

Lee County Board Of County Commissioners

Agenda Item Summary

Blue Sheet No. 20020678

1. **REQUESTED MOTION:** Assign Contract of Florida 1<sup>st</sup> Health Plans, Inc. to Florida 1<sup>st</sup> Service Administrators, Inc.

**ACTION REQUESTED:** Board approve the assignment of assets of Florida 1<sup>st</sup> Health Plans, Inc. to Florida 1<sup>st</sup> Service Administrators, Inc.

**WHY ACTION IS NECESSARY:** Florida 1<sup>st</sup> Health Plans, Inc. is currently the TPA for our health and dental plan. They have sold their HMOs and are assigning the TPA assets to Florida 1<sup>st</sup> Service Administrators. They will continue to be our TPA under the new name. Because this changes the original contract, the Board must approve this change.

**WHAT ACTION ACCOMPLISHES:**  
Approves the change in the contract as outlined above.

2. **DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT #

C6C

3. **MEETING DATE:**

06-25-2002

4. **AGENDA:**

- CONSENT ADMINISTRATIVE APPEALS
- PUBLIC WALK ON
- TIME REQUIRED:

5. **REQUIREMENT/PURPOSE:**  
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. **REQUESTOR OF INFORMATION:**

- George Williams
- A. COMMISSIONER
- B. DEPARTMENT
- C. DIVISION

BY: George Williams

7. **BACKGROUND:**

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
George A. Williams 6/10/02	NK CJ	George A. Williams 6/10/02		Andrea Amor	OA RK 6/11	OM 6/11/02	Risk JP 6/12	GC 6-11-02	[Signature]

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

REC'D.  
By CO. ATTY.  
6/10/02  
346/002  
CO. ATTY.  
FORWARDED TO:  
AS LIA  
6/10/02 9:30 AM


RECEIVED BY  
COUNTY ADMIN.  
6/11 9:15 AM  
COUNTY ADMIN.  
FORWARDED TO:  
BH 6/12 4:00

**MEMORANDUM**  
**FROM THE**  
**OFFICE OF COUNTY ATTORNEY**

**DATE:** June 4, 2002

**To:** Charlotte Veaux, Benefits Manager  
Human Resources

**FROM:**



Andrea R. Fraser  
Assistant County Attorney

**RE: FLORIDA 1<sup>ST</sup> HEALTH PLANS, INC.**

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According to the original contract dated January 1, 1999 (Contract #954 approved by the Board on October 13, 1998), Florida 1<sup>st</sup> can assign their assets to Florida 1<sup>st</sup> Service Administrators, Inc. Because this changes the original contract, the Board must approve same.

ARF/plh

cc: James G. Yaeger, County Attorney  
Robert W. Gray, Deputy County Attorney  
David M. Owen, Assistant County Attorney

# **FLORIDA 1ST**

02 MAY 22 11 04 AM  
LEE CO. ATTORNEY

May 10, 2002

Charlotte Veaux  
Lee County Government  
P.O. Box 398  
Fort Myers, FL 33902-0398

Dear Sir or Madam:

Florida 1st Health Plans, Inc. ("FHP") is in the process of selling certain of its assets to Florida 1st Service Administrators, Inc. ("FSA"). FHP has a contract with your company ("Contract") which it desires to assign to FSA in connection with this sale of assets. FSA, of course, would continue to be bound by the terms and conditions of the Contract. Please approve the assignment of the Contract to FSA by signing the enclosed Assignment/Assumption and returning it to us in the enclosed, self addressed, stamped envelope included for your convenience.

Should you have any questions, please do not hesitate to call me at 1-800-226-3155. Thank you in advance for your cooperation.

Very truly yours,



Frank Willis  
President, Florida 1st Health Plans, Inc.

**ASSIGNMENT/ASSUMPTION OF CONTRACT AND CONSENT**

FOR VALUE RECEIVED, FLORIDA 1ST HEALTH PLANS, INC., a Florida corporation ("Assignor") hereby sells, assigns, transfers and sets over unto FLORIDA 1ST SERVICE ADMINISTRATORS, INC. ("Assignee"), all of the right, title and interest of Assignor in, to and under that certain ASA Contract ("Agreement") between Assignor and LEE COUNTY GOVERNMENT ("Contractor").

IN WITNESS WHEREOF, Assignor has caused this assignment to be executed as of \_\_\_\_\_, 2002.

ASSIGNOR:

FLORIDA 1ST HEALTH PLANS, INC.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACCEPTANCE OF ASSIGNMENT OF CONTRACT**

Assignee hereby accepts the foregoing assignment, subject to the terms and conditions contained in the Agreement, and expressly accepts and assumes all of the covenants, agreements and obligations of Assignor under the Agreement, from and after the date indicated in that certain Florida 1st Health Plans, Inc. Stock Purchase Agreement by and between Mid-Florida Medical Services, Inc., as Seller and PHP Holdings, Inc., as Purchaser.

IN WITNESS WHEREOF, Assignee has executed this acceptance as of \_\_\_\_\_, 2002.

ASSIGNEE:

FLORIDA 1ST SERVICE  
ADMINISTRATORS, INC.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONSENT TO ASSIGNMENT AND ASSUMPTION OF CONTRACT**

The undersigned does hereby consent to the foregoing assignment of the Agreement by Assignor to Assignee and the assumption by Assignee of all the covenants, agreements and obligations of Assignor under the Agreement, from and after the date of said assignment. The undersigned hereby releases Assignor from all of said covenants, agreements and obligations. This consent is effective as of the date of the making by Assignor of such assignment and the concurrent acceptance thereof by Assignee.

IN WITNESS WHEREOF, the undersigned has caused this consent to be executed on \_\_\_\_\_, 2002.

LEE COUNTY GOVERNMENT

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_



April 24, 2002

Charlotte Veaux  
Benefits Manager  
Lee County Government  
2115 Second Street  
P.O. Box 398  
Fort Myers, FL 33901

**ANNOUNCEMENT**

***PHP Holdings, Inc., Acquires Florida 1st Health Plans, Inc.  
HMO Certificate of Authority***

Dear Charlotte:

Florida 1st Health Plans, Inc. is pleased to announce that a purchase agreement has been entered into between Mid Florida Medical Services, Inc., Florida 1st's parent company, and PHP Holdings, Inc., parent company of Physicians Healthcare Plans, Inc. (PHP). It is the intent of the buyer to acquire our HMO Certificate of Authority and Medicaid lives to allow PHP to expand in the Florida market.

We anticipate the closing to occur in the near future and the process is subject to approvals by government regulatory agencies, including the Florida Department of Insurance.

Florida 1st's TPA business will operate as a Third Party Administrator (TPA) under the name of Florida 1st Service Administrators, Inc. and remains a subsidiary under Mid Florida Medical Services, Inc. The sale of our HMO Certificate of Authority will not in any way affect the TPA services Florida 1st provides to your organization. Please be assured Florida 1st is committed to continue delivering the high quality services that Lee County Government expects.

I am committed to keeping you informed as developments arise, as you are an integral and valued part of our future. If you have any questions, please do not hesitate to contact me at 800.226.3155 extension 5121.

Sincerely,

A handwritten signature in cursive script that reads "Carrie L. Griner".

Carrie L. Griner  
Vice President, Marketing and Network Services

CLG/gjs

Attachment – Press Release

**Monday April 22, 5:35 pm Eastern Time**

**Press Release**

*SOURCE: Physicians Healthcare Plans, Inc.*

**PHP Holdings, Inc., Acquires Florida 1st Health Plans, Inc.**

TAMPA, Fla.--(BUSINESS WIRE)--April 22, 2002--PHP Holdings, Inc., parent company of Physicians Healthcare Plans, Inc., (PHP) has entered into a purchase agreement under which PHP will acquire the Certificate of Authority and Medicaid Lives from Florida 1st Health Plans, Inc. (Florida 1st). Florida 1st is a wholly owned subsidiary of Mid-Florida Medical Services, Inc., (Mid-Florida). Upon receipt of regulatory approval, the HMO plan will be re-named Physicians CarePlus Plan. Florida 1st's remaining business will operate as a Third Party Administrator (TPA) under the name Florida 1st Service Administrators, Inc.

Previously, Florida 1st made the decision to exit both the small and large group Commercial HMO markets. Florida 1st Commercial HMO will continue through the wind down of the small group and the large group HMO lives.

Mid-Florida is the parent holding company of Florida 1st Health Plans, Inc., Florida 1st Service Administrators, Inc., Winter Haven Hospital, the Regency Medical Center, Lake Wales Medical Center, Good Shepherd Hospice and the Mid-Florida Family Health Centers. Lance Anastasio, President of Mid-Florida, stated, "This allows us as an organization to refocus on our core business, which is the delivery of acute healthcare services."

Frank Willis, President of Florida 1st, noted, "We've enjoyed serving our community for 16 years by providing high quality HMO, PPO and TPA services. We feel strongly that the sale of the HMO Certificate of Authority and lives will afford our organization to focus on self-funded claims administration and the remaining 70,000+ lives currently served."

Michael B. Fernandez, Chairman and CEO of PHP Holdings, Inc., stated this acquisition will allow our company to continue to expand in the Florida market.

PHP Holdings, Inc. and its subsidiaries operate a series of managed care companies with annual revenues in excess of \$500 million and serve the health care needs of over 200,000 South Floridians. The company's HMO has been ranked as the #1 rated Medicare managed care plan in Florida, two years in a row, by Florida's Agency of Health Care Administration. In December 2001, PHP acquired CAC Medical Centers in Miami-Dade County, expanding its Medicare revenues to over \$300 million annually. In addition, PHP currently covers in excess of 170,000 Medicaid and Healthy Kids HMO members in South Florida.

*Contact:*

Physicians Healthcare Plans, Inc., Coral Gables, Fla.  
Michael B. Fernandez, 305/441-9400

ADMINISTRATIVE SERVICES AGREEMENT

This ADMINISTRATIVE SERVICES AGREEMENT, entered into as of the 1<sup>st</sup> day of January 1999, is by and between Lee County Board of County Commissioners, a political subdivision of the State of Florida, ("SPONSOR") its principal place of business at, 2115 Second St, Ft. Myers, FL 33901, and FLORIDA 1<sup>ST</sup> HEALTH PLAN, INC. ("FLORIDA 1<sup>ST</sup> ") a Florida corporation.

WITNESSETH

WHEREAS, SPONSOR has adopted an employee health benefit plan for SPONSOR's eligible employees, and other eligible persons;

WHEREAS, SPONSOR desires to secure independent administration of claims made by SPONSOR's eligible employees, dependents, and other eligible persons under SPONSOR's employee health benefit plan; and

WHEREAS, SPONSOR concluded that engaging FLORIDA 1<sup>st</sup> is a reasonable and prudent method for securing various administrative and support services for providing such a health benefits program, considering both the cost and quality of services which will be provided by FLORIDA 1<sup>ST</sup> .

WHEREAS, FLORIDA 1<sup>ST</sup> desires to provide such claims processing services to SPONSOR, upon the terms and conditions herein set forth;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the parties hereto agree as follows:



## ARTICLE 1. DEFINITIONS

For purposes of the AGREEMENT, the following terms shall have the meanings ascribed thereto unless otherwise clearly required by the context in which such term is used.

**1.1 Agreement:** The term "AGREEMENT" shall mean this ADMINISTRATIVE SERVICES AGREEMENT, Attachments A through C, and any amendment(s) thereto as may be from time to time adopted as provided in Section 7.10.

**1.2 Claims Account:** The term "Claims Account" shall mean the bank account or other depository form which claims and/or other Plan expenses are to be paid.

**1.3 Covered Persons:** The term "Covered Person" shall mean those eligible employees of SPONSOR, their dependents and other eligible persons participating in the Plan.

**1.4 FLORIDA 1<sup>ST</sup>:** The term "FLORIDA 1<sup>ST</sup>" shall mean Florida 1<sup>ST</sup> Health Plans, Inc., a Florida corporation.

**1.5 Plan:** The term "Plan" shall mean SPONSOR's employee health benefit plan known as Lee County Health and Dental Benefit Plans. Copies of the official Plan Document and/or employee handbook, the full identification of sponsoring entities and other official Plan descriptions are set forth in and attached hereto and incorporated herein by reference as Attachment A.

**1.6 SPONSOR:** The term "SPONSOR" shall mean Lee County Board of County Commissioners, a political subdivision of the State of Florida.

**1.7 State:** The term "State" shall mean the State of Florida.

**1.8 Term:** The term "Term" shall mean the contract period provided for under this AGREEMENT.

## ARTICLE 2. CONVENTANTS OF SPONSOR

**2.1 Description of Plan:** SPONSOR shall provide FLORIDA 1<sup>ST</sup> with copies of any and all revisions or changes to SPONSOR's employee health benefit plan and shall notify FLORIDA 1<sup>ST</sup> of any change in the name of the plan and any change in the information set forth in the attached as Attachment A, thirty (30) days prior to the effective date of change.

**2.2 Forwarding of Claims:** SPONSOR shall be responsible for informing covered persons of the procedure for forwarding claims to FLORIDA 1<sup>ST</sup>.

**2.3 Eligibility:** SPONSOR shall be responsible for determining which of SPONSOR's employees, their dependents and other persons and, in connection therewith, shall provide to FLORIDA 1<sup>ST</sup> current and updated enrollment forms or transfer the enrollment data via tape of covered persons prescribed or approved by FLORIDA 1<sup>ST</sup>. SPONSOR shall immediately notify FLORIDA 1<sup>ST</sup> of any changes to the eligibility of covered persons by tape or in writing on forms provided and agreed to. SPONSOR acknowledges and agrees that SPONSOR shall be solely responsible for any verification errors occurring in connection with FLORIDA 1<sup>ST</sup> obligations as specified in Sections 3.1 and 3.2 herein.

**2.4 Plan Material and Plan Description of FLORIDA 1<sup>ST</sup> Role:** SPONSOR shall provide or shall have the Plan provide covered persons with all necessary Plan forms, enrollment cards and other documents ("Plan Material"). FLORIDA 1<sup>ST</sup> shall have the right to review all Plan Materials, the official Plan Document, and any employee handbook or other SPONSOR provided descriptions (the "SPONSOR Documents"), and shall have the right to approve the description of the services provided by, and the responsibilities of FLORIDA 1<sup>ST</sup> set forth in any such materials or documents. Such review and approval shall not constitute an approval or certification of the plan by FLORIDA 1<sup>ST</sup>. Any revision of the Plan Materials, the official Plan

Document or the SPONSOR Documents regarding the description of the services provided by and the responsibilities of FLORIDA 1<sup>ST</sup> shall be subject to the prior review and approval of FLORIDA 1<sup>ST</sup>.

**2.5 Financial Sufficiency of Plan:** SPONSOR shall provide sufficient funds to meet SPONSOR's obligations under this AGREEMENT. FLORIDA 1<sup>ST</sup> will notify SPONSOR of the amount of funds necessary for SPONSOR to meet its obligation. Such Notice will be made to the SPONSOR by providing a fax and a diskette of all checks issued as outlined in the request for proposal # P-980373.

### ARTICLE 3. COVENANTS OF FLORIDA 1<sup>ST</sup>

**3.1 Administrative Services:** FLORIDA 1<sup>ST</sup> shall provide SPONSOR administrative services as outlined in the Attachment C.

**3.2 Additional Services:** In addition to the administrative services set forth in Attachment C hereof, FLORIDA 1<sup>ST</sup> shall provide SPONSOR with the services, if any, set forth in Attachment B, attached hereto and incorporated herein by reference.

### ARTICLE 4. FINANCIAL ARRANGEMENT

**4.1 Compensation for Services of FLORIDA 1<sup>ST</sup>:** As compensation for FLORIDA 1<sup>ST</sup> services provided pursuant to this AGREEMENT, FLORIDA 1<sup>ST</sup> shall be paid by SPONSOR, on a monthly basis, the monthly service fees set forth in Attachments A, B and C, attached hereto and incorporated herein by reference.

**4.2 Time of Payment:** All monthly service fees shall be due on the 1<sup>st</sup> day of the month and paid no later than the 15<sup>th</sup> of the following month.

**4.3 Method of Payment:** Unless otherwise specifically agreed in writing, monthly service fees shall be:

**4.3.1** Paid by SPONSOR to FLORIDA 1<sup>ST</sup> as outlined in Attachments A, B and C (Monthly Service Fees).

**4.4 Taxes and Other Charges:** If, as a result of operation of the Plan, any tax (other than state or Federal income taxes) assessment or premium charge shall be assessed against the Plan or FLORIDA 1<sup>ST</sup> and FLORIDA 1<sup>ST</sup> is required to pay such tax, FLORIDA 1<sup>ST</sup> shall promptly notify SPONSOR and SPONSOR shall promptly reimburse FLORIDA 1<sup>ST</sup> for the same as indicated hereunder in Section 4.1.

## **ARTICLE 5. RELATIONSHIP AND INDEMNIFICATION OF PARTIES**

**5.1 INDEPENDENT CONTRACTORS:** The relationship of the parties under this AGREEMENT is solely that of independent contractors. Nothing in this AGREEMENT shall constitute, be construed to be or create a partnership, joint venture.

### **5.2 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES**

**5.2.1 Responsibility To Correct.** FLORIDA 1<sup>ST</sup> agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, reports, memoranda, other documents and other services, work and materials performed, provided, and/or furnished by FLORIDA 1<sup>ST</sup>. FLORIDA 1<sup>ST</sup> shall, without additional compensation, correct or revise any errors, omissions or

other deficiencies in such data, studies and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of FLORIDA 1<sup>ST</sup>.

**5.2.2 County's Approval Shall Not Relieve Provider Of Responsibility.**

Neither review, approval, or acceptance by the SPONSOR of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the FLORIDA 1<sup>ST</sup>, shall in any way relieve FLORIDA 1<sup>ST</sup> of responsibility for the adequacy, completeness and accuracy of its services, work and materials. Neither the SPONSOR's review, approval or acceptance of, nor payment for, any part of the FLORIDA 1<sup>ST</sup> services, work and materials shall be construed to operate as a waiver of any of the SPONSOR'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

**5.3 LIABILITY - FLORIDA 1<sup>ST</sup> TO HOLD SPONSOR HARMLESS.**

FLORIDA 1<sup>ST</sup> shall be liable and agrees to be liable for, and shall indemnify, defend and hold the SPONSOR harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the FLORIDA 1<sup>ST</sup> errors, omissions, and/or negligence. FLORIDA 1<sup>ST</sup> shall not be liable to, nor be required to indemnify the SPONSOR for any portions of damages arising out of any error, omission, and/or negligence of the SPONSOR, its employees, agents or representatives.

**5.4 NOT TO DIVULGE CERTAIN INFORMATION.** FLORIDA 1<sup>ST</sup> agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the SPONSOR's prior written consent, or unless incident to the proper performance of FLORIDA 1<sup>ST</sup> obligations hereunder, or as provided for or required by law, or in the course of judicial or legislative proceedings where such information has been

properly subpoenaed; any non-public information concerning the services to be rendered by FLORIDA 1<sup>ST</sup> and FLORIDA 1<sup>ST</sup> shall require all of its employees and sub-contractor(s) to comply with the provisions of this paragraph.

**5.5 RESPONSIBILITY FOR ESTIMATES.** In the event the services required pursuant to this Agreement include the FLORIDA 1<sup>ST</sup> preparing and submitting to the SPONSOR any cost estimates, the FLORIDA 1<sup>ST</sup>, by exercise of his experience and judgement shall develop its best cost estimates and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates to the extent provided hereafter.

**5.6 ADDITIONAL SERVICES:** Should the SPONSOR request the FLORIDA 1<sup>ST</sup> to provide and perform professional services under this contract which are not set forth in Attachment B or C, FLORIDA 1<sup>ST</sup> agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement.

**5.7 Regulations under COBRA:** In the event SPONSOR is regulated under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), SPONSOR agrees that it and not FLORIDA 1<sup>ST</sup> shall be responsible for complying with the requirements of COBRA, unless otherwise agreed to by the parties and such agreement are memorialized in an attachment to this AGREEMENT. FLORIDA 1<sup>ST</sup> will cooperate reasonably with SPONSOR by furnishing such material or information as it has access to and control of to aid SPONSOR in meeting COBRA requirements.

**5.8 FLORIDA 1<sup>ST</sup> Not Indemnifier or Insurer:** FLORIDA 1<sup>ST</sup> is neither implicitly nor explicitly, the insurer, guarantor, indemnifier, or underwriter of SPONSOR's responsibility to provide benefits to covered persons, nor is FLORIDA 1<sup>ST</sup> the Plan consultant. FLORIDA 1<sup>ST</sup>

will not be liable for the payment from its own funds for any claims relating to benefits under the Plan, any insurance premiums or any other payment with respect to the Plan unless specifically agreed in writing.

#### **ARTICLE 6. TERM AND TERMINATION**

**6.1 Initial and Renewal Terms:** The initial term of this AGREEMENT shall be for a period of one (1) year, effective as of January 1, 1999, and expiring at midnight one (1) year from that date, unless sooner terminated as hereinafter provided. Thereafter, the AGREEMENT shall automatically renew for an additional (1) year period, unless either party shall give the other notice in writing of its intent not to renew at least sixty (60) days prior to the expiration of the initial or any renewal term.

**6.2 Termination:** This AGREEMENT may be terminated by the appropriate party upon the occurrence of any of the following events:

**6.2.1 Termination by Agreement:** In the event SPONSOR and FLORIDA 1<sup>ST</sup> shall mutually agree in writing, this AGREEMENT may be terminated on the terms and data stipulated therein.

**6.2.2 Termination Upon Notice:** In the event either party shall, with or without cause, at anytime give to the other at least sixty (60) days advance written notice, this AGREEMENT shall terminate on the future date specified in such notice.

**6.2.3 Termination on Notice for Default:** In the event either party shall fail to perform any duty or obligation imposed upon it by this AGREEMENT, with the exception of Section 6.2-5 herein, and such default shall continue for a period of ten (10) days after written notice thereof has been given to the other party, the party giving such notice shall have the right to immediately terminate this AGREEMENT.

**6.2.4 Termination for Insolvency:** If either SPONSOR or FLORIDA 1<sup>ST</sup> files in any court of competent jurisdiction a petition in bankruptcy, or a petition for protection against creditors, or files an assignment in favor of creditors or has such a petition filed against it, this AGREEMENT may be terminated at the sole discretion of the other party.

**6.3 Effects of Termination:** Upon termination of this Agreement, as herein above provided, all responsibilities of FLORIDA 1<sup>ST</sup> pursuant to this AGREEMENT shall terminate immediately upon the effective date of termination, but shall continue to process claims for three months. FLORIDA 1<sup>ST</sup> shall continue to process such claims on a per claim payment basis of \$7.00 per claim for claims processing after the termination

#### **ARTICLE 7. MISCELLANEOUS**

**7.1 Additional Assurances:** The provisions of this AGREEMENT shall be self-operative and shall not require further agreement by the parties except as may be herein specifically provided to the contrary; provided, however, at the request of either party, the other party shall execute such additional instruments and take such additional acts as the requesting party may deem necessary to effectuate this AGREEMENT.

**7.2 Consents, Approvals and Discretion:** Except as herein expressly provided to the contrary, whenever this AGREEMENT requires any consent or approval to be given by either party or either party must or may exercise discretion the parties agree that such consent or approval shall not be unreasonably withheld or delayed and such discretion shall be reasonably exercised.



**7.3 Legal Fees and Costs:** In the event either party elects not to incur legal expenses to enforce or interpret any provision of this AGREEMENT, each party will be responsible for their own legal expenses, including, without limitation, reasonable attorneys' fees, costs and necessary disbursements.

**7.4 Choice of Law and Venue:** The parties agree that this AGREEMENT shall be governed by and construed in accordance with the laws of the state of Florida, and that the courts of this State shall be the exclusive courts of jurisdiction and venue for any litigation, special proceeding or other proceeding between the parties that may be brought, or arise out of, in connection with or by reason of this AGREEMENT.

**7.5 7.5.1 Benefit/Assignment:** Subject to provisions herein to the contrary, this AGREEMENT shall insure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors, and assigns; provided, however, that no party may assign this AGREEMENT without prior written consent of the other party, which consent shall not be unreasonably withheld.

**7.6 Waiver of Breach:** The waiver of either party of breach or violation of any provision of this AGREEMENT shall not operate as, or be construed to constitute, a waiver of any subsequent breach of the same or other provision hereof.

**7.7 Notice:** Any notice, demand or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered or mailed by prepaid certified mail, return receipt requested, addressed as follows:

TO SPONSOR: Lee County Board of County Commissioners  
P.O. Box 398  
Fort Myers, FL 33902  
Attention: Connie Gleason, Risk Program Manager

TO FLORIDA 1<sup>ST</sup>: Florida 1<sup>st</sup> Health Plans, Inc.  
P.O. Box 9126  
Winter Haven, FL 33883-9126

or to such other address, and to the attention of a person or an officer, as either party may designate, with copies thereof to the respective counsel thereof as notified by such party.

**7.8 Severability:** In the event any provision of this AGREEMENT is held to be invalid, illegal or un-enforceable for any reason and in any respect, such invalidity, illegality, or un-enforceability shall in no event affect, prejudice or disturb the validity of the remainder of this AGREEMENT, which shall be and remain in full force and effect, enforceable in accordance with its terms.

**7.9 Gender and Number:** Whenever the context of this AGREEMENT requires, the gender of all words herein shall include the masculine, feminine and neuter, and the number of all words herein shall include the singular and plural.

**7.10 Entire Agreement/Amendment:** This Agreement contains the entire understanding between the Parties, supersedes any and all prior representations, whether in writing or oral, and shall not be modified in any manner except in writing executed by both Parties with the same formalities as the execution of this original Agreement.

7.11 Approval/Acceptance: This AGREEMENT shall not be effective or legally binding until reviewed and approved by the President (or other designated officer) of FLORIDA 1<sup>ST</sup>.

7.12 IN WITNESS WHEREOF, SPONSOR and FLORIDA 1<sup>ST</sup> have each caused this AGREEMENT to be executed by their duly authorized officers, all as of the day and year first above written.

**SPONSOR:**  
ATTEST: CHARLIE GREEN  
CLERK OF COURT  
By: *Anna A. Pierce*  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

By: *Ray Judas*  
Chairman

APPROVED AS TO FORM:  
By: *Andrea B. Jasser*  
Office of the County Attorney

FLORIDA 1<sup>ST</sup> :  
April 21, 1999  
Date

FLORIDA 1<sup>ST</sup> HEALTH PLANS, INC.  
*Frank Vitello*  
President/CEO

April 21, 1999  
Date

*Shard Lyons*  
Witness

## ATTACHMENT A

### MONTHLY SERVICE FEES

The fee payable to FLORIDA 1<sup>ST</sup> for the services performed under this contract shall be as follows:

- 0.1 As outlined in Attachment C times the number of employees in the plan on the first day of each month for services utilized.
- 0.2 Summary Plan Description, printing, check stock, and identification cards are at a payment equal to the actual drafting and printing costs plus 5% and is due with the next monthly payment.
- 0.3 Utilization Review and case management will be provided at a rate equal to \$2.15 per employee per month as outlined in Attachment C.
- 0.4 On-line terminal access has been requested at a cost of \$7,500 as outlined in Attachment C. All set up and line lease cost will be at the SPONSOR's expense.
- 0.5 FLORIDA 1<sup>ST</sup> will provide all required documentation to SPONSOR for shipping and marketing. The documentation requested shall be normal material used for this process. Additional documentation considered non-standard shall be provided on a hourly cost fee of (\$125) one hundred twenty five dollars per hour programming basis.
- 0.6 COBRA Administration will be provided annually as outlined in Attachment C.
- 0.7 Flexible Benefit Administration for non-reimbursed medical and dependent child care shall be provided as outline in Attachment C.

## ATTACHMENT B

### DESCRIPTION OF ADMINISTRATIVE SERVICES

FLORIDA 1<sup>ST</sup> will provide the following administrative services to SPONSOR:

- 0.1 Respond to all telephone and mail inquiries from covered persons and from SPONSOR regarding available benefits.
- 0.2 Provide verification of benefits and eligibility information to all Providers and covered persons based on information supplied by SPONSOR.
- 0.3 Receive and review submitted claims and verify eligibility of covered persons for benefits based on requirements of the Plan.
- 0.4 Review, investigate and analyze all claims and determine if charges from providers are within reasonable and customary guidelines and within coverages provided by the Plan.
- 0.5 Request additional information from covered persons when necessary for processing claims.
- 0.6 Process and distribute checks, drafts, explanation of benefits and remittance to covered persons and Providers.
- 0.7 Notify covered persons and Providers in writing of claims determined to be ineligible for payment.
- 0.8 Pay claims only as authorized by the Plan.
- 0.9 Attend meetings with SPONSOR as necessary for proper administration of the plan.
- 0.10 Instruct SPONSOR on reporting eligibility and claims submission requirements to FLORIDA 1<sup>ST</sup>.
- 0.11 Provide utilization management services as follows:
  - 0.11.1 Pre-Certification of out-of-network hospital admissions.
  - 0.11.2 Second Opinion Coordination.
  - 0.11.3 Concurrent review for recertification of appropriate continued hospitalization for out of area inpatient hospitalizations.

- 0.11.4 Home Health Care authorization.
- 0.11.5 Hospice approval.
- 0.11.6 Case Management, as needed.
- 0.12 COBRA notification based on termination information provided by the SPONSOR shall be mailed by FLORIDA 1<sup>ST</sup>. FLORIDA 1<sup>ST</sup> shall coordinate premium receipts of eligible COBRA participants.
- 0.13 Florida 1<sup>st</sup> shall coordinate monthly Excess Loss filings to the applicable carrier and copy the SPONSOR.
- 0.14 FLORIDA 1<sup>ST</sup> shall coordinate all subrogation and/or audit cases internally. Final settlements (complete with all information) shall be forwarded to the SPONSOR for resolution.
- 0.15 FLORIDA 1<sup>ST</sup> shall maintain the appropriate State of Florida required Error and Omissions Coverage, Bonds and Licensing.
- 0.16 FLORIDA 1<sup>ST</sup> shall capture dependent social security numbers for the State of Florida data reporting.
- 0.17 FLORIDA 1<sup>ST</sup> shall abide by all services and penalties agreed to in the Request for Proposal # P-980373 also listed as Attachment C.

**ATTACHMENT C**

## ADMINISTRATIVE SERVICES AGREEMENT

This ADMINISTRATIVE SERVICES AGREEMENT, entered into as of the 1<sup>st</sup> day of January 1999, is by and between Lee County Board of County Commissioners, a government entity, its principal place of business at, 2115 Second St, Ft. Myers, FL 33901 and FLORIDA 1<sup>ST</sup> HEALTH PLAN, INC. ("FLORIDA 1<sup>ST</sup> ") a Florida corporation.

### WITNESSETH

**WHEREAS**, SPONSOR has adopted an employee health benefit plan for SPONSOR's eligible employees, and other eligible persons;

**WHEREAS**, SPONSOR desires to secure independent administration of claims made by SPONSOR's eligible employees, dependents, and other eligible person under SPONSOR's employee health benefit plan; and

**WHEREAS**, SPONSOR concluded that engaging FLORIDA 1<sup>st</sup> is a reasonable and prudent method for securing various administrative and support services for providing such a health benefits program, considering both the cost and quality of services which will be provided by FLORIDA 1<sup>ST</sup> .

**WHEREAS**, FLORIDA 1<sup>ST</sup> desires to provide such claims processing services to SPONSOR, upon the terms and conditions herein set forth;

**NOW, THEREFORE**, for and in consideration of the mutual covenants herein contained, the parties hereto agree as follows:



## ARTICLE 1. DEFINITIONS

For purposes of the AGREEMENT, the following terms shall have the meanings ascribed thereto unless otherwise clearly required by the context in which such term is used.

**1.1 Agreement:** The term "AGREEMENT" shall mean this ADMINISTRATIVE SERVICES AGREEMENT, Attachments A through C, and any amendment(s) thereto as may be from time to time adopted as provided in Section 7.10.

**1.2 Claims Account:** The term "Claims Account" shall mean the bank account or other depository form which claims and/or other Plan expenses are to be paid.

**1.3 Covered Persons:** The term "Covered Person" shall mean those eligible employees of SPONSOR, their dependents and other eligible persons participating in the Plan.

**1.4 FLORIDA 1<sup>ST</sup>:** The term "FLORIDA 1<sup>ST</sup>" shall mean Florida 1<sup>ST</sup> Health Plans, Inc., a Florida corporation.

**1.5 Plan:** The term "Plan" shall mean SPONSOR's employee health benefit plan known as Lee County Health and Dental Benefit Plans. Copies of the official Plan Document and/or employee handbook, the full identification of sponsoring entities and other official Plan descriptions are set forth in and attached hereto and incorporated herein by reference as Attachment A.

**1.6 SPONSOR:** The term "SPONSOR" shall mean Lee County Board of County Commissioners, a government entity.

**1.7 State:** The term "State" shall mean the State of Florida.

**1.8 Term:** The term "Term" shall mean the contract period provided for under this AGREEMENT.

## **ARTICLE 2. CONVENTANTS OF SPONSOR**

**2.1 Description of Plan:** SPONSOR shall provide FLORIDA 1<sup>ST</sup> with copies of any and all revisions or changes to SPONSOR's employee health benefit plan and shall notify FLORIDA 1<sup>ST</sup> of any change in the name of the plan and any change in the information set forth in the attached as Attachment A, thirty (30) days prior to the effective date of change.

**2.2 Forwarding of Claims:** SPONSOR shall be responsible for informing covered persons of the procedure for forwarding claims to FLORIDA 1<sup>ST</sup>.

**2.3 Eligibility:** SPONSOR shall be responsible for determining which of SPONSOR's employees, their dependents and other persons and, in connection therewith, shall provide to FLORIDA 1<sup>ST</sup> current and updated enrollment forms or transfer the enrollment data via tape of covered persons prescribed or approved by FLORIDA 1<sup>ST</sup>. SPONSOR shall immediately notify FLORIDA 1<sup>ST</sup> of any changes to the eligibility of covered persons by tape or in writing on forms provided and agreed to. SPONSOR acknowledges and agrees that SPONSOR shall be solely responsible for any verification errors occurring in connection with FLORIDA 1<sup>ST</sup> obligations as specified in Sections 3.1 and 3.2 herein.

**2.4 Plan Material and Plan Description of FLORIDA 1<sup>ST</sup> Role:** SPONSOR shall provide or shall have the Plan provide covered persons with all necessary Plan forms, enrollment cards and other documents ("Plan Material"). FLORIDA 1<sup>ST</sup> shall have the right to review all Plan Materials, the official Plan Document, and any employee handbook or other SPONSOR provided descriptions (the SPONSOR Documents"), and shall have the right to approve the description of the services provided by, and the responsibilities of FLORIDA 1<sup>ST</sup> set forth in any such materials or documents. Such review and approval shall not constitute an approval or certification of the plan by FLORIDA 1<sup>ST</sup>. Any revision of the Plan Materials, the official Plan

Document or the SPONSOR Documents regarding the description of the services provided by and the responsibilities of FLORIDA 1<sup>ST</sup> shall be subject to the prior review and approval of FLORIDA 1<sup>ST</sup>.

**2.5 Financial Sufficiency of Plan:** SPONSOR shall provide sufficient funds to meet SPONSOR's obligations under this AGREEMENT. FLORIDA 1<sup>ST</sup> will notify SPONSOR of the amount of funds necessary for SPONSOR to meet its obligation. Such Notice will be made to the SPONSOR by providing a fax and a diskette of all checks issued as outlined in the request for proposal # P-980373.

### **ARTICLE 3. COVENANTS OF FLORIDA 1<sup>ST</sup>**

**3.1 Administrative Services:** FLORIDA 1<sup>ST</sup> shall provide SPONSOR administrative services as outlined in the Attachment C.

**3.2 Additional Services:** In addition to the administrative services set forth in Attachment C hereof, FLORIDA 1<sup>ST</sup> shall provide SPONSOR with the services, if any, set forth in Attachment B, attached hereto and incorporated herein by reference.

### **ARTICLE 4. FINANCIAL ARRANGEMENT**

**4.1 Compensation for Services of FLORIDA 1<sup>ST</sup>:** As compensation for FLORIDA 1<sup>ST</sup> services provided pursuant to this AGREEMENT, FLORIDA 1<sup>ST</sup> shall be paid by SPONSOR, on a monthly basis, the monthly service fees set forth in Attachment B and D, attached hereto and incorporated herein by reference.

**4.2 Time of Payment:** All monthly service fees shall be due on the 1<sup>st</sup> day of the month and paid no later than the 15<sup>th</sup> of the following month.

**4.3 Method of Payment:** Unless otherwise specifically agreed in writing, monthly service fees shall be:

**4.3.1** Paid by SPONSOR to FLORIDA 1<sup>ST</sup> as outlined in Attachment B and D (Monthly Service Fees).

**4.4 Taxes and Other Charges:** If, as a result of operation of the Plan, any tax (other than state or Federal income taxes) assessment or premium charge shall be assessed against the Plan or FLORIDA 1<sup>ST</sup> and FLORIDA 1<sup>ST</sup> is required to pay such tax, FLORIDA 1<sup>ST</sup> shall promptly notify SPONSOR and SPONSOR shall promptly reimburse FLORIDA 1<sup>ST</sup> for the same as indicated hereunder in Section 4.1.

**ARTICLE 5. RELATIONSHIP AND INDEMNIFICATION OF PARTIES**

**5.1 INDEPENDENT CONTRACTORS:** The relationship of the parties under this AGREEMENT is solely that of independent contractors. Nothing in this AGREEMENT shall constitute, be construed to be or create a partnership, joint venture.

**5.2 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES**

**5.2.1 Responsibility To Correct.** FLORIDA 1<sup>ST</sup> agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, reports, memoranda, other documents and other services, work and materials performed, provided, and/or furnished by FLORIDA 1<sup>ST</sup>. FLORIDA 1<sup>ST</sup> shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of FLORIDA 1<sup>ST</sup>.

**5.2.2 County's Approval Shall Not Relieve Provider Of Responsibility.**

Neither review, approval, or acceptance by the SPONSOR of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the FLORIDA 1<sup>ST</sup>, shall in any way relieve FLORIDA 1<sup>ST</sup> of responsibility for the adequacy, completeness and accuracy of its services, work and materials. Neither the SPONSOR's review, approval or acceptance of, nor payment for, any part of the FLORIDA 1<sup>ST</sup> services, work and materials shall be construed to operate as a waiver of any of the SPONSOR'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

**5.3 LIABILITY - FLORIDA 1<sup>ST</sup> TO HOLD SPONSOR HARMLESS.** The FLORIDA 1<sup>ST</sup> shall be liable and agrees to be liable for, and shall indemnify, defend and hold

**5.3 LIABILITY - FLORIDA 1<sup>ST</sup> TO HOLD SPONSOR HARMLESS.** The FLORIDA 1<sup>ST</sup> shall be liable and agrees to be liable for, and shall indemnify, defend and hold the SPONSOR harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the FLORIDA 1<sup>ST</sup> errors, omissions, and/or negligence. The FLORIDA 1<sup>ST</sup> shall not be liable to, nor be required to indemnify the SPONSOR for any portions of damages arising out of any error, omission, and/or negligence of the SPONSOR, its employees, agents or representatives.

**5.4 NOT TO DIVULGE CERTAIN INFORMATION.** FLORIDA 1<sup>ST</sup> agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the SPONSOR's prior written consent, or unless incident to the proper performance of FLORIDA 1<sup>ST</sup> obligations hereunder, or as provided for or required by law, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed; any non-public information concerning the services to be rendered by FLORIDA 1<sup>ST</sup> and FLORIDA 1<sup>ST</sup> shall require all of its employees and sub-contractor(s) to comply with the provisions of this paragraph.

**5.5 RESPONSIBILITY FOR ESTIMATES.** In the event the services required pursuant to this Agreement include the FLORIDA 1<sup>ST</sup> preparing and submitting to the SPONSOR any cost estimates, the FLORIDA 1<sup>ST</sup>, by exercise of his experience and judgement shall develop its best cost estimates and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates to the extent provided hereafter.

**5.6 ADDITIONAL SERVICES:** Should the SPONSOR request the FLORIDA 1<sup>ST</sup> to provide and perform professional services under this contract which are not set forth in Attachment B or C, FLORIDA 1<sup>ST</sup> agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement.

**5.7 Regulations under COBRA:** In the event SPONSOR is regulated under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), SPONSOR agrees that it and not FLORIDA 1<sup>ST</sup> shall be responsible for complying with the requirements of COBRA, unless otherwise agreed to by the parties and such agreement are memorialized in an attachment to this AGREEMENT. FLORIDA 1<sup>ST</sup> will cooperate reasonably with SPONSOR by furnishing such material or information as it has access to and control of to aid SPONSOR in meeting COBRA requirements.

**5.8 FLORIDA 1<sup>ST</sup> Not Indemnifier or Insurer:** FLORIDA 1<sup>ST</sup> is neither implicitly nor explicitly, the insurer, guarantor, indemnifier, or underwriter of SPONSOR’s responsibility to provide benefits to covered persons, nor is FLORIDA 1<sup>ST</sup> the Plan consultant. FLORIDA 1<sup>ST</sup> will not be liable for the payment from its own funds for any claims relating to benefits under the Plan, any insurance premiums or any other payment with respect to the Plan unless specifically agreed in writing.

## **ARTICLE 6. TERM AND TERMINATION**

**6.1 Initial and Renewal Terms:** The initial term of this AGREEMENT shall be for a period of one (1) year, effective as of January 1, 1999, and expiring at midnight one (1) year from that date, unless sooner terminated as hereinafter provided. Thereafter, the AGREEMENT shall automatically renew for an additional (1) year period, unless either party shall give the

other notice in writing of its intent not to renew at least sixty (60) days prior to the expiration of the initial or any renewal term.

**6.2 Termination:** This AGREEMENT may be terminated by the appropriate party upon the occurrence of any of the following events:

**6.2.1 Termination by Agreement:** In the event SPONSOR and FLORIDA 1<sup>ST</sup> shall mutually agree in writing, this AGREEMENT may be terminated on the terms and data stipulated therein.

**6.2.2 Termination Upon Notice:** In the event either party shall, with or without cause, at anytime give to the other at least sixty (60) days advance written notice, this AGREEMENT shall terminate on the future date specified in such notice.

**6.2.3 Termination on Notice for Default:** In the event either party shall fail to perform any duty or obligation imposed upon it by this AGREEMENT, with the exception of Section 6.2-5 herein, and such default shall continue for a period of ten (10) days after written notice thereof has been given to the other party, the party giving such notice shall have the right to immediately terminate this AGREEMENT.

**6.2.4 Termination for Insolvency:** If either sponsor or FLORIDA 1<sup>ST</sup> files in any court of competent jurisdiction a petition in bankruptcy, or a petition for protection against creditors, or files an assignment in favor of creditors or has such a petition filed against it, this AGREEMENT may be terminated at the sole discretion of the other party.

**6.3 Effects of Termination:** Upon termination of this Agreement, as herein above provided, all responsibilities of FLORIDA 1<sup>ST</sup>; pursuant to this AGREEMENT shall terminate immediately upon the effective date of termination, but shall continue to process claims for three



months. FLORIDA 1<sup>ST</sup> shall continue to process such claims on a per claim payment basis of \$7.00 per claim for claims processing after the termination.

## **ARTICLE 7. MISCELLANEOUS**

**7.1 Additional Assurances:** The provisions of this AGREEMENT shall be self-operative and shall not require further agreement by the parties except as may be herein specifically provided to the contrary; provided, however, at the request of either party, the other party shall execute such additional instruments and take such additional acts as the requesting party may deem necessary to effectuate this AGREEMENT.

**7.2 Consents, Approvals and Discretion:** Except as herein expressly provided to the contrary, whenever this AGREEMENT requires any consent or approval to be given by either party or either party must or may exercise discretion the parties agree that such consent or approval shall not be unreasonably withheld or delayed and such discretion shall be reasonably exercised.

**7.3 Legal Fees and Costs:** In the event either party elects not to incur legal expenses to enforce or interpret any provision of this AGREEMENT, each party will be responsible for such legal expenses, including, without limitation, reasonable attorneys' fees, costs and necessary disbursements.

**7.4 Choice of Law and Venue:** The parties agree that this AGREEMENT shall be governed by and construed in accordance with the laws of the state of Florida, and that the courts of this State shall be the exclusive courts of jurisdiction and venue for any litigation, special proceeding or other proceeding between the parties that may be brought, or arise out of, in connection with or by reason of this AGREEMENT.

**7.5 7.5.1 Benefit/Assignment:** Subject to provisions herein to the contrary, this AGREEMENT shall insure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors, and assigns; provided, however, that no party may assign this AGREEMENT without prior written consent of the other party, which consent shall not be unreasonably withheld.

**7.6 Waiver of Breach:** The waiver of either party of breach or violation of any provision of this AGREEMENT shall not operate as, or be construed to constitute, a waiver of any subsequent breach of the same or other provision hereof.

**7.7 Notice:** Any notice, demand or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered or mailed by prepaid certified mail, return receipt requested, addressed as follows:

TO SPONSOR: Lee County Board of County Commissioners  
P.O. Box 398  
Fort Myers, FL 33902  
Attention: Connie Gleason, Risk Program Manager

TO FLORIDA 1<sup>ST</sup>: Florida 1<sup>st</sup> Health Plans, Inc.  
P.O. Box 9126  
Winter Haven, FL 33883-9126

Or to such other address, and to the attention of a person or an officer, as either party may designate, with copies thereof to the respective counsel thereof as notified by such party.

**7.8 Severability:** In the event any provision of this AGREEMENT is held to be invalid, illegal or un-enforceable for any reason and in any respect, such invalidity, illegality, or un-enforceability shall in no event affect, prejudice or disturb the validity of the remainder of this

AGREEMENT, which shall be and remain in full force and effect, enforceable in accordance with its terms.

**7.9 Gender and Number:** Whenever the context of this AGREEMENT requires, the gender of all words herein shall include the masculine, feminine and neuter, and the number of all words herein shall include the singular and plural.

**7.10 Entire Agreement/Amendment:** This AGREEMENT supersedes all previous contracts, and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties respecting the within subject matter and no party shall be entitled to benefits other than those specified herein. As between or among the parties, no oral statements or prior written material not specifically incorporated herein shall be of any force and effect; the parties specifically acknowledged that in entering into an executing this AGREEMENT, the parties rely solely upon the representations and agreements contained in the AGREEMENT and no others. All prior representations or agreements, whether written or verbal, not expressly incorporated herein are superseded and no changes in or additions to this AGREEMENT shall be recognized unless and until made in writing and signed by all parties hereto.

**7.11 Approval/Acceptance:** This AGREEMENT shall not be effective or legally binding until reviewed and approved by the President (or other designated officer) of FLORIDA 1<sup>ST</sup>.

7.12 IN WITNESS WHEREOF, SPONSOR and FLORIDA 1<sup>ST</sup> have each caused this AGREEMENT to be executed by their duly authorized officers, all as of the day and year first above written.

**SPONSOR:**

\_\_\_\_\_

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Witness**

**FLORIDA 1<sup>ST</sup> :**

**FLORIDA 1<sup>ST</sup> HEALTH PLANS, INC.**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**President/CEO**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Witness**

## ATTACHMENT A

### MONTHLY SERVICE FEES

The fee payable to FLORIDA 1<sup>ST</sup> for the services performed under this contract shall be as follows:

0.1 A monthly fee as outlined in Attachment C times the number of employees in the plan on the first day of each month for services utilized.

0.2 Summary Plan Description, printing, check stock, and identification cards are at a payment equal to the actual drafting and printing costs plus 5% and is due with the next monthly payment.

0.3 Utilization Review and case management will be provided at a rate equal to \$2.15 per employee per month as outlined in Attachment C.

0.4 On-line terminal access has been requested at a cost of \$7,500 as outlined in Attachment D. All set up and line lease cost will be at the SPONSOR's expense.

0.5 FLORIDA 1<sup>ST</sup> will provide all required documentation to SPONSOR for shipping and marketing. The documentation requested shall be normal material used for this process. Additional documentation considered non-standard shall be provided on a hourly cost fee of (\$125) one hundred twenty five dollars per hour programming basis.

0.6 COBRA Administration will be provided as outlined in Attachment C.

0.7 Flexible Benefit Administration for non-reimbursed medical and dependent child care shall be provided as outline in Attachment C.

## ATTACHMENT B

### DESCRIPTION OF ADMINISTRATIVE SERVICES

FLORIDA 1<sup>ST</sup> will provide the following administrative services to SPONSOR:

- 0.1 Respond to all telephone and mail inquiries from covered persons and from SPONSOR regarding available benefits.
- 0.2 Provide verification of benefits and eligibility information to all Providers and covered persons based on information supplied by SPONSOR.
- 0.3 Receive and review submitted claims and verify eligibility of covered persons for benefits based on requirements of the Plan.
- 0.4 Review, investigate and analyze all claims and determine if charges from Providers are within reasonable and customary guidelines and within coverages provided by the Plan.
- 0.5 Request additional information from covered persons when necessary for processing claims.
- 0.6 Process and distribute checks, drafts, explanation of benefits and remittance to covered persons and Providers.
- 0.7 Notify covered persons and Providers in writing of claims determined to be ineligible for payment.
- 0.8 Pay claims only as authorized by the Plan.
- 0.9 Attend meetings with SPONSOR as necessary for proper administration of the plan.
- 0.10 Instruct SPONSOR on reporting eligibility and claims submission requirements to FLORIDA 1<sup>ST</sup>.
- 0.11 Provide utilization management services as follows:
  - 11.1 Pre-Certification of out-of-network hospital admissions.
  - 11.2 Second Opinion Coordination.
  - 11.3 Concurrent review for recertification of appropriate continued hospitalization for out of area inpatient hospitalizations.

11.4 Case Management, as needed.

- 0.12 COBRA notification based on termination information provided by the SPONSOR shall be mailed by FLORIDA 1<sup>ST</sup>. FLORIDA 1<sup>ST</sup> shall coordinate premium receipts of eligible COBRA participants.
- 0.13 FLORIDA 1<sup>ST</sup> shall coordinate all subrogation and/or audit cases internally. Any use of an external subrogation specialist or auditor company shall be on a percent of savings payment basis at the SPONSOR'S expense.
- 0.14 FLORIDA 1<sup>ST</sup> shall maintain the appropriate State of Florida required Error and Omissions Coverage, Bonds and Licensing.
- 0.15 FLORIDA 1<sup>ST</sup> shall capture dependent social security numbers for the State of Florida data reporting.
- 0.16 FLORIDA 1<sup>ST</sup> shall abide by all services and penalties agreed to in the Request for Proposal # P-980373 also listed as Attachment D.

## COORDINATION OF PRESCRIPTION BENEFITS THROUGH CONSULTEC, INC.

Florida 1st provides pharmacy services through its Pharmacy Benefit Manager, Consultec, Inc. Throughout this arrangement, Consultec manages Florida 1st's pharmacy network and provides claims administration, as well as customer service regarding pharmacy claims. Through Consultec, our client has the option of choosing an open or a preferred network.

The open network provides access to all area pharmacies, whereas the preferred network offers access to Walgreen's, Walmart, and Winn Dixie (3 W's), as well as local area pharmacies as needed to supplement the network. The preferred network approach is an option that can assist our client in reducing pharmacy costs.

Consultec is willing to establish a formulary specific to the needs of our client's program. Consultec is also willing to produce a client specific formulary guide for our client annually.

Consultec is well experienced in working with client specific formularies including prior authorization programs and benefit exclusions. Consultec's PDCS system already supports an unlimited number of benefit provisions including these options.

Consultec can provide our client access to a nationally recognized Preferred Drug List (formulary). The formulary is regularly maintained by a National Pharmacy and Therapeutics (P&T) Committee.

The formulary is a *recommended*, not mandatory, course of drug therapy. Promotion of the formulary encourages physicians to use generics when available and allows clients to receive retrospective drug rebates on brand name products.

Here's how the program works:

- Consultec prepares and prints approved formulary brochures with our client's name and logo imprinted on the cover.
- Consultec prepares a cover letter, approved by our client, to accompany the brochure.
- Formulary brochures and a cover letter are distributed to each prescribing physician.
- Our client participation in the rebate program begins on the first day of the month in which the mailing takes place. At the end of each quarter, Consultec calculates the rebates due our client and sends an invoice to the manufacturer.



- Consultec passes a portion of the rebates directly to our client.

Consultec offers three different types of formularies. The three types are outlined below:

- The first type is a broad program that includes most major pharmaceutical products. We exclude only products that clearly lack cost-efficiency. This type of formulary is used by plans that do not want to strongly police physician's drug product selection. Rather, they want to provide physicians with guidance in cost-efficiency. The "open" formulary is updated every year when new brochures are printed.
- The second type is a more "managed formulary" that only includes one or two products from each therapeutic class. This type of formulary is designed to be implemented by plans that want to deter non-formulary prescribing by physicians with incentives or disincentives. The products included on the formulary are the most cost-effective within each therapeutic class. Consultec provides physician and pharmacy education programs, disease state management protocols, and on-line point-of-sale messages to inform providers and enforce formulary compliance. The "managed" formulary is updated quarterly and is based on P&T Committee meetings.
- The third type is the most extreme - a "closed formulary" option. This formulary program includes only a few select brand (single source) products. Virtually all of the products on this formulary are generic (multi-source) products. This formulary is designed to be utilized by plans that want to minimize utilization of non-formulary products by excluding them from coverage under the drug plan. This formulary works well for a mandatory generic plan. The end result is the implementation of a formulary plan that significantly reduces overall pharmaceutical costs while maintaining or even improving the quality of patient care and maximizes rebate potential. Again, Consultec provides the physician and pharmacy education programs, disease state management protocols, and on-line point-of-sale messages to inform providers and enforce formulary compliance. The "closed" formulary is updated weekly.
- The PDCS provides the flexibility necessary to tailor the formulary compliance to meet the needs of our client.

Consultec Prescription Benefits Management has the capability to provide drug utilization management services. This program consists of prospective, concurrent, and retrospective components.

Prospective DUR: The prospective drug utilization management component consists of education of both members and prescribers. Members benefit from the educational tools Consultec and the plan provide to better educate the members on issues concerning prevention and delaying progression of certain disease states. The goal of this process is to decrease unnecessary utilization of pharmacy and medical benefits while maintaining the highest quality of care. Physicians benefit from Consultec's mailings of clinical information including a quarterly newsletter with guidelines and tips to promote the optimal use of medications.

Concurrent DUR: Consultec provides a screen that claims encounter at the point-of-sale. This screen checks for high doses, low doses, age or gender contradictions, duplicate, therapies, etc. Consultec's system is also capable of sending an on-line message back to the pharmacy to warn of the potential problem. The concurrent DUR program also consists of a prior authorization process. Consultec's DUR Help Desk applies the clinical criteria developed by Consultec's Clinical Pharmacist and Florida 1st Health Plan. This review assures medications are being prescribed within the clinical guidelines approved by the Pharmacy and Therapeutics Committee. This process provides an opportunity to make clinical interventions that may provide a cost-savings advantage. This effort is supported by Consultec's help desk which can be accessed 24-hours a day.

Retrospective DUR: A clinical pharmacist reviews patient profiles on a monthly basis. These profiles consist of patients who have received certain therapeutic classes of medications that month. The clinical pharmacist then reviews the patient's utilization pattern, prescribed regimen, duration of therapy, possible drug-drug complications, less costly alternatives with equivalent clinical outcomes, multiple physician prescribing, etc. This is a comprehensive review that results in a letter to the prescribing physician. Each of the Consultec intervention letters is clinically driven with references cited for each recommendation.

**PRESCRIPTION BENEFITS MANAGEMENT**

**PLAN SPONSOR AGREEMENT**

**BETWEEN**

**CONSULTEC, INC.**

**AND**

**FLORIDA 1st HEALTH PLANS, INC.**

**TPA PROGRAMS**

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## **PRESCRIPTION BENEFITS MANAGEMENT**

### **PLAN SPONSOR AGREEMENT**

This AGREEMENT is made between Consultec, Inc., a Georgia corporation, with principal offices at 9040 Roswell Road, Atlanta, Georgia 30350 (hereinafter referred to as "Consultec"), and Florida 1st. Health Plans, Inc. a Florida corporation with principal offices at 3425 Lake Alfred Road, Winter Haven, Florida 33883 (hereinafter referred to as "Sponsor").

WHEREAS, Sponsor desires to provide a prescription drug program that offers a benefit plan or plans (hereinafter referred to as the "Plan") to eligible-covered persons (hereinafter referred to as "Employees"), and

WHEREAS, Consultec has the capability to administer such a prescription drug program, including the adjudication and processing of drug claims transmitted electronically from a network of pharmacies under contract to Consultec, and

WHEREAS, Sponsor desires to retain the services of Consultec to administer, on its behalf, the prescription drug program under the provisions of the Plan, and Consultec desires to provide such services and other support incidental thereto as described in this Agreement.

NOW, THEREFORE, in consideration of the premises, and the mutual covenants and promises contained herein, the parties agree as follows:

#### **1. OBLIGATIONS OF SPONSOR**

- a. Within a reasonable amount of time prior to the effective date, Sponsor will provide Consultec with a final written description of each benefit plan, including covered and non covered prescription drugs and other services, deductibles and co-payments, and any other provisions necessary for Plan administration. Such plan provisions will be attached hereto as Exhibit A.
- b. Within a reasonable amount of time prior to the effective date, Sponsor will provide Consultec eligibility information on magnetic media or electronically in a format that is mutually agreed to by Consultec and Sponsor.
- c. Sponsor will provide Consultec updates to eligibility information on a continuous basis as such changes occur. Update transactions will be provided on magnetic media or transmitted electronically. Sponsor will provide Consultec with revisions to Plan provisions at least thirty (30) days prior to the effective date of any such revision.

- d. Prior to the start of operations, Sponsor will provide Employees with complete and accurate information about the Plan, and Consultec procedures and such other information as may be necessary for Employees to receive prescription services.
- e. Sponsor agrees that Consultec will be the exclusive provider of all services described in this Agreement for as long as the Agreement remains in effect.

## **2. OBLIGATIONS OF CONSULTEC**

- a. Consultec will produce one (1) benefits brochure for each eligible employee. The benefits brochure will list participating network pharmacies.
- b. Consultec will enter Plan and eligibility information received from Sponsor into the Prescription Drug Card System (PDCS). Updates to eligibility information will be processed on a monthly basis or on such other basis as the parties will mutually agree to.
- c. Consultec will support the point-of-sale transmission of prescription drug claims from participating network pharmacies. Such claims will be adjudicated and processed in accordance with provisions of the Plan and contracted reimbursement rates.
- d. Consultec will produce checks and remittance advices (RAs) for participating network pharmacies and Employees on a biweekly basis. Consultec will advise Sponsor by means of a Claim Payment Summary/Invoice of the payment amount due for claims processed by Consultec during the applicable two week periods. The Claim Payment Summary/Invoice and a Claim Payment File will be mailed to Sponsor immediately after the biweekly payment cycle.
- e. Consultec will process Sponsor requests for PDCS standard management and utilization reports. Sponsor requests will be processed as mutually agreed to, but no more than monthly.
- f. Consultec will provide Drug Utilization Review (DUR) services to Sponsor. DUR services are intended to augment, not substitute for, the knowledge, expertise, skill, and judgement of physicians, pharmacists, and other health care providers.

## **3. PHARMACY NETWORK**

- a. Consultec will develop, manage, and support the Sponsor Pharmacy Network. Participating network pharmacies will be under contract to Consultec and agree to accept the Sponsor approved reimbursement schedules as full payment for billed prescriptions. The pharmacy network is outlined in Exhibit B hereto.

- b. Consultec will ensure those participating network pharmacies are familiar with Sponsor's benefit plan provisions.
- c. Consultec will monitor the Sponsor Pharmacy Network and take all reasonable steps to ensure that Employees have access to a participating network pharmacy. In the event that Sponsor expands its service area to include areas not covered by a participating network pharmacy, Consultec agrees to expand its pharmacy network to provide pharmacy services to Employees in these new areas.
- d. Consultec may audit up to three percent (3%) of participating network pharmacies on an annual basis.

#### **4. FORMULARY AND DRUG REBATE PROGRAM**

- a. Consultec will offer Sponsor participation in a formulary and drug rebate program. To participate in the program, Sponsor must agree to work with Consultec to promote the use of the drug formulary by prescribing physicians. Whenever possible and medically appropriate, Sponsor will request prescribing physicians to prescribe within the formulary guidelines. Such promotion may take the form of promotional materials and/or meetings with prescribers.
- b. Consultec will prepare a preferred drug list (Formulary) brochure that is private labeled with Consultec name and logo. Consultec, in conjunction with a P & T Committee and Sponsor participation, will mutually keep the preferred drug list updated to reflect current pharmacotherapy practices. Consultec will print a sufficient quantity of brochures for distribution to Sponsor's prescribing physicians and/or Employees.
- c. Sponsor acknowledges that Consultec will determine how much of the drug rebates received from each pharmaceutical manufacturer are allocable to Sponsor. Consultec will remit to Sponsor seventy-five percent (75%) of the net payable rebates.

#### **5. SPONSOR PAYMENTS AND FEES**

- a. Sponsor will make payment to Consultec for actual claim expenses within five (5) working days of receipt of invoice. Payments will be directly deposited or wire transferred by Sponsor into Consultec's bank account, or sent to a designated Consultec employee or location via overnight mail.
- b. Sponsor will reimburse Consultec for prescription drug claims in accordance with the reimbursement schedule attached hereto as Exhibit C. Consultec will use the average wholesale price (AWP) provided by First DataBank.

- c. Sponsor will pay to Consultec an administration fee in accordance with the administration fee schedule attached hereto as Exhibit D. Consultec will produce an Administrative Services Invoice on the last day of each month. Sponsor will remit payment to Consultec within thirty (30) days after receipt of a said invoice.
- d. All invoices or other amounts due as provided herein and remaining unpaid for more than thirty (30) days from the date of receipt will bear interest from the due date at the rate of one and one-half percent (1.5%) per month or the maximum permitted by law, whichever is less.
- e. If at any time Sponsor will fail to pay Consultec as provided herein, Consultec will have the right, in addition to the imposition of interest charges and other remedies provided by law, upon forty-eight (48) hours prior notice to Sponsor to (i) suspend eligibility of Employees until such time as Sponsor's account with Consultec is made current, (ii) advise participating network pharmacies that Sponsor's Employees are no longer eligible for prescription services through Consultec, and (iii) require Sponsor to provide security in such amounts and form as Consultec may deem necessary to ensure payment of actual claim expenses to network pharmacies.
- f. After the initial two (2) year terms of this Agreement, Consultec may, after consultation with and approval of Sponsor, increase the administrative fees by giving Sponsor sixty (60) days prior written notice. Any such increase will not exceed the increase in the Consumer Price Index (CPI) since the last fee increase. New fees will become effective on the first day of the month following the sixty (60) day period and will not be further increased for a period of one (1) year.

## 6. RECORDS AND DATA

- a. Consultec will maintain prescription and billing records to support the Claim Payment Summary/Invoice and to verify payments made to Employees and participating network pharmacies. Such records will be in their original form or on magnetic media.
- b. Consultec and Sponsor will allow each other to audit, review, or duplicate such records and any other records in their possession which relate primarily to the obligations of each party under this Agreement. Access to records will be allowed throughout the term of this Agreement with reasonable notice and within normal business hours. Additional duplication expense will be borne by the requesting party.
- c. All billing records will be the sole and exclusive property of Sponsor. Upon the termination of this Agreement, said records will be sent to Sponsor and the reasonable expense incurred by Consultec in connection therewith will be paid by Sponsor. However, Consultec, at its sole discretion, may retain copies of same for its own use and benefit, provided such use will not violate any Plan Member's right of confidentiality.



- d. Consultec agrees to maintain complete and accurate fiscal records, as well as prescription records applying solely to Employees for whom Consultec has claimed and received payment. Consultec will maintain such records as are necessary for evaluation of the quality, appropriateness, and timeliness of service performed under this Agreement. Said records will be made available for fiscal audit, medical audit, medical review, utilization review, and other periodic monitoring upon request of authorized representatives of Sponsor.

Consultec further agrees to comply with requirements issued as a result of any such inspection and audit to the extent that such requirements are consistent with Consultec's obligations under this Agreement. Consultec further agrees to pay Sponsor within thirty (30) calendar days after Sponsor's demand for such payment, any claim overpayment or administrative charges payable as a result of such audits. Said records will be retained for a period of at least five years after the starting date of the applicable retention period or until resolution of any ongoing audit occurs.

- e. Consultec agrees to participate in and comply with any internal and external quality assurance, utilization review, peer review, and grievance procedures established by Sponsor.

## **7. TERM AND TERMINATION OF AGREEMENT**

- a. This Agreement will be effective on March 1, 1997 and remain in force until February 28, 2000. It will thereafter automatically renew for one (1) year periods subject to the remaining provisions of Paragraph 7 and 5.f.
- b. After February 28, 2000, this Agreement may be terminated by either party at any time, with or without cause, on ninety (90) days prior written notice to the other.
- c. This Agreement may be terminated by either party upon the occurrence of a material breach hereof by the other party, which material breach has not been cured within sixty (60) days after the date of written notice to the breaching party by the non-breaching party.
- d. This Agreement may be terminated by either party immediately upon written notice to the other if either party (i) becomes insolvent, (ii) makes a general assignment for the benefit of creditors, (iii) suffers or permits an appointment of a receiver or trustee for its business or assets, or (iv) becomes subject to any proceedings under any bankruptcy or insolvency law, or is liquidated, voluntarily or otherwise.
- e. This Agreement may be terminated by Consultec on ten (10) days prior written notice to Sponsor, if Sponsor fails at to make required payments pursuant to Paragraph 5 of this Agreement.

- f. In the event of termination hereunder: (i) Consultec will have the right to notify participating network pharmacies that services are not to be rendered to Employees, (ii) the liability of Sponsor for obligations incurred prior to the termination date including claim payments, administrative fees, and all other charges pursuant to this Agreement, including reasonable attorneys' fees, will survive termination, (iii) the liability of Consultec for obligations incurred prior to the termination date will survive termination, and (iv) Paragraphs 5, 7, 8, and 10 will survive termination.

## **8. CONFIDENTIAL INFORMATION**

- a. Sponsor acknowledges that the Prescription Drug Card System, including but not limited to, all computer programs, documentation, routines, subroutines, and procedures used in the processing of data pursuant to this Agreement represent proprietary and confidential information of Consultec. Sponsor agrees that all such information will be and will remain the properties of Consultec. If such information is disclosed, or otherwise acquired by Sponsor, it will be held in confidence and surrendered by Sponsor to Consultec upon the termination of this Agreement.
- b. Consultec and Sponsor acknowledge that certain information, reports, and data generated under this Agreement are subject to applicable confidentiality of medical records laws, and the parties agree to comply in all material respects with such laws. Both parties will treat as confidential any information which individually identifies a network pharmacy, prescribing physician, or Plan Member.
- c. Consultec and Sponsor acknowledge that they may disclose to each other certain materials and data relating to their respective businesses, which information is not publicly known or available from other sources and which is confidential. Consultec and Sponsor will confine knowledge of such information only to their representatives requiring such knowledge and use in the ordinary course and scope of performance of services pursuant to this Agreement.

## **9. FORCE MAJEURE**

Neither party will be liable for any failure to perform its obligations under this Agreement if prevented from doing so by a cause of forces beyond its control. Without limiting the generality of the foregoing, such causes include acts of God or the public enemy, fires, floods, storms, earthquakes, riots, strikes, lockouts, wars or war operations, restraints of government, or other cause or causes which could not, with reasonable diligence, be controlled or prevented by the party.

## **10. LIMITATION OF LIABILITY**

- a. Sponsor will indemnify and hold Consultec and its officers, directors, shareholders, employees, and other agents, harmless from and against any claim, injury, demand, liability,

judgments, expenses (including reasonable attorneys' fees and expenses of litigation) or other losses owed to, or arising out of or as a result of any acts or omissions of Sponsor, or its officers, directors, employees, or other agents in connection with the performance of any of their respective obligations under this Agreement.

- b. Consultec will indemnify and hold Sponsor and its officers, directors, shareholders, employees, and other agents, harmless from and against any claim, injury, demand, liability, judgments, expenses (including reasonable attorneys' fees and expenses of litigation) or other losses owed to, or arising out of or as a result of any acts or omissions of Consultec, or its officers, directors, employees, or other agents in connection with the performance of any of their respective obligations under this Agreement.
- c. Consultec will indemnify and hold Sponsor harmless from and against any claim, injury, demand, liability, and expenses (including reasonable attorneys' fees and expenses of litigation), arising out of or related to the failure of Consultec to make payment to participating network pharmacies for eligible claims after Sponsor has made payment to Consultec for said eligible claims.
- d. SPONSOR ACKNOWLEDGES THAT THIS AGREEMENT IS NOT A CONTRACT FOR THE SALE OF GOODS, AND THAT CONSULTEC DISCLAIMS ALL EXPRESS AND ALL IMPLIED WARRANTIES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AS TO THE QUALITY, ACCURACY OR SUITABILITY FOR ANY PARTICULAR PURPOSE OF THE INFORMATION AND DATA GENERATED THROUGH THE PDCS.
- e. SPONSOR ACKNOWLEDGES AND AGREES THAT CONSULTEC'S LIABILITY, IF ANY, OR THAT OF ANY AFFILIATES, OFFICER, DIRECTOR, EMPLOYEE, OR REPRESENTATIVE, FOR DAMAGES HEREUNDER WILL NOT EXTEND TO ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, OR LOSS OF GOODWILL RESULTING FROM THE SERVICES PROVIDED HEREUNDER, HOWEVER CAUSED.

## **11. ARBITRATION**

Any dispute arising under this Agreement will, except as expressly provided otherwise in this paragraph, be submitted to binding arbitration in Winter Haven, Florida if the claimant is Sponsor and in Atlanta, Georgia if the claimant is Consultec under the rules then prevailing of the American Arbitration Association, and judgment upon the award rendered may be entered and enforced in any court of competent jurisdiction. Notwithstanding the foregoing provisions, neither party may be precluded from applying to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction or other equitable relief to preserve the status quo or prevent irreparable harm pending the selection of the panel of arbitrators.

The written decision of the arbitrator(s) will be binding on both Consultec and Sponsor. The cost of arbitration including fees per arbitrator, will be borne equally by both parties. The resulting arbitration award may be enforced by all lawful remedies, including without limitation, injunctive or other equitable relief in any court of competent jurisdiction.

## 12. GENERAL

- a. Independent Contractor: The relationship of Consultec to the Sponsor will solely be that of an independent contractor.
- b. Assignment: This Agreement may not be assigned by Consultec without the prior written consent of Sponsor. Any purported assignment will be deemed null and void.
- c. Notices: Notices required or permitted under this Agreement will be directed as follows:

To Consultec, Inc.:   President  
                                  9040 Roswell Road, Suite 700  
                                  Atlanta, Georgia 30350

To Sponsor:            President  
                                  Florida 1st. Health Plans, Inc.  
                                  3425 Lake Alfred Road  
                                  Winter Haven, Florida 33883

or to such other place or person as written notice thereof may be given to the other party.

- d. Amendments: This Agreement may be amended only in writing when signed by a duly authorized representative of both parties.
- e. Governing Law: This Agreement will be governed by, interpreted, and construed in accordance with the substantive laws of the State of Georgia.
- f. Non-Disclosure: Sponsor will not disclose the terms and conditions of this Agreement to any third party without the prior written consent of Consultec.
- g. Any material changes to the services required by Sponsor that would require a change in the services to be provided by Consultec pursuant to this Agreement, or any change that would affect Consultec's payment, will cause payment terms under this Agreement to be renegotiated. If the parties cannot agree on the payment terms for the requested modification, this Agreement shall terminate.
- h. Entire Agreement: This Agreement embodies the entire understanding of the parties in relation to the subject matter hereof. No other agreement, understanding, or representation,

verbal or otherwise, relative to the subject matter hereof exists between the parties at the time of execution of this Agreement.

**13. EXECUTION OF THIS AGREEMENT**

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their respective representative on the date set forth below.

**Consultec, Inc.**

By: Richard E. Martz

Name: RICHARD E. MARTZ

Title: SR. V.P.

Date: 2/7/97

**Florida 1st. Health Plans, Inc.**

By: [Signature]

Name: John J. Torti

Title: President & CEO

Date: February 7, 1997

**EXHIBIT A**

**SPONSOR  
PLAN PROVISIONS**

**GENERIC SUBSTITUTION**

To be determined by Sponsor.

**CO-PAYMENTS\***

To be determined by Sponsor.

**COVERED DRUGS\***

To be determined by Sponsor.

**EXCLUDED DRUGS\***

To be determined by Sponsor

**DISPENSING LIMITS\***

To be determined by Sponsor

Prescriptions may be filled for a maximum of ninety (90) days supply for the mail order program.

Prescriptions are valid for one (1) year from the date of issue. There are no refill limitations other than those specified by the prescriber, or permitted by law.

\*As determined by the on-line PDCS system.

**EXHIBIT B**

**SPONSOR  
PHARMACY NETWORK**

**OPTION I**

The independent, chain, and mail order pharmacies included in the Sponsor Pharmacy Network are:

Eckerd	Walgreens	Kroger	Wal-Mart	KMart	Drug Emporium
Winn-Dixie	Albertson's	Publix	Phar-Mor	Big-B	Kash-N-Karry
Pic N' Save	K & B	Navarro	Sedano's	Target	Medicine Shoppe

Express Services

Consultec will enroll any willing retail pharmacy provider in the State of Florida, who meets the minimum credentialing requirements as defined by the Sponsor and Consultec.

**OPTION II**

Walgreens    Wal-Mart    Winn-Dixie    Express Services

**EXHIBIT C**

**SPONSOR  
REIMBURSEMENT SCHEDULE**

Consultec shall be reimbursed for prescription drugs dispensed at a retail pharmacy to Sponsor's Employees in accordance with the following schedule:

**OPTION I**

The Lower of the Usual and Customary Charge or for:

**BRAND DRUGS**

Average Wholesale Price (AWP) minus twelve percent (12%) plus a two dollar and twenty five cents (\$2.25) dispensing fee, or for:

**GENERIC DRUGS**

Average Wholesale Price (AWP) minus twenty percent (20%) or H.C.F.A. MAC plus a two dollar and twenty five cents (\$2.25) dispensing fee.

**OPTION II**

**BRAND DRUGS:**

Average Wholesale Price (AWP) minus fifteen percent (15%) plus a one dollar and twenty-five cents (\$1.25) dispensing fee, or for:

**GENERIC DRUGS**

Average Wholesale Price (AWP) minus twenty-five percent (25%) plus a one dollar and twenty-five cents (\$1.25) dispensing fee.



**EXHIBIT C**  
**SPONSOR**  
**REIMBURSEMENT SCHEDULE**

**MAIL ORDER PROGRAM**

**BRAND DRUGS**

Average Wholesale Price (AWP) minus eighteen percent (18%) plus a one dollar (\$1.00) dispensing fee, or for:

**GENERIC DRUGS**

Average Wholesale Price (AWP) minus forty percent (40%) plus a one dollar (\$1.00) dispensing fee.

## EXHIBIT D.

### SPONSOR ADMINISTRATION FEE SCHEDULE

Sponsor shall pay to Consultec an administration fee of forty-four cents (\$0.44) per electronic claim transaction and seventy-nine cents (\$0.79) for each paper claim as outlined below.

Standard Claims Adjudication: \$0.29 per claim

Includes:

- dedicated account manager
- 24 hours/ 7 days a week claims processing
- full service technical POS claims processing support Help Desk (toll free)
- Standard report package
- Prospective DUR
- Checks and Remittance advice to pharmacies
- remote dial-up access to claims and eligibility files
- electronic data exchange through modems/bulletin boards
- customized member brochures/mail order brochures
- customized program implementation

Concurrent DUR

Includes:

- dedicated clinical pharmacist
- prior authorization protocols
- prior authorization help desk (toll free)
- summary reports

Paper Claims Processing: \$0.79 per claim

Retrospective DUR \$0.15 per claim

Includes:

- quarterly on-site meetings
- P & T Committee participation
- Physician and Member profiling
- Physician Education and Intervention including mailings
- DUE/DRR and Outcomes assessment reporting

All fees are subject to the terms and conditions as outlined in Paragraph 5.