

ASSIGNMENT AND ASSUMPTION AGREEMENT

Community Health Choice, Inc. (“Community”) a Texas nonprofit corporation with its principal place of business at 2636 South Loop West, Suite 125, Houston, Texas, 77054, and Community Health Choice Texas, Inc. (“Community Texas”) a Texas nonprofit corporation with its principal place of business at 2636 South Loop West, Suite 125, Houston, Texas, 77054, enter into this Assignment and Assumption of Contracts Agreement (this “Agreement”) effective as of the Effective Date.

ARTICLE I

DEFINITIONS

All capitalized terms shall have the meanings herein ascribed.

1.1 “Assets” means:

1.1.1 All of Community’s rights, title and interests in connection with the Texas Medicaid Business in its Texas State Contract; and

1.1.2 Originals or true and correct copies of Community’s financial and other books, records and title documents, whether stored on paper or electronically, that are reasonably necessary to operate the Assets; and

1.1.3 Non-ledger assets, as referred to in the applicable annual NAIC filings, attributable to periods on or before the Effective Date relating to the Texas Medicaid Business.

1.2 “Effective Date” is midnight on the morning of March 1, 2017 (Central Standard Time or Central Daylight Time, if then applicable), or such other date as mutually agreed to by the Parties. In no event shall the Effective Date precede the date upon which all regulatory approvals are obtained in connection with the approval of this Agreement.

1.3 “Liabilities” means all liabilities and obligations accruing or arising as of the Effective Date and thereafter and relating to the Texas Medicaid Business and the Assets transferred to Community Texas under this Agreement. This term includes all claims incurred, whether or not reported, as of the Effective Date, arising out of the Texas Medicaid Business;

1.4 “Texas Medicaid Business,” means the Texas Medicaid and CHIP operations of Community.

1.5 “Texas State Contract” means Community’s contract and other agreements with the Texas Health and Human Services Commission, for provision of managed Medicaid and CHIP services in the HHSC Contract No. 529-12-0002-00003, further detailed on Schedule 1 hereto.

ARTICLE II

ASSIGNMENT OF ASSETS AND ASSUMPTION OF LIABILITIES

2.1 As of the Effective Date of this Agreement, Community hereby assigns to Community Texas and Community Texas' successors, assigns and legal representatives, all of Community's rights, title and interest, respectively, in and to the Assets, to have and to hold, together with all the rights and appurtenances thereto belonging to Community, and delegates all of the duties, obligations and Liabilities of Community relating to the Assets to Community Texas.

2.2 As of the Effective Date of this Agreement, Community Texas hereby accepts all of Community's rights, title and interest, respectively, in and to the Assets, to have and to hold, together with all the rights and appurtenances thereto belonging to Community, and assumes all of the duties, obligations and Liabilities of Community relating to the Assets.

2.3 With particular respect to the Texas State Contract, Community Texas agrees to be legally bound by all of the terms and conditions of such contract and to assume the duties, obligations, and responsibilities being assigned.

2.4 The purchase price for the Assets shall be the difference between the value of the sum of the Assets and the sum of the Liabilities on the books of Community as of the day before the Effective Date. If the value of the Assets exceeds the value of the Liabilities, Community Texas shall pay Community the amount of the difference five days after the close of the December books and records, which is expected to be on the 15th business day after the Effective Date (the "Payment Date"). If the value of the Liabilities as of the Effective Date exceeds the value of the Assets as of the Effective Date, Community shall pay Community Texas the amount of the difference on the Payment Date.

2.5 Community Texas and Community agree to take or cause to be taken such further action to execute, deliver and file or cause to be executed, delivered and filed, such further documents and instruments, and to obtain such further consents, as may be necessary or as may be reasonably requested in order to effectuate fully the purposes, terms and conditions of this Agreement.

ARTICLE III

PRORATION

3.1 All annual or periodic ad valorem fees, taxes, assessments, licensing fees, vehicle use fees, premium taxes (if any) and similar charges imposed by taxing authorities on the Assets (collectively, "Taxes") shall be borne and paid (i) by Community for all periods of time up to and including the day immediately preceding the Effective Date, and (ii) by Community Texas for all periods of time on or after the Effective Date, regardless of when or by which party such Taxes are actually paid to the applicable taxing authority.

3.2 Notwithstanding anything in this agreement to the contrary:

*Community Health Choice, Inc. and Community Health Choice Texas, Inc. Board of Trustees approved 11/21/2016.
Harris Health System Board of Trustees approved 12/1/2016*

3.2.1 The parties acknowledge and agree that pursuant to this Agreement, liabilities of Community with respect to unpaid claims, accrued liabilities, provider incentives and other amounts relating to calendar year 2016 (collectively the “2016 Liabilities”) will be transferred to Community Texas, along with (as part of the Assets) an amount of cash, deposits, accounts receivable and other assets that the parties believe will permit Community Texas to pay the 2016 Liabilities and to meet Community Texas’ risk-based capital requirements (the “2016 Assets”).

3.2.2 The parties arrived at the amount of the 2016 Assets through estimation, but acknowledge that due to claims processing, claims acceptance and rejection, and other factors, the 2016 Assets ultimately may not match up precisely with the amount of the 2016 Liabilities.

3.2.3 The final amount of the 2016 Liabilities will be known with certainty following a statutory audit with respect to Community’s financial filing with the Texas Department of Insurance expected to be conducted in April or May of 2017 (the “2016 Liabilities Audit”). Promptly following the 2016 Liabilities Audit, on written demand, (a) to the extent that the 2016 Assets were not sufficient to pay the 2016 Liabilities, Community shall pay to Community Texas the amount of any such deficit, and (b) to the extent that the 2016 Assets exceeded the 2016 Liabilities, Community Texas shall refund to Community the amount of any excess.

3.2.4 The parties shall use their best efforts to cooperate regarding transition of these amounts. To the extent agreed by the parties, any payments made under Section 3.2.3 shall be considered an adjustment to the purchase price described in Section 2.4.

3.3 Community Texas shall pay any and all sales, use, transfer or other similar taxes (if any) imposed as a result of the consummation of the transactions contemplated by this Agreement.

ARTICLE IV

MISCELLANEOUS PROVISIONS

4.1 The assignment of the Texas State Contract is subject to the approval of the appropriate representatives of the Health and Human Services Commission (the “Commission”), which shall be indicated by the signature of the authorized representative of the Commission in the space provided at the end of this Agreement. Such approval will serve as confirmation that the Commission confirms Community Texas is entitled to enforce all rights under and is bound by the Texas State Contract.

4.2 This Agreement is binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns. Except for the parties to this Agreement, a successor in interest, or assignee of a party, no person or entity is or shall be entitled to bring any action to enforce any provision of this Assignment of Contract against any of the parties.

4.3 This Agreement and any actions arising out of or relating to this Agreement shall be governed by and construed and interpreted in accordance with the laws of the state of Texas without regard to the conflict of law provisions thereof.

[Remainder of this page intentionally left blank; signature page follows.]

INTENDING TO BE BOUND, this Assignment of Contracts is executed by the parties:

COMMUNITY HEALTH CHOICE, INC.
(A TEXAS NONPROFIT CORPORATION)

COMMUNITY HEALTH CHOICE TEXAS, INC
(A TEXAS NONPROFIT CORPORATION)

By: 
Kenneth Janda, President/CEO

Date: 2/27/2017

By: 
Kenneth Janda, President/CEO

Date: 2/27/2017

SCHEDULE 1: Assigned Contract

Community assigns to Community Texas the HHSC Uniform Managed Care Contract No. 529-12-0002-00003 including any and all amendments between itself and the Texas Health and Human Services Commission, as presently or later amended.

INTERCOMPANY MANAGEMENT AND ADMINISTRATIVE SERVICES AGREEMENT

This Intercompany Management and Administrative Services Agreement (together with any exhibits and attachments attached hereto, this "Agreement") is dated as of **December 1, 2016**, between Community Health Choice, Inc., a Texas nonprofit corporation, ("Administrator"), and Community Health Choice Texas, Inc., a Texas nonprofit corporation, ("HMO"), and shall become effective on the Effective Date (as defined below).

WHEREAS, Administrator is a licensed health maintenance organization ("HMO"), registered utilization review agent and licensed third party administrator in the State of Texas; and

WHEREAS, HMO is licensed health maintenance organization ("HMO") in the State of Texas and an Affiliate of Administrator;

WHEREAS, HMO wishes Administrator to perform, and Administrator wishes to perform, certain Management and Administrative Services (as defined below) on behalf of HMO; and

WHEREAS, Administrator has the experience, trained personnel, knowledge, technical know-how, proprietary information and other resources and capability to develop, operate and market HMO's business; and

WHEREAS, to negotiate, arrange and administer the Administrative Services, Administrator makes use of important intangible property for the benefit of HMO; and

WHEREAS, HMO understands that Administrator has entered into a separate Administrative Services Agreement with the Harris County Hospital District d/b/a Harris Health System (Harris Health) for Harris Health to provide certain administrative services to Administrator and for Administrator to reimburse Harris Health for the costs and expenses associated with these services; and

WHEREAS, HMO acknowledges that certain administrative services provided by Harris Health to Administrator include certain administrative services provided by Administrator to HMO under this Agreement.

NOW, THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

1. Definitions. As used in this Agreement, the following terms have the respective meanings assigned to them in this Section 1:

"Administrative Fees", for any period, means the product of (a) the Administrative Rate for such period and (b) the Revenue Earned by HMO with respect to such period.

“Administrative Rate” means the percentage rate to be mutually agreed to in writing by HMO and Administrator upon execution of a Rate Addendum in the form attached hereto as Attachment C.

“Affiliate” means, with respect to any legal entity, any other legal entity or natural person that controls, is controlled by or is under common control with that legal entity.

“C.F.R.” means the Code of Federal Regulations.

“Designated Record Set” has the meaning assigned to such term in 45 C.F.R. 164.501.

“Effective Date” means the earliest date which HMO is obligated to provide services for the benefit of Members under the State Contract.

“HHS” means the United States Department of Health and Human Services.

“Individual” has the same meaning as the term “individual” in 45 C.F.R. 164.501 and shall include a person who qualifies as personal representative in accordance with 45 C.F.R. 164.502(g).

“Investment” means investment vehicles that HMO is permitted to purchase under applicable law and/or HMO’s Bylaws.

“Members” means subscribers and their dependents covered under the program issued, administered or serviced by HMO and/or one or more of HMO’s affiliates under the State Contract awarded to HMO including, without limitation, the Medicaid State of Texas Access Reform (STAR) Program for low-income children and pregnant women, the Children’s Health Insurance Program (CHIP) for the children of low-income parents, which includes CHIP Perinatal benefits for unborn children and other State contracts.

“Privacy Rules” means the regulations at 45 C.F.R. Parts 160-64, implementing the privacy requirements set forth in the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996.

“Protected Health Information” has the same meaning as the term “Protected Health Information”, as defined by 45 C.F.R. 160.103, limited to the information created or received by Subcontractor from or on behalf of Purchaser.

“Providers” means hospitals, physicians, dentists, pharmacies and other health care providers.

“Required by law” has the same meaning as the term “required by law” in 45 C.F.R. 164.501.

“Revenue Earned” means, for any period, premium revenue earned by HMO on Medicaid sponsored or subsidized business, before ceded premium revenue incurred by such entity during such period, each as determined pursuant to statutory accounting principles and/or practices prescribed or permitted by the State of Texas.

“Secretary” shall mean the Secretary of HHS or his or her designee.

“Services” has the meaning assigned to it in Section 2(a).

“State” means state of Texas.

“State Contract” means one or more contracts between the State of Texas Health and Human Services Commission, pursuant to which HMO offers a Medicaid managed care program, including without limitation the Medicaid State of Texas Access Reform (STAR) Program for low-income children and pregnant women, the Children’s Health Insurance Program (CHIP) for the children of low-income parents, which includes CHIP Perinatal benefits for unborn children and other State contracts.

2. Administrative Services.

- a) Administrator will provide HMO with the administrative services and resources specified in Attachment A (collectively “Services”) for the fees set forth in Attachment C.
- b) In addition to Administrative Fees, HMO shall reimburse Administrator for all out of pocket expenses incurred by Administrator on behalf of HMO pursuant to this Agreement. Such out of pocket expenses shall include without limitation premium taxes (if any), taxes that are based on HMO’s income, statutory audit fees and expenses, debt collection costs, state and/or guaranty fund assessments, outside counsel fees and settlements and judgments payable by HMO.
- c) Administrator shall be responsible for any sales, use, value-added or other similar taxes, federal, state or otherwise, that may be levied on the Administrative Services.
- d) If the performance of all or any part of the Services to be provided under this Agreement is delayed or interrupted by a governmental authority or any entity other than Administrator or HMO, amounts payable under this Agreement will be adjusted as agreed by the parties to reflect any increase in the cost of performance of this Agreement caused by the delay or interruption. Any delivery and performance dates and any other terms or conditions of this Agreement affected by such delay or interruption also will be adjusted by mutual agreement of Administrator and HMO. Notwithstanding any other provision of this paragraph, no adjustment will be made for any delay or interruption to the extent that performance of all or any part of the Administrative Services to be provided under

this Agreement would have been delayed or interrupted by any other cause, including the fault or negligence of Administrator. Throughout the period of any delay or interruption of all or any part of the Services to be provided under this Agreement, HMO will continue to pay to Administrator the Administrative Fees.

3. Term and Termination.

- a) The initial term of this Agreement shall be for a period of one (1) year, commencing on the Effective Date. The term of this Agreement automatically shall be extended for additional periods of one (1) year each, unless either party shall notify the other party in writing at least ninety (90) days prior to the expiration of the term then in effect.
- b) This Agreement may be terminated prior to the end of the term then in effect by a written agreement executed by both parties. This Agreement also may be terminated at any time by Administrator upon HMO's breach of any of HMO's obligations under this Agreement following ninety (90) calendar days' prior written notice of such breach and HMO's failure to cure such breach within such ninety (90) calendar days. This Agreement also may be terminated at any time by HMO upon Administrator's breach of any of Administrator's obligations under this Agreement following ninety (90) calendar days' prior written notice of such breach and Administrator's failure to cure such breach within such ninety (90) calendar days. This Agreement also will be terminated automatically upon the expiration, withdrawal, or termination of the State Contract.
- c) If at any time HMO ceases to be an Affiliate of Administrator or the Agreement between Administrator and Harris Health is terminated, this Agreement may be terminated by either party upon ninety (90) calendar days prior written notice without further liability, except for the payment of all amounts earned or otherwise due under this Agreement with respect to periods ending on or before the effective date of such termination.
- d) Upon termination, Administrator shall assign to HMO in the manner and extent directed by HMO all rights, title and interest of Administrator in performance of subcontracts related this Agreement. Provided, however, if HMO determines such performance is not needed, HMO may in its discretion, terminate such contracts and settle or pay any of the claims arising out of the termination. Upon termination, Administrator shall further transfer any and all business records created or maintained in accordance with this Agreement within 30 days following the termination date by delivering the books and records to a successor administrator or if there is not a successor administrator, to HMO. Administrator shall give written notice to the Texas Commissioner of Insurance of the location of the books and records within 30 days.

4. Appointment of Record Custodian. The parties mutually agree that it is essential for Protected Health Information to be maintained after the expiration of this Agreement for regulatory and other business reasons. The parties further agree that it would not be feasible for HMO to maintain such records because HMO lacks the necessary systems. Accordingly, HMO hereby appoints Administrator as HMO's custodian for the safe keeping of any record containing Protected Health Information that Administrator may determine it is appropriate to retain. Notwithstanding the expiration or termination of this Agreement, Administrator shall extend the protections of this Agreement to such Protected Health Information, and limit further use or disclosure of such Protected Health Information to those purposes that make the return or destruction of the Protected Health Information not feasible.
5. HMO's Obligations. From time to time, Administrator may recommend to HMO policies and procedures for the operation of HMO's business. HMO shall consider implementation of such recommendations and shall review, comment upon and approve or provide notice of any objection to such policies and procedures, unless prohibited or restricted by applicable law or regulation. The parties shall comply with the terms and conditions set forth in Exhibit E, Privacy Addendum, or
6. Appointment of Administrator. HMO hereby appoints Administrator as its agent to act on behalf of HMO in connection with the Services. As HMO's agent, Administrator is hereby authorized by HMO, among other things, to negotiate and enter into agreements and contracts on behalf of HMO. HMO shall perform its obligations with respect to, and be responsible for, all such agreements. Nothing in this Agreement shall be construed to transfer or divest any obligation or responsibility of HMO which transfer or divestiture is prohibited by law or regulation.
7. Prohibition Against Assignment and Delegation. Neither Administrator nor HMO may assign this Agreement or its rights hereunder or delegate or subcontract any of its duties hereunder without the express prior written consent of the other party. Any attempted assignment or delegation in violation hereof shall be null, void and ineffective. Notwithstanding the foregoing, Administrator may perform the Administrative Services directly or indirectly through one or more of its affiliates or independent contractors, provided Administrator shall remain liable to HMO for the discharge of Administrator's obligations hereunder. HMO is responsible for the fulfillment of its obligations under the State Contract. This Agreement shall in no way be construed as a guaranty by Administrator with respect to HMO's performance or obligations under the State Contract.
8. Confidentiality of Data and Systems. During the term of this Agreement, each party will receive and have access to proprietary data and systems of the other party. Unless otherwise approved by the other party or unless otherwise required by law, each party agrees (a) to keep all such data and systems confidential and not to disclose or reveal any such data or system to any persons or entities, and (b) not to use such data or systems for any purpose other than as required to perform Administrative Services pursuant to this

Agreement. Each party also acknowledges that the other party is the owner of all such data and systems and agrees that they constitute confidential and trade secret information which the recipient will treat as such and will provide security for and take reasonable measures to ensure their protection. Upon termination of this Agreement, each party will return all copies of the other party's material in its possession or control or will destroy them, as requested by the other party. The owner of the material will bear reasonable costs for the return or destruction of its material.

9. Indemnification. To the extent authorized by the Texas Constitution and the laws of the State of Texas, each party agrees to indemnify and hold the other harmless from and against any and all claims, actions, liabilities, losses, damages, costs and expenses (including without limitation reasonable attorneys' fees) incurred by reason of any legal or administrative action arising out of or caused by the negligence or other culpable wrongdoing of the indemnifying party or by any breach of the indemnifying party's obligations hereunder. Such indemnification is contingent upon prompt notice from the party seeking to be indemnified of the existence of any such claim or action and such party's full cooperation with the defense of any such claim or action, which shall be controlled by the indemnifying party at its election. The indemnifying party shall, at its election, also have full control over any settlement.
10. Obligations and Activities of Administrator Regarding Protected Health Information. Administrator agrees not to use or further disclose Protected Health Information other than as permitted or required by this Agreement or as required by law. Administrator shall also comply with any further limitations on uses and disclosures agreed by HMO in accordance with 45 C.F.R. 164.522 provided that such agreed upon limitations have been communicated to Administrator. The parties shall comply with the terms and conditions set forth in Exhibit E, Privacy Addendum.
11. Miscellaneous.
 - a) Survival. The respective rights and obligations of Administrator under Sections 4 (Appointment of Record Custodian), 8 (Confidentiality of Data and Systems), 9 (Indemnification) and 10 (Privacy) of this Agreement shall survive the termination of this Agreement.
 - b) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits HMO to comply with the Privacy Rules.
 - c) No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors and permitted assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.

- d) Notices. Any notice required to be given pursuant to this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, postage prepaid, or by email or facsimile:

Community Health Choice, Inc.

Attn: CEO

2636 S. Loop W., Suite 125

Houston, Texas 77054

Email: ken.janda@communitycares.com

Community Health Choice Texas, Inc.

Attn: CEO

2636 S. Loop W., Suite 125

Houston, Texas 77054

Email: ken.janda@communitycares.com

The above addresses may be changed at any time by either party upon written notice.

- e) Waiver. No waiver of any term or provision of this Agreement shall be valid unless in writing and executed by the waiving party. It is expressly understood that if any party shall fail to perform any term or condition of this Agreement and the other shall not enforce or give notice of default, the failure to enforce or give notice of default shall not prevent enforcement of any other term or condition of this Agreement or the giving of notice of any other failure to perform or any other default.
- f) Integration. This Agreement, including the attachments hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof.
- g) No Violation of Law. This Agreement shall not be interpreted to impose obligations or responsibilities upon Administrator which require the Administrator to violate the statutes or rules governing licensure of Administrator.
- h) Validity of Agreement/Choice of Law. The validity, enforceability and interpretation of this Agreement will be determined and governed by the laws of the State of Texas without regard for the conflicts of laws principles thereof. The invalidity or unenforceability of any term or provision hereof will not, unless otherwise specified herein, affect the validity or enforceability of any other term or provision hereof.
- i) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, together, constitute one and the same instrument. This Agreement shall become binding when one or more counterparts, individually or taken together, bears the signature of both parties.
- j) Headings for Convenience. The underlined headings contained in this Agreement are for convenience of reference only and are not part of this Agreement.

- k) Management of HMO. Notwithstanding any other provision of this Agreement, it is understood that the business and affairs of HMO shall be managed by its Board of Directors and, to the extent delegated by such Board and applicable law, by HMO's officers. Neither Administrator nor any of its officers or agents shall have any management authority or prerogatives with respect to the business affairs and/or operations of HMO except as specifically set forth in this Agreement.
- l) Non-Discrimination. All services provided pursuant to this Agreement shall be provided without regard to the Member's color, race, creed, age, gender, sexual orientation, disability, place of origin, source of payment, or type of illness or condition.
- m) Independent Contractors. The relationship of Administrator to HMO, as well as Administrator's employees and agents, is that of independent contractor, and except as expressly provided herein to the contrary, Administrator shall not be considered an agent or representative of HMO for any purpose, nor shall Administrator hold itself out to be an agent or representative of HMO for any purpose.
- n) Reports, Records and Audits. The books and records of HMO as they pertain directly to this Agreement will be available for review and audit by any governmental authority with jurisdiction over the State Contract (the "Governmental Authority"). To the extent required by law and to the extent consistent with the appropriate jurisdiction of the Governmental Authority, the books and records of Administrator as they pertain directly to this Agreement will be available for review in the State of Texas.

Not less than two times each fiscal year, HMO or its designee shall review Administrator's operations either at Administrator's premises or electronically. Not less than once every two fiscal years, HMO shall conduct an on-site audit of Administrator. During the review and on-site audit, HMO shall assess Administrator's business practices and procedures to ensure competent administration. HMO will prepare a written summary of the objectives and scope of the review or on-site audit and the results of the review or on-site audit, including corrective action plan addressing any deficiencies found during the review or on-site audit. The purpose of the on-site audit is to verify the accuracy, integrity, and completeness of the information received during a review. In addition, an on-site audit will include a physical inspection of Administrator's place of business and include a written assessment of the reliability of the information provided to HMO and relied upon by HMO when conducting a review or on-site audit.

- o) Administrator Regulatory Addendum. The parties shall comply with the terms and conditions set forth in Exhibit D, Regulatory Addendum, or other provisions required by the State Contract, as applicable.

- p) Severability. Any determination that any provision of this Agreement or any application thereof is invalid, illegal or unenforceable in any respect in any instance shall not affect the validity, legality and enforceability of such provision in any other instance, or the validity, legality or enforceability of any other provision of this Agreement. Neither party shall assert or claim that this Agreement or any provision hereof is void or voidable if such party performs under this Agreement without prompt and timely written objection.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first set forth above.

Community Health Choice, Inc.

By: 

Kenneth Janda, President/CEO

Community Health Choice Texas, Inc.

By: 

Kenneth Janda, President/CEO

ATTACHMENT A SERVICES

Specific Responsibilities and Services. Administrator shall, subject to state and federal law and regulations and the requirements of all regulatory bodies of accreditation organizations to which HMO is subject, provide all services necessary to administer/operate the State Contract, including without limitation:

- (a) Finance. Administrator will provide finance, accounting and reporting functions related to HMO's business including without limitation billing, accounts receivable, accounts payable, budgets, premium rates, financial and statutory reporting, tax return preparation and cash management. All financial records shall be available to HMO at all times. As more fully set forth in Section (y) Cash Management System of this Attachment A, Administrator shall deposit in a bank (or banks) all receipts and monies arising from the operation of HMO and make disbursements on behalf of HMO in such amounts and at such times as the same are required. Signatures and approvals as to the amounts of all checks shall be in accordance with duly adopted policies of HMO. Administrator shall supervise and direct the collection of all accounts receivable due to HMO, taking all commercially reasonable steps to minimize the number and amount of bad debts.
- (b) Human Resources. Upon request, Administrator will provide human resource and personnel administration. HMO (through its Board of Directors in the case of officers) shall have the right to approve the hiring, termination or disciplining of any officer, or medical director of HMO.
- (c) Operational Services. Administrator will provide general operational services, including without limitation telephone and computer system design services, mail services, microfilm services and document management services.
- (d) Procurement. Administrator, through Harris County Purchasing, will provide general procurement services including completion of bidding processes, selection of vendors and general purchases in accordance with HMO's bylaws.
- (e) Legal Services. Subject to the direction of HMO's Board of Directors, Administrator will provide or arrange for provision of legal services necessary to meet the needs of HMO except with respect to any to any legal dispute between Administrator and HMO relating to this Agreement. Without limiting the generality of the foregoing, (i) Administrator shall arrange for the legal review and analysis of enrollee, benefit, Provider, and marketing contracts, regulatory compliance matters, management and coordination of HMO's litigation, arbitration, and subrogation activities, and general corporate and healthcare related legal work; and (ii) Administrator shall coordinate the defense of any litigation or claims related to the Administrative Services or HMO's operations, although HMO shall remain liable for any ultimate settlements or judgments, as set forth in Section 2(b) of the Agreement.

- (f) Enrollment/Eligibility. Administrator shall provide all Member enrollment and eligibility file acceptance and processing services, including fulfillment and coordination of benefit services, required to support the business needs of HMO.
- (g) Claims Payment. Administrator will perform all claims processing functions in accordance with state/federal law and regulations including all applicable law related to the processing and payment or denial of claims, including but not limited to, prompt payment requirements, issuance of adverse determination letters, explanation of benefits statements, and provider remittance advices.
- (h) Coordination of Benefits. Administrator will perform all coordination of benefits in accordance with state/federal law and regulations including all applicable law related to the coordination of benefits.
- (i) Quality Improvement Program/Utilization Review/ Case Management/Complaints and Appeals. Administrator shall provide quality improvement programs, including without limitation medical peer review, practice guidelines, accreditation and disease management services, utilization review, case management service and complaint and appeals procedures and logs.
- (j) Credentialing. Administrator will provide all credentialing and recredentialing programs/committees and all related policies and procedures. Administrator will ensure all providers shall be fully credentialed/recruentialed by Administrator prior to administrating services to Members. HMO retains the right to approve or deny any new or renewing providers and to terminate or suspend individual providers from participation in of Administrator's networks.
- (k) Customer Services. Administrator will provide Member customer service functions, including without limitation new Member telephone calls, Member surveys, servicing Member inquiries and problems and Member enrollment.
- (l) Provider Network Services. Administrator will provide Provider network services and provider contracting functions including without limitation the service obligations and quality aspects of agreements with Providers and Provider relations services. In addition, Administrator grants HMO and Members access to, as necessary or desirable, any Provider network available to Administrator in accordance with the separate Provider Network Services Agreement executed by and between Administrator and HMO.
- (m) Facilities. Administrator shall negotiate agreements as may be necessary or advisable for the furnishing of facilities, utilities, services, concessions and supplies for the maintenance and operation of HMO.
- (n) Marketing. Administrator will produce advertising, public relations and marketing materials on behalf of HMO for distribution by HMO and/or by HMO's duly licensed

agents and shall support HMO in its marketing efforts. HMO acknowledges that any solicitation documents used by HMO maybe subject to filing with, and approval by, state regulatory agencies. Administrator also will produce website marketing and other internet services and materials for HMO.

- (o) Insurance and Risk Management. Administrator will negotiate and maintain general and professional liability insurance, naming HMO as an additional insured thereunder, in amounts reasonably acceptable to Administrator. Administrator shall deliver memorandum copies of its insurance certificates to HMO upon request.
- (p) Data Processing. Administrator will provide computer and information systems resources necessary to perform the Services. Administrator shall provide access to adequate management information systems to carry out this Agreement.
- (q) Pharmacy Services. Administrator shall provide HMO with pharmacy benefit management services under Administrator's pharmacy benefit management program.
- (r) Ancillary and Other Agreements. Administrator will negotiate and enter into such ancillary agreements on behalf of HMO as Administrator may deem necessary or advisable for the maintenance and operation of HMO.
- (s) Licenses, Permits and Reporting. Administrator will apply for and maintain on behalf of HMO all necessary licenses and permits required by the State of Texas, or by any other regulatory body with jurisdiction over HMO. Administrator will also file and respond to any annual reports or data calls as required by the State of Texas, or by any other regulatory body with jurisdiction over HMO.
- (t) Plan Documents. If applicable, Administrator will prepare the agreements and other documents relating to the State Contract, as applicable, including without limitation coverage documents reflecting the benefit to be provided by HMO.
- (u) Fees and Expenses. Administrator will pay all fees and expenses of actuarial, auditing and/or accounting consultants of any type retained by Administrator to perform the Administrative Services. Such fees and expenses are reimbursable to Administrator pursuant to Section 2(b) of this Agreement.
- (v) Out-of-Pocket Corporate Maintenance Expenses. On behalf of HMO, Administrator will pay the following out of pocket corporate maintenance expenses of HMO: costs of periodic amendments to corporate documents, any expenses for fees of HMO's Board of Directors, and costs associated with meetings of the Board of Directors or shareholders or committee meetings. Such expenses are reimbursable to Administrator pursuant to Section 2(b) of this Agreement.

- (w) Cash Management Services. HMO will participate in Administrator's cash management system (the "System"), and Administrator will administer the System in accordance with the terms and conditions set forth below:
1. Procedures. The procedures for the System are as follows:
 - a. All claims, expenses and other disbursement requests submitted for payment by HMO shall be processed and paid by Administrator through a centralized disbursement account or accounts held as specified herein.
 - b. All premiums (if any) and other payments made to HMO by third parties shall be received and processed by Administrator through a centralized depository account or accounts (e.g., lock box(es)) held as specified herein.
 - c. All of the foregoing transactions shall be recorded on the books of HMO in an intercompany account with Administrator and recorded on the books of Administrator in an intercompany account with HMO.
 - d. The System also shall account for the reimbursement by HMO to Administrator of costs expended by Administrator and/or its affiliates on behalf of HMO using applicable statutory accounting principles and/or practices prescribed or permitted by the State of Texas and/or accounting principles generally accepted in the United States of America.
 - e. Administrator shall follow such directions and instructions as may be given to Administrator by HMO from time to time with respect to the funds of HMO and the participation of HMO in the System.
 2. Condition of Participation. The participation of HMO in the System, as described in this Agreement, is expressly conditioned upon all investment accounts holding assets of HMO being in the name of HMO. Depository, disbursement and other non-investment accounts holding assets of HMO may be in the name of HMO and/or Administrator.
 3. Settlement of Accounts. Intercompany balances resulting from the operation of the System shall be settled as to HMO within 15 calendar days after the end of each calendar month (where possible) and in no event more than 45 calendar days after the end of each calendar quarter.
 4. Interest on Balances. Interest shall be charged or credited monthly on all intercompany cash balances resulting from the operation of the System as set forth in Section (b) of Attachment B.
- (x) Audit Rights and Assessments. HMO will have the right, at its expense, to audit the books, records and accounts of Administrator related to this Agreement after giving reasonable

notice to Administrator of HMO's intent to conduct such an audit. In the event of such audit, Administrator shall give HMO reasonable cooperation and access to all books, records and accounts necessary to the audit. HMO shall further have the right to perform assessments to review the effectiveness of Administrator's ability to perform the Services in accordance with state or federal law and/or established criteria after giving reasonable notice to Administrator of HMO's intent to conduct such an assessment.

- (y) Records. Each party shall be the sole owner of its financial and accounting records, regardless of the use or possession by a party of any other party's records. Administrator and HMO shall each individually maintain separate books, accounts and records with respect to Services provided under this Agreement. Administrator acknowledges that the files, records or documents pertaining to Members are the property of HMO. The books and records of HMO shall be maintained at such location or locations, within or without the State of Texas, as Administrator and HMO may agree from time to time. Administrator and HMO each shall maintain their own books, accounts and records in such a way as to disclose clearly and accurately the nature and detail of the transactions between them.
- (z) Reports. Administrator shall submit to HMO such reports regarding the Administrative Services at such times as HMO shall reasonably request or as Administrator shall deem necessary or appropriate to keep HMO apprised of Administrator's performance of the Administrative Services.
- (aa) Oversight. Administrator acknowledges and agrees that HMO maintains the ultimate responsibility for all Services and the oversight thereof, and that periodic audits and assessments are both required and necessary to monitor the quality and effectiveness of Administrator's Services and to ensure Administrator is able to meet its continuing obligations. Administrator shall provide HMO, or its designee, and any state or federal regulatory agency with access to and ability to copy all documentation, files, policies, processes and systems pertaining to any Administrative Services. Should Administrator fail to comply with the provisions of this Exhibit and/or fail to perform the Services as represented or in accordance with state or federal law and/or criteria established by HMO, in its discretion HMO may require Administrator to implement a corrective action plan or plans; and/or (ii) terminate this Agreement in accordance with the Termination provisions of this Agreement.
- (bb) Additional Notices. Administrator shall promptly notify HMO upon (i) receipt of any summons, complaint or process before any legal or regulatory body relating to this Agreement or (ii) obtaining knowledge of any legal or administrative claim, action, investigation or proceeding against HMO or Administrator relating to this agreement.

ATTACHMENT B
FEES FOR ADMINISTRATIVE SERVICES


- (a) For the Administrative Services, HMO shall pay Administrator the Administrative Fees within forty-five (45) calendar days after the end of the calendar quarter with respect to which such Administrative Fees are payable.
- (b) All intercompany balances under this Agreement shall be settled within forty-five (45) calendar days after the end of each calendar quarter or such period of time required by law, regulations, or other contractual obligations. Interest shall be charged monthly on all intercompany balances (including without limitation Administrative Fees and cash balances resulting from the operation of the System) at a rate equal to the monthly average overnight interest rate earned on Subcontractor's investments during the month for which interest on such intercompany balances is being calculated.
- (c) Each of Administrator and HMO shall have the right to offset all intercompany receivable and payable balances (including without limitation Administrative Fees) with the other party.
- (d) The Administrative Fees are based upon the current federal and state laws and regulations that govern Administrator and/or HMO. The parties hereto acknowledge that if any of such laws or regulations is amended, the cost and expenses of operating HMO may change. Therefore, upon any such amendment or replacement, the parties shall renegotiate in good faith and agree on revised Administrative Fees hereunder.


ATTACHMENT C
RATE ADDENDUM

Community Health Choice, Inc., a Texas nonprofit corporation, (“Administrator”), and Community Health Choice Texas, Inc., a Texas nonprofit corporation, (“HMO”), hereby agree that the Administrative Rate set forth in the INTERCOMPANY MANAGEMENT AND ADMINISTRATIVE SERVICES AGREEMENT (the Agreement) is 7.2 percent.

Community Health Choice, Inc.

Community Health Choice Texas, Inc.

By: 
Kenneth Janda, President/CEO
Date: 2/27/2017

By: 
Kenneth Janda, President/CEO
Date: 2/27/2017

ATTACHMENT D
REGULATORY ADDENDUM
MEDICAID/CHIP

The following additional provisions relate specifically to STAR and CHIP and are hereby incorporated by reference into the Agreement.

This Regulatory Addendum (“Addendum”) is incorporated by reference into the Agreement and applies to Medicaid and CHIP products (“Medicaid Program(s)”), to the eligible populations covered by the State Contract, between Community Health Choice Texas, Inc. (“HMO” or generally referred to in the State Contract as an MCO) and the Texas Health & Human Services Commission (“HHSC”), which can be found at <http://www.hhsc.state.tx.us/medicaid/managed-care/forms.shtml> HMO and Administrator acknowledge that Administrator is a subcontractor under the State Contract.

If there is any conflict between the terms of this Addendum and any of the other terms of the Agreement, including any attachments, schedules, exhibits and/or addenda made part of the Agreement, the terms of this Addendum will govern and control; provided, however, if there is any conflict between any of the terms of the Agreement, including this Addendum, and the State Contract, then the terms of the State Contract will govern and control.

HMO and Administrator agree to abide by all applicable provisions of the applicable State Contract. Administrator’s compliance with the applicable State Contract specifically includes, but is not limited to, the requirements contained herein.

Capitalized terms used and not otherwise defined in this Addendum shall have the meanings set forth in the Agreement or, if not defined in the Agreement, in the State Contract(s) or under Texas Law.

I. General Definitions

- A. “Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) consisting of:
1. confidential Member information, including HIPAA-defined protected health information;
 2. all non-public budget, expense, payment and other financial information;
 3. all Privileged Work Product;
 4. all information designated by HHSC or any other State agency as confidential, and all information designated as confidential under the Texas Public Information Act;
 5. information utilized, developed, received, or maintained by HHSC, HMO, or participating State agencies for the purpose of fulfilling a duty or obligation under the State Contract and that has not been disclosed publicly.

- B. “Deliverable” means a written or recorded work product or data prepared, developed, or procured by HMO and/or Administrator as part of the Services under the Agreement for the use or benefit of HMO, HHSC, or the State of Texas.
- C. “Scope of Work” means the description of Services and Deliverables specified in the Agreement, or the State Contract, and any attachments and modifications to these documents.
- D. “Services” means the tasks, functions, and responsibilities assigned to Administrator under the Agreement.
- E. “State Contract” refers to the HHSC Uniform Managed Care Contract (“UMCC”) for Medicaid and CHIP where applicable.
- F. “Uniform Managed Care Manual” (“UMCM”) means the manual published by or on behalf of HHSC that contains policies and procedures required of all MCOs participating in the HHSC Programs. The UMCM, as amended or modified, is incorporated by reference into the State Contract.

II. Texas Medicaid Managed Care Subcontractor Requirements

The State Contract mandates that HMO’s subcontractors, which includes Administrator, comply with many requirements under the State Contract. The applicable State Contract requirements and all amendments thereto are incorporated by reference into the Agreement.

A. Administrator Agreements in General.

Administrator shall permit HHSC to examine the Agreement and all Administrator records relating to the Agreement. Administrator must provide all information to HHSC at no cost. Administrator shall maintain accurate financial records and data sufficient for HHSC to verify the accuracy of the amounts paid in accordance with the Agreement.

B. Administrator Personnel

Neither Administrator nor its employees will in any sense be considered employees of HHSC or the State of Texas. Administrator shall have no right of subrogation, contribution, or indemnification against HHSC for any duty owed to it by HMO pursuant to the State Contract or any judgment rendered against HMO. Administrator acknowledges and agrees that HHSC does not assume liability for the actions of or judgment rendered against Administrator and that HHSC’s liability to Administrator, if any, will be governed by the Texas Tort Claims Act, as amended or modified (Tex. Civ. Prac. & Rem. Code §101.001 et seq.). Administrator shall have no right to indemnification or contribution from HHSC

for any such judgment rendered against Administrator.

Administrator shall reasonably cooperate with and work with other MCOs, subcontractors, and third-party representatives as requested by HMO and/or HHSC.

Nothing in the Agreement shall limit or restrict HHSC's ability to contract with Administrator.

C. E-Verify System

Administrator shall utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of all persons employed to perform duties within Texas during the term of the Agreement.

D. Compliance with Fraud, Waste, and Abuse Requirements

Administrator shall comply with all fraud, waste, and abuse requirements found in HHS Circular C-027 (<https://www.hhsc.state.tx.us/news/circulars/C-027.pdf>), in addition to other fraud, waste, and abuse provisions in the State Contract and in state and federal law.

E. Financial Record Retention and Audit

Administrator shall maintain records, books, documents, and information (collectively "records") that are adequate to ensure that services are provided and payments are made in accordance with the requirements of the State Contract, including applicable federal and state requirements (e.g., 45 CFR §74.53). Such records must be retained by Administrator for a period of five (5) years after the Agreement expiration date or until the resolution of all litigation, claim, financial management review or audit pertaining to the Agreement, whichever is longer.

F. Access to Records, Books, and Documents

Upon reasonable notice, Administrator shall provide at no cost to the officials and entities identified herein, prompt, reasonable, and adequate access to any records that are related to the scope of the Agreement. This request may be for, but is not limited to, the following purposes: (1) examination; (2) audit; (3) investigation; (4) contract administration; or (5) the making of copies, excerpts, or transcripts.

Administrator shall further provide access to the following officials and/or entities: (1) the United States Department of Health and Human Services or its designee; (2) the Comptroller General of the United States or its designee; (3) MCO Program personnel from HHSC or its designee; (4) the Office of Inspector General; (5) the Medicaid Fraud Control Unit of the Texas Attorney General's Office or its designee; (6) any independent verification and validation contractor, audit firm, or

quality assurance contractor acting on behalf of HHSC; (7) the Office of the State Auditor of Texas or its designee; (8) a State or Federal law enforcement agency; (9) a special or general investigating committee of the Texas Legislature or its designee; and (10) any other state or federal entity identified by HHSC, or any other entity engaged by HHSC.

Administrator shall provide the access described above wherever Administrator maintains such books, records, and supporting documentation. Administrator shall provide such access in reasonable comfort and to provide any furnishings, equipment, and other conveniences deemed reasonably necessary to fulfill the purposes described in this Section.

Upon request, the Administrator shall provide copies of the information described in this Section free of charge to HMO and/or HHSC and the entities described in this section.

Administrator understands that in accordance with Texas Government Code § 533.012(e), any information submitted to HHSC or the Texas Attorney General's Office pursuant to Texas Government Code § 533.012(a)(1) (Information for Fraud Control) is confidential and is not subject to disclosure under the Texas Public Information Act.

Administrator shall ensure and provide access to HMO, HHSC, and/or its auditors or agents to the detailed records and supporting documentation for all costs billed to or passed to HMO with respect to a Medicaid Program.

G. Audits of Services, Deliverables, and Inspections

Upon reasonable notice from HHSC and/or HMO, Administrator shall provide such auditors and inspectors as HHSC may from time to time designate, with access to: (1) service locations, facilities, or installations; (2) records; and (3) Software and Equipment.

H. State Auditor's Office Audit

Administrator acknowledges that acceptance of funds under the Agreement and the State Contract acts as acceptance of the authority of the State Auditor's Office ("SAO"), or any successor agency, to conduct an investigation in connection with those funds. Administrator further agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested at no cost.

I. Response/Compliance with Audit or Inspection Findings

Administrator shall take action to ensure, and permit HMO to ensure,

Administrator's compliance with or correction of any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the Services and Deliverables or any other deficiency contained in any audit, review, or inspection conducted under this Addendum. Administrator shall bear the expense of compliance with any finding of noncompliance under this Section that is: (1) required by Texas or Federal law, regulation, rule, court order, or other audit requirement relating to Administrator's business; (2) performed by Administrator under the Agreement; or (3) necessary due to Administrator's noncompliance with any law, regulation, rule, court order, or audit requirement imposed on Administrator. Administrator must provide to HMO, which may provide to HHSC, upon request, a copy of those portions of Administrator's internal audit reports relating to the Services and Deliverables provided to HHSC under the Agreement and State Contract.

J. Confidentiality

Administrator shall treat all information that is obtained through performance of Services under the Agreement, including information relating to applicants or recipients of HHSC Programs, as Confidential Information to the extent that confidential treatment is provided under state and federal law, rules, and regulations. Administrator agrees that it is responsible for understanding the degree to which information obtained through performance of this Contract is confidential under State and Federal law, rules, and regulations, or administrative rules. Administrator may not use any information obtained through performance of this Agreement in any manner except as is necessary for the proper discharge of obligations and securing of rights under the Agreement.

Administrator must have a system in effect to protect all records and all other documents deemed confidential under the Agreement that are maintained in connection with the activities funded under the Agreement. Administrator agrees that any disclosure or transfer of Confidential Information by Administrator, including information required by HHSC, will be in accordance with applicable law. If Administrator receives a request for information deemed confidential under the Agreement, Administrator agrees to immediately notify HMO, who will notify HHSC, of such request, and will make reasonable efforts to protect the information from public disclosure.

In addition to the requirements expressly stated in this Section, Administrator must comply with any policy, rule, or reasonable requirement of HHSC that relates to the safeguarding or disclosure of information relating to Members, HMO's operations, or HMO's performance of the Agreement. In the event of the expiration of the Agreement or termination of the Agreement for any reason, all Confidential Information disclosed to and all copies thereof made by Administrator must be returned to HMO, who shall return such information to HHSC or, at HHSC's option, such information shall be erased or destroyed. Administrator must provide

to HMO, that may provide to HHSC, certificates evidencing such destruction. The obligations in this Section do not restrict any disclosure by Administrator pursuant to any applicable law, or by order of any court or government agency, provided that Administrator must give prompt notice to HHSC of such order.

Administrator acknowledges that with the exception of confidential Member information, information provided under the Agreement by one Party (the "Furnishing Party") to another Party (the "Receiving Party") will not be considered Confidential Information if such data was:

1. already known to the Receiving Party without restrictions at the time of its disclosure by the Furnishing Party;
2. independently developed by the Receiving Party without reference to the Furnishing Party's Confidential Information;
3. rightfully obtained by the Receiving Party without restriction from a third party after its disclosure to a third party by the Furnishing Party;
4. publicly available other than through the fault or negligence of the Receiving Party; or
5. lawfully released without restriction to anyone.

K. Disclosure of HHSC's Confidential Information

Administrator shall immediately report to HMO, which will report to HHSC, any and all unauthorized disclosures or uses of HHSC's Confidential Information of which it or its subcontractors, consultants, or agents is aware or has knowledge. Administrator acknowledges that any publication or disclosure of HHSC's Confidential Information to others may cause immediate and irreparable harm to HHSC and may constitute a violation of State or Federal laws. If Administrator should publish or disclose such Confidential Information to others without authorization, Administrator acknowledges that HMO and/or HHSC will immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity. HHSC will have the right to recover from Administrator all damages and liabilities caused by or arising from Administrator's failure to protect HHSC's Confidential Information. Administrator shall defend with counsel approved by HHSC, indemnify and hold harmless HHSC from all damages, costs, liabilities, and expenses caused by or arising from Administrator's failure to protect HHSC's Confidential Information.

L. Information Security

Administrator shall comply with all applicable laws, rules, and regulations regarding information security, including without limitation the following: (1) Health and Human Services Enterprise Information Security Standards and Guidelines; (2) Title 1, Sections 202.1 and 202.3 through 202.28, Texas Administrative Code; (3) the Health Insurance Portability and Accountability Act

of 1996 (“HIPAA”); and (4) the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”).

M. Termination of Agreement by HHSC for Gifts and Gratuities or Criminal Conviction

Administrator acknowledges that HMO and/or HHSC may terminate the Agreement at any time following the determination by a competent judicial or quasi-judicial authority and Administrator’s exhaustion of all legal remedies that Administrator, its employees, agents or representatives have either offered or given anything of value to an officer or employee of HHSC or the State of Texas in violation of state law.

For purposes of this Section, a “thing of value” means any item of tangible or intangible property that has a monetary value of more than \$50.00 and includes, but is not limited to, cash, food, lodging, entertainment, and charitable contributions. The term does not include contributions to holders of public office or candidates for public office that are paid and reported in accordance with state and/or federal law.

Administrator acknowledges that HMO and/or HHSC will have the right to require the replacement of Administrator, if Administrator is convicted of a criminal offense in a state or federal court:

1. related to the delivery of an item or service;
2. related to the neglect or abuse of patients in connection with the delivery of an item or service;
3. consisting of a felony related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct, or
4. resulting in a penalty or fine in the amount of \$500,000 or more in a state or federal administrative proceeding.

N. Organizational Conflict of Interest

For purposes of this Section, an organizational conflict of interest is a set of facts or circumstances, a relationship, or other situation under which Administrator has past, present, or currently planned personal or financial activities or interests that either directly or indirectly:

1. impairs or diminishes Administrator’s ability to render impartial or objective assistance or advice to HMO and/or HHSC; or
2. provides Administrator an unfair competitive advantage in future HHSC procurements.

Except as otherwise disclosed to and approved by HHSC prior to the Effective Date

of the Agreement, Administrator warrants that, as of the Effective Date and to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to an organizational conflict of interest affecting the Agreement. Administrator affirms that it has neither given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, at any time during the procurement process or in connection with the procurement process except as allowed under relevant State and Federal law.

If after the Effective Date, Administrator discovers or is made aware of an organizational conflict of interest, Administrator shall immediately and fully disclose such interest in writing to the HMO, who shall disclose to the HHSC Project Manager. In addition, Administrator shall promptly disclose any relationship that might be perceived or represented as a conflict after its discovery by Administrator, HMO, or by HHSC as a potential conflict. Administrator acknowledges that HHSC reserves the right to make a final determination regarding the existence of conflicts of interest, and Administrator shall abide by HHSC's decision. The disclosure shall include a description of the actions that Administrator has taken or proposes to take to avoid or mitigate such conflicts.

Administrator acknowledges that, if HHSC determines that an organizational conflict of interest exists, HHSC or HMO may, at its discretion, terminate the Agreement pursuant to State Contract Subsection 12.03(b)(9). If HHSC determines that Administrator was aware of an organizational conflict of interest before the award of the Agreement and did not disclose the conflict to the contracting officer, such nondisclosure will be considered a material breach of the State Contract. Furthermore, Administrator understands that such breach may be submitted to the Office of the Attorney General, Texas Ethics Commission, or appropriate State or Federal law enforcement officials for further action.

O. Requirements for STAR Subcontractors

In accordance with Section 1902(a)(68) of the Social Security Act, STAR subcontractors, which includes Administrator, that receive or make annual Medicaid payments of at least \$5 million shall:

1. establish written policies for all employees, managers, officers, contractors, subcontractors, and agents of Administrator. The policies must provide detailed information about the False Claims Act, administrative remedies for false claims and statements, any state laws about civil or criminal penalties for false claims, and whistleblower protections under such laws, as described in Section 1902(a)(68)(A).
2. include as part of such written policies detailed provisions regarding Administrator's policies and procedures for detecting and preventing fraud,

- waste, and abuse.
3. include in any employee handbook a specific discussion of the laws described in Section 1902(a)(68)(A), the rights of employees to be protected as whistleblowers, and Administrator's policies and procedures for detecting and preventing fraud, waste, and abuse.

P. General Reporting Requirements

Administrator must provide at no cost to HMO and/or HHSC:

1. all information required under the State Contract, including but not limited to, the reporting requirements or other information related to the performance of its responsibilities hereunder as reasonably requested by HHSC; and
2. any information in its possession sufficient to permit HHSC to comply with the Federal Balanced Budget Act of 1997 or other Federal or State laws, rules, and regulations.

Q. Family Planning Confidentiality

Administrator shall have mechanisms in place to ensure Member's (including minor's) confidentiality for family planning services.

R. Advance Directives

Administrator shall comply with the requirements of State and Federal law relating to advance directives. Administrator must provide education and training to employees and Members on issues concerning advance directives.

ATTACHMENT E
PRIVACY ADDENDUM

BUSINESS ASSOCIATE ADDENDUM

This **Business Associate Addendum** (“BAA”) is entered into by and between **Community Health Choice Texas, Inc.** (hereinafter referred to as “Company”), and **Community Health Choice, Inc.**, a licensed non-profit health maintenance organization, under the laws of the State of Texas (hereinafter referred to as “Community”).

RECITALS

The purpose of this BAA is to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended (“HIPAA”); privacy and security regulations promulgated by the United States Department of Health and Human Services (“DHHS”); Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended (“HITECH Act”); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended; and TEX. HEALTH & SAFETY CODE ANN. §§ 81.046, as amended, 181.001 *et seq.*, as amended, 241.151 *et seq.*, as amended, and 611.001 *et seq.*, as amended (collectively referred to herein as the “Privacy and Security Requirements”).

TERMS

COMPANY’S RESPONSIBILITIES REGARDING USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION (“PHI”) AND ELECTRONIC PROTECTED HEALTH INFORMATION (“E PHI”)

A. Definitions.

1. Confidential Information is information that has been deemed or designated confidential by law (*i.e.*, constitutional, statutory, regulatory, or by judicial decision).
2. Protected Health Information (“PHI”) is defined in 45 C.F.R. § 160.103 and is limited to information created or received by Company from or on behalf of Community.
3. Electronic Protected Health Information (“E PHI”) shall mean individually identifiable health information that is transmitted by or maintained in electronic media.
4. Security Incident shall mean the unauthorized access, use, disclosure, modification, or destruction of Confidential Information, including, but not limited to, PHI and E PHI, or interference with the systems operations in an information system,

including, but not limited to, information systems containing EPHI. This definition includes, but is not limited to, lost or stolen transportable media devices (*e.g.*, flash drives, CDs, PDAs, cell phones, and cameras), desktop and laptop computers, photographs, and paper files containing Confidential Information, including, but not limited to, PHI and EPHI.

B. General.

1. Company agrees to hold all PHI and EPHI confidential except to the extent that disclosure is required by Federal or State law, including the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended.
2. Company agrees to be bound by and comply with all applicable Federal and State of Texas licensing authorities' laws, rules, and regulations regarding records and governmental records, including the Privacy and Security Requirements. Compliance with this paragraph is at Company's own expense.
3. Company agrees to cooperate with state and federal agencies and to make appropriate personnel available for interviews, consultation, grand jury proceedings, pre-trial conferences, hearings, trials, and any other process, including investigations, required as a result of Company's services to Community. Compliance with this paragraph is at Company's own expense.
4. The terms used in this BAA shall have the same meaning as those terms in the Privacy and Security Requirements.

C. Representation. Company represents that it is familiar with and is in compliance with the Privacy and Security Requirements, which include Federal and State of Texas requirements governing information relating to HIV/AIDS, mental health, and drugs or alcohol treatment or referral.

D. Business Associate. Company is a "Business Associate" of Community as that term is defined under the Privacy and Security Requirements.

1. *Nondisclosure of PHI.* Company agrees not to use or disclose PHI received from or on behalf of Community or created, compiled, or used by Company other than as permitted or required by this BAA, or as otherwise required by law. Company may, if necessary, use or disclose PHI it receives from Community in Company's capacity as a business associate of Community (A) for the proper management and administration of Company or (B) to carry out the legal responsibilities of Company (1) if the disclosure is required by law or (2) if Company obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person and the person notifies Company of any instances of which it is aware in which the confidentiality of the information

has been breached.

2. *Limitation on Further Use or Disclosure.* Company agrees not to further use or disclose PHI or EPHI received from or on behalf of Community or created, compiled, or used by Company pursuant to this BAA in a manner that would be prohibited by the Privacy and Security Requirements if disclosure was made by Community, or if either Company or Community is otherwise prohibited from making such disclosure by any present or future State or Federal law, regulation, or rule.
3. *Safeguarding PHI.* Company agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this BAA or as required by State or Federal law, regulation, or rule.
4. *Safeguarding EPHI.* Company agrees to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains, or transmits on behalf of Community and to comply with Subpart C of 45 C.F.R. Part 164. Specifically, Company agrees to comply with the requirements of 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 to the same extent such requirements apply to Community. In addition, Company agrees to encrypt portable media devices (e.g., flash drives, CDs, PDAs, cell phones, and cameras), desktop, and laptop computers that contain, or are used to store or transmit, Community PHI and/or EPHI. These safeguards shall include, but not be limited to, the following:
 - a) Encryption of EPHI that Company stores and transmits;
 - b) Implementation of strong access controls, including physical locks, firewalls, and strong passwords;
 - c) Use of updated antivirus software;
 - d) Adoption of contingency planning policies and procedures, including data backup and disaster recovery plans; and
 - e) Conduct periodic security training.
5. *Reporting Security Incidents.* Company agrees to report to Community any Security Incident **immediately** upon becoming aware of such. Company further agrees to provide Community with the following information regarding the Security Incident as soon as possible, but no more than five (5) business days after becoming aware of the Security Incident: (1) a brief description of what happened, including the dates the Security Incident occurred and was discovered; (2) a reproduction of the PHI or EPHI involved in the Security Incident; and (3) a

description of whether and how the PHI or EPHI involved in the Security Incident was rendered unusable, unreadable, or indecipherable to unauthorized individuals either by encryption or otherwise destroying the PHI or EPHI prior to disposal. If Company determines that it is infeasible to reproduce the PHI or EPHI involved in the Security Incident, Company agrees to notify Community in writing of the conditions that make reproduction infeasible and any information Company has regarding the PHI or EPHI involved.

Company agrees to cooperate in a timely fashion with Community regarding all Security Incidents reported to Community.

Company agrees that Community will review all Security Incidents reported by Company and Community, in its sole discretion, will take steps in response, to the extent necessary or required by law including, but not limited to, (1) notifying the individual(s) whose PHI or EPHI was involved in the Security Incident, either in writing, via telephone, through the media, or by posting a notice on Community's website, or through a combination of those methods, of the Security Incident; (2) providing the individual(s) whose PHI or EPHI was involved in the Security Incident with credit monitoring and related services for a period of time to be determined by Community, at no cost to the individual(s); and (3) providing notice of the Security Incident, as required by law, to the Secretary of the United States Department of Health and Human Services ("HHS").

Company agrees to reimburse Community for all expenses incurred as a result of Company's Security Incidents, including, but not limited to, expenses related to the activities described above. Company agrees that Community will select the vendors and negotiate the contracts related to said expenses.

6. *EPHI and Subcontractors.* Company shall require any agent to whom it provides PHI or EPHI, including a subcontractor, to agree to implement reasonable and appropriate safeguards to protect such PHI or EPHI and comply with Subpart C of 45 C.F.R. Part 164.
7. *Subcontractors and Agents.* Company shall require any subcontractor or agent that creates, receives, maintains, or transmits PHI or EPHI on behalf of Company pursuant to this BAA, agree to the same restrictions and conditions that apply to Company with respect to such PHI and EPHI. Company agrees to terminate its agreement with its agent(s) or subcontractor(s), if (a) Company becomes aware of a pattern of activity or practice of its agent(s) or subcontractor(s) that constitute a material breach or violation of the agent or subcontractor's obligation under the agreement or other arrangement with Company or (b) agent(s) or subcontractor(s) takes steps to cure the breach or end the violation and such steps are unsuccessful.
8. *Subcontractors and Agents Located Outside U.S.* Company agrees not to provide PHI or EPHI to any subcontractor or agent located outside of the United States.

Company understands and agrees that a breach of this provision shall be a material breach of this BAA. Company understands and agrees that Company remains ultimately responsible for any breaches of PHI or EPHI in violation of this provision and the Privacy and Security Requirements by such subcontractor(s) or agent(s).

9. *Reciprocal Disclosures.* The Parties agree that the Parties may reciprocally disclose and use PHI or EPHI for initial and continuing eligibility and compliance determinations related to the provision of benefits, for auditing and legal compliance purposes, and for compliance with laws, regulations, and rules related to the provision of medical or drug benefits to persons who may be eligible for such benefits under the Medicare Prescription Drug Benefit Program, Part D, or other federal or State of Texas programs. Community agrees:
 - a) to be bound by these provisions with regard to PHI or EPHI received from Company;
 - b) to restrict access to such PHI or EPHI to Community's Chief Financial Officer, Community's Controller, Community's Compliance Officer, the Harris County Attorney's Office, and designated employees of Community's Benefits Department for legal and auditing services; and
 - c) to take disciplinary action against any employee whose willful act violates these provisions and results in an unlawful disclosure of PHI or EPHI.
10. *Mitigation.* Company agrees to mitigate, to the extent practicable, any harmful effect that is known to Company of a use or disclosure of PHI or EPHI by Company, or by a subcontractor or agent of Company, resulting from a violation of this BAA, including violations of the Privacy and Security Requirements stated herein. Company also agrees to inform Community in advance of its actual mitigation and of the details of its mitigation plan, unless doing so would cause additional harm.
11. *Notice – Access by Individual.* Company agrees to notify Community in writing within three (3) business days of any request by an individual for access to the individual's PHI or EPHI and, upon receipt of such request, direct the individual to contact Community to obtain access to the individual's PHI. Upon request by Community and within three (3) business days of the request, Company agrees to make available PHI and EPHI to Community in accordance with 45 C.F.R. § 164.524.
12. *Notice – Request for Amendment.* Company agrees to notify Community in writing within three (3) business days of any request by an individual for an amendment to the individual's PHI or EPHI and, upon receipt of such request from the individual, direct the individual to Community to request an amendment of the individual's PHI or EPHI. Company agrees to make available upon request PHI and EPHI for

amendment and to incorporate any amendments to PHI and EPHI agreed to in accordance with 45 C.F.R. § 164.526 within three (3) business days of receipt of the notice to incorporate the amendment(s).

13. *Notice – Request for Accounting.* Upon receipt of any request from an individual for an accounting of disclosures made of the individual’s PHI or EPHI, Company agrees to notify Community in writing within three (3) business days of any such request, and upon receipt of such request from the individual, direct the individual to Community for an accounting of the disclosures of the individual’s PHI or EPHI. Company agrees to make available to Community upon request, within three (3) business days of the request, the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528. Pursuant to 45 C.F.R. § 164.528(a), an individual has a right to receive an accounting of certain disclosures of PHI or EPHI in the six (6) years prior to the date on which the accounting is requested.
14. *HHS Inspection.* Upon written request, Company agrees to make available to HHS or its designee, Company’s internal practices, books, and records relating to the use and disclosure of PHI and EPHI received from, or created or received on behalf of, Community in a time or manner designated by HHS for purposes of HHS determining Community’s compliance with the Privacy and Security Requirements.
15. *Community Inspection.* Upon written request, Company agrees to make available to Community and its duly authorized representatives during normal business hours Company's internal practices, books, records and documents relating to the use and disclosure of confidential information, including, but not limited to, PHI and EPHI received from, or created or received on behalf of, Community in a time and manner designated by Community for the purposes of Community determining compliance with the Privacy and Security Requirements. Company agrees to allow such access until the expiration of four (4) years after the services are furnished under the contract or subcontract or until the completion of any audit or audit period, whichever is later. Company agrees to allow similar access to books, records, and documents related to contracts between Company and organizations related to or subcontracted by Company to whom Company provides confidential information, including, but not limited to, PHI and EPHI received from, or created or received on behalf of, Community.
16. *PHI or EPHI Amendment.* Within three (3) business days of receipt of notification, Company agrees to incorporate any amendments, corrections, or additions to the PHI or EPHI received from or created, compiled, or used by Community pursuant to this BAA when notified by Community that the PHI or EPHI is inaccurate or incomplete, or that other documents are to be added as required or allowed by the Privacy and Security Requirements.

17. *Documentation of Disclosures.* Company agrees to document disclosure of PHI or EPHI and information related to such disclosures as is necessary for Community to respond to a request by an individual for an accounting of disclosures of PHI or EPHI in accordance with 45 C.F.R. § 164.528, as amended.
 18. *Termination Procedures.* Upon termination of this BAA for any reason, Company agrees to deliver all PHI or EPHI received from Community or created, compiled, or used by Company pursuant to this BAA within thirty (30) days from the date of termination, or, if specially requested to do so by Community in writing, to destroy all PHI or EPHI and retain no copies and certify to Community in writing that all PHI and EPHI not returned has been destroyed, within the time frame determined by Community, which will be no less than thirty (30) days from the date of the notice of termination. This provision applies when Company maintains PHI or EPHI from Community in any form. If Company determines that transferring or destroying the PHI or EPHI is infeasible, Company agrees:
 - a) to notify Community of the conditions that make transfer or destruction infeasible;
 - b) to extend the protections of this BAA to such PHI or EPHI;
 - c) to limit any further uses and disclosures of such PHI or EPHI to those purposes that make the return, or transfer to Community, or destruction infeasible; and
 - d) to return or, if requested by Community, to destroy the PHI or EPHI retained by Company when it becomes feasible.
 19. *Notice-Termination.* Upon written notice to Company, Community may terminate any portion of any agreement under which Company maintains, compiles, or has access to PHI or EPHI. Additionally, upon written notice to Company, Community may terminate any or all agreements in their entirety if Community determines, at its sole discretion, that Company has repeatedly violated a Privacy or Security Requirement.
 20. *Obligations of Community.* To the extent Community requests in writing that Company carry out one or more of Community's obligations under Subpart E of 45 C.F.R. Part 164, Company agrees to comply with the requirements of Subpart E that apply to Community in the performance of such obligation.
- E. Survival of Privacy Provisions. Company's obligations with regard to PHI and EPHI shall survive termination of this BAA and any agreements by and between Company and Community.
- F. Amendment Related to Privacy and Security Requirements. The Parties agree to take such

action as is necessary to amend this BAA if Community, in its reasonable discretion, determines that amendment is necessary for Community to comply with the Privacy and Security Requirements or any other law or regulation affecting the use or disclosure of PHI or EPHI. Any ambiguity in this BAA shall be resolved to permit Community to comply with the Privacy and Security Requirements.

G. INDEMNIFICATION. Company AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS, TO THE EXTENT ALLOWED BY LAW, COMMUNITY AND ITS BOARD OF MANAGERS, OFFICERS, EMPLOYEES, AND AGENTS (INDIVIDUALLY AND COLLECTIVELY “INDEMNITEES”) AGAINST ANY AND ALL LOSSES, LIABILITIES, JUDGMENTS, GOVERNMENTAL FINES AND PENALTIES, AWARDS, AND COSTS (INCLUDING COSTS OF INVESTIGATIONS, LEGAL FEES, AND EXPENSES) ARISING OUT OF OR RELATED TO:

- 1. A BREACH OF THIS BAA RELATING TO THE PRIVACY AND SECURITY REQUIREMENTS BY COMPANY; OR**
- 2. ANY NEGLIGENT OR WRONGFUL ACTS OR OMISSIONS OF COMPANY OR ITS EMPLOYEES, DIRECTORS, OFFICERS, SUBCONTRACTORS, OR AGENTS, RELATING TO THE PRIVACY AND SECURITY REQUIREMENTS, INCLUDING FAILURE TO PERFORM THEIR OBLIGATIONS UNDER THE PRIVACY AND SECURITY REQUIREMENTS.**

H. Electronic Mail Addresses. Company affirmatively consents to the disclosure of its e-mail addresses that are provided to Community, including any agency or department of Community. This consent is intended to comply with the requirements of the Texas Public Information Act, TEX. GOV'T CODE ANN. § 552.137 *et seq.*, as amended, and shall survive termination of this BAA. This consent shall apply to e-mail addresses provided by Company and agents acting on behalf of Company and shall apply to any e-mail address provided in any form for any reason whether related to this BAA or otherwise.

I. Notices. Any notice required to be given pursuant to the terms and provisions of this BAA will be in writing and deemed to be given: (a) upon delivery in person, (b) three (3) days after the date deposited with or sent by U.S. Mail (first class, postage paid, return receipt requested), or (c) upon receipt by commercial delivery service, and addressed as follows, or to such address as Community may subsequently designate to Company in writing:

Community Health Choice, Inc.
Attn: Compliance
2636 South Loop West, Suite 900
Houston, TX 77054

- J. Except as otherwise limited in this BAA, Company may use or disclose Protected Health Information it creates or receives from or on behalf of Community to provide the services to or on behalf of Community set out in any agreement to which this BAA is attached.
- K. This BAA is effective on the later date it is signed by the Parties and expires six (6) years after its termination or for as long as Company has access to PHI or EPHI and survives the termination of any agreement by and between Company and Community.

Executed in multiple originals, each of equal force, by duly authorized representatives of the Community and Company.

Community Health Choice, Inc.

Community Health Choice Texas, Inc.

By: 
Kenneth Janda, President/CEO

Date: 2/27/2017

By: 
Kenneth Janda, President/CEO

Date: 2/27/2017

*Community Health Choice, Inc. and Community Health Choice Texas, Inc. Board of Directors approved 11/21/2016.
Harris Health System Board of Trustees approved 12/1/2016*

NOVATION AGREEMENT

Community Health Choice, Inc., ("Community") a Texas nonprofit corporation with its principal place of business at 2636 South Loop West, Suite 125, Houston, Texas 77054, and Community Health Choice Texas, Inc. ("Community Texas") a Texas nonprofit corporation with its principal place of business at 2636 South Loop West, Suite 125, Houston, Texas 77054, and the Health and Human Services Commission, ("HHSC") an administrative agency within the executive department of the State of Texas, having its principal office at 4900 North Lamar Boulevard, Austin, Texas 78751 enter into this Novation Agreement. ("Novation").

I. BACKGROUND

- a. HHSC and Community entered into HHSC Contract No. 529-12-0002-00003 ("Texas State Contract") for the provision of managed Medicaid and CHIP services.
- b. On **March 1, 2017**, Community and Community Texas entered an Assignment and Assumption Agreement ("Agreement"), wherein Community assigned to Community Texas all its rights, title, and interest in and to the Assets, as defined in the Agreement, and Community Texas assumed all of Community's duties and obligations and Liabilities, as defined in the Agreement, in, to, and under the Texas State Contract.
- c. Community Texas is in a position to fully perform all obligations as they may exist under the Contract.
- d. It is consistent with HHSC 's interests in the delivery of Medicaid and CHIP services to recognize Community Texas as the successor party to the Contract.
- e. HHSC has consented to the Agreement.

II. PARTIES AGREEMENT

- a. Community confirms the transfer to Community Texas, and waives any claims and rights against HHSC that it now or may have in the future in connection with the Texas State Contract.
- b. Community Texas agrees to be bound by and to perform the Texas State Contract in accordance with the Texas State Contract terms. Community Texas assumes all obligations and liabilities of, and all claims against, Community under the Texas State Contract as if Community Texas was the original party to the Contract.

- c. HHSC recognizes Community Texas as Community's successor in the interest in and to the Texas State Contract. Community Texas by the Agreement becomes entitled to all rights, titles, and interest of Community in and to the Texas State Contract as if Community Texas was the original party to the Texas State Contract (including any rights of Community against HHSC accruing prior to the assignment to Community Texas).
- d. Nothing in this Novation shall be construed as a waiver for rights that HHSC has against Community.
- e. HHSC must not be charged for any costs incurred by either Community or Community Texas in connection with the transition.
- f. Except as otherwise provided in this Novation, all terms and conditions of the Texas State Contract, including payment provisions, remain in effect. To the extent that payments under the Texas State Contract due to Community Texas are inadvertently made to Community, Community Texas will look solely to Community for payment.
- g. This Novation will be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit brought under this Novation is any court of competent jurisdiction in Travis County, Texas.
- h. This Novation is effective on the date HHSC signs after both Community and Community Texas have signed but no earlier than the "Effective Date" of the Agreement.

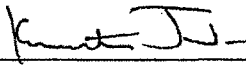
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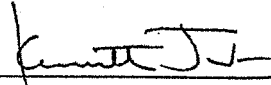
III. SIGNATORIES

The parties execute this Novation in their stated capacities with authority to bind their organizations on the date noted.


Community Health Choice, Inc.

Community Health Choice Texas, Inc.

By: 
Kenneth Janda, President/CEO
Date: 2/27/2017

By: 
Kenneth Janda, President/CEO
Date: 2/27/2017

Texas Health and Human Services Commission


Cecile Young
Chief Deputy Executive Commissioner
Date: 3/27/17