

## **ADMINISTRATIVE SERVICES AGREEMENT**

This Agreement is made and entered into as of the 1st day of January, 2012 (the "Effective Date"), by and between Bluegrass Family Health, a Kentucky corporation ("Bluegrass"), and the Lexington Fayette Urban County Government ("LFUCG"), Lexington, Kentucky as the Plan Sponsor ("Sponsor") of the LFUCG employee prescription benefit plan, a self-funded, municipal employee health benefit plan, Sponsor's designated Plan Administrator and Named Fiduciary.

**WHEREAS**, LFUCG solicited a Request for Proposal for the Prescription Benefit Manager through RFP #19-2011, which is attached hereto as Exhibit "1" and incorporated herein by reference as if fully stated; and

**WHEREAS**, Bluegrass was the highest ranked respondent to RFP #19-2011, and its ultimate proposal to perform the services, which is attached hereto as Exhibit "2" and incorporated herein by reference as if fully stated, was deemed to be reasonable and satisfactory to LFUCG

**WHEREAS**, Sponsor has established a self-funded employee prescription benefit plan (the Plan) providing prescription drug benefits pursuant to and in accordance with a master plan document; and

**WHEREAS**, Pursuant to the Plan document, Sponsor, acting through its Plan Administrator and named Plan Fiduciary, controls and manages the operation and administration of the Plan; and

**WHEREAS**, Bluegrass, directly and through independent contractors, is in the business of providing certain claims administration services to self-funded employee benefit including with respect to prescription drug claims and benefits, and Sponsor wishes to retain Bluegrass to provide those services for the Plan;

**NOW, THEREFORE**, in consideration of the sums to be paid, the mutual promises herein contained and other good and valuable consideration, the parties hereto agree as follows:

The above Recitals are considered substantive terms and conditions of this Agreement, not mere recitals in the interpretation of this Agreement, and are incorporated into the body of this Agreement as if set forth at length herein.

1. **Definitions.** For the purposes of this Agreement, the following definitions shall apply. Terms defined in the singular will have the same meaning in the plural and vice-versa. Capitalized terms used but not defined in this Agreement and the Schedules and Attachments hereto shall be defined as set forth in the Plan Documents. In the event the definition of a term

herein differs materially from the definition of the same term in the Plan Documents, the Plan Documents shall control.

**Adverse Benefit Determination** means any of the following: a denial, reduction or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is (i) based on a determination of a Member's eligibility for Plan benefits, or (ii) resulting from the application of drug utilization review, or (iii) a denial of coverage of a drug for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

**Applicable Law** unless stated otherwise herein, means all applicable statutes and regulations promulgated under the Employee Retirement and Income Security Act of 1974 by the United States Department of Labor under Title 29 of the United States Code relating to labor and employee benefits security administration (29 U.S.C. §§ 1001, *et seq.*) ("ERISA"), including but not limited to the regulations governing administration and enforcement and in particular claims procedures found at 29 C.F.R. 2560.503-1, and further includes all applicable Kentucky and local statutes, regulations and ordinances governing the business and operations of the parties to the extent they are directly relevant to the subject matter of this Agreement.

**Brand Drug** means a prescription drug product that is not a Generic Drug.

**Claim** means a paper or electronic form submitted to the Bluegrass PBM requesting payment for a prescription drug benefit provided to a Member under the Plan.

**Claim Adjudication** means the initial determination pursuant to the terms of the Plan, to pay, contest or deny a clean claim for health care benefits.

**Coordination of Benefits** or **COB** means the process by which primary and secondary responsibility for payment of a Claim as between Sponsor and one or more other health care plans or payors is determined pursuant to the requirements of Applicable Law and the Eligibility File.

**Cost-share** means that portion of the charge for each Covered Drug dispensed to a Member that is the financial responsibility of the Member (*e.g.*, co-pay, coinsurance and/or deductible).

**Covered Drug(s)** means those prescription drugs, supplies, Specialty Products (if applicable) and other items in the Formulary and related services that are covered in whole or in part under the Plan.

**Eligibility File** means the list submitted by the Plan to Bluegrass and/or to Express Scripts Inc (ESI), Bluegrass PBM, in reasonably acceptable electronic format of Members eligible for prescription drug benefits under the terms of eligibility set forth in the Plan Documents.

**Formulary** means the list(s) of drugs made available by Bluegrass to the Plan as covered benefits for Members pursuant to applicable Plan provisions. It is understood and agreed that the Formulary list may be amended from time to time by Bluegrass and/or ESI with reasonable notice, no later than thirty (30) days, to Sponsor of such amendments.

**Generic Drug** means a prescription drug, whether identified by its chemical, proprietary, or non-proprietary name, that is therapeutically equivalent and interchangeable with Brand or other Generic drugs having an identical amount of the same active ingredient(s) and approved by the FDA. For purposes of this Agreement, ESI will make the Generic Drug determination using indicators from MediSpan (or other nationally recognized pricing source in the prescription drug industry used for all PBM clients) on the basis of a standard brand/generic algorithm utilized by ESI for Bluegrass and all ESI clients.

**HIPAA** means the Health Insurance Portability and Accountability Act of 1996 [45 C.F.R. Parts 160 and 164, Subparts A, C and E, Security and Privacy of Individually Identifiable Health Information] as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act of 2009, 42 U.S.C. § 17901 *et seq.*

**Mail Service Pharmacy** means a duly licensed pharmacy operated by the Bluegrass PBM, where prescriptions (except prescriptions for Specialty Products) are filled and delivered to Members via mail delivery service.

**Member** means each person who is eligible, as indicated by the Plan Eligibility Files provided by Sponsor to the Bluegrass PBM, to receive prescription drug benefits under the Plan.

**Member Submitted Claim** means a paper claim submitted by a Member for a prescription drug dispensed by a pharmacy other than a Participating Pharmacy or for which the Member paid cash.

**Participating Pharmacy** means any licensed retail pharmacy with which the Bluegrass PBM has executed an agreement to provide Covered Drugs to Members in accordance with Applicable Law and the PBM's policies and procedures of the selected Network

**PBM** means the pharmacy benefits manager that Bluegrass has independently contracted with for pharmacy benefit services, including the provision and management of prescription drug benefits to Members under the Plan. As of the Effective Date of this Agreement, the Bluegrass PBM is Express Scripts, Inc.

**Plan or "the Plan"** means the benefits for eligible employees of Sponsor and their eligible dependents set forth in the Plan Documents and registered with the United States Department of Labor as a self-funded municipal employee benefit plan in accordance with ERISA and the regulations promulgated thereunder and, which is further identified as follows:

BI43:33398:393348.1:LEXINGTON

Plan Effective Date: January 1, 2012

Name of Plan: Prescription Benefits

**Plan Administrator** is the individual or entity that has been designated by the Plan to administer the Plan and has absolute and final discretion and decision-making authority for the Plan's contractual arrangements, benefit limits, administrative guidelines and rules, collections, management and disbursement of Plan funds, and including but not limited to, final decisions on all contested and/or appealed adverse benefit and eligibility determinations, and coverage denials, and all other matters contemplated under this Agreement, hereinafter collectively referred to as "Plan Matters." Sponsor has designated Humana as the Plan Administrator of the Plan. The parties expressly acknowledge and agree that neither Bluegrass nor the Bluegrass PBM are the Plan Administrator or have any final discretion or decision-making authority whatsoever with respect to Plan matters, and that any reference herein to the Plan Administrator will be only to Humana and not to Bluegrass or the Bluegrass PBM. It is further acknowledged by the parties that the obligations of Sponsor under this Agreement are binding upon the Plan Administrator whose signature herein below acknowledges acceptance of those obligations.

**Plan Documents** means the master plan document and the summary plan description which respectively contain a written description of the Plan and summary of covered prescription benefits made available to Members by the Plan Administrator as required by 29 U.S.C. § 1022(a)(1) and such additional information as is required by 29 U.S.C. §§ 1024(b)(3) and 1025(a) and (c).

**Pre-service Claim** means any Claim for a benefit under the Plan with respect to which the Plan conditions receipt of the benefit, in whole or in part, on a pre-authorization (also known as pre-certification) of the benefit in advance of obtaining medical care.

**Post-service Claim** means any Claim for a benefit under the Plan that is not a Pre-service Claim.

**Protected Health Information** or **PHI** has the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited for purposes of this Agreement to the information created, transmitted, received, maintained, used, disclosed, stored, or destroyed by ESI, for or on behalf of a Plan.

**Rebates** means retrospective rebates that are paid to or otherwise retained by the Bluegrass PBM, pursuant to the terms of a rebate contract that it has negotiated independently with a pharmaceutical manufacturer, and that are directly attributable to the utilization of certain pharmaceuticals by Members. Rebates do not include manufacturer administrative fees, product discounts or similar remuneration received by subsidiary pharmacies of the Bluegrass PBM as more fully described in Exhibit A2.

**Run-off Claims/Run-off Services/Run-off Period.** Run-off Claims are Claims for Covered Services furnished to Members during the initial or any renewal Term of this Agreement that are not submitted by pharmacy providers for payment, or that are not repriced, processed and/or paid, until after this Agreement has expired or is terminated without cause. Run-off Services means any Claims administration services related to the submission, repricing, processing or payment of Run-off Claims which may be provided by Bluegrass or the Bluegrass PBM pursuant to Schedule A of this Agreement. The Run-off Period will not exceed a period of ninety (90) days following the expiration, or termination without cause, of this Agreement.

**Specialty Products** means those injectable and non-injectable drugs on the Specialty Drug List attached hereto as Schedule A, and typically having one or more of several key characteristics, including that the product is: indicated for treatment of chronic or life threatening disease states; requires frequent dosing adjustments and intensive clinical monitoring to decrease the potential for drug toxicity and increase the probability for beneficial treatment outcomes; requires intensive patient training and compliance assistance to facilitate therapeutic goals; has limited or exclusive product availability and distribution; requires specialized product handling and/or administration requirements and/or costs in excess of \$500 for a 30 day supply; is considered an Orphan Drug; is reimbursable under a major medical provision of a health benefit plan; and/or requires the use of non-standard billing and reimbursement.

**Sponsor** means the Lexington Fayette Urban County Government, an urban county government pursuant to KRS Ch. 67A, Kentucky, consisting of the Office of the Mayor, the Department of Administrative Services, the Urban County Council, and Divisions of the Urban County Government, including Finance, General Services, Social Services, Law, Public Safety, and Public Works.

**Third Party Liability Claim** means a claim submitted to the Bluegrass PBM by a government health care program, agency, or intermediary for reimbursement for a Covered Drug for a Member for which the Plan is deemed to be the primary payer by operation of applicable federal or state laws.

**Urgent Care Claim** is any claim for prescription drug benefits with respect to which the Bluegrass PBM or the Plan Administrator (as the case may be) upon request and using the judgment of a prudent layperson with average knowledge of health and medicine, has determined that the application of the time periods for making a non-urgent care determinations as set forth in the Plan Documents (i) could seriously jeopardize the life or health of the Member or the ability of the Member to regain maximum function; or (ii) the Member would be subjected to severe pain that cannot be adequately managed without the care or treatment that is the subject of the claim in the opinion of the Member's treating physician.

## 2. Services to be Provided by Bluegrass through the Bluegrass PBM.

2.1 Claims administration services (the “Services”) as set forth in Schedule A attached hereto, in accordance with the Plan and pursuant to the directives, policies, interpretations, rules, practices and procedures established by the Plan Administrator, to the extent they are consistent with the Plan, Applicable Law, and are adequately communicated to the PBM.

2.2 Sufficient personnel and facilities to provide the Services. Sponsor shall be responsible for all other expenses related to Plan administration, including any applicable tax related liabilities and all legal, accounting and other professional fees. Neither Bluegrass nor the PBM will incur any such expenses without Sponsor’s express written authorization and agreement to reimburse Bluegrass or the PBM (as applicable) for same.

2.3 Bluegrass through the Bluegrass PBM shall provide Experience Reports to LFUCG

2.3 Reasonable commercial care, diligence, and skill in performing the Services.

2.4 Sponsor hereby expressly acknowledges and agrees that in performing the Services, neither Bluegrass nor the Bluegrass PBM will have any discretionary authority, or control, or responsibility, or liability, of any kind or nature whatsoever over any of the following: (i) the management or disposition of any Plan funds or other tangible or intangible assets of the Plan; (ii) administration of the Plan or Plan benefits beyond performance of the Services pursuant to this Agreement; (iii) the funding of payment for Plan benefits.

3. **Claims Payment.** Sponsor agrees to pay or cause the Plan to pay to the Bluegrass PBM the prices per prescription drug dispensed to Members as set forth in Exhibit A-1 within 3 days of invoice. Sponsor acknowledges that Bluegrass shall have no responsibility or liability of any kind to pay or fund payment of Claims payment on behalf of the Plan. To the extent that prescription utilization increases at any on-site pharmacy that Sponsor may establish for the benefit of its Members, Bluegrass shall not make any adjustments to the prices established pursuant to this Agreement.

4. **Term.** The Term of this Agreement will begin on January 1, 2012 and end on December 31, 2014. This Agreement may be renewed according to its terms for an additional one (1) year renewal term upon written agreement of Bluegrass and Sponsor executed prior to December 31, 2014. For purposes of such renewal, a written notice of Sponsor’s desire to renew must be received by Bluegrass not less than ninety (90) days prior to December 31, 2014, the Expiration Date. Bluegrass shall provide to Sponsor ninety (90) days notice of its intent to terminate its contract with Express Scripts, Inc. and to enter into a contract with another PBM, unless Bluegrass terminates its contract with Express Scripts, Inc. based on a material breach and in that case, Bluegrass shall provide to Sponsor twenty (20) days notice of the date of termination. Within five (5) days of receiving such notice of termination from Bluegrass, Sponsor may terminate this Agreement with thirty (30) days advance written notice to Bluegrass.

5. **Duties of Sponsor on Behalf of Plan.** In addition to such other duties of Sponsor specified in this Agreement or any Schedules, Exhibits, Addendums or Amendments hereto, Sponsor will be responsible for the following:

5.1 Sponsor will establish and maintain appropriate funding arrangements for payment of Claims for Covered Drugs and related benefits under the Plan in accordance with the Plan Documents and this Agreement. Failure to maintain proper funding as necessary to pay covered Claims will constitute a monetary default and material breach of this Agreement and will release Bluegrass from any and all further obligation to perform hereunder subject to the terms of Section 12.2 below.

5.2 Sponsor will periodically, but not less than weekly, provide Bluegrass with written notice of additions, deletions, or changes in the status of eligible employees and their dependents and other appropriate documentation of current enrollment status of employees and dependents covered under the Plan as is necessary for Bluegrass to determine employee and dependent eligibility for Plan benefits.

5.3 Sponsor will provide Bluegrass with sufficient information regarding Plan benefits to enable Bluegrass to make initial eligibility and benefits determinations under the Plan and properly render the Services. Sponsor understands and agrees that certification of eligibility for benefits and/or benefits determinations by Bluegrass will be based upon the most recent information made available to Bluegrass by Sponsor and the provisions of the Plan Document.

5.4 Sponsor as Plan Administrator and Fiduciary will review and have sole discretion and final decision making authority with regard to Covered Persons' appeals of eligibility, Adverse Benefit Determinations, coverage denials, and any claims that are otherwise contested for any reason.

6. **Business Associate Agreement.** The parties acknowledge that the Plan is a "Covered Entity" and that Bluegrass is a "Business Associate" of the Plan as those terms are defined under the Health Insurance Portability and Accountability Act (45 C.F.R. Parts 160 and 164, Subparts A, C and E, Security and Privacy of Individually Identifiable Health Information)("HIPAA"). The parties further acknowledge and agree that they will be exchanging protected health information ("PHI"), as that term is defined under HIPAA, in the course of fulfilling the obligations hereunder. Consequently, as of the Effective Date of this Agreement and during its Term and any renewals thereof, each of the parties will be and will thereafter remain compliant with all applicable provisions of HIPAA and any amendments thereto. Bluegrass will therefore abide by the HIPAA "Business Associate" mandated provisions set forth in the "Business Associate Agreement" attached hereto as Schedule D.

Sponsor further certifies that the Plan Document imposes restrictions on Sponsor's use and disclosure of the PHI of Covered Persons, including that such use and disclosure shall only be by Sponsor acting through the Plan Administrator, and only for purposes of Plan administration, and that Sponsor will not use or disclose Covered Persons' PHI for any employment-related action or decision or in connection with any other benefit plan other than as may be authorized under HIPAA and other Applicable Law.

**7. Indemnification.**

**7.1. Indemnity/Insurance.** Bluegrass agrees to fully comply with the indemnity and insurance provisions required in RFP #19-2011, which is attached hereto as Exhibit "1" and incorporated herein by reference as if fully stated. The required certificates of insurance are separately attached as Exhibit "3"

**7.2** Bluegrass will not be liable for any negligent or intentional act or omission of Sponsor or Sponsor's officers, directors, agents or employees, and to the extent allowable by law Sponsor agrees to indemnify and hold Bluegrass harmless from any liability, costs, expenses, attorneys fees, judgments, or any other damages whatsoever which Bluegrass may incur as a result of one or more negligent or intentional acts, errors or omissions of Sponsor whether acting as the Plan Sponsor or through the Plan Administrator or otherwise, or of Sponsor's officers, agents or employees, including but not limited to any violation of state or federal law or regulation pertaining to the administration of the Plan generally, or failure to pay a Claim that is due and payable under the provisions of the Plan Document. Further, Sponsor will indemnify and hold Bluegrass harmless for any and all reasonable and necessary legal fees and costs arising out of any Claim together with the amount of any judgment as a result of such Claim, except to the extent that such fees and costs result from the gross negligence or willful misconduct of Bluegrass, its agents or employees. This is not intended to be a waiver of LFUCG's rights as Plan Sponsor or any other third party defense available to Sponsor.

**8. Amendment of Plan.** The parties agree and acknowledge that Bluegrass has no responsibility for decisions regarding Plan design, including the adoption of any Amendment to the Plan Document. The parties however, recognize and understand that Amendments to the Plan may materially affect the duties and responsibilities of Bluegrass pursuant to this Agreement. Accordingly, if Sponsor wishes to amend the Plan, Bluegrass will not be required to act in accordance with the Amendment prior to the occurrence of the following:

**8.1** Bluegrass receives from Sponsor a written notice of the Amendment signed by an authorized officer of Sponsor, and certification that such notice of Amendment has been provided to Covered Persons and their dependents in the manner required by Applicable Law; and



8.2 Sponsor provides Bluegrass the opportunity to review the proposed Amendment to the Plan prior to the Amendment becoming effective, and to notify Sponsor if the Amendment will materially alter the duties of Bluegrass and constitute a material modification of this Agreement which may a) prevent Bluegrass from further performing under its terms as written; or b) require an appropriate adjustment of Bluegrass' fees for the Services set forth in this Agreement.

8.3 Any material modification to this Agreement, or to the fees for Services paid to Bluegrass hereunder must be in writing and signed by both parties. In the event the parties cannot agree to a written modification of the Agreement, Bluegrass may terminate the Services in accordance with Section 12.1.

9. **Plan Administrator.** The Plan Administrator will have absolute discretionary authority for management and administration of the Plan and the Plan assets, the Plan's contractual arrangements, benefit limits, administrative and procedural guidelines, final decision making authority with regard to payment of Claims, adverse benefits determinations and appeals thereof, distributions and payments from Plan funds, and all other things contemplated under this Agreement. This Agreement will not be construed to confer any such discretionary authority on Bluegrass which will instead perform its obligations hereunder solely in accordance with the provisions of the Plan Document and Applicable Law under the direction of the Plan Administrator.

10. **Enforcement; Overpayments.** Bluegrass will have no responsibility or obligation to take any action, legal or otherwise, against Sponsor or any Covered Person or other person or entity to enforce any provisions of the Plan Document. Provided, however, Bluegrass agrees to use reasonable efforts to recover any loss resulting from an error by Bluegrass in the processing of a Claim under the Plan.

11. **Maintenance of Records.** During the Term of this Agreement, Bluegrass will maintain records pertaining to the Services to be performed by it hereunder. Bluegrass will disclose the information in such records when appropriate and in accordance with HIPAA and other Applicable Law. Sponsor may review any records of Bluegrass relating to the receipt and/or processing of a Claim in accordance with this Agreement during normal business hours upon reasonable (minimum of forty-eight (48) hours) advance written notice to Bluegrass. Provided, however, that any examination of a Covered Person's Claim(s) records may only be conducted by Sponsor in a manner designed to protect the confidentiality of the Covered Person's benefit information, and in all events in accordance with HIPAA, Applicable Law, and this Agreement. Sponsor will be responsible for any costs incurred by Bluegrass associated with a review of any records.

12. **Termination.**

12.1 **Termination Without Cause.** LFUCG (sponsor) may terminate this Agreement without cause by giving Bluegrass at least sixty (60) prior written notice of the termination.

12.2 **Termination for Breach.** This Agreement may be terminated for breach as follows:

12.2.1 Bluegrass may terminate this Agreement upon the failure of Sponsor to cure a monetary default hereunder, including a failure to pay fees and charges due to Bluegrass for the Services, or a failure to properly fund Claims or otherwise provide for payment of Claims. Termination will become effective ten (10) business days after Bluegrass gives Sponsor written notice of such default if the default has not been cured to Bluegrass' satisfaction within that ten (10) day period.

12.2.2 Either party (the "non-breaching party") may terminate this Agreement upon the failure of the other party (the "breaching party") to cure any material, non-monetary default within twenty (20) business days after written notice thereof, unless any such default cannot reasonably be resolved within that period. In that event, the breaching party shall have sixty (60) calendar days to cure the default. Such written notice to the breaching party must provide an explanation of the specific breach prompting termination.

12.2.3 Sponsor may terminate for cause or otherwise in accordance with the provisions in the Request for Proposal incorporated by reference in this Agreement.

12.3 **Immediate Termination.** Notwithstanding the foregoing, a non-breaching party may immediately terminate this Agreement by written notice to the breaching party if any of the following occur:

12.3.1 The breaching party commits a material breach of Section 6 of this Agreement that cannot be cured. In the event neither termination nor cure are feasible, the non-breaching party shall report the violation to the Secretary of the Department of Health and Human Services or his/her designee;

12.3.2 The breaching party commits a material breach of Section 17 or 18 which cannot be cured; or

12.3.3 The breaching party ceases to conduct its business in the ordinary course for any reason whatsoever, and regardless of the reason.

12.4 As used in this Agreement, a “material breach” shall mean a material misstatement or omission in any representation or warranty of a party, or a breach or default in the performance of any agreement, covenant, or obligation of a party hereto which, in any such case, diminishes or deprives the non-breaching party of a material right or benefit under this Agreement, or causes a party to be out of compliance with State or Federal law including Applicable Law as that term is defined herein, or any applicable section of HIPAA.

12.5 On or before termination or expiration of this Agreement for any reason including under 12.3 above, Bluegrass will cooperate with Sponsor to the extent possible to transfer all active Claims, appeals, and information concerning Covered Persons’ Plan benefits to Sponsor or its designee to ensure continuity of service to Covered Persons and prompt and timely processing of pending claims, in accordance with Applicable Law.

12.6 **Post Expiration/Termination.** Upon the effective date of the expiration or termination of this Agreement for any reason, the following shall occur:

12.6.1 Sponsor will pay Bluegrass all amounts due under this Agreement (including Schedule B) within ten (10) business days of the effective date of expiration or termination;

12.6.2 Sponsor will immediately cease to represent that Bluegrass is a service provider under the Plan, and will notify Covered Persons and their eligible dependents of the expiration or termination of Bluegrass’ Services hereunder;

12.6.3 Each party (the “receiving party”) will within ten (10) days after the effective date of the expiration or termination of this Agreement return to the other party (the “disclosing party”) any of the disclosing party’s Confidential Information and material, excluding Plan records, bearing the other party’s name or marks. Alternatively, such information or material may be destroyed with the other party’s written consent.

12.6.4 Bluegrass will maintain all Plan records in its possession for seven (7) years or until they are transferred to Sponsor or a successor to Bluegrass designated by Sponsor as the recipient of the records, whichever occurs first. Bluegrass will transfer all Plan records in its possession upon Sponsor’s written request and payment in full to Bluegrass of all fees owed hereunder through the date of termination/expiration. The records may be delivered in the format in which they are maintained but will include sufficient explanations and documentation to enable Sponsor to have immediate use of the information. Sponsor agrees to pay all reasonable costs incurred by Bluegrass in returning such information and records, including, but not limited to, the cost of programming,

computer changes, notifications to Covered Persons, mailing and copying. Bluegrass may at its own expense, retain copies of such records.

**12.6.5 Run-off Services.** In the event this Agreement is not renewed under Section 4 or is terminated without cause under Section 12.1 or pursuant to Section 19.2, Bluegrass will provide Runoff Services to Sponsor for the Runoff Period as defined in this Agreement. The Run-off Period will begin on the day following the effective date of the expiration or termination of this Agreement. Sponsor will continue to pay Bluegrass the Service Fees set forth on Schedule B for each month of the Runoff Period in consideration for the provision of the Runoff Services by Bluegrass. Provision of the Run-off Services is conditioned upon Sponsor's continued fulfillment of its obligations under this Agreement to timely fund Claims payment for Run-off Claims during the Run-off period, and to pay the Service Fees. Upon Sponsor's failure to fund Run-off Claims payment or to pay the Service Fees for Run-off Services, Bluegrass shall have the right, in its sole discretion, to terminate the Run-off Services without any further obligation to Sponsor with respect to Run-off Claims.

**12.7** Notwithstanding the above provisions, the Sponsor may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent. Payment for services or goods received prior to termination shall be made by the Sponsor provided these goods or services were provided in a manner acceptable to the Sponsor. Payment for those goods and services shall not be unreasonably withheld.

**13. Professional Services.** Except as otherwise specifically provided in this Agreement, Bluegrass will not provide any legal services to the Plan, nor will it provide the services of an independent accountant, auditor or actuary.

**14. Independent Contractor.** It is understood and agreed by the parties hereto that Bluegrass is engaged to perform under this contract as an independent contractor and, as such independent contractor, is not an employee, officer, director, fiduciary, partner, shareholder, parent, subsidiary or otherwise an affiliate of the Sponsor.

**15. Reciprocal Obligations.**

**15.1** Each party will use its best efforts to maintain electronic and telecommunication connections with the other party on a daily basis during the Term of this Agreement and any renewals thereof, for purposes of processing any and all Claims and will otherwise communicate with each other as necessary to fulfill the obligations hereunder.

**15.2** Each party will make all reasonable efforts to deliver accurate and complete data to each other at all times.

15.3 Upon reasonable prior written notice to the other party, each party reserves the right, from time to time, without any liability to the other party to revise, modify, update or otherwise suspend any part of the Services or operating systems as reasonably required to enhance the functionality (including technology) of the Services or operating systems, or for maintenance or to correct problems.

15.4 Each party will be solely responsible for maintaining its own compliance with all laws, rules, and regulations, including but not limited to Applicable Law and HIPAA. For purposes of clarification, Sponsor will have sole responsibility for maintaining the Plan in compliance with all such laws. To further clarify, Bluegrass will not be an entity that is responsible either as a primary or secondary payer under the Plan.

16. **Security Procedures.** Each party will employ reasonable security procedures in addition to those applicable under HIPAA, to ensure to the greatest extent possible that transactions, notices, data, and all other information electronically created, communicated, exchanged, processed, stored, retained, archived, or retrieved for purposes of this Agreement, is authentic, reliable, complete and confidential. Each party will require any subcontractor or agent who is given access to the data to perform Services to: (i) contractually obligate its agents and subcontractors to provide satisfactory security for all data that is electronically exchanged; and (ii) to implement and maintain appropriate and effective administrative, technical and physical safeguards to protect the security, integrity and confidentiality of that data. Each party and its agents and subcontractors shall keep all security measures current and shall document the security measures it implements in writing and make them available to the other party upon request.

## 17. **Confidentiality.**

17.1 “Confidential Information” for purposes of this Agreement includes, without limitation and regardless of the form of delivery, (i) information concerning either party’s business operations and systems, finances, financial condition, employees, products, customers, Sponsors, vendors, marketing strategies or initiatives, proprietary software, documentation, internet technology, networks, or provider networks; (ii) information not otherwise protected under HIPAA concerning the Sponsor’s employees and their dependents who are eligible for benefits under the Plan; (iii) Provisions of the Plan; (iv) Plan enrollment data, utilization data, prior authorization program criteria, policies, procedures and processes; (v) reports, notes, summaries, abstracts, drafts or aggregations of data, from or including, oral presentations, reports, or discussions referring to, describing or elaborating upon, or otherwise relating to Confidential Information described in (i) through (iv) above. For the purposes of this Section 17, Confidential Information will not include PHI that is protected under HIPAA, applicable state law and Section 6 of this Agreement.

17.2. Information will not be deemed Confidential Information if it is: (i) already known or otherwise becomes known to the public other than as a result of any act or omission of a party or its agent; (ii) lawfully received from a third party having the right to disseminate the information without restriction on disclosure; (iii) independently developed by the receiving party without using the Confidential Information; (iv) voluntarily disclosed to third parties by the party who owns the Confidential Information; (v) required to be disclosed by law.

17.3 The parties agree (i) to protect any and all Confidential Information from unauthorized use or disclosure with at least the same degree of care they use to protect their own confidential information; (ii) to use the Confidential Information only for the purposes of this Agreement and in accordance with its terms; (iii) not to record, copy, or reproduce any Confidential Information in any form, except to the extent necessary to fulfill the obligations under this Agreement; (iv) not to disclose to or otherwise permit any third person or entity access to any Confidential Information without the other party's written consent; (v) to limit disclosure of Confidential Information to those agents and/or representatives of each party who are necessary to and involved in the party's performance of its obligations hereunder, except when a party determines that such disclosure is necessary to that party's attorneys, accountants, auditors, and/or consultants, or when it is required by state or federal law. In the event disclosure of such information to a party's agents and/or representatives is necessary, the disclosing party shall require them to adhere to and agree in writing to comply with the obligations of this Section 17; and (vi) to take any and all other steps necessary to safeguard Confidential Information against unauthorized access or disclosure. A party will disclose to the other party any breach of the provisions of this Section 17 as soon as reasonably possible, but in no event more than ten (10) days after it has knowledge of the breach.

17.4 Any disclosure to third parties or misappropriation of any Confidential Information by a receiving party in breach of this Agreement may cause irreparable harm to the disclosing party such that the amount of damages may be difficult to ascertain. It is therefore agreed that the disclosing party shall have the right to seek, from a court of competent jurisdiction, an order restraining/enjoining any prohibited disclosure or misappropriation, and for reimbursement of that party's reasonable attorney fees and costs in obtaining the order, as well as any other relief granted by the court. Such right of the disclosing party is in addition to other remedies as may be available at law or in equity. Further, to the extent any of the above described Confidential Information constitutes "Trade Secrets" as that term is defined in K.R.S. § 365.880, Bluegrass will have all other remedies available to it pursuant to K.R.S. § 365.880-365.990 for misappropriation thereof.

18. **Warranties.**

18.1 The parties affirm that they each have all necessary licensing and certifications required to conduct their businesses and operations and to carry out the terms of this Agreement. If one party fails to maintain such licensing and certifications, the other party may terminate this Agreement as provided in section 12.2. A party against whom an action has been initiated that may result in the loss of that party's licensing or certification shall notify the other party of the action in writing within seven (7) days of its commencement. The notification shall include a description of the action and the course of corrective action being undertaken in response.

18.2 Each party further warrants and represents that, throughout the Term of this Agreement and any renewals thereof, they will ensure that their activities in funding, administering or servicing the Plan are wholly in compliance with Applicable Law and any other federal or state statutes or regulations that affect or govern those activities.

18.3 Each party further warrants that entering into and the execution and delivery of this Agreement and consummation of the transactions contemplated by this Agreement and any Agreements incorporated herein have been duly and validly authorized by all requisite corporate action of the parties; constitute the legal, valid, and binding obligation of each party and require no additional corporate authorization or consent.

## 19. General Terms.

19.1 **Notices.** Notice required by this Agreement will be effective upon delivery if personally delivered; upon the fifth (5<sup>th</sup>) day after mailing if deposited in the United States mail, duly addressed and postage prepaid; or one (1) day after receipt from a nationally recognized overnight delivery service, to the other party at its addresses set forth below, or at such other address as a party may otherwise designate in writing from time to time.

If to BLUEGRASS	IF TO SPONSOR
Mr. James Fritz President / Chief Executive Officer BLUEGRASS FAMILY HEALTH, INC. 651 Perimeter Drive, Suite 300 Lexington, KY 40517	Ms. Leslie Jarvis Human Resources LFUCG 200 East Main Street Lexington, KY 40507

19.2 **Assignment/Delegation/Subcontracting/Change of Control.** Neither party will have the right to assign, delegate, subcontract, sell or otherwise transfer ("Transfer") any or all of its rights and/or obligations under this Agreement to a third party without the other party's prior written consent. Transfers prohibited hereunder also include the transfer of a party's rights or obligations, or any of them, under this Agreement to any

parent, subsidiary, or other affiliate or to any entity that is a successor in interest to any phase of such party's business whether by asset purchase, or the acquisition of controlling interest. Any purported Transfer in violation of this provision will be null and void and will entitle the non-breaching party to terminate this Agreement effective immediately upon notice to the breaching party. This Agreement will be binding upon and will inure to the benefit of the parties and their respective parents, subsidiaries, affiliates, successors and assigns.

**19.3 Governing Law.** The rights and obligations of the parties under this Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than Kentucky.

**19.4 Cumulative Remedies.** All remedies herein are cumulative and may be pursued concurrently or separately. Pursuit of one remedy is not an election of remedies or a waiver of another remedy. Delay or failure to pursue a remedy will neither waive the remedy nor modify the terms of this Agreement.

**19.5 Survival.** The following provisions will survive termination or expiration of this Agreement: Sections 1, 2.4, 5.4, 6 (and Schedule D), 7, 9, 10, 12.6, 14, 19.1, 19.3, 19.4, 19.6, 19.7, 19.8, 19.10, 19.11, 19.12 and 19.14.

**19.7 Waiver.** No waiver of any breach of any term or condition or obligation under this Agreement by either party will be deemed a waiver of the same or similar breach unless in writing and signed by the party against whom enforcement is sought.

**19.8 Severability.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, this Agreement will remain in full force and effect in accordance with its terms disregarding such unenforceable or invalid provision.

**19.9 Legal Event /Consequences.** In the event any government agency or any court or administrative tribunal passes, issues or promulgates any law, rule, regulation, standard, interpretation, order, decision or judgment,(collectively or individually "Legal Event") which subjects either party to a risk of prosecution, sanction, civil monetary fine or penalty because of any provision or the lack of any provision in this Agreement, then upon notice of one party (the "Noticing Party") to the other party, the parties agree to attempt in good faith to renegotiate the subject provision to the satisfaction of both parties. If the parties are unable to mutually agree upon a modification of the subject provision(s) within thirty (30) days of receiving notice of same, then either party may terminate this Agreement in accordance with Section 12.1.



19.10 **Headings.** The headings contained in this Agreement are included for purposes of convenience only, and will not affect in any way the meaning or interpretation of any of the terms or provisions of this Agreement.

19.11 **Entire Agreement.** This Agreement (together with the Exhibits, Schedules and incorporated documents) sets forth the entire agreement and understanding between the parties with respect to the subject matter and supersedes any and all prior agreements, understandings, promises and/or representations by either party to the other in connection with such subject matter. The Lexington-Fayette Urban County Government Request for Proposal and all such rights, responsibilities and duties therein are hereby incorporated by reference in this Agreement. This Agreement may only be amended or modified by a writing signed by the parties.

19.12 **Third Parties.** This Agreement is solely for the sole benefit of the parties. Nothing herein, express or implied, will be construed to give any person or entity, other than the parties, any legal or equitable rights whatsoever.

19.13 **Regulatory References.** Any reference to a statute or regulation in this Agreement means the statute or regulation in effect or as amended.

19.14 **Conflict.** Language in the Request for Proposal will have precedence and control over any language in this Agreement, Addendum, or Exhibit.

19.15 **Incorporation by Reference.** All Exhibits, Schedules and Addendums referenced in this Agreement are incorporated herein as if fully set forth as part of this Agreement.

**IN WITNESS WHEREOF,** the parties have executed this Agreement through their authorized representatives as of the Effective Date first written above.

LFUCCG

BLUEGRASS FAMILY  
HEALTH, INC.

By: \_\_\_\_\_

By: 

Title: **Plan Administrator,  
Manager / Benefits Administration**

Title: CNO

## Schedule A

### Administrative Services and Clinical Program Fees

#### **A. Administrative Services**

<b>PBM Services</b>	
• Electronic/online eligibility submission	• Electronic claims processing
• FSA feeds	• Plan setup
• Standard Coordination of Benefits (reject for primary carrier)	•
<b>Participating Pharmacy Network Services</b>	
• Pharmacy help desk	• Pharmacy reimbursement
• Pharmacy network management	• Network development (upon request)
<b>Account and Member Service</b>	
• Assigned BFH account team	• Annual strategic planning with quarterly review
• Telephonic training for access to online system(s)	• Implementation support
• Centralized administration for payment of Claims Reimbursements and Administrative Fees	• New Member packets (includes 2 standard resin ID cards)
	• Member replacement cards printed via the Web
<b>Mail Service Pharmacy</b>	
• Benefit education (includes mail promotion program)	• Prescription delivery — standard
<b>Reporting Services</b>	
• Web-based client reporting — produced by BFH	• Claims detail extract file electronic (NCPDP format)
• Ad-hoc desktop parametric reports	• Inquiry access to claims processing system (client responsible for telecommunications charges)
• Billing reports, including paid claims file	
• Custom ad-hoc reporting (up to 10 hours of programming time)	• Load 24 months claims history for clinical programs and reporting
<b>Website Services</b>	
• Express-Scripts.com for Clients and advisors — access to reporting tools, eligibility update capability, contact directory, sales and marketing information, and benefit and enrollment support secured through Risk Base Authentication	• Express Preview <sup>SM</sup> enrollment option — available during open enrollment to enable members to evaluate prescription benefit plan options
• Express-Scripts.com for Members — access to benefit, drug, health and wellness information; prescription ordering capability; and customer service via link or portal on BFH website	• <u>External Compass — advanced user interface for real-time, online inquiries</u>
<b>Clinical</b>	
• Concurrent Drug Utilization Review	• Emerging Therapeutics
• Prior Authorization — Administrative <ul style="list-style-type: none"> <li>◦ Non-clinical Prior Authorization</li> <li>◦ Lost/stolen overrides</li> <li>◦ Vacation supplies</li> </ul>	<ul style="list-style-type: none"> <li>• Step Therapy</li> <li>• Blood Glucose Monitoring Program</li> <li>• Therapeutic Interchange</li> </ul>

<b>PBM Services</b>	<b>Fees</b>
Manual/hardcopy eligibility submission	ESI will provide web based tool to update eligibility electronically free of charge
Member-submitted paper claims processing fee	\$2.50/claim
Medicaid subrogation claims fee	\$2.50/claim
Communication with physicians and/or Members other than those required as a result of unilateral action by ESI (e.g., BFH program descriptions, notifications, formulary compliance, EOBs, etc.)	\$1.35/letter (postage included)
<b>Participating Pharmacy Network Services</b>	
Pharmacy Audit Compliance	20% of audit recoveries
Program Integrity (Fraud, Waste and Abuse – includes quarterly reporting)	\$0.03/claim
<b>Account and Member Services</b>	
Customer service for Members	After-hours call center support is included
Member requested replacement packets	\$1.50 + postage per packet
Client requested re-carding	\$1.50 + postage per packet
<b>Reporting Services</b>	
Web-based client reporting — produced by Express Scripts	\$100/report
Custom ad-hoc reporting requiring more than 10 hours of programming	\$150/hour
<b>Clinical Programs*</b>	
Prior Authorization — clinical	\$35/request \$45/physician review
<b>Appeals</b>	
Clinical appeals (Non-ASO)	\$350/review
Non-clinical appeals (Non-ASO)	\$160/review
<b>Medicare Part D</b>	
♦ Part D subsidy enhanced service (ESI sends reports to CMS on behalf of Sponsor)	\$1.12 PMPM for Medicare-qualified Members with a minimum annual fee of \$7,500
• Notice of Creditable Coverage	\$1.35/letter + postage
♦ Part D Subsidy standard service (ESI sends reports to Sponsor)	\$0.62 PMPM for Medicare-qualified Members with a minimum annual fee of \$5,000
• Notice of Creditable Coverage	\$1.35/letter + postage
♦ Using Outside Cost Reporter/Vendor (ESI provide final rebate figures)	\$0.42 PMPM for Medicare-qualified Members with a minimum annual fee of \$1,500
♦ Medicare Part D Fraud, Waste and Abuse Program – includes quarterly reporting and Audit Compliance	\$0.05/claim
<b>Medicare Part B</b>	
♦ Part B Services (Participating Pharmacy and Mail Benefit)	\$0.42 PMPM for Medicare qualified Members
<b>Medicaid Encounter Errors</b>	
Support for submission of Medicaid encounter data, error correction, and maintenance of state pharmacy IDs	\$1.25 per error worked

\* ESI also offers additional programs, as well as savings guarantees, under certain conditions. Information concerning such programs, guarantees, and Fees, if applicable, is available on request.

# Exhibit A-1

## Pharmacy Reimbursement Rates

### **I. Participating Pharmacy Reimbursement Rates (Does Not Apply to Specialty Products)**

#### **The Participating Pharmacy Reimbursement rates set forth in Tables I.**

**TABLE I**

Network	Minimum 50,000 Participating Pharmacy Network**	
Type of Plan	All Plans ESI National Preferred Formulary	
Days' Supply	1-83	84-90
Ingredient Cost - Brand Year 1* Year 2* Year 3*	Lesser of AWP – 16.00% AWP – 17.00% AWP – 17.50% or U&C	Lesser of AWP – 19.80% AWP – 20.80% AWP – 21.30% or U&C
Ingredient Cost - Generic	Lesser of AWP – 16.00%, MRA or U&C (all three years)	Lesser of AWP – 19.80%, MRA or U&C (all three years)
Ingredient Cost - Compound Drugs***	Lesser of U&C or combined AWP plus applicable service fee	
Brand Dispensing Fee/Rx	\$1.10 (all three years)	\$0.30 (all three years)
Generic Dispensing Fee/Rx	\$1.10 (all three years)	\$0.30 (all three years)
Administrative Fee/Rx – Brands & Generics	\$0.00 (all three years)	\$0.00 (all three years)

\* Year 1 shall commence on the Effective Date and end on the day before the first anniversary thereof.

\*\* Greater than 83 days' supply may only be filed at certain Maintenance Medication Network Participating Pharmacies.

\*\*\* Compound Drugs will be adjudicated as follows: (1) The pharmacist will flag the Prescription Drug Claim as a Compound Drug in the claim adjudication system. (2) The pharmacist will submit the NDC number of the most expensive legend (prescription) drug in the compound, combining the quantity of all ingredients, not just the legend drug. (3) The pharmacist will submit the AWP of the combined compound ingredients and the compound service fee (the pharmacist adds these dollar amounts together and submits them in a single field). (4) ESI will process the claim without an AWP discount. (5) The pharmacy will receive the contracted dispensing fee. Please note, all Compound Drugs are invoiced at Pass-Through (that is, with respect to Compound Drugs, the amount paid to the pharmacy is invoiced to the client and ESI retains no spread).

Guarantees are not applicable to Participating Pharmacy Network pricing tables (Table 1):

Notwithstanding the preceding, ESI will not guarantee an average aggregate annual discount for Generic Drugs dispensed by Participating Pharmacies as set forth in Section III, below.

### **II. Mail Service Pharmacy Pricing (Does Not Apply to Specialty Products)**

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<b>Network</b>	<b>Mail Service Pharmacy</b>
<b>Type of Plan</b>	<b>All Plans</b> <b>BFH optimized custom Formulary</b>
<b>Ingredient Cost - Brand Drugs</b>	<b>AWP - 23.25%</b>
<b>Ingredient Cost - Generic Drugs</b>	<b>AWP - 23.25% or, if lower, MRA</b>
<b>Ingredient Cost - Compound Drugs*</b>	<b>Combined AWP plus applicable service fee</b>
<b>Brand Dispensing FeeRx</b> <i>Subject to change for changes in delivery rates</i>	<b>\$0.00</b>
<b>Generic Dispensing FeeRx</b> <i>Subject to change for changes in delivery rates</i>	<b>\$0.30</b>
<b>Administrative FeeRx</b>	<b>\$0.00</b>

\* Compound Drugs will be adjudicated as follows: (1) The pharmacist will flag the Prescription Drug Claim as a Compound Drug in the claim adjudication system. (2) The pharmacist will submit the NDC number of the most expensive legend (prescription) drug in the compound, combining the quantity of all ingredients, not just the legend drug. (3) The pharmacist will submit the AWP of the combined compound ingredients and the compound service fee (the pharmacist adds these dollar amounts together and submits them in a single field). (4) ESI will process the claim without an AWP discount. (5) The pharmacy will receive the contracted dispensing fee. Please note, all Compound Drugs are invoiced at Pass-Through (that is, with respect to Compound Drugs, the amount paid to the pharmacy is invoiced to the client and ESI retains no spread).

Notwithstanding the preceding, ESI will guarantee an average aggregate annual discount for Generic Drugs dispensed by the Mail Service Pharmacy as set forth in the table in Section III below.

III. **Pricing:**

Generic Ingredient Cost. BFH in conjunction with ESI will process drug discounts as reflected below.

Discounted ingredient cost will be the lesser of MRA, U&C or AWP discount adjudication methodology.

Generic Drug Ingredient Cost Guarantees – All Plans	Participating Pharmacy	Mail Service Pharmacy	Claims Excluded
Days' Supply	1-83	84-90	
Year 1* Year 2* Year 3*	AWP 74.15% AWP 75.65% AWP 77.15%	-  -  AWP - 74.15% AWP - 75.65% AWP - 77.15%	AWP – 76.25% AWP – 78.25% AWP – 79.25%
			OTC, Products subject to patent actions, Single Source Generic Drugs and Specialty Products

\* Year 1 shall commence on the Effective Date and end on the day before the first anniversary thereof.

IV. **Specialty Products.** BFH pricing is based on the CuraScript Exclusive option as described below.

(a) CuraScript Exclusive Option. CuraScript is the exclusive provider of Specialty Products to Plans for the Claims Reimbursement rates shown on the Exclusive CuraScript Specialty Product List in Schedule A below. Any Specialty Product dispensed from a pharmacy other than CuraScript (for example, limited distribution products not then available through CuraScript or overrides) will be reimbursed at the standard Participating Pharmacy Specialty Product rates shown below in IV(b) and (f). Upon CuraScript acquisition of limited distribution products, Members will obtain prescriptions for those products through CuraScript.

	Ingredient Cost	Dispensing Fee
Exclusive CuraScript	See Exclusive Specialty Product List Lesser of AWP discount or MRA	\$0.00
Participating Pharmacy Specialty Products	See Participating Pharmacy Specialty Product List Lesser of AWP discount, U&C or MRA	\$2.00

(b) Pricing for ASES is as follows:

(i) For Specialty Products with an additional charge to cover costs of all supplies, equipment (e.g., pumps), nursing and clinical monitoring when required to administer the Specialty Products, the following standard per diem and nursing fee rates shall apply if the supply, equipment, nursing or clinical monitoring is provided by or through ESI. Exceptions to the standard per diem and nursing rates are set forth in (ii), below, which list may be updated from time to time by ESI. Pricing for home infusion supplies and services outside of CuraScript will be pass-through and based on the provider's rates.

Standard Per Diem	\$65/dose
Standard Nursing Fee/ First 2 Hours	\$150
Standard Nursing Hourly	\$75

(ii) Additional Exceptions to AWP Discount Rates and Standard Per Diem & Nursing Fees

Brand Name	AWP Discount	Per Diem
EPOPROSTENOL	1.0%	\$65/day
REMODULIN	5.0%	\$65/day

TYVASO pricing includes Phone Support Nursing, Supplies, Pump, first two training visits, and Coordination of In-Person Nursing. In-home nursing that is requested/needed beyond the first two training visits will be charged at a rate of \$150 for the first two hours and \$75 for every hour after.

(c) Specialty Products will be excluded from any pricing set forth in the Agreement. In no event will the Mail Service Pharmacy or Participating Pharmacy pricing terms specified in the Agreement, including, but not limited to, the annual average ingredient cost discount guarantees, apply to Specialty Products dispensed through CuraScript.

(d) Unless otherwise set forth in an agreement directly between CuraScript and BFH, if a Specialty Product dispensed or ASES provided by CuraScript is billed to BFH directly by CuraScript instead of being processed through ESI, BFH agrees to timely pay CuraScript for such Claim when for a Covered Drug, pursuant to the rates and discounts provided above and in the Specialty Product List within thirty (30) days of BFH's, or its designee's, (LFUGC) receipt of such electronic or paper claim from CuraScript. CuraScript shall have 180 days from the date of service to submit such electronic or paper claim.

(f) The list of Specialty Products and their corresponding rates set forth below are subject to addition, deletion, or modification by ESI from time to time. ESI will notify BFH at least monthly of new Specialty Products that are introduced to the market on or after the Effective Date of this Agreement with their applicable reimbursement rates ("Notice"). BFH will have seven (7) Business Days from the date of receipt of the notification to submit a Set-Up Form to ESI of any new Specialty Product in the Notice that is to be excluded. Such exclusions will be implemented within seven (7) Business Days after the date of ESI's receipt of such Set-Up Form. Retroactive denials of Claims for a new Specialty Product will not be processed and BFH will be responsible for payment of such Claims, unless ESI receives the Set-Up Form from BFH excluding the new Specialty Product within the above-stated time period.

**Schedule B**

8-MOP	14.58%
ABRAXANE	13.54%
ACTEMRA	13.50%
ACTHAR H.P.	14.58%
ACTIMMUNE	14.58%
ADAGEN	Limited Dist.
ADCIRCA	15.00%
ADRIAMYCIN	13.54%
ADRUCIL	13.54%
ADVATE	22.92%
ADVATE H	22.92%
ADVATE L	22.92%
ADVATE M	22.92%
ADVATE SH	22.92%
ADVATE UH	22.92%
AFINITOR	14.58%
ALDURAZYME	14.58%
ALFERON N	14.58%
ALIMTA	13.54%
ALKERAN	14.58%
ALPHANATE	22.64%
ALPHANINE SD	22.87%
AMEVIVE	14.58%
AMIFOSTINE	13.54%
AMPYRA	14.50%
APOKYN	Limited Dist.
ARALAST	14.58%
ARALAST NP	14.58%



ARANESP	14.58%
ARCALYST	Limited Dist.
AREDIA	13.54%
ARIXTRA	14.58%
ARRANON	14.58%
ARZERRA	14.50%
ATGAM	11.46%
AVASTIN	13.54%
AVONEX	14.58%
AVONEX ADMINISTRATION PACK	14.58%
BEBULIN VH IMMUNO	11.92%
BENEFIX	12.11%
BERINERT	Limited Dist.
BETASERON	14.59%
BEXXAR	Limited Dist.
BICNU	13.54%
BLENOXANE	13.54%
BLEOMYCIN SULFATE	13.54%
BONIVA	11.46%
BOTOX	11.46%
BOTOX COSMETIC	11.46%
BRAVELLE	14.58%
BUSULFEX	14.58%
CAMPATH	13.54%
CAMPTOSAR	13.54%
CARBOPLATIN	13.54%

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CARIMUNE NF NANOFILTERED CAVSTON	18.00% Limited Dist.
CELLCEPT CEPROTIN	11.46% Limited Dist.
CEREDASE CEREZYME CERUBIDINE CETROTIDE CHENODAL	14.58% 14.58% 13.54% 14.58% Limited Dist.
CHORIONIC GONADOTROPIN CIMZIA CINRYZE CISPLATIN CLADRIBINE CLOLAR COMPND/DSCNTNUED/NON- STAN COPAXONE COPEGUS COSMEGEN CYCLOPHOSPHAMIDE CYCLOSPORINE CYSTAGON	14.58% 11.46% 8.33% 13.54% 14.58% 14.50% 13.54% 14.58% 14.58% 13.54% 13.55% 13.58% Limited Dist.
CYTARABINE CYTOGAM CYTOXAN DACARBAZINE DACOGEN DAUNORUBICIN HCL DAUNOXOME DDAVP DEFEROXAMINE MESYLATE DEPOCYT	13.54% 14.58% 13.54% 13.52% 13.54% 13.54% 13.54% 14.58% 14.57% 18.00%

DESFERAL	14.58%
DESFERAL MESYLATE	14.58%
DESMOPRESSIN ACETATE	14.59%
DEXRAZOXANE	13.54%
DOXIL	13.54%
DOXORUBICIN HCL	13.54%
DTIC-DOME IV	17.00%
DYSPORT	Limited Dist.

ELAPRASE	14.58%
ELIGARD	13.54%
ELITEK	14.58%
ELLENC	13.54%
ELOXATIN	13.54%
ELSPAR	13.55%
ENBREI	14.58%
EPIRUBICIN HCL	13.56%
EPOGEN	14.58%
EPOPROSTENOL SODIUM	1.00%
ERBITUX	13.54%
ETHYOL	13.54%
ETOPOPHOS	13.54%
ETOPOSIDE	13.53%
EUFLEXA	11.46%
EXADE	13.50%
EXTAVIA	14.50%
FABRAZYME	14.58%
FASLODEX	13.54%
FEIBA VH IMMUNO	23.15%
FIRMAGON	11.46%
FLEBOGAMMA	14.58%
FLEBOGAMMA DIF	14.58%
FIOLAN	Limited Dist.

FLOXURIDINE	13.54%
FLUDARA	13.54%

FLUDARABINE PHOSPHATE	13.54%
FLUOROURACIL	13.54%
FOLLISTIM AQ	14.58%
FOLOTYN	14.50%
FORTEO	9.38%
FRAGMIN	14.57%
FUDR	13.54%
FUSILEV	14.58%
FUZEON	14.58%
GAMASTAN S-D	14.57%
GAMMAGARD LIQUID	14.58%
GAMMAGARD S-D	14.58%
GAMUNEX	14.58%
GANIRELIX ACETATE	14.58%
GEMZAR	13.54%
GENOTROPIN	14.58%
GEREF DIAGNOSTIC	18.00%
GLEEVEC	14.58%
GONAL-F	14.58%
GONAL-F RFF	14.58%
HELIXATE FS	22.68%
HEMOFIL M	22.64%
HEPAGAM B	18.00%
HERCEPTIN	13.54%
HIZENTRA	14.50%
HUMATE-P	22.92%
HUMATROPE	14.58%
HUMIRA	14.58%
HYALGAN	11.46%
HYCAMTIN	13.54%
HYPERHEP B S-D	14.58%
HYPERRAB S-D	14.58%
HYPERRHO S-D	14.59%
IDAMYCIN PFS	13.54%
IDARUBICIN HCL	13.54%
IFEX	13.54%

IFEX-MESNEX	13.54%
IFOSFAMIDE	13.54%
IFOSFAMIDE-MESNA	17.00%
ILARIS	13.54%
IMOGAM RABIES-HT	14.58%
IMPLANON	-1.04%
INCRELEX	14.58%
INFERGEN	18.00%
INNOHEP	14.58%
INTRON A	13.54%
IRESSA	10.42%
IRINOTECAN HCL	13.54%
ISTODAX	14.50%
IXEMPRA	13.54%
KALBITOR	Limited Dist.

KEPIVANCE	Limited Dist.
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KINERET	14.59%
KOATE-DVI	22.92%
KOGENATE FS	22.92%
KUVAN	14.58%
LETAIRIS	14.58%
LEUCOVORIN CALCIUM	13.57%
LEUKINE	14.58%
LEUPROLIDE ACETATE	14.58%
LEUSTATIN	13.54%
LOVENOX	14.59%
LUCENTIS	14.58%
LUMIZYME	14.50%
LUPRON	11.46%
LUPRON DEPOT	11.46%
LUPRON DEPOT-PED	11.46%
LUVERIS	14.58%
MACUGEN	14.58%
MENOPUR	14.58%

MESNA	13.54%
MESNEX	13.54%
METHOTREXATE	11.41%
MICRHOGAM	14.58%
MICRHOGAM PLUS	14.59%
MIRENA	Limited Dist.

MITOMYCIN	15.62%
MITOXANTHRONE HCL	13.54%
MONARC-M	22.60%
MONOCLATE-P	23.07%
MONONINE	22.92%
MOZOBIL	14.58%
MUSTARGEN	13.54%
MYLOTARG	13.54%
MYOBLOC	11.46%
MYOZYME	14.58%
NABI-HB	14.58%
NAGLAZYME	14.58%
NAVELBINE	13.54%
NEULASTA	14.58%
NEUMEGA	14.58%
NEUPOGEN	14.58%
NEXAVAR	14.58%
NIPENT	13.54%
NORDITROPIN	14.58%
NORDITROPIN NORDIFLEX	14.58%
NOVANTRONE	13.54%
NOVAREL	14.59%
NOVOSEVEN	22.84%
NOVOSEVEN RT	22.99%
NPLATE	14.58%
NUTROPIN	14.58%
NUTROPIN AQ	14.58%
NUTROPIN AQ NUSPIN	14.58%
OCTAGAM	14.58%

OCTREOTIDE ACETATE	14.58%
OFORTA	14.50%
OMNITROPE	14.58%
ONCASPAR	17.00%
ONSOLIS	16.00%
ONTAK	13.54%
ONXOL	17.00%
ORENCIA	14.58%
ORFADIN	Limited Dist.

ORTHOCLONE OKT-3	Limited Dist.
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ORTHOVISC	11.46%
OVIREL	14.58%
OXALIPLATIN	16.50%
PACLITAXEL	13.54%
PAMIDRONATE DISODIUM	13.54%
PANRETIN	14.58%
PARAPLATIN	17.00%
PEGASYS	14.58%
PEGINTRON	14.58%
PEGINTRON REDIPEN	14.58%
PHOTOFRIIN	13.54%
PREGNYL	14.59%
PRIALT	14.58%
PRIVIGEN	14.58%
PROCRT	14.58%
PROFILININE SD	22.71%
PROGESTERONE	14.57%
PROGESTERONE IN OIL	14.58%
PROGRAF	11.46%
PROLASTIN	Limited Dist.

PROLASTIN C	Limited Dist.
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PROLEUKIN	13.54%
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PROLIA	12.50%
PROMACTA	14.58%
PULMOZYME	14.58%
QUTENZA	Limited Dist.
RAPTIVA	14.58%
REBETOL	14.58%
REBIF	14.58%
RECLAST	11.46%
RECOMBINATE	23.22%
REFACTO	12.79%
REFLUDAN	14.58%
REMICADE	14.58%
REMODULIN	5.00%
REPRONEX	14.58%
RETROVIR	14.58%
REVATIO	14.50%
REVLIMID	14.58%
RHOGAM	14.58%
RHOGAM PLUS	14.58%
RHOPHYLAC	14.58%
RIBAPAK	30.00%
RIBASPHERE	30.00%
RIBATAB	30.00%
RIBAVIRIN	54.25%
RILUTEK	14.58%
RITUXAN	13.54%
ROFERON-A	17.00%
SABRIL	13.50%
SAIZEN	14.58%
SANDIMMUNE	11.45%
SANDOSTATIN	14.63%
SANDOSTATIN LAR	14.58%
SEROSTIM	14.58%
SIMPONI	13.54%
SIMULECT	14.58%

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SOLIRIS	14.58%
SOMATULINE DEPOT	14.58%
SOMAVERT	13.54%
SPRYCEL	14.58%
STELARA	14.50%
SUCRAID	14.58%
SUPARTZ	15.00%
SUPPRELIN LA	14.58%
SUTENT	14.58%
SYNAGIS	14.58%
SYNVISC	11.46%
SYNVISC-ONE	11.46%
TARABINE PFS	18.00%
TARCEVA	14.58%
TASIGNA	14.58%
TAXOL	13.54%
TAXOTERE	13.54%
TEMODAR	14.58%
TEV-TROPIN	18.00%
THALOMID	14.58%
THERACYS	13.54%
THIOTEPA	13.54%
THYMOGLOBULIN	14.58%
THYROGEN	14.58%
TICE BCG	14.50%
TOBI	14.58%
TOPOSAR	13.53%
TORISEL	13.54%
TOTECT	14.58%
TRACLEER	14.58%
TREANDA	13.54%
TRELSTAR	14.58%
TRELSTAR DEPOT	14.58%
TRELSTAR LA	14.58%
TRISENOX	13.54%
TYKERB	14.58%

TYSABRI	14.58%
TYVASO	1.00%
VALSTAR	14.50%
VANTAS	14.58%
VECTIBIX	13.54%
VELCADE	13.54%
VENTAVIS	Limited Dist.
VIADUR	17.00%
VIDAZA	13.54%
VINBLASTINE SULFATE	13.54%
VINCRIStINE SULFATE	13.55%
VINORELBINE TARTRATE	13.54%
VISUDYNE	14.58%
VIVAGLOBIN	14.58%
VIVITROL	14.58%
VOTRIENT	14.50%
VPRIV	14.50%
VUMON	13.54%
WINRHO SDF	14.58%
XELODA	14.58%
XENAZINE	14.58%
XIAFLEX	14.50%
XOLAIR	14.58%
XYNTHA	22.88%
XYREM	10.42%
ZANOSAR	13.54%
ZAVESCA	14.58%
ZEMAIRA	Limited Dist.
ZENAPAX	11.46%
ZEVALIN	Limited Dist.
ZINECARD	14.58%
ZOLADEX	13.54%
ZOLINZA	14.58%

ZOMETA  
ZORBTIVE

14.58%  
14.58%

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### **Limited Distribution Specialty Products**

Distribution of a small number of Specialty Products is limited by the manufacturer to specific pharmacy providers.

The limited distribution Specialty Products listed in the table above are not available through CuraScript. If CuraScript receives a prescription for one of these Limited Distribution Specialty Products, CuraScript will:

- Determine the pharmacy that is able to dispense the Specialty Product.
- Validate that the pharmacy is contracted to provide the Specialty Product based on the Member's insurance information and will:
  - Work with the Member and prescribing physician to initiate the transfer of the prescription to the appropriate pharmacy for fulfillment, or
  - Provide the Member and physician with information regarding possible patient assistance programs.

The cost of the Specialty Product will be billed to BFH by regular ESI invoice if it is a Covered Drug.

**EXHIBIT A-2**

**REBATES**

1. **Rebate Amounts**

- A. Subject to the conditions set forth below and elsewhere in this Agreement, BFH will pay to LFUCG an amount equal to:
- (i) Subject to LFUCG meeting the Plan design conditions identified in the table below, the following guaranteed amounts:

**Rebates for 3 and 4 Tier Plan Designs with Cost-share Differentials**  
**of at least \$15 for Tiers 2 through 3**

Formulary:	BFH optimized custom Formulary, no clinical programs		ESI National Preferred Formulary, no clinical programs	
	Participating Pharmacies and CuraScript	Mail Service Pharmacy	Participating Pharmacies and CuraScript	Mail Service Pharmacy
Per Brand Prescription Drug Claim **				
Year 1*	\$16.00	\$35.00	\$19.80	\$77.00
Year 2*	\$16.10	\$29.00	\$21.30	\$84.40
Year 3*	\$17.25	\$31.00	\$21.70	\$94.90

\* Year 1 shall commence on the Effective Date and end on December 31, 2012. Years 2 and 3 will commence January 1, 2013 and January 1, 2014, respectively and will end on the following June 30, 2014.

- B. If the Plan design conditions identified in the table in Section 1.A.(i) above are not met, then BFH will not guarantee amount to paid to LFUCG as stated in the table in Section 1.A.

2. **Exclusions**

Member Submitted Claims, COB Claims, OTC products, Claims older than 180 days, Claims through BFH-owned or 340b pharmacies (if applicable), Claims pursuant to a 100% Member Cost-share plan (if applicable) are not eligible for the guaranteed Rebate amounts set forth in Section 1.A.(i) above.

3. **Rebate Reporting**

ESI will provide quarterly reporting to BFH in a format that includes a line item accounting of Rebates received including, but not limited to the drug name, NDC Code, quantity dispensed, and Rebates received. ESI will provide BFH with Rebate estimates and Rebates collected for the

Contract Quarter in which they are collected. Reports will be provided to BFH within one hundred fifty (180) days following each Contract Quarter. Rebates for LFUCG will be sent to BFH where

BFH will combine all quarterly reporting with the payment to be mailed to LFUCG.

4. **Rebate Payment Terms**

Subject to the conditions set forth herein, BFH shall pay LFUCG the Rebate Guarantee collected by ESI during each Contract Quarter hereunder, as set forth in Section 1.A(i) above, within approximately one hundred and eighty (180) days following the end of such Contract Quarter. Pursuant to Section 1.A(i).

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### **Bluegrass Family Health (BFH) Fee Methodology**

#### **Network**

BFH's contract with ESI began in July 2011. Rates that were quoted to LFUCG are based on the 7<sup>th</sup> month of the contract. Therefore, on January 1, 2012 LFUCG will process medication according to Table 1. The year 1 rates will be fixed for LFUCG for the calendar year. ESI's rates will change for BFH in July of 2012. The difference between the Year 1 and Year 2 will be held by BFH as one component of the administration fee until the January 1, 2013 where the ESI rates paid by BFH will pass through to LFUCG. This same methodology will be employed years 2 and 3 of this agreement.

#### **Rebates**

BFH will pay LFUCG based on claim experience the minimum guarantee as illustrated in Exhibit A-2. Monies from the guarantee to the actual amount collected will be retained by BFH and the second administrative charge.

**EXHIBIT 2-3**

Clinical 360 <sup>SM</sup> *		
Manage Medication Therapy and Safety		
Program Name	Description	Fees (additional per claim administrative fee, except as noted)
Medication Adherence	Identification and outreach to Members with gaps in adherence on chronic therapy, such as diabetes, osteoporosis, asthma, etc. Program includes physician communications with patient profile.	
	Daily and weekly physician communication targeting multiple utilization issues. <ul style="list-style-type: none"> <li>A. Drug-Drug Interactions</li> <li>B. Drug-Patient Interactions</li> <li>C. Drug-Disease Interactions</li> <li>D. Drug-Pregnancy Interactions</li> <li>E. Drug Overutilization</li> <li>F. Drug Underutilization</li> <li>G. Duplicate Therapy</li> <li>H. Addictive Substances</li> <li>I. Long-term hypnotics</li> </ul>	
Retrospective DUR for Seniors	Weekly physician intervention to identify inappropriate utilization issues in the senior population <ul style="list-style-type: none"> <li>A. Polypharmacy</li> <li>B. Drugs of Concern</li> </ul>	

\* All programs are optional and will only be implemented upon client request.

Enable Better Health and Value*		
Program Name	Description	Fees
Care Management	Disease and/or therapy-specific physician and patient letter-based interventions.	<ul style="list-style-type: none"> <li>Asthma</li> <li>Cardiovascular Disease</li> <li>CHF</li> <li>Depression</li> <li>Diabetes</li> <li>GI Disease</li> <li>Hypertension</li> <li>Migraine</li> </ul> <p>Note: Fee shall be added to then current per Claim Administrative Fees for Participating Pharmacy and Mail Service Pharmacy Claims.</p>



Enable Better Health and Value*		
Program Name	Description	Fees
IntellAct	Integrated data for the purpose of drug-safety and gaps in care alerts to physicians and/or members	

\*All programs are optional and will only be implemented upon BFH request.

Enrich the Care Continuum**		
Program Name	Description	Fee
ExpressAlliance <sup>SM</sup> Level 1	This program enhances your health management initiatives with deliberate, patient-specific clinical management, specifically tailored for at-risk members with chronic or complicated disease states.	
ExpressAlliance <sup>SM</sup> Level 2		
ExpressAlliance <sup>SM</sup> Level 3		
ExpressAlliance <sup>SM</sup> Targeting Module Only**	First Fill modules, Complicated Disease States modules, and ETI communications	
ExpressAlliance <sup>SM</sup> Targeting and Monitoring Modules**	Level 1 plus Polypharmacy module, Retro DUR and Medication Adherence activity modules, and quarterly in-service	
ExpressAlliance <sup>SM</sup> Targeting, Monitoring plus Pharmacist Consulting Module**	Level 2 plus Lab Monitoring module, Predictive Modeling report, Care Management Coordination (CMC) report, and Pharmacist support	
Predictive Modeling	Report available to clients for the purposes of identifying members predicted to have high <i>medical</i> expenditures in the following six months.	

**EXHIBIT 3**



**Managed Care Organization Errors and  
Omissions Liability Policy Declarations**

☐ Darwin National Assurance Company

Policy Number: 0303-2551

☒ Darwin Select Insurance Company

**THIS IS A CLAIMS MADE AND REPORTED POLICY WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES. PLEASE READ AND REVIEW THE POLICY CAREFULLY.**

**Item 1. Name and Mailing Address of Named Insured:**

Bluegrass Family Health, Inc.  
651 Perimeter Drive  
Lexington, KY 40517

**Item 2. Policy Period:**

(a) Inception Date: June 1, 2011  
(b) Expiration Date: June 1, 2012

At 12:01 AM Standard Time at the Mailing Address shown above

**Item 3. Limit of Liability:**

(a) \$10,000,000 Underwriter's maximum Limit of Liability for each Claim and in the Aggregate for all Claims.  
(b) \$10,000,000 Underwriter's maximum Limit of Liability for each Claim for Antitrust Activity and in the Aggregate for all Claims for Antitrust Activity  
(c) N/A - refer to v2-176 Underwriter's maximum Limit of Liability for certain regulatory claims described in II(c)(4).

**Item 4. Retention:**

\$250,000

**Item 5. Notices required to be given to the Insurer must be addressed to:**

Darwin Professional Underwriters, Inc.  
9 Farm Springs Road  
Farmington, CT 06032

**Item 6. Premium:**

Total Premium: \$135,000

This insurance has been placed with an insurer not licensed to transact business in the Commonwealth of Kentucky but eligible as a surplus lines insurer. The insurer is not a member of the Kentucky Insurance Guaranty Association. Should the insurer become insolvent, the protection and benefits of the Kentucky Insurance Guaranty Association are not available.

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Item 7. Retroactive Date  
December 15, 1993

Item 8. Extended Reporting Option(s):  
12 months at 150%

Item 9. Endorsements Attached at Issuance:

1. s1006 DSI (01/2010) Service Of Suit
2. v1041 (12/2003) Schedule A - Additional Insured Entities
3. v1043 (12/2003) Pollution, Asbestos, Nuclear Exclusion - Broad Endorsement
4. v1138 (03/2004) Additional Insured(s) Co-Defendants
5. v1154 (03/2004) Punitive Damages Coverage
6. v1315 (1/2004) Delete Exclusion (7)
7. v1848 (10/2005) Additional Insureds Coverage For Managed Care Activities Only
8. v1865 (11/2005) Amend Definition Of Managed Care Activity
9. v1883 (01/2006) Amend Exclusion A, Final Adjudication
10. v1986 (05/2007) Punitive Damages - Most Favorable Venue
11. v2176 (12/2007) Amend Regulatory Coverage
12. v2419 (09/2009) Coverage For Fines And Penalties Under HIPAA, If Insurable
13. v2618 (07/2010) Network Security Coverage With Notice and Credit Monitoring Costs
14. BFHP Manu-A Amend Defense and Settlement; Hammer Clause

THESE DECLARATIONS, THE POLICY FORM, ANY ENDORSEMENTS AND THE APPLICATION CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE INSURER AND THE INSURED RELATING TO THIS INSURANCE.

In Witness Whereof, the Insurer has caused this Policy to be executed by its authorized officers.

\_\_\_\_\_  
SECRETARY

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
AUTHORIZED SIGNATURE

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