

MANAGEMENT AGREEMENT

This Management Agreement (the "Agreement") is made and entered into on \_\_\_\_\_, 2016 ("Effective Date") by and between SPWI TPA, Inc. d/b/a Quartz, a Wisconsin for-profit corporation ("Quartz"), and Gundersen Health Plan, Inc., a Wisconsin health maintenance organization ("HMO") (each, a "Party," and collectively, "Parties"), with reference to the following background:

A. HMO is a duly organized and validly existing non-profit corporation that is licensed as a health maintenance organization in Wisconsin;

B. Quartz is a duly organized and validly existing corporation that is an Affiliate (as defined in Section 1(c) below) of HMO and provides administrative and management services to support health maintenance organizations and health insurers in the administration of their benefit products;

C. HMO desires for Quartz to provide certain administrative and management services to and on behalf of HMO in connection with HMO's benefit products; and

D. Quartz desires to provide such services to and on behalf of HMO in accordance with the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing background recitals and the mutual promises and covenants set forth herein, and for other good and value consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. Authority and Duties of Quartz.

(a) Services. Quartz may provide to HMO, from time to time and either directly or through third parties, the following services ("Services") described below and more fully in Exhibit A:

- (i) reinsurance pricing and procurement;
- (ii) investment services;
- (iii) actuarial analysis;
- (iv) underwriting
- (v) human resources services and employee benefits administration;
- (vi) policyholder services;
- (vii) legal services;
- (viii) corporate and tax accounting;

- (ix) record keeping and financial reporting;
- (x) information technology services;
- (xi) sales, marketing, and enrollment;
- (xii) account and broker management;
- (xiii) compliance and strategic planning;
- (xiv) premium collection and refunds;
- (xv) claims management and settlement;
- (xvi) utilization review and utilization management;
- (xvii) provider credentialing;
- (xviii) member grievance and appeals;
- (xix) care coordination, disease management, quality management, and other quality improvement activities, including but not limited to maintaining National Committee for Quality Assurance accreditation;
- (xx) provider contracting and network management; and
- (xxi) such other services as the Parties mutually agree.

(b) Standard of Care. In providing the Services, Quartz shall act in good faith, in a commercially reasonable manner and in accordance with customary industry standards and applicable laws for the provision of the Services. HMO shall provide Quartz with all information that is necessary to enable Quartz to perform fully its obligations hereunder. Quartz shall provide the Services consistent with the service-level standards set forth in Exhibit B.

(c) Assignment. Quartz must have prior written approval from HMO to assign its rights or obligations with respect to the performance of any Services, including an assignment to an Affiliate of HMO. For purposes of this Agreement, "Affiliate" means, with respect to any Party, any other individual or entity controlling, controlled by or under common control with such Party, with "control" (including the terms "controlling," "controlled by" and "under common control with") meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an individual or entity, whether through ownership of voting securities, by contract or otherwise.

(d) Subcontracting. Quartz shall ensure that all arrangements with contractors engaged by Quartz to provide Services (i) are in writing, specify the services and reporting obligations, and are duly executed; (ii) require the provision of such services in accordance with the terms of this Agreement, applicable laws, and services standards and requirements as the

same would apply to Quartz if Quartz were performing the services; (iii) require compliance with the terms of this Agreement, as applicable; (iv) state that HMO and Quartz shall monitor the contractors' performance on an ongoing basis, including through routine audits; (v) include a Business Associate Agreement that complies with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH"), in every agreement with a contractor that receives protected health information ("PHI"), as that term is defined under HIPAA; and (vi) permit Quartz to suspend or revoke a contractor's provision of Services under this Agreement or take such other corrective action as regulatory bodies, HMO and/or Quartz determines appropriate. If any contractor credentials health care professionals, then the written arrangement also shall state that the credentials shall be reviewed by HMO and Quartz and/or the contractor's credentialing process shall be subject to review and approval as well as periodic audit by HMO and Quartz. Quartz shall use commercially reasonable efforts to promptly amend any agreements with contractors to comply with applicable laws. Quartz shall provide HMO with a list of all contractors on an annual basis and upon request.

(e) HMO Oversight.

Provision of the Services will at all times be subject to oversight and control by the Board of Directors of HMO, which shall direct and control the business that is being carried out by Quartz on behalf of HMO, including the control and direction of Quartz's employees in the performance of Services under this Agreement. No action taken by Quartz at the direction or with the approval of a majority of the HMO's Board of Directors in office at the time of the direction or approval may be used by HMO as grounds for termination under Section 4. In performing any Services hereunder, Quartz shall be responsible for following the written instructions and procedures of HMO hereunder.

2. Reimbursable Expenses.

(a) Quartz shall not be required to expend or advance its own funds in connection with the performance of the Services. Consistent with Section 3 below, HMO shall pay or reimburse Quartz for all costs and expenses incurred by Quartz for employees, equipment, facilities and other items in connection with Quartz performing Services or other duties and obligations under this Agreement. Expenses shall be apportioned in accordance with applicable Generally Accepted Accounting Principles. The books and records of Quartz and HMO shall be maintained in a way that clearly and accurately discloses the nature and details of the Services, including such accounting information as is necessary to support the expenses apportioned to HMO.

(b) All payments and/or reimbursements made by HMO to Quartz pursuant to Section 3 hereunder are intended to approximate the costs and expenses incurred by Quartz in performing its services hereunder. All of the advances, costs and expenses to be paid or reimbursed by HMO to Quartz pursuant to Section 3 or otherwise in this Agreement are collectively referred to as the "Reimbursable Expenses."

3. Payments for Services.

(a) No later than the second business day of each month that this Agreement is in effect, HMO shall pay Quartz an advance payment ("Monthly Advance Payment") equal to 1/12<sup>th</sup> the amount of Quartz's annual operating budget for Services provided to HMO as approved by the HMO Board of Directors in advance of each year ("Annual Operating Budget") to cover the expected cost of Quartz's Reimbursable Expenses for the month. The first Monthly Advance Payment shall be made by HMO on the Effective Date without regard to whether the Effective Date is the first day of a month. Notwithstanding the foregoing, with respect to the 2016 calendar year, each Monthly Advance Payment shall be equal to the anticipated payment by Quartz to Gundersen Lutheran Administrative Services, Inc., a Wisconsin nonstock corporation ("GLAS"), for such month pursuant to the Employee Lease Agreement between Quartz and GLAS dated the date hereof.

(b) In the event Quartz expects its Reimbursable Expenses for Services provided to HMO to exceed the amounts paid as Monthly Advance Payments by HMO, then Quartz may request that HMO's Board of Directors approve additional funding equal to the expected shortfall in Monthly Advance Payments ("Supplemental Funding"). Quartz shall provide HMO with sufficient data and information for HMO to evaluate a request for Supplemental Funding. Upon receiving such a request from Quartz, HMO's Board of Directors shall promptly vote on such request. The maximum Supplemental Funding request to HMO, as measured in the aggregate on a calendar year basis, is ten percent (10%) of the Annual Operating Budget.

(c) Within thirty (30) days following the end of each calendar year in which Services are provided, Quartz shall submit to HMO a statement setting forth all Reimbursable Expenses for such calendar year. Consistent with Section 2(b), the Reimbursable Expenses shall be calculated based on Quartz's actual costs to provide the Services. Within thirty (30) days after receipt of the statement, there shall be a reconciliation comparing Reimbursable Expenses to the Monthly Advance Payments and Supplemental Funding. Based on the results of such reconciliation, either (i) HMO shall, within five (5) business days, pay to Quartz the amount by which the Reimbursable Expenses exceeded the total Monthly Advance Payments and Supplemental Funding received by Quartz during the year or (ii) Quartz shall, within five (5) business days, pay to HMO the amount by which the Reimbursable Expenses were less than the total Monthly Advance Payments and Supplemental Funding received by Quartz during the year.

(d) Within thirty (30) days following the termination of this Agreement for any reason or until Services are transferred to a new party, whichever is later, Quartz shall return to HMO the amount Quartz has retained from HMO's payments during the term of this Agreement after deducting costs for Quartz's Reimbursable Expenses.

#### 4. Termination.

(a) This Agreement may be terminated as follows:

(i) By mutual agreement of the Parties in writing;

(ii) By either Party if the other Party has materially breached any material term of this Agreement and has not corrected such breach within 30 days after receipt of

written notice of such breach. Notwithstanding the foregoing, if a failure by its nature cannot be corrected within a 30-day period, then there shall be no right to terminate this Agreement if the correcting Party substantially begins correction within such 30-day period and thereafter expeditiously corrects such breach.

(iii) By either Party if the Parties are no longer Affiliates; or

(iv) By HMO if the type, quantity, or manner of Services provided by Quartz hereunder cause HMO to be operated, in HMO's reasonable discretion, in a manner that does not further HMO's charitable purposes.

(b) In the event of termination of this Agreement, Quartz shall promptly arrange, at the cost of HMO, for the return or transfer to a successor service provider, if any, of all of the books and records of HMO, including any Proprietary Information, that were provided to Quartz or created by Quartz pursuant to Quartz's responsibilities under this Agreement. Quartz will cooperate with HMO in such return or transfer.

(c) In the event of termination, Quartz shall continue to provide Services for the period reasonably necessary to transfer the Services to a new entity.

#### 5. Confidentiality – Proprietary Information.

(a) Proprietary Information. "Proprietary Information" includes the pricing, methods, processes, financial data, provider or customer lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, or related information of each of the Parties and/or its or their policyholders, concerning past, present, or future business activities of each Party. Proprietary Information includes all non-public information disclosed by either Party to the other prior to the execution of this Agreement.

(b) Confidentiality. Except as otherwise provided in this Agreement, each Party shall maintain the Proprietary Information of the other Party in strict confidence; will use such Proprietary Information only for purposes of this Agreement; and will not disclose such Proprietary Information to any person or entity, except with the prior written consent of the other Party. Each Party shall take reasonable precautions to prevent the disclosure of Proprietary Information and each Party shall be responsible for any breach of this confidentiality requirement by one of its officers, employees, directors, or third-party agents acting on behalf of such Party. Proprietary Information created, used, or purchased by Quartz for purposes of providing Services to HMO shall be the property of HMO while this Agreement is in effect and following its termination; such Proprietary Information must be transferred to HMO or HMO's designee upon termination of this Agreement, as set forth in Section 4(b) above.

(c) Permissive Disclosures. Nothing contained in this Agreement may be construed as prohibiting either Party's disclosure of Proprietary Information (other than to known actual competitors of the other Party):

(i) to its employees or employees of its parent company and subsidiaries and Affiliates on a need-to-know basis;

(ii) to the employees, agents, or representatives of the other Party; or

(iii) to other persons (including consultants) in need of access to the information for purposes specifically related to either Party's responsibilities under this Agreement.

(d) Information Lawfully Received.

(i) Neither Party has any obligation or liability with respect to the other's information to the extent that the information:

(A) is already known by the receiving Party on the date of this agreement, free from any obligation to keep such information confidential;

(B) is or becomes publicly known through no wrongful act of the receiving Party;

(C) is lawfully received by the receiving Party from a third party without restriction and without breach of any obligation of the third party; or

(D) must be disclosed pursuant to a court order or as required by any governmental or administrative authority or authorized regulatory agency, in which event the disclosing Party shall notify the other Party in advance of any such disclosure.

6. Privacy.

(a) The Parties shall, no later than the Effective Date, enter into a Business Associate Agreement substantially similar to that attached hereto as Exhibit C, to govern each Party's obligations under HIPAA and the HITECH Act.

(b) In addition to the obligations set forth in Exhibit C, the Parties shall comply with all applicable privacy laws, including but not limited to those applicable under the Gramm-Leach Bliley Act, codified at 15 U.S.C. § 6801 et seq., Wis. Admin. Code Ins. Chapter 25, Iowa Admin. Code r. 191.90, and Minn. Stat. §§ 60A.98 to 60A.982.

7. Reports.

(a) Quartz shall provide HMO with industry standard reports as set forth in Exhibit E ("Reports"), which HMO reasonably and in good faith requests to conduct its business, including monitoring of Quartz's performance hereunder. In addition, Quartz shall provide periodic reports to the HMO Board of Directors, which shall include, at a minimum, quarterly operational reports on certain operational statistics as requested by the HMO. Such reports shall contain the performance metrics for applicable laws related to the Services which Quartz has responsibility for performing. In the preparation of any reports pursuant to this Agreement, Quartz shall be responsible for following the written instructions and procedures of HMO hereunder and otherwise complying with the terms of this Agreement and applicable laws in connection with preparing the Reports.

(b) Quartz shall use commercially reasonable efforts to provide support to HMO in the event HMO is audited by a government authority with jurisdiction over the operations of HMO.

8. **Ownership of and Access to Records.** Each Party shall retain title to its own general corporate books and records. Each Party shall retain the right of continuing access to the books and records of the other Party sufficient to permit the Parties to fulfill all of their respective duties and obligations under this Agreement, subject to the provisions of Sections 5. The Parties acknowledge that state departments of insurance and applicable Federal agencies and departments lawfully entitled to access to books and records of a Party shall be given reasonable access to such books and records during normal business hours and upon reasonable advance notice. As set forth more fully in Exhibit D, HMO shall have the right to audit Quartz's books and records to assess Quartz's compliance with this Agreement and applicable legal requirements.

9. **Relationship of the Parties.** Nothing contained herein shall be construed to create the relationship of employer/employee, partner, or joint venture between HMO and Quartz or to provide Quartz with the exclusive right to manage or control HMO in performing its obligations under this Agreement; Quartz may exercise its own judgment subject to the parameters set forth herein and further subject to any written rules, regulations and instructions issued by the Board of Directors or the officers of HMO as to the time and manner in which Quartz performs such obligations.

10. **HMO's Obligation to Provide Information.** HMO shall provide Quartz with all information which is necessary to enable Quartz to perform fully its obligations hereunder. Quartz shall not be liable to HMO for any failure to perform said obligations if such failure is a result of HMO's failure to provide Quartz with necessary information.

11. **Miscellaneous.**

(a) **Governing Law.** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Wisconsin, without giving effect to the choice or conflict of law provisions of that or any other jurisdiction.

(b) **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective only to the extent of any such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is invalid or unenforceable, that provision shall be interpreted to the extent possible in a manner that is valid and enforceable.

(c) **Non-waiver.** No failure by either Party to insist upon strict compliance with any term of this Agreement, to exercise any option, enforce any right, or seek any remedy upon any default of the other Party shall affect, or constitute a waiver of, the first Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default, nor shall any

custom or practice of the Parties at variance with any provision of this Agreement affect, or constitute a waiver of, either Party's right to demand strict compliance with all provisions of this Agreement.

(d) **Waivers and Amendments.** The Agreement and the Exhibits attached hereto may only be amended or modified, and the terms hereof may only be waived, by writing, signed by each Party or, in the case of a waiver, by the Party entitled to the benefit of the terms being waived.

(e) **Assignment.** Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred, in whole or in part, by any Party without the prior written consent of the other Party, except as provided in Section 1(c).

(f) **Binding Effect.** This Agreement will apply to and inure to the benefit of and be binding upon and enforceable against each Party and their respective successors and permitted assigns.

(g) **Construction; Interpretation.** All pronouns and any variations thereof refer to the masculine, feminine, or neuter, singular, or plural, as the context may require. The captions and headings of the various sections of this Agreement are not part of this Agreement, but are only labels to assist in locating those sections and shall be ignored in construing this Agreement.

(h) **Notices.** All notices and other communications under this Agreement will be in writing and will be delivered personally or sent by confirmed facsimile transmission or nationally recognized overnight delivery service. Any such notice or other communication will be deemed given upon actual delivery, in each case to the following addresses:

If to Quartz:

SPWI TPA, Inc.  
Attention: President  
840 Carolina Street  
Sauk City, WI 53583

If to Gundersen:

Gundersen Health Plan  
Attention: Chairman of the Board  
1900 South Avenue - NCA2-01  
La Crosse, WI 54601

(i) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) **Licensure and Compliance with Law.** Quartz shall, without reliance upon HMO, keep informed of and materially comply with laws applicable to its performance



under this Agreement, including laws governing the conduct of third party administrators, as if Quartz were subject to those requirements directly. Quartz has and shall maintain, and shall cause any permitted contractors to have and maintain, the applicable state licensures, permits, and other approvals required under law to perform the Services and otherwise meet Quartz's obligations under this Agreement. Quartz shall furnish HMO with evidence of such licensures and permits upon request and shall notify HMO within five (5) days of any fine, penalty, suspension, termination or other action regarding such licenses.

(k) **No Third Party Benefit.** This Agreement is intended for the exclusive benefit of the Parties to this Agreement and their respective heirs, successors and assigns, and nothing contained in this Agreement shall be construed as creating any rights or benefits in or to any third party.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of HMO and Quartz as of the date first above written.

**SPWI TPA, Inc. d/b/a Quartz**

**Gundersen Health Plan, Inc.**

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT A SERVICES

Quartz shall act as a general administrative and financial manager for HMO and, subject to the direction of Quartz's Board of Directors and further subject to the terms and conditions of this Agreement (including but not limited to Section 1(e) of the Agreement regarding the HMO Board of Directors' ultimate oversight of Quartz), any other applicable agreement, any applicable laws or regulations of any governing body or regulatory agency, and any written policies, rules or regulations of HMO, Quartz shall either directly or through subcontractors (for whose acts, errors or omissions Quartz shall take full responsibility for) provide or perform the following services or activities on behalf of HMO.

- A. Strategic planning, executive guidance and general services with respect to the business activities of HMO.
- B. Consultation and assistance with the legal affairs of HMO.
- C. Coordination of employee health, welfare and fringe benefit programs.
- D. Financial consultation and oversight with respect to the management of the assets of HMO. Such will include the development and implementation of a program of investments for the assets of HMO pursuant to which program Quartz (or investment managers designated by Quartz) will purchase and sell securities on behalf of HMO from, to or through such brokers, dealers, investment advisors of other parties as Quartz shall deem appropriate, provided, however, that Quartz will take no responsibility for the acts, errors or omissions of any such broker, dealer, investment advisor or other party which it may select to perform financial services in behalf of HMO. Quartz will provide to HMO's Board of Directors regular reports with respect to its investment program and such other reports as may be necessary or requested by HMO's Board of Directors with the understanding that HMO's Board of Directors shall review and approve investment transactions on a quarterly basis. Quartz shall at all times manage the assets of HMO in accordance with the investment policy set by HMO's Board of Directors.
- E. Accounting and bookkeeping services including the following:
  - 1. Deposit of HMO's funds in a special bank account in HMO's name that is separate from the funds of Quartz;
  - 2. Processing and payment of trade accounts payable;
  - 3. Maintenance of journals, ledgers, check registers and payroll records;
  - 4. Coordination of HMO's payroll;
  - 5. Preparation of federal and state income and payroll tax returns;

6. Preparation of monthly bank reconciliations;
  7. Assistance in the preparation by the 10th working day of the end of each month a balance sheet, statement of income and a statement of cash flows;
  8. Coordination of investing activities;
  9. Coordination and consolidation of annual budgeting process;
  10. Any and all other services reasonably necessary.
- F. Information systems support and telephone service.
- G. Coordination and performance of the compliance functions of HMO.
- H. Functions necessary to administer HMO's benefit products, including:
1. Utilization review activities, including retrospective and concurrent utilization review, approval of out-of-network referrals, and prior authorization services.
  2. Provider credentialing.
  3. Member grievance and appeals processing.
  4. Provider contracting, network management, and dispute processing.
  5. Claims processing and adjudication.
  6. Development and distribution of member communications.
  7. Healthcare quality improvement activities such as care coordination, disease management, and quality management services, including but not limited to maintaining National Committee for Quality Assurance accreditation.
  8. Coordination and performance of the marketing, sales, enrollment, and account and broker management functions of HMO.
- I. Miscellaneous
1. Quartz may use only such advertising pertaining to business underwritten by HMO as has been approved in writing by HMO in advance of its use.
  2. Any policies, certificates, booklets, termination notices, or other written communications delivered by HMO to Quartz for delivery to its members and policyholders shall be delivered by Quartz promptly after receipt of instructions from HMO to deliver them.

3. Any underwriting conducted by Quartz on behalf of HMO shall be conducted using underwriting criteria or other standards established and provided by HMO.
  4. Quartz shall provide a written notice approved by HMO to insured individuals advising them of the identity of, and relationship among, Quartz, the member or policyholder, and HMO.
- J. Such other services incident to the performance of the aforementioned activities and services as may be reasonably required.

**EXHIBIT B**  
**SERVICE LEVEL REQUIREMENTS**

<b>Function</b>	<b>Guarantee</b>
Identification card issuance	Less than five (5) days
Enrollment quality accuracy	97% or greater
Non-investigated claims paid within thirty (30) days	97% or greater
Investigated claims paid in sixty (60) days	97% or greater
Claims paid quality accuracy	97% or greater (target of 99%)
Participant satisfaction	95% or greater
Average speed of customer service	Answer in less than 30 seconds
Customer service accuracy	97% or greater

**EXHIBIT C**  
**BUSINESS ASSOCIATE AGREEMENT**

This Agreement ("Agreement") is effective upon execution by and between SPWI TPA, Inc. d/b/a Quartz ("Business Associate") and Gundersen Health Plans, Inc. ("Organization").

Organization and Business Associate mutually agree to comply with the requirements of the implementing regulations at 45 Code of Federal Regulations ("C.F.R.") Parts 160-64 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). This Agreement shall supersede any prior business associate agreement.

**1. Privacy of Protected Health Information.**

a) **Permitted Uses and Disclosures.** Business Associate is permitted to use and disclose Protected Health Information that it creates or receives on Organization's behalf or receives from Organization (or another business associate of Organization) and to request Protected Health Information on Organization's behalf (collectively, "Organization's Protected Health Information") only for the following purposes:

i) **Functions and Activities on Organization's Behalf.** To perform services consistent with Section 1(a) and Exhibit A of the Management Agreement that was effective on [\_\_\_\_\_].

ii) **Business Associate's Operations.** For Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities, provided that, with respect to disclosure of Organization's Protected Health Information, either:

A) The disclosure is Required by Law; or

B) Business Associate obtains reasonable assurance from any person or entity to which Business Associate will disclose Organization's Protected Health Information that the person or entity will:

1) Hold Organization's Protected Health Information in confidence and use or further disclose Organization's Protected Health Information only for the purpose for which Business Associate disclosed Organization's Protected Health Information to the person or entity or as Required by Law; and

2) Promptly notify Business Associate (who will in turn notify Organization in accordance with Section 4(a)) of any instance of which the person or entity becomes aware in which the confidentiality of Organization's Protected Health Information was breached.

iii) **Data Aggregation Services.** Business Associate may use Protected Health Information to provide Data Aggregation services to the Organization as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

iv) **Reporting Violations.** Business Associate may use and disclose Protected Health Information to report violations of law to appropriate state and federal authorities, to the extent permitted or required by 45 C.F.R. § 164.502(j)(1) and state law.

v) **De-Identified Data.** Business Associate may de-identify Protected Health Information in accordance with the requirements outlined in the Privacy Rule. Data that has been de-identified will no longer be subject to the terms of this Agreement.

vi) **Minimum Necessary.** Business Associate will, in its performance of the functions, activities, services, and operations specified in Section 1(a) above, make reasonable efforts to use, to disclose, and to request only the minimum amount of Organization's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum necessary limitation if neither Business Associate nor Organization is required to limit the use, disclosure or request to the minimum necessary. Business Associate and Organization acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the American Recovery and Reinvestment Act ("ARRA") and government guidance on the definition.

b) **Prohibition on Unauthorized Use or Disclosure.** To the extent Protected Health Information is held by Business Associate, Business Associate will neither use nor disclose Organization's Protected Health Information, except as permitted or required by this Agreement or in writing by Organization or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Organization's Protected Health Information or take any other action in a manner that will violate 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information" (the "Privacy Rule") if done by Organization, except as set forth in Section 1(a)(ii).

c) **Information Safeguards.**

i) **Privacy of Organization's Protected Health Information.** Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Organization's Protected Health Information. The safeguards must reasonably protect Organization's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.

ii) **Security of Organization's Electronic Protected Health Information.** Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on Organization's behalf as required by the Security Rule, 45 C.F.R. Part 164, Subpart C.



d) **Subcontractors and Agents.** Business Associate will require any of its subcontractors and agents, to which Business Associate is permitted by this Agreement or in writing by Organization to disclose Organization's Protected Health Information and / or Electronic Protected Health Information, to agree in a written agreement with Business Associate, to comply with the same privacy and security safeguard obligations with respect to Organization's Protected Health Information and / or Electronic Protected Health Information that are applicable to Business Associate under this Agreement.

e) **Prohibition on Sale of Records.** Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual unless the Organization or Business Associate obtained from the individual, in accordance with 45 C.F.R. 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that individual, except as otherwise allowed under ARRA.

f) **Conditions on Marketing and Fundraising Communications.** Business Associate shall not use or disclose Protected Health Information for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service or for fundraising communications unless such communication is permitted by the Privacy Rule and as approved in writing by the Organization.

g) **Compliance with Law.** To the extent Business Associate is to carry out the Organization's obligations under HIPAA, Business Associate will comply with HIPAA's requirements that apply to Organization in the performance of such obligation.

2. **Compliance with Transaction Standards.** If Business Associate conducts in whole or part electronic Transactions on behalf of Organization for which DHHS has established Standards, Business Associate will comply, and will require any subcontractor or agent it involves with the conduct of such Transactions to comply, with each applicable requirement of the Transaction Rule, 45 C.F.R. Part 162. Business Associate shall comply with the National Provider Identifier requirements, if and to the extent applicable. Business Associate will not enter into, or permit its subcontractors or agents to enter into, any Trading Partner Agreement in connection with the conduct of Standard Transactions on behalf of Organization that:

- a) Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
- b) Adds any data element or segment to the maximum defined data set;
- c) Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
- d) Changes the meaning or intent of the Standard Transaction's implementation specification.

### 3. **Individual Rights.**

a) **Access.** Business Associate will, within 20 calendar days following Organization's request, make available to Organization or, at Organization's direction, to an individual

(or the individual's personal representative) for inspection and obtaining copies Organization's Protected Health Information about the individual that is in Business Associate's custody or control, so that Organization may meet its access obligations under 45 C.F.R. § 164.524. If none is possessed, Business Associate will so advise the Organization within the same timeframe. If the Protected Health Information is held in an Electronic Health Record, then the individual shall have a right to obtain from Business Associate a copy of such information in an electronic format if it is readily producible in such format as is required under 45 C.F.R. § 164.524; if it is not readily producible, Business Associate will work with Organization to determine an alternative form and format so that the Covered Entity can meet its obligations under 45 C.F.R. § 164.524. Business Associate shall provide such a copy to Organization or, alternatively, to the individual directly, if such alternative choice is clearly, conspicuously and specifically made by the individual or Organization.

b) **Amendment.** Business Associate will, upon receipt of written notice from Organization, promptly amend or permit Organization access to amend any portion of Organization's Protected Health Information, so that Organization may meet its amendment obligations under 45 C.F.R. § 164.526.

c) **Disclosure Accounting.** So that Organization may meet its disclosure accounting obligations under 45 C.F.R. § 164.528:

i) **Disclosures Subject to Accounting.** Business Associate will record the information specified in Section 3(c)(iii) below ("Disclosure Information") for each disclosure of Organization's Protected Health Information, not excepted from disclosure accounting as specified in Section 3(c)(ii) below, that Business Associate makes to Organization or to a third party.

ii) **Disclosures Not Subject to Accounting.** Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Organization's Protected Health Information if Organization need not account for such disclosures.

iii) **Disclosure Information.** With respect to any disclosure by Business Associate of Organization's Protected Health Information that is not excepted from disclosure accounting by Section 3(c)(ii) above, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

A) **Disclosure Information Generally.** Except for repetitive disclosures of Organization's Protected Health Information as specified in Section 3(c)(iii)(B) below, the Disclosure Information that Business Associate must record for each accountable disclosure is: (i) the disclosure date, (ii) the name and (if known) address of the entity to which Business Associate made the disclosure, (iii) a brief description of Organization's Protected Health Information disclosed, and (iv) a brief statement of the purpose of the disclosure.

B) **Disclosure Information for Repetitive Disclosures.** For repetitive disclosures of Organization's Protected Health Information that Business

Associate makes for a single purpose to the same person or entity (including Organization), the Disclosure Information that Business Associate must record is either the Disclosure Information specified in Section 3(c)(iii)(A) above for each accountable disclosure, or: (i) the Disclosure Information specified in Section 3(c)(iii)(A) above for the first of the repetitive accountable disclosures, (ii) the frequency, periodicity, or number of the repetitive accountable disclosures, and (iii) the date of the last of the repetitive accountable disclosures.

iv) **Availability of Disclosure Information.** Business Associate will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates (3 years for disclosures related to an Electronic Health Record, starting with the date specified by DHHS).

Business Associate will make the Disclosure Information available to Organization within 20 calendar days following Organization's request for such Disclosure Information to comply with an individual's request for disclosure accounting. Effective as of the date specified by DHHS, with respect to disclosures related to an Electronic Health Record, Business Associate shall provide the accounting directly to an individual making such a disclosure request, if a direct response is requested by the individual.

d) **Restriction Agreements and Confidential Communications.** Business Associate will comply with any agreement that Organization makes that either (i) restricts use or disclosure of Organization's Protected Health Information pursuant to 45 C.F.R. § 164.522(a), or (ii) requires confidential communication about Organization's Protected Health Information pursuant to 45 C.F.R. § 164.522(b), provided that Organization notifies Business Associate in writing of the restriction or confidential communication obligations that Business Associate must follow. Organization will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Organization's Protected Health Information will remain subject to the terms of the restriction agreement. Business Associate will comply with any restriction request if: (i) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (ii) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

#### 4. **Breaches and Security Incidents.**

a) **Mitigation.** 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 Agreement.

b) **Reporting.**

i) **Privacy or Security Breach.** Business Associate will report to Organization any use or disclosure of Organization's Protected Health Information not permitted by this Agreement or in writing by Organization, along with any Breach of Organization's Unsecured Protected Health Information. Business Associate will treat the Breach as being Discovered in accordance with HIPAA's requirements. Business Associate will make the report to Organization's Privacy Official not more than 10 calendar days after Business Associate learns of such non-permitted use or disclosure. If a delay is requested by a law enforcement official in accordance with 45 C.F.R. § 164.412, Business Associate may delay notifying Organization for the time period specified by such regulation. Business Associate's report will at least:

A) Identify the nature of the Breach or other non-permitted use or disclosure, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of any Breach;

B) Identify Organization's Protected Health Information that was subject to the non-permitted use or disclosure or Breach (such as whether full name, social security number, date of birth, home address, account number or other information were involved) on an individual-by-individual basis;

C) Identify who made the non-permitted use or disclosure and who received the non-permitted disclosure;

D) Identify what corrective or investigational action Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate any harmful effects that are known or reasonably should be known to Business Associate and to protect against any further Breaches;

E) Identify what steps the individuals who were subject to a Breach should take to protect themselves;

F) Provide such other information, including a written report, as Organization may reasonably request; and

G) Coordinate with Organization regarding information to be provided to individuals who were subject to a Breach regarding a contact for the individual to ask questions or obtain additional information regarding such Breach.

ii) **Security Incidents.** Business Associate will report to Organization within three calendar days any attempted or successful (A) unauthorized access, use, disclosure, modification, or destruction of Organization's Electronic Protected Health Information or (B) interference with Business Associate's system operations in Business Associate's information systems, of which Business Associate becomes aware. Business Associate will make this report upon Organization's request, except if any such security incident resulted in a disclosure or Breach of Organization's Protected Health Information or Electronic Protected Health Information not permitted by this Agreement, Business Associate will make the report in accordance with Section 4(a)(i) above.

5. Termination of Agreement.

a) Right to Terminate for Breach. Organization may terminate Agreement if it determines, in its sole discretion, that Business Associate has breached any provision of this Agreement and upon written notice to Business Associate of the breach, Business Associate fails to cure the breach within 10 calendar days after receipt of the notice. Organization may exercise this right to terminate Agreement by providing Business Associate written notice of termination, stating the failure to cure the breach of the Agreement that provides the basis for the termination. Any such termination will be effective immediately or at such other date specified in Organization's notice of termination.

b) Obligations on Termination.

i) Return or Destruction of Organization's Protected Health Information as Feasible. Upon termination or other conclusion of Agreement, Business Associate will, if feasible, return to Organization or destroy all of Organization's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Organization's Protected Health Information. Business Associate will require any subcontractor or agent, to which Business Associate has disclosed Organization's Protected Health Information as permitted by Section 1(e) of this Agreement, to if feasible return to Business Associate (so that Business Associate may return it to Organization) or destroy all of Organization's Protected Health Information in whatever form or medium received from Business Associate, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Organization's Protected Health Information, and certify on oath to Business Associate that all such information has been returned or destroyed. Business Associate will complete these obligations as promptly as possible, but not later than 60 calendar days following the effective date of the termination or other conclusion of Agreement.

ii) Procedure When Return or Destruction Is Not Feasible. Business Associate will identify any of Organization's Protected Health Information, including any that Business Associate has disclosed to subcontractors or agents as permitted by Section 1(e) of this Agreement, that cannot feasibly be returned to Organization or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will require such subcontractor or agent to limit its further use or disclosure of Organization's Protected Health Information that such subcontractor or agent cannot feasibly return or destroy to those purposes that make the return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than 60 calendar days following the effective date of the termination or other conclusion of Agreement.

iii) **Continuing Privacy and Security Obligation.** Business Associate's obligation to protect the privacy and safeguard the security of Organization's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of this Agreement.

6. **Indemnification.** Business Associate shall indemnify and hold harmless Organization from any and all claims, causes of action, and demands whatsoever made for loss, damage, or injury to any person arising from a breach by Business Associate, or its subcontractors, of its obligations under this Agreement, to the extent said claims, causes action, and demands were incurred by Organization as a result of the Business Associate's (or any subcontractor's) breach of its obligations under this Agreement.

7. **General Provisions.**

a) **Inspection of Internal Practices, Books, and Records.** Business Associate will make its internal practices, books, and records relating to its use and disclosure of Organization's Protected Health Information available to Organization and to DHHS to determine Organization's compliance with the Privacy Rule, 45 C.F.R. Part 164, Subpart E.

b) **Definitions.** All terms that are used but not otherwise defined in this Agreement shall have the meaning specified under HIPAA, including its statute, regulations and other official government guidance. For purposes of this Agreement, Organization's Protected Health Information encompasses Organization's Electronic Protected Health Information.

c) **Amendment to Agreement.** Upon the compliance date of any final regulation or amendment to final regulation promulgated by DHHS that affects Business Associate's use or disclosure of Organization's Protected Health Information or Standard Transactions this Agreement will automatically amend such that the obligations imposed on Business Associate remain in compliance with the final regulation or amendment to final regulation.

d) **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed as creating any rights or benefits to any third parties.

e) **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule, the Security Rule, HIPAA, or ARRA, or any other reference to a law or regulation, means the section or law as in effect as of the date of this Agreement or as subsequently amended.

f) **Survival.** The respective rights and obligations of Business Associate under Section 5(b) and Section 6 of this Agreement shall survive the termination of this Agreement.

g) **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits compliance with the applicable law, rule or regulation.

h) **Relationship to Other Agreement Provisions.** In the event that a provision of this Agreement is contrary to a provision of an underlying agreement or agreements under which Organization discloses Protected Health Information to Business Associate, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of such underlying agreement or agreements between the parties.

i) **Prior Business Associate Agreements.** Consistent with Section 7(h), this Agreement shall supersede any and all prior business associate agreement(s), or terms of other agreements addressing the privacy and security of Protected Health Information, between the parties.

j) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of Wisconsin.

k) **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and when taken together shall constitute one agreement.

**IN WITNESS WHEREOF**, Organization and Business Associate execute this Agreement in multiple originals to be effective \_\_\_\_\_.

**SPWI TPA, Inc. d/b/a Quartz**

**Gundersen Health Plan, Inc.**

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT D**  
**MEDICARE ADVANTAGE ADDENDUM**

This Medicare Advantage Addendum ("Addendum") supplements the Management Services Agreement by and between SPWI TPA, Inc. d/b/a Quartz, a Wisconsin for-profit corporation ("Quartz"), and Gundersen Health Plan, Inc., a Wisconsin health maintenance organization ("HMO") (each, a "Party," and collectively, "Parties") with respect to Members enrolled in HMO's Medicare Advantage Benefit Plan ("Medicare Advantage Members"). Capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement.

**WHEREAS**, HMO and the Centers for Medicare and Medicaid Services ("CMS") have entered into an agreement ("MA Agreement") for the provision by HMO of its Medicare Advantage Benefit Plan, a Medicare Advantage program;

**WHEREAS**, Quartz has agreed to provide management and administrative services with respect to Medicare Advantage Members enrolled in the Medicare Advantage Benefit Plan; and

**WHEREAS**, Quartz and HMO must comply with the statutory and regulatory requirements for any Medicare Advantage program.

**NOW, THEREFORE**, the Parties agree as follows:

1. **Administration of the CMS Contract.**

- a. HMO is ultimately responsible for adhering to and otherwise materially complying with all terms and conditions of the CMS Contract. HMO shall maintain responsibility for all terms, conditions, approvals and decisions as a Medicare Advantage Organization and as required by Laws, except where expressly provided in this Agreement. HMO shall offer Product to Members according to the terms and conditions of the Product, the CMS Contract, and Laws. HMO shall keep Quartz informed on communications with CMS with respect to the CMS Contract and shall promptly, but in no instance more than one (1) business day after the communication from CMS, notify Quartz of the proposed termination by HMO or receipt of any notice to terminate the CMS Contract or any notice of proposed amendment, deficiency or corrective action that is directly related to the CMS Contract and that affects Quartz's performance of Services.
- b. Except as expressly provided herein, HMO shall not take any action, and shall not fail to act, in connection with the CMS Contract, the administration of the Product, or this Agreement in a manner that prevents, impedes, interferes or reduces in any way the provision of Services or Quartz's ability to perform under this Agreement.

2. **No Billing of Medicare Advantage Members.** Quartz hereby agrees that in no event, including, without limitation, non-payment by HMO or HMO's insolvency or breach of this Agreement, shall Quartz bill, charge, seek compensation, remuneration, or reimbursement from, or have any recourse against a Medicare Advantage Member or person acting on his or her behalf, for amounts owed by HMO under this Agreement.



3. **Inspection and Audit of Records and Facilities; Record Retention.** Quartz shall provide access to its office premises and equipment, during normal business hours and upon advance notice, to HMO, the Department of Health and Human Services, the Comptroller General or their designees to audit, evaluate and inspect any books, contracts or records, including medical records and documentation of services provided under this agreement. The right to audit shall extend through ten (10) years from termination of this Addendum or the date of completion of any audit, whichever is later. Quartz shall retain the books and records described in this Section for at least ten (10) years from the later of the end of the term of the MA Agreement, the date of the completion of any audit, or for such longer period required by applicable state or federal law.
4. **Compliance with Medicare Laws.** The Parties shall comply with Medicare laws and regulations, CMS instructions and guidance, and the terms of the MA Agreement. Each Party shall cooperate with the other Party's efforts to so comply.
5. **Compliance with Federal Laws.** Quartz agrees to comply with laws designed to prevent or ameliorate fraud, waste and abuse, including, but not limited to applicable provisions of Federal criminal law, the False Claims Act (31 U.S.C. § 3729 et seq.), and the anti-kickback statute (42 U.S.C. § 1320a-7b(b)). Quartz agrees to comply with all other Federal statutes and regulations applicable to recipients of Medicare funds. 42 CFR § 422.504(h)(1).
6. **Excluded Persons.** Quartz shall not, and shall not employ or contract with an individual or entity who is, excluded from participation in Medicare under Section 1128 or 1128A of the Social Security Act (or with an entity that employs or contracts with such an excluded individual or entity) for the provision of health care services, and Quartz represents and warrants that no final adverse action, as such term is defined under 42 U.S.C. § 1320a-7e-(g), has occurred or is pending or threatened against Quartz or, to Quartz's knowledge, against any employees, contractor or agent engaged to provide goods or services under this Agreement. Quartz shall notify HMO immediately if it becomes so excluded or ineligible to participate in Medicare.
7. **Delegation.** The Parties acknowledge and agree that HMO oversees and is accountable to CMS for any functions and responsibilities described in the MA Agreement. To the extent HMO delegates any functions, it shall comply with the Medicare Advantage delegation regulatory requirements, as amended from time to time. HMO shall only delegate activities or functions to Quartz pursuant to a written delegation agreement in compliance with 42 CFR §§ 422.504(i)(3), (4) and (5), which require, among other things, a covenant of Quartz that it will comply with all applicable Medicare laws, regulations, and CMS instructions.
8. **Certification of Data.** The chief executive officer of Quartz, the chief financial officer, or an individual delegated the authority to sign on behalf of one of these officers, shall certify from time to time, as requested by HMO, that the encounter data and other data supplied by Quartz (based on its best knowledge, information, and belief) are accurate, complete and truthful. If any of this data is inaccurate or incomplete, HMO may withhold or deny payment in accordance with Medicare Advantage rules.

9. **Interference With Health Care Professionals' Advice.** Quartz may not prohibit or otherwise restrict a health care professional, acting within the lawful scope of practice, from advising or advocating on behalf of a Medicare Advantage Member about the Medicare Advantage Member's health status, medical care or treatment options (including any alternative treatments that may be self-administered), including the provision of sufficient information to the Medicare Advantage Member to provide the Medicare Advantage Member an opportunity to decide among relevant treatment options, the associated risks, benefits, and consequences of treatment or non-treatment or the opportunity for the Medicare Advantage Member to refuse treatment and to express preferences about future treatment decisions.
10. **Services.** Quartz agrees to provide and perform services consistent with and in compliance with the terms of the MA Agreement, federal program participation requirements and HMO's policies and procedures which implement Medicare Advantage laws, regulations, and CMS instructions applicable to Quartz for services to Medicare Advantage Members.
11. **Non-Discrimination.** Quartz acknowledges and agrees that payments Quartz receives from HMO to provide services to Medicare Advantage Members are, in whole or part, from federal funds. Quartz shall comply with Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans With Disabilities Act, and all related implementing regulations. Quartz agrees that it will not (i) discriminate against any Medicare Advantage Member on the basis of race, color, religion, sex, national origin, age, health status, participation in any government program (including Medicare), source of payment, participation in a health plan, marital status or physical or mental handicap nor (ii) contract with any downstream entity to provide Services, which discriminates against any Medicare Advantage Member on such bases.
12. **Subcontracting.** If Quartz subcontracts any services under the Agreement to other vendors, such vendors must agree to comply with the provisions contained in this Addendum, and Quartz shall provide documentation to HMO upon request evidencing the same.
13. **HIPAA.** Each Party shall protect the confidentiality of each Medicare Advantage Member's private health information and shall otherwise comply with the requirements of the privacy, security and transaction/code set standards set forth in the implementing regulations for HIPAA and the HITECH Act.
14. **Revocation.** Quartz acknowledges that HMO oversees on an on-going basis, and is ultimately accountable to CMS for, administration of the Product and performance under the CMS Contract. Pursuant to 42 C.F.R. § 422.504(i), in instances in which CMS determines or HMO reasonably determines that Quartz has not performed satisfactorily with respect to any of the material delegated functions or reporting responsibilities, HMO, in lieu of terminating this Agreement with cause, reserves the right to revoke and assume or delegate to another Person (meaning natural person, corporation, partnership, association, joint stock company, governmental entity, business trust, unincorporated organization or other legal entity) performance of the delegated activity or reporting requirement or implement other remedies; provided, however, that Quartz shall be given at least thirty (30) days to cure such issue giving rise to the unsatisfactory performance. The Parties agree that in the event that HMO

revokes any delegated activity or reporting requirement under this section, Quartz shall cooperate with HMO in transferring such delegated activity or reporting requirement.

15. **Special Services.** In addition to the Services set forth in Section 1 of the Agreement, Quartz shall provide those Services listed in Attachment I hereto that relate specifically to HMO's Medicare Advantage products.

16. **General Provisions.**

- a. **Applicability.** The provisions of this Addendum pertain solely to the federal Medicare Advantage programs operated and administered by CMS and to Quartz's services rendered to HMO's Medicare Advantage Members. HMO and Quartz intend that the terms of the Agreement and this Addendum shall be interpreted in a manner consistent with applicable requirements under Medicare law.
- b. **Construction.** These provisions of this Addendum shall be construed in favor of any Medicare Advantage Member.
- c. **Termination.** This Addendum shall terminate upon the earlier of the termination of the MA Agreement or the termination of the Agreement.
- d. **Survival.** The provisions of this Addendum shall survive termination of the Agreement, regardless of the reason for termination.
- e. **Conflict with Agreement.** This Addendum supersedes any provisions in the Agreement, any prior Medicare or Medicare Advantage addenda or any other agreement between the Parties or between Quartz and a Medicare Advantage Member or his or her representative, relating to Quartz's services to Medicare Advantage Members that are: (i) inconsistent with this Addendum; (ii) less specific than this Addendum with respect to the subject matter of any provision herein; or (iii) non-compliant with Medicare regulations and instructions.

IN WITNESS WHEREOF, this Medicare Addendum is entered into by and between the undersigned Parties set forth below.

**SPWI TPA, Inc. d/b/a Quartz**

**Gundersen Health Plan, Inc.**

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## Attachment 1 – Special Medicare Advantage Services

### Develop Product and Submit Bid

1. Assist and guide HMO in system access to Health Plan Management System
2. Assist in CMS rebate reallocation process and actuarial review with CMS.
3. Configure benefit designs, rates and communications materials in Quartz systems for MA Plans.
4. Establish business and/or system processes to update – includes adding, removing, or modifying – HMO’s individual MA Plans, benefits and rates from year to year.
5. Establish business and/or system processes to update – includes adding, removing, or modifying – HMO’s group MA Plans, benefits and rates from year to year.
6. Provide annual MA Plans/bid support, that includes, but not limited to:
  - Review of MA Plans / benefit design based on HMO’s marketplace and Quartz’s experience and best practices
  - Actuarial support on the build and review prior to submission of the bid
  - Assistance as CMS works with client on the bid and all follow-ups prior to acceptance

### Marketing Activities

1. Share best practices for sales strategy and campaigns, including AEP and age-in or special enrollment processes.
2. Review and provide guidance on annual CMS changes related to commissions and provide consulting on HMO’s agent/broker network and commission strategy.
3. Assist in determining whether secondary language requirements will be triggered in HMO’s service area.
4. Participate in joint business process design meetings to clearly define the processes and hand-offs between Quartz and HMO, including but not limited to processes for the creation, business review, CMS submission and approval processes for member, broker/agent materials (includes scripts, presentations, member/group materials, etc.), hand-offs between the sales and enrollment functions, account and broker management functions, among others.
5. Provide ongoing guidance on annual CMS changes related to commissions and sales approach.

### Provider Contracting and Network Development

1. Quartz to participate in business design and requirements sessions and then complete system development work to:
  - Develop HMO branded provider directory, on-line and paper versions
  - Load and secure HMO provider contracts in Quartz systems, including related CMS reimbursement schedules and policies
  - Develop reporting and/or data extracts to support HMO management of MA provider network and provider engagement initiatives

Manage  
Enrollment,  
Disenrollment,  
Membership and  
Billing

1. Quartz shall participate in joint business process design meetings to clearly define the processes and hand-offs between Quartz and HMO, including processes to support Individual MA Plan and Employer Group enrollment, disenrollment and membership maintenance activities (including billing, refunds and delinquencies).
2. Quartz shall participate in business design and requirements sessions and then complete system development work to:
  - Develop required enrollment/post-enrollment member communications, including outbound enrollment verification (“OEV”) calls
  - Develop integration with HMO bank for Member and CMS premium receipt
  - Develop systems and processes for the receipt and reconciliation of CMS enrollment data and payments, including monthly reporting and/or data extracts to HMO
3. Quartz shall be responsible for all Member communications (e.g., letters, enrollment packets, inbound and outbound telephone calls) and associated costs.
4. Quartz shall process member applications during AEP and SEP (whether submitted online, via the Quartz sales portal, in paper, from HMO or via group enrollment file transfer or other channels) according to CMS guidelines and timeframes, including (i) performing OEV, (ii) ensuring that CMS required materials are appropriately issued to Members, (iii) processing Late Enrollment Penalties and (iv) processing low income subsidy reconciliations.
5. Quartz shall process Member cancellations and disenrollments.
6. Quartz shall perform daily and monthly reconciliations of Member accounts and CMS payments in order to ensure agreement between CMS records and HMO records.
7. Quartz shall assist HMO in resolving enrollment and Member payment discrepancies with CMS.
8. Quartz shall on a monthly basis, monitor, process and reconcile special status data such as Medicare Secondary Payer and End Stage Renal Disease.
9. Quartz shall create and distribute CMS mandated new member materials such as Summary of Benefits, formulary, Member ID card development, etc.
10. Quartz shall support auto-assignment of PCP as well as PCP change processes for members.
11. Quartz shall manage fulfillment of CMS mandated Member materials related to enrollment, disenrollment and maintenance activities.
12. Quartz shall collect and process all Member premium payments (check, EFT/ACH or credit card).
13. Quartz shall receive, post and reconcile CMS payments to HMO, including working with CMS and other stakeholders (member, group, etc.) to handle any/all adjustments including retrospective.

Customer Service

1. Quartz shall manage and staff the call center to ensure that call statistics meet or exceed the CMS requirements as outlined in Laws.
2. Quartz shall provide translation and TTY/TTD services.
3. Quartz shall identify and respond to non-quality Member grievances related to

benefits, network or other non-quality issues within CMS required standards and timeframes.

4. Quartz shall perform Member outreach activities, including OEV calls and other calls identified to deliver improved customer satisfaction and future service call prevention.

#### Claims

1. Quartz shall participate in business design and requirements sessions and then complete system development work to:
  - Configure the claims or other systems to support HMO's defined payment parameters (payment cycle, auto-recovery, etc.), Medicare payment rules and provider contract structures for incentives, withholds/draws and related payments
2. Quartz shall receive, review and provide a full adjudication process of all Part C claims (paper or electronic), submitted pursuant to HMO policies and verification of claimant's eligibility for benefits and determining the applicable payment amount based on requirements and information provided by HMO.

#### Medical Management

1. Develop Health Risk Assessment processes and materials, including HMO branding and processes/systems for sharing with primary care physicians
2. Create Quality Improvement Program, including: overall Program, metrics and monitoring processes; establishment of required quality committees and related reporting to HMO representatives and/or committees, HEDIS/CAHPS/HOS data collection and reporting, quality improvement program for readmissions
3. Implement a Chronic Care Improvement Plan, including development of criteria and scope, design interventions and reporting
4. 105) Quartz shall design, implement and provide reporting related to a CMS mandated Quality Improvement Program and Chronic Care Improvement Program.

#### Appeals and Grievances

1. Quartz shall participate in joint sessions to define the processes, hand-offs, and roles and responsibilities for each of the appeals and grievances processes, including required reporting to CMS and engagement of HMO Medical Director.
2. Quartz shall participate in business design and requirements sessions and then complete system development work to:
  - Implement Organizational determination processes, including review and modification of policies and procedures; establishment of related reporting and metrics to client and CMS; development of the oversight processes for delegated entities;
  - Implement MA appeals process, including review and modification of policies and procedures; establishment of related reporting and metrics, to client and CMS; development of the oversight processes for delegated entities;
  - Implement MA grievance process, including review and modification of policies and procedures; establishment of related reporting and metrics, to client and CMS
  - Implement Part D appeals and grievance process, including review and

modification of policies and procedures; establishment of related reporting and metrics, to client and CMS; development of the oversight processes for PBM related activities;

3. Quartz shall process and resolve Member and non-participating provider Part C appeals in a time frame and manner that meets or exceeds the standards outlined by CMS, including but not limited to initial intake and data entry, review of pertinent regulations, Medical Director outreach (including interfaces with HMO's designated Medical Director for cases that meet pre-defined criteria) to make a determination, generating and mailing of correspondence to communicate determinations, and effectuating corrective activities as a result of an overturn determination.
4. Quartz shall provide reporting to HMO detailing Part C and Part D appeals and Independent Review Entity ("IRE") overturns in frequency and manner agreed upon by HMO.
5. Quartz shall respond to IRE requests as received, which may involve performing effectuation requirements and providing additional clinical information to the IRE.
6. Quartz shall forward required documentation to IRE related to adverse reconsiderations or redeterminations. Assess IRE overturn decisions and determine if process improvements or a request to re-open the case are warranted.
7. As necessary, Quartz shall participate in Administrative Law Judge hearings, Medicare Appeals Council reviews, or judicial reviews.
8. Quartz shall conduct/participate in mock audits/CMS audits/data validation audits, including the population of the audit universe, responding to auditor inquiries, participating in audit sessions and meetings, implementing corrective actions and documentation of specific interventions.

#### Quality Star Management

1. Quartz shall provide initial and ongoing configuration of System for Quality Stars management, including the establishment of related reporting, metrics and analytics customized for HMO.
2. Quartz shall participate in business design and requirements sessions and then complete system development work for the following:
  - Develop Quality Stars intervention plan, process, and reporting for HMO
  - Develop proxy measure and reporting support related to Quality Stars management; including the evaluation of current provider performance in the Service Area
  - Develop supplemental data collection and submission process
3. Quartz shall participate in joint business process design meetings to:
  - Clearly define the processes and hand-offs between Quartz and HMO related to Stars management and decision making
  - Establish provider education forum including but not limited to monthly Provider Practice Medical Director Calls

#### Part D/PBM

1. Quartz shall participate in review meetings for Part D benefit and network design to ensure best practice approach and operational feasibility.

2. Quartz shall participate in working sessions to define roles and responsibilities between HMO, Quartz and HMO's contracted PBM.
3. Quartz shall participate in joint business process design meetings to define the processes and hand-offs between Quartz, HMO and HMO's contracted PBM, including but not limited to:
  - Part D customer service functions
  - Part D appeals and grievances
  - Part D UM
  - MTMP Medication Therapy Management Program functions
  - Performance monitoring and compliance oversight
4. Quartz shall participate in business design and requirements sessions and then complete system development work to:
  - Integrate data (eligibility, accumulators, claims) to/from HMO's contracted PBM with Quartz systems
  - Develop and implement member communication materials for Part D functions provided by Quartz, including combined EOB/benefit statements
  - Develop and implement prescription drug event processes
  - Develop and implement HMO reporting on Part D program performance
5. Quartz shall participate in business design and requirements sessions and then complete system development work to:
  - Integrate data (eligibility, accumulators, claims) to/from HMO's contracted PBM with Quartz systems
  - Develop and implement member communication materials for Part D functions provided by Quartz, including combined EOB/benefit statements
  - Develop and implement prescription drug event processes
6. Quartz shall develop and implement HMO reporting on Part D program performance
7. Quartz shall perform overall medical and utilization management functions, including:
  - Conduct medical necessity review of services provided to members to administer organization determinations in compliance with CMS requirements.
  - Administer timely member and provider notifications in compliance with CMS requirements.
8. Quartz shall provide on-going oversight and management responsibilities for Part D operations based on roles and responsibilities defined during the implementation phase of this agreement
9. Manage on-going business processes related to HMO's Part D program to ensure on-going compliance with CMS as well as HMO's business design and requirements

## Financials

1. Manage CMS payments, including but not limited to:
  - Collection and reconciliation of CMS payments
  - HMO reporting to CMS



- CMS reporting to HMO (payment)

**EXHIBIT E  
REPORTS**

<b>Report</b>	<b>Frequency</b>
Balance Sheet	Quarterly; must be sent to HMO no later than 30 days after the end of a quarter
Income Statement	Quarterly; must be sent to HMO no later than 30 days after the end of a quarter
Cash Flow Statements	Quarterly; must be sent to HMO no later than 30 days after the end of a quarter
Standing Committee Reports	Quarterly; must be sent to HMO no later than 30 days after the end of a quarter
Audit Plan	Annually; must be sent to HMO no later than 30 days after the end of a calendar year
Proposed Annual Operating Budget	Annually; must be sent to HMO no later than 45 days before the start of a calendar year
External Audit Reports	Must be sent to HMO no later than 30 days after Quartz's receipt from external auditor
Internal Audit Reports	Must be sent to HMO no later than 30 days after Quartz completes the internal audit report

1. All reports provided by Quartz shall be in the format requested by HMO.
2. Quartz shall provide any such other reports as requested by the HMO Board of Directors and/or as required by HMO or applicable law.

MANAGEMENT AGREEMENT

This Management Agreement (the "Agreement") is made and entered into on \_\_\_\_\_, 2016 ("Effective Date") by and between SPWI TPA, Inc. d/b/a Quartz, a Wisconsin for-profit corporation ("Quartz"), and Unity Health Plans Insurance Corporation, a Wisconsin stock insurance corporation ("Unity") (each, a "Party," and collectively, "Parties"), with reference to the following background:

A. Unity is a duly organized and validly existing corporation that is licensed as a stock insurance corporation in Wisconsin;

B. Quartz is a duly organized and validly existing corporation that is an Affiliate (as defined in Section 1(c) below) of Unity and provides administrative and management services to support health maintenance organizations and health insurers in the administration of their benefit products;

C. Unity desires for Quartz to provide certain administrative and management services to and on behalf of Unity in connection with Unity's benefit products; and

D. Quartz desires to provide such services to and on behalf of Unity in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing background recitals and the mutual promises and covenants set forth herein, and for other good and value consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. Authority and Duties of Quartz.

(a) Services. Quartz may provide to Unity, from time to time and either directly or through third parties, the following services ("Services") described below and more fully in Exhibit A:

- (i) reinsurance pricing and procurement;
- (ii) investment services;
- (iii) actuarial analysis;
- (iv) underwriting
- (v) human resources services and employee benefits administration;
- (vi) policyholder services;
- (vii) legal services;
- (viii) corporate and tax accounting;

- (ix) record keeping and financial reporting;
- (x) information technology services;
- (xi) sales, marketing, and enrollment;
- (xii) account and broker management;
- (xiii) compliance and strategic planning;
- (xiv) premium collection and refunds;
- (xv) claims management and settlement;
- (xvi) utilization review and utilization management;
- (xvii) provider credentialing;
- (xviii) member grievance and appeals;
- (xix) care coordination, disease management, quality management, and other quality improvement activities, including but not limited to maintaining National Committee for Quality Assurance accreditation;
- (xx) provider contracting and network management; and
- (xxi) such other services as the Parties mutually agree.

(b) Standard of Care. In providing the Services, Quartz shall act in good faith, in a commercially reasonable manner and in accordance with customary industry standards and applicable laws for the provision of the Services. Unity shall provide Quartz with all information that is necessary to enable Quartz to perform fully its obligations hereunder. Quartz shall provide the Services consistent with the service-level standards set forth in Exhibit B.

(c) Assignment. Quartz must have prior written approval from Unity to assign its rights or obligations with respect to the performance of any Services, including an assignment to an Affiliate of Unity. For purposes of this Agreement, "Affiliate" means, with respect to any Party, any other individual or entity controlling, controlled by or under common control with such Party, with "control" (including the terms "controlling," "controlled by" and "under common control with") meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an individual or entity, whether through ownership of voting securities, by contract or otherwise.

(d) Subcontracting. Quartz shall ensure that all arrangements with contractors engaged by Quartz to provide Services (i) are in writing, specify the services and reporting obligations, and are duly executed; (ii) require the provision of such services in accordance with the terms of this Agreement, applicable laws, and services standards and requirements as the

same would apply to Quartz if Quartz were performing the services; (iii) require compliance with the terms of this Agreement, as applicable; (iv) state that Unity and Quartz shall monitor the contractors' performance on an ongoing basis, including through routine audits; (v) include a Business Associate Agreement that complies with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH"), in every agreement with a contractor that receives protected health information ("PHI"), as that term is defined under HIPAA; and (vi) permit Quartz to suspend or revoke a contractor's provision of Services under this Agreement or take such other corrective action as regulatory bodies, Unity and/or Quartz determines appropriate. If any contractor credentials health care professionals, then the written arrangement also shall state that the credentials shall be reviewed by Unity and Quartz and/or the contractor's credentialing process shall be subject to review and approval as well as periodic audit by Unity and Quartz. Quartz shall use commercially reasonable efforts to promptly amend any agreements with contractors to comply with applicable laws. Quartz shall provide Unity with a list of all contractors on an annual basis and upon request.

(e) Unity Oversight.

Provision of the Services will at all times be subject to oversight and control by the Board of Directors of Unity, which shall direct and control the business that is being carried out by Quartz on behalf of Unity, including the control and direction of Quartz's employees in the performance of Services under this Agreement. No action taken by Quartz at the direction or with the approval of a majority of the Unity's Board of Directors in office at the time of the direction or approval may be used by Unity as grounds for termination under Section 4. In performing any Services hereunder, Quartz shall be responsible for following the written instructions and procedures of Unity hereunder.

2. Reimbursable Expenses.

(a) Quartz shall not be required to expend or advance its own funds in connection with the performance of the Services. Consistent with Section 3 below, Unity shall pay or reimburse Quartz for all costs and expenses incurred by Quartz for employees, equipment, facilities and other items in connection with Quartz performing Services or other duties and obligations under this Agreement. Expenses shall be apportioned in accordance with applicable Generally Accepted Accounting Principles. The books and records of Quartz and Unity shall be maintained in a way that clearly and accurately discloses the nature and details of the Services, including such accounting information as is necessary to support the expenses apportioned to Unity.

(b) All payments and/or reimbursements made by Unity to Quartz pursuant to Section 3 hereunder are intended to approximate the costs and expenses incurred by Quartz in performing its services hereunder. All of the advances, costs and expenses to be paid or reimbursed by Unity to Quartz pursuant to Section 3 or otherwise in this Agreement are collectively referred to as the "Reimbursable Expenses."

3. Payments for Services.

(a) No later than the second business day of each month that this Agreement is in effect, Unity shall pay Quartz an advance payment ("Monthly Advance Payment") equal to 1/12<sup>th</sup> the amount of Quartz's annual operating budget for services provided to Unity as approved by the Unity Board of Directors in advance of each year ("Annual Operating Budget") to cover the expected cost of Quartz's Reimbursable Expenses for the month. The first Monthly Advance Payment shall be made by Unity on the Effective Date without regard to whether the Effective Date is the first day of a month. Notwithstanding the foregoing, with respect to the 2016 calendar year, each Monthly Advance Payment shall be equal to the anticipated payment by Quartz to Unity for such month pursuant to the Employee Lease Agreement between Quartz and Unity dated the date hereof.

(b) In the event Quartz expects its Reimbursable Expenses for Services provided to Unity to exceed the amounts paid as Monthly Advance Payments by Unity, then Quartz may request that Unity's Board of Directors approve additional funding equal to the expected shortfall in Monthly Advance Payments ("Supplemental Funding"). Quartz shall provide Unity with sufficient data and information for Unity to evaluate a request for Supplemental Funding. Upon receiving such a request from Quartz, Unity's Board of Directors shall promptly vote on such request. The maximum Supplemental Funding request to Unity, as measured in the aggregate on a calendar year basis, is ten percent (10%) of the Annual Operating Budget.

(c) Within thirty (30) days following the end of each calendar year in which Services are provided, Quartz shall submit to Unity a statement setting forth all Reimbursable Expenses for such calendar year. Consistent with Section 2(b), the Reimbursable Expenses shall be calculated based on Quartz's actual costs to provide the Services. Within thirty (30) days after receipt of the statement, there shall be a reconciliation comparing Reimbursable Expenses to the Monthly Advance Payments and Supplemental Funding. Based on the results of such reconciliation, either (i) Unity shall, within five (5) business days, pay to Quartz the amount by which the Reimbursable Expenses exceeded the total Monthly Advance Payments and Supplemental Funding received by Quartz during the year or (ii) Quartz shall, within five (5) business days, pay to Unity the amount by which the Reimbursable Expenses were less than the total Monthly Advance Payments and Supplemental Funding received by Quartz during the year.

(d) Within thirty (30) days following the termination of this Agreement for any reason or until Services are transferred to a new party, whichever is later, Quartz shall return to Unity the amount Quartz has retained from Unity's payments during the term of this Agreement after deducting costs for Quartz's Reimbursable Expenses.

#### 4. Termination.

(a) This Agreement may be terminated as follows:

(i) By mutual agreement of the Parties in writing;

(ii) By either Party if the other Party has materially breached any material term of this Agreement and has not corrected such breach within 30 days after receipt of written notice of such breach. Notwithstanding the foregoing, if a failure by its nature cannot be

corrected within a 30-day period, then there shall be no right to terminate this Agreement if the correcting Party substantially begins correction within such 30-day period and thereafter expeditiously corrects such breach.

(iii) By either Party if the Parties are no longer Affiliates; or

(iv) By Unity if the type, quantity, or manner of Services provided by Quartz hereunder cause Unity to be operated, in Unity's reasonable discretion, in a manner that does not further Unity's purposes.

(b) In the event of termination of this Agreement, Quartz shall promptly arrange, at the cost of Unity, for the return or transfer to a successor service provider, if any, of all of the books and records of Unity, including any Proprietary Information, that were provided to Quartz or created by Quartz pursuant to Quartz's responsibilities under this Agreement. Quartz will cooperate with Unity in such return or transfer.

(c) In the event of termination, Quartz shall continue to provide Services for the period reasonably necessary to transfer the Services to a new entity.

5. **Confidentiality – Proprietary Information.**

(a) **Proprietary Information.** "Proprietary Information" includes the pricing, methods, processes, financial data, provider or customer lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, or related information of each of the Parties and/or its or their policyholders, concerning past, present, or future business activities of each Party. Proprietary Information includes all non-public information disclosed by either Party to the other prior to the execution of this Agreement.

(b) **Confidentiality.** Except as otherwise provided in this Agreement, each Party shall maintain the Proprietary Information of the other Party in strict confidence; will use such Proprietary Information only for purposes of this Agreement; and will not disclose such Proprietary Information to any person or entity, except with the prior written consent of the other Party. Each Party shall take reasonable precautions to prevent the disclosure of Proprietary Information and each Party shall be responsible for any breach of this confidentiality requirement by one of its officers, employees, directors, or third-party agents acting on behalf of such Party. Proprietary Information created, used, or purchased by Quartz for purposes of providing Services to Unity shall be the property of Unity while this Agreement is in effect and following its termination; such Proprietary Information must be transferred to Unity or Unity's designee upon termination of this Agreement, as set forth in Section 4(b) above.

(c) **Permissive Disclosures.** Nothing contained in this Agreement may be construed as prohibiting either Party's disclosure of Proprietary Information (other than to known actual competitors of the other Party):

(i) to its employees or employees of its parent company and subsidiaries and Affiliates on a need-to-know basis;

(ii) to the employees, agents, or representatives of the other Party; or

(iii) to other persons (including consultants) in need of access to the information for purposes specifically related to either Party's responsibilities under this Agreement.

(d) Information Lawfully Received.

(i) Neither Party has any obligation or liability with respect to the other's information to the extent that the information:

(A) is already known by the receiving Party on the date of this agreement, free from any obligation to keep such information confidential;

(B) is or becomes publicly known through no wrongful act of the receiving Party;

(C) is lawfully received by the receiving Party from a third party without restriction and without breach of any obligation of the third party; or

(D) must be disclosed pursuant to a court order or as required by any governmental or administrative authority or authorized regulatory agency, in which event the disclosing Party shall notify the other Party in advance of any such disclosure.

6. Privacy.

(a) The Parties shall, no later than the Effective Date, enter into a Business Associate Agreement substantially similar to that attached hereto as Exhibit C, to govern each Party's obligations under HIPAA and the HITECH Act.

(b) In addition to the obligations set forth in Exhibit C, the Parties shall comply with all applicable privacy laws, including but not limited to those applicable under the Gramm-Leach Bliley Act, codified at 15 U.S.C. § 6801 et seq., Wis. Admin. Code Ins. Chapter 25, Iowa Admin. Code r. 191.90, and Minn. Stat. §§ 60A.98 to 60A.982.

7. Reports.

(a) Quartz shall provide Unity with industry standard reports as set forth in Exhibit D ("Reports"), which Unity reasonably and in good faith requests to conduct its business, including monitoring of Quartz's performance hereunder. In addition, Quartz shall provide periodic reports to the Unity Board of Directors, which shall include, at a minimum, quarterly operational reports on certain operational statistics as requested by the Unity. Such reports shall contain the performance metrics for applicable laws related to the Services which Quartz has responsibility for performing. In the preparation of any reports pursuant to this Agreement, Quartz shall be responsible for following the written instructions and procedures of Unity hereunder and otherwise complying with the terms of this Agreement and applicable laws in connection with preparing the Reports.



(b) Quartz shall use commercially reasonable efforts to provide support to Unity in the event Unity is audited by a government authority with jurisdiction over the operations of Unity.

8. **Ownership of and Access to Records.** Each Party shall retain title to its own general corporate books and records. Each Party shall retain the right of continuing access to the books and records of the other Party sufficient to permit the Parties to fulfill all of their respective duties and obligations under this Agreement, subject to the provisions of Sections 5. The Parties acknowledge that state departments of insurance and applicable Federal agencies and departments lawfully entitled to access to books and records of a Party shall be given reasonable access to such books and records during normal business hours and upon reasonable advance notice. Unity shall have the right to audit Quartz's books and records to assess Quartz's compliance with this Agreement and applicable legal requirements.

9. **Relationship of the Parties.** Nothing contained herein shall be construed to create the relationship of employer/employee, partner, or joint venture between Unity and Quartz or to provide Quartz with the exclusive right to manage or control Unity in performing its obligations under this Agreement; Quartz may exercise its own judgment subject to the parameters set forth herein and further subject to any written rules, regulations and instructions issued by the Board of Directors or the officers of Unity as to the time and manner in which Quartz performs such obligations.

10. **Unity's Obligation to Provide Information.** Unity shall provide Quartz with all information which is necessary to enable Quartz to perform fully its obligations hereunder. Quartz shall not be liable to Unity for any failure to perform said obligations if such failure is a result of Unity's failure to provide Quartz with necessary information.

11. **Miscellaneous.**

(a) **Governing Law.** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Wisconsin, without giving effect to the choice or conflict of law provisions of that or any other jurisdiction.

(b) **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective only to the extent of any such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is invalid or unenforceable, that provision shall be interpreted to the extent possible in a manner that is valid and enforceable.

(c) **Non-waiver.** No failure by either Party to insist upon strict compliance with any term of this Agreement, to exercise any option, enforce any right, or seek any remedy upon any default of the other Party shall affect, or constitute a waiver of, the first Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default, nor shall any custom or practice of the Parties at variance with any provision of this Agreement affect, or

constitute a waiver of, either Party's right to demand strict compliance with all provisions of this Agreement.

(d) **Waivers and Amendments.** The Agreement and the Exhibits attached hereto may only be amended or modified, and the terms hereof may only be waived, by writing, signed by each Party or, in the case of a waiver, by the Party entitled to the benefit of the terms being waived.

(e) **Assignment.** Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred, in whole or in part, by any Party without the prior written consent of the other Party, except as provided in Section 1(c).

(f) **Binding Effect.** This Agreement will apply to and inure to the benefit of and be binding upon and enforceable against each Party and their respective successors and permitted assigns.

(g) **Construction; Interpretation.** All pronouns and any variations thereof refer to the masculine, feminine, or neuter, singular, or plural, as the context may require. The captions and headings of the various sections of this Agreement are not part of this Agreement, but are only labels to assist in locating those sections and shall be ignored in construing this Agreement.

(h) **Notices.** All notices and other communications under this Agreement will be in writing and will be delivered personally or sent by confirmed facsimile transmission or nationally recognized overnight delivery service. Any such notice or other communication will be deemed given upon actual delivery, in each case to the following addresses:

If to Quartz:

SPWI TPA, Inc.  
Attention: President  
840 Carolina Street  
Sauk City, WI 53583

If to Unity:

Unity Health Plans Insurance Corporation  
Attention: President  
840 Carolina Street  
Sauk City, Wisconsin 53583

(i) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) **Licensure and Compliance with Law.** Quartz shall, without reliance upon Unity, keep informed of and materially comply with laws applicable to its performance under this Agreement, including laws governing the conduct of third party administrators, as if

Quartz were subject to those requirements directly. Quartz has and shall maintain, and shall cause any permitted contractors to have and maintain, the applicable state licensures, permits, and other approvals required under law to perform the Services and otherwise meet Quartz's obligations under this Agreement. Quartz shall furnish Unity with evidence of such licensures and permits upon request and shall notify Unity within five (5) days of any fine, penalty, suspension, termination or other action regarding such licenses.

(k) **No Third Party Benefit.** This Agreement is intended for the exclusive benefit of the Parties to this Agreement and their respective heirs, successors and assigns, and nothing contained in this Agreement shall be construed as creating any rights or benefits in or to any third party.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, this Agreement has been duly executed and delivered by the duly authorized officers of Unity and Quartz as of the date first above written.

**SPWI TPA, Inc. d/b/a Quartz**

**Unity Health Plans Insurance Corporation**

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## **EXHIBIT A SERVICES**

Quartz shall act as a general administrative and financial manager for Unity and, subject to the direction of Quartz's Board of Directors and further subject to the terms and conditions of this Agreement (including but not limited to Section 1(e) of the Agreement regarding the Unity Board of Directors' ultimate oversight of Quartz), any other applicable agreement, any applicable laws or regulations of any governing body or regulatory agency, and any written policies, rules or regulations of Unity, Quartz shall either directly or through subcontractors (for whose acts, errors or omissions Quartz shall take full responsibility for) provide or perform the following services or activities on behalf of Unity.

- A. Strategic planning, executive guidance and general services with respect to the business activities of Unity.
- B. Consultation and assistance with the legal affairs of Unity.
- C. Coordination of employee health, welfare and fringe benefit programs.
- D. Financial consultation and oversight with respect to the management of the assets of Unity. Such will include the development and implementation of a program of investments for the assets of Unity pursuant to which program Quartz (or investment managers designated by Quartz) will purchase and sell securities on behalf of Unity from, to or through such brokers, dealers, investment advisors of other parties as Quartz shall deem appropriate, provided, however, that Quartz will take no responsibility for the acts, errors or omissions of any such broker, dealer, investment advisor or other party which it may select to perform financial services in behalf of Unity. Quartz will provide to Unity's Board of Directors regular reports with respect to its investment program and such other reports as may be necessary or requested by Unity's Board of Directors with the understanding that Unity's Board of Directors shall review and approve investment transactions on a quarterly basis. Quartz shall at all times manage the assets of Unity in accordance with the investment policy set by Unity's Board of Directors.
- E. Accounting and bookkeeping services including the following:
  - 1. Deposit of Unity's funds in a special bank account in Unity's name that is separate from the funds of Quartz;
  - 2. Processing and payment of trade accounts payable;
  - 3. Maintenance of journals, ledgers, check registers and payroll records;
  - 4. Coordination of Unity's payroll;
  - 5. Preparation of federal and state income and payroll tax returns;

6. Preparation of monthly bank reconciliations;
  7. Assistance in the preparation by the 10th working day of the end of each month a balance sheet, statement of income and a statement of cash flows;
  8. Coordination of investing activities;
  9. Coordination and consolidation of annual budgeting process;
  10. Any and all other services reasonably necessary.
- F. Information systems support and telephone service.
- G. Coordination and performance of the compliance functions of Unity.
- H. Functions necessary to administer Unity's benefit products, including:
1. Utilization review activities, including retrospective and concurrent utilization review, approval of out-of-network referrals, and prior authorization services.
  2. Provider credentialing.
  3. Member grievance and appeals processing.
  4. Provider contracting, network management, and dispute processing.
  5. Claims processing and adjudication.
  6. Development and distribution of member communications.
  7. Healthcare quality improvement activities such as care coordination, disease management, and quality management services, including but not limited to maintaining National Committee for Quality Assurance accreditation.
  8. Coordination and performance of the marketing, sales, enrollment, and account and broker management functions of Unity.
- I. Miscellaneous
1. Quartz may use only such advertising pertaining to business underwritten by Unity as has been approved in writing by Unity in advance of its use.
  2. Any policies, certificates, booklets, termination notices, or other written communications delivered by Unity to Quartz for delivery to its members and policyholders shall be delivered by Quartz promptly after receipt of instructions from Unity to deliver them.

3. Any underwriting conducted by Quartz on behalf of Unity shall be conducted using underwriting criteria or other standards established and provided by Unity.
  4. Quartz shall provide a written notice approved by Unity to insured individuals advising them of the identity of, and relationship among, Quartz, the member or policyholder, and Unity.
- J. Such other services incident to the performance of the aforementioned activities and services as may be reasonably required.

**EXHIBIT B**  
**SERVICE LEVEL REQUIREMENTS**

<b>Function</b>	<b>Guarantee</b>
<b>Identification card issuance</b>	Less than five (5) days
<b>Enrollment quality accuracy</b>	97% or greater
<b>Non-investigated claims paid within thirty (30) days</b>	97% or greater
<b>Investigated claims paid in sixty (60) days</b>	97% or greater
<b>Claims paid quality accuracy</b>	97% or greater (target of 99%)
<b>Participant satisfaction</b>	95% or greater
<b>Average speed of customer service</b>	Answer in less than 30 seconds
<b>Customer service accuracy</b>	97% or greater



**EXHIBIT C**  
**BUSINESS ASSOCIATE AGREEMENT**

This Agreement (“Agreement”) is effective upon execution by and between SPWI TPA, Inc. d/b/a Quartz (“Business Associate”) and Unity Health Plans Insurance Corporation (“Organization”).

Organization and Business Associate mutually agree to comply with the requirements of the implementing regulations at 45 Code of Federal Regulations (“C.F.R.”) Parts 160-64 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). This Agreement shall supersede any prior business associate agreement.

**1. Privacy of Protected Health Information.**

**a) Permitted Uses and Disclosures.** Business Associate is permitted to use and disclose Protected Health Information that it creates or receives on Organization’s behalf or receives from Organization (or another business associate of Organization) and to request Protected Health Information on Organization’s behalf (collectively, “Organization’s Protected Health Information”) only for the following purposes:

**i) Functions and Activities on Organization’s Behalf.** To perform services consistent with Section 1(a) and Exhibit A of the Management Agreement that was effective on [\_\_\_\_\_].

**ii) Business Associate’s Operations.** For Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities, provided that, with respect to disclosure of Organization’s Protected Health Information, either:

**A) The disclosure is Required by Law; or**

**B) Business Associate obtains reasonable assurance from any person or entity to which Business Associate will disclose Organization’s Protected Health Information that the person or entity will:**

1) Hold Organization’s Protected Health Information in confidence and use or further disclose Organization’s Protected Health Information only for the purpose for which Business Associate disclosed Organization’s Protected Health Information to the person or entity or as Required by Law; and

2) Promptly notify Business Associate (who will in turn notify Organization in accordance with Section 4(a)) of any instance of which the person or entity becomes aware in which the confidentiality of Organization’s Protected Health Information was breached.

**iii) Data Aggregation Services.** Business Associate may use Protected Health Information to provide Data Aggregation services to the Organization as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

iv) **Reporting Violations.** Business Associate may use and disclose Protected Health Information to report violations of law to appropriate state and federal authorities, to the extent permitted or required by 45 C.F.R. § 164.502(j)(1) and state law.

v) **De-Identified Data.** Business Associate may de-identify Protected Health Information in accordance with the requirements outlined in the Privacy Rule. Data that has been de-identified will no longer be subject to the terms of this Agreement.

vi) **Minimum Necessary.** Business Associate will, in its performance of the functions, activities, services, and operations specified in Section 1(a) above, make reasonable efforts to use, to disclose, and to request only the minimum amount of Organization's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum necessary limitation if neither Business Associate nor Organization is required to limit the use, disclosure or request to the minimum necessary. Business Associate and Organization acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the American Recovery and Reinvestment Act ("ARRA") and government guidance on the definition.

b) **Prohibition on Unauthorized Use or Disclosure.** To the extent Protected Health Information is held by Business Associate, Business Associate will neither use nor disclose Organization's Protected Health Information, except as permitted or required by this Agreement or in writing by Organization or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Organization's Protected Health Information or take any other action in a manner that will violate 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information" (the "Privacy Rule") if done by Organization, except as set forth in Section 1(a)(ii).

c) **Information Safeguards.**

i) **Privacy of Organization's Protected Health Information.** Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Organization's Protected Health Information. The safeguards must reasonably protect Organization's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.

ii) **Security of Organization's Electronic Protected Health Information.** Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on Organization's behalf as required by the Security Rule, 45 C.F.R. Part 164, Subpart C.

d) **Subcontractors and Agents.** Business Associate will require any of its subcontractors and agents, to which Business Associate is permitted by this Agreement or in writing by Organization to disclose Organization's Protected Health Information and / or Electronic Protected Health Information, to agree in a written agreement with Business Associate, to comply with the same privacy and security safeguard obligations with respect to Organization's Protected Health Information and / or Electronic Protected Health Information that are applicable to Business Associate under this Agreement.

e) **Prohibition on Sale of Records.** Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual unless the Organization or Business Associate obtained from the individual, in accordance with 45 C.F.R. 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that individual, except as otherwise allowed under ARRA.

f) **Conditions on Marketing and Fundraising Communications.** Business Associate shall not use or disclose Protected Health Information for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service or for fundraising communications unless such communication is permitted by the Privacy Rule and as approved in writing by the Organization.

g) **Compliance with Law.** To the extent Business Associate is to carry out the Organization's obligations under HIPAA, Business Associate will comply with HIPAA's requirements that apply to Organization in the performance of such obligation.

2. **Compliance with Transaction Standards.** If Business Associate conducts in whole or part electronic Transactions on behalf of Organization for which DHHS has established Standards, Business Associate will comply, and will require any subcontractor or agent it involves with the conduct of such Transactions to comply, with each applicable requirement of the Transaction Rule, 45 C.F.R. Part 162. Business Associate shall comply with the National Provider Identifier requirements, if and to the extent applicable. Business Associate will not enter into, or permit its subcontractors or agents to enter into, any Trading Partner Agreement in connection with the conduct of Standard Transactions on behalf of Organization that:

- a) Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
- b) Adds any data element or segment to the maximum defined data set;
- c) Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
- d) Changes the meaning or intent of the Standard Transaction's implementation specification.

3. **Individual Rights.**

- a) **Access.** Business Associate will, within 20 calendar days following Organization's request, make available to Organization or, at Organization's direction, to an individual

(or the individual's personal representative) for inspection and obtaining copies Organization's Protected Health Information about the individual that is in Business Associate's custody or control, so that Organization may meet its access obligations under 45 C.F.R. § 164.524. If none is possessed, Business Associate will so advise the Organization within the same timeframe. If the Protected Health Information is held in an Electronic Health Record, then the individual shall have a right to obtain from Business Associate a copy of such information in an electronic format if it is readily producible in such format as is required under 45 C.F.R. § 164.524; if it is not readily producible, Business Associate will work with Organization to determine an alternative form and format so that the Covered Entity can meet its obligations under 45 C.F.R. § 164.524. Business Associate shall provide such a copy to Organization or, alternatively, to the individual directly, if such alternative choice is clearly, conspicuously and specifically made by the individual or Organization.

b) **Amendment.** Business Associate will, upon receipt of written notice from Organization, promptly amend or permit Organization access to amend any portion of Organization's Protected Health Information, so that Organization may meet its amendment obligations under 45 C.F.R. § 164.526.

c) **Disclosure Accounting.** So that Organization may meet its disclosure accounting obligations under 45 C.F.R. § 164.528:

i) **Disclosures Subject to Accounting.** Business Associate will record the information specified in Section 3(c)(iii) below ("Disclosure Information") for each disclosure of Organization's Protected Health Information, not excepted from disclosure accounting as specified in Section 3(c)(ii) below, that Business Associate makes to Organization or to a third party.

ii) **Disclosures Not Subject to Accounting.** Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Organization's Protected Health Information if Organization need not account for such disclosures.

iii) **Disclosure Information.** With respect to any disclosure by Business Associate of Organization's Protected Health Information that is not excepted from disclosure accounting by Section 3(c)(ii) above, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

A) **Disclosure Information Generally.** Except for repetitive disclosures of Organization's Protected Health Information as specified in Section 3(c)(iii)(B) below, the Disclosure Information that Business Associate must record for each accountable disclosure is: (i) the disclosure date, (ii) the name and (if known) address of the entity to which Business Associate made the disclosure, (iii) a brief description of Organization's Protected Health Information disclosed, and (iv) a brief statement of the purpose of the disclosure.

B) **Disclosure Information for Repetitive Disclosures.** For repetitive disclosures of Organization's Protected Health Information that Business

Associate makes for a single purpose to the same person or entity (including Organization), the Disclosure Information that Business Associate must record is either the Disclosure Information specified in Section 3(c)(iii)(A) above for each accountable disclosure, or: (i) the Disclosure Information specified in Section 3(c)(iii)(A) above for the first of the repetitive accountable disclosures, (ii) the frequency, periodicity, or number of the repetitive accountable disclosures, and (iii) the date of the last of the repetitive accountable disclosures.

iv) **Availability of Disclosure Information.** Business Associate will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates (3 years for disclosures related to an Electronic Health Record, starting with the date specified by DHHS).

Business Associate will make the Disclosure Information available to Organization within 20 calendar days following Organization's request for such Disclosure Information to comply with an individual's request for disclosure accounting. Effective as of the date specified by DHHS, with respect to disclosures related to an Electronic Health Record, Business Associate shall provide the accounting directly to an individual making such a disclosure request, if a direct response is requested by the individual.

d) **Restriction Agreements and Confidential Communications.** Business Associate will comply with any agreement that Organization makes that either (i) restricts use or disclosure of Organization's Protected Health Information pursuant to 45 C.F.R. § 164.522(a), or (ii) requires confidential communication about Organization's Protected Health Information pursuant to 45 C.F.R. § 164.522(b), provided that Organization notifies Business Associate in writing of the restriction or confidential communication obligations that Business Associate must follow. Organization will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Organization's Protected Health Information will remain subject to the terms of the restriction agreement. Business Associate will comply with any restriction request if: (i) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (ii) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

#### 4. **Breaches and Security Incidents.**

a) **Mitigation.** 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 Agreement.

b) **Reporting.**

i) **Privacy or Security Breach.** Business Associate will report to Organization any use or disclosure of Organization's Protected Health Information not permitted by this Agreement or in writing by Organization, along with any Breach of Organization's Unsecured Protected Health Information. Business Associate will treat the Breach as being Discovered in accordance with HIPAA's requirements. Business Associate will make the report to Organization's Privacy Official not more than 10 calendar days after Business Associate learns of such non-permitted use or disclosure. If a delay is requested by a law enforcement official in accordance with 45 C.F.R. § 164.412, Business Associate may delay notifying Organization for the time period specified by such regulation. Business Associate's report will at least:

A) Identify the nature of the Breach or other non-permitted use or disclosure, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of any Breach;

B) Identify Organization's Protected Health Information that was subject to the non-permitted use or disclosure or Breach (such as whether full name, social security number, date of birth, home address, account number or other information were involved) on an individual-by-individual basis;

C) Identify who made the non-permitted use or disclosure and who received the non-permitted disclosure;

D) Identify what corrective or investigational action Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate any harmful effects that are known or reasonably should be known to Business Associate and to protect against any further Breaches;

E) Identify what steps the individuals who were subject to a Breach should take to protect themselves;

F) Provide such other information, including a written report, as Organization may reasonably request; and

G) Coordinate with Organization regarding information to be provided to individuals who were subject to a Breach regarding a contact for the individual to ask questions or obtain additional information regarding such Breach.

ii) **Security Incidents.** Business Associate will report to Organization within three calendar days any attempted or successful (A) unauthorized access, use, disclosure, modification, or destruction of Organization's Electronic Protected Health Information or (B) interference with Business Associate's system operations in Business Associate's information systems, of which Business Associate becomes aware. Business Associate will make this report upon Organization's request, except if any such security incident resulted in a disclosure or Breach of Organization's Protected Health Information or Electronic Protected Health Information not permitted by this Agreement, Business Associate will make the report in accordance with Section 4(a)(i) above.

5. Termination of Agreement.

a) Right to Terminate for Breach. Organization may terminate Agreement if it determines, in its sole discretion, that Business Associate has breached any provision of this Agreement and upon written notice to Business Associate of the breach, Business Associate fails to cure the breach within 10 calendar days after receipt of the notice. Organization may exercise this right to terminate Agreement by providing Business Associate written notice of termination, stating the failure to cure the breach of the Agreement that provides the basis for the termination. Any such termination will be effective immediately or at such other date specified in Organization's notice of termination.

b) Obligations on Termination.

i) Return or Destruction of Organization's Protected Health Information as Feasible. Upon termination or other conclusion of Agreement, Business Associate will, if feasible, return to Organization or destroy all of Organization's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Organization's Protected Health Information. Business Associate will require any subcontractor or agent, to which Business Associate has disclosed Organization's Protected Health Information as permitted by Section 1(e) of this Agreement, to if feasible return to Business Associate (so that Business Associate may return it to Organization) or destroy all of Organization's Protected Health Information in whatever form or medium received from Business Associate, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Organization's Protected Health Information, and certify on oath to Business Associate that all such information has been returned or destroyed. Business Associate will complete these obligations as promptly as possible, but not later than 60 calendar days following the effective date of the termination or other conclusion of Agreement.

ii) Procedure When Return or Destruction Is Not Feasible. Business Associate will identify any of Organization's Protected Health Information, including any that Business Associate has disclosed to subcontractors or agents as permitted by Section 1(e) of this Agreement, that cannot feasibly be returned to Organization or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will require such subcontractor or agent to limit its further use or disclosure of Organization's Protected Health Information that such subcontractor or agent cannot feasibly return or destroy to those purposes that make the return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than 60 calendar days following the effective date of the termination or other conclusion of Agreement.

iii) **Continuing Privacy and Security Obligation.** Business Associate's obligation to protect the privacy and safeguard the security of Organization's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of this Agreement.

6. **Indemnification.** Business Associate shall indemnify and hold harmless Organization from any and all claims, causes of action, and demands whatsoever made for loss, damage, or injury to any person arising from a breach by Business Associate, or its subcontractors, of its obligations under this Agreement, to the extent said claims, causes action, and demands were incurred by Organization as a result of the Business Associate's (or any subcontractor's) breach of its obligations under this Agreement.

7. **General Provisions.**

a) **Inspection of Internal Practices, Books, and Records.** Business Associate will make its internal practices, books, and records relating to its use and disclosure of Organization's Protected Health Information available to Organization and to DHHS to determine Organization's compliance with the Privacy Rule, 45 C.F.R. Part 164, Subpart E.

b) **Definitions.** All terms that are used but not otherwise defined in this Agreement shall have the meaning specified under HIPAA, including its statute, regulations and other official government guidance. For purposes of this Agreement, Organization's Protected Health Information encompasses Organization's Electronic Protected Health Information.

c) **Amendment to Agreement.** Upon the compliance date of any final regulation or amendment to final regulation promulgated by DHHS that affects Business Associate's use or disclosure of Organization's Protected Health Information or Standard Transactions this Agreement will automatically amend such that the obligations imposed on Business Associate remain in compliance with the final regulation or amendment to final regulation.

d) **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed as creating any rights or benefits to any third parties.

e) **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule, the Security Rule, HIPAA, or ARRA, or any other reference to a law or regulation, means the section or law as in effect as of the date of this Agreement or as subsequently amended.

f) **Survival.** The respective rights and obligations of Business Associate under Section 5(b) and Section 6 of this Agreement shall survive the termination of this Agreement.

g) **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits compliance with the applicable law, rule or regulation.

h) **Relationship to Other Agreement Provisions.** In the event that a provision of this Agreement is contrary to a provision of an underlying agreement or agreements under which Organization discloses Protected Health Information to Business Associate, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of such underlying agreement or agreements between the parties.



i) **Prior Business Associate Agreements.** Consistent with Section 7(h), this Agreement shall supersede any and all prior business associate agreement(s), or terms of other agreements addressing the privacy and security of Protected Health Information, between the parties.

j) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of Wisconsin.

k) **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and when taken together shall constitute one agreement.

IN WITNESS WHEREOF, Organization and Business Associate execute this Agreement in multiple originals to be effective \_\_\_\_\_.

SPWI TPA, Inc. d/b/a Quartz

Unity Health Plans Insurance Corporation

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT D  
REPORTS**

<b>Report</b>	<b>Frequency</b>
Balance Sheet	Quarterly; must be sent to Unity no later than 30 days after the end of a quarter
Income Statement	Quarterly; must be sent to Unity no later than 30 days after the end of a quarter
Cash Flow Statements	Quarterly; must be sent to Unity no later than 30 days after the end of a quarter
Standing Committee Reports	Quarterly; must be sent to Unity no later than 30 days after the end of a quarter
Audit Plan	Annually; must be sent to Unity no later than 30 days after the end of a calendar year
Proposed Annual Operating Budget	Annually; must be sent to Unity no later than 45 days before the start of a calendar year
External Audit Reports	Must be sent to Unity no later than 30 days after Quartz's receipt from external auditor
Internal Audit Reports	Must be sent to Unity no later than 30 days after Quartz completes the internal audit report

1. All reports provided by Quartz shall be in the format requested by Unity.
2. Quartz shall provide any such other reports as requested by the Unity Board of Directors and/or as required by Unity or applicable law.