

AUDIT SERVICE AGREEMENT

THIS AUDIT SERVICE AGREEMENT (the "Agreement") is entered into as of December 20, 2016 ("Effective Date"), by and between the Superintendent of Financial Services of the State of New York as Liquidator of Health Republic Insurance of New York, Corp. (hereinafter referred to as "Customer") with its principal place of business at 110 William Street, New York, New York 10038 and Truven Health Analytics Inc., an IBM Company ("Truven Health"), with its principal place of business at 100 Phoenix Drive, Ann Arbor, Michigan 48108. Truven Health and Customer together may be referred to herein as the "Parties," and each individually, as a "Party."

WHEREAS, Customer is the liquidator of Health Republic Insurance of New York ("HRINY") pursuant to which Customer arranges for certain services to be provided regarding HRINY;

WHEREAS, HRINY provided health plan benefits to its plan participants;

WHEREAS, Truven Health is a company that provides audit services to health benefit administrators;

WHEREAS, Customer desires to engage Truven Health to provide audit services to HRINY, as defined more fully herein; and

WHEREAS, Truven Health desires to be retained by Customer to provide the services to HRINY under this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions, and agreements set forth herein, the Parties do hereby agree as follows:

1. GENERAL DEFINITIONS

"**HEALTH BENEFITS AUDIT**" means, generally, those professional audit services, consistent with accepted industry standards and practices, associated with the retrospective review and analysis of multiple years of HRINY claims, billing, other electronic records data, administrator contracts and documents pertaining to health benefits, in order to establish whether claims administered on the behalf of HRINY are accurate, appropriate, and otherwise consistent with appropriate administration and generally accepted and reasonable parameters.

2. TRUVEN HEALTH'S SERVICES AND OBLIGATIONS

Truven Health agrees to provide the services and carry out the following obligations:

2.1 Audit. Truven Health agrees to provide audit services designated by Customer as set forth in Exhibit 1 to this Agreement, which is hereby incorporated herein by reference, in accordance with: (i) all applicable local, state and federal laws and regulations; (ii) accepted industry standards, and (iii) the terms and conditions set forth in this Agreement.

2.2 Confidentiality. Truven Health acknowledges and agrees that the performance of audit services involves access to and review of confidential and proprietary information and HRINY accounting, auditing, billing, medical, and other records and methodologies pertaining to its administrators, providers and employees. Truven Health agrees that all employees, consultants, subcontractors and/or assigns designated by Truven Health to

perform audit services under this Agreement shall strictly maintain the confidentiality of all documents reviewed and comply with HIPAA guidelines. Truven Health further agrees and warrants that: (i) Truven Health has established effective policies and procedures to ensure protection of the confidentiality of all documents reviewed by its employees during the course of performing audit services; and (ii) all employees, consultants, subcontractors and/or assigns designated by Truven Health to perform audit services are familiar with such policies and procedures and will comply with and implement such policies and procedures in performing audit services throughout the term of this Agreement, and following termination of this Agreement. All of the provisions of this Section 2.2 shall survive termination of this Agreement.

- 2.3 **HIPAA.** Customer and Truven Health shall sign a Business Associate Agreement to comply with HIPAA regulations.
- 2.4 **Conflict of Interest.** Truven Health represents that it does not have any conflicts of interest in performing services outlined in Exhibit 1.
- 2.5 **Insurance.** Truven Health agrees to satisfy the following insurance requirements:
 - 2.5.1. Truven Health shall maintain Professional liability/errors and omissions insurance with a minimum limit of \$5,000,000 per occurrence and \$5,000,000 annual aggregate, to include coverage for all errors and omissions which result in financial loss to Truven Health or the Customer. Such policy shall include coverage for losses arising from the breach of information security or cyber liability (including Technology Errors & Omissions, Network Security and Privacy Liability and Media Liability), whether combined with the Professional Liability policy or placed as a separate policy, but carrying the same limits of liability.
 - 2.5.2. Truven Health shall maintain and will require its subcontractor(s), if any, to maintain crime / employee fidelity insurance with a minimum limit of liability of \$1,500,000.
 - 2.5.3. Truven Health shall maintain at least the minimum Workers' Compensation Insurance required by New York law for all employees of Truven Health and the employees of any subcontractor that directly or indirectly provides services to the Customer under the Agreement.
 - 2.5.4. The insurance policies referenced in this section shall not be canceled or reduced in required limits of liability until notice has been given to the Customer of such cancellation or reduction; the date of cancellation or reduction shall not be less than thirty (30) days after the date of notice.
 - 2.5.5. Truven Health agrees to include the Customer as a loss payee for crime / employee fidelity insurance.

3. **CUSTOMER'S OBLIGATIONS.**

Customer acknowledges and agrees to the following:

- 3.1 **Administrative Functions.** Customer acknowledges and agrees that, in order for Truven Health to provide audit services to HRINY in accordance with the terms of this Agreement,

Customer, with the assistance of Truven Health, shall obtain access to data from the administrators and other documents necessary and as may be required for the administration and performance by Truven Health of its obligations under this Agreement.

3.2 **Processing Bills.** Customer shall use best efforts to pay Truven Health within net thirty (30) days of receipt of invoice for all fees invoiced by Truven Health to Customer.

3.3 **Taxes.** "Taxes" mean all present and future taxes, duties, import deposits, assessments, and other governmental charges (and any related penalties and interest not attributable to the fault or delay of Truven Health), however designated, that are now or hereafter imposed by or under any governmental authority or agency that are: (i) associated with the performance by Truven Health of its obligations under this Agreement; (ii) associated with the payment of any amount by Customer to Truven Health pursuant to this Agreement; (iii) based on the license or use of any Truven Health-provided product or service; or (iv) associated with the importation of any Truven Health-provided product into or use of any Truven Health-provided service within a country other than that in which Truven Health is incorporated, excepting only (a) Truven Health's corporate franchise taxes and taxes imposed on Truven Health's net income by the governmental authorities or agencies in any jurisdictions in which Truven Health is required to pay those taxes; (b) withholding, employment, and payroll taxes relating to Truven Health's employees; and (c) personal property taxes on Truven Health property.

3.3.1 **Taxes and other Charges.** All charges under this Agreement are stated exclusive of any applicable Taxes, and Customer is solely responsible for, and shall pay or reimburse Truven Health for, all Taxes. Truven Health shall promptly remit to the appropriate taxing authority all Taxes collected from Customer on account of Customer's tax obligations, if any, and Truven Health shall indemnify Customer against any and all losses, costs, and expenses (including reasonable attorneys' fees) which result from Truven Health's violations of its obligations under this section. If Truven Health receives a refund of Taxes attributable to amounts paid by Customer under this Agreement, Truven Health shall pay the refunded amount to Customer within thirty (30) days of its receipt.

3.3.2 **Withholding Taxes.** To the extent Customer is required by applicable tax law to withhold income Taxes on any payment made to Truven Health, Customer may withhold such Taxes to the extent such Taxes (i) do not exceed the appropriate withholding amount under relevant tax law or, if applicable, the income tax treaty between the country in which Truven Health is incorporated and the country in which Customer is incorporated or is receiving the Truven Health Products or Truven Health services, as applicable, and (ii) qualify as a creditable foreign income tax for Truven Health under applicable law. Customer shall send Truven Health the appropriate certified tax receipt or other acceptable documentation suitable for Truven Health to obtain a foreign income tax credit promptly upon payment of such Taxes or as required under the laws applicable to Customer. If Truven Health does not receive a certified tax receipt issued by the taxing authority evidencing such payment, or other such acceptable documentation suitable for Truven Health to obtain a foreign income tax credit, within thirty (30) days after the later of: (1) the date of the invoice or (2) when required to be issued under the law applicable to Customer. Customer will be responsible for paying the full invoice amount to Truven Health.

- 3.4 **Payment for Services.** Customer is obligated to pay Truven Health for audit services rendered in accordance with the provisions of Exhibit I to this Agreement.
- 3.5 **Confidentiality and Intellectual Property Rights.** Customer acknowledges and agrees that the analytical methodologies, algorithms, program code, software, information, and reports employed and delivered by Truven Health in the performance of its audit services constitute confidential and proprietary information, which are the valuable, sole and exclusive business property of Truven Health and its subcontractors (collectively, the "Intellectual Property"). Customer agrees that all of its employees, consultants, subcontractors and/or assigns who may become apprised of Truven Health's review services or Intellectual Property under this Agreement shall strictly maintain the confidentiality of all such information reviewed.

4. **TERM AND TERMINATION.**

- 4.1 **Termination Upon Material Breach.** Customer may immediately terminate this Agreement, the Business Associate Agreement and any related agreements if Customer determines that Truven Health has breached a material term of this Agreement. Alternatively, and in the sole discretion of Customer, Customer may choose to provide Truven Health with written notice of the existence of the breach and provide Truven Health with thirty (30) calendar days to cure said breach upon mutually agreeable terms. In the event that mutually agreeable terms cannot be reached within this thirty (30) day period, Truven Health shall cure said breach to the satisfaction of the Customer within an additional fifteen (15) days. Failure by Truven Health to cure said breach or violation in the manner set forth above shall be grounds for immediate termination of this Agreement by Customer.
- 4.2 **Termination Without Cause.** In the event the court that is supervising the Health Republic liquidation proceeding directs rescission or reformation of the Agreement, Customer may terminate the Agreement without cause upon written notice to Truven Health. On such termination any fees and expenses due to Truven Health as of the date of termination shall be remitted promptly.

5. **NOTICES**

- 5.1 **Method of Delivery.** Any notice to be given under this Agreement shall be in writing, addressed to the other Party at the address listed in Section 5.2, or such other address as the Party may designate by notice to the other Party, and shall be deemed given by in-person hand-delivery, or by depositing such notice for delivery with the United States Postal Service, certified mail, return receipt requested, signature required, postage prepaid.
- 5.2 **Addresses.** The Parties' names and addresses for purposes of giving notice under this Agreement shall be as follows:

Customer

**Superintendent of Financial Services of the State of New York as Liquidator
of Health Republic Insurance of New York, Corp.**
110 William Street
New York, New York 10038
Attention: General Counsel

Truven Health Analytics Inc.

Truven Health Analytics Inc.
Attention Vice President of Finance
100 Phoenix Drive
Ann Arbor, Michigan 48108

6. INDEPENDENT CONTRACTORS.

Neither Party to this Agreement nor their respective employees or agents shall be deemed to be an agent, employee or servant of the other Party. The Parties acknowledge and agree that the relationship between them shall be that of independent contractors.

7. ENTIRE AGREEMENT/AMENDMENTS.

This Agreement and the Exhibits to this Agreement constitute the entire agreement between the Parties. No Amendment to this Agreement shall be effective unless in writing, signed by both Parties, with the exceptions set forth in this Section 7:

7.1 Exception – Changes in Law. In the event that Customer determines that federal, state, or local law or regulation require amendments to this Agreement, then Customer shall give Truven Health thirty (30) days prior written notice, and upon expiration of such 30-day period, this Agreement shall be automatically amended to include the amendments set forth in Customer's notice.

8. INDEMNITY.

Truven Health agrees to indemnify and hold harmless Customer and HRINY for any and all claims, settlements, judgments, penalties, attorneys' fees and other monetary losses sustained by Customer or HRINY as a result of errors or omissions by Truven Health in the performance of audit services under this Agreement, including its Exhibits.

9. LIMITED WARRANTY AND LIMITATION ON DAMAGES.

Truven Health warrants that it will perform the audit services consistent with generally accepted industry standards. The audit services may require use of data or information compiled from third party sources that Truven Health does not control and whose information has not been independently investigated or verified. Customer shall rely solely upon its business judgment in drawing conclusions from and making recommendations and taking action based on the audit services and the deliverables provided pursuant thereto. Accordingly, except as expressly provided in this Agreement, TRUVEN HEALTH MAKES NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AS TO THE PRODUCTS AND SERVICES TO BE PROVIDED INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE.

10. LIMITATION OF LIABILITY.

Anything herein to the contrary notwithstanding, Truven Health's aggregate liability to Customer from any and all causes relating to the subject matter of this Agreement shall be limited to general

money damages in an amount not to exceed the fees paid by Customer under the applicable Exhibit. IN NO EVENT SHALL TRUVEN HEALTH BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. No action arising out of this Agreement may be brought by Customer more than two (2) years after the cause of action has accrued or two (2) years after the termination of the applicable Exhibit, whichever is later; provided, however, that such limitation shall not apply to causes of action arising from Truven Health's gross negligence, willful misconduct, or fraud.

11. FORCE MAJEURE.

Each Party's obligations under this Agreement shall be suspended to the extent that such Party is hindered or prevented from performance (excluding economic payments or performance) by labor disputes, lock-outs, acts of God, fires, storms, accidents, failure of a manufacturing intermediary to deliver any equipment, governmental regulations or interference, electronic terrorist attacks or actions, or any other cause to the extent not within the sole and exclusive control of the non-performing Party. In any such event, the non-performing Party will be excused from any further performance or observance of the obligations so affected only for as long as such circumstances prevail and such Party continues to use commercially reasonable efforts to recommence performance or observance as soon as practicable.

12. LAW APPLICABLE.

This Agreement and all covenants contained herein, shall be governed in all respects, whether as to validity, capacity, performance or otherwise, by the laws of State of New York.

13. PARAGRAPH HEADINGS.

The paragraph headings contained in this Agreement are for convenience only and in no manner shall be construed as part of this Agreement.

14. DISPUTE RESOLUTION.

The Parties will attempt in good faith to resolve any controversy, dispute or claim arising out of or relating to this Agreement promptly by negotiations between senior executives of the Parties or their designees who have authority to settle the controversy. If any claim, controversy or dispute under this Agreement cannot be resolved by such negotiations between the Parties hereto, such claim, controversy or dispute shall be controlled by and interpreted under the laws of the State of New York, without regard to its rules concerning conflict of laws. Any differences or disputes arising out of or relating to this Agreement or the terms hereof shall be referred to and determined solely by the court that is supervising the Health Republic liquidation proceeding.

15. ASSIGNMENT

The rights and obligations of the Parties hereunder may not be assigned or transferred in whole or in part, by operation of law or otherwise, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Any such assignment or transfer made without the prior written consent of the other Party shall be null and void. Notwithstanding the foregoing, Truven Health may, upon written notice to Customer, assign or transfer this Agreement to a third party successor in connection with the transfer of all or substantially all of the business to which this Agreement relates (whether via merger, sale of stock or assets, or otherwise), or to an

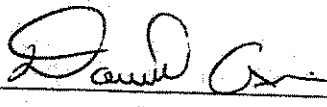
affiliate, in each case, without the prior consent of Customer. Subject to the foregoing restrictions, this Agreement will bind and benefit the parties and their respective successors and assigns.

IN WITNESS WHEREOF, each Party to this Agreement has caused its duly authorized representative to sign this Agreement on its behalf below, effective as of the effective Date set forth above in this Agreement.

Customer

Truven Health Analytics Inc., an IBM Company

gdb
12/20/2016

By: 
Name: David Axinn
Title: Special Deputy Superintendent
Date: 12-20-16

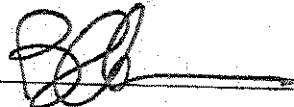
By: 
Name: Barb Graovac
SVP & GM, Payer Solutions
Title: _____
Date: 12/22/2016

Exhibit 1 Audit Services

1. **Customer Name** Superintendent of Financial Services of the State of New York as Liquidator of Health Republic Insurance of New York, Corp. ("Customer")
2. **Effective Date** Upon Execution of the Agreement
3. **End Date** Upon Completion of the Project
4. **Volume** Up to 130,000 Members

5. **Data Sources**

Data Source	Data Type	Time Period	Volume
POMCO	Adjudicated But Unpaid Medical Claims	1/1/2014 – 11/30/2015	30
HRI Data Warehouse	Eligibility	1/1/2014 – 11/30/2015	N/A
POMCO	Claim Cost Accumulator	1/1/2014 – 11/30/2015	N/A

6. **Solutions and Deliverables**

Deliverables	
<p>Medical</p> <p><input checked="" type="checkbox"/> Benefit Plan Administration</p> <p><input type="checkbox"/> Operational Review</p> <p>Dental</p> <p><input type="checkbox"/> Benefit Plan Administration</p> <p><input type="checkbox"/> Operational Review</p> <p>Eligibility</p> <p><input type="checkbox"/> Dependent Verification</p> <p><input type="checkbox"/> Employee Reconciliation</p>	<p>Rx</p> <p><input type="checkbox"/> Benefit Plan Administration</p> <p><input type="checkbox"/> Operational Review</p> <p><input type="checkbox"/> Claims Discount</p> <p><input type="checkbox"/> Rebate (specify):</p> <p style="padding-left: 20px;"><input type="checkbox"/> Fixed-Rate Model</p> <p style="padding-left: 20px;"><input type="checkbox"/> Market-Share Model</p> <p>Other</p> <p><input type="checkbox"/> _____</p> <p><input type="checkbox"/> _____</p>

¹ This time period reflects the actual date of service range for the vast majority of unpaid claims in inventory. Approximately 9,000 claims fall outside of this range and may or may not be re-adjudicated. Decision will be based on discussions between Truven Health and Customer.

7. Truven Health Responsibilities

- a. Conduct a comprehensive electronic review of existing claims inventory in a liquidation proceeding for Customer's incurred medical claims administered by Data Sources for the most recent plan year.
- b. Build customized audit rules based on Customer's specific plan designs (up to 30). If fewer than 30 unique plan options are offered, a credit of \$2,500 per reduction in plans will apply.
- c. Electronically re-adjudicate 100% of claims to identify potential adjudication errors. Exception categories and examples of attributes tested are shown in the table below.

Exception Category	Action	Examples of Attributes Tested
Plan Design	Review claims to identify whether claim administrator correctly interpreted and strictly adhered to your plan design and benefit exclusions and to assess whether reviews are performed to determine appropriateness of treatment and benefit coverage	<ul style="list-style-type: none"> • Benefit Limits/Maximums • Benefit Exclusion • Deductibles/Copays/Coinsurance • Large Dollar Claims • Emergency Care • Case Management and Utilization Review
Eligibility	Review claims for eligibility errors in order to identify opportunities for strengthening both the plan sponsor's and administrator's systems and procedures for updating eligibility and maintaining accurate enrollment files	<ul style="list-style-type: none"> • Claims Paid Before/After Member Enrolled in Benefits • Timely Maintenance of Eligibility
Other Party Liability	Review claims to assess the effectiveness of criteria for triggering investigation activities and recovery efforts associated with Other Party Liability	<ul style="list-style-type: none"> • Regular COB • Medicare COB/ESRD • Subrogation and Workers' Compensation
System Controls	Review claims to determine the effectiveness of an administrator's controls and system edits, including customization of unbundling software	<ul style="list-style-type: none"> • Duplicates • Upcoding/Unbundling • Correct Coding Initiative Edits • Anesthesia • Assistant Surgeon/CRNA • Incidental Charges
Fraud & Abuse	Review claims to detect patterns of potential fraud and abuse, by providers or patients	<ul style="list-style-type: none"> • Ambulance Rides to Nowhere • Upcoding of Services

- d. Provide Data Sources with requests for Customer data, layouts, specifications, and documentation. Truven Health will conduct a vendor data summit as needed to review layouts and requirements prior to the initial receipt of data from the Data Source. Review and process no more than two submissions of claims data per data type. If more than two submissions are required for any data type, additional fees not to exceed \$1,750 per occurrence will apply.
- e. Conduct status calls with the Customer and Truven Health project teams to review open issues, upcoming deliverables, timing expectations, and any critical path items.
- f. Provide up to 16 hours of post-audit support. Additional hours of post-audit support will be paid at the following hourly rates:

Position	Hourly Rate
Auditor or Data Management Consultant	\$280.00
Senior Auditor or Senior Data Management Consultant	\$325.00
Team Lead	\$380.00
Director	\$445.00
Senior Director	\$460.00

- g. Truven Health will perform a review and analysis of the health benefits plan(s) and records of Customer's third-party administrator(s) as listed in Section 5, Data Sources. Truven Health will review, assess, and analyze the work product and data of such plan administrator(s) to complete the audit(s) identified in Section 6, Solutions and Deliverables. Truven Health offers no assurance that its audit will produce savings for Customer, and its fee is due whether or not such savings are realized.
- h. The elapsed time for a typical audit of this type is 4-5 months. The ultimate duration of each audit project is dependent on the ability of the Data Sources to complete assigned tasks in a timely fashion. Below is a high-level project timeline for reference:

Phase	Activity	Description
1.0	Initiating the Audit (30 Days)	We will review audit objectives, scope, and project management with your team. We gather documents from you and your administrator.
2.0	Data Analysis & Audit (45-75 Days)	We load data, customize our testing algorithms based on your plan designs, perform analysis, and create data reports supporting the objectives of the Customer.
3.0	Audit Deliverables (30 Days)	We will produce customized data reports/extracts to assist Customer with processing of Explanations of Benefits (EOBs) and decision-making regarding identified discrepancies.
4.0	Support Adjudication Decisions	We will support Customer in making adjudication decisions where discrepancies are identified and produce corrected claims files based on decisions.

8. Customer Responsibilities

- a. Designate a project team to work with Truven Health throughout the audit project, including a Project Manager.
- b. Provide, or, if applicable, cause Data Sources to provide, all necessary Customer data, data layouts, and data dictionaries in a timely manner (based on the agreed upon schedules) and in the formats, layouts and specifications specified by Truven Health.
- i. Administrative Services Agreement (and applicable amendments) for the audit scope period
 - ii. Summary Plan Descriptions for each plan option for the audit scope period
 - iii. Eligibility data for all enrollees for the audit scope period
 - iv. Detailed line-level claims data (with full financials, provider, and clinical information) for the audit scope period
- c. The data is delivered to Truven Health as follows:

- i. Data Sources submit data in a single, consistent format for each data type (e.g., medical claims, eligibility). The data must include all required data elements needed for the audit. Any data deficiencies will be discussed between Truven and Customer, and course of action determined by mutual agreement of Parties before proceeding.
- ii. Data Sources provide accurate documentation (file layouts and data dictionary) for each data format.
- iii. Data Sources will provide required data for any carve-out programs (e.g., DME, mental health, prescription drug) that are integrated with the medical benefit for purposes of patient cost-sharing limits.
- d. Reimburse Truven Health travel expenses associated with this contract. Travel, if any, will be billed at actual and reasonable costs.

9. Fees

Description	Amount	Payment Terms
Comprehensive Electronic Medical Claims Re-adjudication of HRINY Claims Incurred 1/1/2014 through 11/30/2015 (But Not Yet Paid)	\$102,000	One-third due upon execution of the Statement of Work, one-third due upon completion of Phase 2 (Data Analysis & Audit), and one-third due upon delivery of the final report

Customer is also responsible for travel expenses and any sales and use taxes, if applicable.