

ELECTRONIC TRANSACTIONS TRADING PARTNER AGREEMENT BETWEEN DIRECT SUBMITTER AND WELLPOINT PARTNERSHIP PLAN, LLC

This Electronic Transactions Trading Partner Agreement, (“Agreement”) is entered into by and between, (“Direct Submitter” or “Trading Partner”) and WellPoint Partnership Plan, LLC (“WellPoint”) as the third-party administrator for the Medicaid MCO Product sold under the name of BlueChoice HealthPlan of South Carolina, Inc. (“Medicaid Contractor”) in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and implementing regulations (45 C.F.R. Parts 160, 162 and 164) and the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. §6801, *et seq.*) and implementing regulations (16 C.F.R. Part 313)(“GLBA”).

WHEREAS, Medicaid Contractor has entered into a contract with the State of South Carolina to underwrite a private Medicaid MCO Product subject to reimbursement from the State of South Carolina or the Federal Government (the “Plan”);

WHEREAS, Medicaid Contractor has subcontracted with WellPoint to perform certain Plan administration duties as a third-party administrator;

WHEREAS, as a result, Trading Partner must send electronic transactions relating only to such Plan directly to WellPoint;

WHEREAS, Trading Partner, in exchange for the ability to send transactions relating to the Plan electronically is willing to abide by the below terms and conditions:

NOW, THEREFORE, in mutual consideration of the above recitals and the terms and conditions below, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to the following terms and conditions:

In consideration for the direct exchange of Nonpublic Personally Identifiable Financial Information (as defined under GLBA and hereinafter “NPFI”) and of Protected Health Information (as defined under HIPAA, including electronic Protected Health Information as defined under HIPAA and hereinafter “PHI”) pursuant to the terms of this Agreement, the parties agree as follows:

1. DEFINITIONS.

1.1. “**Affiliate**” means an entity that controls, is controlled by or is under common control with a party to this Agreement, where “control” is defined as the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity and includes any other entity with respect to which such party or any such Affiliate has significant management or operational responsibility, even though such party may own less than fifty percent (50%) of the equity of such entity. If any WellPoint Affiliate is included in this Agreement or any amendment thereto any reference to “WellPoint” shall be deemed to include any such WellPoint Affiliate or Affiliates as the context warrants.

1.2. “**Companion Guide**” means the WellPoint specific details, requirements, processes and implementation steps in furtherance of and in accordance with the ANSI Implementation Guides for the applicable electronic transactions. In addition, the Companion Guide also includes general information and instructions on electronic data interchange with

WellPoint, including, but not limited to, communications protocols, testing, requirements, and acknowledgments, as may be updated by WellPoint from time to time.

1.3 “**Direct Submitter**” is a Trading Partner that submits claims to WellPoint without interfacing with a third party or a clearinghouse.

1.3. “**Electronic Transactions Trading Partner Agreement**” means this Agreement, into which the Companion Guide is incorporated herein by reference.

1.4. “**Health Benefit Plan**” means the document(s) describing the partially or wholly:

- (i) insured,
- (ii) underwritten, and/or
- (iii) administered, health care benefits or services program between the Plan and an employer, governmental entity or other entity or individual; or, in the case of a self-funded arrangement, the plan document, which describes the covered services for a Member.

1.5. “**Member**” means any individual who is eligible, as determined by the Plan and as described in the Health Benefit Plan, to receive covered services under a Health Benefit Plan. References to “Covered Person” have the same meaning as “Member.”

1.6. “**Plan**” means:

- (i) WellPoint;
- (ii) an Affiliate as designated by WellPoint;
- (iii) any Blue Cross and Blue Shield Plan; and/or
- (iv) a self-funded account which is administered in whole or in part by WellPoint, an Affiliate or any Blue Cross and Blue Shield Plan.

1.7. “**System**” means the electronic transactions system(s) utilized by WellPoint that are described in the Companion Guide.

1.8. “**Standard Claim Transaction**” or “**Standard Transaction**” means a Transaction that is in a HIPAA compliant format or as otherwise specified in WellPoint’s Companion Guide.

1.9. “**Transaction**” means an electronic claim or equivalent electronic encounter information, electronic remittance advice, electronic health care claim status, electronic referral certification and authorization, electronic eligibility information, electronic health plan premium payments, or any other Transaction that may be adopted as a Standard Transaction.

2. QUALIFICATION AS A DIRECT SUBMITTER.

2.1. **WellPoint Discretion for Selection Criteria.** WellPoint may, in its own discretion, establish selection and/or performance criteria to determine whether a Trading Partner qualifies (or continues to qualify) as a Direct Submitter. However, in the event Trading Partner fails to qualify as a Direct Submitter, WellPoint will provide Trading Partner with a list of available designated health care clearinghouses, upon request by Trading Partner.

2.2. **Direct Submitter Benchmarks.** Trading Partner agrees that, as a Direct Submitter, Trading Partner shall use its best efforts to assure that no less than ninety-five percent (95%) of all Transactions transmitted to WellPoint from Trading Partner each month during the term of this Agreement (including any renewal term) shall meet all requirements for acceptance through WellPoint's electronic gateway, as set forth in WellPoint's Companion Guide.

3. TERM AND TERMINATION.

3.1. **Term.** This Agreement shall commence upon execution by both parties and continue for successive one-month terms on a month-to-month basis, subject to the terms and conditions of this Agreement. This Agreement shall automatically renew from month-to-month, until terminated as set forth below.

3.2. **Termination.** Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party. Either party may terminate this Agreement immediately for cause in the event the other party has materially breached the Agreement and the terminating party reasonably believes: (a) such breach is incurable; (b) the other party is acting in material violation of any applicable laws or regulations; or (c) the other party has breached the protections in this Agreement regarding the maintenance of confidential or proprietary information. Upon termination of this Agreement, all rights and licenses granted to Trading Partner hereunder shall terminate, and Trading Partner shall immediately cease submitting to WellPoint the electronic transactions covered hereunder. In addition, Trading Partner shall immediately return to WellPoint all software and equipment and all related documentation (including, without limitation, the Companion Guide) that WellPoint may have provided to Trading Partner hereunder, and Trading Partner shall certify to WellPoint that Trading Partner has retained no copies of such software, equipment or documentation.

4. DATA SUBMISSION.

4.1. **Directly Submitted Transactions.** Trading Partner shall edit the designated Transactions and electronically submit such Transactions to WellPoint as of the effective date or as of such other date as may be set forth in a separate agreement or exhibit to this agreement.

4.2. **Exchange of Transactions with Affiliates.** Trading Partner shall submit Transactions to an Affiliate of WellPoint, under the terms and conditions of this Agreement, if Trading Partner is requested to do so by an authorized representative of WellPoint.

4.3. **Compliance with Companion Guide.** Trading Partner agrees to submit and receive on behalf of itself or as an agent on behalf of physicians or other providers who have given Trading Partner authorization to do so (“Client Providers”) (collectively, “Trading Partners”), transactions to or from WellPoint only in the specific format and code sets as set forth by WellPoint in the Companion Guide. Trading Partner certifies that all data transmitted hereunder is accurate and truthful to the best of Trading Partner’s knowledge. To the extent permitted by law, electronic transmissions shall not be deemed to have been accepted by WellPoint until Trading Partner receives the acknowledgement specified in the Companion Guide for the applicable electronic transaction. If any electronic transmissions are received in an unintelligible or garbled form, the receiving party shall promptly notify the originating party (if identifiable from the received data) in a reasonable manner. If the originating party cannot be identified, no notice will be required. Trading Partners bear the risk of any system failures that result in failed or garbled transmissions. Trading Partner must resubmit any failed or garbled transmission in order for an electronic transaction to be effective. Whenever possible, WellPoint will re-queue data that was not successfully transmitted. WellPoint shall not be liable for any damages or expenses resulting from erroneous or failed transmissions or lost data including, but not limited to, lost profits. Trading Partner agrees to correct and resubmit any and all submissions it makes to WellPoint that are not in accordance with the then current requirements of the Companion Guide.

4.4. **Communications with Client Providers.** Trading Partner agrees to notify its Client Providers of all communications that Trading Partner receives from WellPoint, as applicable. Further, Trading Partner will require its subcontractors and agents, and will require its Client Providers to require their subcontractors and agents, to provide reasonable assurance, evidenced by written contract, that such subcontractors and agents will comply with the same privacy and security obligations as Trading Partner set forth in this Agreement.

4.5. **Security.** Specifically, without limitation, each party shall properly use all necessary security procedures to ensure that all transmissions of data are authorized and to protect the data from improper access.

5. ELECTRONIC SIGNATURES.

5.1 Trading Partner acknowledges and agrees that Trading Partner:

- (i) shall comply with any and all minimum system specifications that WellPoint provides to it;
- (ii) shall adopt as its signature the electronic identification(s) that WellPoint requires in connection with the electronic transmission of the transaction data to WellPoint (“Signatures”), and that such Signatures shall be relied upon by WellPoint to verify that Trading Partner originated the transmission of the transaction to WellPoint; and
- (iii) shall be bound by the electronic transactions Trading Partner transmits to

WellPoint pursuant to this Agreement in the same manner Trading Partner would be obligated and bound by a written document, to the extent such transaction contains a Signature, and such transaction shall constitute an “original” document when printed from electronic files and records established and maintained by either party in the normal course of business. Trading Partner agrees not to contest the validity or enforceability of documents transmitted with Signatures properly received by WellPoint, under the provision of any applicable law relating to whether certain agreements are to be in writing or signed by the party to be bound thereby. Trading Partner expressly waives any right to object to the validity of a transaction solely on the grounds that communication between WellPoint and the Trading Partner on behalf of itself or its Client Providers occurred electronically.

6. COMPLIANCE WITH STANDARD TRANSACTIONS.

6.1. Compliance with Standard Transactions. Each party shall comply with and shall require any subcontractor or agent involved with the conduct of Standard Transactions (defined under HIPAA) to comply with each applicable requirement of 45 C.F.R. Part 162. Trading Partner agrees to demonstrate compliance with the Standard Transactions. On a mutually agreeable date and within a reasonable time after execution of this Agreement, Trading Partner agrees to cooperate with WellPoint and test each type and version of Standard Transaction, including versions of code set changes as needed, that Trading Partner will transmit electronically to or receive electronically from WellPoint, using WellPoint’s tool for electronic compliance testing or other applicable testing needs.

6.2. Prohibited Actions. Trading Partner will not, and will not permit Trading Partner’s subcontractors or agents, to:

- (i) change the definition, data condition, or use of a data element or segment in a Standard Transaction;
- (ii) add any data elements or segments to the maximum defined data set; or
- (iii) use any code or data element that is marked “not used” in the Standard Transaction’s implementation specification or is not in the Standard Transaction’s implementation specification; or
- (iv) change the meaning or intent of the Standard Transaction’s implementation specification(s).

7. INFORMATION SAFEGUARDS AND PROHIBITIONS ON UNAUTHORIZED USE OR DISCLOSURE.

7.1. Information Safeguards. Trading Partner shall maintain and use appropriate and effective administrative, technical and physical safeguards, in compliance with Social Security

Act § 1173(d) (42 U.S.C. § 1320d-2(d)), 45 C.F.R. § 164.530(c) and any other applicable implementing regulations issued by the U.S. Department of Health and Human Services, Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 *et seq.*) and all other laws and regulations relating to privacy and confidentiality of PHI, reasonably designed

- (i) to ensure the integrity, confidentiality, security and availability of PHI and NPFI;
- (ii) to prevent any reasonably anticipated unauthorized or prohibited use or disclosure of PHI or NPFI received from WellPoint;
- (iii) to protect against any reasonably anticipated threats or hazards to the security or integrity of such information; and
- (iv) to ensure compliance with this Agreement by Trading Partner's workforce.

Trading Partner agrees to keep these security measures current and to document these security measures in written policies, procedures or guidelines. Specifically, without limitation, each party shall properly use all necessary security procedures to ensure that all transmissions of data are authorized and to protect the data from improper access.

7.2. Prohibition on Unauthorized Use or Disclosure. Trading Partner shall neither Use nor Disclose (as defined under HIPAA and GLBA, as applicable) PHI or NPFI received from WellPoint or from another Trading Partner of WellPoint, except as permitted or required by this Agreement or by law.

7.3. Prohibition on Unauthorized Use or Disclosure of Consumer Lists. Trading Partner shall not develop or use any list, description or other grouping of individuals using NPFI received from or on behalf of WellPoint, except as permitted in writing by WellPoint.

7.4. Obligations upon Termination, Continuing Privacy Obligation. Trading Partner's obligation (and the obligation of Trading Partner's subcontractors or agents) to protect the privacy of the PHI and NPFI received from WellPoint shall be continuous and survive termination, cancellation, expiration or other conclusion of this Agreement.

7.5. Amendment to Agreement. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with changes in the laws or regulations. The parties specifically agree to take such action necessary to implement the standards and requirements of HIPAA and the implementing regulations issued by the U.S. Department of Health and Human Services (45 C.F.R. Parts 160, 162 and 164) and such other laws and regulations relating to the privacy and confidentiality of PHI and NPFI that are applicable to Trading Partner and/or WellPoint. Upon the effective date of any final regulation or amendment to such regulation or to HIPAA, this Agreement shall be deemed to require compliance with each of the foregoing. If at any time, WellPoint believes that it must require Trading Partner to comply with additional measures in order for WellPoint to remain in compliance with laws or regulations that are applicable to WellPoint, WellPoint shall give written explanation of such requirements to

Trading Partner, and Trading Partner shall tell WellPoint in writing if Trading Partner is able and willing to comply with such requirements. If Trading Partner notifies WellPoint that it is unable or unwilling to comply with such requirements, the WellPoint may terminate this Agreement and cease exchanging Standard Transactions with Trading Partner.

7.6. **Sub-Contractors and Agents.** Trading Partner shall require its subcontractors and agents to provide reasonable assurance, evidenced by a written contract, that subcontractor or agent will comply with the same privacy, security, and other obligations as Trading Partner with respect to such PHI or NPFI.

8. INCORRECT PAYMENTS; AUDIT RIGHTS AND DOCUMENTATION.

8.1. **WellPoint Duties.** WellPoint agrees to require Plans to make payment for Member claims, approve requests for Member referrals, or act on other electronic transactions contemplated by this Agreement in accordance with the requirements of the applicable Health Benefit Plan.

8.2. **Incorrect Payments.** In the event it is discovered through an audit or otherwise that an incorrect payment has been made to Trading Partner under this Agreement, Trading Partner shall refund to the applicable Plan all duplicate or erroneous payments regardless of the cause. Trading Partner agrees that in lieu of a refund, Plan may offset future payments due Trading Partner. WellPoint shall require the applicable Plan to correct and pay to Trading Partner all underpayments of amounts due by Plan under this Agreement regardless of the cause. This Section shall survive the expiration or other termination of this Agreement.

8.3. **Documentation.** Trading Partner will ensure that every electronic transaction that is a claim or request for review associated with a particular Member can be readily associated and identified with a source document including, without limitation, patient authorizations and signatures, to the extent required by law. Original source documents shall be available upon WellPoint's request.

8.4. **Audits.** Trading Partner agrees that WellPoint or the applicable Plan has the right to audit and confirm information submitted by Trading Partner, and to access all original source documents, including medical records, to the extent necessary to perform such audit or confirmation. Trading Partner shall maintain records regarding Members in accordance with prudent record-keeping procedures and shall comply with all applicable federal and state record keeping requirements and such other record keeping requirements as may be set forth elsewhere in this Agreement. The provisions set forth in this Section 8.4 shall survive the termination of this Agreement.

9. INDEMNIFICATION.

9.1. **Mutual Indemnification.** Each party (the "Indemnifying Party") shall defend, indemnify and hold the other party (the "Indemnified Party") harmless from and against all liability, claims, lawsuits, demands, costs (including reasonable attorneys' fees), damages

(including compensatory, punitive, statutory or other damages of all kinds), penalties, fines and expenses arising from:

- (i) the accuracy of information transmitted by the Indemnifying Party;
- (ii) any of the Indemnifying Party's own or its agents' acts or omissions while transmitting, receiving, storing or handling data or performing activities related to the electronic transactions covered under this Agreement; and
- (iii) the Indemnifying Party's breach of any warranty, representation or other material obligation of this Agreement.

9.2. This indemnification expressly includes, but is not limited to, claims by any persons whose information is electronically transmitted to or from WellPoint. Trading Partner acknowledges that such damages could arise from and include, but are not limited to, violations of a person's right to privacy. In addition, Trading Partner acknowledges that any actions or failures to act described in this Section would cause WellPoint irreparable harm that could not be fully remedied by monetary damages. Accordingly, Trading Partner agrees that, in addition to this indemnification, WellPoint shall have the right to seek such injunctive or other equitable relief from a court of competent jurisdiction as it may deem necessary or appropriate to prevent or stop those actions or failures to act from beginning or continuing. The provisions set forth in this Section 9.2 shall survive the termination of this Agreement.

9.3. **Disclaimer.** THE SYSTEM AND ALL SERVICES RENDERED IN CONNECTION WITH IT ARE PROVIDED "AS IS." WELLPOINT DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO THE SYSTEM AND ALL SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE GREATEST EXTENT ALLOWED BY APPLICABLE LAW, WELLPOINT EXPRESSLY DISCLAIMS ALL LIABILITY OF ANY KIND ARISING FROM OR IN CONNECTION WITH (i) TRADING PARTNER'S (AND ITS CLIENT PROVIDERS', AS APPLICABLE) ACTIONS IN USING AND/OR OPERATING THE SYSTEM, (ii) TRADING PARTNER'S (AND ITS CLIENT PROVIDERS', AS APPLICABLE) UNAUTHORIZED ACCESS TO THE SYSTEM, AND (iii) TRADING PARTNER'S (AND ITS CLIENT PROVIDERS', AS APPLICABLE) BREACH OF ANY MATERIAL OBLIGATION CONTAINED IN THIS AGREEMENT. WELLPOINT SHALL NOT BE LIABLE FOR ANY DAMAGES FOR EXPENSES RESULTING FROM ERRONEOUS OR FAILED TRANSMISSIONS OR LOST DATA, INCLUDING, BUT NOT LIMITED TO, LOST PROFIT. EXCEPT FOR INDEMNIFICATION CLAIMS UNDER SECTION 9.1 ABOVE, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. AMENDMENTS.

10.1. **By WellPoint.** WellPoint retains the right to amend this Agreement (including the Companion Guide), any attachments or addenda, by making a good faith effort to provide notice to Trading Partner in advance of the effective date of the amendment as set forth below:

- (i) **Minor Amendments.** WellPoint will provide notice at least five (5) days in advance of the effective date of the amendment for amendments that do not require Trading Partner to take any affirmative action on its part (e.g., without limitation, routine business communications notifying Trading Partners of minor modifications to the Companion Guide). WellPoint may communicate such notice to Trading Partner by any means reasonably calculated to reach Trading Partner. If Trading Partner decides not to accept the amendment, Trading Partner has the right to terminate this Agreement by providing written notice within ten (10) days from receipt of such notice from WellPoint. Trading Partner's termination shall take effect on the date that Trading Partner provides notice of Trading Partner's intention to terminate pursuant to this Section, and Trading Partner's post-termination obligations set forth in Section 3.2 shall apply. Failure of Trading Partner to provide such notice to WellPoint within the time frame described herein will constitute acceptance of the amendment by Trading Partner.
- (ii) **Substantive Amendments.** WellPoint will provide notice at least forty-five (45) days in advance of the effective date of the amendment for substantive amendments (e.g., without limitation, a required coding change) that require Trading Partner to take affirmative action on its part or which change Trading Partner's legal rights or obligations under this Agreement. WellPoint may communicate such notice to Trading Partner by any means reasonably calculated to reach Trading Partner. If Trading Partner decides not to accept the amendment, Trading Partner has the right to terminate this Agreement by providing written notice within thirty (30) days from receipt of such notice from WellPoint. Trading Partner's termination shall take effect fifteen (15) days from the date Trading Partner has provided notice of Trading Partner's intention to terminate pursuant to this Section, and Trading Partner's post-termination obligations set forth in Section 3.1 shall apply. Failure of Trading Partner to provide such notice to WellPoint within the time frame described herein will constitute acceptance of the amendment by Trading Partner.
- (iii) **Categorizing an Amendment.** WellPoint, in its sole discretion, will determine in good faith whether notice must be provided under subparagraph (i) or (ii) above.

11. CONCENTRATORS.

11.1. Trading Partner currently maintains relationships with certain third party entities ("Concentrators") which gain access to payer information through the Trading Partner's network for the benefit of the Concentrators' provider clients. A list of Trading Partner's current Concentrators shall be provided to WellPoint in writing by Trading Partner and attached hereto

in paper or electronically, by WellPoint as Exhibit 1. If Trading Partner's Concentrators change, Trading Partner will notify WellPoint promptly in writing. In no case will Trading Partner give any new Concentrators access to the WellPoint System unless and until it has obtained WellPoint's prior written permission. WellPoint hereby agrees to permit Concentrators to access WellPoint's System through the Trading Partner's network for the benefit of each Concentrator's provider clients, subject to the following conditions:

- (i) Each Concentrator must agree in writing that the terms and conditions of this Agreement have been passed on to such Concentrator, such that the Concentrator is bound to Trading Partner and WellPoint in the same manner and to the same extent that Trading Partner is currently bound to perform under this Agreement. WellPoint shall be provided with a copy of such agreement and deemed a third party beneficiary of such agreement.
- (ii) WellPoint may, in its sole discretion, deny access to any Concentrator so long as WellPoint provides Trading Partner with written notice, in the case of a then current Concentrator, at least sixty (60) days prior to the denial of such access, or in the case of a new Concentrator, within sixty (60) days after WellPoint is informed of such new Concentrator.

12. GENERAL TERMS.

12.1. **Waiver.** No mere delay or failure to exercise any right or remedy will operate as a waiver thereof, and no waiver of any breach shall constitute a waiver of any other breach or of future performance of this Agreement in its entirety.

12.2. **Titles and Headings.** The underlined titles and headings in this Agreement are for convenience only and shall not be deemed a part of this Agreement or a representation of the contents of any section hereof.

12.3. **No Ineligible Persons.** Trading Partner warrants and represents that at the time of entering into this contract, neither it nor any of its employees, contractors, subcontractors or agents are ineligible persons identified on the General Services Administrations' List of Parties Excluded from Federal Programs and the HHS/OIG List of Excluded Individuals/Entities. In the event Trading Partner or any employees, subcontractors or agents thereof becomes an ineligible person after entering into this Agreement or otherwise fails to disclose its ineligible person status, Trading Partner shall have an obligation to (1) immediately notify WellPoint of such ineligible person status and (2) within ten days of such notice, remove such individual from responsibility for, or involvement with, the Trading Partner's business operations related to this Agreement.

12.4. **Compliance and Standards Programs.** Each party intends to comply with all applicable federal and state laws and regulations, and to that end each maintains an effective Compliance Program and Standards of Business Conduct, and expects the other party to respect and observe the existence of these.

12.5. **Conformity to Changes in the Law.** Both parties shall comply with all requirements of the law relating to their obligations under this Agreement, and maintain in effect all permits, licenses, and governmental and board authorizations and approvals as necessary for business operations. From time to time local, state or federal legislative bodies, boards, departments or agencies may enact or issue laws, rules, or regulations pertinent to this Agreement. In such event, Trading Partner agrees to abide by all said pertinent laws, rules, or regulations and to cooperate with Plan and WellPoint to carry out any responsibilities placed upon Plan, WellPoint or Trading Partner by said laws, rules, or regulations, subject to Trading Partner's right to terminate as set forth under this Agreement by the applicable effective date. In the event of a conflict between this Section and any other Section in this Agreement, this Section shall control.

12.6. **Governing Law.** The parties agree that the interpretation and legal effect of this Agreement shall be governed by the laws of the United States, where applicable, and by the laws of the State of Indiana, without regard to any laws concerning conflict of laws.

12.7. **Severability.** In the event that any term or provision of this Agreement is held to be illegal, invalid or unenforceable under any applicable law, such term shall be deemed severed from this Agreement and the remaining terms and provisions shall remain unaffected thereby.

12.8. **Entire Agreement.** This Agreement, any attachments, amendments and any Companion Guide provided by WellPoint (including updates) together represent the entire Agreement between the parties and supersedes all prior and contemporaneous oral and written agreements, representations, warranties and understandings regarding the subject matter hereof.

12.9. **Force Majeure.** Neither party shall be liable for any delay or failure in performance caused by any occurrence or contingency beyond its reasonable control, including, but not limited to, earthquake, labor disputes, riots, government requirements and inability to secure materials on a timely basis

12.10. **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto and shall not be deemed to be for the benefit of any third party.

12.11. **Relationship to the Parties.** The relationship of the parties to this Agreement is that of independent contractors and such relationship shall not be deemed to be one of agency or employment or joint venture or any other relationship than that of independent contractors contracting for the purposes set forth in this Agreement.

12.12. **Counterparts.** This Agreement and any amendment hereto may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

12.13. **WellPoint Data.** Trading Partner agrees to utilize any data exchanged or transmitted under this Agreement only for the purposes explicitly specified in this Agreement

(the “Data”) and agrees not to utilize any Data for any other purpose, whether or not it is de-identified; Trading Partner agrees and understands that any purpose not expressly permitted by this Agreement is hereby prohibited. Trading Partner agrees and understands that the Data are a valuable proprietary asset owned by WellPoint. Trading Partner acknowledges that the remedy at law for any breach or threatened breach of the provisions of this Section shall be inadequate, and that WellPoint, in addition to any other remedy available to it, shall be entitled to obtain injunctive relief from a court of competent jurisdiction notwithstanding any other provision of this Agreement.

12.14. **No Publicity.** Trading Partner shall not, without the prior written consent of WellPoint in each instance (which consent may be withheld for any reason), refer to the existence or subject matter of the Contract, state that WellPoint or any of its Affiliates maintains a contractual relationship with Trading Partner, or use the name or any trade name, trademark, or service mark of WellPoint or any of its Affiliates in any press release, advertising or promotional materials, or represent that any product or service has been endorsed or approved by WellPoint. However, after Trading Partner Agreement is executed and data exchange is implemented, WellPoint may be listed as a payer that exchanges data with Trading Partner.

12.15. **Notices.** Any notice required to be given pursuant to the terms and provisions of this Agreement (other than notice of an amendment to this Agreement pursuant to Section 3.2 above) shall be in writing and shall, unless otherwise set forth in this Agreement, be: (1) hand-delivered; (2) sent via electronic transmission to the electronic transmission location of record with a copy of the writing and confirmation mailed postage prepaid by regular mail; or (3) sent postage prepaid by regular mail, to the parties at the addresses set forth below, except that notice of termination shall be in writing and either hand-delivered or sent postage prepaid by certified mail, return receipt requested. Such address may be changed from time to time by written notice to the other party. Unless otherwise set forth in this Agreement, notice shall be effective on the date of the postmark, or the email confirmation date. All notices required or permitted under this Agreement shall be sent to the recipient as follows:

If to WellPoint:

Name and Title:	Michelle Thrash
Address:	WellPoint Partnership Plan, LLC Attn: EDI Trading Partner Agreements Mail Stop: GAG014-0007 3550 Peachtree Road Atlanta, GA 30326
Email address for Notices:	Michelle.thrash@wellpoint.com
<i>Back-up Contact Information:</i>	
Telephone Number	(404) 848.2102
Facsimile Number	(203) 985-7019

If to Trading Partner:

Name and Title: _____

Email address for Notices: _____

Back-up Contact Information: _____

Telephone Number _____

Facsimile Number _____

IN WITNESS WHEREOF, WellPoint and Trading Partner execute this Agreement in duplicate originals to be effective upon full execution, as indicated by the last date written below.

WELLPOINT, INC.

TRADING PARTNER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____