deliveries made during that month. Except as specifically provided to the contrary herein, all invoices under this PPA will be due and payable not later than twenty (20) days after receipt of the applicable invoice. Each Party will make payment by check, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the applicable due date will accrue interest at the Late Payment Interest Rate until paid in full.

**9.2 Disputed Amounts.** A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this PPA at any time within twelve (12) months following the date the invoice (or invoice adjustment) was rendered. In the event that either Party disputes any invoice or invoice adjustment, such Party will nonetheless be required to pay the full



amount of the applicable invoice or invoice adjustment (except any portions thereof that are manifestly inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, except as expressly provided otherwise elsewhere in this PPA, and to give notice of the objection to the other Party. Any required payment will be made within ten (10) Business Days after resolution of the applicable dispute, together with interest accrued at the Late Payment Interest Rate from the due date to the paid date.

**9.3 No Setoff.** Except as otherwise set forth herein, each Party hereby waives all rights to set-offs of amounts due hereunder. The Parties agree that all amounts due hereunder are independent obligations and shall be made without set-off for other amounts due or owed hereunder.

**9.4 Records and Audits.** Each Party will keep, for a period not less than two (2) years after the expiration or termination of any Transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such Transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to Transactions during such other Party's normal business hours. Notwithstanding the foregoing, in the event that Buyer conducts an audit and discovers an inaccuracy in Seller's invoices, charges, computations and payments required for a Transaction in an amount in excess of five percent (5%), Buyer shall be entitled to recover the cost and expense of the audit in addition to the other corrective actions required as a result of said audit.

**9.5 Currency.** All pricing offered, payments made and amounts referenced hereunder are and will be in U.S. dollars.

## **ARTICLE 10. REPRESENTATIONS AND WARRANTIES; BUYER ACKNOWLEDGEMENT**

**10.1 Representations and Warranties.** Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this PPA are within its powers, have been duly authorized by all necessary action, do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it and do not require the consent of any third party; (c) this PPA and each other document executed and delivered in accordance with this PPA constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any bankruptcy, insolvency, reorganization and other Laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court; (d) it is acting for its own account, and has made its own independent decision to enter into this PPA, and is not relying upon the advice or recommendations of the other Party in so doing; (e) it is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this PPA; and (f) it understands that the other Party is not acting as a fiduciary for or an advisor to it or its Affiliates. Buyer represents and warrants to Seller that: (i) to its knowledge, there are no site conditions or construction requirements (including any Environmental Condition) that would increase the cost of installing the Interconnection Equipment at the planned locations or increase any liabilities in

connection with the Interconnection Equipment; (ii) the information provided to Seller pursuant to this PPA as of the Effective Date is true and accurate in all material respects; (iii) [Buyer has fee simple title to the Premises]; (iv) no electricity generated by the SEF will be used to heat a swimming pool; (v) Buyer is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company and (vi) each Party has no knowledge of any facts or circumstances that could materially and adversely affect their respective ability to perform their obligations hereunder.

**10.2 Buyer Acknowledgement Regarding Inapplicability of Bankruptcy Code Section 366.** Buyer acknowledges and agrees that, for purposes of this PPA, Seller is not a “utility” as such term is used in Section 366 of the United States Bankruptcy Code and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor.

## **ARTICLE 11. INDEMNITY; LIMITATIONS**

**11.1 Indemnity.** To the fullest extent permitted by law, each Party (the “*Indemnitor*”) hereby indemnifies and agrees to defend, protect, and hold harmless the other Party and its Representatives (the “*Indemnified Parties*”) from and against any and all claims, losses, liabilities, damages, costs and expenses (including attorneys’ fees) (“*Indemnity Claims*”) caused by, resulting from, relating to or arising out of any breach of this PPA by the Indemnitor or any of its Representatives or any negligence or intentional misconduct on the part of the Indemnitor or any of its Representatives; *provided, however*, that the Indemnitor will not have any obligation to indemnify the Indemnified Parties from or against any Indemnity Claims to the extent caused by, resulting from, relating to or arising out of the gross negligence or intentional misconduct of the Indemnified Parties, or material breach of this PPA by the Indemnitee. In addition to the foregoing, to the fullest extent permitted by law, Buyer, as the Indemnitor, hereby indemnifies and agrees to defend, protect, and hold harmless Seller and its Representatives, as the Indemnified Parties, from and against any and all Indemnity Claims related to any and all Environmental Conditions, except to the extent that the same are caused by the negligence or willful misconduct of Seller and/or its Representatives, where, as used in this PPA, the term (a) “*Environmental Conditions*” means (i) the violation or alleged violation of any Environmental Law at or on the Buyer’s Building; (ii) the release or potential release of any Hazardous Material at, on or from the Buyer’s Building, unless such Hazardous Material was brought onto the Buyer’s Building by Seller or its Representatives; and/or (iii) any other environmental matter adversely affecting the Buyer’s Building that was not directly caused by Seller or its Representatives; (b) “*Hazardous Material*” means any substance or material regulated by or listed in any Environmental Law; and (c) “*Environmental Law*” means any federal, state or local law, regulation, ordinance or other requirement governing human health and/or the environment.

**11.2 Limitation of Remedies, Liability and Damages.** The Parties confirm that with respect to the matters specified herein and to the extent specified the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. Without prejudice to the calculation of the amount of any Termination Payment, payment for Imputed Energy, and/or indemnity claims arising out of claims by third parties, neither Party will be liable for consequential, incidental, punitive, special exemplary or indirect damages, by statute, in tort

or under contract under any indemnity provisions or otherwise; provided however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for intentional misconduct. The limitations imposed herein or remedies and the measure of damages are without regard to the applicable cause or causes, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding any provision of this agreement to the contrary, Seller's maximum liability to the Buyer, except for indemnity obligations in respect of personal injury, property damage and intellectual property infringement claims, under this Agreement will be limited, in the aggregate to the difference between the amount Buyer actually pays to utility for electricity used by Buyer and the amount Buyer would have had to pay to Seller for electricity supplied by Seller over the remaining term of the Agreement.

~~11.3 **Limitations on Warranties.** Except as expressly provided in this PPA, Seller hereby disclaims any and all representations, warranties and guarantees, express or implied, including warranties of merchantability and fitness for a particular purpose.~~

11.4 **Duty to Mitigate.** Buyer and Seller shall each have a duty to mitigate damages pursuant to this PPA, and each shall use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's non-performance of this PPA, including with respect to termination of this PPA.

## ARTICLE 12. CONFIDENTIALITY

The price, other material terms, and text of this PPA shall be deemed Confidential Information, and Buyer and Seller shall take commercially reasonable steps to ensure that Confidential Information shall not be disclosed by Buyer or Seller to any other person. Neither Party will use any Confidential Information for any purpose except such Party's performance under this PPA. Furthermore, neither Party will disclose any Confidential Information to any third party (other than (and then only for purposes permitted by this PPA) the Party's or the Party's Affiliates' officers, employees, lenders, counsel, accountants, advisors or Financing Parties who have a need to know such information for the purposes permitted by this section and who have agreed to keep such terms confidential or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein) except in order to comply with the requirements of any applicable Law or any exchange, control area or independent system operator rule, tariff or agreement or in connection with any judicial or regulatory proceeding or request by a Governmental Entity; provided, however, that each Party will use reasonable efforts to prevent or limit any such disclosure. "**Confidential Information**" further includes, without limitation, any nonpublic confidential or proprietary information of a Party or its Affiliates or any of its or their Representatives relating to this PPA and the SEF and revealed to the other Party or its Affiliates or any of its or their Representatives during the Term. The obligations of the Parties under this Article will survive for a period of two (2) years from and after the termination of the Transaction to which any Confidential Information relates. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Article 12 by the receiving Party or its Representatives or other person to whom the

receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Article 12. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article 12, but shall be in addition to all other remedies available at law or in equity. Confidential Information does not apply to information that (i) becomes publicly available other than through the receiving Party's or its Representatives' breach of this PPA, (ii) is independently developed by the receiving Party or (iii) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. Nothing in this paragraph shall be construed to limit either Party's obligation or ability to disclose information pursuant to subpoenas, investigation, litigation or the like. This section is expressly subject to the requirements of the CT FOIA.

### ARTICLE 13. NOTICES

**13.1 Notices.** All notices, requests, statements or payments will be made to the addresses and persons specified below. All notices, requests, statements or payments will be made in writing. Notices required to be in writing will be delivered by hand delivery, [electronic mail,] overnight delivery or regular, certified, or registered mail, return receipt requested. All notices shall be deemed to have been properly given or made upon the earliest to occur of (a) actual delivery, (b) two (2) days after being sent by overnight courier service, (c) five (5) days after being deposited in the mail addressed as aforesaid and (d) one (1) day after being sent by e-mail; provided that in the case of notice by e-mail such notice is followed promptly by the sending of the original of such notice by overnight courier service. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to Buyer:

Wonderland of Ice Associates, Inc.  
123 Glenwood Avenue  
Bridgeport, CT 06610

AND

City of Bridgeport  
Office of the Mayor  
Office of Public Facilities  
Office of the City Attorney  
Bridgeport City Hall  
45 Lyon Terrace  
Bridgeport, CT 06604  
Attention: Corporation Counsel

If to Seller:

CEFIA Holdings LLC  
845 Brook Street

Rocky Hill, CT 06067  
Attention: General Counsel

**ARTICLE 14.**  
**ASSIGNMENT AND FINANCING**

**14.1 Assignment; Binding Effect.**

(a) Except for assignments to Affiliates, neither Buyer nor Seller shall, without the prior written consent of the other, which consent will not be unreasonably withheld, conditioned or delayed, assign, pledge or transfer all or any part of, or any right or obligation under, this PPA, whether voluntarily or by operation of law, and any such assignment or transfer without such consent will be null and void.

(b) Notwithstanding the foregoing, Seller may, without the prior written consent of Buyer, assign, mortgage, pledge or otherwise directly or indirectly transfer all or any part of, or any right or obligation under this PPA (i) to any party that acquires Seller or all or substantially all of Seller's assets; (ii) for security purposes in connection with any financing or other financial arrangements regarding SEF; (iii) to any Financing Party; (iv) to any Qualified Assignee or (v) to an entity that enters into an agreement with a Qualified Assignee pursuant to which (1) such Qualified Assignee shall be responsible for SEF operation and maintenance under this PPA and (2) Seller shall have granted to the Qualified Assignee all other rights granted to Seller herein necessary for operation and maintenance of SEF (each, a "***Permitted Transfer***"). Seller shall deliver notice of any Permitted Transfer to Buyer in writing as soon as reasonably practicable. Buyer agrees to execute such reasonable consents to assignment and other documents, and to provide such information, as is requested by Seller in connection with any Permitted Transfer.

(c) Subject to the foregoing restrictions on assignment, this PPA will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

**14.2 Cooperation with Financing.** Buyer acknowledges that Seller will be financing the construction of the SEF and Buyer agrees that it shall reasonably cooperate with Seller and its Financing Parties in connection with such financing for the SEF, including (a) the furnishing of such public information; (b) the giving of such certificates; (c) providing of an officer's certificate of Buyer or its affiliate that this PPA was duly authorized, executed and delivered by Buyer, (d) the obtaining of any lien waivers, the execution of commercial law forms and such other documents, all as reasonably requested by Seller or any Financing Party to secure such Financing Party's collateral position in the SEF or in Seller's rights under this PPA; *provided, however*, that the foregoing undertaking shall not obligate Buyer to change any rights of benefits, or increase any burdens, liabilities or obligations of Buyer, under this PPA to the Financing Parties except as specifically provided herein.



**ARTICLE 15.**  
**FINANCING PARTY ACCOMMODATIONS**

**15.1 Buyer Acknowledgment.** Buyer acknowledges that Seller shall have the right to finance the SEF with financing accommodations from a Financing Party and that Seller's obligations will be secured by, among other collateral, a pledge or collateral assignment of this PPA and a first security interest in the SEF. In order to facilitate such necessary financing, Buyer agrees as set forth below.

**15.2 Consent to Assignment.** Notwithstanding any contrary term or provision of this PPA, Seller shall have the right to assign this PPA in connection with the financing or refinancing of the SEF, and Buyer consents to the assignment by Seller to the Financing Party of Seller's right, title and interest in and to this PPA. Notwithstanding any contrary term or provision contained in this PPA, any assignment of this PPA to a Financing Party for financing or refinancing of the SEF shall not require Buyer's consent. In addition, Buyer shall in good faith work with Seller and Seller's Financing Party upon request to agree upon consent by Buyer to the assignment of this PPA, provided that any such consent does not require Buyer to alter its rights and obligations pursuant to this PPA in any way.

**15.3 Financing Party's Rights Following an Event of Default.** Notwithstanding any contrary term or provision of this PPA:

(a) The Financing Party, as assignee, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this PPA in accordance with the terms of this PPA, provided that such Financing Party also satisfies the obligations of Seller hereunder. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this PPA and the SEF.

(b) The Financing Party shall have the right, but not the obligation, to pay all sums due under this PPA and to perform any other act, duty or obligation required of Seller hereunder or cause to be cured any default or Seller Event of Default in the time and manner provided by the terms of this PPA. Nothing herein requires the Financing Party to cure any Seller Event of Default (unless the Financing Party has succeeded to Seller's interests) to perform any act, duty or obligation of Seller, but Buyer hereby gives the Financing Party the option to do so.

(c) Upon the exercise of remedies under its security interest in the SEF, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to the Financing Party, Buyer's consent shall not be required, however, the Financing Party will give notice to Buyer of the transferee or assignee of this PPA; *provided, further*, that any sale, transfer or other disposition of the SEF by the Financing Party, whether by judicial proceeding or otherwise, shall be made solely to a Qualified Assignee. Any such exercise of remedies shall not constitute an Event of Default.

(d) Upon any rejection or other termination of this PPA pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, at the request of Financing Party made within sixty (60) days of such termination or rejection, Buyer



will enter into a new PPA with Financing Party or its Qualified Assignee, on the same terms and conditions as hereunder.

(e) In the event that a Financing Party becomes the owner of the SEF as a result of the exercise of remedies under subsections (c) or (d) above, whether as a result of the exercise of its remedies as a secured party or in connection with the bankruptcy of Seller, the Financing Party shall agree not to disturb the Buyer's rights to purchase Energy under this PPA, pursuant to the terms and conditions hereof, and further agrees to sell its right in the SEF or the PPA to a Qualified Assignee purchaser only if such purchaser agrees to continue to provide Buyer with Energy under this PPA in accordance with the terms and conditions thereof.

#### **15.4 Financing Party's Right to Cure.**

(a) Upon receipt from Financing Party of its invocation of the rights provided for in this Section 15.4 and the name and address of the Financing Party entitled to notice, Buyer will not exercise any right to terminate this PPA unless Buyer has given the Financing Party prior written notice at the address provided to Buyer in writing of any event giving rise to Buyer's right to terminate this PPA. Buyer's notice of an intent to terminate this PPA must specify the condition giving rise to such right. Notwithstanding any contrary term or provision in this PPA, Financing Party shall have forty five (45) days beyond the cure period provided to Seller pursuant to this PPA to cure the condition. Buyer's and Seller's obligations under this PPA will otherwise remain in effect and required to be fully performed during any cure period.

(b) If the Financing Party or its Qualified Assignee (including any purchaser which meets the definition of a Qualified Assignee) has commenced and is diligently pursuing judicial proceedings to acquire title to or control of the SEF, or has acquired title to or taken control of the SEF, and in either event cures all existing Seller Events of Default that are capable of being cured by Financing Party or its Qualified Assignee subject to and within the time allowed by Section 15.4(a) and assumes in writing the obligations of Seller hereunder, then this PPA will continue in full force and effect.

**15.5 Notice of Defaults and Events of Default.** Upon and at any relevant time after receipt of the notice provided for in Section 15.4(a), Buyer agrees to deliver to the Financing Party a copy of any notice of a Seller's default simultaneously with the delivery of such notice by Buyer to Seller.

### **ARTICLE 16. MISCELLANEOUS**

**16.1 Governing Law.** This PPA will be governed by the Laws of the State in which the SEF is located, without giving effect to principles of conflicts of laws.

**16.2 Entire Agreement; Amendments.** This PPA (including the exhibits, any written schedules, supplements or amendments) constitutes the entire agreement between the Parties, and shall supersede any prior oral or written agreements between the Parties, relating to the subject matter hereof. Without limiting the generality of the foregoing, the Parties acknowledge and agree that, as of the Effective Date of the PPA, (a) any and all prior agreements between the Parties relating to the subject matter of the PPA, including the Initial PPA (collectively, the "**Prior**

*Agreements*”) are superseded in their entirety by the PPA, (b) the Prior Agreements are of no further force or effect and no longer the legal obligation of either Party, (c) no Party had, nor now has, any claim against, or liability or obligation to, the other Party under the Prior Agreements, and (d) no asset or property of either Party was, or now is, bound by, or subject to, any encumbrance, lien or other restriction by reason of the Prior Agreements. Except as otherwise expressly provided in this PPA, any amendment, modification or change to this PPA will be void unless in writing and executed by both Parties.

**16.3 Non-Waiver.** No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. No waiver by either Party of a breach of any term or provision contained herein shall be effective unless signed and in writing and signed by the waiving Party. No consent by either Party to, or waiver of a breach by either Party, whether express or implied, shall be construed operate as or constitute a consent to waiver of, or excuse of any other or subsequent or succeeding breach by either Party.

**16.4 Severability.** If any part, term, or provision of this PPA, is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality or enforceability of any other part, term, or provision of this PPA, and shall not render this PPA unenforceable or invalid as a whole. Rather the part of this PPA that is found invalid or unenforceable will be amended, changed, or interpreted to achieve as nearly as possible the same objectives and economic effect as the original provision, or replaced to the extent possible, with a legal enforceable, and valid provision that is as similarly in tenor to the stricken provision, within the limits of applicable Law, and the remainder of this PPA will remain in full force.

**16.5 No Third Party Beneficiaries.** Nothing in this PPA will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind.

**16.6 No Recourse to Affiliates.** This PPA is solely and exclusively between the Parties, and any obligations created herein on the part of either Party shall be the obligations solely of such Party. No Party shall have recourse to any parent, subsidiary, partner, member, Affiliate, lender, director, officer or employee of the other Party for performance or non-performance of any obligation hereunder unless such obligations were assumed in writing by the Person against whom recourse is sought.

**16.7 Relationship of Parties.** The Parties are independent contractors, and will not be deemed to be partners, joint venturers or agents of each other for any purpose unless expressly stated otherwise herein.

**16.8 Attorneys’ Fees; Costs.** In the event of any action, claim, suit, proceeding, or arbitration between the Parties relating to this PPA or the subject matter hereof the prevailing Party will be entitled to recover its reasonable attorneys’ fees and expenses and costs of such action claim, suit, proceeding, or arbitration in addition to any other relief granted or awarded. Each Party will bear its own costs and expenses relating to negotiating this PPA and any additional documents relating hereto or thereto.

**16.9 Counterparts.** This PPA may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this PPA received by either Party by facsimile or other electronic transmissions (such as an email .pdf file) is binding upon the other Party as an original.

**16.10 Further Assurances.** The Parties shall at their own cost and expense do such further acts, perform such further actions, execute and deliver such further or additional documents and instruments as may be reasonably required or appropriate to consummate, evidence, or confirm the agreements and understandings contained herein and to carry out the intent and purposes of this PPA.

**16.11 General Interpretation.** The terms of this PPA have been negotiated by the Parties hereto and the language used in this PPA shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This PPA shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument of any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the PPA. No rule of strict construction will be applied against any person.

**16.12 Removal of Liens.** Buyer will ensure that no liens of whatever type will be filed, lodged or attached to the SEF (other than those created by Seller or its creditors). If any such liens are filed, lodged or attached to the SEF, Buyer shall immediately notify Seller in writing, will promptly do all acts and things at the Buyer's expense to remove such liens and agrees to fully indemnify Seller for any loss and damage (including reasonable attorneys' fees) that Seller incurs as a result of any lien on or over the SEF. Seller shall be entitled to, and is hereby authorized to, file one or more precautionary Uniform Commercial Code financing statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the SEF in order to protect its rights in the SEF.

**16.13 Forward Contract.** The Parties acknowledge and agree that this PPA and the transactions consummated under this PPA constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

**16.14 Dispute Resolution.**

a. Good Faith Negotiations. In the event that any question, dispute, difference or claim arises out or in connection with this Agreement, including any question regarding its existence, validity, performance or termination (a "**Dispute**"), then senior management personnel from both Seller and Buyer shall meet and diligently attempt in good faith to resolve the Dispute for a period of thirty (30) days following one Party's written request to the other Party for such a meeting. If, however, either Party refuses or fails to so meet, or the Dispute is not resolved by negotiation, the provisions of Sections 16.14(b) shall apply.

b. Jurisdiction and Venue. In the event the Parties are unable to resolve a Dispute pursuant to the provisions of Sections 16.14(a), the Parties agree that the state or federal court of Fairfield County shall have exclusive jurisdiction and venue to hear all disputes arising out of or relating to this Agreement. Further, notwithstanding anything in this Agreement to the contrary,

in the event a Party fails to perform as agreed upon hereunder, the non-breaching Party has the right to seek such injunctive relief and other equitable relief from the state or federal court of Fairfield County.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, intending to be legally bound, Seller and Buyer have signed this PPA through their duly authorized representatives effective as of the date first set forth above.

Wonderland of Ice Associates, Inc.

By: \_\_\_\_\_  
Name:  
Title:

City of Bridgeport

By: \_\_\_\_\_  
Name:  
Title:

CEFIA Holdings LLC

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT A

SOLAR ENERGY FACILITY

The solar energy facility (SEF) shall consist of a 320 kilowatt installation generating approximately 378,000 kilowatt hours in the first year following the Commercial Operation Date (the “*Expected System Output*”), laid out approximately as pictured herein. The SEF shall be interconnected electrically directly to the Delivery Point behind the meter installed on the Buyer’s Building by Buyer’s Serving Utility.





EXHIBIT B

PREMISES

The Premises shall consist of facilities owned or operated by Wonderland of Ice Associates, Inc. and the City of Bridgeport or their affiliates located at 123 Glenwood Ave., Bridgeport, CT, 06610 comprising the Building on which is located any Interconnection Equipment, including the Delivery Point.

## EXHIBIT C

### Schedule of Definitions and Rules of Interpretation

1. **Definitions.** The definitions provided below and elsewhere in this PPA will apply to the defined terms used in this PPA:

(a) “**Affiliate**” means with respect to any entity, such entity’s general partner or manager, employee, or any other entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such entity. For purposes of this definition, “control” (including, with its correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any such person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise.

(b) “**Bankrupt**” means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) is unable to pay its debts generally as they come due or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditor’s rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within sixty (60) days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors’ rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to it which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

(c) “**Building**” means that certain building located at 123 Glenwood Ave., Bridgeport, CT 06610.

(d) “**Buyer**” has the meaning ascribed thereto in the preamble.

(e) “**Buyer Event of Default**” has the meaning ascribed thereto in Section 8.2.

(f) “**Buyer Misconduct**” shall have the meaning ascribed to it in Section 7.1.

(g) “**Buyer’s Serving Utility**” means the United Illuminating Company d/b/a Avangrid.

(h) “**Buyer Termination Default**” has the meaning ascribed thereto in Section 8.3(b).

(i) “**Business Day**” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

(j) “**CAMD**” means the Clear Air Markets Division of the United States Environmental Protection Agency or any successor or other agency that is given jurisdiction over a program involving transferability of specific Environmental Attributes.

(k) “**Claiming Party**” shall have the meaning ascribed to it in Section 7.3.

(l) “**Commercial Operation**” will begin on the day in which the entire SEF is operating on a sustained basis and producing not less than the Expected System Output and Seller is in receipt of all required approvals, signoffs and permits from any and all Governmental Entities and the Buyer’s Serving Utility for the production and sale of Energy (including the resale of Energy to Buyer’s Serving Utility).

(m) “**Commercial Operation Date**” means the date upon which the SEF begins Commercial Operation, as set forth in the Notice of Commercial Operation.

(n) “**Confidential Information**” shall have the meaning ascribed to it in Article 12.

(o) “**Defaulting Party**” shall have the meaning ascribed to it in Section 8.1.

(p) “**Delivery Point**” means the interconnection points on Buyer’s Building behind the meters installed by Buyer’s Serving Utility and before the electrical systems serving Buyer’s Building. No other delivery points are permitted under this PPA without the permission of the Buyer.

(q) “**Discounted Revenue Forecast**” means the sum of the present values calculated at the per annum rate of interest equal to four percent (4%) of the following amounts for each year (or part thereof) remaining between the [early Termination Date and the end of the Term]: (i) the applicable Energy Payment Rate for such year, if known, or a mutually agreed estimate of the Energy Payment Rate for such year, multiplied by (ii) the average annual output during the previous three (3) years.

(r) “**Effective Date**” shall have the meaning ascribed to it in the Preamble to this PPA.

(s) “**Energy**” means electric energy (alternating current, expressed in kilowatt-hours) generated by the SEF. Energy does not include any attendant Environmental Attributes.

(t) “**Energy Payment Rate**” shall have the meaning ascribed to it in Section 3.3.

(u) “**Environmental Attributes**” means each of the following that is in effect as of the Effective Date: (i) credits, benefits, reductions, offsets and other beneficial allowances, including, to the extent applicable and without limitation, performance based incentives or renewable portfolio standard in the state in which the Premises are located or in other jurisdictions (collectively, “**Allowances**”) attributable to the ownership or operation of the SEF or the production or sale of Energy, (ii) other Allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the sale of Energy during the Term and in which Seller has good and valid title, including any credits to be evidence by Solar Renewable Energy Certificates or similar laws or regulations applicable in any jurisdiction, (iii) any such Allowances related to (A) oxides of nitrogen, sulfur, or carbon, (B) particulate matter, soot, or mercury, or (C) the United Nations Framework Convention on Climate Change (the “**UNFCCC**”) or the Kyoto Protocol to the UNFCCC or crediting “early action” with a view thereto, or involving or administered by the CAMD, and (iv) all reporting rights with respect to such allowances under Section 1605(b) of the Energy Policy Act of 1992, as amended from time to time or any successor statute, or any other current or future international, federal, state or local law, regulation or bill, or otherwise. Environmental Attributes shall also include Tax Benefits.

(v) “**Environmental Conditions**” shall have the meaning ascribed to it in Section 11.1.

(w) “**Environmental Law**” shall have the meaning ascribed to it in Section 11.1.

(x) “**Event of Default**” shall have the meaning ascribed to it in Section 8.1.

(y) “**Expected System Output**” shall have the meaning ascribed to it in Exhibit A.

(z) “**Financing Party**” or “**Financing Parties**” shall mean any and all Persons or successors or assignees thereof lending money or extending credit to Seller or an Affiliate of Seller, or investing equity (including tax equity) in Seller or an Affiliate of Seller: (i) for the construction, term or permanent financing of the SEF; (ii) for working capital or other ordinary business requirement of the SEF (including but not limited to the maintenance, repair, replacement or improvement of the SEF); (iii) for any development financing, bridge financing, credit enhancement, credit support or interest rate protection in connection with the SEF; (iv) for the Seller’s operation of the SEF; or (v) for the purchase of the SEF and related rights and obligations of Seller.

(aa) “**Force Majeure**” means any event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) is not within the reasonable control, or is not the result of the negligence or willful misconduct, of the Claiming Party, and (ii) by the exercise of reasonable due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided and shall be deemed to include, but not be limited to, acts of God, acts of civil or military authorities, acts of war or public enemy, insurrections, riots, strikes or other labor disturbances, fires, explosions, floods, interruption of transportation, embargoes, or other causes of a similar nature. Force Majeure will not be based on (i) Buyer’s inability economically to use Energy purchased hereunder or by for such Energy, or (ii) Seller’s

ability to sell Environmental Attributes at any price or Energy at a price greater than the price of Energy under this PPA.

(bb) “**Governmental Approvals**” means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described which are required to be obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation or maintenance of the SEF, the production and delivery of Energy, and Environmental Attributes, or any other transactions or matter contemplated by this PPA (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

(cc) “**Governmental Charges**” means all applicable federal, state and local taxes (other than taxes based on income or net worth but including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, license fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy or this PPA.

(dd) “**Governmental Entity**” means any government or any agency, bureau, board, commission, court, department, official, political subdivision, tribunal, program administrator or other instrumentality of any government, whether federal, state or local, domestic or foreign, or any Person, owned, operated, managed or otherwise controlled thereby.

(ee) “**Hazardous Material**” shall have the meaning ascribed to it in Section 11.1.

(ff) “**Imputed Energy**” means Energy that the SEF is prevented from generating or delivering to, or that is not accepted at, the Delivery Point to the extent not caused by Seller or Force Majeure. In determining Imputed Energy for which Buyer is obligated to pay Seller, the Parties shall consider insulation, historical performance, projected output degradation or such other factors as Seller and Buyer shall in good faith agree.

(gg) “**Indemnified Parties**” shall have the meaning ascribed to it in Section 11.1.

(hh) “**Indemnitor**” shall have the meaning ascribed to it in Section 11.1.

(ii) “**ITC Credit**” means (i) the energy credit under Section 48 of the Internal Revenue Code of 1986, and (ii) the grant under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009, as each may be amended, supplemented, extended or replaced from time to time, and including all successor enactments or legislation relating thereto.

(jj) “**Interconnection Agreement**” means the agreement for interconnection of the SEF with the distribution system of Buyer’s Serving Utility.

(kk) “**Interconnection Equipment**” means that portion of the SEF, including mounting substrates or supports, wiring and connections, power inverters, service equipment, Metering

Devices and equipment and utility interconnections, as required or appropriate to effect the interconnection of the SEF to the Building or to Buyer's Serving Utility, including such as may be located on Buyer's Building.

(ll) "**Late Payment Interest Rate**" means, for any date, the lesser of (i) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates" on such day (or, if not published on such day, on the most recent proceeding day on which published), plus 2%, and (ii) the maximum rate permitted by applicable Law.

(mm) "**Law**" means any national, regional, state or local law, statute, rule, regulation, code, ordinance, administrative ruling, judgment, decree, order or directive of any jurisdiction applicable to this PPA or the transaction contemplated hereby.

(nn) "**Lease Commencement Date**" shall have the meaning ascribed to it in the Premises Lease.

(oo) "**License**" shall have the meaning ascribed to it in Section 5.1(b).

(pp) "**License Term**" shall have the meaning ascribed to it in Section 5.1(b).

(qq) "**Meter**" shall have the meaning ascribed to it in Section 6.4.

(rr) "**Metering Device**" means any and all meters at or immediately before the Delivery Point needed for the registration, recording, and transmission of information regarding the Energy and delivered to the Delivery Point.

(ss) "**Minimum Energy Output Requirements**" shall have the meaning ascribed to it in Section 3.6.

(tt) "**Non-Defaulting Party**" shall have the meaning ascribed to it in Section 8.1(a).

(uu) "**Notice of Commercial Operation**" shall have the meaning ascribed to it in Section 2.3.

(vv) "**PPA**" means this Power Purchase Agreement.

(ww) "**Parties**" shall mean Buyer and Seller, collectively or individually, as the context may require.

(xx) "**Permitted Transfer**" shall have the meaning ascribed to it in Section 14.1(b).

(yy) "**Person**" means an individual, general or limited partnership, corporation, municipal corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Entity, limited liability company, or any other entity of whatever nature.

(zz) "**Premises**" shall have the meaning ascribed to it in the Recitals.



(aaa) “**Prudent Utility Practices**” means those practices, methods, and acts, that are commonly used by a significant portion of the solar powered electric generation industry in the United States using prudent engineering and operations to design and operate solar powered generating facilities and related electric equipment lawfully and with safety, dependability, efficiency, and economy, including all applicable requirements of Law. Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a spectrum of possible standards, practices, methods or acts expected to accomplish the desired results, having due regard for, among other things, manufacturers’ warranties and the requirements of governmental authorities of competent jurisdiction and the requirements of this PPA.

(bbb) “**Prior Agreements**” shall have the meaning ascribed to it in Section 16.2.

(ccc) “**Qualified Assignee**” means as it pertains to any assignment of this PPA by Seller, any entity that has competence and experience in the operation and maintenance of solar photovoltaic systems similar in size and type as the SEF and is financially capable of performing Seller’s obligations under this PPA, all as reasonably demonstrated to Buyer, and agrees in writing to assume Seller’s duties and obligations under the PPA.

(ddd) “**Representatives**” means, in respect of a Person, the officers, directors, employees, agents, advisors, contractors, or other representatives of such Person.

(eee) “**SEF**” means the solar electric generating facility that produces the Energy sold and purchased under this PPA as more particularly defined in Exhibit A hereto, including the Interconnection Equipment.

(fff) “**SEF Assets**” means each and all of the assets of which the SEF is comprised, including Seller’s solar energy panels, mounting systems, carports, tracking devices, inverters, integrators and other related equipment and components installed on the Premises, electric lines and conduits required to connect such equipment to the Delivery Point, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the SEF.

(ggg) “**SEF Loss**” means loss, theft, damage or destruction of the SEF or SEF Assets, or any other occurrence or event that prevents or limits the SEF from operating in whole or in part, resulting from or arising out of any cause (including casualty, condemnation or other Force Majeure).

(hhh) “**Seller**” means [state], a [type of entity].

(iii) “**Seller Event of Default**” has the meaning ascribed thereto in Section 8.2.

(jjj) “**Seller Termination Default**” has the meaning ascribed thereto in Section 8.2.

(kkk) “**Site Electrical System**” means Buyer’s existing electrical system for the supply and distribution of electricity to Buyer’s Building, which system is interconnected with Buyer’s Serving Utility.

(lll) “*Solar Renewable Energy Certificates*” or “*SRECs*” means the certificate representing the environmental attributes associated with Energy, as developed under the oversight and regulations of the State of Connecticut Public Utilities Regulatory Authority, including any modifications or revisions thereof adopted by the Board or any successor agency.

(mmm) “*SUT*” shall have the meaning ascribed to it in Section 3.5(b).

(nnn) “*Tax Benefits*” means ITCs attributable to the SEF or Energy (including the ITC Credit), accelerated depreciation attributable to the SEF or any SEF Asset, and any other tax credit or tax write-offs allowed under applicable law attributable to the SEF or Energy, irrespective of whether such Tax Benefits accrue for the benefit of Seller, any Affiliate, or any investor of Seller or any Affiliate of such investor.

(ooo) “*Term*” shall have the meaning ascribed thereto in Section 2.1.

(ppp) “*Termination Payment*” means an amount equal to the sum of (i) Discounted Revenue Forecast applicable through the end of the Initial Term or the applicable extension term, as the case may be, (ii) the value of Environmental Attributes relating thereto, such value determined based on the greater of the value at which Seller had contracted to sell those Environmental Attributes or the spot market value, and (iii) the value of any lost Tax Benefits.

(qqq) “*Third Party Monitor*” means an unaffiliated third party, selected in each case by Seller and reasonably approved by Buyer that provides, installs, operates or maintains the installation, operation, or maintenance of the Metering Device.

(rrr) “*Transaction*” means any transaction between the Parties under the terms of this PPA.

2. **Rules of Interpretation.** In this PPA, unless expressly provided otherwise:

(a) the words “herein,” “hereunder” and “hereof” refer to the provisions of this PPA and a reference to a recital, Article, Section, subsection or paragraph of this PPA or any other agreement is a reference to a recital, Article, Section, subsection or paragraph of this PPA or other agreement in which it is used unless otherwise stated;

(b) references to this PPA, or any other agreement or instrument, includes any schedule, exhibit, annex or other attachment hereto or thereto;

(c) reference to any Article, Section, or Exhibits means such Article of this PPA, Section of this PPA, or such Exhibit to this PPA, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

(d) a reference to this PPA, any other agreement or an instrument or any provision of any of them includes any amendment, variation, restatement or replacement of this PPA or such other agreement, instrument or provision, as the case may be;

- (e) a reference to a statute or other Law or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, Law or provision;
- (f) the singular includes the plural and vice versa;
- (g) a reference to a Person includes a reference to the Person's executors and administrators (in the case of a natural person) and successors, substitutes (including Persons taking by novation) and permitted assigns;
- (h) words of any gender shall include the corresponding words of the other gender;
- (i) "including" means "including, but not limited to," and other forms of the verb "to include" are to be interpreted similarly;
- (j) references to "or" shall be deemed to be disjunctive but not necessarily exclusive, (i.e., unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or");
- (k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;
- (l) a reference to a Business Day is a reference to a period of time commencing at 9:00 a.m. local time on a Business Day and ending at 5:00 p.m. local time on the same Business Day;
- (m) if the time for performing an obligation under this PPA expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;
- (n) a reference to (i) a day is a reference to a calendar day, (ii) a month is a reference to a calendar month, and (iii) a year is a reference to a calendar year;
- (o) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings;
- (p) references to any date in this PPA shall be deemed to mean such date as adjusted from time to time as permitted hereunder due to Force Majeure unless expressly stated otherwise; and
- (q) if any index used in this PPA at any time becomes unavailable, whether as a result of such index no longer being published or the material alteration of the basis for calculating such index, then Seller and Buyer shall agree upon a substitute index that most closely approximates the unavailable index as in effect prior to such unavailability. If the base date of any such index is at any time reset, then the change to the index resulting therefrom shall be adjusted accordingly for purposes of this PPA.

Item # \*69-16 Consent Calendar

Agreement with the Bridgeport Firefighters, IAFF, Local 834 regarding their Bargaining Unit Contract.



Report  
of  
Committee  
on  
Contracts

City Council Meeting Date: MAY 15, 2017

Attest:

*Lydia N. Martinez*

Lydia N. Martinez, City Clerk

Approved by:

*Joseph P. Ganin*  
Joseph P. Ganin, Mayor

Date Signed:

*5/22/17*

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# City of Bridgeport, Connecticut Office of the City Clerk

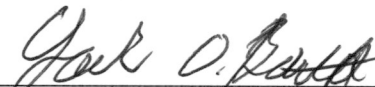
*To the City Council of the City of Bridgeport:*


The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

**Item No. \*69-16 Consent Calendar**

**RESOLVED**, That the attached Agreement between the City of Bridgeport and the Bridgeport Firefighters, IAFF, Local 834 regarding their bargaining unit contract to extend the current CBA to June 30, 2020, be and it hereby is, in all respects, approved, ratified and confirmed.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**CONTRACTS**

  
\_\_\_\_\_  
Jack O. Banta, D-131st, **Co-Chair**

  
\_\_\_\_\_  
Jeanette Herron, D-133rd, **Co-Chair**

  
\_\_\_\_\_  
Milta I. Feliciano, D-137th

  
\_\_\_\_\_  
Amy Marie Vizzo-Paniecia, D-134th

\_\_\_\_\_  
James Holloway, D-139th

  
\_\_\_\_\_  
Alfredo Castillo, D-136th

  
\_\_\_\_\_  
Anthony R. Paoletto, D-138th

**City Council Date:** May 15, 2017

Tentative Agreement

City of Bridgeport &

Bridgeport Firefighters IAFF, Local 834

1. **Contract term** – is extended out to June 30, 2020.

2. **Wages**            January 1, 2017 – 0%

                          January 1, 2018 – 2.5%

                          January 1, 2019 – 2.5%

                          January 1, 2020 – 2.0%

- \$.30 / hr night differential increase to take effect upon **Feb 15, 2017** ratification of agreement.

3. **Recognition**

The City hereby recognizes the Union as the exclusive representative and bargaining agent for the employees covered by this contract, for the purposes of establishing wages, hours and other conditions of employment. The employees covered by this contract are all uniformed and investigatory positions within the Bridgeport Fire Department, except that of Deputy Fire Chief Executive Officer, Deputy Chief of Administration, Fire Marshal and Fire Chief.

4. **Manpower**

A.) The Union agrees that the position of Aide to the Fire Chief be changed from Captain to Lieutenant, so long as the Captains position is retained and reassigned to the Training Division.

B.) The Union agrees that the Safety Officers permanently assigned to all shifts (A, B, C, D) be the rank of Lieutenant so long as the Captains position is retained and reassigned to the Training Division.

C.) The Training Division will now be called the *Special Services Division*. The position formerly referred to as Training Chief will now be Special Services Chief. The minimum number assigned to the Special Services Division, in addition to the Chief, shall be 1 Captain/Training, 1 Captain/Emergency Management-Communication and 1 Captain/Safety-EMS.

D.) The Administrative Division will consist of a minimum staffing of 1 Captain, 1 Lieutenant (Chief's Aide) and 1 Firefighter, who will hold the [supply/quartermaster position.

E.) The maximum staffing level of 66 per shift (A, B, C, D) will become permanent contract language and will not sunset at the end of this contract.



5. Article 9 – Holidays

Modify language in Section 1, ¶5 as follows:


Each employee who wishes to receive holiday pay in lieu of compensatory days off shall notify the Clerk of the Board of Fire Commissioners, in writing, prior to March 31<sup>st</sup> of each contract year, of the number of days of holiday pay, up to the maximum number hereinbefore provided, which the employee has elected to receive for that contract year. On or before the second pay day in April of each contract year, the City shall pay to each employee the holiday pay which the employee has so elected to receive for that contract year.

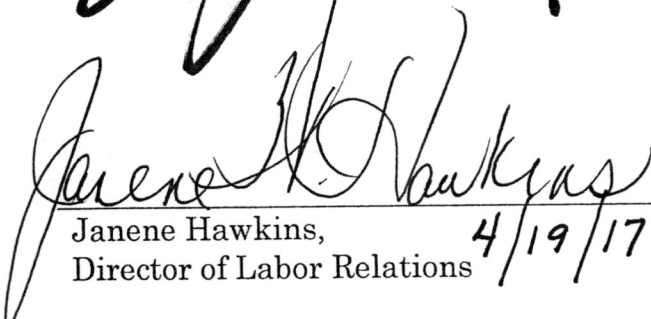
FOR THE CITY

  
\_\_\_\_\_  
Joseph P. Ganim, Mayor


4/6/17

FOR THE UNION

  
\_\_\_\_\_  
Robert Whitbread, President  
IAFF Local 834

  
\_\_\_\_\_  
Janene Hawkins,  
Director of Labor Relations

4/19/17

  
\_\_\_\_\_  
David Dobbs, Vice President  
IAFF Local 834

Item # 36-16

Resolution requesting that the City of Bridgeport be declared a "WELCOMING CITY".



**Report  
of  
Committee  
on**

**Public Safety and Transportation**

City Council Meeting Date: May 15, 2017

Attest: Lydia N. Martinez  
Lydia N. Martinez, City Clerk

Approved by: Joseph P. Ganim  
Joseph P. Ganim, Mayor

Date Signed: 5/16/17

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# City of Bridgeport, Connecticut

## Office of the City Clerk

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*To the City Council of the City of Bridgeport.*

The Committee on Public Safety and Transportation begs leave to report; and recommends for adoption the following resolution:

**Item No. 36-16**

### WELCOMING CITY RESOLUTION

**WHEREAS**, the City of Bridgeport, CT values its ethnic, racial, and socio-economic diversity; our diversity is a source of our municipality's strength; and the Bridgeport City Council is committed to ensuring that all our residents can live and pursue their livelihoods in peace and prosperity and will strive to keep families together; and

**WHEREAS**, the Mayor, members of the City Council and residents of the City have welcomed immigrants from nations around the world to the City of Bridgeport; and

**WHEREAS**, there has been a significant level of trust between the Bridgeport Police Department and the City's undocumented immigrant population through community policing and other departmental effort, which has made the City safer through the prevention and solving of crimes; and

**WHEREAS**, the City Council acknowledges that the Bridgeport Police Department does not inquire of its residents their immigration status in all City-related activities and strives to avoid racial profiling and to protect the privacy of its residents while complying with federal law, including 8 U.S. Code § 1373 enacted in 1996 during the Administration of President William Jefferson Clinton; and

**WHEREAS**, the City Council supports the Bridgeport Police Department in its local policing efforts in serving and protecting all residents of the City of Bridgeport, and recognizes it does not, and will not, act as an arm of ICE or other federal immigration law enforcement nor stop, detain, arrest or transfer individuals based solely on real or perceived immigration status or warrantless immigration detainers or administrative warrants; and

**WHEREAS**, in accordance with the Connecticut TRUST Act, these protections do not apply to individuals who have committed a serious felony offense, are gang members, and/or pose a serious safety threat to the community; and



# City of Bridgeport, Connecticut Office of the City Clerk

Report of Committee on Public Safety and Transportation  
**Item No. 36-16**

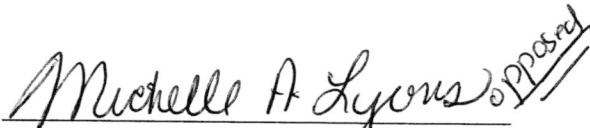
-2-


**WHEREAS**, on Tuesday, February 7, 2017, the Bridgeport Board of education adopted Resolution No. 02-07-17-656 "Recognition of a Safe Haven School District", to support families and provide a safe haven school district for students; and


**WHEREAS**, the Mayor and the City Council are calling on the United States Congress to pass comprehensive immigration reform, while acknowledging that the City cannot, and will not, attempt to prevent ICE or other federal immigration law enforcement agencies from acting independently in their efforts to locate and detain undocumented immigrants; and


**NOW THEREFORE, BE IT HEREBY RESOLVED**, that the Mayor and the City Council declare Bridgeport a Welcoming City that is committed to protecting all residents regardless of their race, gender, nationality, religion, sexual orientation, or immigration status in compliance with federal law.


**RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
PUBLIC SAFETY AND TRANSPORTATION**

  
Michelle A. Lyons, D-134th, **Co-Chair**


  
Mary McBride-Lee, D-135th, **Co-Chair**

  
Jack O. Banta, D-131st

  
Richard D. Salter, Sr., D-135th

  
Kathryn M. Bukovsky, D-130th

  
Eneida L. Martinez, D-139th

  
Jeanette Herron, D-133rd

Item# 68-16

Master Equipment Lease-Purchase Agreement with Verizon Credit Inc. regarding services and equipment for the Police, Fire and EOC Departments under the Nexgen Software Purchase.



**Report  
of  
Committee  
on  
Contracts**

City Council Meeting Date: MAY 15, 2017 (OFF  
THE FLOOR)

Attest: *Lydia N. Martinez*  
Lydia N. Martinez City Clerk

Approved by: *Joseph P. Ganim*  
Joseph P. Ganim Mayor

Date Signed: *SPR 17*

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# City of Bridgeport, Connecticut Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

**Item No. 68-16**

**RESOLVED**, that the attached Master Equipment Lease-Purchase Agreement with Verizon Credit Inc. regarding Services and Equipment for the Police, Fire and Emergency Operations Center (EOC) Departments under the Nexgen Software Purchase, be and it hereby is, in all respects, approved, ratified and confirmed.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**CONTRACTS**

Jack O. Banta, D-131st, **Co-Chair**

Jeanette Herron, D-133rd, **Co-Chair**

Milta I. Feliciano, D-137th

Amy Marie Vizzo-Panuccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

**City Council Date:** May 15, 2017 (Off The Floor)



VERIZON CREDIT INC.

**RESOLUTION**

CITY OF BRIDGEPORT

(Lessee)

WHEREAS, the City of Bridgeport ("Lessee"), a body politic and corporate duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of \_\_\_\_\_ Connecticut is authorized by the laws of such State to purchase, acquire and lease personal property for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the Lessee desires to purchase, acquire and lease certain equipment (including maintenance and other support service agreements) constituting personal property necessary for the Lessee to perform essential governmental functions; and

WHEREAS, in order to acquire such equipment, the Lessee proposes to enter into a Master Equipment Lease-Purchase Agreement and other related documents (collectively, the "Agreement") with Verizon Credit Inc. (the "Lessor") to support Emergency CAD Dispatch and Police/Fire Document Retention Program, Nexgen; and

WHEREAS, the governing body of the Lessee deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement for the purchase, acquisition and leasing of the equipment to be therein described on the terms and conditions therein provided as approved by the respective departments and by the Office of the City Attorney;

Now, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the governing body of the Lessee as follows:

RESOLVED, that the following officers of the Lessee and each of them be, and they hereby are, authorized to: negotiate and enter into a Master Equipment Lease - Purchase Agreement on behalf of Lessee to purchase, acquire and lease certain personal property from Verizon Credit Inc. upon such terms and conditions as the officers, in their discretion, may deem to be in the best interests of Lessee, and to execute all documents and take other action on behalf of the Lessee as may be necessary or convenient to effectuate and comply with such Agreement, including delegating to another employee of the Lessee the responsibility for signing a Certificate of Acceptance for the equipment lease-purchased;

RESOLVED that nothing contained in these resolutions, the Agreement nor any other instrument executed in connection with the transactions contemplated by the Agreement shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in these resolutions, the Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the rent payments payable under each Schedule executed pursuant to the Agreement are special limited obligations of the Lessee as provided in such Schedule;

RESOLVED, that to the extent that any of the actions described in the previous resolutions have preceded the date of the adoption of such resolution by the Lessee, that all such actions are hereby authorized, confirmed and ratified as of such earlier date;

RESOLVED, that the officers referred to in the foregoing resolutions are as follows:

|   |   |
|---|---|
| Name: Joseph P. Ganim                           | Title: Mayor (As to all documents)  |
| Name: Kenneth Flatto                            | Title: Director of Finance (As to finance and tax documents)                            |
| Name: Nestor Nkwo<br>finance and tax documents) | Title: Director of Office of Policy and Management (As to<br>finance and tax documents) |
| Name: Armando J. Perez                          | Title: Chief of Police (As to acceptance Documents).                                    |

FURTHER RESOLVED, that Verizon Credit Inc. is authorized to rely upon the aforesaid resolutions until receipt by it of thirty (30) days prior written notice of any change.

#05-15-17-08



Verizon Credit Inc.  
(VCI)  
6929 N. Lakewood Ave.  
Tulsa OK 74117

Phone: (888) 483-5327

April 20, 2017

Mr. Adam Heller  
**CITY OF BRIDGEPORT**  
999 Broad Street  
Bridgeport, CT 06604

**RE: Lease Documentation**

Dear Mr. Heller:

We appreciate the opportunity to do business with the City of Bridgeport. Enclosed, you will find the documents needed to complete processing the transaction for your new equipment.

Please keep in mind that approval of this arrangement is subject to a credit review performed by Verizon Credit Inc. In order to complete this process, please send the completed documents to my attention at the address above or email them to [kenon.haynes@one.verizon.com](mailto:kenon.haynes@one.verizon.com).

If you have any questions, please feel free to call me at (918) 590-9864.

Sincerely,

**VERIZON CREDIT INC.**

Kenon Haynes  
Consultant

Enclosures

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CITY CLERK

**VERIZON CREDIT INC.**  
**INSTRUCTIONS**  
**FOR DOCUMENT COMPLETION**

**Master Equipment Lease-Purchase Agreement and Schedule**

Attached please find the following documents:

1. Master Equipment Lease-Purchase Agreement:

An authorized signer must sign and date the last page of this document under your organization's name as Lessee and initial pages as indicated.

2. Schedule to the Master Lease

An authorized signer must sign and date under your organization's name as Lessee.

3. Form of Authorizing Resolution

Please complete the form, indicating the authorized approvers and representatives. An authorized signer must sign and date under your organization's name as Lessee.

4. Opinion of Lessee's Counsel

Please have the organization's attorney provide the opinion on the attorney's own letterhead.

5. Certificate of Acceptance - Sample

A sample of the Certificate of Acceptance is enclosed for your review. The actual Certificate of Acceptance form will be forwarded to you for your signature after the equipment has been installed.

6. Tax Certificate of Lessee

Please have an authorized signer complete, sign and date this form

7. IRS Form 8038G/GC

Please complete the IRS Form and return a copy to us as required in the Tax Certificate.

**VERIZON CREDIT INC.**  
**MASTER EQUIPMENT LEASE - PURCHASE AGREEMENT**  
**(For use with State and Local Governmental Entities)**

|                 |                             |                 |                            |
|-----------------|-----------------------------|-----------------|----------------------------|
| LESSEE:         | <u>CITY OF BRIDGEPORT</u>   | LESSOR:         | <b>VERIZON CREDIT INC.</b> |
| ADDRESS:        | <u>999 Broad Street</u>     | ADDRESS:        | 6929 N. Lakewood Ave.      |
| CITY/STATE/ZIP: | <u>Bridgeport, CT 06604</u> | CITY/STATE/ZIP: | Tulsa OK 74114             |
| PHONE:          | <u>203-576-7201</u>         | PHONE:          | (888) 483-5327             |

JURISDICTION OF ORGANIZATION: Connecticut

**TERMS AND CONDITIONS**

1. **EQUIPMENT LEASE-PURCHASED:** Lessee hereby agrees to acquire, purchase and lease, and Lessor hereby agrees to lease to Lessee, such property (whether tangible or intangible) or unit of equipment, together with all attachments, accessories, parts, software or other intellectual property (which Lessee agrees shall include all documentation, later versions, updates, upgrades and modifications, collectively "Software"), hereinafter collectively referred to as "Equipment," described in any schedule executed subsequently herewith containing certain terms with respect to the lease-purchase of such Equipment. All such schedules shall hereinafter individually and collectively be referred to as "Schedule," which Schedule is hereby incorporated herein and made a part of this Master Equipment Lease–Purchase Agreement, hereinafter referred to as "Lease." Prior to issuance of any purchase order with respect to any Equipment, Lessee shall execute and deliver to Lessor a Schedule relating to the relevant Equipment.

2. **TERM:** The term of this Lease shall begin on the date set forth below and shall continue in effect so long as any Schedule entered into pursuant to this Lease remains in effect. The lease of any Equipment pursuant to this Lease is for the term specified in the Schedule pertaining thereto, which shall be equal to the period necessary to make all rental payments pursuant to paragraph 3 required for the installment financing of the aggregate invoice system price ("Purchase Price") of the Equipment as set forth in the applicable Schedule, unless earlier terminated in accordance with the provisions of this Lease. The term of a Lease of Equipment specified on a Schedule shall commence on the date of execution of the relevant Certificate of Acceptance (as defined below) and shall expire on the earlier of the date specified on such schedule or the date on which this Lease has terminated earlier in accordance with the provisions herein. Lessee shall inspect the Equipment upon its delivery, and if applicable, installation, and within three (3) business days after such delivery or installation shall return to Lessor a completed Certificate of Acceptance in the form provided by Lessor ("Certificate of Acceptance"). Lessee shall be liable to Lessor for all damages suffered by Lessor as a result of Lessee's wrongful failure to return an executed Certificate of Acceptance.

3. **RENTAL PAYMENTS:** Subject to Lessee's acceptance of the Equipment pursuant to paragraph 2 above, Lessee agrees to pay in U.S. dollars the aggregate rent in the number of payments, in advance or in arrears (as the case may be) (each such rental payment with respect to a Tax-Exempt Lease (as defined below) being allocated to a principal component and an interest component as shown on the respective schedule) for the installment financing of the Purchase Price for the Equipment and on the dates, in each case, as set forth in the applicable Schedule (but only from funds that the governing body of the Lessee duly appropriates or are otherwise legally available for the purpose of making payments under each Schedule ("Legally Available Funds")). A "Tax Exempt Lease" is a lease for which the interest component of scheduled rental payments is excludible from gross income of the owner thereof for federal income tax purposes. Said rental payments shall be paid to Lessor at the address set forth above or at any other address indicated by Lessor in writing, and rental payments shall include any additional amounts payable pursuant to the terms of this Lease. All rental payments

shall be made without notice or demand. Subject to appropriation, from and after Lessee's execution of the Certificate of Acceptance with respect to Equipment described on a Schedule, the obligation of Lessee to make each rental payment hereunder with respect to such Equipment as required by a Schedule shall be absolute and unconditional, without limiting Lessee's rights or action against any vendor of Software or Equipment. If for any reason Lessee cancels this Lease or any Schedule hereto prior to execution of a Certificate of Acceptance of any Equipment, Lessor shall, without prejudice to the other rights of the Lessor in respect of any such cancellation, retain any monies received from Lessee prior to the date of cancellation. To the extent that any rental payment as specified in a Schedule is paid in advance of acceptance of any Equipment, such payment shall be allocated to the first rental payment(s) due for the Term, as specified by Lessor in the applicable Schedule, and is non-refundable. Lessee's obligation to make payments with respect to any Schedule constitutes a current obligation payable exclusively from Legally Available Funds and shall not be construed to be an indebtedness within the meaning of any applicable state or local constitutional or statutory limitation or requirement. Lessee has not pledged its full faith and credit or its taxing power to make any payments under any Schedule.

4. LATE PAYMENTS: If Lessee fails to pay any part of a rental payment or any other sum required to be paid by Lessee to Lessor within ten (10) days after the date said payment is due, Lessee shall, out of Legally Available Funds, on each payment date thereafter until (and including) the payment date following the date on which such payment is made, pay a late charge at a rate equal to five percent (5%) per month of the late payment. Said late charge shall not exceed the highest rate permitted by law.

5. LESSOR CANCELLATION : Lessor reserves the right to cancel this Lease or any Schedules hereto, if the Equipment is not accepted (a) within forty-five (45) days after the date Lessee signs the relevant Schedule hereto (the "Contract Date") or (b) before the end of the calendar year in which the Contract Date falls.

6. NO WARRANTIES BY LESSOR: BY SIGNING A SCHEDULE, LESSEE ACKNOWLEDGES THAT IT HAS SELECTED THE EQUIPMENT AND THE MANUFACTURER OR SELLER THEREOF SPECIFIED IN THE SCHEDULE (THE "VENDOR") WITHOUT ANY ASSISTANCE FROM LESSOR, ITS AGENTS OR EMPLOYEES AND HAS PURCHASED THE EQUIPMENT FROM THAT VENDOR. LESSEE ACQUIRES, PURCHASES, AND LEASES THE EQUIPMENT "WHERE-IS, AS IS" AND "WITH ALL FAULTS." As Lessor is not the manufacturer of the Equipment, and the specifications, performance, method of shipment, and all other matters relating to the ordering, delivery, installation, inspection, operation and selection of the Equipment have been determined by Lessee, LESSOR DOES NOT MAKE, HAS NOT MADE, NOR SHALL BE DEEMED TO MAKE OR HAVE MADE, ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO THE EQUIPMENT LEASED HEREUNDER OR ANY COMPONENT THEREOF, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO COMPLIANCE WITH SPECIFICATIONS, USE OR OPERATION, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, QUALITY, DESIGN, CONDITION, CAPACITY, SUITABILITY OR PERFORMANCE OF THE EQUIPMENT AND OF THE MATERIAL AND WORKMANSHIP THEREOF, OR AS TO PATENT, TRADEMARK, COPYRIGHT OR ANY OTHER INTELLECTUAL PROPERTY RIGHT OR ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS AS BETWEEN LESSOR AND LESSEE ARE TO BE BORNE BY LESSEE ALONE AT ITS EXPENSE. Failure of any of the Equipment to perform for any reason will not excuse Lessee from the obligation to pay rent hereunder. Lessee further agrees, regardless of cause, not to assert any claim whatsoever against Lessor for loss of anticipatory profits or consequential damages, and to indemnify and hold Lessor harmless from any and all claims, liabilities and damages arising out of installation, use or nonperformance of the Equipment, subject to appropriation.

7. LOCATION OF EQUIPMENT: The Equipment shall be delivered to and located at the premises



indicated on the applicable Schedule and shall not be removed, and in the case of intangible property (including Software), shall not be duplicated and used at another location, without the prior written consent of Lessor. Lessee shall pay in addition to the scheduled rent all charges and other expenses incurred in connection with the shipment and delivery of the Equipment to said location. Lessor and Lessee intend that, and Lessee shall ensure that, all items of Equipment shall at all times be and remain personal property notwithstanding that any such Equipment may be affixed to realty.

8. **TITLE TO EQUIPMENT:** Title to the Equipment shall be transferred from the Vendor to the Lessee upon its acceptance and will remain with Lessee at all times during the term of each Lease, subject to the rights of Lessor under this Lease. If any of the Equipment is Software governed by a license or sublicense agreement (a "License"), to the extent the License allows title to the Software to pass to licensee, such title shall, subject to the rights of Lessor under this Lease, vest in Lessee. If an Event of Default or an Event of Nonappropriation (each as defined below) occurs with respect to such Schedule, then title to the Equipment identified in the relevant Schedule shall immediately vest in Lessor free and clear of any right, title or interest of Lessee. Lessee, at its expense, will protect and defend its title to the Equipment and Lessor's rights and interests therein and will keep the Equipment free and clear from any and all claims, liens, encumbrances and legal processes, other than those arising solely out of actions of Lessor. So long as no Event of Default or Event of Nonappropriation shall have occurred, Lessor shall not interfere with Lessee's use or possession of the Equipment during the term of the Lease.

9. **REPORTS:** If Lessor so requests, Lessee shall deliver to Lessor within 180 days after the close of each annual or biennial period used from time to time by Lessee for its financial accounting and budgeting purposes ("Fiscal Period"), Lessee's annual balance sheet and profit and loss statement certified by a recognized firm of certified public accountants. During the term of the Lease and at Lessor's request, Lessee shall provide Lessor, no later than ten (10) days prior to the end of each Fiscal Period, with current budgets or other proof of appropriation for the ensuing Fiscal Period and such other information relating to Lessee's ability to continue the term of each Schedule as may be reasonably requested by Lessor. Lessee shall also provide Lessor with such other statements concerning the Lease and the condition of the Equipment as Lessor may from time to time reasonably request.

10. **MAINTENANCE AND USE:** (a) Lessee shall at its expense make all repairs and replacements required to maintain the Equipment in good condition, reasonable wear and tear excepted, and shall ensure that the Equipment is at all times compliant with, and shall use and maintain the Equipment in a careful manner in conformity with, all applicable laws, ordinances, regulations, requirements, rules and insurance policies. Lessee shall ensure that the Equipment is covered by a maintenance agreement with a qualified service company reasonably acceptable to Lessor. Lessor has the right to inspect the Equipment from time to time during normal business hours.

(b) In the event that the Equipment includes or consists of Software (i) Lessee shall at its expense possess and use the Software in accordance with all of the terms, conditions and restrictions of any License entered into with the owner/vendor or licensor of such Software, and if the License restricts any provision of this Lease without the licensor's consent, then Lessee shall assist Lessor, if so requested, in obtaining such consent and (ii) Lessee shall, at its own expense, pay promptly when due all servicing fees, maintenance fees, update and upgrade costs, modification costs, and all other costs and expenses relating to the License and Software.

11. **LOSS OR DAMAGE:** (a) Lessee hereby assumes and shall bear the entire risk of any loss, theft, inoperability, erasure, incapacity, damage to or destruction of the Equipment from any cause whatsoever, including any incident arising out of the alleged or apparent improper manufacturing, functioning or operation of any Equipment, hereinafter referred to as "Loss or Damage." Loss or Damage to the Equipment shall not relieve Lessee from its obligation to pay rent or to perform any of its other obligations under this Lease. Lessee

also agrees that Lessor shall not be responsible for any loss or damage to Lessee, its premises, equipment and tangible or intangible property, its customers, employees or anyone else, caused by the Equipment, failure or defect of the Equipment, or otherwise.

(b) Lessee will immediately notify Lessor in writing of any Loss or Damage, or any incident or condition which may give rise to any Loss or Damage, including details thereof, including without limitation the time, place and nature of the incident and damage, the names and addresses of parties involved, including persons injured, witnesses and owners of property (tangible or intangible) damaged, and such other information as may be known, and Lessee shall investigate and defend all such incidents and recover damages from any liable parties.

(c) In the event of Loss or Damage to the Equipment, Lessee, at the sole option of Lessor, shall from insurance proceeds either (i) promptly place the Equipment in good repair, condition and working order and in compliance with paragraph 10; or (ii) pay Lessor therefor in cash the Prepayment Option Amount (as defined below) within 60 days after such Loss or Damage. If such insurance proceeds are insufficient to make the foregoing payments, Lessee shall satisfy such obligation from Legally Available Funds.

12. PREPAYMENT OPTION AMOUNT: The "Prepayment Option Amount" shall equal with respect to each Schedule the amount determined pursuant to such Schedule at which Lessee may prepay the aggregate principal component of rental payments thereunder on any payment date.

13. INSURANCE: At all times during this Lease, Lessee shall at its own expense maintain liability and property insurance for all Equipment in amounts and with insurance companies satisfactory to Lessor. Such insurance shall provide, at a minimum, insurance against loss related to all risks, such as fire, theft, windstorm, explosion, flood and other casualties with extended coverage against such risks as are customarily insured against by companies owning property of a similar character and engaged in a business similar to that of Lessee, and Lessee shall deliver to Lessor satisfactory evidence of such insurance coverage. Each policy of insurance shall contain a standard loss payable clause stating that payment for loss, if any, is payable to Lessor, as co-insured, and shall provide for thirty (30) days written notice to Lessor before the policy is altered or cancelled. If Lessee fails to provide Lessor with satisfactory evidence of liability and property damage insurance coverage, Lessor may obtain a policy or policies of insurance covering Lessor's interest in the Equipment, and Lessee shall pay solely out of Legally Available Funds all costs of obtaining and maintaining such coverage (including premiums, fees and related charges) together with interest thereon at the lesser of two percent (2%) per month or the highest rate permitted by law.

14. GENERAL CLAIMS: Lessee shall defend, indemnify and hold harmless Lessor, its agents, employees, affiliates, and assigns ("Indemnitees") from and against any and all liability, loss, damage, expense (legal or otherwise), causes of action, suits, claims, judgments, costs or fines arising from, resulting from or based upon this Lease (including any Schedule) and/or the Equipment or its actual or alleged use, possession, lease, condition (including without limitation, any latent or other defects not discovered by Lessee), management, shipment, control, financing, delivery, installation, importation, exportation or operation (each a "Claim"); and Lessee shall, at its own cost and expense, defend any and all actions, suits or claims which may be brought against any Indemnitee either alone or in conjunction with others upon any such Claim and shall satisfy, pay and discharge any and all judgments, costs and fines that may be recovered against any Indemnitee in any such actions, suits or claims. Any payments made pursuant to this paragraph 14 shall be increased for any federal, state, local or foreign taxes payable by Indemnitee on receipt of such payment (an "After-Tax Basis"). Notwithstanding anything in this paragraph 14, Lessee shall not be liable for Claims to the extent attributable to the gross negligence or willful misconduct of any Indemnitee. The Lessor and Lessee shall each give the other prompt written notice of any Claim (or any incident which could give rise to a Claim) of which it becomes aware. Notwithstanding anything to the contrary, any amount payable under this paragraph 14 shall be payable solely from Legally Available Funds and only to the extent authorized by law.

15. TAX EXEMPT LEASE: (a) For each Tax Exempt Lease Schedule, this Lease is intended for federal income tax purposes not to be a “true lease” but rather a “conditional sales contract.” Therefore, it is Lessee’s and Lessor’s intention that Lessee be considered the owner of the Equipment under such Tax Exempt Lease Schedule for federal income tax purposes; provided that nothing in this paragraph 15 shall affect the characterization of the transactions contemplated by each Schedule for State law purposes. It is also Lessor’s and Lessee’s intention that the interest portion of each rental payment received by Lessor with respect to any Tax Exempt Lease Schedule be and remain excludable from gross income for federal income tax purposes. Lessee has not and will not take any action or omit any action which may cause the interest component of any rental payment under any Tax Exempt Lease Schedule to be or to become includible in the gross income of Lessor for federal income tax purposes (each a “Loss”). A Loss shall also include a change in federal law which causes the interest component of a rental payment under any Tax Exempt Lease Schedule to be includible in the gross income of Lessor for federal income tax purposes. If a Loss occurs, Lessee agrees to pay to Lessor on each rental payment date thereafter an additional amount determined by Lessor to compensate on an After Tax Basis for the loss of the excludability from gross income (including, without limitation, compensation relating to inclusion of such amounts in gross income for federal, state and local tax purposes, interest expense, penalties or additions to tax).

(b) The amounts payable pursuant to paragraph 15(a) shall be paid by Lessee upon demand by Lessor (i) once Lessor receives notification of a Loss from any tax authority or (ii) if Lessor is not permitted, based on an opinion of counsel, to exclude the rental payments from income, but in no event with respect to (i) or (ii) later than five (5) business days prior to the payment due date of taxes attributable to such Loss. Any such demand shall be accompanied by a statement describing in reasonable detail the Loss and setting forth the computation of the amounts so payable. Lessee agrees to be bound by any reasonable determination of the amounts set forth in such statement. Notwithstanding anything to the contrary contained herein, any amounts payable by Lessee pursuant to this paragraph 15 shall be payable solely from Legally Available Funds.

(c) The foregoing provisions of this paragraph 15 shall be inapplicable and of no force and effect with respect to a Lease that is not a Tax-Exempt Lease (a “Taxable Lease.”)

16. TAXES: Lessee shall pay, and hereby indemnifies and agrees to hold harmless, Lessor on an After-Tax Basis, against all taxes (including sales, value added, use, excise, stamp duty, registration, export/import or property or possessory interest taxes), fees, licenses, assessments and other governmental charges of any kind whatsoever (including, without limitation, those imposed by any U.S. federal, state or local taxing authority), together with any penalties, fines, additions or interest thereon, levied, assessed or imposed, upon or with respect to any of the Equipment or any interest therein, the sale, purchase, delivery, shipment, installation, importation, exportation, ownership, possession, use, leasing, financing or operation thereof, the rental payments or other amounts payable hereunder or the earnings arising from the Equipment (exclusive, however, of any U.S. taxes based on the net income of Lessor); or this Lease or any other transaction contemplated by this Lease. Notwithstanding anything to the contrary, any amounts payable under this paragraph 16 shall only be payable from Legally Available Funds.

17. ASSIGNMENT: Lessor may transfer, assign or encumber its right, title and interest in and to this Lease and the Equipment leased hereunder without Lessee’s consent. Lessor shall provide Lessee written notice of any assignment, disclosing the name and address of each assignee. Lessee shall keep a complete and accurate record of all assignments with respect to the Lease in accordance with Section 149 of the Internal Revenue Code of 1986 (the “Code”) for each Tax Exempt Lease Schedule and in accordance with Section 163(f) of the Code for each Taxable Lease Schedule. Lessee shall not assign this Lease, sublease the Equipment, encumber or part with possession of the Equipment, duplicate any Software that is part of the Equipment, or sell, transfer or in any way dispose itself of all or any part of its interest in the Equipment or this Lease without obtaining the prior written consent of Lessor, which may be withheld in its sole discretion.

18. LESSEE REPRESENTATIONS AND WARRANTIES: In order to induce Lessor to enter into this Lease, Lessee represents and warrants that: (a) Lessee is a state or a political subdivision thereof eligible to issue a State or local bond as such terms are used in Section 103 of the Code; (b) Lessee has the power and authority under applicable law to enter into and to perform the transactions contemplated by this Agreement; (c) this Lease, and each Schedule, has been or will be duly authorized, executed and delivered by Lessee and constitutes or will constitute a legal, valid and binding obligation of Lessee enforceable in accordance with its terms, in the case of a Schedule after execution by Lessee of the Certificate of Acceptance related thereto, and Lessee has complied with such public bidding requirement, if any, as may be applicable to the transactions contemplated by this Lease and each Schedule, and there is no legal or contractual provision that in any way limits Lessee from entering into and performing this Lease and each Schedule; (d) all financial and other information of Lessee furnished to Lessor are or will be complete and correct and fairly state or will fairly state the financial situation of Lessee, and there are no known contingent liabilities of Lessee not reflected in such information; (e) Lessee, shall not sell, lease or transfer to any person substantially all of its assets or enter into any agreement to do any of the foregoing, without the prior written consent of Lessor; (f) Lessee agrees to execute and deliver the Tax Certificate attached as Exhibit , and the representations and covenants included in such certificate are incorporated as though expressly set forth herein;(g) Lessee shall timely file any information return required by section 149(e) of the Code with respect to each Schedule, including Form 8038 –G or Form 8038-GC. All such information returns shall be sent by the Lessee to the IRS via certified mail, and Lessee shall promptly provide a copy of the certified mail receipt with respect to such filings to Lessor.

19. DEFAULT AND NONAPPROPRIATION: An “Event of Default” shall occur if: (a) Lessee fails to pay when due any rental payment due under any Schedule or any other amount due under this Lease and such failure continues for a period of ten (10) days, or Lessee fails to maintain insurance required by this Lease; (b) Lessee shall fail to perform or observe any covenant, condition or agreement (other than with respect to the maintenance of insurance) required to be performed or observed by it under the Lease and such failure is not remedied within ten (10) days after written notice thereof is given to Lessee; (c) any step, procedure or proceeding (voluntary or involuntary) is taken or commenced with a view to Lessee’s winding up, reorganization, liquidation, dissolution or administration (by way of voluntary arrangement, scheme of arrangement or otherwise) or for the appointment of a trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver or similar officer under any present or future statute, law or regulation or otherwise, other than any such step or proceeding which is being contested in good faith and with due diligence by Lessee and is discharged within fifteen (15) days; or (d) any representation or warranty made by Lessee or any report or statement furnished pursuant to this Lease is untrue in any material respect. An “Event of Nonappropriation” shall occur upon an early termination of the Lease by Lessee, exclusively determined by the failure or refusal of the governing body of Lessee to appropriate monies sufficient to pay the rental payments reasonably estimated for the remaining term as provided in the applicable Schedule.

20. REMEDIES: Upon the occurrence of an Event of Default or an Event of Nonappropriation, Lessor shall have the right to repossess any or all Equipment leased hereunder wherever found (and for that purpose Lessor or its agents may enter upon any premises of or under the control of Lessee), and Lessee shall execute and deliver such documents as may reasonably be required to transfer title to and possession of the Equipment (including with respect to software terminating any liens and any right and license of Lessee to use Software and transferring such rights and any related warranties to Lessor) under the affected Schedule to Lessor, free and clear of all liens and security interests to which such Equipment may have become subject. Lessor shall be entitled to recover all expenses incurred to repossess, store, repair, transfer title, release or sell any of the Equipment together with reasonable attorneys’ fees for enforcement of Lessor’s rights Lessor shall also be entitled to exercise any or all remedies available to a secured party under the applicable Uniform Commercial Code and all other rights and remedies that Lessor may have at law or in equity.



21. WAIVERS BY LESSEE: LESSEE HEREBY WAIVES ANY AND ALL NOTICE, PRESENTMENT, DEMAND OR PROTEST OF ANY KIND IN CONNECTION WITH THE EXERCISE BY LESSOR OF ANY OF ITS REMEDIES HEREUNDER. TO THE EXTENT PERMITTED BY APPLICABLE LAW, LESSEE HEREBY WAIVES ANY AND ALL RIGHTS (i) TO A JUDICIAL HEARING WITH RESPECT TO REPOSSESSION OF THE EQUIPMENT, FOLLOWING OR DURING AN EVENT OF DEFAULT BY LESSEE, (ii) CONFERRED BY PARAGRAPHS 2A-508 THROUGH 2A-522 OF THE UNIFORM COMMERCIAL CODE AS THE SAME MAY BE ENACTED IN THE JURISDICTION WHOSE LAWS GOVERN THIS LEASE, (iii) WHICH MAY REQUIRE LESSOR TO MITIGATE DAMAGES OR OTHERWISE LIMIT A REMEDY SET FORTH IN PARAGRAPH 20, OR (iv) TO A TRIAL BY JURY OF ANY MATTERS ARISING OUT OF THIS LEASE OR THE EQUIPMENT SUBJECT TO THIS LEASE, OR THE CONDUCT OF THE RELATIONSHIP BETWEEN LESSOR AND LESSEE.

22. PERFORMANCE OF LESSEE'S OBLIGATIONS BY LESSOR: In the event that Lessee shall fail to perform promptly any of its obligations hereunder, Lessor may, at its option perform any act or make any payment which it deems necessary, including without limitation, the payment for satisfaction of any lien, taxes, insurance and repairs without thereby waiving such default, and any amount paid for expenses or liability incurred by Lessor in such performance, together with interest thereon at the lesser of two percent (2%) per month or the highest rate permitted by law, and any reasonable costs incurred by Lessor in connection therewith including reasonable attorneys' fees, shall be payable by Lessee upon demand but solely out of Legally Available Funds.

23. PREPAYMENT OPTION: Lessee shall have the option to prepay the Lease with respect to all but not less than all of the Equipment listed on any one of the Schedules on each date for which a Prepayment Option Amount is identified in the applicable Schedule, whether or not an Event of Default is continuing. To exercise the option, Lessee shall provide Lessor thirty (30) days prior written notice. Upon payment of the Prepayment Option Amount for the applicable Schedule, together with any other amounts outstanding, the Lease of Equipment under such Schedule shall terminate and Lessor shall provide any documentation necessary to release Lessor's Security Interest (as defined below).

24 SECURITY: To secure performance of Lessee's obligations under each Schedule, Lessee grants to Lessor, and Lessor shall have and retain, a security interest (the "Security Interest") constituting a first and exclusive lien on the Equipment related to such Schedule, and all attachments, repairs, replacements and modifications thereto and on any proceeds therefrom; provided however that the grant of such Security Interest shall not apply to Software if such interest is prohibited by the relevant License. Lessee agrees to execute and deliver such additional documents, including, without limitation, financing statements or certificates of title, which Lessor deems necessary or appropriate to establish and maintain the Security Interest.

25. MISCELLANEOUS: Any notice to be given hereunder shall be given by first class, personal service, registered mail or overnight mail, postage prepaid, to the address of the receiving party appearing at the beginning hereof, or any other address of which the other party has been notified in writing. Notice delivered by mail shall be deemed to have been given on the third day after mailing. Lessee shall execute and deliver to Lessor such instruments and assurances as Lessor deems necessary or advisable for the confirmation or perfection of this Lease and Lessor's rights hereunder. Lessee irrevocably authorizes Lessor to file any Uniform Commercial Code financing statements and hereby grants to Lessor a special Power-of-Attorney for the purpose of executing such instruments or assurances on behalf of Lessee. Lessor is authorized to insert in any such instrument or assurance and on the Lease any serial numbers or other language Lessor desires to identify more specifically the Equipment or the date the first rental payment is due. THIS LEASE SHALL BE DEEMED MADE WHEN EXECUTED BY LESSOR, AND SHALL BE GOVERNED BY AND CONSTRUED IN

ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AND LESSEE CONSENTS TO NONEXCLUSIVE JURISDICTION AND VENUE IN NEW YORK, AND TO SERVICE OF PROCESS BY CERTIFIED OR REGISTERED MAIL. All of Lessor's rights and privileges arising from the indemnities contained in paragraphs 14, 15 and 16 shall survive the expiration or other termination of this Lease and such indemnities are expressly made for the benefit of, and shall be enforceable by Lessor, its successors and assigns.

26. ENTIRE AGREEMENT: This Lease and the Schedules attached hereto contain the entire agreement between the parties and cannot be modified, amended, supplemented, waived or rescinded except in a written instrument signed by both parties, except as provided in paragraph 5. Any waiver by Lessor of a default by Lessee shall not be considered a waiver of any other default hereunder. Failure of Lessor to enforce any right shall not be deemed a waiver of such right. Any provision of this Lease prohibited by law in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Lease, unless the general intent of the Lease would be altered. This Lease may be executed by electronic or facsimile signature which shall be treated as an original signature, and any such signature, facsimile, portable document format ("pdf") file or copy of this Lease shall be construed and treated as the original and shall be binding as if it were the original.

27. EFFECTIVENESS: THIS AGREEMENT, ANY VARIATION OR MODIFICATION OF THIS AGREEMENT, ANY WAIVER OF ANY OF ITS PROVISIONS OR CONDITIONS AND ALL SCHEDULES SHALL NOT BE VALID UNLESS IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF LESSOR AND LESSEE.

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**THE UNDERSIGNED, BEING DULY AUTHORIZED SIGNATORIES, AGREE TO ALL THE TERMS AND CONDITIONS SET FORTH ABOVE AND ON THE FOREGOING PAGES HEREOF, AND IN WITNESS WHEREOF, THEY HEREBY EXECUTE THIS LEASE.**

Dated \_\_\_\_\_, \_\_\_\_

VERIZON CREDIT INC. (Lessor)

CITY OF BRIDGEPORT \_\_\_\_\_ (Lessee)

By \_\_\_\_\_

By \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_ *(SIGN HERE)*

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_



**SCHEDULE  
TO  
MASTER EQUIPMENT LEASE – PURCHASE AGREEMENT  
(Tax Exempt - For use with State and Local Governmental Entities)**

Schedule No. 001

1. This Schedule forms a part of a certain Master Equipment Lease – Purchase Agreement entered into by and between **VERIZON CREDIT INC.**, as Lessor, and **CITY OF BRIDGEPORT**, as Lessee, dated \_\_\_\_\_ (hereinafter the "Lease").
2. This Schedule covers the following property ("Equipment"):

| QUANTITY                                     | EQUIPMENT LEASE/PURCHASED – DESCRIPTION/LOCATION | EQUIPMENT COST  |                |   |   |                  |        |                   |
|--|--|---|----------------|---|---|------------------|--------|-------------------|
|  | Please see attached Equipment Summary            | System Price<br>(includes Installation Financing, if any) | \$             | 147,526.73  |   |                  |        |                   |
|  |  | Maintenance Financing                                     | \$             | 0.00  |   |                  |        |                   |
|  |  | Upfront Tax   | \$             | 0.00  |   |                  |        |                   |
|  |  | Stamp Fees  | \$             | 0.00  |   |                  |        |                   |
|  |  | Other:  | \$             | 0.00  |   |                  |        |                   |
|  |  | Processing/Documentation Fee                              | \$             | 0.00  |   |                  |        |                   |
|  |  | Total System Price  | \$             | 147,526.73  |   |                  |        |                   |
| Term<br>Of Lease (Yrs.)                      | No. of Rent<br>Payments                          | Rental<br>Period  | Aggregate Rent | Amount of Each Rent Payment<br>(Plus Applicable<br>VAT/Sales/Use Tax) | State and Local Tax<br>Exemption Number | Advance Rental   |        |                   |
| 5  | 60   | MONTHLY   | \$169,950.60   | <u>\$2,832.51</u>   | 06-730246K                              | # of<br>Payments | Amount |                   |
|  |  |   |                |   |   |                  | 1      | <u>\$2,832.51</u> |
| ADDITIONAL PROVISIONS (SPECIAL INSTRUCTIONS) |  |   |                |   |   |                  |        |                   |

3. Lessee hereby requests that Lessor enter into an agreement with USAT CORPORATION for the Equipment. Lessee agrees that it has induced Lessor to enter such agreement based upon Lessee's selection of the Equipment and Lessee's agreement to lease the Equipment as evidenced by this Schedule.
4. Lessee acknowledges and agrees that if there are any changes to the property constituting Equipment hereunder that Lessor has the rights set forth in paragraph 5 of the Lease to cancel this Schedule.
5. Lessee shall not make any payments due to Lessor more than one month in advance of the due date. Payments made in breach of this provision shall not be returned to Lessee.
6. Except as expressly provided or modified hereby, all the terms and provisions of the Lease apply to the Equipment leased under this Schedule and shall remain in full force and effect.
7. Lessee acknowledges and agrees that is will make the rental payments allocable to the principal component and the interest component as set forth in the schedule attached to the Certificate of Acceptance acknowledged by Lessor and hereby incorporated by reference to this Schedule.

IN WITNESS WHEREOF, this Schedule is hereby executed and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**VERIZON CREDIT INC.**

(Lessor)

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

City: Tampa State: Florida

**CITY OF BRIDGEPORT**

(Lessee)

By \_\_\_\_\_

**(SIGN HERE)**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**VERIZON CREDIT INC.  
MASTER EQUIPMENT LEASE – PURCHASE AGREEMENT**

**ATTACHMENT A - EQUIPMENT SUMMARY**

To Schedule No. 001

Date of Agreement: \_\_\_\_\_

Lessor: Verizon Credit Inc.

Vendor: USAT CORPORATION

Lessee: CITY OF BRIDGEPORT

**EQUIPMENT DESCRIPTION/LOCATION**

| Item No.          | Description  | Quantity |
|-------------------|--|----------|
| IBR1100LPE-VZ     | Rugged, enterprise-class, mobile 3G/4G LTE multi-band router with WiFi for Verizon   | 149      |
| MM-D-DS2SQ-03W-15 | 694-960/1700-3700Mhz=15 Feet RF-195 with SMA Plug (x2)<br>2.4-2.5/4.9-6GHz=15 Feet RF-195 with Rev Pol SMA Plug (x2)<br>GPS=15 Feet RG-174 with SMA Plug | 100      |
| MB-T-B000R-02B-00 | Mini-Antenna for Wi-Fi   | 50       |
| ECM-PRM-CC3YR     | 3-yr Enterprise Cloud Manager Prime + CradleCare Support, Category 2 Product   | 149      |
| ECM-PRM-CC1YR     | 1-yr Enterprise Cloud Manager Prime + CradleCare Support, Category 2 Product   | 149      |
| ECM-PRM-CCR1      | 1 year renewal for Enterprise Cloud Manager Prime + CradleCare Support, Category 2 Product   | 149      |

**VERIZON CREDIT INC.**

**LESSEE'S CERTIFICATE OF ACCEPTANCE**  
**Schedule No. 001**

The undersigned hereby certifies that all Equipment covered by the Schedule identified above and made pursuant to a Master Equipment Lease – Purchase Agreement entered into between Verizon Credit Inc., as Lessor, and the undersigned, as Lessee dated \_\_\_\_\_, 2017, has been delivered to the undersigned and found satisfactory, that installation thereof has been satisfactorily completed, and that the Equipment is hereby unconditionally accepted in accordance with the terms and conditions of the above described Master Equipment Lease – Purchase Agreement. Further, the undersigned acknowledges that Verizon Credit Inc. or its assignee has irrevocable rights resulting from such acceptance, including the right to receive payments without offset or defense. The undersigned further certifies that he/she has, or has been delegated, the authority to accept the Equipment and execute this Certificate. Further, the Lessee confirms each of the representation and covenants included in the corresponding Tax Certificate attributable to the referenced Schedule and Equipment as of the date hereof.

**Dated:** \_\_\_\_\_

**CITY OF BRIDGEPORT LESSEE**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**VERIZON CREDIT INC.**

**CERTIFIED COPY OF RESOLUTIONS OF THE GOVERNING BODY OF**

**CITY OF BRIDGEPORT**  
**(Lessee)**

I hereby certify that I am the \_\_\_\_\_ of the above-named Lessee, that the following is a true copy of resolutions duly adopted by the governing body of said Lessee on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; and that such resolutions are in full force and effect as of the date hereof and have not been amended or rescinded:

**WHEREAS**, the Lessee, a body politic and corporate duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of \_\_\_\_\_, is authorized by the laws of such State to purchase, acquire and lease personal property for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

**WHEREAS**, the Lessee desires to purchase, acquire and lease certain equipment (including maintenance and other support service agreements) constituting personal property necessary for the Lessee to perform essential governmental functions; and

**WHEREAS**, in order to acquire such equipment, the Lessee proposes to enter into a Master Equipment Lease-Purchase Agreement and other related documents (collectively, the "Agreement") with Verizon Credit Inc. (the "*Lessor*"); and

**WHEREAS**, the governing body of the Lessee deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement for the purchase, acquisition and leasing of the equipment to be therein described on the terms and conditions therein provided;

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED** by the governing body of the Lessee as follows:

RESOLVED, that the following officers of the Lessee and each of them be, and they hereby are, authorized to: negotiate and enter into a Master Equipment Lease - Purchase Agreement on behalf of Lessee to purchase, acquire and lease certain personal property from Verizon Credit Inc. upon such terms and conditions as the officers, in their discretion, may deem to be in the best interests of Lessee, and to execute all documents and take other action on behalf of the Lessee as may be necessary or convenient to effectuate and comply with such Agreement, including delegating to another employee of the Lessee the responsibility for signing a Certificate of Acceptance for the equipment lease-purchased;

RESOLVED that nothing contained in these resolutions, the Agreement nor any other instrument executed in connection with the transactions contemplated by the Agreement shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in these resolutions, the Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the rent payments payable under each Schedule executed pursuant to the Agreement are special limited obligations of the Lessee as provided in such Schedule;

RESOLVED, that to the extent that any of the actions described in the previous resolutions have preceded the date of the adoption of such resolution by the Lessee, that all such actions are hereby authorized, confirmed and ratified as of such earlier date;

RESOLVED, that the officers referred to in the foregoing resolutions are as follows:

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

FURTHER RESOLVED, that Verizon Credit Inc. is authorized to rely upon the aforesaid resolutions until receipt by it of thirty (30) days prior written notice of any change.

I further certify that none of the governing documents of said Lessee requires any additional consent or approval for the leasing of any personal property by the Lessee.

IN WITNESS WHEREOF, I have hereunto set my hand as  
\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_

**VERIZON CREDIT INC.**  
**OPINION OF LESSEE'S COUNSEL**  
(PLEASE FURNISH THIS TEXT ON ATTORNEY'S LETTERHEAD)

Verizon Credit Inc.  
6929 N. Lakewood Ave.  
Tulsa OK 74117

Re: Master Equipment Lease-Purchase Agreement, dated \_\_\_\_\_ and Schedules related thereto

Ladies and Gentlemen:

As counsel for CITY OF BRIDGEPORT ("*Lessee*"), I have examined the Master Equipment Lease-Purchase Agreement dated \_\_\_\_\_ (the "*Master Lease*") and Schedule No. 001 dated \_\_\_\_\_ ("*Schedule No. 001*"), each entered into between Lessee and Verizon Credit Inc., as lessor ("*Lessor*"), the form of Certificate of Acceptance (the "*Certificate of Acceptance*") attached to the Schedule, and the record of the proceedings taken by the governing body of Lessee to authorize on behalf of Lessee the execution and delivery of the Master Lease, the Schedule, the Certificate of Acceptance and all additional documents to be entered into pursuant to the Master Lease, including without limitation additional Schedules to be entered into from time to time (hereinafter collectively referred to as the "*Additional Documents*") All capitalized terms used herein, unless otherwise defined shall have the meaning set forth in the Master Lease.

Based upon the foregoing examination and upon an examination of such other documents and matters of law as I have deemed necessary or appropriate, I am of the opinion that:

1. Lessee is a \_\_\_\_\_ duly organized and legally existing as a political subdivision, municipal corporation or similar public entity under the Constitution and laws of the State of CONNECTICUT with full power and authority to enter into the Lease, Schedule No. 001, the Certificate of Acceptance and each Additional Document.
2. The Master Lease, Schedule No. 001 and each Additional Document have each been duly authorized and have been, or, with respect to each Additional Document, will be, duly executed and delivered by Lessee, assuming in the case of additional Schedules that such documents are executed and delivered in substantially the same manner and in substantially the same form as Schedule No. 001. Assuming due authorization, execution and delivery thereof by Lessor, the Master Lease and Schedule No. 001 constitute, and each Additional Document will constitute, the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally.



3. The Certificate of Acceptance has been duly authorized by Lessee and, when a Certificate of Acceptance is duly executed and delivered by Lessee in accordance with Schedule No. 001 or any additional Schedule, the Lease will constitute the legal, valid and binding obligation of Lessee with respect to the Equipment set forth on the relevant Schedule, enforceable against Lessee in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally.
4. The Equipment to be leased pursuant to the Lease constitutes personal property and when subjected to use by Lessee will not be or become a fixture under applicable law.
5. Lessee has complied with any applicable public bidding requirements in connection with the Lease and the transactions contemplated thereby.
6. No litigation or proceeding is pending or, to the best of my knowledge, threatened to restrain or enjoin the execution, delivery or performance by Lessee of the Lease or in any way to contest the validity of the Lease, to contest or question the creation or existence of Lessee or its governing body or the authority or ability of Lessee to execute or deliver the Lease or to comply with or perform its obligations thereunder. There is no litigation pending or, to the best of my knowledge, threatened seeking to restrain or enjoin Lessee from annually appropriating sufficient funds to make rent payments or other amounts contemplated by the Lease.
7. The resolution adopted by Lessee's governing body authorizing the execution and delivery of the Master Lease, Lease Schedule No. 001, the Certificate of Acceptance, and each other Additional Document was adopted at a meeting that was held in compliance with all applicable laws relating to the holding of open and public meetings.
8. The entering into and performance of the Lease do not, and the execution of a Certificate of Acceptance by Lessee pursuant to Lease Schedule No.001 will not, violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound.
9. Under existing law, as of the date hereof, the interest component of the rental payments to be made under the Lease (the "interest component") is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, such interest component is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations. The opinion set forth in the preceding sentence is subject to the condition that the Lessee comply with all requirements of the Internal Revenue Code of 1986 ("Code"), as amended, that must be satisfied subsequent to the commencement of the Lease in order that the

interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. [Opinion regarding state tax exemption, if any.: The Lessee has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause the interest component to be included in gross income for federal income tax purposes retroactively to the date the Lease term commences. The interest component payable to certain foreign corporations may be subject to the branch profits tax imposed by the Code.] We express no opinion regarding any other federal, state or local tax consequences arising with respect to the lease transaction pursuant to the Lease. In particular, but not by way of limitation, we express no opinion with respect to the federal, state or local tax consequences arising from the enactment of any pending or future legislation.

Respectfully submitted,

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Attorney

**Tax Certificate as to Arbitrage and the Provisions of Sections 141-150 of the Internal Revenue Code of 1986**

The undersigned, being the duly qualified and acting \_\_\_\_\_ of CITY OF BRIDGEPORT (“**Lessee**”), hereby certifies with respect to that certain Master Equipment Lease-Purchase Agreement by and between Verizon Credit Inc, as lessor (“**Lessor**”) and Lessee, dated as of \_\_\_\_\_ (the “**Lease**”), and Schedule No. 001 related thereto being executed and delivered on the date hereof, as follows:

**A. General.**

1. I, along with other officers of Lessee, am charged with the responsibility for executing and delivering the Lease, and am acting for and on behalf of Lessee in signing this certificate.

2. This certification (this “**Tax Certificate**”) is made pursuant to sections 103 and 141-150 of the Internal Revenue Code of 1986 (the “**Code**”), and the final, temporary, and proposed Treasury Regulations promulgated thereunder and applicable to the Lease (the “**Regulations**”).

3. This certification is based on the facts and estimates described herein in existence on the date hereof. The Lease contemplates that from time to time Lessee and Lessor will enter schedules (each a “**Schedule**”) pursuant to which certain equipment will be delivered and accepted by Lessee, and under which Lessee thereupon will become obligated to make certain payments (each a “**Schedule rental payment**”), each of which Schedule rental payments will be further described on respective Schedule as comprising an Interest Component and a Principal Component. Under the Lease, title to the Equipment is to be held by Lessee subject to a security interest of Lessor, and upon payment of all rental payments in accordance with the respective Schedule, and compliance with all other applicable covenants under the Lease, Lessee will own the Equipment free and clear of any interest of Lessor. Accordingly, it is the intent of each of Lessee and Lessor, for each Schedule: (i) that the arrangement created under that Schedule and the Lease, upon acceptance of the Equipment thereunder, be treated for federal income tax purposes as the incurrence of acquisition indebtedness (a “**Schedule Obligation**”, and the Schedule Obligation created under Schedule No. 001 being referred to herein as the “**Schedule No. 001 Obligation**”) on the date of delivery of the Certificate of Acceptance (such date of delivery of the Schedule being a “**Schedule Obligation Issue Date**”, and the Schedule Obligation Issue Date in respect of Schedule No. 001 being referred to as the “**Schedule No. 001 Obligation Issue Date**”) by Lessee pursuant to its sovereign borrowing power, exercised for the acquisition of such Equipment; (ii) that each Interest Component of rental payment thereunder be treated as interest on the Schedule No. 001 Obligation debt; (iii) that the aggregate of the Principal Components of the rental payments thereunder be treated as the amount of the financed Purchase Price of such Equipment; and (iv) that each Interest Component of rental payment thereunder be excluded pursuant to section 103(a) of the Code from the gross income of the recipient of such payment for federal income tax purposes.

4. The representations and covenants made in this Tax Certificate are true and correct in respect of the respective Schedule No. 001 Equipment and the corresponding rental payments, and in respect of all matters described herein and applicable thereto (or, if such is not the case, will clearly state in writing the representations that are not accurate (and provide accurate representations to such matters) and the covenants that will not be observed (and make such new covenants as will be observed and as are sufficient to assure the exclusion pursuant to section 103(a) of the Code of the Interest Component of each Schedule No. 001 rental payment from the gross income of Lessor or its assigns for purposes of federal income taxation on the date hereof and on the date of execution of the related Certificate of Acceptance.

5. This Tax Certificate expresses the understandings and expectations of Lessee as of the date hereof and, on the basis of such facts and estimates, the expectations of Lessee that future events described herein will occur. To the best of the knowledge and belief of the undersigned, the expectations set forth herein are reasonable.

6. Lessee covenants to comply with all the procedures and provisions set forth herein, and will do and perform all acts and things necessary in order to assure that Interest Components of the Schedule No. 001 rental payments (i.e., the interest on the Schedule No. 001 Obligation) are excluded pursuant to section 103(a) of the Code from the gross income of Lessor or its assigns for purposes of federal income taxation.

7. A capitalized term used and not otherwise defined herein has the meaning ascribed to such term in the Lease.

**B. Single Issue**

1. Lessee expects, with respect to each Schedule, that there will be issued neither by it, or by any entity related to it, or by any other governmental person any other obligation that will be: (a) sold at substantially the same time as the date of Schedule Equipment delivery of the Certificate of Acceptance in respect of such Schedule ; (b) sold pursuant to the same plan of financing with the acquisition of such Equipment under that Schedule; and (c) reasonably expected to be paid from substantially the same source of funds as will be used to pay the rental payments under that Schedule.

**C. Schedule Obligation not a Private Activity Bond**

1. No Schedule Obligation will be a "private activity bond" as defined in section 141(a) of the Code. In particular, all Equipment delivered pursuant to a Schedule will be owned (for federal income tax purposes), possessed, used, operated, and maintained exclusively by Lessee. Lessee has not contracted and will not contract with any person or entity to operate and/or maintain the Equipment or any portion thereof for and on behalf of Lessee, and Lessee does not expect to enter into any contract for the operation, maintenance or management of such Equipment or any portion thereof, if the effect of such arrangement would be to subject such Equipment to private business use in excess of that necessary to satisfy the private business test under section 141(b)(1) of the Code.

2. There is not, and as of the date hereof, Lessee does not anticipate entering into, any lease, contract, management contract (i.e., contract for the provision to Lessee of any

services with respect to any function of the project) or other understanding or arrangement with any person other than a state or local government unit (a “nongovernmental person”), pursuant to which Lessee expects that any Equipment delivered under a Schedule will be “used” in the trade or business of such person (including for this purpose any trade or business of an individual, and any activity of any person that is not an individual) as described in section 141(b)(1) of the Code and the Treasury Regulations promulgated thereunder. Lessee acknowledges the complexity of the rules relating to private business use, and agrees that prior to entering into any arrangement of the type described in this paragraph or in paragraph (1) above with any nongovernmental person, it will consult with legal counsel nationally recognized as expert in matters of the taxation of municipal obligations to assure itself that entering into that arrangement will not result in the Schedule Obligation becoming a private activity bond.

3. No Equipment is to be used with respect to any gas, electric, water or other output facility.

4. The weighted average maturity of the Schedule Obligation to be created by a Schedule will not exceed 120% of the average reasonably expected economic life of the Equipment under that Schedule. Unless otherwise indicated in an attachment to the related Certificate of Acceptance, the expected economic life of each unit of Equipment under a Schedule is to be determined as of the later of the Schedule Obligation Issue Date or the date on which that Equipment unit is expected to be placed in service, and by applying the mid-point class life for such unit of property established under the Class Life Asset Depreciation Range System set forth in Revenue Procedure 83-35, 1983-1 C.B. 745, and the average reasonably expected economic life will be determined by weighted the economic life of each unit of Equipment under that Schedule by the portion of the aggregate of the principal components of Schedule rental payments allocable to such unit of Equipment. For purposes of the preceding sentence, Lessee may adopt a longer period that reflects its reasonable expectation as to the economic life of a particular unit of property or class of property if it has received the written opinion of licensed engineer or other professional, expert in such matters and familiar with the maintenance and repair policies and experiences of Lessee, that such expectation is reasonable: in any such case, Lessee will attach as an addendum to the Certificate of Acceptance in respect of that Schedule a description of the particular unit or units of Equipment of such longer economic life and a statement of its reasonable expectation as to the economic life of such Equipment, and will attach to such addendum a copy of the aforementioned written opinion.

5. Lessee will file or cause to be filed in respect of each Scheduled Obligation the requisite Form 8038-G on or before the 15th day of the second month after the calendar quarter in which the Schedule Obligation Issue Date arises; provided, that if Lessee qualifies for such filing, a single annual filing of Form 8038-GC may be made that includes the required information regarding such Schedule. Each such Form 8038-G or Form 8038-GC shall be reviewed and approved by legal counsel nationally recognized as expert in matters of tax-exempt municipal financing. Lessee will promptly provide Lessor with a copy of such Form 8038-G or Form 8038-GC.

6. No portion of the payment of the rental payments is or will be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof). No portion of the proceeds of any Schedule Obligation will be invested, directly or indirectly, in federally

insured deposits, accounts, or obligations, other than investments of a debt service fund, investments for an initial temporary period, investments in obligations issued by the United States Treasury, or investments guaranteed by the Federal Housing Administration, Veterans Administration, Fannie Mae, Federal Home Loan Mortgage Corporation, Government National Mortgage Association or others as provided by the Regulations or Internal Revenue Service rulings or procedures.

**D. Calculation of Yield.**

1. For purposes of completion of the Form 8038-G or Form 8038 GC, and for other purposes under this Certificate, it is necessary to determine the “yield” on each Schedule Obligation, the “yield” on any Schedule Obligation refers to yield computed under the economic accrual method, using a 360-day year and semiannual compounding, and means that discount rate that, when used in computing the present value as of the Schedule Obligation Issue Date of all Lease Payments under the Schedule, produces an amount equal to the aggregate Principal Components of rental payments under that Schedule. For all purposes under this Tax Certificate, and (unless Lessee believes or has reason to believe such computation is incorrect) Lessee may and will rely upon representations made to it by Lessor as to the Issue Price used for the computation of the yield on the Schedule Obligation in completing and filing with the Internal Revenue Service the information return referred to above and for all other purposes hereunder.

**E. Replacement Proceeds.**

1. Lessee represents that for every Schedule Obligation, each Schedule Lease Payment will be made out of its general revenues, appropriated at least annually for such purpose; in no fiscal year will Lessee accumulate in any fund or segregated account revenues that it reasonably expects to use to make Lease Payments in a later fiscal year. Lessee reasonably expects that for each fiscal year revenues sufficient to make all Schedule rental payments becoming due and payable in that fiscal year.

2. Neither of Lessee nor any related party to Lessee, has created, nor does any such entity intend to create or establish, any fund that is reasonably expected to be used for the payment of rents or that will be pledged to the payment of debt service or otherwise will be available for the payment of rents if Lessee encounters financial difficulty.

3. Neither of Lessee nor any related party to Lessee has agreed with or covenanted to Lessor or any related party to Lessor that it will hold in any account or group of accounts any minimum balance of cash and investments of any sort, unless either (i) such account or group of accounts need not be valued more often than semi-annually and may be invaded by Lessee for any purpose whatsoever provided only that such balance be restored by the next valuation date, or (ii) Lessee or such related party to Lessee may create in such account or group of accounts security interests for the benefit of third parties, which interests are superior to any interest of Lessor in such accounts.



**F. Compliance and Record Retention Policies.**

1. Lessee has adopted or promptly will adopt a written policy regarding its compliance with the covenants made in this Tax Certificate and in the Lease (including, specifically but without limitation, compliance with the private business use restrictions of Part C of this Tax Certificate). Such policy identifies or will identify by title the officer or management executive of Lessee responsible for monitoring compliance, and the procedure that such titleholder is to follow to notify superiors or the governing board of Lessee in the event that noncompliance is detected. Further, Lessee has established or will establish a policy for the creation, collection and maintenance of books and records sufficient to substantiate compliance with Lessee's representations and certifications contained in this Tax Certificate and in the Lease Agreement. Without limitation of the foregoing, Lessee shall maintain detailed books and records regarding the use of each unit of Equipment (including without limitation copies of all management, service, supply, output or other contracts, invoices and other documents related to the operation, maintenance, sale, lease or other disposition, decommissioning or abandonment of such Equipment). Lessee will maintain all such books and records until at least six years after the final rental payment.

**G. Amendment of Tax Certificate.**

This Tax Certificate has been executed pursuant to the Lease, wherein Lessee has covenanted to take such actions as are necessary to maintain the exclusion pursuant to section 103(a) of the Code of each Interest Component of rental payment from the gross income of Lessor or its assigns for purposes of federal income taxation. This Tax Certificate sets forth the information, representations, and procedures necessary to allow Lessor reasonably to conclude that each Interest Component is so excluded; this Tax Certificate may be amended or supplemented from time to time, but only to provide further support for such conclusion and only with the approval of legal counsel nationally recognized as expert in matters of the taxation of municipal obligations.

Notwithstanding any other provision herein, the covenants and obligations contained herein may be and shall be deemed modified to the extent Lessee secures an opinion of legal counsel nationally recognized as expert in matters of the taxation of municipal obligations, and acceptable to Lessor, that any action required hereunder is no longer required or that some further action is required in order to maintain the exclusion pursuant to section 103(a) of the Code of each Interest Component of rental payments from the gross income of Lessor and its assigns for purposes of federal income taxation.

CITY OF BRIDGEPORT

By \_\_\_\_\_  
Title

Date: \_\_\_\_\_

# Instructions for Form 8038-G (Rev. September 2012)



Department of the Treasury  
Internal Revenue Service

(Use with the September 2011 revision of Form 8038-G.)

## Information Return for Tax-Exempt Governmental Obligations

Section references are to the Internal Revenue Code unless otherwise noted.

### General Instructions

#### Purpose of Form

Form 8038-G is used by issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

#### Who Must File

| IF the issue price (line 21, column (b)) is... | THEN, for tax-exempt governmental obligations issued after December 31, 1986, issuers must file...            |
|--|---|
| \$100,000 or more                              | A separate Form 8038-G for each issue   |
| Less than \$100,000                            | Form 8038-GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales |



For all build America bonds and recovery zone economic development bonds use Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds. For tax credit bonds and specified tax credit bonds use Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

#### When To File

File Form 8038-G on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the bond is issued. Form 8038-G may not be filed before the issue date and must be completed based on the facts as of the issue date.

**Late filing.** An issuer may be granted an extension of time to file Form 8038-G under Section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file timely is not due to willful neglect. Type or print at the top of the form "Request for Relief under section 3 of Rev. Proc. 2002-48" and attach a letter explaining why Form 8038-G was not submitted to the IRS on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not

submit copies of the trust indenture or other bond documents. See *Where To File* next.

#### Where To File

File Form 8038-G, and any attachments, with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

**Private delivery services.** You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

#### Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate.

For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For build America bonds (Direct Pay), build America bonds (Tax Credit), and recovery zone economic development bonds, complete Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

For qualified forestry conservation bonds, new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, qualified school construction bonds, clean renewable energy bonds, and all other qualified tax credit bonds (except build America bonds), file Form 8038-TC,

Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

#### Rounding to Whole Dollars

You may show amounts on this return as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

#### Questions on Filing Form 8038-G

For specific questions on how to file Form 8038-G send an email to the IRS at [TaxExemptBondQuestions@irs.gov](mailto:TaxExemptBondQuestions@irs.gov) and put "Form 8038-G Question" in the subject line. In the email include a description of your question, a return email address, the name of a contact person, and a telephone number.

#### Definitions

**Tax-exempt obligation.** This is any obligation, including a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

#### Tax-exempt governmental obligation.

A tax-exempt obligation that is not a private activity bond (see next) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

**Private activity bond.** This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, **and**
- More than 10% of the payment of principal or interest of the issue is **either (a)** secured by an interest in property to be used for a private business use (or payments for such property) **or (b)** to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which **(a)** are to be used directly or indirectly to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and **(b)** exceeds the lesser of 5% of the proceeds **or** \$5 million.

**Issue price.** The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus,

when issued for cash, the issue price is the first price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

**Issue.** Generally, obligations are treated as part of the same issue if they are issued by the same issuer, on the same date, and in a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meet the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

**Arbitrage rebate.** Generally, interest on a state or local bond is not tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

**Construction issue.** This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds are to be used for construction expenditures with respect to property to be owned by a governmental unit or a section 501(c)(3) organization, and
2. All the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a section 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make

an irrevocable election to pay a penalty. The penalty is equal to 1<sup>1</sup>/<sub>2</sub>% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

**Pooled financing issue.** This is an issue of tax-exempt bonds, the proceeds of which are to be used to finance purpose investments representing conduit loans to two or more conduit borrowers, unless those conduit loans are to be used to finance a single capital project.

## Specific Instructions

### Part I—Reporting Authority

**Amended return.** An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return and write across the top, "Amended Return Explanation." Failure to attach an explanation may result in a delay in processing the form.

**Line 1.** The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. For a lease or installment sale, the issuer is the lessee or the purchaser.

**Line 2.** An issuer that does not have an employer identification number (EIN) should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

**Line 3a.** If the issuer wishes to authorize a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) to communicate with the IRS and whom the IRS may contact about this return (including in writing or by telephone), enter the name of such person here. The person listed in line 3a must be an individual. Do not enter the name and title of an officer or other employee of the issuer here (use line 10a for that purpose).

**Note.** By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to

communicate directly with the individual entered on line 3a and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

**Lines 4 and 6.** If you listed an individual on line 3a to communicate with the IRS and whom the IRS may contact about this return, enter the number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code of that person. Otherwise, enter the issuer's number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code.

**Note.** The address entered on lines 4 and 6 is the address the IRS will use for all written communications regarding the processing of this return, including any notices.

**Line 5.** This line is for IRS use only. Do not make any entries in this box.

**Line 7.** The date of issue is generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds. For a lease or installment sale, enter the date interest starts to accrue in an MM/DD/YYYY format.

**Line 8.** If there is no name of the issue, please provide other identification of the issue.

**Line 9.** Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write "None."

**Line 10a.** Enter the name and title of the officer or other employee of the issuer whom the IRS may call for more information. If the issuer wishes to designate a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) whom the IRS may call for more information about the return, enter the name, title, and telephone number of such person on lines 3a and 3b.



Complete lines 10a and 10b even if you complete lines 3a and 3b.

### Part II—Type of Issue



Elections referred to in Part II are made on the original bond documents, not on this form.

Identify the type of obligations issued by entering the corresponding issue price (see *Issue price* under *Definitions* earlier). Attach a schedule listing names and EINs of organizations that are to use proceeds of these obligations, if different from those

of the issuer, include a brief summary of the use and indicate whether or not such user is a governmental or nongovernmental entity.

**Line 18.** Enter a description of the issue in the space provided.

**Line 19.** If the obligations are short-term tax anticipation notes or warrants (TANs) or short-term revenue anticipation notes or warrants (RANs), check box 19a. If the obligations are short-term bond anticipation notes (BANs), issued with the expectation that they will be refunded with the proceeds of long-term bonds at some future date, check box 19b. Do not check both boxes.

**Line 20.** Check this box if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also check this box if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal. **Do not** check this box if the proceeds of the obligation are received in the form of cash, even if the term "lease" is used in the title of the issue.

### Part III—Description of Obligations

**Line 21.** For column (a), the final maturity date is the last date the issuer must redeem the entire issue.

For column (b), see *Issue price* under *Definitions* earlier.

For column (c), the stated redemption price at maturity of the entire issue is the sum of the stated redemption prices at maturity of each bond issued as part of the issue. For a lease or installment sale, write "N/A" in column (c).

For column (d), the weighted average maturity is the sum of the products of the issue price of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory redemptions), divided by the issue price of the entire issue (from line 21, column (b)). For a lease or installment sale, enter instead the total number of years the lease or installment sale will be outstanding.

For column (e), the yield, as defined in section 148(h), is the discount rate that, when used to compute the present value of all payments of principal and interest to be paid on the obligation, produces an amount equal to the purchase price, including accrued interest. See Regulations section 1.148-4 for specific rules to compute the yield on an issue. If the issue is a variable rate issue, write "VR" as the yield of the issue. For other

than variable rate issues, carry the yield out to four decimal places (for example, 5.3125%). If the issue is a lease or installment sale, enter the effective rate of interest being paid.

### Part IV—Uses of Proceeds of Bond Issue

For a lease or installment sale, write "N/A" in the space to the right of the title for Part IV.

**Line 22.** Enter the amount of proceeds that will be used to pay interest from the date the bonds are dated to the date of issue.

**Line 24.** Enter the amount of the proceeds that will be used to pay bond issuance costs, including fees for trustees and bond counsel. If no bond proceeds will be used to pay bond issuance costs, enter zero. Do not leave this line blank.

**Line 25.** Enter the amount of the proceeds that will be used to pay fees for credit enhancement that are taken into account in determining the yield on the issue for purposes of section 148(h) (for example, bond insurance premiums and certain fees for letters of credit).

**Line 26.** Enter the amount of proceeds that will be allocated to such a fund.

**Line 27.** Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds within 90 days of the date of issue.

**Line 28.** Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds after 90 days of the date of issue, including proceeds that will be used to fund an escrow account for this purpose.

### Part V—Description of Refunded Bonds

Complete this part only if the bonds are to be used to refund a prior issue of tax-exempt bonds. For a lease or installment sale, write "N/A" in the space to the right of the title for Part V.

**Lines 31 and 32.** The remaining weighted average maturity is determined without regard to the refunding. The weighted average maturity is determined in the same manner as on line 21, column (d).

**Line 34.** If more than a single issue of bonds will be refunded, enter the date of issue of each issue. Enter the date in an MM/DD/YYYY format.

### Part VI—Miscellaneous

**Line 35.** An allocation of volume cap is required if the nonqualified amount for the issue is more than \$15 million but is not

more than the amount that would cause the issue to be private activity bonds.

**Line 36.** If any portion of the gross proceeds of the issue is or will be invested in a guaranteed investment contract (GIC), as defined in Regulations section 1.148-1(b), enter the amount of the gross proceeds so invested, as well as the final maturity date of the GIC and the name of the provider of such contract.

**Line 37.** If the issue is a pooled financing issue (as defined under *Pooled financing issue* in *Definitions*), enter the amount of the proceeds used to make loans to other governmental units, the interest on which is tax-exempt.

**Line 38.** If the issue is a loan of proceeds from a pooled financing issue (as defined under *Pooled financing issue* in *Definitions*), check the box and where asked for the date of issue, EIN, and name of the issuer of the master pool obligation, enter the date of issue, EIN, and name of the issuer of the pooled financing issue.

**Line 40.** Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of arbitrage rebate with this form. See Rev. Proc. 92-22, 1992-1 C.B. 736 for rules regarding the "election document."

**Line 41a.** Check this box if the issuer has identified a hedge on its books and records according to Regulations sections 1.148-4(h)(2)(viii) and 1.148-4(h)(5) that permit an issuer of tax-exempt bonds to identify a hedge for it to be included in yield calculations for computing arbitrage.

**Line 42.** In determining if the issuer has super-integrated a hedge, apply the rules of Regulations section 1.148-4(h)(4). If the hedge is super-integrated, check the box.

**Line 43.** If the issuer takes a "deliberate action" after the issue date that causes the conditions of the private business tests or the private loan financing test to be met, then such issue is also an issue of private activity bonds. Regulations section 1.141-2(d)(3) defines a deliberate action as any action taken by the issuer that is within its control regardless of whether there is intent to violate such tests. Regulations section 1.141-12 explains the conditions of taking remedial action that prevent an action that causes an issue to meet the private business tests or private loan financing test from being treated as a deliberate action. Check the box if the issuer has established written procedures to ensure timely remedial action for all nonqualified bonds according to



Regulations section 1.141-12 or other remedial actions authorized by the Commissioner under Regulations section 1.141-12(h).

**Line 44.** Check the box if the issuer has established written procedures to monitor compliance with the arbitrage, yield restriction, and rebate requirements of section 148.

**Line 45a.** Check the box if some part of the proceeds was used to reimburse expenditures. Figure and then enter the amount of proceeds that are used to reimburse the issuer for amounts paid for a qualified purpose prior to the issuance of the bonds. See Regulations section 1.150-2.

**Line 45b.** An issuer must adopt an official intent to reimburse itself for preissuance expenditures within 60 days after payment of the original expenditure unless excepted by Regulations section 1.150-2(f). Enter the date the official intent was adopted. See Regulations section 1.150-2(e) for more information about official intent.

### Signature and Consent

An authorized representative of the issuer must sign Form 8038-G and any applicable certification. Also print the name and title of the person signing Form 8038-G. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that have been designated in Form 8038-G.

**Note.** If the issuer in Part 1, lines 3a and 3b authorizes the IRS to communicate (including in writing and by telephone) with a person other than an officer or other employee of the issuer, by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

### Paid Preparer

If an authorized officer of the issuer filled in this return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the return should not sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return.

- The paid preparer must:
- Sign the return in the space provided for the preparer's signature (a facsimile signature is acceptable),
  - Enter the preparer information, and
  - Give a copy of the return to the issuer.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

|   |                |
|---|----------------|
| Learning about the law or the form . . . . .                              | 2 hr., 41 min. |
| Preparing, copying, assembling, and sending the form to the IRS . . . . . | 3 hr., 3 min.  |

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send the form to this office. Instead, see *Where To File*.

**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)  
 ► See separate instructions.  
 Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

|   |            |  |
|---|------------|--|
| <b>Part I Reporting Authority</b>   |            | If Amended Return, check here ► <input type="checkbox"/>       |
| 1 Issuer's name   |            | 2 Issuer's employer identification number (EIN)                |
| 3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)                |            | 3b Telephone number of other person shown on 3a                |
| 4 Number and street (or P.O. box if mail is not delivered to street address)  | Room/suite | 5 Report number (For IRS Use Only)                             |
| 6 City, town, or post office, state, and ZIP code   |            | 7 Date of issue  |
| 8 Name of issue   |            | 9 CUSIP number   |
| 10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) |            | 10b Telephone number of officer or other employee shown on 10a |

|   |                            |    |
|---|----------------------------|----|
| <b>Part II Type of Issue (enter the issue price).</b> See the instructions and attach schedule. |                            |    |
| 11 Education . . . . .  |                            | 11 |
| 12 Health and hospital . . . . .  |                            | 12 |
| 13 Transportation . . . . .   |                            | 13 |
| 14 Public safety . . . . .  |                            | 14 |
| 15 Environment (including sewage bonds) . . . . .   |                            | 15 |
| 16 Housing . . . . .  |                            | 16 |
| 17 Utilities . . . . .  |                            | 17 |
| 18 Other. Describe ►  |                            | 18 |
| 19 If obligations are TANs or RANs, check only box 19a . . . . .                                | ► <input type="checkbox"/> |    |
| If obligations are BANs, check only box 19b . . . . .   | ► <input type="checkbox"/> |    |
| 20 If obligations are in the form of a lease or installment sale, check box . . . . .           | ► <input type="checkbox"/> |    |

|   |                         |                 |   |                               |           |
|---|-------------------------|-----------------|---|-------------------------------|-----------|
| <b>Part III Description of Obligations.</b> Complete for the entire issue for which this form is being filed. |                         |                 |   |                               |           |
|   | (a) Final maturity date | (b) Issue price | (c) Stated redemption price at maturity | (d) Weighted average maturity | (e) Yield |
| 21  |                         | \$              | \$                                      | years                         | %         |

|   |    |    |
|---|----|----|
| <b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>                      |    |    |
| 22 Proceeds used for accrued interest . . . . .   |    | 22 |
| 23 Issue price of entire issue (enter amount from line 21, column (b)) . . . . .                      |    | 23 |
| 24 Proceeds used for bond issuance costs (including underwriters' discount) . . . . .                 | 24 |    |
| 25 Proceeds used for credit enhancement . . . . .   | 25 |    |
| 26 Proceeds allocated to reasonably required reserve or replacement fund . . . . .                    | 26 |    |
| 27 Proceeds used to currently refund prior issues . . . . .   | 27 |    |
| 28 Proceeds used to advance refund prior issues . . . . .   | 28 |    |
| 29 Total (add lines 24 through 28) . . . . .  |    | 29 |
| 30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . . |    | 30 |

|  |               |
|--|---------------|
| <b>Part V Description of Refunded Bonds.</b> Complete this part only for refunding bonds.        |               |
| 31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . . | ► _____ years |
| 32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . .   | ► _____ years |
| 33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . .         | ► _____       |
| 34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)                               | _____         |

For Paperwork Reduction Act Notice, see separate instructions.

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Form **8038-G** (Rev. 9-2011)



**Part VI Miscellaneous**

|   |            |  |  |
|---|------------|--|--|
| <b>35</b> Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .   | <b>35</b>  |  |  |
| <b>36a</b> Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .   | <b>36a</b> |  |  |
| <b>b</b> Enter the final maturity date of the GIC ▶ _____   |            |  |  |
| <b>c</b> Enter the name of the GIC provider ▶ _____   |            |  |  |
| <b>37</b> Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .   | <b>37</b>  |  |  |
| <b>38a</b> If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ <input type="checkbox"/> and enter the following information:  |            |  |  |
| <b>b</b> Enter the date of the master pool obligation ▶ _____   |            |  |  |
| <b>c</b> Enter the EIN of the issuer of the master pool obligation ▶ _____  |            |  |  |
| <b>d</b> Enter the name of the issuer of the master pool obligation ▶ _____   |            |  |  |
| <b>39</b> If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . . ▶ <input type="checkbox"/>  |            |  |  |
| <b>40</b> If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . . ▶ <input type="checkbox"/>  |            |  |  |
| <b>41a</b> If the issuer has identified a hedge, check here ▶ <input type="checkbox"/> and enter the following information:   |            |  |  |
| <b>b</b> Name of hedge provider ▶ _____   |            |  |  |
| <b>c</b> Type of hedge ▶ _____  |            |  |  |
| <b>d</b> Term of hedge ▶ _____  |            |  |  |
| <b>42</b> If the issuer has superintegrated the hedge, check box . . . . . ▶ <input type="checkbox"/>   |            |  |  |
| <b>43</b> If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . . ▶ <input type="checkbox"/> |            |  |  |
| <b>44</b> If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . . ▶ <input type="checkbox"/>   |            |  |  |
| <b>45a</b> If some portion of the proceeds was used to reimburse expenditures, check here ▶ <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____  |            |  |  |
| <b>b</b> Enter the date the official intent was adopted ▶ _____   |            |  |  |

|                               |   |                      |   |   |      |
|-------------------------------|---|----------------------|---|---|------|
| <b>Signature and Consent</b>  | Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above. |                      |   |   |      |
|                               | ▶ _____<br>Signature of issuer's authorized representative  |                      | ▶ _____<br>Date                         |   |      |
|                               |   |                      | ▶ _____<br>Type or print name and title |   |      |
| <b>Paid Preparer Use Only</b> | Print/Type preparer's name  | Preparer's signature | Date                                    | Check <input type="checkbox"/> if self-employed | PTIN |
|                               | Firm's name ▶ _____   |                      | Firm's EIN ▶ _____                      |   |      |
|                               | Firm's address ▶ _____  |                      | Phone no. ▶ _____                       |   |      |