CONEXIS ADMINISTRATIVE SERVICES AGREEMENT

BROKER – II

Agency/Broker Name (the "Broker"): _____

Client Name (the "Client"): _____

Broker has requested that CONEXIS Benefits Administrators, LP ("CONEXIS") provide administrative services as described in this Administrative Services Agreement (the "Agreement") for certain employee benefit plans (the "Benefit Plans") maintained by Client. In consideration of the mutual promises contained in this Agreement, the sufficiency of which is hereby acknowledged, Broker, Client, and CONEXIS agree as follows:

SECTION 1. Introduction

1.1 Effective Date and Term: This Agreement is effective _____**1, 20**_____ (the "Agreement Effective Date") upon being signed ("Executed") by CONEXIS, the Broker and the Client, and will continue until terminated in accordance with the termination provisions contained herein. This Agreement and appropriate Fee Schedules for services contracted must be executed before proposed Services will be provided.

1.2 Appendices: Each attached appendix is incorporated into and made a part of this Agreement. Each appendix may have a later effective date than this Agreement, if mutually agreed to by the Broker, Client, and CONEXIS, and each appendix can be terminated independently of the other appendices and the Agreement.

1.3 CONEXIS' Obligation to Client: CONEXIS' only obligation under this Agreement is to Client and nothing in this Agreement shall be deemed to confer responsibility on CONEXIS to any person covered under the Benefit Plans (the "Covered Individual").

1.4 CONEXIS' Services: Broker and Client acknowledges that CONEXIS is not an accounting or law firm and no services provided by CONEXIS in accordance with this Agreement should be construed as legal or tax advice in providing administrative services under this Agreement.

SECTION 2. CLIENT DUTIES

2.1 Benefit Plans: Client has sole responsibility and liability for: (i) establishment and operation of the Benefit Plans, (ii) construing and interpreting the provisions of the Benefit Plans and (iii) deciding all questions of fact arising under the Benefit Plans. Client shall not represent to participants or to any third party that CONEXIS is the "Plan Administrator" or "Named Fiduciary" as defined by ERISA, whether or not ERISA is applicable. It is Client's sole responsibility to ensure compliance with all applicable laws and regulations, and CONEXIS' provision of services under this Agreement by CONEXIS does not relieve Client of this obligation or resulting liability related to non-compliance. Client has the sole responsibility to pay any fee or penalty arising from the Benefit Plans that is assessed by the Internal Revenue Service, the Department of Labor, and/or other federal, state, or local governmental agencies.

2.2 Service Fees: Broker agrees to pay to CONEXIS Service Fees ("Service Fees") that shall be assessed for any month during which services are performed and the CONEXIS Service Fee Invoice will be distributed by the 7th working day of the following month. Payment of the Service Fee Invoice is due upon receipt of the invoice. Any unpaid Service Fees not disputed are subject to interest not to exceed 1.5% per month, (18% per annum). A $35.00 fee will be charged for all payments returned NSF.

If Broker disputes any charge or amount on any invoice and such dispute cannot be resolved promptly through good faith discussions between the parties, Broker shall pay the amounts due under this Agreement less the disputed amount, and the parties shall discuss and resolve such disputed amount. An amount will be considered disputed in good faith if (i) Broker delivers a written statement to CONEXIS on or before the past due date of the invoice, describing in detail the basis of the dispute and the amount being withheld by Broker, (ii) such written statement represents that the amount in dispute has been determined after investigation of the facts and that such disputed amount has been determined in good faith, and (iii) all other amounts due from Broker that are not in dispute have been paid in accordance with the terms of this Agreement. Disputed amounts shall not be considered past due. Notwithstanding that an invoice has been paid in full, Broker may raise issues with respect to the invoice within ten (10) business days following the date of the invoice. Invoices for all Active Accounts will be generated no later than the 7th business day after the last day of the previous month.

Additional Service Fees will also be incurred for services Broker or Client requests that are outside standard processes of CONEXIS' duties under this Agreement, provided that Broker receives advance notice that the requested services are outside the scope of this Agreement with an estimate of Additional Service Fees to be incurred and Broker provides prior consent in writing for such Additional Service Fees.

Sixty (60) days prior to the expiration of any Service Fees Guarantee Period, as noted on the appropriate Fee Schedule, CONEXIS may at its sole discretion revise the Service Fees by providing Broker written notice. Service Fee Guarantee Periods are only effective with fully executed Services Agreements. In addition, Service Fees may be revised at any time,

if Client makes changes to the Benefit Plans (regardless of reason) that materially revise the nature or volume of the services contemplated by this Agreement.

2.3 Payments to CONEXIS: Notwithstanding any provision herein to the contrary, Broker and Client and CONEXIS agree that any funds submitted by Broker or Client or any other individual or entity to CONEXIS in accordance with this Agreement: (i) are and shall remain the general assets of Broker or Client; (ii) are not "plan assets" within the meaning of ERISA, without regard to whether ERISA applies; (iii) were never held in an account, fund, or trust bearing the name of a Benefit Plan or any participants or beneficiaries thereof; and (iv) shall always remain subject to the claims of Broker or Client's creditors. Broker and Client further understands that CONEXIS is not responsible for satisfying any applicable trust requirements solely because the Broker or Client transmits funds to CONEXIS in accordance with this Agreement. Client warrants that: (i) neither it nor any of its employees, directors, representatives, fiduciaries, Benefit Plans (or any entity performing services for Client or such plans), any of its predecessors, successors or assigns have represented or shall represent to any participant or beneficiary of the Benefit Plan that a separate account, fund, or trust is being held on behalf of the Benefit Plans that may be used to provide or secure benefits under the Benefit Plans; (ii) Client shall advise the participants and beneficiaries of the Benefit Plans that the benefits under the Benefit Plans shall at all times be paid out of the general assets of Client. Broker further warrants and represents that they will comply with applicable law and guidance in the states they are licensed to do business.

2.4 Furnish Information to CONEXIS: Broker and/or Client shall furnish to CONEXIS the information determined by CONEXIS to be necessary to fulfill its duties, including but not limited to, quarterly updates of employee/participant headcount to the extent that such headcount is applicable for calculating Service Fees and such information shall be provided in a mutually agreeable format. Broker and/or Client shall furnish such headcount not less than 15 days prior to the end of the quarter with the corresponding increase/decrease applicable on the next quarter. CONEXIS will assume the information provided by Broker and/or Client or its designee (the "another Third Party Administrator") is accurate and/or timely and will not be liable to Broker and/or Client or any Covered Individual for inaccurate and/or untimely information provided. Client agrees that CONEXIS may assess an additional fee for direct costs, (e.g. postage and related labor costs) if CONEXIS has to take corrective action due to inaccurate and/or untimely information.

2.5 Indemnify CONEXIS: Broker and Client agrees to defend, indemnify and hold harmless CONEXIS, its officers, directors and employees from and against all losses, liabilities, damages, expenses (including reasonable attorneys' fees), resulting from any third party demand, judgment, settlement agreement or lawsuit arising from CONEXIS' performance under this Agreement, including without limitation, claims arising from actions taken by CONEXIS pursuant to Broker and/or Client's express written instructions, but specifically excluding claims arising from CONEXIS' breach of the standard of care set forth in this Agreement or from CONEXIS' negligence or willful misconduct. The foregoing obligation is contingent upon CONEXIS providing Broker and Client (i) prompt written notice of any claims, (ii) control over the defense of any such claims using attorneys of Broker and/or Client's choosing and (iii) reasonable assistance (at Broker and/or Client's expense) in the defense of any such claims.

SECTION 3. CONEXIS' DUTIES

3.1 Bond: CONEXIS will maintain a fidelity bond and employee crime coverage, to the extent required by law, which covers the acts of CONEXIS employees who handle funds provided by Broke and/or Client in accordance with this Agreement. In addition CONEXIS carries Errors and Omissions Insurance.

3.2 Sample Documents/Forms: As a courtesy to Client, CONEXIS may provide Client with sample documents and forms related to Benefit Plan administration. Such sample documents and forms have been prepared in accordance with the standard of care set forth in Section 3.5.; however, CONEXIS does not warrant sample documents and forms in any regard. Client is solely responsible for ensuring the documents and forms comply with the applicable laws and regulations.

3.3 Recordkeeping: CONEXIS shall maintain the usual and customary records for the lesser of the term of: (i) this Agreement or (ii) eight (8) years following the date the record was created or received by CONEXIS. CONEXIS shall deliver copies of such records to Client or its designee within thirty (30) days of receiving Client's written request for the records. Client shall be required to pay CONEXIS' reasonable charges for transportation and duplication of such records.

3.4 Audits: Client may perform one audit per year of the records specifically related to CONEXIS' duties under this Agreement after providing thirty (30) days prior written notice to CONEXIS. For reasonable cause in unusual circumstances, Client may perform additional audits as needed with the understanding that Client will bear the full cost of such audits. Client's agent may perform audits provided such agent signs a confidentiality agreement acceptable to CONEXIS. Audits must be performed during CONEXIS' standard business hours. CONEXIS will provide reasonable assistance and information to the auditors and Client shall reimburse CONEXIS for CONEXIS' reasonable expenses, including, but not limited to, copying and labor costs associated with the audit. Under no circumstances is Client permitted to audit CONEXIS' records that relate to other clients.

3.5 Standard of Care: CONEXIS and third party providers it hires shall exercise reasonable and prudent care in performance of the duties contained in this Agreement.

3.6 Nature of Duties: The services to be performed by CONEXIS under this Agreement shall be ministerial in nature and shall generally be performed in accordance with the terms of the Benefit Plans established by Client, CONEXIS' standard operating procedures and/or Client's instructions. It shall not be considered a breach of this Agreement if CONEXIS refuses to perform services generally required under this Agreement if the manner in which Client desires such services to be performed requires material changes to CONEXIS' existing standard operating procedures.

3.7 Customer Service and Electronic Administrative Services: Except during times of scheduled maintenance, CONEXIS shall provide Broker and/or Client or Client Representative telephonic access to customer service personnel during CONEXIS' standard business hours (8:00 AM – 5:00 PM Central Time) Monday through Friday. CONEXIS shall provide Client's employees or Qualified Beneficiaries (a "Participant") telephonic access to Participant support personnel (7:00 AM to 7:00 PM Central Time) Monday through Friday, except holidays and shall also provide web-based electronic administrative services twenty-four (24) hours per day, seven (7) days per week.

3.8 Indemnify Client: CONEXIS agrees to indemnify and hold harmless Broker and/or Client, its officers, directors and employees from and against all reasonably ascertainable, direct, monetary, compensatory damages arising out of CONEXIS' breach of the standard of care set forth in this Agreement. Notwithstanding the foregoing, CONEXIS will not be liable to Broker and/or Client in a breach of contract claim for other than monetary, compensatory damages that are reasonably foreseeable and ascertainable, regardless of whether or not CONEXIS was informed of the possibility of such damages. CONEXIS further agrees to indemnify and hold harmless Broker and/or Client, its officers, directors and employees from any claim, demand, or expense arising from the intentional and/or grossly negligent act or omission of any third party with which CONEXIS has contracted to assist CONEXIS in performance of its duties under this Agreement.

SECTION 4. GENERAL PROVISIONS

4.1 Entire Agreement: This Agreement embodies the entire understanding between the CONEXIS and Broker and Client regarding the subject matter hereof and supersedes all prior and contemporaneous oral or written agreements relating to the same subject matter. Broker and Client further agrees that this Agreement supersedes any prior service agreement(s) between the parties (or their predecessors) and acknowledges that it received appropriate written notice of termination of such prior written agreement(s).

4.2 Severability: The provisions of this Agreement shall be severable and the invalidity or unenforceability of any provision(s) hereof shall not affect the validity or enforceability of the remaining provisions provided the basic purpose of this Agreement can still be achieved through the execution of the remaining valid provisions.

4.3 Headings: The headings contained in this Agreement are for convenience only and will not affect in any way the meaning or interpretation of this Agreement.

4.4 Waiver; Modification; Amendment: No waiver, modification or amendment of this Agreement shall be valid or binding unless the same is in writing and duly executed by both parties, except as otherwise set forth herein.

4.5 Assignment: Notwithstanding any acquisition or merger of either party, neither Broker or Client nor CONEXIS may assign this agreement without the other party's prior written consent and whose consent shall not be unreasonably withheld. Any attempt or purported assignment in violation of the foregoing shall be void.

4.6 Confidential Information: Broker and Client and CONEXIS each acknowledge that in performance of this Agreement, each party has and will continue to disclose to the other, proprietary and confidential information (the "Confidential Information"). Only information that is identified by a party as "confidential" shall be considered "confidential information" of that party. Broker, Client and CONEXIS agree that each party shall: (i) keep such Confidential Information of the other party in strict confidence; (ii) not disclose Confidential Information of the other party to any third parties or to any of its employees not having a legitimate need to know such information; and (iii) not use Confidential Information of the other party for any purpose not directly related to and necessary for the performance of its obligations under this Agreement (unless required to do so by a court of competent jurisdiction or a regulatory body having authority to require such disclosure). For purposes of this Section, Confidential Information is any information identified as confidential and/or proprietary (or words of similar import), including but not limited to the parties' respective businesses or finances. Broker and Client further agrees that CONEXIS may communicate confidential, protected, privileged or otherwise sensitive information to Broker and/or Client through a named contact designated by Broker and/or Client (the "Named Contact") and specifically agrees to indemnify and hold harmless CONEXIS for any such communications directed to Broker and/or Client through the Named Contact attempted via facsimile, mail, telephone, email or any other media, acknowledging the possibility that such communications may be inadvertently misrouted or intercepted once CONEXIS has sent such to Named Contact. The term Confidential Information, as used herein, does not include information which: (i) becomes generally available to the public other than as a result of a disclosure by a party hereto, its representatives, or its agents; (ii) was available to the receiving party on a non-confidential basis prior to its disclosure hereunder by a party or its agents; (iii) becomes available on a non-confidential basis from a third-party source provided that such third party source is not bound by a confidentiality agreement with the other party hereto; or (iv) is independently developed by the receiving party without the use of, or reference to, the disclosing party's Confidential Information.

4.7 Disclosure of Individually Identifiable Health Information: Broker and Client and CONEXIS agree to the additional limitations and conditions set forth in any HIPAA Confidentiality Exhibit with respect to Covered Individuals'

individually identifiable health information created or received by CONEXIS in the course of performing its duties under this Agreement. If there is a conflict between this Agreement and the HIPAA Confidentiality Exhibit, the HIPAA Confidentiality Exhibit will control with respect to its subject matter.

4.8 Notices and Communications: All notices between Broker, Client and CONEXIS provided for herein shall be sent by confirmed facsimile; by guaranteed overnight mail, with tracing capability; by first class United States mail, with postage prepaid; or by email addressed to the other party at their respective addresses as set forth below for CONEXIS and on the signature page for the Broker and Client.

CONEXIS Benefits Administrators, LP	Email: **contractadministration@conexis.com**
6191 North State Highway 161, Suite 400	
Irving, TX 75038	FAX: **1.800.806.9112**

Notices shall be deemed provided when sent except as otherwise set forth in this Agreement. Emails sent to CONEXIS should be sent to the appropriate CONEXIS Service Representative or Contract Administration. Both parties agree to promptly notify the other of any changes in addresses and/or email addresses that neither party shall be responsible under this Agreement for notices sent prior to notification of a change in the address.

4.9 Termination of Agreement: Broker, Client, or CONEXIS may terminate this Agreement without a showing of cause by providing thirty (30) days prior written notice to the other parties. Termination without cause will be effective on the last day of the month following the month such notice is provided by terminating party. If there is more than one Service Appendix attached hereto, termination of one Service Appendix will not terminate the entire Agreement.

Notwithstanding anything to the contrary, CONEXIS may terminate this Agreement immediately for Broker and or Client's failure to pay Service Fees. Reinstatement of services after termination will require full payment of balance due plus interest and a $100.00 Reinstatement Fee. Either party may terminate this Agreement immediately, by providing written notice to the other if: (i) such other party becomes insolvent, makes a general assignment for the benefit of creditors, suffers, or permits the appointment of a receiver for its business or assets or (ii) becomes subject to any proceedings under Bankruptcy or insolvency law of which does not result in a reorganization. This Agreement will terminate immediately for: (i) misrepresentation, gross negligence, fraud or embezzlement on the part of any party, its officers, agents or employees or (ii) failure of any party to comply with all applicable State or Federal laws. Termination of this Agreement will not terminate the rights or obligations of either party arising prior to the effective date of such termination. The indemnity, confidentiality and privacy provisions of this Agreement shall survive its termination.

4.10 Interpretations: Broket, Client and CONEXIS agree that this Agreement's terms will be construed fairly and not in favor of or against a party, regardless of which party drafted the Agreement's terms.

4.11 Governing Law: This Agreement will be governed by and construed in accordance with the laws of the state of Texas without regard for conflicts of law principals. Any proceeding initiated by CONEXIS to enforce this Agreement or enjoin its breach shall be initiated and prosecuted in a federal or state court of federal jurisdiction sitting in the county and state in which Client's headquarters are located. Any such proceeding initiated by Client shall be initiated and prosecuted in a federal or state court of federal jurisdiction sitting in Dallas County, Texas.

4.12 No Third Party Beneficiaries: Nothing express or implied in this Agreement is intended to confer upon any person other than Broker, Client, and CONEXIS and their respective successors or assigns, any rights, remedies or obligations whatsoever.

4.13 Force Majeure: CONEXIS and Broker and/or Client will not be deemed in default of this Agreement, nor held responsible for, any cessation, interruption or delay in the performance of its obligations to provide such services hereunder due to causes beyond its reasonable control, including, but not limited to, natural disaster, act of God, labor controversy, civil disturbance, disruption of the public markets, terrorism, war or armed conflict, or the inability to obtain sufficient materials or services required in the conduct of its business from CONEXIS' vendors or other parties, including Intranet or Internet access, or any change in or the adoption of any law, judgment or decree. This clause shall not apply to Broker or Client's obligations to pay CONEXIS' fees related to this Agreement.

4.14 Independent Contractor: Broker, Client and CONEXIS are independent contractors with respect to each other and nothing in this Agreement will be deemed to create an employee/employer relationship; a partnership; or joint venture between Broker and/or Client and CONEXIS.

4.15 Survival: In the event of expiration or termination of this Agreement, the Indemnity Sections 2.5 and 3.8; Confidentiality and Privacy Provisions Section 4.6; and the Recordkeeping Section 3.3 of this Agreement shall survive its termination.

Broker, Client, and CONEXIS have caused this Agreement to be executed in their names by their undersigned officers, the same being duly authorized to do so.

Client FAX: _____

Client Contact Email: _____

Company Name: _____

Company Address: _____

_____

_____

CONEXIS Benefits Administrators, LP.

_____

Eva Boucher, CCEP
VP, Chief Compliance Officer CONEXIS

_____

Date

_____

Client Authorized Signature

_____

Printed Name

_____

Title

_____

Date

Broker FAX: _____

Broker Email: _____

Agency Name: _____

Broker Address: _____

_____

_____

Broker Authorized Signature

_____

Printed Name

_____

Title

_____

Date

CONEXIS ADMINISTRATIVE SERVICES AGREEMENT
HIPAA CONFIDENTIALITY EXHIBIT

This HIPAA Confidentiality Exhibit (the "Confidentiality Exhibit") is entered into by and between the Client in its individual capacity and on behalf of its group health plan(s) (hereinafter the "Plan(s)") and CONEXIS, in its capacity as both service provider to the Plan and to Client. This Confidentiality Exhibit is incorporated into and made a part of the CONEXIS Administrative Services Agreement ("Agreement") entered into between Client and CONEXIS. This Confidentiality Exhibit is effective as of the Effective Date of the Agreement into which this Confidentiality Exhibit is incorporated.

Section 1. Scope and Purpose of Confidentiality Exhibit.

Generally, this Confidentiality Exhibit is intended to comply with the privacy and administrative simplification requirements set forth in 45 CFR Parts 160 and 164, Subparts A and E (the "Privacy Rules"), issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"). In entering into this Confidentiality Exhibit, both Client and CONEXIS acknowledge that the Plan and Client are separate and distinct entities and that CONEXIS may perform services both on behalf of the Plan and also on behalf of Client in its capacity as Plan sponsor. CONEXIS is considered a "Business Associate" under the Privacy Rules with respect to services it performs on behalf of the Plan, if any, and an "Agent of Client" with respect to services it performs on behalf of Client/Plan sponsor, if any. This Confidentiality Exhibit sets forth the responsibilities of CONEXIS in its capacity as a Business Associate, as required by 45 CFR § 164.504(e)(1) (and is referred to by this Confidentiality Exhibit as Business Associate when addressing its responsibilities to the Plan) and in its capacity as Agent of Client, as required by 45 CFR § 164.504(f)(2)(ii)(B) (and is referred to by this Confidentiality Exhibit as "Agent of Client" when addressing its responsibilities to Client). This Confidentiality Exhibit also sets forth the responsibilities of Client with respect to actions that affect CONEXIS' responsibility under this Confidentiality Exhibit.

Section 2. Definitions.

For purposes of this Agreement, the terms used throughout this Confidentiality Exhibit shall have the following meanings:

2.1. **"Designated Record Set"** will have the same meaning given to the term "designated record set" in 45 CFR § 164.501.

2.2. **"Group Health Plan"** will have the same meaning as the term "group health plan" in 45 CFR § 160.103.

2.3. **"Individual"** will have the same meaning as the term "individual" in 45 CFR §160.103 and will include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

2.4. **"Privacy Rule"** will mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

2.5. **"Protected Health Information" or "PHI"** will have the same meaning as the term "Protected Health Information" in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of the Plan. PHI will not include information created by CONEXIS as Agent of Client.

2.6. **"Representative**" will include the Business Associate's managing members (as applicable), trustees, general partners (as applicable) and financial and legal advisors.

2.7. **"Required by Law"** will have the same meaning as the term "required by law" in 45 CFR § 164.103.

2.8. **"Secretary**" will mean the Secretary of the Department of Health and Human Services or designee.

Section 3. Responsibilities of Business Associate.

3.1. **Scope of Responsibilities**. All services performed by CONEXIS in accordance with the Agreement other than those set forth in Section 4.2 herein will be considered performed on behalf of the Plan and are subject to the provisions set forth in this Section 3.

3.2. **Confidentiality.** At all times, both during and after the termination of its relationship with the Plan for any reason, Business Associate and its Representatives will not use, disclose, or give others any of the PHI in any manner whatsoever, except as provided in Sections 3.3 and 3.4 of this Confidentiality Exhibit, and will hold and maintain the PHI in confidence. Business Associate will ensure that appropriate safeguards are in place to prevent the use or disclosure of the PHI otherwise than as permitted by this Agreement.

3.3. **Permitted Uses and Disclosures.**

(a) Except as otherwise limited in this Confidentiality Exhibit, Business Associate may use or disclose PHI, provided that such use or disclosure of PHI would not violate the Privacy Rules, as follows: (i) as permitted or required in this Confidentiality Exhibit and in the Agreement; (ii) as otherwise permitted by the Privacy Rules; (iii) as Required by Law in accordance with 45 CFR § 164.512; (iv) for the proper management and administration of Business Associate; (v) to fulfill any present or future legal responsibilities; (vi) for Data Aggregation services to the Plan (as defined in 45 CFR § 164.501); or (vii) any use and disclosure of PHI that has been de-identified within the meaning of 45 CFR § 164.514.

(b) Business Associate agrees to document any disclosures of PHI and the information related to such disclosures to respond to an accounting of disclosures of PHI if requested by Client in accordance with 45 CFR §164.528, and to provide such documentation to the Plan as it may request from time to time.

(c) In the event that Business Associate maintains PHI in a Designated Record Set, Business Associate agrees to provide access to such PHI that it maintains in a Designated Record Set to the Individual to whom the PHI relates in accordance with 45 CFR § 164.524. Furthermore, at the request of the Plan, Business Associate agrees to make amendments to PHI that it maintains in a Designated Record Set as directed by the Plan and to incorporate any amendments to PHI in accordance with 45 CFR § 164.526.

(d) Business Associate may disclose PHI to its agents or subcontractors with a bona fide need to know such PHI, but only if, prior to such disclosure, such agents or subcontractors provide reasonable assurances that they will agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI.

3.4. Required Disclosures and Use. Business Associate may disclose the PHI revealed to it by the Plan if and to the extent that law or court order requires such disclosure. Further, Business Associate agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of the Plan available to the Secretary, as requested by the Plan or designated by the Secretary, for purposes of the Secretary determining the Plan's compliance with the Privacy Rule.

3.5. Required Notice to Business Associate. In accordance with 45 CFR §164.520, and to the extent that such a limitation may affect Business Associate's use or disclosure of PHI, Client, acting on behalf of the Plan, agrees to notify Business Associate of any limitation(s) in its notice of privacy practices, including, without limitation, any changes in, or revocation of, permission by an Individual to use or disclose PHI. Client, acting on behalf of the Plan, also agrees to notify Business Associate of any restriction to the use or disclosure of PHI that it has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

3.6. Required Notice to the Plan. Business Associate agrees to report to the Plan any use or disclosure of PHI otherwise than as provided by this Agreement within ten days of becoming aware of such use or disclosure. Notice to one of the employees designated by Client in accordance with Section 3.7 herein shall be considered notice to the Plan.

3.7. Disclosure to Employees of Client.

(a) Except with respect to disclosures under Section 3.2 and 3.3 of this Agreement, the Plan acknowledges and agrees that Business Associate shall only disclose PHI in its possession to the employees who are identified on the Named Contacts List on the Client Profile as having access to PHI, in accordance with 45 CFR § 164.504(f), and that such disclosures are solely for purposes of carrying out Plan administration functions that Client performs for its Group Health Plan.

(b) Client agrees to timely notify Business Associate in writing of any changes to the names or positions of employees listed on the Named Contacts List. Business Associate shall have no duty to inquire whether the list of Named Contacts is accurate.

(c) Client shall indemnify and hold harmless Business Associate (and its employees) for any and all liability Business Associate may incur as a result of any improper use or disclosure of PHI by Client or a Named Contact(s).

3.8 Electronic Data Interchange. Business Associate agrees to comply with the EDI standard transaction requirements set forth in 45 CFR Parts 160 and 162 to the extent applicable.

3.9 Security. On or before the applicable effective date of the security rules set forth in 45 CFR §164.302 et seq., CONEXIS agrees to take steps to implement security procedures consistent with such security rules with regard to electronic PHI maintained by CONEXIS on behalf of the Plan. Such steps include:

(a) Implementing administrative, physical and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability to electronic PHI that it creates, receives, maintains or transmits on behalf of the Plan;

(b) Ensuring that any agents or subcontractors that assist CONEXIS agree to comply with the security rules; and

(c) Reporting to Client within a reasonable time period any Security Incident, as that term is defined by HIPAA, of which CONEXIS becomes aware.

Section 4. Responsibilities of Agent of Client.

4.1 Scope of Responsibility. It is agreed and understood that CONEXIS performs the services set forth in 4.2 on behalf of Client as agent of Client to assist Client with the obligation to the Plan. All such services set forth in Section 4.2 are necessary to assist Client with Client's responsibility to the Plan.

4.2 Scope of Services. The following services are performed by CONEXIS as Agent of Client:

(a) Services that facilitate and report the enrollment and disenrollment of employees and their eligible dependents in the Plan.

(b) Services that facilitate the payment of premiums under the group health Plan.

(c) Adjudicate claims for reimbursement in accordance with provisions of Client Plan(s).

4.3 Scope of Responsibilities of Agent of Client. CONEXIS, as Agent of Client, agrees to the same conditions and restrictions set forth in Sections 3.2 through 3.7 herein to the extent such information received from Client originated from

the Plan (i.e., the information was once PHI). With regard to all other individual identifiable health information, CONEXIS agrees to use its best efforts to protect the confidentiality of such information, and to only use such information as necessary to perform services referenced in Section 4.2 or as otherwise required or permitted by applicable law.

4.4 Electronic Data Interchange. Client acknowledges that Agent of Client is under no obligation to comply with the EDI standard transaction requirements set forth in 45 CFR Parts 160 and 162 and the security rules set forth in 45 CFR § 164.302 et seq. with respect to services set forth in Section 4.2 herein.

Section 5. Term and Termination.

5.1 Termination for Cause. Upon Client's knowledge of a material breach of this Agreement by CONEXIS, Client shall either:

(a) Provide an opportunity for CONEXIS to cure the breach or end the violation and terminate this Agreement and any agreement between the parties with respect to the services performed by CONEXIS for Client if CONEXIS does not cure the breach or end the violation within the time specified by Client; or

(b) Immediately terminate this Agreement and/or any agreement between the parties with respect to the services performed by CONEXIS for Client if CONEXIS has breached a material term of this Agreement and cure is not possible; or if neither termination nor cure is feasible, Client shall report the violation to the Secretary.

5.2 Effect of Termination on this Confidentiality Exhibit.

(a) Upon termination of this Confidentiality Exhibit, for any reason, CONEXIS shall return or destroy all PHI received from the Plan, or created or received by CONEXIS on behalf of the Plan except to the extent determined infeasible as set forth in subsection 5.2(b) below. This provision shall apply to PHI that is in the possession of subcontractors or agents of CONEXIS. CONEXIS shall retain no copies of the PHI.

(b) In the event that CONEXIS determines, in its sole discretion, that returning or destroying the PHI is infeasible, CONEXIS shall provide to the Plan notification of the conditions that make return or destruction infeasible. In the event that CONEXIS determines that return or destruction of the PHI is infeasible, CONEXIS will continue to extend the protections of this Confidentiality Exhibit 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 CONEXIS maintains such PHI.

CONEXIS
PERFORMANCE STANDARDS AND GUARANTEE

Performance Standards and Guarantees are only available to those Clients who have a fully executed Services Agreement on file with CONEXIS.

The responsibilities of the parties set forth in this Performance Standards Exhibit (the "PSE") are in addition to any responsibilities set forth in the Services Agreement. If there is a conflict between this Performance Standards Exhibit and the Agreement, the Agreement controls.

In consideration of the mutual promises set forth below and for the fees set forth in the Fee Schedule, Client and CONEXIS agree as follows:

"Calendar Quarter" will mean each quarter of a calendar year (e.g., Jan. 1 – Mar. 31; Apr 1 – Jun 30; Jul 1 – Sep. 30; Oct. 1 – Dec. 31).
"Percentage at Risk for Service Fee Reduction" will mean the percentage of the monthly fee that may be reduced as a result of failing to meet the particular Performance Standard in a Calendar Quarter.
"Performance Standard" will mean specific standards, described in the Exhibit, which is part of the attached Services Appendix for each described service to which CONEXIS has committed to meet or exceed for all similarly situated Clients in each Calendar Quarter.
"Quarterly Performance Report" will mean the specific report, delivered to Client for each Calendar Quarter, which contains CONEXIS' actual performance against each Performance Standard for Client. The Quarterly Performance Report will be formatted as CONEXIS deems appropriate.
"Performance Standards Effective Date" will be the first Calendar Quarter following the execution of the Services Agreement.
"Service Fee Reduction" will mean the total amount of reduction of monthly Service Fees, as defined in the Agreement, based on CONEXIS failing to meet one or more Performance Standards, in accordance with the Exhibit attached to the appropriate Service Appendix describing the three services offered with performance standards. The Service Fee Reduction is calculated by adding the percentages associated with each Performance Standard not met by CONEXIS. Then multiplying that percentage by the total of monthly Service Fees invoiced by CONEXIS to the Client for that particular Calendar Quarter for that particular service CONEXIS is performing for Client. In no case shall the percentage available for Service Fee Reduction exceed 10% for any given Calendar Quarter.

CONEXIS' Responsibilities.

CONEXIS will measure its performance against all of the Performance Standards in each Calendar Quarter. CONEXIS will adopt standard processes and procedures for measuring timeliness, resolution of inquiries, call abandonment, and accuracy and all other Performance Standards described in the Exhibit. CONEXIS retains final authority for determining whether one or more Performance Standards have been met but will consider any objections made by Client within ten (10) business days of the issuance of the Quarterly Performance Report, in accordance with the Performance Standards Exhibit. CONEXIS reserves the right to modify or eliminate one or more Performance Standards or Service Fee Reductions, upon prior written notice to Client. In no event will CONEXIS be in breach of the Agreement into which this Exhibit is incorporated or of any standard of care solely by reason of failing to meet a Performance Standard set forth herein.

On or about forty-five (45) calendar days after the end of each Calendar Quarter, CONEXIS will distribute the Quarterly Performance Report to the Client.

CONEXIS will refund the Service Fee Reduction to Client for any missed Performance Standard(s) in accordance with this Performance Standards Exhibit, by applying such Service Fee Reduction as a one-time credit against future Services Fees in the following Calendar Quarter. For example, a Service Fee Reduction in the 1st Calendar Quarter of a given year would be applied to Service Fees in the 2nd Calendar Quarter.
If CONEXIS is not able to perform services under this Agreement due to causes beyond its reasonable control including causes set forth in Section 4.13 of the Agreement and at its sole discretion, the standards set forth in this Exhibit shall not apply during the period that CONEXIS is unable to perform.

Client Responsibilities.

Client is responsible for reviewing the Quarterly Performance Report and addressing any definitions, concerns, or objections to the contents of the Quarterly Performance Report with the appropriate CONEXIS Client Services Manager within ten (10) business days of the issuance of the Quarterly Performance Report.

Client's right to any Service Fee Reduction is conditioned upon Client paying all Service Fees in that particular Calendar Quarter in full and when due, in accordance with the Agreement. In the event that a Service Fee Reduction was otherwise due but the Agreement was subsequently terminated due to failure of Client to pay all Service Fees, the Service Fee Reduction shall not be applied and CONEXIS shall be eligible to recover all Service Fees and applicable penalties and interest due without regard to the Service Fee Reduction.

Client's right to any Service Fee Reduction is also conditioned on remaining an active Client on the date that CONEXIS distributes the Quarterly Performance Report to Client.

Performance Standards.

These Performance Standards apply to the Services Agreement, only to the extent that CONEXIS is providing such Services to the Client, and the Client is paying CONEXIS directly for this service as indicated in the Fee Schedule – Schedule of Service Fees. CONEXIS reserves the right to modify or eliminate one or more Performance Standards or Service Fee Reductions, upon 30 day written notice to Client prior to the next Calendar Quarter.