**Exhibit A**

**SAMPLE - INDIANA SCHOOL ADOPTION AGREEMENT**

**AND BINDER For INDIANA STATE EMPLOYEE**

**MEDICAL PLANS**

WHEREAS, I.C. 5-10-8-6.7 provides that a school corporation or charter school shall be allowed to elect to provide coverage of health care services for active and retired employees of the school under any State Employee Health Plan.

This Binder Agreement is executed by and between School Name and TPA of State Medical Plans (“Contractor) and is adopted as part of the Contract For Health Benefits and Administrative Services (“Master Contract”) between the State of Indiana and Contractor, effective on Date. By executing this Adoption Agreement and Binder, the parties agree that School and Contractor are each bound by the relevant terms of the Master Contract, and the School is entitled to all of the employer’s rights and responsibilities, applicable to the State, in the Master Contract, except as specifically noted. The Master Contract is subject to change at the sole discretion of the State and Contractor.

1. **DUTIES OF CONTRACTOR AND SCHOOL**
   1. **Exclusivity.** The School certifies that it will offer to its employees and retirees, and their dependents, the State employee health and pharmacy plans exclusively. The School will not offer any health or pharmacy plans that compete with the options available through the State plans. Failure to meet this requirement constitutes a default event which will be cause for termination by the State or Contractor on the date the default occurred.
   2. **Services.** Contractor will provide to the School the health benefits and the services set forth in the Master Contract and the services described in any attachment, addendum or amendment hereto (collectively the “Services”).
   3. School assumes the responsibilities as employer that the State assumes as employer in the Master Contract.
   4. In addition to the general provisions of the Master Contract, terms specific to the School follow:
2. Contractor will provide explanation of benefits.
3. Based upon the current applicable plan of health benefits in force, Contractor may be required to apply pharmacy co-pays and deductible costs to the out-of-pocket maximum and make the data available to the pharmacy plan administrator.
4. Contractor will facilitate and administer the exchange of utilization information among vendors. Contractor will make available on-line claims utilization data to each self-funded Schools’ Pharmacy Plan, Chronic Disease Management Program and with State-approved vendors.
5. Contractor will provide a standard direct claim system on medical benefits including:

* Toll-free direct enrollee’s customer service by Contractor’s customer service staff to handle questions and problems on a routine basis.
* Coverage verification.
* Benefit description booklets, as required.
* Prompt payment of proper claims.
* Access to Contractor’s web site.

1. Contractor will allow any willing provider into the provider network, providing the provider meets the necessary criteria as found in Contractor’s provider agreements.
2. Contractor will provide to each School, for its self-funded plans, upon request, back up claim documentation and method of adjudicating claims.
3. Contractor will provide its standard account reporting package at standard intervals to each School and any additional reports specified in Section 5 of the Binder Agreement.
4. Contractor will provide to the State aggregate data needed to evaluate schools participation.
5. Data will not be shared among the individual schools without prior written consent.
6. Contractor will provide care management services. All performance guarantees set out in the Master Contract that are applicable to the State will be applied in the aggregate to the State and all Schools covered under School Binder Agreements, with penalties, if any, being credited to the State.
7. Contractor and School will provide COBRA administration services as set out in Attachment A to this Binder Agreement.
8. Contractor and School will abide by the Group Health Plan Business Associate Agreement set out in Attachment B to this Binder Agreement.
   1. The School and the Contractor shall each immediately notify the State and the other party of any legal actions that involve this Contract.
9. **Consideration & Financial Terms**

## Consideration for services are set forth in the Master Contract and Section 4, below.

**2.2** Post Active Retention Charge: Should this Adoption Agreement and Binder terminate for any reason, the Contractor will process all claims incurred prior to the date of termination and any extended liability claims payable in accordance with the benefit provisions of the plan. Contractor will continue to bill the State weekly for self-insured claims incurred and paid under the School plan and will directly bill the School for the Post Active Retention Charge. The Post Active Retention charge will be based upon the (a) the average number of School enrollees for the month immediately preceding the termination (Base Enrollees) and (b) seventy-five percent (75%) of the Weekly Administrative fee Component of the Administrative Charge in effect for the month preceding the date of termination. The Post Active Retention Charge will be the product of the Base Enrollees and seventy-five percent (75%) of the Weekly Administrative Fee Component. The Post Active Retention Charge will be included in the billings to the School for a period of six (6) weeks after termination. The weekly claims reimbursement billings to the State will continue for a period of twelve (12) months from the termination date. The Contractor will then prepare a final billing comprising its estimate of the future cost of unpaid claims incurred under the Contract. This final billing, if agreed to by the State, is payable by the State within thirty (30) days of receipt.

**3. School Benefit Administrator, Eligibility & Effective Date**

## The School hereby designates the Benefit Administrator as follows: (The Benefit Administrator handles enrollment communication, distribution of materials, inquiries and remits payments.)

NAME

ADDRESS 1

ADDRESS 2

Phone: PHONE NUMBER

Email: EMAIL ADDRESS

## The definitions contained in the Master Contracts between the State and Contractors apply unless specifically modified in this section. The School hereby defines “eligible employee”, as follows: [DETAIL SCHOOL’S CRITERIA]

## An enrollee’s coverage shall commence the first day of the calendar month following the first premium payment unless the School arranges a different date with the Contractor.

1. **Administrative Services Only**
2. For employees and early retirees, School ispart of the State employee self-insured pool and expects only the Contractor’s discounts and administrative services.
3. **ASO Fees** Contractor will cause theSchoolto be directly billedan information fee, which represents the cost of administration (except COBRA administration and the post active retention charge) and the estimated cost of claims.

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In addition to the Informational Fees, Schools will pay an additional COBRA administration fee of $X.XX per subscriber per month and any other fees agreed to for additional services in the Adoption Agreement and Binder.

The Information fees collected from the School will be deducted from the billing of the State.

In addition, Contractor will bill the School for any additional services and fees agreed to in Section 5.

* 1. **Payments.** School shall pay said invoices within thirty (30) days from receipt.
  2. **Pricing Changes.**  Pricing changes shall be in accordance with the Master Contract, which includes the ability of the Contractor to charge a fee for any additional services detailed in Section 5 of this Binder Agreement. TheInformation fees are based on the State information fees, which are revised every year on January 1.

1. **ADDITIONAL SERVICES AND FEES**

School contracts for the following specified additional services for the additional fees specified below:

**[INSERT HERE, IF ANY]**

1. **SCHOOL OBLIGATIONS**
2. **Enrollment Information and Open Enrollment.** Throughout the term of this Agreement, School will provide Contractor with all enrollment information, including any updates and changes, on an ongoing basis. School will conduct open enrollment during the same time period as the State’s annual open enrollment.
3. **Enrollee Authorizations and Disclosures.** Contractor shall determine whether Enrollee authorizations are required by law for Contractor to perform any Services provided for in the Master Contract or this Binder Agreement or in any addendum or amendment hereto. School shall assist with obtaining such Enrollee authorizations and shall provide Contractor with Enrollees’ addresses and such other information as may be reasonably necessary to facilitate such communications.
4. **Changes.** If School elects to make a change in Section 3.2 or Section 5 after the initial setup, such as changes in Enrollee eligibility, such change shall be communicated in writing by School to Contractor. School will determine the effective date for such change and Contractor will (i) confirm that it can implement such changes on the requested effective date, or that such change cannot be implemented as requested, and (ii) notify School of any applicable additional fees due to Contractor by School as a result of such change. School must accept the change and assume the obligation of applicable additional fees, if any, in writing prior to its implementation. In addition, School shall notify its Enrollees of the change prior to its effective date at School’s expense.
5. **USE OF AND ACCESS TO INFORMATION**
6. **Use of Enrollee Information.** Subject to the Business Associate Agreement which is part of the Master Contract, Contractor and School may use, reproduce or adapt information obtained in connection with this Agreement, in any manner they deem appropriate, except that each party and its agents, employees and contractors shall maintain the confidentiality of this information to the extent required by applicable law, and may not use the information in any way prohibited by law. Any work, compilation, processes or inventions developed by Contractor or School, or their respective agents, employees or contractors, is deemed Confidential Information of such party under this Agreement. Contractor expressly agrees not to share Confidential Information with any other School without the prior written consent of School.
7. **Records.** Contractor shall maintain documentation of all Claims processed for seven years. Subject to this Section, all such records, while maintained by Contractor, shall be accessible by School for examination and audit during the term of and in accordance with this Agreement.

**8. SURVIVAL**

Obligations arising under this Binder Agreement or the Master Contract prior to the effective date of any termination, will survive termination of this Binder Agreement or the Master Contract.

**9. NOTICES**

All notices under this Agreement must be in writing, delivered in person, sent by certified mail, delivered by air courier, or transmitted by facsimile and confirmed in writing (by air courier or certified mail) to a party at the facsimile number and address shown in this Agreement. A party may notify the other party of any changes in the listed address or facsimile number in accordance with the provisions of this Section. All notices are effective upon receipt.

Notices to Contractor must be addressed as follows:

XXXXXXXXXXXXX

XXXXXXXXXXXXX

XXXXXXXXXXXXX

Notices to State must be addressed as follows:

State Personnel Department

Attention: Benefits Division

W161, IGC – South

402 West Washington Street

Indianapolis, IN 46204

Notices to School must be addressed as follows:

XXXXXXXXXXXXX

XXXXXXXXXXXXX

XXXXXXXXXXXXX

**10. MISCELLANEOUS**

1. **Binding Effect; Assignment.** This Agreement is binding on the parties and their respective successors and permitted assigns. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other.
2. **Severability.** In the event any term or provision of this Agreement is declared to be invalid or illegal for any reason, this Agreement will remain in full force and effect and will be interpreted as though such invalid or illegal provision were not a part of this Agreement. The remaining provisions will be construed to preserve the intent and purpose of this Agreement and the parties will negotiate in good faith to modify and invalidated provisions to preserve each party’s anticipated benefits.
3. **Authority.** Each party represents and warrants that is has the necessary power and authority to enter into this Agreement and to consummate the transactions contemplated by this Agreement.
4. **Defined Terms.** Capitalized terms not otherwise defined in this Binder Agreement shall have the same definition provided in the Master Contract.
5. **Separate Accounts.** The State does not guarantee payments by Schools or individuals receiving benefits through this Binder. The State is not the administrator for the Schools and each individual School does not guarantee payment by the State or any other School.
   1. **Termination.** After a minimum of three (3) years of participation, School may terminate, with thirty (30) days written notice to Contractor, their individual Binder Agreements.
   2. **Hold Harmless.** The School agrees to indemnify, defend and hold the State, its officials, employees, or agents harmless from all claims and suits including court costs, attorneys’ fees, and other expenses caused by any negligent act or omission of the School in the performance of this contract.
   3. **Non-Collusion.** The undersigned attests under penalties for perjury that he/she is the contracting party, or that he is the representative, agent, member or officer of the contracting party, company, corporation or partnership represented by him, directly or indirectly, to the best of his knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he has not received or paid, any sum of money for other consideration for the execution of this Binder other than that which appears upon the face of the Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers or agents as of the date first above written.

**School Name TPA of State Medical Plans**

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

NAME OF SIGNATORY

TITLE

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

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

**ATTACHMENT A**

**INDIANA SCHOOL ADOPTION AGREEMENT AND BINDER**

**For INDIANA STATE EMPLOYEE MEDICAL PLANS**

**COBRA CONTINUATION COVERAGE ADMINISTRATIVE SERVICES AGREEMENT**

**WITNESSETH:**

**WHEREAS**, the Plan provides coverage for Employees and eligible dependents of such Employees, and it must comply with the continuation coverage requirements of the Consolidated Omnibus Budget Reconciliation Act of 1985 and Title XXII of the Public Health Service Act (as amended), and any regulations promulgated pursuant to such laws (such laws and regulations being referred to herein as "COBRA"); and

**WHEREAS**, the Plan wishes to retain the services of Contractor for purposes of assisting it in complying with COBRA; and Contractor is willing to provide such services in return for certain fees and consideration;

**NOW, THEREFORE**, in consideration of the premises and mutual covenants contained in this Agreement, the School and Contractor agree as follows.

**SECTION 1. DEFINED TERMS**

The following words and phrases shall have the meanings herein set forth:

1.01 The following terms shall have a meaning determined in accordance with the use of that term in the federal COBRA statutes and regulations:

a. **Applicable Premium**

b. **Health Plan**

c. **Qualified Beneficiary**

d. **Qualifying Event**

1.02 **Employee**. Anemployee or agent of the Employer who is eligible for coverage under the Plan.

1.03 **Covered Person**. A person who is or was covered under the Plan and who, in accordance with COBRA and the terms of the Plan, would become a Qualified Beneficiary upon the occurrence of a Qualifying Event.

* 1. **Mass Layoff**. Mass layoff means the layoff or termination, over a rolling threemonth period, of the lesser of: (1)50**%** of employees or (2) 100employees.

**SECTION 2. DUTIES OF CONTRACTOR**

2.01 Contractor agrees on behalf of the School to provide to Covered Employees and their Covered Spouses the general notice which describes the rights and duties of such persons with regard to COBRA continuation coverage under the Plan. Such notice shall be made at the time of commencement of coverage under the Plan and shall be sent by first class mail addressed to each Covered Employee and, if applicable, the spouse, (e.g. John Doe and Jane Doe).

2.02 Contractor agrees on behalf of the School to:

A. Provide, within fourteen (14) calendar days following timely notice from the School that a Qualifying Event has occurred, a notice (herein referred to as "Election Notice") to Qualified Beneficiaries of COBRA rights which arise on account of the occurrence of a Qualifying Event. Such notice to the Qualified Beneficiary shall be sent by U.S. mail, with a certificate of mailing, and shall contain at least the following information, but in no event less information than is needed to comply with the requirements of COBRA:

1. The monthly premium due from a Qualified Beneficiary for coverage, determined based on the Applicable Premium.

2. Conditions which would cause a termination of coverage.

3. A description of the appropriate periods for the election of COBRA coverage and for payment required for such coverage, including premium due dates and grace periods. Contractor shall calculate the Maximum Coverage Period from the loss of coverage date or as requested by the School.

4. COBRA election forms.

B. Verify, upon receipt of a COBRA Qualified Beneficiary's completed election form, that the coverage selected is appropriate based on information received from the School and that premium paid is appropriate for coverage selected.

C. Update, through the WellPoint affiliate’s benefit systems, of all COBRA benefit elections, rejections, cancellations, terminations and premium payments of whichit becomes aware, and for non-WellPoint affiliate products and when applicable, notify the Employer of all COBRA benefit elections, rejections, cancellations, terminations and premium payments of which it becomes aware.

D. Send to the Qualified Beneficiary electing continuation coverage all of the following:

1. Notification letter and Election Agreement.

2. Coupons for use in remitting premium payments. It is understood and agreed that the first premium due may be for a period in excess of one (1) month.

3. Instructions on when, where and how to remit premiums.

4. A review of events that would result in termination of COBRA continuation.

5. A review of Qualified Beneficiary rights and responsibilities.

E. Collect premiums on a monthly basis from all Qualified Beneficiaries who elect coverage. Such premiums shall be held in a combined client service account, into which will also be deposited amounts received on behalf of other Schools for which Contractor performs administrative services. Within the combined account, Contractor shall hold such funds separately for each School, and shall keep accurate records of the amounts received and remitted on behalf of each School. Any interest earned on such funds will not be allocated to each School, but will be used to offset overall administrative expenses.

F. Credit collected COBRA premiums minus two percent (2%) of the Applicable Premium to the State Plan’s ASO billing account. However, COBRA premiums collected for non-WellPoint Affiliate products shall be remitted to the School, minus the retained two (2%) of the Applicable Premium. Contractor shall provide to the School standard monthly activity reports in respect of such collections, crediting and remittances.

G. In the event of the failure of the Qualified Beneficiary to timely respond or pay the appropriate premium, provide the Qualified Beneficiary with a notice of cancellation of continuation coverage. Following any such cancellation, if a Qualified Beneficiary seeks reinstatement of his/her COBRA coverage, Contractor shall be responsible to evaluate and respond to the request for reinstatement, following Contractor’s then current policies and procedures regarding such requests.

H. Provide Qualified Beneficiaries who have elected continuation coverage with a notice of impending termination (and eligibility for conversion, if any) at least one hundred eighty (180) calendar days prior to the end of the period of continuation coverage.

I. Provide Qualified Beneficiaries who have elected continuation coverage with notice of termination of continuation coverage at the end of such period of continued coverage.

J. Notify Qualified Beneficiaries of premium changes, provided such changes are timely submitted to Contractor by the Plan or its representative.

2.03 Contractoragrees toprovide an eligibility report containing information about Qualified Beneficiaries’ COBRA premium disbursements and COBRA coverage status to the Plan or its representative on a monthly basis.

2.04 Contractor agrees that all records, accounts, data or other information which is furnished by the School or generated by Contractor in the performance of its administrative services for the School are the confidential and private records to which the Plan shall have access. Contractor agrees to preserve the confidential and private nature of such records, unless disclosure of the contents thereof shall specifically be authorized in writing by the School/Plan or required by legal process.

2.05 In performing its obligations under this Agreement, Contractor neither insures nor underwrites any liability of the School under the Plan, and Contractor is not the provider of benefits under the Plan. Contractor shall be responsible only to perform, as administrator, theservices described in this Agreement.

**SECTION 3. DUTIES OF SCHOOL**

3.01 The School agrees to:

* + - 1. Provide Contractor with all information reasonably requested regarding Covered Persons including, but not limited to, Applicable Premium amounts and changes for the Plan, material modifications to the Plan, and opportunities for coverage changes that must be communicated to Qualified Beneficiaries.
      2. Notify Contractor directly or, if applicable, through the WellPoint affiliate’s claims processing system, within thirty (30) calendar days following the later of:

1. timely and adequate notice to the School by the Qualified Beneficiary of either of the following Qualifying Events:

a. the divorce or legal separation of the covered Employee and the Employee's spouse; or

b. the cessation of eligibility for coverage under the Plan of a covered dependent child.

2. the occurrence of any other Qualifying Event; or

3. the date of the Qualified Beneficiary's loss of coverage under the Plan, if this date is prior to the end of the maximum period of continuation coverage available under COBRA. The School acknowledges that if the notice period is measured from the date of loss of coverage, the period of continuation coverage is also measured from that date.

1. Provide materials to educate Covered Persons on the importance of notifying the School of Qualifying Events.
2. (for self-funded plans and when applicable) Provide written notice of any change in Applicable Premium rates at least fifteen (15) calendar days prior to any proposed effective date of such change. The School agrees that if the notice of any Applicable Premium rate change is delayed, Contractor will continue to bill Qualified Beneficiaries based on the most recent Applicable Premium rates on file. Contractor shall not be required to administer any retroactive Applicable Premium rate adjustment or any retroactive billing adjustments to Qualified Beneficiaries’ COBRA premiums.
3. Provide written notice to Contractor within thirty (30) calendar days of School’s determination that COBRA no longer applies to the School (e.g. due to the application of COBRA’s small employer exemption). The School shall notify all Covered Persons in the event that COBRA no longer applies to the Plan.

F. Provide other information as may be required for Contractor to fulfill its duties under this Agreement.

3.02 If a Health Plan(s) under this Agreement is not administered or underwritten by a WellPoint, Inc., affiliate, the School agrees that it shall provide notice in writing to such Health Plan administrator(s) that Contractor is such Health Plan(s)’s COBRA service provider. School shall assist in resolving any issues that may arise with such Health Plan(s) in regard to services under this Agreement.

3.03 The School shall provide Contractor with a customer service telephone number to provide to Covered Persons who make inquiries to Contractor concerning Plan operations or services that are not the responsibility of Contractor under this Agreement.

3.04 The School acknowledges that its prompt and complete furnishing of the required information is essential to the timely and efficient performance by Contractor of its obligations under this Agreement and that Contractor shall rely without qualification on the information provided by the School.

3.05 The School shall pay to Contractor the fees specified in this Agreement. Any services to be furnished by Contractor in addition to those listed will be subject to negotiated fees in addition to those specified in this Agreement.

3.06 The School shall include in its monthly premium payments to any applicable insurance company or third-party administrator, the premium payments remitted by Qualified Beneficiaries. The School acknowledges that, in order to maintain any insured coverage in force for Qualified Beneficiaries, it may be required to advance from its own assets the insurance premium due for any Qualified Beneficiary from whom payment may be received by Contractor within the grace period permitted, but which has not actually been received prior to the date the School remits its monthly group insurance premium to the insurance company or third-party administrator. In no event shall Contractor be responsible to reimburse School for any such premium advancement made by School.

**SECTION 4. RIGHT TO AUDIT**

4.01 The School will have the right to audit all relevant documents, books and records of Contractor pertaining to its services under this Agreement at all reasonable times during the term of this Agreement. The School shall provide Contractor with at least ninety (90) calendar days advance written notice of intent to audit; however, this notice period may be waived by Contractor, in whole or in part, dependent upon the expected scope of the audit and the availability of Contractor staff.

4.02 Contractor shall furnish to School or its agent reasonable work space and assistance by Contractor staff to obtain the necessary information to perform the audit, and will instruct School or its agent on its use. Additional services may require reasonable compensation to Contractor. During the course of the audit, the School or its agent shall take all reasonable steps to minimize interference with the operations and procedures of Contractor.

4.03 All audits shall be subject to the terms of the Contractor Account Audit Policy, a copy of which shall be provided to the School upon Contractor’s receipt of notice of intent to audit, or at any time upon request.

**SECTION 5. COBRA PREMIUM**

* 1. The premium coupons generated by Contractor for use by Qualified Beneficiaries shall reflect a premium amount (the “COBRA Premium”) at least equal to the Applicable Premium but not to exceed one hundred and two percent (102%) of the Applicable Premium or one hundred fifty percent (150%) of the Applicable Premium in the case of disability extensions, as permitted under COBRA. After the COBRA premium is received, Contractor shall retain two percent (2%) of the Applicable Premium, even in the cases in which the COBRA Premium is 150% of Applicable Premium.

5.02 Any COBRA Premium payments received that are below the premium amount will not be accepted and will result in cancellation of continuation coverage under Subsection 2.02 G.

**SECTION 6. COMPENSATION OF CONTRACTOR**

6.01 In addition to the compensation specified in Section 5 hereof, in exchange for Contractor’s services under this Agreement, the School shall pay Contractor administration fees in the amounts of $X.XX per covered employee per month. If School seeks any additional services from Contractor, such additional services must be separately purchased. In the event of a strike or mass layoff, an additional one-time fee of $X.XX per mass laid off or striking covered employee will be charged.

* + 1. The School shall receive a monthly or an annualinvoice for administrative fees and shall expeditiously review it to reconcile with its records the total amount due and payable. Failure of the School to pay any administrative fee within thirty (30) days after the payment due date may result in termination of this Agreement as provided under Section 2.02 of this Agreement. Nevertheless, the School will be liable to Contractor for charges which are due and unpaid as of the date of termination. Any acceptance by Contractor of late payments shall not be deemed a waiver of its rights to terminate the Agreement for any future failure of the School to make timely payments.

6.04 No retroactive decreases in administrative fees due to enrollment adjustments shall be permitted. Acceptance of fees from the School for persons whose eligibility is terminated retroactively will not extend or prolong any obligation of Contractor to provide administrative services. Contractor reserves the right, in its sole discretion, to limit adjustments to retroactive changes to enrollment to a maximum of ninety (90) days from the date notice is received.

**SECTION 7**. **CONFIDENTIALITY**

7.01 Contractor and School obligations regarding privacy and confidentiality are as set forth in the attached Business Associate Agreement, which control over any conflicting provision of this Agreement. School understands that Contractor may require School to designate specific School individuals with whom Contractor may share Protected Health Information.

7.02 Contractor agrees to treat all information concerning the School's business operations and Plan information to which it has access in a confidential manner. The School agrees to treat all information concerning Contractor's business operations, ideas, know-how, trade secrets, and other proprietary data in a confidential manner. Neither party shall disclose any such information to any other person without the prior written consent of the party to whom the information pertains.

**ATTACHMENT B**

**INDIANA SCHOOL ADOPTION AGREEMENT AND BINDER**

**For INDIANA STATE EMPLOYEE MEDICAL PLANS**

Group Health Plan Business Associate Agreement

This Business Associate Agreement (“Agreement”) is effective as of date and is made among Anthem Insurance Companies, Inc. dba Anthem Blue Cross and Blue Shield (“Business Associate”), and the School employee group health plans (“Plan”), and the School (“Employer”).

**WITNESSETH AS FOLLOWS:**

**WHEREAS**, Employer has established and maintains a plan of health care benefits which is administered by the Employer or its designee as a health plan as defined by the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-164) (“HIPAA Privacy Regulation” and/or “HIPAA Security Regulation”;

**WHEREAS**, Employer has retained Business Associate to provide certain claims administrative services with respect to the Plans which are described and set forth in the CONTRACT FOR HEALTH BENEFITS AND ADMINISTRATIVE SERVICES (“Master Contract”), as amended from time to time;

**WHEREAS**, Employer is authorized to enter into this agreement on behalf of Plan;

**WHEREAS**, the parties to this Agreement desire to establish the terms under which Business Associate may use or disclose Protected Health Information (as defined herein) such that the Plan may comply with applicable requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-164) (“HIPAA Privacy Regulation” and/or HIPAA Security Regulation) and the requirements of the Health Information Technology for Economic and Clinical Heath Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the “HITECH Act”), that are applicable to business associates, along with any guidance and/or regulations issued by the U.S. Department of Health and Human Services.

**NOW, THEREFORE**, in consideration of these premises and the mutual promises and agreements hereinafter set forth, the Plan, Employer and Business Associate hereby agree as follows:

**PART 1—BUSINESS ASSOCIATE’S RESPONSIBILITIES**

1. **PRIVACY OF PROTECTED HEALTH INFORMATION**
   1. **Confidentiality of Protected Health Information**

Except as permitted or required by this Agreement, Business Associate will not use or disclose Protected Health Information without the authorization of the Individual who is the subject of such information or as required by law.

* 1. **Prohibition on Non-Permitted Use or Disclosure**

Business Associate will neither use nor disclose Individuals’ Protected Health Information except (1) as permitted or required by this Agreement, or any other agreement between the parties, (2) as permitted in writing by the Plan or its Plan administrator, (3) as authorized by Individuals, or (4) as required by law.

* 1. **Permitted Uses and Disclosures**

Business Associate is permitted to use or disclose Individuals’ Protected Health Information as follows:

* + 1. **Functions and Activities on Plan’s Behalf**

Business Associate will be permitted to use and disclose Individuals’ Protected Health Information (a) for the management, operation and administration of the Plan, (b) for the services set forth in the Master Contract, which include (but are not limited to) Treatment, Payment activities, and/or Health Care Operations as these terms are defined in this Agreement and 45 Code of Federal Regulations § 164.501, and (c) as otherwise required to perform its obligations under this Agreement and the Master Contract, or any other agreement between the parties provided that such use or disclosure would not violate the HIPAA Privacy or Security Regulations if done by the Plan.

* + 1. **Business Associate’s Own Management and Administration** 
       1. **Protected Health Information Use**

Business Associate may use Individuals’ Protected Health Information as necessary for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities.

* + - 1. **Protected Health Information Disclosure**

Business Associate may disclose Individuals’ Protected Health Information as necessary for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities only (i) if the disclosure is required by law, or (ii) if before the disclosure, Business Associate obtains from the entity to which the disclosure is to be made reasonable assurance, evidenced by written contract, that the entity will (i) hold Individuals’ Protected Health Information in confidence, (ii) use or further disclose Individuals’ Protected Health Information only for the purposes for which Business Associate disclosed it to the entity or as required by law; and (iii) notify Business Associate of any instance of which the entity becomes aware in which the confidentiality of any Individuals’ Protected Health Information was breached.

* + 1. **Miscellaneous Functions and Activities**
       1. **Protected Health Information Use**

Business Associate may use Individuals’ Protected Health Information as necessary for Business Associate to perform Data Aggregation services, and to create Deidentified Information, Summary Health Information and/or Limited Data Sets.

* + - 1. **Protected Health Information Disclosure**

Business Associate may disclose, in conformance with the HIPAA Privacy Regulation, Individuals’ Protected Health Information to make Incidental Disclosures and to make disclosures of Deidentified Information, Limited Data Set Information, and Summary Health Information.

* + 1. **Minimum Necessary**

Business Associate’s use, disclosure or request of Protected Health Information shall utilize a Limited Data Set if practicable. Otherwise, Business Associate will make reasonable efforts to use, disclose, or request only the minimum necessary amount of Individuals’ Protected Health Information to accomplish the intended purpose.

* 1. **Disclosure to Plan and Employer (and their Subcontractors)**

Other than disclosures permitted by Section I.C., Business Associate will not disclose Individuals’ Protected Health Information to the Plan, its Plan administrator or Employer, or any business associate or subcontractor of such parties except as set forth in Section VIII.

* 1. **Disclosure to Business Associate’s Subcontractors and Agents**

Business Associate will require its subcontractors and agents to provide reasonable assurance, evidenced by written contract, that such other entity will comply with the same privacy and security obligations with respect to Individuals’ Protected Health Information as applies to Business Associate.

* 1. **Reporting Non-Permitted Use or Disclosure**
     1. Non-permitted Use or Disclosure. Business Associate will promptly report to the Plan any use or disclosure of Individuals’ Protected Health Information not permitted by this Agreement or in writing by the Plan or its Plan administrator, of which Business Associate becomes aware. Such report shall not include instances where Business Associate inadvertently misroutes Protected Health Information to a provider.
     2. Security Incidents. In addition to reporting to Plan any use or disclosure of Protected Health Information not permitted by the Agreement, Business Associate will also report any security incidents of which Business Associate becomes aware. A security incident is an attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system, and involves only electronic Protected Health Information that is created, received maintained or transmitted by or on behalf of Business Associate, that is in electronic form. The parties acknowledge and agree that this section constitutes notice by Business Associate to Plan of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Plan shall be required. “Unsuccessful Security Incidents” shall include, but not be limited to, malware, pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denials or service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI or NPFI.
     3. Breach. Business Associate will promptly report to Plan any Breach of Unsecured PHI. Business Associate will cooperate with Plan in investigating the Breach and in meeting the Plan’s obligations under HITECH Act and other applicable Security Breach notification laws. In addition to providing notice to Plan of a Breach, Business Associate will provide any required notice to individuals and applicable regulators on behalf of Plan, unless Plan is otherwise notified by Business Associate.
  2. **Termination for Breach of Privacy Obligations**

Without limiting the rights of the parties set forth in the Master Contract, Plan will have the right to terminate this Agreement and the Master Contract if Business Associate has engaged in a pattern of activity or practice that constitutes a material breach or violation of Business Associate’s obligations regarding Protected Health Information under this Agreement. Plan will follow the notice of termination procedures as set forth in the Master Contract. Prior to terminating this Agreement as forth above, Plan shall provide the Business Associate with an opportunity to cure the material breach. If these efforts to cure the material breach are unsuccessful, as determined by Plan in its reasonable discretion, Plan shall terminate the Master Contract and this Agreement, as soon as administratively feasible. If for any reason a party has determined the other has breached the terms of this Agreement and such breach has not been cured, but termination of the Agreement is not feasible, the party may report such breach to the U.S. Department of Health and Human Services.

* 1. **Disposition of Protected Health Information**
     1. **Return or Destruction Upon Master Contract End**

The parties agree that upon cancellation, termination, expiration or other conclusion of the Master Contract, destruction or return of all Protected Health Information, in whatever form or medium (including in any electronic medium under Business Associate’s custody or control) is not feasible given the regulatory requirements to maintain and produce such information for extended periods of time after such termination. In addition, Business Associate is required to maintain such records to support its contractual obligations with its vendors and network providers. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those consistent with applicable law for so long as Business Associate, or its subcontractors or agents, maintains such Protected Health Information. Business Associate may destroy such records in accordance with applicable law and its record retention policy that it applies to similar records.

* + 1. **Exception When Business Associate Is Plan’s Health Insurance Issuer**

If upon cancellation, termination, expiration or other conclusion of the Master Contract, Business Associate (or an affiliate of Business Associate) is or becomes the Plan’s health insurance underwriter, then Business Associate shall transfer any Protected Health Information that Business Associate created or received for or from Plan to that part of Business Associate (or affiliate of Business Associate) responsible for health insurance functions.

* + 1. **Survival of Termination**

The provisions of this Section I.H. shall survive cancellation, termination, expiration, or other conclusion of this Agreement and the Master Contract.

1. **ACCESS, AMENDMENT AND DISCLOSURE ACCOUNTING**
   1. **Access**
      1. Business Associate will respond to an Individual’s request for access to his or her Protected Health Information as part of Business Associate’s normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
      2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right of access under the HIPAA Privacy Regulation by performing the following functions:

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will make available for inspection and obtaining copies by the Plan, or at the Plan’s direction by the Individual (or the Individual’s personal representative), any Protected Health Information about the Individual created or received for or from the Plan in Business Associate’s custody or control, so that the Plan may meet its access obligations under 45 Code of Federal Regulations § 164.524, and, where applicable, the HITECH Act. Business Associate will make such information available in an electronic format where required by the HITECH Act.

* 1. **Amendment**
     1. Business Associate will respond to an Individual’s request to amend his or her Protected Health Information as part of Business Associate’s normal customer service functions, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
     2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right to amend under the HIPAA Privacy Regulation by performing the following functions:

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will amend any portion of the Protected Health Information created or received for or from the Plan in Business Associate’s custody or control, so that the Plan may meet its amendment obligations under 45 Code of Federal Regulations §164.526.

* 1. **Disclosure Accounting**
     1. Business Associate will respond to an Individual’s request for an accounting of disclosures of his or her Protected Health Information as part of Business Associate’s normal customer service function, if the request is communicated to the Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
     2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right to an accounting of disclosures under the HIPAA Privacy Regulation by performing the following functions so that the Plan may meet its disclosure accounting obligation under 45 Code of Federal Regulations § 164.528:
        1. **Disclosure Tracking**

Business Associate will record each disclosure that Business Associate makes of Individuals’ Protected Health Information, which is not excepted from disclosure accounting under Section II.C.2.b.

The information about each disclosure that Business Associate must record (“Disclosure Information”) is (a) the disclosure date, (b) the name and (if known) address of the person or entity to whom Business Associate made the disclosure, (c) a brief description of the Protected Health Information disclosed, and (d) a brief statement of the purpose of the disclosure or a copy of any written request for disclosure under 45 Code of Federal Regulations §164.502(a)(2)(ii) or §164.512.

For repetitive disclosures of Individuals’ Protected Health Information that Business Associate makes for a single purpose to the same person or entity (including to the Plan or Employer), Business Associate may record (a) the Disclosure Information for the first of these repetitive disclosures, (b) the frequency, periodicity or number of these repetitive disclosures, and (c) the date of the last of these repetitive disclosures.

* + - 1. **Exceptions from Disclosure Tracking**

Business Associate will not be required to record Disclosure Information or otherwise account for disclosures of Individuals’ Protected Health Information (a) for Treatment, Payment or Health Care Operations, (b) to the Individual who is the subject of the Protected Health Information, to that Individual’s personal representative, or to another person or entity authorized by the Individual (c) to persons involved in that Individual’s health care or payment for health care as provided by 45 Code of Federal Regulations § 164.510, (d) for notification for disaster relief purposes as provided by 45 Code of Federal Regulations § 164.510, (e) for national security or intelligence purposes, (f) to law enforcement officials or correctional institutions regarding inmates, (g) that are incident to a use or disclosure that is permitted by this Agreement or the Master Contract, (h) as part of a limited data set in accordance with 45 Code of Federal Regulations § 164.514(e), or (i) that occurred prior to the Plan’s compliance date.

* + - 1. **Disclosure Tracking Time Periods**

Business Associate will have available for the Plan the Disclosure Information required by Section II.C.2.a above for the six (6) years immediately preceding the date of the Plan’s request for the Disclosure Information.

* + - 1. **Provision of Disclosure Accounting**

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will make available to the Plan, or at the Plan’s direction to the Individual (or the Individual’s personal representative), the Disclosure Information regarding the Individual, so the Plan may meet its disclosure accounting obligations under 45 Code of Federal Regulations § 164.528 and the HITECH Act.

* 1. **Confidential Communications**
     1. Business Associate will respond to an Individual’s request for a confidential communication as part of Business Associate’s normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation. If a Individual’s request, made to Business Associate, extends beyond information held by Business Associate or Business Associate’s subcontractors, Business Associate will inform the Individual to direct the request to the Plan, so that Plan may coordinate the request. Business Associate assumes no obligation to coordinate any request for a confidential communication of Protected Health Information maintained by other business associates of Plan.
     2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right of confidential communication under the HIPAA Privacy Regulation by performing the following functions:

Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will begin to send all communications of Protected Health Information directed to the Individual to the identified alternate address so that the Plan may meet its access obligations under 45 Code of Federal Regulations § 164.522(b).

* 1. **Restrictions**
     1. Business Associate will respond to an Individual’s request for a restriction as part of Business Associate’s normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the Protected Health Information Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
     2. In addition, Business Associate will promptly, upon receipt of notice from Plan, restrict the use or disclosure of Individuals’ Protected Health Information, provided the Business Associate has agreed to such a restriction. Plan and Employer understand that Business Associate administers a variety of different complex health benefit arrangements, both insured and self-insured, and that Business Associate has limited capacity to agree to special privacy restrictions requested by Individuals. Accordingly, Plan and Employer agree that it will not commit Business Associate to any restriction on the use or disclosure of Individuals’ Protected Health Information for Treatment, Payment or Health Care Operations without Business Associate’s prior written approval.

1. **SAFEGUARD OF PROTECTED HEALTH INFORMATION**

Business Associate will develop and maintain reasonable and appropriate administrative, technical and physical safeguards, as required by Social Security Act § 1173(d) and 45 Code of Federal Regulations §164.530(c), to ensure and to protect against reasonably anticipated threats or hazards to the security or integrity of health information, to protect against reasonably anticipated unauthorized use or disclosure of health information, and to reasonably safeguard Protected Health Information from any intentional or unintentional use or disclosure in violation of this Agreement.

Business Associate will also develop and use appropriate administrative, physical and technical safeguards to preserve the Availability of electronic Protected Health Information, in addition to preserving the integrity and confidentiality of such Protected Health Information. The “appropriate safeguards” Business Associate uses in furtherance of 45 Code of Federal Regulations §164.530(c), will also meet the requirements contemplated by 45 Code of Federal Regulations Parts 160, 162 and 164, as amended from time to time.

1. **COMPLIANCE WITH STANDARD TRANSACTIONS**

Business Associate will comply with each applicable requirement for Standard Transactions established in 45 Code of Federal Regulations Part 162 when conducting all or any part of a Standard Transaction electronically for, on behalf of, or with the Plan.

1. **INSPECTION OF BOOKS AND RECORDS**

Business Associate will make its internal practices, books, and records relating to its use and disclosure of Protected Health Information created or received for or from the Plan available to the U.S. Department of Health and Human Services to determine Plan’s compliance with 45 Code of Federal Regulations Parts 160-64 or this Agreement.

1. **MITIGATION FOR NON-PERMITTED USE OR DISCLOSURE**

Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

**PART 2 – PLAN’S RESPONSIBILITIES**

1. **PLAN’S NOTICE OF PRIVACY PRACTICES**
   1. **Preparation of Plan’s Notice of Privacy Practices.**  Plan shall be responsible for the preparation of its Notice of Privacy Practices (“NPP”). To facilitate this preparation, upon Plan’s or Employer’s request, Business Associate will provide Plan with its NPP that Plan may use as the basis for its own NPP. Plan will be solely responsible for the review and approval of the content of its NPP, including whether its content accurately reflects Plan’s privacy policies and practices, as well as its compliance with the requirements of 45 C.F.R. § 164.520. Unless advance written approval is obtained from Business Associate, the Plan shall not create any NPP that imposes obligations on Business Associate that are in addition to or that are inconsistent with the NPP prepared by Business Associate or with the obligations assumed by Business Associate hereunder.
   2. **Distribution of Notice of Privacy Practice.** Plan shall bear full responsibility for distributing its own NPP as required by the Privacy Regulation.
   3. **Changes to Protected Health Information.** Plan shall notify Business Associate of any change(s) in, or revocation of, permission by an Individual to Use or Disclose Protected Health Information, to the extent that such change(s) may affect Business Associate’s Use or Disclosure of such Protected Health Information.

**PART 3—DISCLOSURE OF PROTECTED HEALTH INFORMATION TO THE PLAN, EMPLOYER AND OTHER BUSINESS ASSOCIATES**

1. **DISCLOSURE OF PROTECTED HEALTH INFORMATION**

The following provisions apply to disclosures of Protected Health Information to the Plan, Employer and other business associates of the Plan.

* 1. **Disclosure to Plan**

Unless otherwise provided by this Section VIII, all communications of Protected Health Information by Business Associate shall be directed to the Plan.

* 1. **Disclosure to Employer**

Business Associate may provide Summary Health Information regarding the Individuals in the Plan to Employer upon Employer’s written request for the purpose either (a) to obtain premium bids for providing health insurance coverage for the Plan, or (b) to modify, amend or terminate the Plan.

Business Associate may provide information to Employer on whether an individual is participating in the Plan or is enrolled in or has disenrolled from any insurance coverage offered by the Plan.

* 1. **Disclosure to Other Business Associates and Subcontractors**

Business Associate may disclose Individuals’ Protected Health Information to other entities or business associates of the Plan if the Plan authorizes Business Associate in writing to disclose Individuals’ Protected Health Information to such entity or business associate. The Plan shall be solely responsible for ensuring that any contractual relationships with these entities or business associates and subcontractors comply with the requirements of 45 Code of Federal Regulations § 164.504(e) and § 164.504(f).

**PART 4—MISCELLANEOUS**

1. **AGREEMENT TERM**

This Agreement will continue in full force and effect for as long as the Master Contract remains in full force and effect. This Agreement will terminate upon the cancellation, termination, expiration or other conclusion of the Master Contract.

1. **AUTOMATIC AMENDMENT TO CONFORM TO APPLICABLE LAW**

Upon the effective date of any final regulation or amendment to final regulations with respect to Protected Health Information, Standard Transactions, the security of health information or other aspects of the Health Insurance Portability and Accountability Act of 1996 applicable to this Agreement or to the Master Contract, this Agreement will automatically amend such that the obligations imposed on the Plan, Employer, and Business Associate remain in compliance with such regulations.

1. **CONFLICTS**

The provisions of this Agreement will override and control any conflicting provision of the Master Contract. All other provisions of the Master Contract remain unchanged by this Agreement and in full force and effect.

1. **NO THIRD PARTY BENEFICIARIES**

The parties agree that there are no intended third party beneficiaries under this Agreement. This provision shall survive cancellation, termination, expiration, or other conclusion of this Agreement and the Master Contract.

1. **INTERPRETATION**

Any ambiguity in this Agreement or the Master Contract or in operation of the Plan shall be resolved to maintain compliance with the Regulations enacted pursuant to HIPAA Administrative Simplification.

1. **DEFINITIONS**

Unless otherwise defined in this Agreement, the capitalized terms set forth herein have the meanings ascribed to them under the HIPAA Privacy Regulation and/or HIPAA Security Regulation. A reference in this Agreement to the Privacy Regulation, Security Regulation or HIPAA shall mean the section as in effect or as amended.

1. **REFERENCES**

References herein to statutes and regulations shall be deemed to be references to those statutes and regulations as amended or recodified.

**PART 5—SUBSTANCE USE DISORDER INFORMATION**

The parties acknowledge that information subject to 42 C.F.R. Part 2 (“Part 2”) may be used and disclosed for Plan’s payment and health care operations under the terms of this Agreement and the Master Contract to the extent that Business Associate is a Contractor and Plan is a Third Party Payer as defined under Part 2.

* 1. **Business Associate Obligation**s. Business Associate shall: (i) comply with Part 2, (ii) implement appropriate safeguards to protect such information, (iii) report non-permitted uses or disclosures of such information in a manner consistent with this Agreement, and (iv) refrain from re-disclosing such information unless permitted by law.
  2. **Plan Obligations.** Plan agrees to make commercially reasonable efforts to disclose only the minimum amount of PHI necessary, including such PHI that may be regulated under Part 2. Plan, to the extent that it operates as a Third Party Payer under Part 2, shall notify Business Associate of any information it transmits directly or indirectly to Business Associate that is subject to Part 2.