

Notice & Agenda

Swift County Board of Commissioners

Thursday, March 27, 2014

9:30 AM

Swift County Board Room – 301 14th St N, Benson, MN

If you need any type of accommodation to participate in this meeting, please contact the County Administrator at 320-314-8399 at least 48 hours prior to the meeting. Times are only estimates and items may be taken out of order.

<u>Time</u>	<u>Reference</u>	<u>Item</u>
9:30 a.m.		Call to Order and Roll Call
9:30 a.m.		Approve Agenda
9:31 a.m.		Consent Agenda
	1-30	(1) Consider approving a Access and Administration Agreements & Business Associates agreement with PreferredOne Administrative Services.
9:32 a.m.		Citizens Comments
		Other Business
9:33 p.m.		Adjournment

Reminder:

**The JD 5/CD 24 meeting will be held at 10:00 AM
in the LEC conference room after this special meeting.**



Request for Board Action

BOARD MEETING DATE:
March 27, 2014

Commissioner's Report

Department Information

ORIGINATING DEPARTMENT: Administration	REQUESTOR: Mike Pogge-Weaver	REQUESTOR PHONE: 320-314-8399
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Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider approving a Access and Administration Agreements & Business Associates agreement with PreferredOne Administrative Services.	
AGENDA YOU ARE REQUESTING TIME ON: Consent Agenda	ARE YOU SEEKING APPROVAL OF A CONTRACT? Yes - Three
IS THIS MANDATED? No	EXPLANATION OF MANDATE:
BACKGROUND/JUSTIFICATION: PreferredOne Administrative Services (the County's employee health insurance carrier) requires us to sign certain agreements. The first two are Access and Administration Agreements in order to access PreferredOne's provider network. The second a Business Associate Agreement concerning the use and disclosure of Protected Health Information ("PHI") by PreferredOne. These agreements are required as part of our association with PreferredOne.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED? None	

Budget Information

FUNDING: n/a

Review/Recommendation

COUNTY ATTORNEY: Robin Finke	COUNTY ADMINISTRATOR: Mike Pogge-Weaver
RECOMMENDATIONS: Will review prior to final execution	RECOMMENDATIONS: Approve
COMMENTS: n/a	COMMENTS: None

**AMENDMENT TO THE
HEALTH SERVICES NETWORK ACCESS AND ADMINISTRATION AGREEMENT
FOR
SWIFT COUNTY**

This Amendment to the Health Services Network Access and Administration Agreement (“Agreement”) which was effective January 1, 2014, is entered into by Swift County (“Employer”) for itself and its self-insured medical plan (“Plan”), and PreferredOne Administrative Services, Inc., as the third party administrator of the Plan (“PreferredOne”), for the purpose of establishing the Plan Sponsor’s and the Plan’s entitlement to access to discounted rates for transplant services through PreferredOne’s Payer Access Agreement with OptumHealth Care Solutions, Inc. (“OptumHealth”). This Amendment is effective as of January 1, 2014.

1. Article III., Paragraph F. Article III., paragraph F. “Payments for Eligible Services,” is amended to add the following new subparagraph:

6. OptumHealth Transplant Network Providers. PreferredOne has negotiated and entered into a Payer Access Agreement dated August 13, 2012 (“Access Agreement”) with OptumHealth Care Solutions, Inc. (“OptumHealth”), through which Employer has access to discounted rates for transplant services that are received from OptumHealth’s network of transplant providers. In exchange for access to such discounted rates, the Access Agreement requires that Employer pay in accordance with section 4 of the Access Agreement, the Provider claims for Covered Services (as Covered Services are defined in the plan document for the Plan) rendered to the Plan’s Covered Persons. Employer acknowledges and agrees that it has received a copy of the Access Agreement, and further acknowledges and agrees to pay, in accordance with the terms of section 4 of the Access Agreement and with OptumHealth’s contracts with such network providers, any Provider claims for Covered Services (as Covered Services are defined in the plan document for the Plan) rendered to the Plan’s Covered Persons. Employer further agrees that PreferredOne may provide a copy of this Amendment to OptumHealth if so requested by OptumHealth.

2. Article III., Paragraph G. Article III., paragraph G. “Payment of Administrative Service Fees and Other Expenses,” is deleted in its entirety and replaced with the following:

G.1. Payment of Administrative Service Fees and Other Expenses. In consideration of PreferredOne’s performance of the services described in this Agreement, the Plan or the Employer shall pay to PreferredOne the Administrative Service fees and other expenses as described in Exhibit C and any additional fees or charges mutually agreed to by Employer and PreferredOne. PreferredOne may make adjustments to Administrative Service fees and other expenses upon each effective date anniversary or any amendment of this Agreement. If, at any effective date anniversary of this Agreement, Employer elects not to renew all PreferredOne services, including any health plan contract issued by a PreferredOne affiliate, provided during the immediately preceding term of this Agreement, PreferredOne may make adjustments to Administrative Service fees and other expenses. PreferredOne will give Employer thirty (30) calendar days written notice of any Administrative Services fee and other expense adjustments. All such fees and other expenses are due and payable immediately following receipt of invoice. Any failure to remit any such fees and other expenses within thirty (30) calendar days may, at PreferredOne’s option, result in the imposition of interest charges on the due and owing funds calculated on a daily basis at a rate equal to an annual rate of three (3) percentage points over the 3-month London Interbank Offered Rate (LIBOR) as of the date on which the fees and expenses are due. Employer hereby agrees to the imposition of such finance charges and agrees to pay the same when imposed. Employer agrees and warrants that any excess risk insurance policy maintained by the Employer shall be paid for solely out of its general assets and not with contributions collected from Plan Participants.

2. Payment of Transplant Network Access Fees. In exchange for access to discounted rates under the Access Agreement, the Access Agreement requires that Employer, as a “Payer” under the Access Agreement, agree to, each time that OptumHealth’s network is accessed, pay the access or “Service Fees” to OptumHealth for the applicable transplant that are set forth in Schedule A to the Access Agreement, and to make such payment in accordance with sections 2 and 5 of the Access Agreement. Such Service Fees are incorporated by reference into the Agreement as set forth in Exhibit C to this Amendment. Employer acknowledges and agrees to pay such access or Service Fees to OptumHealth in accordance with sections 2 and 5 of the Access Agreement.

3. **Exhibit C.** Exhibit C to the Agreement is amended by the addition of the following at the end of the list of fees in Exhibit C:

Transplant Network Access Fees:	The Service Fees set forth in Schedule A to the Payer Access Agreement effective August 13, 2012, between OptumHealth Care Solutions, Inc. and PreferredOne Administrative Services, Inc., as they may be amended from time to time.
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This Amendment does not change, alter or amend any of the other provisions or limitations of the Agreement.

The Amendment is agreed to and accepted by:

**Swift County, as Employer, Plan Sponsor
and Plan Administrator**

**PreferredOne Administrative Services, Inc.,
as Third Party Administrator**

Company Representative

Company Representative

Title

Title

Date

Date

**HEALTH SERVICES NETWORK
ACCESS AND ADMINISTRATION AGREEMENT (“Agreement”)
between
PreferredOne Administrative Services, Inc. (“PreferredOne”)
and
Swift County (“Employer”)
Effective date: January 1, 2014**

WHEREAS, the Employer has established certain employee benefit plans or programs described in Exhibit A-1 of this Agreement for the benefit of the classes of persons set forth in this Exhibit, and

WHEREAS, the employee benefit plan described in Exhibit A-1 is a self-insured employee welfare benefit plan which is not subject to and otherwise exempt from complying with, the requirements under the Employee Retirement Income Security Act of 1974 or ERISA (“Plan”), and

WHEREAS, PreferredOne and/or its affiliates have entered into agreements with certain professional providers of health services including, but not limited to, physicians, nurses, technicians, facilities and other health care providers, which are listed in Exhibit B (“Network”), and

WHEREAS, the Employer desires PreferredOne to facilitate access by the participants under the Plan to this Network as well as to the services, procedures, facilities and experience of the Participating Providers, and

WHEREAS, the Employer desires PreferredOne to provide, and PreferredOne is willing to provide, certain Administrative Services with respect to the Plan as set forth in this Agreement.

NOW, THEREFORE, the Employer and PreferredOne agree as follows:

I. Definitions

The following Definitions shall apply to this Agreement:

- A. Administrative Services - means those services to be performed by PreferredOne as set forth in this Agreement.
- B. Agreement - means this Agreement and any exhibits and addenda attached hereto, as amended from time to time.
- C. COBRA - means section 4980B of the Internal Revenue Code and, as applicable, sections 2201 to 2208 of the Public Health Services Act, as amended (PHSA), and applicable state laws regarding continuation coverage.
- D. ERISA - means the Employee Retirement Income Security Act of 1974 and regulations thereunder, as amended from time to time.
- E. Eligible Services - means the medical services or supplies which are eligible for payment under the terms and conditions of the Plan and/or this Agreement.
- F. HIPAA - means the Health Insurance Portability and Accountability Act of 1996 and regulations thereunder, as amended from time to time.

- G. Internal Revenue Code or Code - means the Internal Revenue Code of 1986 and regulations thereunder, as amended from time to time.
- H. Participant - means an employee of the Employer, their spouse and children, and other persons, who are eligible and have elected coverage or benefits under the Plan, and any person covered under the Plan pursuant to COBRA.
- I. Named Fiduciary, Plan Sponsor and Plan Administrator - shall mean the persons, entities or committees as identified in the applicable summary plan description, benefit contract or benefit description for the Plan. If the applicable summary plan description, benefit contract or benefit description for the Plan does not expressly name or identify the person, position or entity responsible as the Plan Administrator, Plan Sponsor and/or Named Fiduciary for such Plan, then the Employer shall be deemed the Plan Administrator, Plan Sponsor and/or Named Fiduciary, respectively, of such Plan for purposes of this Agreement. PreferredOne is not a Named Fiduciary, Plan Sponsor or Plan Administrator of the Plan.
- J. Non-Participating Provider(s) - means a provider who is not a Participating Provider.
- K. Participating Provider(s) - means a provider that PreferredOne has contracted with or made arrangement with to provide Participants with access to eligible health services from such provider.
- L. Plan Document - shall have the meaning ascribed to such terms by the applicable Summary Plan Description(s) attached to this Agreement as part of Exhibit A-1.
- M. Summary Plan Description or SPD - means the written document(s), attached to this Agreement as part of Exhibit A-1 and included as part of the Plan.

II. Duties of PreferredOne

- A. Provider Network. PreferredOne and/or its affiliates have established and maintain a Network of Participating Providers which shall provide Participants access to providers in the relevant medical specialties and in the geographic areas described in the provider directory(ies) applicable to Plan Participants, as amended from time to time and available on the PreferredOne website listed in Exhibit B. PreferredOne and/or its affiliate's provider network obligations shall include the following general functions: annual provider contracting, including any necessary modifications to reflect changes agreed upon by Employer and PreferredOne; fee schedule management and negotiations; development and selection of Centers of Excellence for specified high-cost or technology-intensive procedures as agreed upon by Employer and PreferredOne; initial training and orientation of clinic staff on Employer-specific administrative procedures; and routine provider relations.
- B. Claims Administration. PreferredOne shall process claims for benefits and related expenses, or arrange for such processing, under the Plan on behalf of Employer consistent with the provisions of the "Duties of Employer, Claims Determinations" section herein and the terms and conditions of any Participating Provider contracts. PreferredOne shall administer the Plan in accordance with the terms of the Plan and the administrative standards, practices, and procedures as established under the PreferredOne operating system. PreferredOne shall also provide claims forms for the submission of

claims by Participants for medical treatment received from Non-Participating Providers. PreferredOne shall inform Participants of initial determinations as to the eligibility of a claim for benefits under the Plan. The initial determinations shall be in accordance with the written terms and conditions of the Plan and this Agreement. PreferredOne shall notify any Participant whose claim for benefits is denied of the reasons for the denial and of the Participant's right to have the denial reviewed in accordance with the terms and provisions of the Plan. The notification and review will be in a manner agreed upon by Employer and PreferredOne. PreferredOne will refer to Employer any claim or class of claims specified by Employer as well as any disputed claim. Employer shall have final discretionary authority to make eligibility and coverage determinations, including, but not limited to, review and determination of internal appeals, under the Plan. To the extent that current or former Participants request external review by an independent review organization under the terms of the Plan or as required by law, Employer acknowledges and agrees that PreferredOne shall refer such request to the independent review organization(s) that is under contract with the State of Minnesota's Department of Commerce for external review. Employer agrees to reimburse PreferredOne for any and all fees charged by the State, Department of Commerce, and their review organization(s) for such external reviews. PreferredOne will consult with and seek direction from Employer regarding the extent of which decisions of the independent review organizations are binding on Employer. Employer authorizes PreferredOne to collect external review organization fees from Employer as part of its monthly administrative service fees billing. Employer acknowledges that any excess risk insurance maintained by Employer may limit coverage to claims that the insurer determines are eligible and paid under the written terms and conditions of the excess risk insurance policy, which determinations may be different than Employer's determinations under the Plan and decisions of independent review organizations. At the request and on behalf of Employer, PreferredOne shall collect fees related to Employer's participation in wellness, fitness, prevention and incentive programs offered by PreferredOne's designated subcontractors and remit amounts to such subcontractors based on enrollee information provided by Employer or the designated subcontractor.

- C. Participant Enrollment. In connection with the processing of claims for benefits under the Plan, PreferredOne shall determine if a Participant is enrolled under the Plan based on information provided by the Employer. PreferredOne may rely on the participant eligibility and enrollment information submitted by Employer. PreferredOne shall assist Employer in enrolling Participants in the Plan by providing or arranging for the printing and distribution of standard enrollment information to Participants including enrollment forms, network access instructions and provider selection information.

PreferredOne will not verify or re-verify whether covered dependent children age 19 through 25 are eligible for coverage under another (non-parent's) group health plan and thus may be ineligible or cease to be eligible for coverage under the Plan.

- D. Account Servicing and Employee Communication. On behalf of Employer, PreferredOne shall provide Employer with account management with respect to the Plan, including an assigned account representative, assistance with all reasonably required enrollment activities including open enrollment meetings, staff support for all employee transactions required for new and terminating employees, and responses to questions from Employer's Human Resources staff. PreferredOne shall, on behalf of Employer, provide general Administrative Services to assist Participants with the use of the Plan,

and answer routine questions from Participants concerning claims status, complaint administration, access to Participating Providers, and other related functions.

- E. Cost Projections. PreferredOne shall provide Employer with information relating to Plan design and development, underwriting services, estimates of initial plan costs, cost projections of any proposed revisions to the Plan, estimates of incurred but not reported claims (IBNR), reserve requirements and estimates of annual funding requirements based on historical Plan information in PreferredOne's possession. Employer acknowledges that any of its employees applying for coverage for himself or herself or their dependents under the Plan must be enrolled in accordance with the terms and conditions of Employer's Summary Plan Description and HIPAA, prior to claims incurred by those individuals being considered as reimbursable under any excess risk insurance policy maintained by Employer.
- F. Coordination of Benefits. PreferredOne shall provide Employer with coordination of benefits services in connection with the Plan consistent with industry standards and in accordance with the terms of the Plan. These services shall include coordination with Medicare.
- G. Subrogation Services. PreferredOne shall arrange for the identification of any subrogation rights of Employer against third parties in accordance with the terms of the Plan and the pursuit of such potential subrogation claims. The Plan shall be entitled to any net amounts collected through subrogation services related to payments made by the Plan, after reduction for subrogation service fees.
- H. Utilization Management. PreferredOne and/or its affiliates shall provide Employer with utilization management services for health care services provided to Participants under the Plan. These services may include, but are not limited to: referral authorization, inpatient notification, and/or precertification, out-of-network precertification, concurrent review, discharge planning, and case management, which may include alternative care arrangements. The Administrative Services, including utilization management services, provided by PreferredOne do not constitute medical advice, care, or treatment and shall not be construed as such. PreferredOne and Employer agree that the traditional health care provider-patient relationship is not affected by this Agreement, by PreferredOne's agreements or arrangements with Participating Providers, or by PreferredOne's performance of utilization management services including its determination of medical necessity under the Plan. PreferredOne and Employer agree that all decisions regarding medical care, treatment and advice are solely the authority and responsibility of the attending provider and not PreferredOne or Employer.
- I. Identification Cards. On behalf of Employer, and subject to the condition precedent that Employer provides PreferredOne with all necessary enrollment information, PreferredOne shall provide or arrange for the printing and distribution of standard enrollment identification cards for Participants. PreferredOne shall replace lost cards upon request by Employer.
- J. Preparation of Plan Materials. At the direction of Employer, PreferredOne shall prepare Employer's Summary Plan Description ("SPD"), Summary of Benefits and Coverage ("SBC") required under the ACA and other materials relating to the Plan. Employer shall approve all such documents prior to distribution in accordance with the "Duties of Employer, Documents" section herein.

- K. Reports. On a weekly basis, PreferredOne shall provide a check register identifying checks payable by the Plan which is sorted by provider. PreferredOne shall provide Employer, its designee, and its excess risk insurer, as applicable, with reports generated and processed from PreferredOne's operating system as set forth in Exhibit D. These reports shall be delivered by PreferredOne or made available electronically on the PreferredOne internet site (in the case of annual reporting for use in preparing Form 5500) within 30 calendar days following the end of the applicable reporting period.
- L. Compliance with Applicable Law. PreferredOne shall comply with all federal and state laws and regulations applicable to PreferredOne's responsibilities under this Agreement.

III. Duties of Employer

- A. Establishment of Plan. Employer shall establish and maintain the Plan and shall be solely responsible for the eligibility, design, operation, and administration of the Plan. Employer, and not PreferredOne, shall determine if its Plan qualifies for status as a "grandfathered plan" for purposes of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act of 2010 ("ACA") and any rules thereunder. Employer shall communicate its determination to PreferredOne for each plan year for which such status applies, and shall communicate to PreferredOne any change in such status. Employer shall be a Named Fiduciary, Plan Sponsor and the Plan Administrator of the Plan. In accordance with this Agreement, Employer agrees that PreferredOne shall provide Administrative Services to Employer in connection with the operation and administration of the Plan.
- B. Documents. Employer shall provide direction to PreferredOne as necessary for PreferredOne to prepare the SPD, SBC and other documents implementing the Plan. Employer will ensure that all Participants and potential Participants timely receive any documents and information to which they are entitled by applicable law or as necessary for the operation of the Plan, including without limitation SPDs, SBCs, summaries of material modification, Form 5500 reports, identification cards, enrollment forms, the employer notice regarding the insurance marketplace coverage options and employee coverage, informational reports regarding minimum essential coverage, and application and notice forms. When the Employer has knowledge that any Participant resides at an address different than the last known address of the relevant primary Participant, the Employer will immediately notify PreferredOne. If Employer determines that any portions of the Plan Document, SPD, SBC or any other Participant documents are required by law to be published in a non-English language, or if Employer receives any request that reasonably might have the effect of requiring publication of the Plan Document, SPD, SBC or any Participant notices or other Participant documents in a non-English language, maintenance of a non-English language customer assistance process, or the provision of similar services, then Employer will timely notify PreferredOne. If Employer requests that PreferredOne provide the required non-English services or publications and PreferredOne determines that doing so will affect its administration of the Plan or its administrative fees, PreferredOne's consent to do so may be contingent upon Employer's agreement to adjust PreferredOne's administrative fees. In all cases, Employer will reimburse PreferredOne for all actual out-of-pocket expenses incurred by PreferredOne in meeting any such requirements. Employer shall approve all such documents within thirty (30) calendar days following delivery by PreferredOne. Employer's failure to object within such time period shall constitute approval. Employer shall be solely responsible for the content of the SPD, SBC and all other documents

implementing the Plan. In the event of a conflict between English language and non-English language versions of the Plan Document, SPD, SBC, or other documents, PreferredOne will administer that Plan in accordance with the English language versions of the documents. In all cases, in the event of a conflict between the SPD and the SBC, PreferredOne will administer the Plan in accordance with the SPD. With respect to the Affordable Care Act's requirement that non-grandfathered group health plans cover FDA-approved contraceptive services for women without cost sharing, if, under the requirement's exemption for certain qualifying religious employers or the accommodation for certain non-profit organizations, the Employer claims exempt status or entitlement to the accommodation, then the Employer must timely complete and return to PreferredOne a written certification of entitlement to such exemption or accommodation. The Employer must also timely notify PreferredOne of any circumstances that change Employer's exemption or accommodation. Employer will timely provide all certifications and attestations requested by PreferredOne, including but not limited to those required by or resulting from the ACA, and further provide timely notice to PreferredOne of any and all changes affecting such certifications and attestations. PreferredOne is entitled to fully rely on all notices and information provided by Employer, and Employer agrees to compensate PreferredOne for any fees or fines incurred by PreferredOne as a result of the Employer's failure to provide notices or information, or otherwise comply with the foregoing.

1. Amendments. Employer may amend the Summary Plan Description to reflect non-benefit changes at any time. Employer agrees not to amend the Summary Plan Description to change the benefits available under the Plan except upon an effective date anniversary of this Agreement. Employer acknowledges that any excess risk insurance maintained by Employer may exclude claims paid as a result of any such amendment, unless the amendment is accepted and approved by the insurer.
 2. PreferredOne Consent. Any amendments to Employer's Plan that, in the opinion of PreferredOne, affect PreferredOne's administration of the Plan or administrative fees will not be incorporated into this Agreement without PreferredOne's prior consent, which shall not be unreasonably withheld. Such consent may be contingent upon an adjustment in PreferredOne's administrative fees following any amendment to the documents. Any adjustment shall be communicated within thirty (30) calendar days of the request for amendment.
 3. Status of PreferredOne. Employer shall not name PreferredOne as the Plan Administrator, Employer, Plan Sponsor or a Named Fiduciary in any documents applicable to the Plan and shall not hold out to other parties, including Participants that PreferredOne serves in any of the foregoing capacities and PreferredOne shall not assume any of the administrative duties or responsibilities commensurate with such designation.
- C. Claims Determinations. Employer hereby delegates to PreferredOne authority to make initial eligibility and coverage determinations in accordance with the terms of the Plan and this Agreement; provided, however, that Employer shall be solely responsible for final eligibility and coverage determinations including review of internal appeals under the Plan. Employer acknowledges that PreferredOne has no authority or responsibility for reviewing appeals that Participants submit to an independent review organization in accordance with the terms of the Plan and applicable law. To the extent that Participants

request external review by an independent review organization, Employer directs PreferredOne to refer such request to the independent review organization(s) that is under contract with the State Of Minnesota's Department of Commerce for external review, and to reimburse PreferredOne for any and all fees charged by the State, Department of Commerce, and their review organization(s) for such external reviews. Upon receipt of applicable information and documentation from PreferredOne, Employer shall notify PreferredOne in writing of its decision relating to disputed eligibility and coverage issues. Employer shall be solely responsible for the establishment of all eligibility and benefit standards for the Plan. PreferredOne may rely on the participant eligibility and enrollment information submitted by Employer.

- D. Eligibility Information. Employer shall, in a mutually agreed format, provide PreferredOne with a listing of Participants in the Plan. Employer shall provide PreferredOne with immediate written notice of any addition or deletion of a Participant. PreferredOne shall be entitled to rely on the most current information in its possession regarding eligibility of Participants in paying claims and providing other services under this Agreement. PreferredOne shall process any participant enrollment or eligibility change within three (3) business days of its receipt of any such notice(s) from Employer.

If the Plan is "grandfathered" under ACA as set forth in the "Duties of Employer, Establishment of Plan" section herein, Employer and not PreferredOne is responsible for verifying and re-verifying whether covered dependent children age 19 through 25 are eligible for coverage under another (non-parent's) group health plan, and thus are ineligible or cease to be eligible for coverage under the Plan. If Employer's Plan reflects different age limits for some but not all covered dependent children (such as grandchildren), then Employer and not PreferredOne is responsible for verifying and re-verifying whether such children are eligible or ineligible or have ceased to be eligible for coverage under the Plan.

Employer acknowledges that, regardless of whether or not the Plan's terms or applicable law including ACA permit the Employer or Plan to retroactively terminate (i.e., rescind) an individual's coverage, any excess risk insurance maintained by Employer may exclude claims paid for individuals who are not eligible or have ceased to be eligible for coverage under the Plan (including, but not limited to, a dependent child age 19 through 25 and who is eligible for coverage under another (non-parent's) group health plan).

If Employer requests that PreferredOne retroactively terminate eligibility or enrollment of a Participant, PreferredOne shall adjust the eligibility of such terminated Participant and shall, to the extent commercially feasible, adjust claims that were incurred after the effective date of such retroactive termination. PreferredOne shall not make any retroactive changes unless permitted by the terms of the Participating Provider's agreement or arrangement with PreferredOne, including agreements with the Employer's designated pharmacy benefit manager. PreferredOne will make appropriate adjustments to applicable administrative fees paid or payable by Employer to PreferredOne for a Participant whose eligibility or enrollment is deleted or terminated retroactive to a date that is no more than two months from the date Employer provides notice to PreferredOne of such deletion, termination, or change in eligibility or enrollment of the Participant. PreferredOne reserves the right to charge Employer a reasonable fee for its Administrative Services relating to retroactive deletion or termination of a Participant. The Plan shall be entitled to any net amounts collected for a retroactively terminated Participant, after reduction of service fees. Notwithstanding anything in this Agreement

to the contrary, Employer and not PreferredOne determines whether the Plan's terms or applicable law including ACA permit the Employer or Plan to retroactively cancel or terminate the Participant's coverage.

If Employer requests that PreferredOne make other retroactive changes to eligibility or enrollment of a Participant, including retroactive addition of an eligible Participant, PreferredOne shall adjust the eligibility of such Participant with regard to claims incurred and shall make appropriate adjustments to administrative fees payable by Employer to PreferredOne.

- E. COBRA Compliance. Employer shall be responsible for all aspects of compliance with COBRA. Employer shall provide notice to PreferredOne of each Participant's effective date of COBRA continuation and the date such COBRA continuation ceases. PreferredOne shall be entitled to rely upon the information provided by Employer pertaining to COBRA eligibility. Employer, and not PreferredOne, shall be liable for any and all claims resulting from the failure of Employer to administer COBRA in accordance with this Agreement and applicable laws and regulations. Employer agrees during and after the term of this Agreement to hold PreferredOne harmless from, indemnify and defend PreferredOne against, any and all claims, losses, and expenses, including attorneys' fees, incurred by PreferredOne and arising out of Employer's COBRA administration actions, or omissions.
- F. Payments for Eligible Services. To the extent not paid by the Plan, Employer shall be solely responsible for payment of all Eligible Services and expenses for services rendered to Participants by all providers and intermediate entities/subcontracted vendors, less any applicable amounts (such as copayments and deductibles, where applicable) payable by the Participant pursuant to the terms of the Plan. Employer acknowledges that expenses for services rendered may include expenses for provider network management and related administration expenses paid to intermediate entities/subcontracted vendors managing those networks and that such expenses may be included as a part of funding and reporting of claims.
1. Participating Providers. Employer and the Plan shall be responsible for payments to Participating Providers pursuant to the terms and conditions of PreferredOne's agreements with such providers, less any applicable amounts (such as copayments and deductibles) payable by the Participant pursuant to the terms of the Plan.
 2. Non-Participating Providers. Employer and the Plan shall be responsible for payments for claims of Non-Participating Providers in the amount of the mutually agreed upon percentile of usual and customary fees for Non-Participating Providers unless a higher rate is required by law, less any applicable amounts (such as copayments and deductibles) payable by the Participant pursuant to the terms of the Plan.
 3. Establishment of Trust and Payment Accounts and Designation of PreferredOne as an Agent. At a bank designated by it, PreferredOne maintains a noninterest bearing account as escrow agent for assets of certain employee benefit plans in respect of which it furnishes Administrative Services in connection with self-funded benefit plans ("Payment Account"). If the Plan provides for contributions from Plan Participants, Employer shall establish and maintain a trust account

(“Trust Account”) in which such contributions will be held pending transfer to the Payment Account. Employer and trustee of the Trust Account, if any, shall designate PreferredOne as Employer’s disbursing agent for payment on behalf of Employer of charges incurred for Eligible Services and certain Administrative Service fees, as applicable. Employer shall electronically transfer or otherwise provide funds to the Payment Account in the amounts required to fund Plan obligations and to make other payments covered by this Agreement.

4. Notice to Fund Account. Employer shall fund the Payment Account from the Trust Account and/or Employer’s general assets in the amount requested by PreferredOne within two (2) business days of such funding request. PreferredOne shall inform Employer in writing of all claims payable on a weekly basis, and shall provide by facsimile, written notice to Employer of the amounts needed to pay claims for Eligible Services and other administrative expenses.
5. Failure to Fund Payment Account. If Employer fails to deposit the necessary funds to the Payment Account within two (2) business days following a funding request, PreferredOne may, at its option, suspend performance of its services under this Agreement until such time as such funds are deposited, or terminate this Agreement as provided in the “Term and Termination” section herein, or seek other recourse against Employer. Employer authorizes PreferredOne to communicate Employer’s failure to fund to providers who may then bill Participants directly for Eligible Services.

G. Payment of Administrative Service Fees and Other Expenses. In consideration of PreferredOne’s performance of the services described in this Agreement, the Plan or the Employer shall pay to PreferredOne the Administrative Service fees and other expenses as described in Exhibit C and any additional fees or charges mutually agreed to by Employer and PreferredOne. PreferredOne may make adjustments to Administrative Service fees and other expenses upon each effective date anniversary or any amendment of this Agreement. If, at any effective date anniversary of this Agreement, Employer elects not to renew all PreferredOne services, including any health plan contract issued by a PreferredOne affiliate, provided during the immediately preceding term of this Agreement, PreferredOne may make adjustments to Administrative Service fees and other expenses. PreferredOne will give Employer thirty (30) calendar days written notice of any Administrative Services fee and other expense adjustments. All such fees and other expenses are due and payable immediately following receipt of invoice. Any failure to remit any such fees and other expenses within thirty (30) calendar days may, at PreferredOne’s option, result in the imposition of interest charges on the due and owing funds calculated on a daily basis at a rate equal to an annual rate of three (3) percentage points over the 3-month London Interbank Offered Rate (LIBOR) as of the date on which the fees and expenses are due. Employer hereby agrees to the imposition of such finance charges and agrees to pay the same when imposed. Employer agrees and warrants that any excess risk insurance policy maintained by the Employer shall be paid for solely out of its general assets and not with contributions collected from Plan Participants.

H. Plan Expenses. Employer acknowledges and agrees that Employer and the Plan retain ultimate responsibility for claims paid and payable pursuant to Plan. Employer shall furnish a written notice, by incorporating such notice into the Summary Plan Description, to each Participant covered by the Plan that the Plan and the Employer have financial liability for the payment of benefits under, and expenses of, the Plan including any

expenses or fees associated with external review by independent review organizations as required by the terms of the Plan or applicable law. Employer acknowledges that its financial liability includes claims received by PreferredOne (even if PreferredOne is not providing post-termination services under the “Term and Termination, Post-Termination Obligations” section herein) following the termination of this Agreement if such claims are received within the claim submission deadlines established in the Summary Plan Description. Employer and the Plan shall be liable for all broker fees and expenses incident to the Plan except those expenses specifically assumed by PreferredOne pursuant to this Agreement.

- I. Regulatory Compliance. Employer shall be solely responsible for compliance with applicable laws and regulations and for the preparation and filing of required reports and returns pertaining to the Plan. Except as may be specifically provided for in Exhibit C, Employer shall be solely responsible for payment and remittance of any governmental or regulatory charges. Employer is responsible for determining and reporting regarding whether the Plan and the benefits provided thereunder are in compliance, including any corrective action necessary to comply, with nondiscrimination, qualification, federal or state taxation and reporting requirements imposed by law including, but not limited to, reporting of minimum essential coverage, affordability and imputed income (on Form W-2, etc.) for any discriminatory eligibility, contributions or benefits under the Plan; and for any coverage and benefits under the Plan provided to individuals who are self employed or non-employees or do not qualify as an employee's legal spouse, dependent child, or tax dependent for health care benefits pursuant to Code sections 105, 106, 125, or 152 or other applicable law. If the Employer also offers an HRA that is not administered by PreferredOne, Employer is solely responsible for determining the minimum value of its employees' health coverage and whether such health coverage meets or does not meet the minimum value standard set by the ACA, and any associated duty to disclose or report such status. Employer is solely responsible for determining whether Employer is an “applicable large employer,” as defined by the ACA, for the purpose of determining whether Employer may be liable for shared responsibility payments under the ACA, including selecting, adopting and applying any measurement period, administrative period, and/or stability period, as those terms are defined by the ACA, and any associated duty to disclose or report such information. PreferredOne shall not perform nondiscrimination testing for Employer. Employer will also comply with PreferredOne's request for information and/or data regarding Employer's Plan and Employer, including but not limited to, information regarding Plan participants for which PreferredOne must provide reporting to regulatory authorities as required by law (such as Medicare reporting). Employer agrees to compensate PreferredOne for any fees or fines incurred by PreferredOne as a result of Employer's failure to comply with PreferredOne's request.
- J. Coordination of Benefits and Subrogation. Employer shall cooperate fully and provide PreferredOne or its designated third-party subrogation contractor with any information in Employer's possession regarding the existence of other coverage for a Participant.
- K. Excess Risk Insurance. Employer shall be solely responsible for determining its need for excess risk insurance, the selection and purchase of any excess risk insurance coverage and the premiums or other charges for such coverage. If Employer elects to purchase excess risk insurance, Employer shall provide PreferredOne with such excess risk insurance information, including but not limited to the terms of the excess risk policy, as is necessary for PreferredOne to perform its administrative responsibilities under this Agreement. Further, in the event of termination of this Agreement, it is Employer's (and

not PreferredOne's) obligation to ensure that claims for Eligible Services incurred during the period that this Agreement is in effect (including but not limited to claims not yet submitted to PreferredOne at the time of termination of this Agreement, or claims that were denied or pended by PreferredOne on Employer's behalf as of the time of such termination due to, for example, missing or incomplete information from a Participant) will be eligible for payment under any existing or subsequent excess risk coverage obtained by Employer. During the term of this Agreement, PreferredOne will provide the designated excess risk insurer with data that PreferredOne determines is adequate to project liability and make coverage determinations and payments. At the request and on behalf of Employer, PreferredOne shall collect and remit premiums and other fees to Employer's designated excess risk insurer and broker as instructed by Employer, its excess risk insurer or broker. Employer acknowledges that its excess risk insurer, PreferredOne Insurance Company, is a wholly-owned subsidiary of PreferredOne.

- L. Employer Warranties. Employer warrants and represents that the Plan is a single-employer plan (and is not a MEWA/multiple employer welfare arrangement within the meaning of ERISA Section 3(40) or applicable state laws) and complies in all material respects with any other federal or state statutes and regulations applicable to the Plan and to Plan administration. Employer warrants and represents that any records it receives from PreferredOne or PreferredOne's affiliated companies and providers shall be treated confidentially, and shall be used only for the limited purposes necessary for proper administration of the Plan.

IV. Records

- A. Maintenance and Access. PreferredOne shall maintain adequate records of the following transactions relating to the administration of Plan: (1) claims records for all claims for benefits under the Plan; (2) enrollment records; and (3) payment records, including all requests for funds and deposits for payment of claims under the Plan by Employer, in such form as may be convenient to PreferredOne (whether hard copy, computer, or other format) for the Plan year to which the records relate and at least a seven (7) year period thereafter. Employer shall maintain adequate records relating to the terms and operation of the Plan, including the identification of eligible persons, payments to PreferredOne and payments for Eligible Services for the Plan year to which the records relate and for at least a seven (7) year period thereafter. Each party shall have access to audit records relating to administration of the Plan maintained by the other party during normal business hours and upon reasonable notice and request in accordance with the "Miscellaneous, Audit Rights" section herein, subject to applicable laws and regulations. Both parties agree that any release to the other party of records and data reviewed during such audit, whether electronically or in any other mutually agreeable format, shall be in accordance with the terms of this Agreement and applicable laws. The parties shall maintain the confidentiality of any information relating to Participants and the Plan in accordance with applicable laws.
- B. Record Use. PreferredOne and Employer agree that the medical records, names, addresses, telephone numbers and Social Security numbers and other personal information relating to Participants which PreferredOne may obtain as a result of performing Administrative Services may be collected, maintained, used and released by PreferredOne in accordance with HIPAA, as necessary to administer the Plan, or as otherwise permitted by state or federal law, including, but not limited to, any law that governs record locator services, e-health or the electronic exchange of health and

personal records (“E-health records”). Employer and PreferredOne agree that providers and others who receive or access such E-health records, and not PreferredOne, are responsible for obtaining any required Participant consent relating to such E-health records.

In addition, Employer agrees that PreferredOne and the Employer may use aggregate non-individually identifiable information obtained for data compilations and reports, including but not limited to statistical reports and claims studies. PreferredOne or Employer may also use patient specific and individually identifiable information, as necessary to properly administer the Plan during the term of this Agreement, or to defend any claim which may be brought against PreferredOne or Employer by a Participant or any third party in connection with PreferredOne’s performance under this Agreement.

- C. Disclosure to Broker. If Employer engages a broker, or another third party acting on Employer's behalf, Employer, and not PreferredOne, is responsible for obtaining a Business Associate Agreement with that broker or third party as required by HIPAA. Employer further acknowledges and agrees that at the request of Employer or Employer's broker or agent, PreferredOne may disclose Plan information to Employer's broker or third party, including but not limited to, Protected Health Information (as defined by HIPAA) of Plan Participants, as deemed necessary by PreferredOne and in a format determined by PreferredOne for broker or third party to aid Employer in Plan administration during the term of this Agreement.
- D. Confidential Business Information. PreferredOne and Employer shall each take all necessary steps to protect the other party’s confidential business information. Such information shall not be disclosed to third parties without the express written consent of the other party unless required by law or court order.
- E. Transfer of Records. Upon termination of this Agreement, PreferredOne may satisfy its obligation relating to maintenance of records by transferring to Employer or any successor administrator those records in PreferredOne’s possession which PreferredOne and Employer mutually determine are reasonably necessary to effectuate a smooth transition of management of the Plan. All reasonable costs associated with such a record transfer will be paid by Employer.
- F. Trademarks and Symbols. Employer and PreferredOne reserve the right to control the use of their respective names and any of their respective symbols, trademarks, and service marks, presently existing or subsequently established. Employer and PreferredOne agree not to use words, symbols, trademarks, service marks and other devices including the corporate name or product names of the other in advertising, promotional material or otherwise without the prior written consent of the other. PreferredOne and Employer will cease any previously approved usage immediately upon termination of this Agreement.

V. Indemnification

- A. PreferredOne Indemnification. Except as otherwise provided in this Agreement, PreferredOne agrees to indemnify, defend, and hold Employer harmless from, any and all claims, losses, and expenses, including reasonable attorneys’ fees, incurred by Employer as a result of any third-party claim arising from PreferredOne’s or PreferredOne affiliated

companies' gross negligence, willful misconduct, fraud, criminal conduct or breach of this Agreement.

- B. Employer Indemnification. Except in those cases of gross negligence, willful misconduct, fraud, criminal conduct or breach of this Agreement by PreferredOne or PreferredOne affiliated companies, Employer agrees to indemnify, defend, and hold PreferredOne and PreferredOne affiliated companies harmless from, any and all claims, losses, and expenses, including reasonable attorneys' fees and taxes (except income taxes), incurred by PreferredOne and PreferredOne affiliated companies as a result of any third-party claim arising out of PreferredOne's and PreferredOne affiliated companies' performance or non-performance of services under this Agreement. Employer's duty to defend will arise only if PreferredOne, in its sole discretion, tenders such defense to Employer.
- C. Notice. The party seeking indemnification, defense, and hold harmless, or any or all of these, under the "PreferredOne Indemnification" and "Employer Indemnification" provisions within this "Indemnification" section must notify the other party promptly in writing of any actual or threatened action, suit or proceeding to which it claims such right applies. Failure to promptly notify the other party shall be deemed a waiver of the right to seek indemnification, defense, or hold harmless.
- D. Reliance on Data. PreferredOne is not responsible or liable for any acts or omissions made pursuant to any direction, consent, or other request reasonably believed by PreferredOne to be from an authorized representative of Employer. PreferredOne is not responsible or liable for acts or omissions made in reliance on erroneous data provided by Employer or its agents or the failure of Employer to perform its obligations under this Agreement.
- E. Eligible Services (Benefits). Employer agrees that PreferredOne is not responsible for the provision of health care by health care providers, and that health care providers are independent contractors and are not the agents of PreferredOne. The indemnity obligations under this "Indemnification" section do not apply to that portion of any liability, settlement, and related expense caused by the acts or omissions of health care providers with respect to Participants.

VI. Term and Termination

- A. Term. This Agreement shall have an initial one (1) year term, commencing at 12:01 a.m. on the effective date. This Agreement shall automatically renew for additional one (1) year terms, unless earlier terminated as set forth below. Except as otherwise agreed to in writing, PreferredOne shall have no obligations to provide any services under this Agreement relating to:
 - 1. A claim for Eligible Services rendered before commencement of this Agreement, unless PreferredOne agrees to process claims for Eligible Services rendered prior to the effective date of this Agreement ("run-in claims"). Employer shall pay an additional Administrative Service fee, if any, as set forth in Exhibit C for each run-in claim processed;

2. A claim for Eligible Services received by PreferredOne following failure by Employer to deposit or transfer all funds requested by PreferredOne to cover services under this Agreement; and
3. A claim for Eligible Services received by PreferredOne after the effective date of termination of this Agreement, except as described in the “Post Termination Obligations” section herein.

B. Termination. This Agreement may be terminated for the following reasons:

1. By mutual written agreement of the parties;
2. By either party upon sixty (60) calendar days written notice prior to any effective date anniversary;
3. By either party effective immediately if the other party becomes insolvent, is the subject of a voluntary or involuntary petition under federal bankruptcy law, or becomes the subject of a liquidation, receivership or conservatorship proceeding;
4. Except as otherwise specified in this section, by either party in the event of a material default by the other party. Such termination shall be effective thirty (30) calendar days following delivery of written notice specifying the nature of the default, unless the default has been cured before the end of the thirty (30) day period;
5. By Employer upon ninety (90) calendar days written notice. If this Agreement is terminated under this subsection, Employer shall pay a termination fee, in addition to all other fees due under this Agreement, to PreferredOne equal to one (1) month of all Administrative Service fees and other expenses due PreferredOne under this Agreement;
6. By Employer effective immediately upon written notice if PreferredOne fails to obtain or maintain any required licenses necessary for the performance of services under this Agreement;
7. By either party effective immediately if the parties cannot agree on Administrative Services fee adjustments made in accordance with this Agreement;
8. By PreferredOne if Employer fails to make any payment to PreferredOne, including, but not limited to any Administrative Service fees. Such termination shall be effective upon ten (10) business days written notice to Employer and such termination shall be retroactive to Employer’s paid-through date;
9. By PreferredOne if Employer fails to make any payment for Eligible Services required under this Agreement or if Employer fails to meet its obligations to provide all funds requested by PreferredOne within the time frames required by this Agreement. Such termination shall be effective immediately upon written notice to Employer and retroactive to Employer’s paid-through date;

10. By PreferredOne effective immediately upon written notice if Employer ceases to be actively engaged in business or operations, if the Plan is terminated or if Employer amends the Plan without obtaining prior consent of PreferredOne to administer future claims consistent with the amendment;
11. By PreferredOne if Employer fails to comply with the requirements of applicable state or federal law; or
12. By PreferredOne if Employer changes its agent of record. Such termination shall be effective retroactive to the effective date of the new agent of record.

C. Post-Termination Obligations.

PreferredOne may, if mutually agreed upon by Employer and PreferredOne in writing, provide certain Administrative Services following the termination of this Agreement.

VII. Miscellaneous

A. Amendment. This Agreement may be amended only by mutual agreement in writing executed by both parties, except that PreferredOne may amend this Agreement to the extent necessary to comply with applicable federal, state, or local laws or regulations.

B. Notices. Any notice required to be given shall be in writing and sent by registered or certified United States mail, postage prepaid, as follows:

If to Employer:	Swift County Attn: Human Resources 301 14 th Street North Benson, MN 56215
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If to PreferredOne:	PreferredOne Administrative Services, Inc. Attn: Account Manager PO Box 59212 Minneapolis, MN 55459-0212
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C. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held invalid by a court of law or other tribunal, the invalidity of any provision will not affect any other provision of this Agreement.

D. Disclosure.

1. Employer acknowledges that PreferredOne, its affiliates and/or the Employer’s designated pharmacy benefit manager (“PBM”) may receive credits from certain pharmaceutical manufacturers based upon the number of prescriptions filled and the types of drugs dispensed for all plans in respect of which PreferredOne provides Administrative Services, that the PBM may make further payments to PreferredOne and/or its affiliates based on guarantees regarding those credits, and that the potential for such credits and payments has been taken into account in the establishment of administrative fees under this Agreement. If Employer’s designated PBM is ClearScript, Employer acknowledges that ClearScript is indirectly affiliated with PreferredOne.

2. Employer acknowledges that PreferredOne may retain or receive periodic service fees or other payments in connection with Employer's designated excess risk insurance policy. At the request of Employer, PreferredOne will provide information regarding the calculation of such amounts. PreferredOne may make payments to and receive payments from brokers and excess risk insurers in various amounts for services associated with the excess risk insurance.
 3. Employer acknowledges that PreferredOne and its subcontracted vendors may retain or receive periodic service fees or other payments in connection with services provided to Employer or its Plan. At the request of Employer, PreferredOne will provide information regarding the calculation of such amounts.
- E. No Waiver of Rights. Nothing in this Agreement shall be deemed to limit or abrogate any right or remedy available under law. The failure of any party to insist upon the strict observation or performance of any provision of this Agreement or to exercise any right or remedy shall not impair or waive any such right or remedy.
- F. Non-Assumption of Liabilities. Unless specifically provided in this Agreement, the parties do not assume the existing or future obligations, liabilities, or debts of the other party.
- G. Entire Agreement. This Agreement shall supersede any and all other agreements, whether written or oral, between the parties relating to the same subject matter. This Agreement contains the entire agreement and understanding of the parties relating to the subject matter hereof, except (i) as otherwise provided in this Agreement; or (ii) for the HIPAA business associate agreement and other HIPAA privacy-related agreements; and (iii) for any Confidential Data Release agreements.
- H. Agreement Acceptance and Governing Law. This Agreement has been accepted, executed, and delivered in the State of Minnesota. This Agreement shall, except to the extent that federal law is controlling, be subject to and construed and enforced in accordance with the laws of the State of Minnesota (but not including the choice of law rules thereof).
- I. Independent Contractors. PreferredOne shall be construed to be acting as an independent contractor and not as an employee of Employer. Neither PreferredOne nor Employer shall have the power or authority to act for or on behalf of, or to bind the other party, except as set forth in this Agreement.
- J. Third Party Beneficiaries. The obligations of each party to this Agreement shall inure solely to the benefit of the other party. Except as expressly provided in this Agreement, no person or entity is intended to be or shall be construed or deemed to be a third party beneficiary of this Agreement.
- K. Successors and Assigns. Without in any way limiting the provisions of the "Term and Termination" section herein, this Agreement shall be binding on any successors, assigns, and subcontractors of the parties to this Agreement. PreferredOne cannot assign this Agreement without the Employer's written consent, which shall not be unreasonably withheld.

- L. Heading and Captions. The headings and captions used throughout this Agreement are inserted for convenience only and shall not constitute a part of this Agreement.
- M. Expert Opinions. PreferredOne may seek the services of experts in performing its duties under this Agreement.
- N. Audit Rights. The parties agree to cooperate in all reasonable audits. At the onset of the audit, PreferredOne and the Employer will mutually agree upon the time, place, duration, scope, and type of audit to be performed. Audit fees will include all reasonable internal and external costs relating to the performance of the audit and shall be paid by the party initiating the audit.
- O. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- P. Force Majeure. Neither party shall be liable for any delay or failure to perform its obligations or to satisfy its performance/service guarantee, if any, under this Agreement arising out of a cause beyond its control or without its fault or negligence. Such causes may include, but are not limited to, fires, floods, acts of terrorism and war, restraints of government, riots, strikes, natural disasters and health pandemics or epidemics.
- Q. Survival. The parties' respective rights and obligations set forth herein in "Plan Expenses", "Records", "Indemnification", "Post-Termination Obligations", "Audit Rights", and "Survival" shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the effective date.

Swift County, as Employer, Plan Sponsor and
Plan Administrator

PreferredOne Administrative Services, Inc.,
as Third Party Administrator

Company Representative

Company Representative

Title

Title

Date

Date

EXHIBIT A-1

PLAN DOCUMENTS

FOR SELF-INSURED GROUP HEALTH PLAN

EXHIBIT B

The provider directory(ies) applicable to Plan Participants, as amended from time-to-time, are available at www.preferredone.com.

EXHIBIT C

ADMINISTRATIVE SERVICE FEES AND OTHER EXPENSES

The Plan or the Employer shall make payments of Administrative Service fees and other expenses in accordance with the following schedule:

Monthly fees for Administrative Services:	\$22.50 per employee for medical benefits
Independent review organization fees and expenses:	Actual out-of-pocket expenses incurred by PreferredOne
Non-English language services as requested by Employer:	Actual out-of-pocket expenses incurred by PreferredOne
Fitness Advantage Fee:	\$1.00 per employee
Web Based Care – MDLive:	\$0.50 per employee per month
Broker fees/commissions (payable to broker):	\$10.00 per employee per month

CREDITS

Implementation Credit: PreferredOne will provide the Plan or the Employer with a one-time implementation credit of \$5,000 which will be credited on the Employer's January invoice.

EXHIBIT D

REPORTS

Weekly

Check Register

Monthly (Widgets)

Reinsurance Summary

High Case Summary

Claims Summary Report

Cost Savings Report

Demographic Report

Annual

Annual financial information (for use in preparing Employer's annual (Form 5500) report)

PREFERREDONE ADMINISTRATIVE SERVICES, INC. BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is entered into as of January 1, 2014 ("Effective Date"), by and on behalf of the group health plan ("Covered Entity") sponsored and administered by Swift County and PreferredOne Administrative Services, Inc. ("Business Associate"). This Agreement applies with respect to the use and disclosure of Protected Health Information ("PHI"). As of the Effective Date, this Agreement supersedes any previous agreement between the parties with respect to this same subject matter.

WHEREAS, Swift County entered into an agreement ("Administrative Services Agreement") with Business Associate, pursuant to which Business Associate provides certain claims processing and other ministerial services with respect to Covered Entity; and

WHEREAS, to provide services under the Administrative Services Agreement, Business Associate must have access to certain PHI; and

WHEREAS, to comply with the requirements of the Privacy Rule and the Security Rule, Covered Entity must enter into this Agreement with Business Associate.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein, the parties agree as follows:

1. Definitions

Capitalized terms used, but not otherwise defined, in this Agreement, have the same meaning as those terms in the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") and in the HIPAA Security Standards ("Security Rule"), issued pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations (45 CFR Parts 160 through 164), as they may be modified or amended from time-to-time.

2. Obligations and Activities of Business Associate

- a. Use and Disclosure. Business Associate will not use or disclose PHI other than as permitted or required by the Administrative Services Agreement or this Agreement, or as Required by Law.
- b. Safeguards. Business Associate will use appropriate safeguards and comply with (i) 45 CFR Part 164, Subpart C, with respect to electronic PHI ("ePHI") that it creates, receives, maintains or transmits for Covered Entity; and (ii) 45 CFR Part 164, Subpart E with respect to all PHI that it creates, receives, maintains or transmits for Covered Entity, to prevent its use or disclosure other than as provided for by this Agreement.
- c. Mitigation. Business Associate will mitigate, to the extent practicable, any harmful effect that is known to Business Associate of an acquisition, access, use or disclosure of PHI in violation of the requirements of this Agreement.
- d. Data Aggregation. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(j)(1).
- e. Minimum Necessary. Business Associate will, to the extent practicable and as required under 45 CFR §§ 164.502(b) and 164.514(d), use, disclose and request only the minimum necessary PHI or, as permitted under 45 CFR § 164.514(e), a Limited Data Set, unless a broader use, disclosure or request of PHI is permitted by the Privacy Rule.
- f. Use of PHI for Marketing or Sale of PHI. Business Associate will comply with the requirements of 45 CFR Part 164, Subpart E, regarding the use or disclosure of PHI for marketing, and the sale of PHI.

- g. Use or Disclosure of Genetic Information. Business Associate will comply with the requirements of 45 CFR § 164.502(a)(5)(i) regarding the use or disclose of Genetic Information for Underwriting purposes.
- h. Report Use and Disclosure Violations. Business Associate will comply with 45 CFR § 164.504 and report to Covered Entity any acquisition, access, use or disclosure of PHI not provided for by this Agreement of which it becomes aware.
- i. Subcontractor Agreements. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate will enter into a written contract with any subcontractor (including an agent), that creates, receives, maintains or transmits PHI (including ePHI if any) on behalf of Business Associate, that will require such subcontractor to comply with the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI.
- j. Access to Designated Record Set. Business Associate will provide access, at the request of Covered Entity, and in the time and manner mutually agreed upon by Covered Entity and Business Associate, to PHI that Business Associate maintains in a Designated Record Set for Covered Entity. Such access will be provided to Covered Entity, or, if directed by Covered Entity, to the person who is the subject of the PHI (“Individual”) to meet the requirements of 45 CFR § 164.524.
- k. Amendments to Designated Record Set. Business Associate will, to PHI that it maintains in a Designated Record Set for Covered Entity, make any amendment(s) that Covered Entity directs or agrees to at the request of Covered Entity or an Individual pursuant to 45 CFR § 164.526, or take such other measures as are necessary to satisfy Covered Entity’s obligations under 45 CFR § 164.526, and will do so in the time and manner mutually agreed upon by Covered Entity and Business Associate.
- l. HHS Secretary’s Access. In accordance with 45 CFR § 164.504, Business Associate will make its internal practices, books and records, including policies and procedures and PHI, that relate to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary of the U.S. Department of Health and Human Services or his/her designee (collectively “Secretary”), in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the HIPAA Rules.
- m. Accounting of Disclosures to Individual. Business Associate will document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Business Associate will maintain and make available to Covered Entity or an Individual, in the time and manner agreed upon by Covered Entity and Business Associate, information collected in accordance with this subsection, as necessary to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with and to satisfy Covered Entity’s obligations under 45 CFR § 164.528.
- n. Compliance with Electronic Transactions Rule. To the extent that Business Associate conducts electronic Transactions on Covered Entity’s behalf, Business Associate will comply, and will require any subcontractor or agent that it involves in such Transactions to comply, with the Electronic Transactions Rule set forth in 45 CFR Parts 160 and 162.
- o. Compliance with Security Rule. Business Associate will comply with the Security Rule set forth in 45 CFR Parts 160 and 164, with respect to any electronic protected health information as defined in the Security Rule (“ePHI”), that Business Associate holds for Covered Entity.
 - i. Business Associate will develop, implement, maintain, and use administrative, physical, and technical safeguards that reasonably and appropriately protect the integrity, confidentiality, and availability of the ePHI that it creates, receives,

maintains, or transmits on behalf of Covered Entity, as required by the Security Rule.

- ii. Business Associate will enter into a written contract with any subcontractor, including an agent to whom it provides ePHI, that requires such subcontractor (or agent) to comply with the same restrictions and conditions that apply to Business Associate under this section, including implementing reasonable and appropriate safeguards to protect such information.
- p. Reporting of Security Incidents. Business Associate will report to Covered Entity in writing (without unreasonable delay and within 30 calendar days after Business Associate learns of them), Security Incidents that result in actual unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations involving Covered Entity's PHI ("Successful Security Incidents"). Business Associate and Covered Entity agree that this Agreement serves as notice of Security Incidents that do not result in actual unauthorized access, use, disclosure, modification or destruction of ePHI or interference with an information system, such as pings on Business Associate's firewall, port scans, attempts to log on to a system or enter a database with an invalid password or username, denial-of-service attacks that do not result in a server being taken off-line, and malware (worms, viruses, etc.) ("Unsuccessful Security Incidents").
- q. Notice of Breach of Unsecured PHI. Business Associate will, without unreasonable delay, notify Covered Entity of a breach of Unsecured PHI by either Business Associate or one of its subcontractors or agents, as follows, and consistent with, 45 CFR Part 164, Subpart D:
 - i. In writing, sent to Covered Entity's Privacy Officer;
 - ii. Within 30 calendar days after the breach is discovered; and
 - iii. Include the names of the Individuals whose Unsecured PHI was, or is reasonably believed by Business Associate to have been, accessed, acquired, used or disclosed during such breach; the circumstances of the breach; the date(s) the breach occurred and was discovered; the information breached; any steps the affected individuals should take to protect themselves; the steps Business Associate (or its agent) is taking to investigate the breach, mitigate losses, and protect against future breaches; and the person to contact for more information.

If requested by Covered Entity, Business Associate will notify the affected Individuals in accordance with 45 CFR § 164.404, or will reimburse Covered Entity for the reasonable costs that Covered Entity incurs in making such notification. For the purposes of this Section 2.q., Business Associate is an independent contractor of Covered Entity.
- r. Performance of Covered Entity's Obligations. To the extent that Business Associate performs one or more of Covered Entity's obligations under 45 CFR Part 164, Subpart E, Business Associate will, in the performance of such obligations, comply with the requirements of Subpart E that apply to the Covered Entity.
- s. Direct Liability. Business Associate acknowledges that it is subject to civil and criminal enforcement for its failure to comply with the HIPAA Rules, to the extent provided by HITECH and the HIPAA Rules.

3. Permitted Uses and Disclosures by Business Associate

Business Associate may use or disclose PHI to perform functions, activities or services for or on behalf of Covered Entity, in a manner that is consistent with the Administrative Services Agreement or as otherwise authorized by Covered Entity, provided that such use or disclosure would not violate 45 CFR Part 164, Subpart E, if done by Covered Entity; and, except as otherwise limited in this Agreement, Business Associate may:

- a. Use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate; and
- b. Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate; provided that the disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

4. Obligations and Activities of Covered Entity

- a. Requests. Covered Entity shall not ask Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except as set forth in Section 3.b.
- b. Notice. Covered Entity shall notify Business Associate of:
 - i. Any limitations in Covered Entity's notice of privacy practices that may affect Business Associate's use or disclosure of PHI;
 - ii. Any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI; and
 - iii. The termination of or change in the limitations or restrictions addressed in Sections 4.b.i and 4.b.ii, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

5. Term and Termination

5.1 Term. The term of this Agreement begins on the Effective Date and ends when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, when protections are extended to such information in accordance with the termination provisions in this section.

5.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity will provide Business Associate with written notice of the existence of the alleged breach and will allow Business Associate 30 calendar days to cure the breach upon mutually agreeable terms. Failure by Business Associate to cure the breach or violation in the manner set forth above will be grounds for immediate termination of the Administrative Services Agreement and of this Agreement by Covered Entity. If neither termination nor cure is feasible, Covered Entity has the right to report the problem to the Secretary. This provision is in addition to and will not limit any rights of termination set forth in the Administrative Services Agreement.

5.3 Effect of Termination.

- a. Except as provided in Section 5.3.b, upon termination of this Agreement for any reason, Business Associate will return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate will retain no copies of PHI.
- b. If Business Associate determines that returning or destroying PHI is infeasible, Business Associate will notify Covered Entity of the conditions that make return or destruction infeasible. Business Associate will extend the protections of this Agreement to such PHI, and will limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

6. Miscellaneous

- 6.1 Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required at the time of the specific use or disclosure in question.
- 6.2 Mutual Indemnification.** Each party will defend, indemnify and hold the other party harmless from and against all losses, claims, damages and expenses, including reasonable attorneys' fees and costs, in connection with any third party claim, action, litigation or compromise thereof, arising out of or relating to the breach of this Agreement by the party from whom indemnification is sought by the other.
- 6.3 Entire Agreement; Amendment; Deemed Execution.** This Agreement represents the entire agreement between Business Associate and Covered Entity relating to the subject matter hereof. This Agreement may be deemed executed and effective as necessary to timely and efficiently comply with the changes to the HIPAA Rules released in January 2013. The parties further agree that, as the HIPAA Rules or other applicable laws and related rules are modified, issued or newly effective, they will each, in the performance of their obligations under this Agreement, comply with such modified laws and rules with respect to a Covered Entity's PHI; and will take such action as is necessary to amend this Agreement from time to time as necessary for a Covered Entity to comply with the requirements of the HIPAA Rules, and any such other applicable law. This Agreement and any predecessor to this Agreement may be modified only in writing, signed by both parties; except that it may be deemed executed and effective without a signature, as necessary to timely and efficiently comply with such future required changes to the HIPAA Rules.
- 6.4 Survival.** The respective rights and obligations of Business Associate under Section 5.3 will survive the termination of this Agreement.
- 6.5 Conflicting Terms.** If any provisions of this Agreement are inconsistent with the provisions of any other agreement between Business Associate and Covered Entity, the provisions of this Agreement will control. Furthermore, any ambiguity in this Agreement will be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Standards.
- 6.6 No Third Party Beneficiaries.** There are and will be no third party beneficiaries to this Agreement, and no individual (including an Individual) or entity who or that is not a party to this Agreement will have any rights in connection with a breach or violation of this Agreement.
- 6.7 Governing Law, Conflict of Laws and Jurisdiction.** Except to the extent that federal law applies and is controlling, and to the extent that the Administrative Services Agreement between the parties states a different rule, this Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without giving effect to the State's conflicts of law provisions. Any conflicts will be determined in Minnesota in a federal or Minnesota state court of competent jurisdiction.

Swift County
on behalf of Covered Entity
301 14th Street North
Benson, MN 56215

PreferredOne Administrative Services, Inc.
Business Associate
6105 Golden Hills Drive
Golden Valley, MN 55416

Signed: _____

Signed: 

By: _____

By: Paul Geiwitz

Its: _____

Its: Executive Vice President

Date: _____

Date: January 1, 2014