

STATE OF TEXAS §
 § **INTERLOCAL AGREEMENT FOR**
 § **PROFESSIONAL SERVICES**
COUNTY OF TARRANT §

WHEREAS, the County of Tarrant, the County of Dallas, and the North Texas Tollway Authority joined together in 1998 to create the Public Employees Benefit Cooperative of North Texas, hereinafter referred to as PEBC, to provide quality health-related benefits to its employees; and

WHEREAS, the County of Denton joined the PEBC effective January 1, 2003; and

WHEREAS, the County of Parker joined the PEBC effective January 1, 2010; and

WHEREAS, PEBC believes that it achieves greater efficiencies through a dedicated staff to focus solely on PEBC activities; and

WHEREAS, the North Central Texas Council of Governments, hereinafter referred to as NCTCOG, wishes to provide professional services, to include dedicated staff, data, website and eligibility services to PEBC and for the exclusive benefit of the PEBC;

WHEREAS, the NCTCOG has for over forty years, worked to facilitate cooperation between and among local governments through the provision of services to local governments;

WHEREAS, Chapter 791 of the Texas Government Code permits agreements between local governments and Councils of Governments for cooperative purchases and the provision of administrative services;

WHEREAS, the parties find the service provided by NCTCOG is a service each of the parties is authorized to perform individually;

WHEREAS, the parties find that the payments by the parties for services performed pursuant to this agreement may be made from current revenues readily available to the paying parties; and

WHEREAS, the parties each find that the amount paid for the services performed under this agreement fairly compensates the performing party.

NOW, THEREFORE, THIS AGREEMENT is hereby made and entered into individually by the PEBC Members and the NCTCOG upon and for the mutual consideration stated herein:

**I.
WITNESSED**

This Agreement is entered into individually by the Counties of Tarrant, Dallas, Denton, and Parker, and the North Texas Tollway Authority (NTTA), as members of the PEBC (“Members”) and the NCTCOG, for the purpose of providing dedicated staff and other services as described in this Agreement for the exclusive benefit of the PEBC which the governing bodies of the PEBC Members find serve a public purpose and service the public welfare of its employees and citizens.

If the PEBC allows additional entities to become members, NCTCOG agrees to provide services pursuant to this Agreement to such additional members provided such members approve this Agreement.

**II.
SCOPE OF SERVICES**

- A. The services provided by NCTCOG for the provision of dedicated staff and other services shall include, but are not limited to, the following:
1. NCTCOG will employ one (1) professional staff person to serve as the PEBC Executive Director, and additional dedicated staff persons as approved by the PEBC Board, who will be dedicated solely to work with, and support the activities of, the PEBC;
 2. NCTCOG will make available to PEBC dedicated staff persons all benefits received by other NCTCOG employees;
 3. NCTCOG will ensure, either through contract or other available means, that PEBC dedicated staff persons have reasonable office space to perform the PEBC required services;
 4. NCTCOG will provide administrative services to manage and disburse funds provided by PEBC Members for the purpose of this Agreement;
 5. NCTCOG will provide data, website and eligibility services as described in Exhibit A to this Interlocal Agreement for the exclusive benefit of the PEBC.
 6. NCTCOG will contract with a vendor, as approved by the Board of the PEBC, to provide health and welfare benefits core-consulting services for the exclusive benefit of the PEBC. The parties find these services are “professional services” requiring a high degree of education and experience. NCTCOG shall designate the Executive Director of the PEBC to act on behalf of NCTCOG under the Contract in all regards. NCTCOG shall take no action under the Contract without the written approval of the Executive Director of the PEBC.

III. TERM

The term of this Interlocal Agreement shall commence on January 1, 2012 and shall remain in effect through December 31, 2012. Unless otherwise terminated in accordance with the provisions of this Agreement, this Agreement shall automatically renew for subsequent one-year periods. The Agreement may be extended by mutual written agreement by the PEBC membership and NCTCOG. This Agreement may be terminated without cause by either of the parties with a 180-day notification in writing to all parties. In the event a member ceases to be a member of the PEBC, this Agreement shall continue in full force for the benefit of the remaining Members, unless terminated as otherwise described in the Agreement.

IV. COSTS

The total cost of this Agreement effective January 1, 2012 shall be \$1,151,532. Line item detail of this cost amount is found in Exhibit C of this Interlocal Agreement. In the event this Agreement is renewed, and provided the Scope of Services described in Exhibit A does not materially change, the amount charged by NCTCOG for data and eligibility services as set forth in Exhibit A shall not exceed \$165,000 in each of the calendar years 2012 and 2013. NCTCOG shall invoice each PEBC member monthly for its pro rata share of the amount set forth in Exhibit C calculated on a monthly basis. The pro rata share of each PEBC member shall be equal to the percentage of the sum of its total number of regular full time employees plus the total number of eligible and regularly employed eligible part-time employees (if applicable), multiplied by a factor of 1 and its total number of retirees multiplied by a factor of 1.5, to the total number of all PEBC members. For purposes of this Agreement, regular full time employees and regularly employed eligible part-time employees are defined as the total number of basic life units as measured on the first regular payroll date in October of the year preceding the effective date of this Agreement. Retirees are defined as the total number of benefit eligible retirees and benefit eligible surviving dependents of retirees, measured on the first regular payroll date in October of the year preceding the effective date of this Agreement. Payments are due to NCTCOG no later than 30 days following receipt of invoice. If additional entities become members of the PEBC, the PEBC shall notify NCTCOG of such occurrence and the pro rata share of costs applicable to each member under this Agreement.

V. LONG TERM CARE INSURANCE

During the term of this Agreement and subject to the provisions of the PEBC Group Long Term Care Insurance ("LTC") plan with the Prudential Insurance Company of America and subject to the terms outlined in Exhibit D to this Agreement, NCTCOG is considered a "participant" of the PEBC for access to the PEBC Group LTC plan benefits only. Such access does not create or imply membership in the PEBC nor extend rights to any other PEBC benefit or agreement. In the event this Agreement is not renewed, access to the PEBC Group LTC plan will end effective the last date this Agreement is in force and NCTCOG, as a Group Contract Holder for the provision of PEBC Group Long Term Care Insurance benefits, must withdraw sponsorship according to the provisions of the Group Contract and immediately cease offering the LTC plan to its employees, retirees and their eligible family members. The PEBC

LTC plan Group Contract provisions allowing an insured to convert to an individual policy without evidence of insurability will apply.

VI. MANAGEMENT OF AGREEMENT

It is mutually agreed that the Interlocal Agreement shall be managed under the following terms:

- A. The PEBC Board shall select the PEBC Executive Director who shall then be employed by NCTCOG. The PEBC Executive Director shall report to the PEBC Board.
- B. The PEBC Executive Director shall be responsible for the selection of and day-to-day supervision of any PEBC dedicated professional staff and the day-to-day operations of the PEBC.
- C. The PEBC Executive Director shall select the office location of the dedicated professional staff.
- D. NCTCOG will expend Interlocal Agreement funds only as outlined in Exhibit A. Expenditures beyond the established line-item amounts in Exhibit C shall be made only upon approval of the PEBC Board.
- E. NCTCOG shall provide the PEBC Executive Director with a monthly financial statement listing expenditures during the previous month with year-to-date totals.
- F. Upon reasonable notice, the PEBC reserves the right to audit NCTCOG's expenditures relating to this Interlocal Agreement.
- G. Provided all funds due NCTCOG are currently paid, all funds not expended, or encumbered, shall be returned annually to the PEBC Members based on the pro rata share formula outlined in Section IV of this Agreement. Funds to be returned shall be paid within 60 days following December 31 of each year, unless otherwise authorized by the PEBC Board.
- H. Equipment (i.e, desks, chairs, computers, and other non-consumable items) purchased by NCTCOG during the term of this Agreement for the benefit of the PEBC (as provided for in Exhibit C) shall belong to the PEBC members collectively, shall be used exclusively by PEBC staff, and shall be relinquished to the PEBC members upon the expiration or final termination of this and succeeding annual agreements for services as set forth herein.

VII. AGENCY-INDEPENDENT CONTRACT

PEBC and NCTCOG agree and acknowledge that each entity is not an agent of the other entity and that each entity is responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with this Interlocal Agreement. To the extent allowed by law, the

participants in the PEBC, based on their pro rata participation as set forth in Section IV of this Agreement, shall indemnify and hold NCTCOG harmless for any acts, forbearance, negligence, or deeds of dedicated professional staff described in Section V. above. This Agreement does not and shall not be construed to entitle either party or any of their respective employees, if applicable, to any benefit, privilege or other amenities of employment applicable to the other party.

VIII. AMENDMENT

This Agreement may not be amended except in a written instrument specifically referring to this Agreement and signed by the parties hereto.

IX. BINDING AGREEMENT, AUTHORITY, PARTIES BOUND

This Agreement has been duly executed and delivered to all parties and constitutes a legal, valid and binding obligation of the parties. Each person executing this Agreement on behalf of each party represents and warrants that they have full right and authority to enter into this Agreement.

X. APPLICABLE LAW

This Agreement shall be expressly subject to the participating parties' Sovereign Immunity, Title 5 of the TEXAS CIVIL PRACTICES AND REMEDIES CODE and all applicable federal and state law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any legal action involving a PEBC Member shall be in the county in Texas where the principal office of the PEBC Member is located. No suit against a party to this Agreement may be brought in a county other than the county in which their principal office is located.

XI. SEVERABILITY

In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability of the Agreement shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in force and effect.

XII. FISCAL FUNDING

Notwithstanding anything to the contrary, the obligations of the PEBC Members are contingent upon the availability of appropriated funds. In the event of no funds or insufficient funds are appropriated to meet

their obligations under the Agreement, each PEBC member may terminate their participation in this Agreement. NCTCOG shall be entitled to compensation for services performed prior to the date of termination. A terminating PEBC Member must provide the PEBC 180 day notice in the event the Member desires to exercise this clause.

XIII PRIVACY AND CONFIDENTIALITY

The parties hereby agree to the terms of the Business Associate Agreement (BA Agreement), attached as Exhibit B and incorporated herein by this reference. If a party hereto engages in an electronic transaction for which the Secretary of Health and Human Services has adopted a standard pursuant to 45 CFR part 162, then such party is responsible for ensuring compliance with the adopted standard. At all times during the term of this Agreement, the PEBC and NCTCOG may transmit to and receive from each other protected health information as is necessary for the parties to perform their respective obligations set forth herein. Any party hereto using de-identified information shall be responsible for ensuring such information complies with the requirements of 45 CFR 164.514.

XIV MULTIPLE COUNTERPARTS

This Agreement may be executed by the respective parties in multiple counterparts, and the validity of the Agreement may not be challenged by a party because the parties failed to execute one single copy of the Agreement.

SIGNATURE PAGE

STATE OF TEXAS
COUNTY OF DALLAS

By: 
Clay Jenkins, County Judge

Date: January 24, 2012

Approved as to Form for Dallas County

By: 
Dallas County District Attorney's Office

STATE OF TEXAS
COUNTY OF TARRANT

By: _____
B. Glen Whitley, County Judge

Date: _____

Approved as to Form for Tarrant County

By: _____
Tarrant County District Attorney's Office

Certification of Funds for Tarrant County

By: _____
Tarrant County Auditor's Office

STATE OF TEXAS
COUNTY OF PARKER

By: _____
Mark Riley, County Judge

Date: _____

Approved as to Form for Parker County

By: _____
John Forrest, County Attorney

STATE OF TEXAS
COUNTY OF DENTON

By: _____
Mary Horn, County Judge

Date: _____

Approved as to Form for Denton County

By: _____
Denton County District Attorney's Office

NORTH TEXAS
TOLLWAY AUTHORITY

By: _____
Gerry Carrigan, Interim Executive
Director

Date: _____

*Approved as to Form for North Texas Tollway
Authority*

By: _____

NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS

By: 
Mike Eastland, Executive Director

Date: 3/12/12

SIGNATURE PAGE

STATE OF TEXAS
COUNTY OF DALLAS

By: _____
Clay Jenkins, County Judge

Date: _____

Approved as to Form for Dallas County

By: _____
Dallas County District Attorney's Office

STATE OF TEXAS
COUNTY OF DENTON

By: _____
Mary Horn, County Judge

Date: _____

Approved as to Form for Denton County

By: _____
Denton County District Attorney's Office

STATE OF TEXAS
COUNTY OF TARRANT

By: B. Glen Whitley
B. Glen Whitley, County Judge

Date: 1-17-12

Approved as to Form for Tarrant County

By: Ray Pule
Tarrant County District Attorney's Office

Certification of Funds for Tarrant County

By: S. Renee Tidwell
Tarrant County Auditor's Office

STATE OF TEXAS
COUNTY OF PARKER

By: _____
Mark Riley, County Judge

Date: _____

Approved as to Form for Parker County

By: _____
John Forrest, County Attorney

NORTH TEXAS
TOLLWAY AUTHORITY

By: _____
Gerry Carrigan, Interim Executive
Director

Date: _____

*Approved as to Form for North Texas Tollway
Authority*

By: _____

NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS

By: Mike Eastland
Mike Eastland, Executive Director

Date: 3/13/12

TARRANT COUNTY
Certification of Funds Available
for the Amount of \$300,897.⁰⁰
\$100,299.⁰⁰ CONTINGENT UPON
FY 2013 BUDGET APPROVAL

SIGNATURE PAGE

**STATE OF TEXAS
COUNTY OF DALLAS**

By: _____
Clay Jenkins, County Judge

Date: _____

Approved as to Form for Dallas County

By: _____
Dallas County District Attorney's Office

**STATE OF TEXAS
COUNTY OF TARRANT**

By: _____
B. Glen Whitley, County Judge

Date: _____

Approved as to Form for Tarrant County

By: _____
Tarrant County District Attorney's Office

Certification of Funds for Tarrant County

By: _____
Tarrant County Auditor's Office

**STATE OF TEXAS
COUNTY OF PARKER**

By: _____
Mark Riley, County Judge

Date: _____

Approved as to Form for Parker County

By: _____
John Forrest, County Attorney

**STATE OF TEXAS
COUNTY OF DENTON**

By: _____
Mary Horn, County Judge

Date: _____

Approved as to Form for Denton County

By: _____
Denton County District Attorney's Office

**NORTH TEXAS
TOLLWAY AUTHORITY**

By: _____
Gerry Carrigan, Interim Executive
Director

Date: 3/23/12

*Approved as to Form for North Texas Tollway
Authority*

By: _____
Bob Shell

**NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS**

By: _____
Mike Eastland, Executive Director

Date: 3/13/12

Handwritten scribbles and marks, possibly a signature or initials, located in the lower-left quadrant of the page.

SIGNATURE PAGE

STATE OF TEXAS
COUNTY OF DALLAS

By: _____
Clay Jenkins, County Judge

Date: _____

Approved as to Form for Dallas County

By: _____
Dallas County District Attorney's Office

STATE OF TEXAS
COUNTY OF TARRANT

By: _____
B. Glen Whitley, County Judge

Date: _____

Approved as to Form for Tarrant County

By: _____
Tarrant County District Attorney's Office

Certification of Funds for Tarrant County

By: _____
Tarrant County Auditor's Office

STATE OF TEXAS
COUNTY OF PARKER

By: _____
Mark Riley, County Judge

Date: _____

Approved as to Form for Parker County

By: _____
John Forrest, County Attorney

STATE OF TEXAS
COUNTY OF DENTON

By: Mary Horn
Mary Horn, County Judge

Date: 1.17.12

Approved as to Form for Denton County

By: John Feldt
Denton County District Attorney's Office

NORTH TEXAS
TOLLWAY AUTHORITY

By: _____
Gerry Carrigan, Interim Executive
Director

Date: _____

*Approved as to Form for North Texas Tollway
Authority*

By: _____

NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS

By: Mike Eastland
Mike Eastland, Executive Director

Date: 3/13/12

SIGNATURE PAGE

STATE OF TEXAS
COUNTY OF DALLAS

By: _____
Clay Jenkins, County Judge

Date: _____

Approved as to Form for Dallas County

By: _____
Dallas County District Attorney's Office

STATE OF TEXAS
COUNTY OF TARRANT

By: _____
B. Glen Whitley, County Judge

Date: _____

Approved as to Form for Tarrant County

By: _____
Tarrant County District Attorney's Office

Certification of Funds for Tarrant County

By: _____
Tarrant County Auditor's Office

STATE OF TEXAS
COUNTY OF PARKER

By: _____
Mark Riley, County Judge

Date: January 19, 2012

Approved as to Form for Parker County

By: _____
John Forrest, County Attorney

STATE OF TEXAS
COUNTY OF DENTON

By: _____
Mary Horn, County Judge

Date: _____

Approved as to Form for Denton County

By: _____
Denton County District Attorney's Office

NORTH TEXAS
TOLLWAY AUTHORITY

By: _____
Gerry Carrigan, Interim Executive
Director

Date: _____

*Approved as to Form for North Texas Tollway
Authority*

By: _____

NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS

By: _____
Mike Eastland, Executive Director

Date: 3/13/12

EXHIBIT A
DATA AND ELIGIBILITY SERVICES

- A. **Scope of Services:** NCTCOG shall perform professional services for the provision of data, website and eligibility services (Data Services). NCTCOG shall, during the term of this Agreement, provide a sufficient number of qualified staff and appropriate systems to perform Data Services. Data Services shall include, but are not limited to:
- Internet hosting, design and ongoing website maintenance services to the PEBC website, to include periodic modifications, corrections or design changes as requested by the PEBC;
 - Timely eligibility processing services to include acceptance of data from PEBC member groups and transmission of eligibility data to vendors and reconciliation, reports and data storage services;
 - Implementation services on behalf of new member groups to the PEBC;
 - Development services including internet based online enrollment processes and systems, data standards, and process improvement;
 - System design;
 - System audits;
 - Maintain data integrity and security; and
 - Privacy and security compliance, as mandated by HIPAA privacy and security regulations applicable to protected health information received or maintained by PEBC and its members.
- B. **Ownership.** Services performed under this Agreement are for the sole and exclusive benefit of the member groups of the PEBC. All materials, electronic or otherwise, including graphics, text, manuals, software developed for the exclusive use of the PEBC or made available to NCTCOG on behalf of the PEBC, database scripts and edits, and the PEBC website domain name, belong to the PEBC. Software, database scripts and edits developed by NCTCOG shall be held in escrow and returned to the PEBC, along with related work product and manuals, upon termination of this Agreement.
- C. **Termination.** In the event this Agreement is terminated, NCTCOG shall, to its fullest extent, cooperate with and participate in transition activities in conjunction with the transfer of these services to another service provider.

EXHIBIT B

BUSINESS ASSOCIATE AGREEMENT

I. Definitions

- (a) Business Associate. "Business Associate" shall mean NCTCOG.
- (b) Plan Sponsor. "Plan Sponsor" shall mean, collectively and individually, Dallas County, Tarrant County, Denton County, the North Texas Tollway Authority, and any member group approved for membership in the PEBC.
- (c) Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (d) Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- (e) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of the Plan.
- (f) Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.
- (g) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- (h) Plan. "Plan" shall mean the applicable component of the PEBC Plan(s) for which Vendor provides services, including clearinghouse services, which is/are a Covered Entity(ies) subject to the Privacy Rule.
- (i) PEBC. "PEBC" shall mean the Public Employees Benefits Cooperative, which acts as an agent of Plan Sponsor as administrator of the Plan.
- (j) PEBC – NCTCOG Interlocal Agreement. "PEBC- NCTCOG Interlocal Agreement" shall mean the interlocal agreement between the member entities of the PEBC and the North Central Texas Council of Governments for the provision of dedicated staff and services related to the operation of the PEBC, and to which this Business Associate Agreement is made a part as an Exhibit.
- (k) Security Incident. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- (l) Administrative Safeguards. "Administrative Safeguards" are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic protected health information and to manage the conduct of the covered entity's workforce in relation to the protection of that information.
- (m) Physical Safeguards. "Physical Safeguards" are physical measures, policies, and procedures to protect a covered entity's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

- (n) Technical Safeguards. "Technical Safeguards" means the technology and the policy and procedures for its use that protect electronic protected health information and control access to it.
- (o) Electronic Protected Health Information. "Electronic Protected Health Information" is protected health information that is (i) transmitted by electronic media; or (ii) maintained in electronic media.

II. Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this BA Agreement, the Interlocal Agreement or as Required By Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement. Business Associate further agrees to implement appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of Plan Sponsor.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this BA Agreement.
- (d) Business Associate agrees to report to Plan Sponsor and the PEBC, on behalf of the Plan, any use or disclosure of the Protected Health Information not provided for by this BA Agreement of which it becomes aware. Further, Business Associate agrees to report to Plan Sponsor and the PEBC, on behalf of Plan Sponsor, any Security Incident of which it becomes aware.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of the Plan, agrees to the same restrictions and conditions that apply through this BA Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of the Plan, and in a timely manner, to Protected Health Information in a Designated Record Set, to the Plan; to a representative of the Plan, including the PEBC or the Plan Sponsor, as directed by the Plan; or to an Individual in order to meet the requirements under 45 CFR 164.524.
- (g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Plan directs or agrees to pursuant to 45 CFR 164.526 at the request of the Plan or an Individual, and in a timely manner.
- (h) Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, the Plan available to the Plan, or to the Plan's designated representative, including the PEBC, or to the Secretary, in a timely manner or as otherwise designated by the Secretary, for purposes of the Secretary determining the Plan's compliance with the Privacy Rule.
- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Plan to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

- (j) Business Associate agrees to provide to Plan, or its representative as directed by the Plan, including the PEBC, or an Individual, in a timely manner, information collected in accordance with Section II.i. of this BA Agreement, to permit the Plan to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

III. Permitted Uses and Disclosures by Business Associate

A. General Use and Disclosure Provisions

Except as otherwise limited in this BA Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Plan as specified in the Interlocal Agreement with the Plan Sponsor, provided that such use or disclosure would not violate the Privacy Rule if done by the Plan or the minimum necessary policies and procedures of the Plan.

B. Specific Use and Disclosure Provisions

- (a) Except as otherwise limited in this BA Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (b) Except as otherwise limited in this BA Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that such disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (c) Except as otherwise limited in this BA Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to the Plan as permitted by 45 CFR 164.504(e)(2)(i)(B).
- (d) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

IV. Obligations of Plan and Plan Sponsor

- (a) Plan Sponsor, on behalf of the Plan shall notify Business Associate of any limitation(s) in its notice of privacy practices of the Plan in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- (b) Plan Sponsor, on behalf of the Plan, shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- (c) Plan Sponsor, on behalf of the Plan shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that the Plan has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

V. Permissible Requests by the Plan

The Plan shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Plan, except that Business Associate may use and disclose protected health information for data aggregation and management and administrative activities of Business Associate as provided herein.

VI. Term and Termination

- (a) Term. The Term of this BA Agreement shall be effective as of the effective date of the PEBC – NCTCOG Interlocal Agreement and shall terminate upon the later of (1) the termination of the Interlocal Agreement; or (2) when all of the Protected Health Information provided by the Plan or Plan Sponsor to Business Associate, or created or received by Business Associate on behalf of the Plan, is destroyed or returned to the Plan or its representative, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Upon the Plan's or Plan Sponsor's knowledge of a material breach by Business Associate, Plan Sponsor, on behalf of the Plan, shall either:
 - (1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this BA Agreement and the Interlocal Agreement if Business Associate does not cure the breach or end the violation within the time specified by Plan Sponsor;
 - (2) Immediately terminate this BA Agreement and the Interlocal Agreement if Business Associate has breached a material term of this BA Agreement and cure is not possible; or
 - (3) If neither termination nor cure is feasible, Plan Sponsor, on behalf of the Plan, shall report the violation to the Secretary.
- (c) Effect of Termination.
 - (1) Except as provided in paragraph (2) of this section, upon termination of this BA Agreement or the Interlocal Agreement, for any reason, Business Associate shall return to the Plan or its designated representative or destroy all Protected Health Information received from the Plan or the Plan Sponsor, or created or received by Business Associate on behalf of the Plan. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to the Plan notification of the conditions that make return or destruction infeasible. Business Associate shall extend the protections of this BA Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

VII. Miscellaneous

- (a) Regulatory References. A reference in this BA Agreement to a section in the Privacy Rule means the section as in effect or as amended.

- (b) Amendment. The Parties agree to take such action as is necessary to amend this BA Agreement from time to time as is necessary for the Plan to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (c) Survival. The respective rights and obligations of Business Associate under Section VI.(c) of this BA Agreement shall survive the termination of this BA Agreement.
- (d) Interpretation. Any ambiguity in this BA Agreement shall be resolved to permit the Plan to comply with the Privacy Rule.

EXHIBIT C

PEBC/NCTCOG Calendar Year 2012 BUDGET

SALARY & BENEFITS

Salaries	\$ 322,881
Benefits (actual cost)	\$ 78,988

TOTAL INDIRECT COSTS \$ 71,131

Indirect Costs are based on a formula percentage of actual cost Salary & Benefits. These costs include parking, conference room usage, and other costs associated with NCTCOG administrative services needed to support the PEBC program.

DIRECT COSTS

Office Space	\$ 33,671
Furniture and Equipment	\$ 7,500
Supplies	\$ 8,500
Printing	\$ 3,700
Communications	\$ 4,500
In-Region Travel	\$ 3,500
Out-of-Region Travel	\$ 5,000
Postage	\$ 2,000
PEBC General Counsel	\$ 8,500
Employee Development	\$ 3,000
Network Services (Internet/RIS)	\$ 17,000
Annual Enrollment Communications	\$ 67,725
PEBC-NCTCOG Technical Data/Eligibility	\$ 165,000
Core Consulting	\$ 176,936
Project Reserve (Unallocated)	\$ 172,000

Total (to be cost-shared) \$1,151,532

TOTAL CY 2012 BUDGET

\$1,151,532

EXHIBIT D

North Central Texas Council of Governments Access to PEBC Group Long Term Care Insurance Plan

During the period this Agreement is in force, the North Central Texas Council of Governments (“NCTCOG”):

- A. Shall not contract with any entity or otherwise allow anyone other than a NCTCOG employee or retiree, and their eligible family members, to receive LTC plan benefits under the PEBC Group LTC contract and this Agreement; and
- B. Shall not allow Long Term Care Insurance benefits to be offered to its employees from a source other than the PEBC; and
- C. Shall pay premiums due in a timely manner; and
- D. Shall confirm employee eligibility for plan benefits upon request by the PEBC.

The PEBC Board shall have sole authority to determine the coverage terms for the Long Term Care insurance offered to PEBC members’ and NCTCOG’s eligible employees, retirees, and their eligible family members.