

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: May 07, 2007

SUBJECT: Wellness Program

ATTACHMENTS: Yes

SUMMARY OF REQUEST:

At your April 18, 2007 meeting, Human Resources staff provided a detailed presentation on the proposed Wellness Program. At that time, staff requested that the Board consider the proposal and approve the program at today's meeting in order for staff to implement the program by July 1, 2007.

The attached document provides additional information regarding start-up and ongoing administrative costs of the wellness program. In addition, staff has provided projections of the impact of the wellness program on cost avoidance in the upcoming fiscal year.

The second attached document from Informed Health shows graphically the potential impact of the County's claims costs over time. It is worth noting that there will be further reductions in the 2nd year, such as no administrative fee start up, potential for reduced costs for health risk assessments, the health registry, educational materials, and consumable supplies. Staff will also be working toward furnishing the clinic with currently available furniture and supplies as much as possible to further reduce start-up costs this fiscal year.

BOARD ACTION REQUESTED:

Staff recommends that the Board of Commissioners review the attached analysis and approve the proposed Wellness Plan with an effective date of July 1, 2007.

Suggested Motion:

I move that the Board approve the proposed Wellness Program and direct staff to begin preparing for the program to be effective July 1, 2007.

Wellness Program
Administrative and Start-up Costs and Analysis of Cost Avoidance

Wellness Program

Health Risk Assessments (\$28.90 x 757 ¹)	\$ 21,877
One-time Administrative fee for start-up	2,800
Health Registry (\$1.85 x 757 x 12)	17,414
Educational Materials (\$1.02 x 560 ² x 12)	6,855
On-going program administration fee (\$490 x 12)	5,880
Nurse Practitioner contract (\$55/hr x 20 x 49 wks)	53,900
Physician Supervision contract (\$10/hr x 20 x 49 wks)	9,800
Consumable supplies ³	4,488
Initial and on-going lab testing	14,880
Minor equipment	3,900
HC Medical Office Assist wages & benefits (\$13/hr x 20 hrs/wk)	<u>22,481</u>

Projected total program costs FY 07-08 **\$164,575**

Projected Cost Avoidance FY 07-08

Wellness program impact	
Reduction in claims expense	\$380,438
Reduction in office visit expense	<u>65,596</u>
Projected total reduction in expenses	\$446,034
Less projected total program costs	<u>-164,575</u>

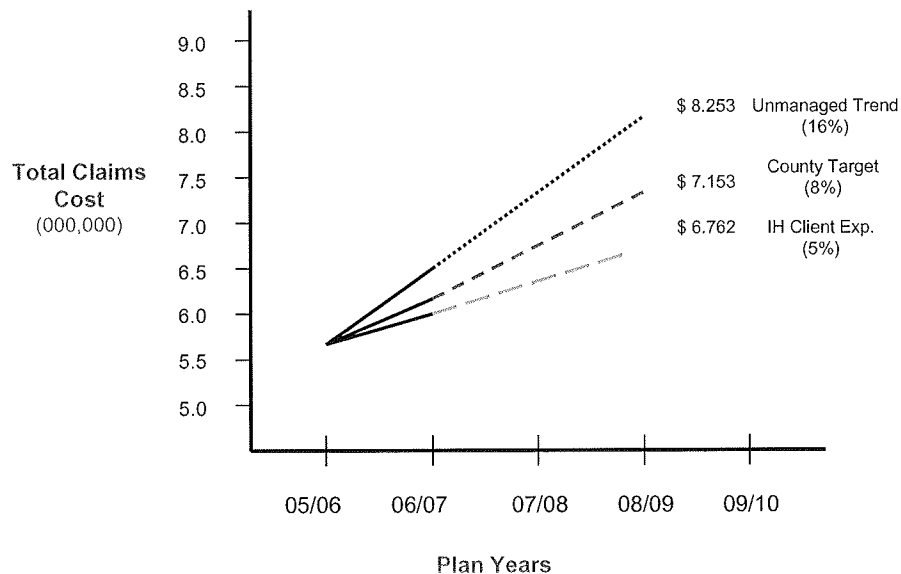
Total cost avoidance through wellness FY 07-08 **\$281,459**

¹ Projected for all benefit eligible employees.

² Projected that 74% of benefit eligible employees will require educational materials.

³ Projected at 61% of program participant population

Summary of Cost Avoidance Targets



ASSUMPTIONS:

1. The cost of the on-site program is included in the trend projections for the County target and the IH client experience.

Cost Avoidance Is Achieved by:

- The number of ER visits decline by 31%
- The number of Specialty Physician visits decline by 13.7%
- The number of Primary Care visits increase by 7.1%
- The average cost of physician visits decline by 9.4%
- The number of radiology and reference lab visits decline by 5.1%. The average cost of these visits will decline by 11.3%
- The number of outpatient procedures decline by 6.7%
- The number of acute care days decline by 4.7%
- The utilization of generic and O-T-C medications increases by 31%

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is effective as of _____ (the "Effective Date"), between **Henderson County, North Carolina** ("Plan Sponsor"), acting on behalf of and as the sponsor of its health care plan ("Covered Entity") and **informedHEALTH, LLC** ("Business Associate").

RECITALS

WHEREAS Covered Entity and/or Plan Sponsor have entered into a written agreement with Business Associate (the "Services Agreement"), whereby Business Associate has agreed to provide services to Covered Entity.

WHEREAS the parties wish to disclose certain information, some of which may constitute PHI, to each other, and to third parties, pursuant to this Agreement and to the Services Agreement.

WHEREAS the parties intend to comply with Applicable Law, and to protect the privacy and provide for the security of PHI disclosed to the other pursuant to this Agreement and to the Services Agreement.

NOW, THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement and the Services Agreement, the parties agree as follows:

I. DEFINITIONS

A. **In General.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR § 160.103 and § 164.501.

B. Specific Definitions

1. "Applicable Law" shall mean any of the following items, including any amendments to any such item as such may become effective:
 - a. the Health Insurance Portability and Accountability Act of 1996 ("HIPAA");
 - b. the federal regulations regarding privacy and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and 164 (the "Privacy Rule");
 - c. the federal regulations regarding electronic data interchange and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and 162 (the "Transaction Rule"); and

- d. the federal regulations regarding security and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and 164 (the "Security Rule").
- 2. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.
- 3. "ePHI" shall mean electronic protected health information within the meaning of 45 CFR § 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

II. RIGHTS AND OBLIGATIONS OF COVERED ENTITY

A. Privacy Practices and Restrictions

- 1. Upon request, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.
- 2. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- 3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

B. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

III. RIGHTS AND OBLIGATIONS OF BUSINESS ASSOCIATE

A. General Obligations

- 1. **Subcontractors and Agents.** Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI.

2. **Access to Books and Records.** Business Associate agrees to make its internal practices, books, and records relating to the use, disclosure, and security of PHI available to Covered Entity (or, at the request of Covered Entity, to the Secretary), in a time and manner designated by Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with HIPAA.
3. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of (a) a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement, or (b) a Security Incident.
4. **Compliance with Privacy Rule.**
 - a. Business Associate agrees not to use or further disclose PHI received from, or created or received on behalf of the Covered Entity other than as permitted or required by the Agreement or as Required By Law.
 - b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI received from, or created or received on behalf of, the Covered Entity other than as provided for by this Agreement, including adopting policies and procedures regarding the safeguarding of PHI; providing training to relevant employees, independent contractors, and subcontractors on such policies and procedures to prevent the improper use or disclosure of PHI.
 - c. Business Associate agrees to report to Covered Entity any use or disclosure of PHI, known to Business Associate, that is not permitted by this Agreement.

Business Associate agrees it shall only request, use, and disclose the minimum amount of PHI necessary to accomplish the purposes of the request, use, or disclosure.
5. **Compliance with Transaction Rule.** In fulfilling its duties and obligations under the Services Agreement and in conducting business for or on behalf of Covered Entity, Business Associate agrees to comply with the Transaction Rule. Business Associate agrees that it shall not require Plan Sponsor (or the members of its workforce) to communicate with Business Associate using the specifications set forth in the Transaction Rule.
6. **Compliance with Security Rule.**

- a. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by the Security Rule.
- b. Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.

B. Obligations Relating to Individual Rights

1. **Access to PHI.** Business Associate shall respond to requests for access to PHI in the same manner as would be required for Covered Entity under 45 CFR 164.524.
2. **Amendment of PHI.** Business Associate shall respond to requests for an amendment to PHI in the same manner as would be required for Covered Entity under 45 CFR 164.526.
3. **Accounting of Disclosures.** Business Associate shall document its 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 under 45 CFR Section 164.528. At a minimum, such documentation shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure, or a copy of the Individual's authorization, or a copy of the written request for disclosure. Business Associate shall respond to requests for an accounting in the same manner as would be required for Covered Entity under 45 CFR 164.528.

C. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this Agreement or by Applicable Law, Business Associate may:

1. Use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Services Agreement between the parties and in this Agreement, provided that such use or disclosure is consistent with Covered Entity's Notice of Privacy Practices, and provided that such use or disclosure would not violate HIPAA or the Privacy Rule if done by a Covered Entity;

2. Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate;
3. Disclose PHI for the proper management and administration of the Business Associate, provided that 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 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
4. Use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).

IV. TERM AND TERMINATION

- A. **Term.** The term of this Agreement shall begin on the Effective Date of the Services Agreement, and shall end upon the termination of the Services Agreement, or upon termination for cause as set forth in the following paragraph, whichever is earlier.
- B. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity and Plan Sponsor shall have the following rights:
 1. If the breach is curable, Covered Entity may provide an opportunity, not to exceed twenty-one (21) days, for Business Associate to cure the breach or end the violation. Alternatively, or if Business Associate fails to cure the breach or end the violation within the specified time frame, Covered Entity and/or Plan Sponsor may terminate this Agreement and the Services Agreement.
 2. If the breach is not curable, Covered Entity and/or Plan Sponsor may immediately terminate this Agreement and the Services Agreement. If termination is not feasible, Covered Entity may report the problem to the Secretary.
- C. **Effect of Termination.**
 1. Except as provided in the following paragraph, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and 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.

V. INDEMNIFICATION

Business Associate agrees to indemnify and hold Covered Entity and Plan Sponsor harmless from any and all liability, damages, costs (including reasonable attorneys' fees and costs) and expenses imposed upon or asserted against Covered Entity arising out of any claims, demands, awards, settlements or judgments relating to use or disclosure of PHI contrary to the provisions of this Agreement or applicable law by Business Associate, by any health care plan or plan sponsor to which Business Associate provides services (other than Covered Entity and Plan Sponsor), or by Business Associate's directors, officers, employees, agents, contractors, business associates, or trading partners.

VI. MISCELLANEOUS

- A. **Regulatory References.** A reference in this Agreement to a section in any Applicable Law means the section in effect or as amended, and for which compliance is required.
- B. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of Applicable Law. All amendments to this Agreement, except those occurring by operation of law, shall be in writing and signed by both parties.
- C. **Survival.** The respective rights and obligations of Business Associate under Section IV.C. of this Agreement shall survive the term and termination of this Agreement.
- D. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with Applicable Law.

- E. 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 Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- F. Integration.** This Agreement shall be incorporated into and made a part of the Services Agreement. In the event that any term of this Agreement contradicts or conflicts with a term of the Services Agreement, this Agreement shall control.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

Henderson County

informedHEALTH, LLC

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____

Health Management Agreement

Introduction

IH is a health management company that provides health awareness and intervention services to plan members for employer sponsored health benefit plans. The specific services provided by IH vary (as provided in Schedule A), but include: (i) identifying unique health conditions of participating plan members that can lead to acute **[and chronic]** illness; (ii) raising health plan members awareness of their health status; (iii) providing individuals with steps they can take to proactively reduce or eliminate identified health risk factors; (iii) creation of a positive and accepting attitude among program participants toward their own health and wellness; and (iv) utilization of on-site and remote coaching techniques and clinical intervention services.

This Agreement is made between informedHEALTH, L.L.C., a [North Carolina] limited liability company("IH"), and **Henderson County, NC** ("Employer") named herein as of the Effective Date set forth below and, along with any attachments hereto, sets forth the terms and conditions of the agreement between IH and Employer with respect to its subject matter.

IH:	Employer:
Title: President/CEO	Title:
Print Name: Tom Revels	Print Name:
Date:	Date

Services Selection

Select the services you require from IH by placing an "X" in the appropriate box below. The specific descriptions of the services provided within each Tier are provided in Schedule A and the fees for those services are provided in Schedule B, both of which are attached hereto and incorporated by reference. Schedule C is to be completed if Tier Three is Selected.

<u>Service Levels</u>	<u>Level Selected</u>
○ <i>Tier One:</i> HealthAWARE	X
○ <i>Tier Two:</i> HealthDIRECT	X
○ <i>Tier Three:</i> HealthONSITE	X

Terms and Conditions

1. IH Services and Obligations:

- a. *Services.* IH shall provide to Employer the services selected above and described more fully on Schedule A (the "Services"). The provision of Services under this Agreement is contingent upon the Employer's fulfillment of certain obligations set forth in Section 2 including, but not limited to, the transmission of Plan Member Information (as defined below) for eligible members.
- b. *Establishment of Health Registry.* A Program Participant includes any of Employer's Health Benefit Plan members, including employees and/or dependants if so authorized by Employer, who executes a written authorization to participate in either the Tier One, Two or Three services offered by IH (the "Participant Authorization"). The Participant Authorization shall authorize the release of the individual's claims history files (which may include any Individually Identifiable Health Information in such files) from Employer's health plan ("Plan Member Information") [from up to a two-year period of time pre-dating such authorization] to IH for the purpose of populating a health registry database (the "Health Registry"). Once archived in the data base, the data will be analyzed to predict significant health risk issues present in each person to generate written and/or verbal communications back to the Employee by IH regarding the Employee's health status; and, to formulate proactive recommendations to reduce or eliminate any identified health risks. The Participant Authorization utilized by IH shall be compliant with the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Employee Information collected by Informed Health during the term of this Agreement shall be secured as provided in Section 5 below.
- c. *Electronic Data Exchange.* IH shall provide Employer's health plan administrator a monthly upload of clinic encounter data to describe the services provided and the frequency in which they are used by health plan members in a format mutually acceptable to IH and health plan administrator.
- d. *Medical Practitioners.* Where indicated under either Tier Two or Tier Three, IH shall supply medical practitioners to provide Services. Any practitioners furnished by IH shall be duly licensed, where required, to provide medical services in the state in which Employer operates facilities. Employer shall have the opportunity to interview a candidate before they are assigned to a clinic and make a final determination as to their acceptability.

2. **Employer Obligations:** Employer hereby agrees to undertake the following obligations (the "Employer Obligations"):

- a. *Promotion of Health and Wellness Services.* Employer acknowledges and agrees that the success of the Services offered by IH is wholly dependant upon participation and acceptance. Employer shall work with IH to promote participation of IH's Services which shall include issuance of notifications to eligible health plan members, implementation of effective education sessions for eligible participants to tout the benefits of the program, and communication with line management regarding the importance of their support of participation in this program.

- b. *Participating Health Plan Member Information.* Employer acknowledges and agrees that the provision of Services by IH is contingent upon the furnishing of Health Plan member information to IH. For each eligible participant Employer shall provide or shall direct Employer's health plan (including any third-party administrator) to furnish the demographic information and health care claims data required by IH so as to facilitate the provision of the Services selected by Employer and outlined in Schedule A.
- c. *Premises and Space.* To the extent required under either Tier Two or Tier Three Employer shall dedicate a space on Employer's premises to permit IH to meet privately with Program Participants, and if necessary, furnish clinical interventions and/or employee education. Employer shall provide IH with a right of access to and use of Employer's premises (including common hallways, and public access ways) in order for IH to arrange for the provision of Services as provided herein.
- d. *Scheduling and Contact Person.* Employer shall provide IH with the name of one individual to serve as the Program Coordinator to assist with the scheduling of Participating Health Plan Member meetings with IH personnel. In addition, this person will assist with the establishment of a sign up scheduling process to facilitate the recording of clinic visits. In the event the contact person is changed, Employer shall provide notice of such change promptly to IH.
- e. *On-site Internet Access.* Employer shall provide access to a high speed internet link to accommodate the use of the portable electronic health registry by IH representatives providing services at each Employer facility.

3. Invoice and Payment:

- a. *General Payment Provisions.* IH shall furnish Employer with an itemized invoice of all Services furnished at the Service Fee listed in Schedule B on a monthly basis ("Invoice").
- b. *Ernest Money at Contract Signing.* Employer shall provided Ernst money at the time of agreement signing in the amount of \$250.00. No service activities will be initiated by IH until a properly authorized agreement is received.
- c. *Payment Terms.* Payment of the Monthly Invoice is due within thirty (30) days of receipt.

4. Term and Termination:

- a. This Agreement shall commence on the Effective Date and continue for a term of (1) year (the "Initial Term"). Thereafter this agreement shall automatically renew for successive one (1) year terms ("Renewal Term"), unless either party gives thirty (30) days' prior written notice of non-renewal to the other party.
- b. During any Term of this Agreement either party may terminate this Agreement upon thirty (30) days' prior written notice with or without cause.
- c. Any outstanding Invoices as of the date of termination will be due and payable within thirty (30) days following the effective date of termination.
- d. Termination of this Agreement shall not release or discharge either party from any obligation, debt or liability which shall have previously accrued and remain to be performed upon the date of termination.

- e. Upon termination of this Agreement, IH shall either (i) maintain for a period of no less than five years and then destroy any Program Participant information that would be considered Individually Identifiable Health Information, as defined pursuant to HIPAA, which is received by IH or maintained in its Health Registry Database; or (ii) transfer any Program Participant information that would be considered Individually Identifiable Health Information to another entity or individual designated by Program Participant, provided such transfer is permitted by state and federal privacy laws and regulations. Provided, the parties acknowledge and agree that IH shall be permitted to retain any Individually Identifiable Health Information that has been de-identified in accordance with the standards established pursuant to 45 C.F.R. § 164.514.

5. Security of Employee Information.

- a. Employer acknowledges and agrees that IH is a “business associate,” as defined by HIPAA, and the regulations promulgated there under. As such, IH will maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality of any Employee Information it creates, receives, or maintains. In addition IH will maintain safeguards to protect the security of the Program Participant information it creates, receives or maintains from destruction, loss, damage, or inadvertent access and disclosure in accordance with standard commercial practices of organizations offering same or similar services.
 - b. Employer acknowledges and agrees that, except as permitted or required by state or federal law or as expressly authorized in writing by the Participating Employee, IH shall not be required to produce or furnish any Individually Identifiable Health Information unless such information has been de-identified in accordance with 45 C.F.R. § 164.514.
 - c. The parties have entered into a Business Associate Agreement governing the use and disclosure of PHI.
6. **Confidentiality.** For purposes of this Agreement, the term “Proprietary Information” shall include all types of proprietary data, trade secrets, and confidential information of either party whether oral or written, which is not legitimately in the public domain. Each party acknowledges that the other’s Proprietary Information disclosed to it pursuant to this Agreement is disclosed in confidence and with the understanding that it constitutes valuable business information developed at great expenditure of time, effort and money. Each party agrees that it will not, without the express prior written consent of the other, (i) use the other’s Proprietary Information for any purpose other than the performance of this Agreement; or (ii) disclose or reveal the other’s Proprietary Information to any third party, except to the extent such disclosure is required by law, or pursuant to subpoena or other legal process. If any person seeks to compel either party to disclose any Proprietary Information, the party will promptly notify the other party so that the other party may seek an appropriate protective order. Upon termination of this Agreement by either party for any reason whatsoever, each party shall return to the other party all material constituting or containing Proprietary Information of the other or, if return is not feasible, destroy it.
7. **Insurance:** IH shall maintain comprehensive general liability insurance with coverage limits not less than three (3) million dollars under which Employer will be named as an additional insured. Any clinical personnel providing services under this Agreement shall maintain professional liability (malpractice) insurance with coverage limits not less than [one million (\$1,000,000.00)/three million (\$3,000,000.00) dollars]. IH shall provide Employer with certificates evidencing any insurance coverage required under this Section upon request. In the performance of this Agreement, it is understood

and agreed that clinical personnel providing services under this Agreement are doing so as independent contractors to Employer and are Contractees or Employees of IH.

8. Indemnification.

- a. Each party (the "Indemnitor") agrees to defend, indemnify and hold harmless the other party (the "Indemnatee") from and against any and all losses, judgments, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and costs of settlement) which directly results from or arises out of any material breach by the Indemnitor of any of its representations, warranties, covenants or obligations in this Agreement in carrying out this Agreement.
- b. In addition, IH agrees to indemnify and hold harmless Employer and its officers, directors, employees, affiliates, employees and agents, from and against any claims, liabilities, losses or expenses, including, but not limited to attorneys fees, punitive damages, arising or resulting from the negligent performance of professional clinical services or acts and omissions as contemplated by Schedule A of this Agreement.
- c. The Indemnatee shall notify the Indemnitor by registered mail of the existence of any such action, claim or demand giving rise to a claim for indemnity under this paragraph in writing of the same within fifteen (15) days of receipt of such written assertion of a claim or liability; provided, however, the failure to give such notice shall affect the Indemnitor's obligations hereunder only to the extent the Indemnitor is materially prejudiced by such failure. The Indemnitor shall not, without the prior written consent of the Indemnatee, settle or compromise any claim or consent to the entry of any judgment which does not include as an unconditional term thereof the giving by the claimant to the Indemnatee a release from all liability in respect to such claim.
- d. All indemnifications made by the parties shall survive the termination of this Agreement.
- e. Each party agrees to use its commercially reasonable best efforts to cooperate in the investigation, mitigation, defense, and settlement of any third-party claim subject to this Section 9; to permit the cooperation and participation of the other parties in any such claim or action; and to promptly notify the other parties of the occurrence of any indemnified event or material developments or amounts due respecting any indemnified event.

9. Non-Solicitation.

- a. Individuals supplied or introduced by either party to the other have been or will be recruited at significant time and expense and the party has a compelling interest in maintaining its contractual relationships and expectancy of future contractual relationships with such individuals. IH and Employer covenants that it, its employees, agents, or representatives shall not, during the Initial Term or any Renewal Terms of this Agreement and for a period of twelve (12) months after the effective date of any termination of this Agreement make offers or contracts of employment or offer or contract for services with any individual supplied or introduced by IH to Employer at any time during the term of this Agreement or any renewals thereof.

10. Independent Contractors. In providing Services under the terms of this Agreement the parties and their employees shall at all times act and perform as independent

contractors to one another. No act, or failure to act by any party hereto shall be construed to make or render the other party its partner, joint venturer, employee or associate. The parties do not have any authority or rights to act as the representative or agent of the other.

11. **Miscellaneous:** This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of North Carolina, without regard to its conflict of laws principles. This Agreement may not be assigned by either party without the prior written consent of the other party, which consent shall not unreasonably be withheld. IH shall not be responsible for delays or failures in its performance resulting from acts or omissions attributable to Employer's employees. Any delay or failure by IH to enforce any of its rights under this Agreement shall not be deemed a waiver of any other rights hereunder. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. This Agreement may only be amended in a writing executed by both parties. This Agreement supersedes all previous contracts and constitutes the entire agreement between the parties. No oral statements or prior written material not specifically incorporated herein shall be of any force and effect and no changes in or additions to this Agreement shall be recognized unless and until made in writing signed by all parties hereto.

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

Informed Health, LLC

_____(Signature)
_____(Print Name)
_____(Title)

Employer

_____(Signature)
_____(Print Name)
_____(Title)

Schedule A

Description of Services

The specific Services to be provided by IH to the Employer under each of the separate Tiers are provided below in further detail. Only those Services described in the Tier selected by Employer will be provided.

Tier One: HealthAWARE. The HealthAWARE program includes a health assessment service performed on-site at Employer's office location(s). By providing access to IH's Services on-site, IH seeks to promote participation through convenience. The specific services offered under the HealthAWARE program, include the following:

1. *Medical History and Lifestyle Survey:* IH will provide a survey tool to obtain direct information about each participant's past medical history and medical history of their immediate family. The survey tool will also be designed to capture information regarding the participant's daily lifestyle. The survey tool will be made available in three ways: (a) directly to eligible Health Plan Members; (b) through the US Postal Service; and (c) on the internet. Information provided to IH through the internet will be appropriately secured.
2. *Biometric Measurement:* IH will furnish staff on-site at Employer's office location(s) according to a schedule mutually determined by Employer and IH to measure and record each participant's waist/hip circumference, blood pressure readings, and Body Mass Index.
3. *Blood Analysis:* IH will furnish clinicians on-site at Employer's office location(s) according to a schedule mutually determined by Employer and IH to draw blood for analysis of Triglycerides, Cholesterol, and Glucose. The blood analysis can be expanded at the option of the Employer for additional fees to include screens for some or all of the following: prostate specific antigen (PSA); thyroid activity; hemoglobin A1c (HgA1c), and nicotine.
4. *Completion of Individual Health Profile:* Program Participant specific information collected by IH clinicians as designated in these Tier One services shall be combined and maintained electronically on the "Health Registry Database." Using predictive models, the probability of illness of each individual and anticipated cost of care to treat such illnesses shall be calculated and compiled into an Individual Health Profile Report. The Health Registry Database shall also be used to determine each Program Participant's statistical risk of developing a cardiac condition, stroke or diabetes within the following seven year period. The results of the risk assessment shall be included in the Health Report Card report. The report shall be marked "Confidential" and will be mailed directly to each Program Participant at his or her home address, or other address of their choosing. Employer will not receive a copy of the report. Employer will receive a Population Health Report Card report detailing aggregate risk trends by company facility.
5. *Individual Intervention Plans ["H.E.L.P.":* Utilizing the health risk profile data reported in each person's Health Report Card, health improvement plans entitled "Healthy Life Plans" ("H.E.L.P.") are developed for each Program Participant. The H.E.L.P. plans are developed on an individualized basis to establish interventional steps that will aid in reducing each Program Participant's health risk issues over time. A copy of the plan shall be distributed with the Health Report Card to increase awareness among participants of actions they may take to decrease their risk of illness.

6. These services will commence in accordance with a mutually agreed upon schedule by IH and Employer.
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Tier Two: HealthDIRECT. The HealthDIRECT Services provided by IH under Tier Two build upon those provided in the Tier One: HealthAWARE. In this service tier, each individual's health status is tracked longitudinally through an electronic link between IH and the Employer's sponsored health plan administrator and from data input from the on-site Nurse Practitioner. From direct input by the Practitioner and through the data link with the health plan administrator each Program Participant's data is transferred electronically on a monthly basis to an established Health Registry and IH is able to determine actions taken consistent with the H.E.L.P. plan. Noncompliant Program Participants are notified by mail. The specific services offered under the HealthAWARE program, include the following:

1. All services provided in HealthAWARE.
2. *Electronic Data Link:* An electronic data link shall be established between IH and the Employer's third party administrator of its sponsored health plan. Employer and IH shall determine a mutually satisfactory solution to establishing such a link. On a monthly basis, individual claims information for each participating employee shall be provided in an electronic format to IH.
3. *Health Registry:* IH shall maintain an electronic database, accessible via the internet, with Program Participant's individualized health profiles and H.E.L.P. plans.
4. *Monitoring Health Claims Activity:* IH shall monitor the claims data of each Program Participant on a monthly basis to determine the individual's participation in the H.E.L.P. plan. Program Participants determined to be out of compliance with the H.E.L.P. plan will be notified on a monthly basis.
5. *Intervention Tracking and Notifications.* IH shall remind Program Participants in advance of scheduled health intervention services and shall notify them of missed appointments.
6. *Wellness Plan Compliance Administration.* **[OPTIONAL SERVICE CAPABILITY].** An Employer may establish a Wellness Plan that includes guidelines for prevention and health improvement and provides incentives for health plan member participation. These incentives may include differentials in health premium contributions, cash rewards, gifts, vacation time, etc. If members compliantly participate in the Wellness Plan and satisfy requirements of the Wellness Plan they receive the reward(s) and if they do not the reward (s) may be withheld. In order to implement this type of program, an Employer must ensure that it is administered fairly among all plan members and that the reward is based on actions taken, not actual changes in risk conditions. The one exception to this is for tobacco use. Wellness Plans can require individuals to not use tobacco products in order to be compliant. Experience demonstrates that if individuals follow required intervention steps, in 96% of the cases, clinical risk conditions improve as a result. In the remaining situations, medical and biological circumstances may negate the desired outcomes. If this is the case, the individual(s) can not be penalized.

IH can administer this type of incentive Wellness Plan consistent with Federal and State regulations, including HIPAA privacy act stipulations. In order to do so each program participant must receive a Healthy Life Plan individualized around their specific health

risk conditions. This plan must not only specify actions to be taken, but also, timelines for action (these elements are part of the program that are provided as defined above). Historical health plan claims data, encounter data entered by the on-site practitioner, and information provided by participants which verifies actions taken, are all entered into the Health Registry System and matched with each person's intervention plan requirements to determine one's level of compliance. Periodically, a report is provided to Employer listing the names of individuals who have not met their requirements within the time specified. Based on this notification, Employer may elect to withhold the incentive. **[THIS PROCESS IS HIPAA COMPLIANT AND IS CONSISTENT WITH EXISTING FEDERAL GUIDELINES PUBLISHED IN DECEMBER OF 2006].**

7. *Impact Reports:* IH will furnish Employer with a report every four months that will aggregate results regarding program participation and compliance with the H.E.L.P. plans. The report will also describe the health risk factors driving Employer's health plan costs. Employer will not receive *any* individualized Program Participant information, health or otherwise. Any information furnished to Employer by IH will be "de-identified" according to HIPAA's Privacy Rule requirements (as defined at 45 C.F.R. § 164.514).
8. These services will commence in accordance with a mutually agreed upon schedule by IH and Employer.

Tier Three: HealthONSITE. The HealthONSITE Services provided by IH under Tier Three build upon those provided in both the HealthAWARE and HealthDIRECT tiers by furnishing Employer with on-site clinicians who act as a health care resource to Program Participants. The clinicians will guide Program Participants through their personalized interventional plans; evaluate the results of the interventional services; assist Program Participants in the selection of health care providers in the community and in making appointments with those providers; periodically perform medical testing services to measure the impact of the planned interventions on the specifically identified health risk factors for each participating employee; medication management; treat minor medical conditions; and provide monthly educational sessions regarding assorted health topics specific to each Program Participant's health risk factors. As with the HealthDIRECT services, all of the information will be stored in IH's health registry database for tracking and analysis. Specifically, the HealthONSITE Services provided by IH under Tier Three, include the following:

1. All services provided in HealthAWARE.
2. All services provided in HealthDIRECT; provided, however, that the H.E.L.P. plan developed and information maintained in the Health Registry shall also take into consideration the results of the physical evaluation of the Program Participant in the on-site clinic.
3. *On-Site Clinical Team:* IH shall furnish Employer with an on-site clinical team composed a mid-level practitioner (the "OnCare Team"). The practitioner furnished will be either a nurse practitioner, or physician assistant, depending upon availability in the Employer's geographic area.

The practitioner shall:

- a. Perform periodic clinical assessments on Program Participants
- b. Treat medical conditions related to identified high risk issues;
- c. Order medical tests and make referrals for participating employees, as indicated;
- d. Monitor a Program Participant's medication administration

- e. Prescribe medications as needed
- f. Draw blood specimens for analysis
- g. Perform other medical services warranted by a person's physical condition consistent with intervention protocols endorsed by the practitioner's physician supervisor

The clinical team shall provide services to Program Participants on-site at the Employer's location(s) on the days and at the times identified in Schedule C.

4. Initiation of this service will usually begin within ninety (90) days of the execution of this agreement, but not before the recruitment and selection of a qualified practitioner to staff the clinic.

Schedule B

Fee Schedule

The fees for Services vary depending upon the Service Tier selected by the Employer. Fees will be included in the monthly invoices from IH to Employer, as provided in Section 3. The charges for the establishment of the data link between IH and Employer in Tiers Two and Three are not listed below. The fees and billing mechanism for such data links will be mutually established between the parties. Per participation fees shall remain in effect for two (2) years from the effective date of the program. Specifically, the Service Fees for the individual Service Tiers are as follows:

1. Tier One: HealthAWARE

- Health Risk Assessments - **\$28.90** per participating employee;

2. Tier Two: HealthDIRECT

- Program Administration - **\$2,800.00** due at the beginning of each contract term
- Health Registry - **\$1.95** per Health Risk Assessment participant per month
- Education Materials - **\$1.02** per Health Risk Assessment participant per month
- Wellness Plan Compliance Administration – no additional fee

3. Tier Three: HealthONSITE

- Program Administration - **\$490.00** per month the clinic operates.
- On-site Nurse Practitioner Hourly Fee - **\$45.00** per hour staffed
- Consumable Supplies - **\$.81** per Health Risk Assessment Participant
- One time Minor Equipment/Startup Supplies – **\$3,900.00**
- Reference Lab Test performed in the on-site clinic will be billed on the IH monthly invoice to Employer according to a fee schedule based on discounted Medicare allowable charges; average charges to be **\$15.50** per person per month
- Physician supervisory services - **\$10.00** per hour staffed

Schedule C
To Be Completed if Tier Three is Selected

On-Site Clinic Hours of Operation

1. The on-site clinics shall operate seventeen **(20) hours per week**. This total number of hours shall be divided according to the chart below:

<u>Locations</u>	<u>Hours</u>
✓ One Location TBD	20

▪ **SCHEDULE TO BE DETERMINED**

Upon mutual written agreement, the days per week and hours per day can be adjusted.