

**BUSINESS ASSOCIATE CONTRACT WITH DESIGNATION OF REPRESENTATIVES**

This Business Associate Contract ("Contract") is by and between Claims Administrator (as identified below) and Northern York County School ("Plan Sponsor") acting on its own behalf and on behalf of its group health plan(s) ("GHP").

**RECITALS**

WHEREAS, GHP is a "Group Health Plan" as defined in Section 160.103 of the regulations implementing the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 45 C.F.R. Parts 160 and 164 (the "Privacy Rule").

WHEREAS, Claims Administrator provides services related to the administration of GHP under an administrative services only agreement or cost-plus arrangement by and between Claims Administrator and Plan Sponsor ("Benefits Contract"); and

WHEREAS, Plan Sponsor and Claims Administrator mutually agree to incorporate the terms of this Contract into the Benefits Contract in order to comply with the requirements of the implementing regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as modified by the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") ("HIPAA Rules"),

NOW, THEREFORE, in consideration of these premises and the mutual promises and agreements hereinafter set forth, Plan Sponsor and Claims Administrator hereby agree as follows:

**PART I. - CLAIMS ADMINISTRATOR'S OBLIGATIONS**

- A. Permitted Uses and Disclosures. Claims Administrator is permitted or required to Use or Disclose Protected Health Information it creates or requests for, or receives from, Plan Sponsor or GHP only as follows:
1. Functions and Activities on Behalf of GHP. Claims Administrator is permitted to Use, Disclose, create or receive Protected Health Information in furtherance of its administrative duties on behalf of GHP as set forth in this Contract, the Benefits Contract and Exhibit A hereto, and consistent with the Privacy Rule and any implementing regulations..
  2. Data Aggregation Services. Claims Administrator may perform Data Aggregation services as defined in the Privacy Rule, subject to any limitations imposed by the Benefits Contract and the Privacy Rule.
  3. Uses for Claims Administrator's Operations. Claims Administrator is permitted to Use Protected Health Information: (a) as necessary for Claims Administrator's proper management and administration; and, (b) to carry out Claims Administrator's legal responsibilities.
  4. Disclosures for Claims Administrator's Operations. Claims Administrator may Disclose Protected Health Information for Claims Administrator's proper management and administration or to carry out Claims Administrator's legal responsibilities, but only if the following conditions are met: (a) the Disclosure is Required by Law; or (b) Claims Administrator obtains reasonable assurances from any

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person or organization to which Claims Administrator will Disclose such Protected Health Information that the person or organization will: (i) hold such Protected Health Information in confidence and Use or further Disclose it only for the purpose for which Claims Administrator Disclosed it to the person or organization or as Required by Law; and, (ii) notify Claims Administrator (who will in turn notify GHP) of any instance of which the person or organization becomes aware in which the confidentiality of such Protected Health Information was breached.

5. Other Uses and Disclosures. Claims Administrator may make any Use and/or Disclosure of Protected Health Information permitted under 45 C.F.R. §§ 164.506(c), 164.508 and 164.510, as well as under Claims Administrator's Notice of Privacy Practices ("NPP").
  6. Creation of Limited Data Sets and De-Identified Health Information  
Claims Administrator may use Group Health Plan's PHI to create (or have created on its behalf) Limited Data Sets, in conformance with 45 C.F.R. § 164.514(e) (2), and De-Identified Health Information, in conformance with 45 C.F.R. § 164.514(b). Claims Administrator may use such Limited Data Sets for public health, research and health care operations purposes permitted by the Privacy Rule.
  7. Additional Uses and Disclosures. In addition to uses and disclosures authorized by Sections I.A. 1-6 hereof, Claims Administrator may use or disclose data collected in the performance of services under Benefits Contract or any other Agreement between the Parties, so long as: (i) the data is de-identified in a manner consistent with the requirements of HIPAA; or (ii) the data is used or disclosed for research, health oversight activities or other purposes permitted by law; or (iii) a Member has consented to the release of his or her individually identifiable data. The data used or disclosed shall be used for a variety of lawful purposes, including, but not limited to, research, monitoring, and benchmarking of industry and health care trends.
- B. Minimum Necessary and Limited Data Set. Claims Administrator will apply policies and procedures intended to assure that it will Use, Disclose, or request only the minimum necessary amount of Protected Health Information to accomplish the intended purpose as required under 45 C.F.R. §§ 164.502(b) and 164.514(d) , and will use a Limited Data Set, as defined by the Privacy Rule, if practicable.
  - C. Sale of PHI. Claims Administrator shall not directly or indirectly receive remuneration in exchange for PHI except where permitted by the Contract and consistent with applicable law.
  - D. Use of PHI for Marketing Purposes. Claims Administrator shall not directly or indirectly receive payment for any use or disclosure of PHI for marketing purposes except where permitted by the Agreement and consistent with applicable law.
  - E. Disclosure to Claims Administrator's Subcontractors and Agents. Claims Administrator shall require any of its agents or subcontractors to provide reasonable assurance, evidenced by written contract that the agent or subcontractor will comply with the same privacy and security obligations as Claims Administrator with respect to Protected Health Information of GHP.
  - F. Disclosure Pursuant to Audits. No provision of this Contract is intended in any way to limit or expand the party's rights or obligations with respect to audits as set forth in the Benefits Contract.

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- G. Duty to Mitigate. Claims Administrator will mitigate to the extent practicable any harmful effect of which Claim Administrator is aware that is caused by any use or disclosure of GHP's Protected Health Information in violation of this Contract.
- H. Reporting of Improper Use or Disclosure. Claims Administrator will promptly report to GHP any Use or Disclosure of Protected Health Information not permitted by this Contract or in violation of the Privacy Rule when Claims Administrator learns of such non-permitted Use or Disclosure. In addition, Claims Administrator will report any "Breach" of "Unsecured Protected Health Information" (as these terms are defined by the Breach Notification Regulation, 45 C.F.R. §164.402), following discovery and without unreasonable delay, but in no event later than thirty (30) days. Claims Administrator shall cooperate with Plan in investigating the Breach and in meeting the Plan's obligations under the Breach Notification Regulation and any other applicable, security breach notification laws.

Any such report shall include the identification (if known) of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Claims Administrator to have been, accessed, acquired, or disclosed during such Breach. Claims Administrator's report to Plan will at the least:

1. Identify the nature of the non-permitted access, use or disclosure, including the date of the event and the date of discovery of the Breach;
  2. Identify the Protected Health Information accessed, used or disclosed (e.g., full name, social security number, date of birth, etc.);
  3. Identify generally who made the non-permitted access, use or disclosure and who received the non-permitted disclosure;
  4. Identify what corrective action Claims Administrator took or will take to prevent further non-permitted access, uses or disclosures; and
  5. Identify what Claims Administrator did or will do to mitigate any deleterious effect of the non-permitted access, use or disclosure.
- I. Compliance with Standard Transactions. If Claims Administrator conducts on behalf of GHP communications that are required to meet the Standards for Electronic Transactions as set forth in 45 C.F.R. Part 162 ("Standard Transactions"), Claims Administrator will comply, and will require any subcontractor or agent involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 C.F.R. Part 162.
- J. Information Safeguards. Claims Administrator will develop, implement, maintain and use reasonable and appropriate administrative, technical and physical safeguards to preserve the privacy, integrity, confidentiality and availability of Protected Health Information, and to prevent non-permitted Use or Disclosure of Protected Health Information. When so required:
1. The safeguards must reasonably protect group health plan's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule, 45 C.F.R. Part 164, Subpart E and this Contract, and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Contract.

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2. Such safeguards shall be consistent with applicable requirements of 45 C.F.R. Part 164, Subpart C, pertaining to the security of Electronic Protected Health Information ("EPHI"), and as required by the HITECH Act. Claims Administrator also shall develop and implement policies and procedures and maintain documentation of such policies and procedures to assure compliance with the Security Rule standards as required by the HITECH Act;
3. Claims Administrator will ensure that any agent, including a subcontractor, to whom it provides EPHI agrees to implement reasonable and appropriate safeguards to protect it; and
4. Claims Administrator will report any security incident of which it becomes aware to the group health plan. For purposes of this paragraph a reportable security incident shall be any security incident (as defined in 45 C.F.R. § 164.304) that Claims Administrator reasonably determines to be a threat or hazard to the security or integrity of the group health plan's EPHI.

## K. Administration of Individual Rights

1. Access. Upon GHP's written request, or the direct request of an individual, Claims Administrator will provide access to Protected Health Information about an Individual in Claims Administrator's custody or control contained in a Designated Record Set, so that GHP may meet its access obligations under 45 C.F.R. § 164.524.. Such access shall be provided in a time and manner consistent with Claims Administrator's procedures for access, which Claims Administrator hereby represents comply with the requirements of 45 C.F.R. § 164.524. All fees related to this access shall be borne by the Individual, as determined by Claims Administrator in accordance with 45 C.F.R. § 164.524. Claims Administrator shall make such information available in an electronic format where directed by GHP.
2. Amendment. Upon GHP's written request, or the direct request of an Individual, Claims Administrator will, on behalf of GHP, amend Protected Health Information as required by 45 C.F.R. § 164.526 on GHP's behalf. Claims Administrator will amend such Protected Health Information according to its own procedures for such amendment, which procedures Claims Administrator represents comply with applicable requirements of 45 C.F.R. § 164.526.
3. Disclosure Accounting. Claims Administrator agrees to record each disclosure, not excepted from Disclosure accounting under 45 C.F.R. § 164.528(a)(1) in accordance with the requirements of 45 C.F.R. § 164.528(b). Upon GHP's written request or the direct request of an Individual, Claims Administrator will, on behalf of GHP, provide a Disclosure Accounting in accordance with its own procedures for Disclosure Accounting, which Claims Administrator represents comply with 45 C.F.R. § 164.528..
4. Request for Restrictions and Confidential Communications. To the extent that communications are within the control of Claims Administrator, Claims Administrator will, on behalf of GHP, evaluate and determine whether to grant requests for restrictions and confidential communications in connection with the Use or Disclosure of Protected Health Information within the custody and control of Claims Administrator pursuant to 45 C.F.R. § 164.522. Claims Administrator will evaluate and determine whether to grant such requests according to its own procedures for such requests, and shall implement such appropriate operational steps as required by its own procedures. Claims Administrator represents that its procedures for evaluation and determination regarding such requests comply with the requirements of 45 C.F.R. § 164.522. Group Health Plan shall not agree to

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Requests for Restriction that could affect Claim Administrator's operations without first obtaining Claim Administrator's agreement to the Restriction.

- L. Inspection of Books and Records. Claims Administrator will make its internal practices, books, and records relating to its Use and Disclosure of Protected Health Information available to the U.S. Department of Health and Human Services in a time and manner designated by that agency for the purpose of determining GHP's compliance with the Privacy Rule and the Security Rule.
- M. In any case in which Claims Administrator has been engaged to perform any obligation of GHP that is described in 45 C.F.R. Part 64, Subpart E, it shall comply with all requirements of that Subpart that would apply to GHP in the performance of that obligation.

## PART II – PRIVACY NOTICES

- A. Claims Administrator's Notice of Privacy Practices ("NPP"). Unless otherwise directed by GHP, Claims Administrator will distribute its NPP to each Individual enrolled in the GHP at the time of the distribution. Thereafter, Claims Administrator shall distribute its NPP to each new enrolled Individual, and any material revisions to its NPP to all Individuals in accordance with its policies and procedures. Claims Administrator represents that its policies and procedures regarding the distribution of the NPP comply with 45 C.F.R. § 164.520(c). The practices and procedures set forth in Claims Administrator's NPP will apply to all Protected Health Information within the custody and control of Claims Administrator.
- B. GHP's Notice of Privacy Practices. GHP shall be responsible for the preparation and distribution of its NPP as required by the Privacy Rule. If requested, Claims Administrator shall provide GHP with its NPP that GHP may use as the basis for its own NPP.

## PART III – PLAN SPONSOR'S PLAN ADMINISTRATION FUNCTIONS

- A. Communication of Protected Health Information. Except as specifically agreed upon by Claims Administrator and Plan Sponsor in compliance with the Privacy Rule, all Disclosures of Protected Health Information by Claims Administrator pursuant to this Contract shall be made to GHP, except for disclosures related to enrollment or disenrollment in GHP.
- B. Summary Health Information. Upon Plan Sponsor's written request for the purpose either (i) to obtain premium bids for providing health insurance coverage under GHP, or (ii) to modify, amend, or terminate GHP, Claims Administrator is authorized to provide Summary Health Information regarding Individuals enrolled in GHP to Plan Sponsor.
- C. Disclosure to Plan Sponsor. GHP will not Disclose any Protected Health Information to the Plan Sponsor unless GHP has first ensured: (i) that its Plan Document has been amended as required by 45 C.F.R. § 164.504(f)(2), and (ii) that the Plan Sponsor has delivered the certification required by 45 C.F.R. § 164.504(f)(2)(ii). If GHP should require Claims Administrator to Disclose Protected Health Information directly to the Plan Sponsor, GHP shall authorize such disclosure by written instruction, accompanied by the Plan Sponsor's certification required by 45 C.F.R. § 164.504(f)(2)(ii). Claims Administrator may rely on Plan Sponsor's certification and GHP's written instruction, and will have no obligation to verify that the Plan Documents have been amended to comply with 45 C.F.R. § 164.504(f)(2) or that Plan Sponsor is complying with such amendments.

#### PART IV - TERM, TERMINATION AND AMENDMENT

- A. Term. The term of this Contract shall be co-extensive with the term of the Benefits Contract, including any run-out or settlement period.
- B. Termination for Breach. GHP shall have the right to terminate the Benefits Contract if Claims Administrator, by pattern or practice, materially breaches any provision of this Contract. Before terminating under this section, GHP shall provide Claims Administrator with an opportunity to cure any identified breach. If efforts to cure are unsuccessful, as determined by GHP, in its reasonable discretion, Plan Sponsor shall terminate the Benefits Contract and this Contract, as soon as administratively feasible.
- C. Effect of Termination: Return or Destruction of Protected Health Information. Upon cancellation, termination, expiration or other conclusion of the Benefits Contract ("Termination"), Claims Administrator will, if feasible and lawful, return to GHP or destroy all Protected Health Information, in whatever form or medium, then held by Claims Administrator. Claims Administrator will complete such return or destruction as promptly as practical after the effective date of the Termination.
- D. Effect of Termination: Return or Destruction of Protected Health Information Not Feasible. GHP acknowledges that certain information may not feasibly be returned or destroyed, including, but not limited to, de-identified data, data used for Data Aggregation purposes, and data subject to regulatory data retention requirements. Accordingly, upon Termination, Claims Administrator will identify to GHP any Protected Health Information that cannot feasibly or lawfully be returned to GHP or destroyed. After Termination, Claims Administrator will continue to protect such information as required by this Contract and limit its further Use or Disclosure of such information to those purposes that make its return or destruction infeasible.
- E. Continuing Privacy Obligation. Claims Administrator's obligation to protect the privacy of Protected Health Information that cannot feasibly or lawfully be returned or destroyed will survive Termination for as long as Claims Administrator retains any Protected Health Information governed by this Contract.
- F. Agreement to Amend. The parties acknowledge that federal rules relating to HIPAA are evolving ("New HIPAA Rules") and, thus, may require amendment to this Contract to ensure continuing compliance. The parties agree to amend this Contract to add terms, conditions or assurances required by any New HIPAA Rule. Should the parties fail to adopt amendments by the effective date of any New HIPAA Rule, this Contract will be deemed to be automatically be amended on such effective date to require both parties to comply with the requirements of such New HIPAA Rule.

#### PART V – GENERAL PROVISIONS

- A. Conflict. The provisions of this Contract will override and control any conflicting provision of the Benefits Contract. All non-conflicting provisions of the Benefits Contract will remain in full force and effect.
- B. Definitions and Interpretation. Capitalized terms used in this Contract, unless otherwise defined herein, have the meanings ascribed to them under the HIPAA Privacy Rule, the HIPAA Security Rule, the Breach Notification Rule and the HITECH Act. For purposes of this Contract, the term "Individual" shall

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include an Individual's personal representative. In the event of ambiguity, this Contract shall be interpreted so as to make all activities conducted hereunder compliant with the Privacy Rule, the Security Rule and any applicable state law or regulation governing the privacy of Individuals' health information.

- C. Documentation. Unless otherwise provided under the HITECH Act, all documentation that is required by this Contract or by the Privacy Rule will be retained by Claims Administrator for six (6) years from the date of creation or when it was last in effect, or for such longer period as may be required by any applicable law.

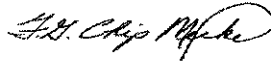
IN WITNESS WHEREOF, Plan Sponsor, for and on behalf of GHP and Claims Administrator execute this Contract in multiple originals to be effective on July 1, 2017

**PLAN SPONSOR**  
**Northern York County School District**  
**Corporate Name**

**CLAIMS ADMINISTRATOR**  
**United Concordia Dental**  
**Corporate Name**

BY: \_\_\_\_\_

BY



NAME: \_\_\_\_\_

NAME: F. G. Chip Merkel

TITLE: \_\_\_\_\_

TITLE: President & COO

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ADDRESS: 4401 Deer Path Rd

Harrisburg, PA 17110

FAX: \_\_\_\_\_

FAX: 717 260-7067

EXHIBIT A

**PERMITTED USES AND DISCLOSURES**

Claims Administrator is permitted to receive, create, Use or Disclose Protected Health Information ("PHI") on behalf of GHP for the following:

1. **Health Care Operations.** To conduct Health Care Operations activities to the full extent permitted of GHP under the Privacy Rule.
2. **Payment Activities.** To conduct Payment activities to the full extent permitted of GHP under the Privacy Rule.
3. **Treatment, Payment and Health Care Operation Activities of Other Covered Entities.** To assist another Covered Entity in its Treatment, Payment and Health Care Operation activities to the full extent permitted of GHP under the Privacy Rule.
4. **As Authorized by an Individual.** As may be authorized by an Individual pursuant to a written authorization in the form described in 45 C.F.R. § 164.508.
5. **When an Authorization or an Opportunity to Reject or Agree is Not Required.** To the full extent permitted of GHP, when an authorization or an opportunity to reject or agree is not required under 45 C.F.R. § 164.512.
6. **Use of Limited Data Set.** For permitted purposes, i.e. Research, Public Health and Health Care Operations, under the Privacy Rule.
7. **Other Permitted Uses and Disclosures of PHI by Claims Administrator:** Without limiting the generality of the foregoing, and by way of example only, Claims Administrator shall be permitted to Use, Disclose, create or receive PHI on behalf of GHP to the extent permitted under the Privacy Rule in performing or accomplishing activities related to:
  - Accounting
  - Actuarial and Rating
  - Administration of Claims (Initial, Appeals and Related Disputes or External Appeal Procedures)
  - Claims and Financial Audits
  - Benefit Design and Management
  - Billing
  - Blues on Call
  - Case Management
  - Issuance of Certificates of Creditable Coverage
  - Claims Payment and Processing
  - Collection Activities (including those related to the recovery of Overpayments)
  - Communications (oral and written) with Members, Providers, Subcontractors and Designated Agents
  - Compliance with Other Laws and Regulations and Related Records and Reports



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- Consulting and Related Analysis
- Coordination of Benefits
- Credentialing
- Customer Service
- Data Analysis
- Enrollment, Disenrollment, Coverage and Eligibility
- Experts and Consultants
- Government Filings
- Issuance and Creation of ID Cards and Benefits Booklets
- Inter-Plan Payment Activities including the BlueCard Program
- Managed Care Services and Supplies
- Marketing
- Overpayment Recoveries and Activities
- Participant Meetings
- Litigation
- Public Health Activities
- Quality Management
- Reimbursements
- Reporting, Standard and Non-Standard (claims, eligibility, health conditions)
- Risk Adjusting
- Settlements (annual, financial, litigation, etc.)
- Subrogation
- Utilization Management

Or other purposes that may be permitted under the Benefit Contract. .

**EXHIBIT B**  
**Designation of Representatives**

By this document, Group Health Plan designates the individuals named below as its representatives to receive information from United Concordia relating to administration of the Benefit Contract.

REPRESENTATIVES (Name and job title):

Date: 5/25/17

Jason A. Young, Business Manager  
Lynne Wicker, Benefit Coordinator  
\_\_\_\_\_  
\_\_\_\_\_

REPRESENTATIVES MAILING ADDRESS :

650 S. Baltimore St.  
Dillsburg, PA 17019  
\_\_\_\_\_  
\_\_\_\_\_

Group Health Plan agrees to promptly notify United Concordia of any changes in its designation of representatives to receive protected health information on its behalf.

(If Client sponsors more than one Group Health Plan; please provide addresses and representative's names for additional plans on an attachment.)