

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF A
PLAN CONSULTANT & ACCOUNTING ADMINISTRATION AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND GCG FINANCIAL**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement for Professional Services (the “Agreement”), between the Village of Downers Grove (the “Village”) and GCG Financial (the “Plan Consultant”), for certain insurance consultant services, as set forth in the form of the agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Mayor and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

PLAN CONSULTANT & ACCOUNTING ADMINISTRATION AGREEMENT

VILLAGE OF DOWNERS GROVE

This Agreement is made and entered into as of the ___ day of _____, 2006 by and between the Village of Downers Grove, located at 801 Burlington, Downers Grove, IL 60515 (“the Client”), the Plan, and GCG Financial, located at 3000 Lakeside Drive, Suite 200, Bannockburn, IL 60015 (“GCG”).

WITNESSETH

WHEREAS, the Client has established the Plan for its employees; and

WHEREAS, the Client has requested GCG to serve as “Plan Consultant” and to furnish certain services with respect to the Plan; and

WHEREAS, GCG is willing to provide such services under the terms and conditions contained in this Agreement; and

WHEREAS, the Standards for Privacy of Individually Identifiable Health Information, as amended from time to time (the “Privacy Rule”) under the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (“HIPAA”) require certain privacy provisions to be implemented because GCG may use or disclose “protected health information” (“PHI”) (as defined by the Privacy Rule) while performing services under this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the Client, the Plan and GCG agree to the provisions as set forth in this Agreement.

ARTICLE 1.

DEFINITIONS

- 1.1. The “Plan” means, except as described in Section 5.2 below, the following Plan benefits: the Village of Downers Grove Employee Benefit Plans (Medical, Dental, Vision, Group Life/ADD, Group LTD).

ARTICLE 2.

EFFECTIVE DATE

- 2.1. Except as described in Section 5.1, the effective date of this Agreement is May 1, 2006, and shall continue through April 30, 2007, subject to the termination provisions contained in this Agreement (“Term”).

ARTICLE 3.

GCG FINANCIAL RESPONSIBILITIES

- 3.1. Under the direction of the Client’s Insurance Committee, GCG will represent the best interests of the Client in relationship with Re-Insurance Carriers, the Third Party Claim Administrator, PPO and Medical Case Management Personnel, Psychological and Substance Abuse Management Personnel, Prescription Drug Vendors, Wellness and providers of other services.
- 3.2. As part of this service, GCG will assist in collecting data and facts necessary for Client to review claim appeals should an insured not agree with the decisions of the Third Party Claim Administrator. GCG’s services do not include evaluation of the merits of a claim or

appeal or analysis of whether the Third Party Claim Administrator complied with the required claims procedures.

- 3.3. GCG shall assume responsibility for assuring that the Third Party Claim Administrator will
 - a. Enter into a contract with the “Client” setting forth the terms of services and compensation.
 - b. Analyze, adjust and coordinate claim payments with doctors, hospitals and other providers of services to determine that the charges made are eligible under the terms of the Plan.
 - c. Furnish claim worksheets documenting the payment of benefits and coordinating benefits when other plans are involved.
 - d. Maintain and distribute summaries of paid benefits and checks issued.
 - e. Provide certification of participant's eligibility when required by Plan specifications and provide information concerning the Plan to all providers and participants.

In addition, GCG will review large claims to assure proper handling, case management and liaison with stop loss carriers.

- 3.4. GCG shall communicate with carriers regarding claims, coverages and other matters and secure in a timely manner “best efforts” stop loss quotations from insurance carriers on a net (no commission) basis and provide a summary report of results to the Client with recommendations for adoption.
- 3.5. When requested in writing, GCG shall assist the Client in securing bids for Third Party Claim Administrator services.
- 3.6. GCG shall be responsible for preparing an annual budget, including claims analysis and projections with guidelines on premium levels for employees and dependents, designed to meet all expenses including an agreed upon reserve.
- 3.7. GCG shall periodically, but each year not less than 90 days before the end of the Client’s fiscal year, review the Plan document and provide recommendations designed to meet current legislation, adjust to changing needs, take advantage of cost containment possibilities, revise exclusions, encourage wellness and recognize new medical developments.
- 3.8. Catherine Loney or a representative from GCG will attend all scheduled meetings and participate in the programs as requested.
- 3.9. GCG will attend and participate in communication meetings with employees as requested by the Client.

- 3.10. GCG will comply with all provisions of the Plan document and any rules and regulations of the Client affecting the services under this Agreement which are communicated to GCG in writing by the Client.
- 3.11. GCG will comply with all local, state, and federal laws and regulations applicable to GCG in providing the services under this Agreement.
- 3.12. GCG will
 - a. Be available for consultation with any covered participant regarding benefits or questions they may have; and
 - b. Report monthly on the status of the Plan.
- 3.13. GCG shall disclose to the Client any income or commissions which are earned by excess and surplus line brokers, wholesalers, re-insurance intermediates, underwriting managers or other parties providing services to the Client which are recommended by GCG and in which GCG, or corporate parent or subsidiary of that company, has an ownership interest in an amount greater than 5%.

ARTICLE 4.
ACCOUNTING RESPONSIBILITIES

GCG will provide services to enable Client to:

- 4.1. Maintain a cash basis general ledger.
- 4.2. Establish bank account for payment of claims and administrative expenses under the Client's name.
- 4.3. Prepare monthly financial statements for the Insurance Committee, including balance sheet and income statement (compared to approved budget).
- 4.4. Reconcile cash ledger account to bank statement on a monthly basis.
- 4.5. Review monthly billings received from the Third Party Claim Administrator and submit billing to the Client for payment.
- 4.6. Prepare checks for payment to providers of services (other than claims).
- 4.7. Monitor cash flow to assure adequate funds are available to pay claims and other expenses.
- 4.8. Prepare requested reports for the annual audit and be available to auditor during examination of records.
- 4.9. Analyze stop loss receivables to ensure collection on a timely basis.
- 4.10. Analyze refunds reported by the Third Party Claim Administrator to actual cash receipts to ensure receipt.

- 4.11. Review the Third Party Claim Administrator financial reports.
- 4.12. Perform additional financial assignments as directed by the Client.

ARTICLE 5.
HIPAA PRIVACY COMPLIANCE

- 5.1. For purposes of this Article 5, the effective date of this Agreement is the later of the date signed below or such other date as the Privacy Rule becomes effective.
- 5.2. For purposes of this Article 5, the Plan benefits subject to this Agreement shall include: the Village of Downers Grove Employee Benefit Plans (Medical, Dental, Vision, Group LTD).
- 5.3. GCG may use or disclose PHI as follows
 - a. GCG shall disclose PHI only to those Client employees designated by the Plan or the Client as responsible for the Plan's administrative functions (a list of such employees is attached as Appendix A). The provisions of this Article 5 apply to the PHI of current, prospective, and former Plan participants (the "Participants") to the extent GCG uses or discloses such PHI.
 - b. GCG may use or disclose PHI in connection with the services set forth in Articles 4 and 5 of this Agreement, if such use or disclosure would not violate the Privacy Rule if done by the Plan.
 - c. GCG may use or disclose PHI for GCG's management and administration, if the use or disclosure is
 - 1. Required by law; or
 - 2. GCG obtains reasonable assurances from the recipient that the PHI disclosed will be protected as follows
 - i. The recipient agrees to keep the PHI confidential and use or further disclose the PHI only as required by law or for the purpose for which it was disclosed to the recipient.
 - ii. The recipient agrees to notify GCG when the recipient becomes aware that the confidentiality of the PHI has been breached.
 - d. GCG may use PHI to provide data aggregation services to the Plan as permitted by the Privacy Rule.
- 5.4. To the extent GCG uses or discloses PHI to or on behalf of the Plan, GCG agrees to
 - a. Not use or disclose PHI other than as permitted or required by this Agreement or as required by the Privacy Rule or other federal or state law.
 - b. Use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

- c. Report to the Plan any use or disclosure of PHI which violates this Agreement when GCG becomes aware of such violation.
- d. Ensure that its agents and subcontractors who are given Plan PHI agree to the same restrictions and conditions under this Agreement which apply to GCG.
- e. Unless expressly stated otherwise in a written agreement, GCG, the Plan and the Client do not intend for GCG to maintain PHI in a file (a “designated record set” under the Privacy Rule). If a written agreement does require GCG to maintain PHI in a file, GCG will, at the request of the Plan or a Participant
 - 1. Make PHI available to the Plan for purposes of Participant access, amendment and accountings of disclosures in accordance with the Privacy Rule.
 - 2. Make such amendment(s) to PHI maintained by GCG as the Plan directs or agrees to pursuant to the Privacy Rule.
- f. Upon reasonable notice, make internal practices, books, and records, relating to the use and disclosure of Plan PHI available to the Secretary of the Department of Health and Human Services for purposes of determining the Plan’s compliance with the Privacy Rule.
- g. Document such disclosures of PHI and information related to such disclosures as would be required for the Plan to respond to a request by Participant for an accounting of disclosures of PHI in accordance with the Privacy Rule and make this documentation available to the Plan or, as directed by the Plan, to Participant in order to meet the requirements of the Privacy Rule.

5.5. The Plan agrees to

- a. Inform GCG of Plan policies and procedures governing the use and disclosure of PHI to the extent necessary for GCG to perform its obligations under this Agreement. GCG will have a reasonable time to act on these changes.
- b. Notify GCG of any changes in, or revocation of, permission given by the Participant to the Plan to use or disclose PHI, to the extent that such changes may affect GCG’s use or disclosure of PHI.
- c. Notify GCG, prior to acceptance by the Plan, of any restriction on the use or disclosure of PHI made in accordance with the Privacy Rule so that GCG can determine whether it is infeasible to comply with such restriction. Once agreed to, GCG shall have a reasonable period of time to act on such notice.
- d. Represent and warrant to GCG that the Plan will not disclose any PHI to GCG unless the Plan has obtained any consents and authorizations that may be required by law or are otherwise necessary for such disclosure.
- e. Warrant that it shall not request GCG to use or disclose PHI in any manner that would not be permissible under applicable law if done by the Plan.

ARTICLE 6.
CLIENT LIABILITY AND INDEMNIFICATION

- 6.1. GCG does not insure nor underwrite the liability of the Client under this Plan. The Client retains the ultimate responsibility for claims made pursuant to the Plan. The Client is responsible for all expenses incident to the Plan except those specifically assumed by GCG in this Agreement.
- 6.2. Plan and all members of its workforce (together, the “Plan Indemnitors”) and Client, its respective directors, officers, subcontractors, agents or other members of its workforce (together, the “Client Indemnitors”), agree to indemnify, defend and hold harmless GCG, its respective directors, officers, subcontractors, agents or other members of its workforce (together, the “Vendor Indemnitees”), against any and all claims, demands, losses, costs, expenses, obligations, liabilities, actions, suits, damages and deficiencies (including, without limitation, all costs and reasonable attorneys’ fees) that arise out of or are proximately caused by:
- a. Plan Indemnitors’ or Client Indemnitors’ breach of this Agreement, including, without limitation, the failure of Plan Indemnitors or Client Indemnitors to perform their obligations with respect to PHI, or by any use or disclosure of PHI by Plan Indemnitors or Client Indemnitors that is not permitted under this Agreement; or
 - b. Plan Indemnitors’ or Client Indemnitors’ breach of any warranty hereunder or any negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Regulations, by Plan Indemnitors or Client Indemnitors or their directors, officers, subcontractors, agents or other members of their workforce.

Accordingly, on demand, Plan Indemnitors or Client Indemnitors shall reimburse any Vendor Indemnitees for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including, without limitation, all costs and reasonable attorneys’ fees), which may for any reason be imposed upon any Vendor Indemnitees by reason of any suit, claim, action, proceeding or demand by any third party which results from or is proximately caused by Plan Indemnitors’ or Client Indemnitors’ breach hereunder. GCG shall provide prompt written notice of, and information and assistance (at Plan Indemnitors’ or Client Indemnitors’ expense), as reasonably requested by Client, in the defense of such claim, suit or proceeding.

ARTICLE 7.
GCG FINANCIAL LIABILITY

- 7.1. GCG, its respective directors, officers, subcontractors, agents or other members of its workforce (together, the “Vendor Indemnitors”), agree to indemnify, defend and hold harmless Plan and all members of its workforce (together, the “Plan Indemnitees”) and Client and Client’s respective directors, officers, subcontractors, agents or other members of its workforce (together, the “Client Indemnitees”), against any and all claims, demands, losses, costs, expenses, obligations, liabilities, actions, suits, damages and deficiencies (including, without limitation, all costs and reasonable attorneys’ fees) that arise out of or are proximately caused by:

- a. Vendor Indemnitors' breach of this Agreement, including, without limitation, the failure of Vendor Indemnitors to perform their obligations with respect to PHI, or by any use or disclosure of PHI by Vendor Indemnitors that is not permitted under this Agreement; or
- b. Vendor Indemnitors' breach of any warranty hereunder or any gross negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Regulations.

Accordingly, Vendor Indemnitors shall reimburse any Plan Indemnitees or Client Indemnitees for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including, without limitation, all costs and reasonable attorneys' fees), which may for any reason be imposed upon any Plan Indemnitees or Client Indemnitees by reason of any suit, claim, action, proceeding or demand by any third party which results from or is proximately caused by Vendor Indemnitors' material breach hereunder. Plan shall provide prompt written notice of, and information and assistance (at Vendor Indemnitors' expense), as reasonably requested by GCG, in the defense of such claim, suit or proceeding.

- 7.2. GCG will use reasonable care and due diligence in the exercise of its powers in performance of its duties under this Agreement.
- 7.3. GCG shall purchase and maintain an insurance policy for general and professional liability coverage for no less than \$2,000,000 per claim, \$2,000,000 per incident. GCG will provide the Client with copy of said policies upon request.

ARTICLE 8. RECORDS

- 8.1. GCG agrees that all books, records, lists of names, journals, ledgers and other documents and information developed in connection with the Plan is and shall remain the property of the Client. GCG shall store and administer the records in accordance with the requirements of the HIPAA Privacy Rules and the Client's rules and regulations and shall keep all such records confidential.

ARTICLE 9. COMPENSATION OF GCG FINANCIAL

- 9.1. For GCG Plan Consultant services provided pursuant to the Agreement (other than those provided under Article 4) for the period of May 1, 2006 through April 30, 2007, the Client will pay \$3,039.60 per month to GCG Financial, Inc.
- 9.2. For GCG services provided pursuant to Article 4 of the Agreement for the period of May 1, 2006 through April 30, 2007, the Client will pay \$1,020.00 per month to GCG Financial, Inc.

ARTICLE 10. AMENDMENT

- 10.1. This Agreement may be amended or modified only by a written agreement, which shall be attached to and become a part of this Agreement. The written amendment must be signed by GCG, the Client, and, if the amendment affects the terms of Article 5 of this Agreement or the Plan's obligations under the Privacy Rule, the Plan.

ARTICLE 11. TERMINATION

- 11.1. Except as provided in Section 11.3, this Agreement may be terminated by either party upon 90 days written notice.
- 11.2. Except as provided in Section 11.3, this Agreement will terminate automatically and immediately as of the date the Plan or all of the Plan benefits subject to this Agreement are terminated.
- 11.3. This Agreement may be terminated by the Plan, the Client or GCG upon thirty (30) days notice for what it reasonably believes to be a material breach of the terms of Article 5 of this Agreement if such breach is not substantially cured within such time. This cure period shall start upon receipt by the breaching party of written notice indicating the reasons the non-breaching party believes Article 5 of the Agreement has been breached and describing the alleged breach in sufficient detail to enable the breaching party to make its own assessment of whether a material breach has occurred. When the Agreement terminates, GCG (and its agents and subcontractors) shall return or destroy all PHI received from the Plan, or created or received by GCG on behalf of the Plan within a reasonable time. GCG shall not retain any copies of the PHI. If, however, return or destruction of the PHI is not feasible, GCG shall notify the Client of this and extend the protections of this Agreement to the PHI retained and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as GCG maintains such PHI. Feasibility will be determined based on the document retention policy developed by GCG.

ARTICLE 12. MISCELLANEOUS

- 12.1. The Client hires GCG as an independent contractor and neither GCG nor any of its employees are employees of the Client.
- 12.2. GCG shall not assign this Agreement in whole or in part, nor subcontract any of the services requested to be performed hereunder without prior written approval of the Client.
- 12.3. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.
- 12.4. All notices required or desired in connection with this Agreement shall be sufficient, if given by mail addressed to the party receiving the notice at the address designated herein or at such other address as may be agreed to in writing by the parties.

12.5. All ambiguities in this Agreement first shall be resolved to permit the Client and the Plan to comply with HIPAA and the Privacy Rule and then interpreted and construed according to the laws of the State of Illinois.

IN WITNESS WHEREOF, the Client, GCG and the Plan have caused this Agreement to be executed by their undersigned representatives.

(Signature of GCG Agent)

Title: Plan Consultant

GCG Financial, Inc.
3000 Lakeside Dr.
Suite 200 S.
Bannockburn, IL 60015

Date: _____

(Signature of Authorized Client Representative)

Title: Mayor

Village of Downers Grove
801 Burlington
Downers Grove, IL 60515

Date: _____

(Signature of Plan Privacy Official or other representative)

Title: Director of Human Resource

Village of Downers Grove
801 Burlington
Downers Grove, IL 60515

Date: _____

Appendix A

The Plan and the Client hereby designate the following employees as responsible for the Plan's administrative functions who are permitted to use and disclose PHI:

Cara Pavlicek, Village Manager

Enza Petrarca, Village Attorney

Gregory Zimmerman, Privacy Officer

Mary LaLonde, Benefits Coordinator

Dennis Burke, Risk Manager

Frances Frasson, Secretary, HR

Jenny Bielawski, Secretary, HR

Catherine Loney

Kathy Czyzewski

Kelly Beall

Laurie Koval

Madeline Hood

Patty Wells

Carol Kocek

Marge Harmon

Mike Davis

Heidi Naumowicz