Negotiating Managed Care Contracts

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Outline

• Threshold Issues
• MCO Diligence
• We Don’t Negotiate or We Can’t Negotiate
• Contracting Basics
• Specific Contract Terms

Threshold Issues

• Rate Setting – How and Who
• Payment – How, Who and When (and How Fast)
• Eligibility and Coverage – Who, How and What Process
• Covered Services – Who Decides
• Take It or Leave It Contract?
MCO Diligence

- Providers should investigate a payer’s history, creditworthiness, financial resources, and reputation
- Issues to look for:
  - Failure to pay claims in a timely manner
  - Failure to produce accurate financial statements in a timely manner
  - Loss of personnel/high employee turnover
  - Unjustified claim denials
  - High complaint volume

We Don’t Negotiate or We Can’t Negotiate

- Many provider contract provisions may be “set in stone” by legal requirements
  - Federal statutes
  - CMS regulations on managed care
  - Federal provider regulations
  - State Medicaid Statutes
  - State MCO Statutes
- Not all terms, however, are required by law – MCO negotiating ploy

We Don’t Negotiate or We Can’t Negotiate

- The “Balance” of Power
  - MCOs typically act as though they have all the leverage because they believe they can selectively contract
  - Provider can draw its strength from the value it can deliver to the MCO and its ability to deliver solutions to problems efficiently
  - MCO network access may be helpful if there is a geographic “hole” or hurtful if there is a “glut”
  - MCOs have strong incentive to contract with long term care facilities because such facilities can reduce cost by replacing hospitalization and other forms of expensive care
Contracting Basics

- Don’t assume you can’t negotiate and don’t allow the contracting administrator to prevent you from talking to MCO counsel.
- Facilities should try to enter into a specially negotiated contract rather than relying on the form contract provided by the MCO.
- Clarity is important:
  - Make sure the contractual language is clear.
  - Define important terms.
- Facilities should make sure they have the complete contract, including all documents the contract makes reference to.

Specific Terms - Definitions

- The definition section of a contract is very important as it sets out what specific terms will mean.
- Pay special attention to how the following terms are defined:
  - Clean Claim
  - Medical necessity
  - Covered services
  - Covered person/Member/Enrollee
  - Eligible (and any eligibility or service related terms)

Specific Terms - Services/Admission

- Covered Services
  - Facilities should avoid contracts that allow for covered services to simply reflect services provided in the member’s contract.
  - Facilities should specifically list and define each service.
- Admission of Covered Services and Obligation to Provide Services
  - Facilities should contract for provisions that allow for service contingent upon availability and authorized admission.
- Pre-Admission Authorization
  - Contract should state what approvals and authorizations are needed prior to admission.
  - Facilities should only be required to use “best efforts” to obtain authorization.
Specific Terms – Billing/Payment

- Billing Format and Claims Submission - The contract should specify a billing format to be used by both parties, or at least state that the parties will mutually agree upon a billing format.
- Copayments and Collections - Who is responsible for collection of co-payments or member cost sharing?
- Denial of Payment - Try to limit retroactively denials based on lack of authorization or utilization review.
- Prompt Pay - How fast does the MCO pay and what happens when they don’t comply?
- Overpayment - What is the provider required to do?

Specific Terms – Billing/Payment

- Payment Methodology and Source
  - There are various payment methods and structures.
  - Negotiates for ones that are reasonable and consistent.
  - If fixed, there should be an affirmative statement that payment is according to the agreed upon rate schedule.

Specific Terms – Billing/Payment

- Most favored nation clause - BEWARE
  - MCO always gets your lowest rates.
  - Lowest common denominator on your facilities controls.
- Overpayments
  - The MCO will want to retain the right to demand return in the event of overpayment.
  - The contract should require the MCO to provide notice of alleged overpayment and set a time limitation on demands for past overpayments.
Specific Terms - QA/Utilization Review

- Delineate the provider’s responsibility and control of utilization reviews
- What are the data collection and transfer requirements?
- Be sure to examine this section for reasonableness and evaluate your ability to apply
- How does QA/UR enhance or conflict with the provider’s operations and federal compliance requirements
- How much control does plan have over patient care (DM, care protocols, etc.)
- Confidentiality

Specific Terms - Term and Termination

- Review the term and termination section closely
- Mutuality for each side’s needs is the key
- What triggers involuntary termination
  - Breach for non-payment, slow payment
  - Regulatory or quality considerations
- Consider the length of term and choose what makes sense for the provider’s needs, but understand the needs of the MCO to have and keep a viable network
- Ideally the provider should try to negotiate w/o cause termination upon reasonable notice

Specific Terms - Amendment/Modification

- Avoid provisions which allow the MCO to unilaterally modify the contract
- Provider Manuals
- Be wary of “re-opener” clauses which allow a provider to reject MCO proposed changes but then trigger termination of contract
Specific Terms - Notification

- The contract will likely incorporate various appendices and exhibits
  - Ensure there is a provision so that provider gets these new versions
- The MCO will want to be apprised of any changes in conditions or situations, especially any legal problems that may arise
  - The provider should negotiate for a notification limitation that only requires notification based on statutory requirements or documents as a matter of public law

Specific Terms - Other Issues

- Provider Denials & Enrollee Grievances
  - What does the contract provide for stating grievances and appeals of MCO decisions
- Insurance and Indemnification
  - Look for mutual provisions relative to both the MCO and the provider’s insurance coverage against general and professional liability
  - Negotiate for mutual indemnification provisions (especially for utilization review process)

Specific Terms - Other Issues

- Hold-Harmless Clauses
  - Most contracts have clauses which prevent the provider from charging the enrollee for services not covered under the enrollee’s plan
- Maintenance and Release of Records; Confidentiality
  - Do you need a provision relative to HIPPA rules
  - Data collection and transfer
Negotiating Managed Care Contracts

Questions?

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Ari J. Markenson, J.D., M.P.H., is a partner with the Health Care Practice Group of Benesch Friedlander Coplan & Aronoff LLP in its New York office. He is experienced in counseling various health care industry clients, including providers and payers, on legal and regulatory compliance issues, including requirements and conditions for participation, fraud and abuse, Medicare and Medicaid certification and enforcement issues, administrative proceedings, acquisitions, due diligence, transactions, and corporate and business matters. Mr. Markenson also counsels clients regarding mergers and acquisitions, governance, management, and business matters, such as with respect to managed care agreements and health care facility leases.

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HEALTH CARE SERVICES AGREEMENT

AMONG

AND

FOR

SKILLED NURSING FACILITY SERVICES
# HEALTH CARE SERVICES AGREEMENT

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HEALTH CARE SERVICES AGREEMENT AMONG

AND

FOR

SKILLED NURSING FACILITY SERVICES

This Health Care Services Agreement ("Agreement") is entered into among [Name of Medical Corporation], a California medical professional corporation, and [Name of Nonprofit Corporation], a California nonprofit public benefit corporation [Name of Hospital Corp.], individually and collectively [Name of Hospital Corp.], and NEW HOSPITAL, a California corporation, and [Name of Professional Corporation], individually and collectively ("Contractor") and is effective as of August 1, 2006 ("Effective Date").

RECATALS

A. [Name of Nonprofit Corporation], a California nonprofit public benefit corporation operates health care benefit plans and provides or arranges for the provision of medically necessary health care services to Members (as defined below).

B. [Name of Hospital Corp.] has entered into an agreement with [Name of Medical Corporation], a California nonprofit public benefit corporation [Name of Hospital Corp.], under which [Name of Hospital Corp.] agrees to provide or arrange for certain medically necessary hospital or facility services for Members.

C. [Name of Professional Corporation] has entered into an agreement with [Name of Medical Corporation], a California professional medical corporation [Name of Hospital Corp.], under which [Name of Hospital Corp.] agrees to provide or arrange for certain medically necessary professional and outpatient services for Members.

D. [Name of Administrative Corporation], a California corporation in its capacity as an administrative services organization, has entered into agreements with certain payors to provide or arrange for provider network administration services in support of these payors’ self-funded health benefit plans, and [Name of Administrative Corporation] has in turn been engaged by [Name of Hospital Corp.] to provide network access and administration services in support of those arrangements.

E. [Name of Hospital Corp.] desires to arrange for the provision of certain health care services to Members by contracting with providers, such as Contractor. Contractor desires to provide Services (as defined below) to Members in accordance with the terms of this Agreement.
AGREEMENT

NOW THEREFORE, the parties agree as follows:

ARTICLE 1. DEFINITIONS

Following are a list of definitions used in this Agreement. There may be additional definitions embedded in the Agreement.

1.1 **Agreement** means this Health Care Services Agreement and any amendments, Exhibits and attachments hereto.

1.2 **Authorization, Authorized.**

(i) means, as the context requires, and in accordance with applicable Law and pursuant to utilization management programs as those are described in the Provider Manual:

a. approval for the provision of Covered Benefits that are not Emergency Services (excluding those few "self-referred" Covered Benefits that by Law, or as provided for in the relevant Membership Agreement, do not require a health plan’s authorization);

b. retrospective approval for Emergency Services, as referenced in Section 2.8.2 (Emergency Services);

c. approval for the provision of Covered Benefits immediately following Emergency Services; or

d. with respect to Other Contracted Functions, ’s approval.

(ii) as the context requires, Authorization also means:

a. the document indicating written approval;

b. the approved Authorization form used to document an Authorization;

(iii) "Authorized" also means provided pursuant to and in compliance with an Authorization.

1.3 **Base Period** means the twelve (12) month period of time beginning on the Effective Date.

1.4 **Business Day** means the same as the term "working day" as defined in Section 1300.71 (a)(13) of Title 28 of the CCR .

1.5 **Calendar Day** means all days, Including holidays and weekends.

1.6 **CCR** means the California Code of Regulations.
1.7 **Claim** means a Contractor’s claim for payment for Services rendered to a Member submitted in accordance with the terms of this Agreement, where such word is denoted with an initial capital letter. "Claims" shall be deemed to include Complete Claims where appropriate within this Agreement.

1.8 **CMS** means the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, or any successor entity.

1.9 **Complaint** means any verbal or written expression of a Member’s dissatisfaction which (i) is not amenable to prompt resolution at the point of service or (ii) is raised after the time the initial care or service was provided and which requires follow-up and investigation.

1.10 **Complete Claim** means a complete, uncontested, undenied Claim submitted for payment of Covered Services, as defined in (i) Section 1300.71(a)(2) of Title 28 of the CCR for Knox-Keene Members or (ii) other applicable Law.

1.11 **Complete Invoice** means a complete, uncontested, undenied Invoice submitted in accordance with the terms of this Agreement.

1.12 **Contractor** denotes the non-legal entity(ies) or individual(s) that is a contracting party to this Agreement.

1.13 **Covered Benefits** are health care services that are benefits that the Member is entitled to receive as set forth in the applicable Membership Agreement, under the Member’s commercial, Medicare Advantage, Medi-Cal managed care, and other plans.

1.14 **Covered Services** are those Services rendered by Contractor to Members that are (i) Covered Benefits, and are (ii) Authorized or otherwise approved for payment.

1.15 **DHHS** means the United States Department of Health and Human Services, or any successor entity.

1.16 **DHCS** means the California Department of Health Care Services, or any successor entity.

1.17 **DMHC** means the California Department of Managed Health Care, or any successor entity.

1.18 **Emergency Medical Condition** means any of the following (i) a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson with average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in (a) serious jeopardy to the Member’s health, or in the case of a pregnant woman, the health of the woman or her unborn child, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part; or (ii) a mental disorder that manifests itself by acute symptoms of sufficient severity such that either the Member is an immediate danger to themselves or others, or the Member is not immediately able to provide for or use food, shelter, or clothing, due to the mental disorder, or (iii) with respect to a pregnant woman who is having contractions (a) that there is inadequate time to effect a safe transfer to another hospital before delivery, or (b) that transfer may pose a threat to the health or...
safety of the woman or her unborn child, or (iv) as otherwise defined by applicable Law (Including California Law or EMTALA).

1.19 **Emergency Services** are those Services necessary to screen, evaluate and stabilize an Emergency Medical Condition. Emergency Services do not include (i) post-stabilization services or (ii) observation services after the first twenty-three (23) hour period, or as otherwise required by Law.

1.20 **Exhibit(s)** refers to the exhibits attached to this Agreement, Including any subexhibits.

1.21 **Facility(ies)** refers to those Locations (i) owned or operated by Contractor or Subcontractor and (ii) set forth pursuant to Exhibit 2 (Facilities and Practitioners) and (iii) used to provide Services to Members.

1.22 **FEHBP** refers to the Federal Employees Health Benefits Program, which is administered by the Federal Office of Personnel Management through a contract with [ ] (or [ ] Affiliated Payors).

1.23 **Financial Responsibility Form** means a form provided to a Member by Contractor to acknowledge that such Member is financially responsible to pay for (i) Member Cost Share and/or (ii) services that are not Covered Services, in which case such form further indicates that Contractor advised Member to seek Authorization first, but the Member elected to proceed without obtaining such Authorization. This form shall not be required of a Member prior to his/her receipt of Emergency Services.

1.24 **Government Officials** refers to (i) officials who have jurisdiction over [ ] or Contractor and represent a local, state or federal government or regulatory body, (ii) representatives of any accreditation agency or organization (such as the National Committee on Quality Assurance ("NCQA") or The Joint Commission) or a Peer Review Body or other peer review organization applicable to [ ] or Contractor, (iii) such other officials entitled by Law or pursuant to Medi-Cal Contracts or other government contracts (Including Medicare Advantage, FEHBP, and CalPERS contracts) with [ ] and (iv) the designees of any of the above.

1.25 **HIPAA** means the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91) and the Health Information Technology and Economic and Clinical Health Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), as each is codified in the United States Code, and all regulations issued under any of the foregoing statutes, as and when any of them may be amended from time to time.

1.26 **Include(s), Including.** The use of these words herein implies inclusion without limitation, unless otherwise distinguished within the text.

1.27 **Invoice** means a written submission for payment for Other Contracted Functions.

1.28 **[ ]** means a [ ] entity that has contracted to perform certain administrative and/or management services on behalf of an Other Payor.
1.29 **Knox-Keene Laws** refer to the California Knox-Keene Health Care Service Plan Act of 1975 (California Health and Safety Code Section 1340, et seq.) and all regulations promulgated thereunder in Title 28, Section 1300, et seq., of the CCR.

1.30 ____________. Both individually mean ____________, and or any combination of one or more of them, as applicable.

1.31 ____________. Both individually denote the ___ legal entity(ies) that is(are) the contracting party(ies) to this Agreement, or one of them, as applicable.

1.32 ____________ means the ____________, which includes all ____________ Affiliated Payors except Group Health Cooperative.

1.33 **Affiliated Payor(s)** means entities controlled by or under common control with ____________.

1.34 **Law** means local, state or federal law, regulation or rule, as applicable.

1.35 **Location(s)** means any locations, sites or facilities in which Contractor or Subcontractor provides Services to Members or conducts business for the purpose of providing Services, whether or not such locations, sites or facilities are listed pursuant to Exhibit 2 (Facilities and Practitioners).

1.36 **Medi-Cal Contracts** refer to all prepaid Medi-Cal program contracts (i) between ____________ and the State of California or (ii) between ____________ and an organization under contract to the State of California or (iii) between ____________ and the Medicaid agency in any state other than California under which Members are enrolled.

1.37 **Member** means an individual and his or her eligible dependents entitled to health care services (at the time such services are rendered) under a Membership Agreement. Members include the following categories:

1.37.1 **Medicare Members** include:
1.37.1.1 **Medicare Advantage Members** who are Medicare Members enrolled under a Medicare Advantage contract between (or a health plan that is a Affiliated Payor) and CMS.

1.37.1.2 **Regular Medicare Members** are Medicare Members (i) enrolled under a Medicare Cost contract between (or a health plan that is a Affiliated Payor) and CMS, or (ii) entitled to coverage under Part A only or Part B only or Parts A and B of Medicare but (a) not enrolled under a Medicare Advantage contract or a Medicare Cost contract between (or a health plan that is a Affiliated Payor) and CMS and (b) not required to elect or have not elected their employer’s group health plan as primary coverage or (iii) enrolled under a Medicare Advantage contract and are hospice patients receiving care from Contractor or Subcontractor for Services unrelated to the hospice patient’s terminal condition.

1.37.2 **Medi-Cal Members** are Members enrolled under Medi-Cal Contracts, as defined in Section 1.36 (Medi-Cal Contracts), or Members enrolled under other Medicaid contracts in states other than California.

1.37.3 **Commercial Members** are Members who are not Medicare Members or Medi-Cal Members.

1.37.4 **Knox-Keene Members** are those Commercial Members subject to the protections imposed upon by the Knox-Keene Laws.

1.38 **Member Cost Share** means a copayment, deductible, coinsurance or any other charge payable by a Member for Covered Services pursuant to the Member’s Membership Agreement, as established by Payors from time to time.

1.39 **Membership Agreement** refers to the Medical and Hospital Service Agreement, as amended from time to time, under which Members are entitled to receive health care services. Membership Agreement also refers to (i) other agreements under which a Affiliated Payor has agreed to either provide or arrange for the provision of health care services to Members, Including Medi-Cal Contracts and (ii) any other plan of health benefits sponsored or funded by a Payor and under which Members are entitled to receive health care services. Membership Agreement Includes the relevant service agreement, evidence of coverage, or other description of coverage, summary plan description or benefit summary issued to a Member, as amended from time to time.

1.40 **Notice** refers to formal notification given to any other party in conformity with Section 8.2 (Procedure for Giving Notice).

1.41 **Other Contracted Functions** mean Services that are (i) arranged for or provided by Contractor, and (ii) explicitly covered under this Agreement as Other Contracted Functions in Exhibit 1 (Additional Terms), Exhibit 3 (Billing Instructions and Compensation/Payment Rates) and/or Exhibit 4 (Special Situations).
1.42 **Other Payor** means any public or private entity that (i) sponsors and/or funds a plan of health benefits coverage, or is otherwise responsible for the arrangement for services rendered to Members under a Membership Agreement and (ii) enters into an administrative and/or management services arrangement with [redacted] with respect to the applicable Membership Agreement. Other Payor excludes [redacted] Affiliated Payors in their capacity as health maintenance organizations, health insurers or similar health benefit carriers.

1.43 **Other Payor Provider Manual(s)** means [redacted] manual(s) of policies, procedures and guidelines applicable to services provided to Members in [redacted] northern California region for whom an Other Payor is financially responsible, and includes billing procedures, Authorization and referral policies and procedures, utilization management, quality assurance and improvement, Complaints, and other guidelines and criteria for providing health care services to Members, as updated and supplemented by [redacted] from time to time.

1.44 **Payor** means [redacted] a [redacted] Affiliated Payor and/or an Other Payor(s) which is financially responsible for the Covered Services provided to a Member.

1.45 **Peer Review Body** means any such body as defined in Section 805(a)(1) of the California Business and Professions Code and its successor provisions.

1.46 **Practitioner** refers to those health care practitioners (including physicians, nurses, and allied health professionals such as physician assistants and nurse practitioners) who, acting in the capacity as a practitioner, and who also, by way of ownership of, employment by, or contracts with Contractor or any Subcontractor may be providing Services to Members pursuant to this Agreement.

1.47 **Program Requirements** means (i) the Provider Manual and any other applicable policies, procedures and guidelines and formularies of [redacted] as amended and supplemented by [redacted] from time to time in accordance with applicable Law; (ii) all applicable Law, including licensure and certification requirements; (iii) the applicable Membership Agreement, and (iv) all accreditation requirements (including credentialing) imposed upon [redacted] that are applicable to Contractor for [redacted] to be accredited.

1.48 **Prompt, Promptly** means as soon as practicable in the circumstances.

1.49 **Provider Manual** means [redacted] manual(s) of policies, procedures and guidelines applicable to [redacted] Northern California region, including billing procedures, Authorization and referral policies and procedures, utilization management, quality assurance and improvement, Complaints, and other guidelines and criteria for providing health care services to Members, as updated and supplemented by [redacted] from time to time in accordance with applicable Law. Unless otherwise indicated, the term Provider Manual includes Other Payor Provider Manual.

1.50 **Services** refers to those services and supplies, described herein, that Contractor or its Subcontractors do customarily provide for the delivery of health care services, including the use of Facility(ies), all consults, studies, tests and procedures that are customary and necessary for the diagnosis and treatment of its patients. Services also include all administrative services provided by Contractor pursuant to this Agreement and Contractor’s obligations specified herein.
1.51 **Subcontract** means an agreement between Contractor and Practitioner(s), an agreement between Contractor and its Subcontractor(s), and/or an agreement between two or more Subcontractors for the provision of Services to Members under this Agreement.

1.52 **Subcontractor** means any entity or person(s), including a Facility, individual Practitioner, Practitioner group, or any other individual (including a substitute Practitioner), that provides or arranges for Services to Members pursuant to a direct or indirect contract, agreement or other arrangement with Contractor. Employees of Contractor are not considered Subcontractors.

1.53 **Term** is the period of time that this Agreement is in effect, beginning on the Effective Date and continuing through the effective date of termination.

1.54 **Physician** means any duly licensed physician employee or shareholder of [ ] or such other duly licensed physician as may be designated by [ ] from time to time.

**ARTICLE 2. CONTRACTOR’S OBLIGATIONS**

2.1 **Services to Be Provided.** In accordance with this Agreement and the Provider Manual, Contractor shall, as requested, provide or arrange for the provision of Services and Other Contracted Functions (if any), including any described in Exhibit 1 (Additional Terms) and/or in Exhibit 4 (Special Situations), at the standards of care generally recognized in the community and as required by other provisions of this Agreement. References to the responsibilities and obligations of "Contractor" in this Agreement shall be interpreted to apply, as appropriate under the circumstances, (i) to all employees of Contractor and at all Locations of Contractor and (ii) where Contractor is providing any or all Services through a Subcontractor, to such Subcontractor (and its employees at all Locations).

2.1.1 **Availability.** Contractor shall ensure that Services are available (i) during normal business hours, (ii) when medically indicated, on a Prompt basis, and (iii) where and in the manner specified in Exhibit 1 (Additional Terms), twenty-four (24) hours per day, seven (7) days per week. Contractor shall ensure that Services provided under this Agreement are readily available and accessible, provided in a Prompt and efficient manner without delays in appointment scheduling and waiting times and consistent with applicable recognized standards of practice and Program Requirements. Such availability shall not be less than Contractor provides to its other patients and, as medically necessary, on a same-day basis. **Except as permitted by applicable Law,** Contractor shall not refuse to provide Services to Members (including closing its practice, if applicable) that are participating in a publicly financed program (including Medicare and Medicaid, either fee-for-service or managed) during the Term of this Agreement.

2.1.2 **Scope.** Notwithstanding the specificity of the scope of Services defined in this Agreement, the scope of Services shall include additional services as may be Authorized from time to time.
2.2 **Practitioners Providing Services.** Contractor shall ensure that all Practitioners providing Services to Members under this Agreement are qualified and competent to provide such Services and meet all requirements specified in Section 7.4 (Credentials). If Contractor provides or arranges for the provision of Services through Practitioners, Contractor shall identify such Practitioners pursuant to Exhibit 2 (Facilities and Practitioners). Contractor shall ensure that any substitute Practitioner not employed by Contractor or a Subcontractor and providing Services to Members under this Agreement meets the requirements of, and is, a Subcontractor.

2.2.1 **Authority to Bind.** Contractor represents and warrants that it has the authority to bind all Practitioners for whom it is acting as employer or agent and all Subcontractors to the applicable terms and conditions of this Agreement, and that all Practitioners and Subcontractors agree to be bound by all applicable provisions of this Agreement prior to providing any Services to Members.

2.3 **Facilities.** If Contractor provides or arranges for the provision of Services at a location other than a Member’s personal residence, Contractor shall identify such Facilities, pursuant to Exhibit 2 (Facilities and Practitioners). Contractor shall ensure that its Facilities are maintained in good repair and meet all applicable requirements specified in Article 7 (Compliance).

2.4 **Quality Assurance and Quality Improvement (collectively, "QI").**

2.4.1 **Cooperation with QI.** Contractor acknowledges that it is required by Law and by accreditation standards to monitor the QI activities of Contractor, as described in the Provider Manual. With respect to Services provided to Members, Contractor shall participate in QI program as established and amended from time to time, which includes cooperating with QI activities to monitor and evaluate Services provided to Members, facilitating review of such Services by QI committees and staff, and cooperating with any independent quality review and improvement organization or other external review organization evaluating Contractor as part of its QI program. If applicable, any additional Contractor obligations regarding QI program are described in Exhibit 1 (Additional Terms).

2.4.2 **Provision of Information.** Contractor shall provide information relating to Members for use in QI activities conducted by Contractor (including tracking and regular reporting on quality indicators, if any, as further described in Exhibit 1 (Additional Terms), the Provider Manual, or otherwise through notification by Contractor’s QI information concerning Services provided to Members. Upon request, Contractor shall provide any data, information and records which is required to review for licensing, accreditation, or otherwise as required by Law. In addition, Contractor shall use best efforts to provide the appropriate data to LEAPFROG, and any other similar patient safety initiatives requested by Contractor. Nothing in this Section shall require a party to provide information or take action that would violate legally required standards to preserve confidentiality and privileges set forth in Law, including California Evidence Code § 1157.
2.4.3 **Resolution of Problems.** Contractor shall investigate and respond Promptly to issues regarding quality of care, accessibility and other Complaints related to Services provided to Members. Contractor shall use best efforts to remedy Promptly any condition that has been determined by or any Government Official to be unsatisfactory at the Facilities, or any conduct by a Practitioner related to the care of Members that has been determined by or any Government Official to be unsatisfactory. The parties shall work together continuously to improve the quality of care provided to Members and to resolve Promptly problems related to the provision of Services as they arise.

2.5 **Utilization Management and Review (collectively, "UM").**

2.5.1 **Cooperation with UM.** Contractor hereby acknowledges that conducts UM programs relating to health care services provided to Members, as described in the Provider Manual. Contractor shall participate in UM programs (Including prospective, concurrent and retrospective review) and cooperate with UM committees and staff. Upon reasonable notification, Contractor shall allow UM personnel, or their designees, physical and telephonic access to review, observe and monitor Member care and Contractor’s performance of its obligations under this Agreement, to the extent allowed by Law. If applicable, any additional Contractor obligations regarding UM programs are described in Exhibit 1 (Additional Terms).

2.5.2 **Contractor UM Program.** With respect to Services provided to Members, shall have the right to participate in Contractor’s UM program, if any.

2.5.3 **UM Decisions.** Contractor acknowledges that UM decision-making is based on the appropriateness of care and service and existence of coverage, and that does not compensate individuals responsible for UM decision-making with financial incentives that specifically reward them for issuing denials of coverage or service, or that encourage decisions that result in underutilization.

2.6 **Responsibility for Services.** Notwithstanding Section 2.4 (Quality Assurance and Quality Improvement) and Section 2.5 (Utilization Management and Review), Contractor shall assume, for each Member to whom Services are rendered by or on behalf of Contractor, (i) full responsibility for the manner in which Services are rendered by Contractor and Subcontractors, and (ii) where applicable for Practitioners, the obligation to exercise independent medical judgment in providing health care services to Members. Compliance with Program Requirements does not relieve Contractor of any duty to provide Members with Services using the appropriate standard of care.

2.7 **Provider Manual Compliance.** Provider Manual, as amended from time to time in accordance with Section 10.9 (Amendments), sets forth procedures for operationalizing many of the requirements of this Agreement. The terms of the Provider Manual are hereby incorporated into this Agreement. Except as otherwise provided in this Agreement, in the event of any inconsistency or conflict between the Provider Manual and this Agreement, the terms of this Agreement shall govern.
2.7.1 **Responsibility and Ownership.** During the Term of this Agreement, Contractor is responsible for (i) maintaining its copies of the Provider Manual and its updates as provided by [Redacted] (ii) providing copies of the Provider Manual to its Subcontractors and (iii) ensuring that Contractor and its Practitioners and Subcontractors comply with all applicable provisions. The Provider Manual, Including all updates, shall remain the property of [Redacted] and shall be returned to [Redacted] or destroyed upon termination of the obligations under this Agreement.

2.8 **Operational Responsibilities.**

2.8.1 **Verification.** Contractor shall use its best effort to verify (i) that the person seeking Services is in fact an eligible Member as of the date of provision of Services, (ii) the Services provided to the eligible Member are Covered Benefits, and (iii) the Covered Benefits (Including the scope and duration of services) are properly Authorized, where required, all as described in this Agreement and the Provider Manual. Contractor’s receipt of an identification card issued by [Redacted] from a person claiming to be a Member shall be indicative but not conclusive of the person’s status as a Member. **Contractor’s receipt of an Authorization or Approval from [Redacted] shall be conclusive of the person’s status as a Member.** With respect to Services that are not Emergency Services, if a person claims to be a Member, but Contractor is unable to verify his/her eligibility to receive Covered Services, Contractor may nevertheless provide Services to the person if he/she completes a Financial Responsibility Form to the reasonable satisfaction of Contractor, and Payor shall not be financially responsible for Services provided to such person. However, if it is subsequently determined that such person was an eligible Member and that such Services were Covered Services, [Redacted] shall pay Contractor for such Services to the extent otherwise provided by this Agreement.

2.8.2 **Emergency Services.** To the extent Contractor provides (i) Emergency Services to a Member or (ii) Covered Services to a Member following stabilization of an Emergency Medical Condition, Contractor shall participate in and cooperate with [Redacted] in its Emergency Prospective Review Program ("EPRP") and case management program, respectively, as applicable and as described in the Provider Manual. To the extent allowable by applicable Law, [Redacted] shall retrospectively review Claims for Emergency Services to determine whether they meet the criteria for Authorization.

2.8.3 **Member Cost Share.** Member Cost Share may be a component of Contractor’s payment for Covered Services. Contractor shall collect Member Cost Share from such Members, and such Member Cost Share shall not be routinely waived.

2.8.4 **Referrals of Members.** For Covered Benefits it has been Authorized to provide, Contractor shall only refer Members for such Covered Services to other providers that have been approved by [Redacted] in accordance with the Authorization, Including [Redacted] own practitioners and [Redacted] facilities.

2.8.5 **Drugs and Medications.** To the extent Contractor prescribes and/or dispenses drugs and medications, Contractor shall prescribe and/or dispense, respectively, such drugs and
medications in accordance with applicable Law and any applicable Program Requirements.

2.9  Relationship with Members.

2.9.1  **Communication.** Subject to applicable confidentiality requirements, Practitioners may freely communicate with a Member (or his/her authorized representative) about the Member’s treatment options, without regard to benefit coverage limitations.

2.9.2  **Language Assistance.** Information about health care service and treatment options (including the option of no treatment) must be provided to Members in a culturally competent manner and with appropriate access to language assistance, as required of Contractor under applicable Law and by Government Officials. Contractor shall ensure that Members with disabilities are able to communicate with all health care professionals in making decisions regarding treatment options.

2.9.3  **Notification of Termination.** Contractor retains the sole right and responsibility to notify Members prior to the effective date of termination regarding the termination of Contractor’s or a Practitioner’s right to treat Members under this Agreement, and Contractor is responsible for providing information and otherwise assisting Members in making such notifications.

2.10  **Subcontracts.** If and to the extent Contractor arranges for the provision of Services to a Member by any Subcontractor, Contractor shall enter into a written Subcontract with such Subcontractor prior to the provision of any Services to Members by such Subcontractor. Such Subcontract shall require the Subcontractor (and its Practitioners and Facilities) to comply with all relevant provisions set forth in this Agreement that would apply to Contractor if Contractor were providing the Services to Members directly. In addition, to the extent that a Subcontractor provides or could provide Services to Medicare Advantage Members, such Subcontracts shall require Subcontractor to comply with Medicare Advantage laws, regulations and contract requirements applicable to Contractor (Including (including the right to approve, suspend, or terminate any Subcontractor or Practitioner). To the extent CMS or other Government Officials require additional provisions to be included in such Subcontracts, Contractor shall amend its contracts accordingly or such amendments shall be deemed included in all such Subcontracts. Contractor shall, within ten (10) days after request, or such earlier time as may be required by Government Officials, provide its forms of Subcontract with Subcontractors, along with a copy of an executed signature page to each such Subcontract, for use by Contractor and any Government Officials.

2.11  **Delegation and Other Activities.**

2.11.1  **Delegation.** Contractor may, at its discretion, delegate to Contractor utilization management, credentialing, medical records review, and other activities consistent with regulatory and accreditation standards ("Delegated Activities"). Such Delegated Activities are described in Exhibit 4 (Special Situations), which may be amended from time to time in accordance with Section 10.9 (Amendments). To the extent there are Delegated Activities under this Agreement, Contractor shall retain the right to audit, monitor and oversee these Delegated Activities.
Activities (including implementing a corrective action plan to address any deficiencies identified by Government Officials or [redacted] and Contractor shall fully cooperate with [redacted] in doing so. [redacted] reserves the right to revoke such delegation (i) at any time by giving Notice and (ii) Promptly in the event that either [redacted] or a Government Official determines that such Delegated Activities have not been performed in a satisfactory manner.

2.11.2 **Other Activities.** In the event that Contractor has the responsibility or authority to select Practitioners to provide Services under this Agreement, directly or indirectly, to Members, [redacted] retains the right to approve, suspend or terminate any such responsibility or authority.

2.12 **Other.** Contractor shall also comply with all obligations described in the Exhibits and the Provider Manual.

**ARTICLE 3. BILLING AND PAYMENT**

3.1 **Payment of Compensation.** Subject to applicable Law, Contractor shall be paid for Covered Services provided to Members as set forth in this Article 3 (Billing and Payment) and Exhibit 3 (Billing Instructions and Compensation/Payment Rates), provided that Contractor has a valid Authorization and has submitted a Claim for Covered Services in the format described in Section 3.1.2 (Format of Bills) within the time period specified in Section 3.1.3 (Time Period for Bill Submission). In addition, [redacted] shall pay Contractor for approved Other Contracted Functions (if any) as set forth in this Article 3 (Billing and Payment), Exhibit 3 (Billing Instructions and Compensation/Payment Rates), and Exhibit 4 (Special Situations), provided that Contractor has submitted an Invoice in the format described in Section 3.1.2 (Format of Bills) within the time period specified in Section 3.1.3 (Time Period for Bill Submission). Contractor shall accept such payment and Member Cost Share as payment in full.

3.1.1 **Responsible Payor.** Contractor shall be compensated by the Payor that is financially liable for the Services rendered to a Member. The compensation rates set forth in Exhibit 3 (Billing Instructions and Compensation/Payment Rates) and Exhibit 4 (Special Situations) shall apply to each Payor with respect to the Services or Other Contracted Functions for which the Payor is financially responsible. Contractor shall not seek compensation for Covered Services rendered to a Member (except for Member Cost Share, in accordance with Section 3.3.3.2.1) from any other person or entity (including [redacted] or the [redacted], other than the Payor responsible to pay for Services for the particular Member. [redacted] makes no representations or warranties related to payment to Contractor from any other Payor. [redacted] also does not guarantee in any manner payment to Contractor from any other Payor. This provision shall not be construed in any manner to (i) create an express, implied or quasi-contractual relationship between any Other Payor and Contractor or (ii) impose joint liability on any Payor (Including [redacted] for the obligations of any other Payor. Furthermore, Contractor shall not be a third-party beneficiary to any contract between a [redacted] and an Other Payor. Contractor shall have no obligation to provide services to any member of an Other Payor’s plan unless [redacted] provides. Contractor with written evidence that the Other Payor has agreed to abide by and
comply with the provisions of this Agreement and specifically its payment terms. In no event, shall Contractor be obligated to accept payment rates from an Other Payor that are less than those agreed to herein and set forth on Exhibit 3.

3.1.2 **Format of Bills.** Unless otherwise specified by Contractor shall submit, as described in the Provider Manual and/or as applicable in Exhibit 3 (Billing Instructions and Compensation/Payment Rates) and/or Exhibit 4 (Special Situations) (i) an itemized Claim for Covered Services on the billing form and in the format described and/or (ii) an Invoice for Other Contracted Functions (if any) in the format described. Each Claim and/or Invoice shall contain all information requested on the billing form and such reasonably relevant additional information as may be requested from time to time. If applicable, any additional billing requirements or procedures are described in Exhibit 3 (Billing Instructions and Compensation/Payment Rates) and/or Exhibit 4 (Special Situations).

3.1.3 **Time Period for Bill Submission.** When a Payor is primary for Covered Services, Contractor shall submit its itemized Claim for Services within the time frame specified in the Provider Manual, but not more than one hundred eighty (180) Calendar Days after the provision of Services, or such other time frame as required by applicable Law if such claim is not subject to Knox-Keene Laws. Contractor shall submit an Invoice for Other Contracted Functions (if any) to not more than one hundred eighty (180) Calendar Days after provision of the Other Contracted Functions unless a shorter time frame is specified elsewhere in the Agreement or in the Provider Manual.

3.1.4 **Time Period for Payment.** Subject to Section 3.4 (Coordination of Benefits) and Section 3.1.7 (Denials), shall pay Contractor for Covered Services within forty-five (45) Business Days after receipt of a properly submitted Complete Claim, or any undisputed portion thereof, or if the Claim is not governed by Knox-Keene Laws, within such other time frame as may be permitted or required by applicable Law. If any disputed amount is determined to be payable, Contractor shall be paid this amount within such time frame as permitted or required by applicable Law. shall so contest or deny within forty-five (45) Business Days after the date of receipt of the Claim, or such other time period as permitted or required by applicable Law. shall pay Contractor for Other Contracted Functions (if any), or any undisputed portion thereof, within forty-five (45) Business Days after receipt of a properly submitted Complete Invoice.

3.1.5 **Other Payors.** If terms and conditions relating to an Other Payor’s claim submission or payment process (Including elements of a Complete Claim, period for submission of a Complete Claim and timeframe for compensation) differ from those specified here, such terms and conditions shall be specified in the Other Payor Provider Manual and shall supersede those in the Agreement with respect to such Other Payor. Contractor be obligated to comply with the claim submission or payment process of an Other Payor, if different from those specified herein, until such time as Contractor has been provided with thirty (30) days prior written notice of the claims submission and payment processes of an Other Payor.
3.1.6 **Scope of Authorization.** May limit the scope of an Authorization, and the obligation to compensate Contractor is commensurate with the scope of the Authorization. May terminate an Authorization prior to its expiration date, by providing written notification to Contractor. Such written notification may be provided in the manner in which the Authorization was originally sent and must be received by Contractor prior to the date of service. If required by applicable Law, Compensation for non-Emergency Services provided to Members is payable to Contractor only if the Services are covered by an Authorization and that Authorization has neither expired nor been terminated as of the date of service.

3.1.7 **Denials.** Payor reserves the right to deny a Contractor’s Claim or Invoice if Contractor fails to submit it in the appropriate format or within the appropriate time frame specified in this Section 3.1 (Payment of Compensation). In addition, to the extent allowable under Law, Payor reserves the right to deny payment of a Claim for Services rendered, even if such Services would otherwise be considered Covered Services, (i) by a Practitioner or in a Location that fails to meet the applicable requirements in Section 7.3 (Licensure, Accreditation and Certification) or Section 7.4 (Credentials) on the date(s) of service, (ii) to a Medicare Member or Medi-Cal Member by a Practitioner or Facility that is excluded from or has opted out of participation in Medicare or Medicaid/Medi-Cal, or (iii) in any manner or by any person prohibited by Law. Further, in any of the situations described by (i), (ii) or (iii) in the previous sentence, if Payor has inadvertently paid for such Services, such payments shall be deemed overpayments, and Payor reserves the right to recover such overpayments as described in Section 3.2 to the extent allowable under Law.

3.1.8 **Subcontractors.** To the extent permitted by Law, with respect to Subcontractors (Including substitute Practitioners), Contractor shall submit a Claim and/or an Invoice (if applicable) for all Services and Other Contracted Functions (if any) rendered by such Subcontractors, and Contractor shall be solely responsible for paying such Subcontractors for Services.

3.1.9 **Active Encouragement.** Contractor agrees that the Affiliated Payors are included under the terms of this Agreement. In accordance with California Health and Safety Code Section 1395.6, Payors "actively encourage" Members to use contracted providers for non-emergency services through the use of financial incentives such as reduced Member Cost Share. However, even if a Payor fails to specifically encourage its Members to use Contractor for Services, it shall not be excluded from accessing the rates in the Agreement.

3.2 **Adjustments to Payment.** Payor may review and audit any and all Claims and Invoices, prior to or subsequent to payment, to ensure that coding complies with commonly accepted standards, that services rendered are appropriate and medically necessary, and that payment is in accordance with this Agreement; and if not, Payor reserves the right to deny, reduce or otherwise adjust payment to Contractor to the extent permitted by Law. If an audit conducted by a Payor shows that Contractor owes money to Payor for any reason hereunder, Including overpayments due to COB (as defined in Section 3.4), Payor will notify Contractor, and Contractor shall
contest or refund such overpayment to Payor within thirty (30) Business Days after the date that Payor notifies Contractor. After such period, Payor is hereby authorized to offset and recoup the amount of the overpayment identified in an uncontested notification of overpayment against any money owed to Contractor to the maximum extent permitted by applicable Law. If this Agreement is terminated for any reason prior to Payor’s full recovery of such overpayment, the remaining amount shall become due and owing immediately upon the effective date of the termination.

3.3 **Payment in Full.**

3.3.1 **Member Hold Harmless.** Except as expressly provided in Section 3.3.3 (Exceptions to Payment in Full), Contractor shall look solely to the financially responsible Payor for compensation for Covered Services rendered to Members of any Member category and for any Other Contracted Functions, and Contractor agrees that in no event (including non-payment by Payor, insolvency of Payor or breach of this Agreement) shall Contractor bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against any Member, property of a Member, a person acting on the Member’s behalf, the State of California, DMHC, DHCS or any Medi-Cal plans, for Covered Services or Other Contracted Functions provided pursuant to this Agreement. Without limiting the foregoing, Contractor shall not seek payment from Members for amounts denied by Payor for reasons including (i) billed charges were not customary or reasonable, (ii) clinical data was not submitted promptly, or (iii) Contractor failed to submit a Claim (or Invoice, if applicable) in accordance with the appropriate billing procedures or within the appropriate time frame, or in accordance with commonly accepted standard coding practices.

3.3.2 **Surcharges Prohibited.** Contractor understands and agrees that surcharges against Members are prohibited by Law and/or contracts with payors, and will take appropriate action if surcharges are imposed. A surcharge is an additional fee that is charged to a Member for Covered Services but is not expressly permitted under the applicable Membership Agreement or, where applicable, permitted by Law or Government Official. A surcharge includes a fee charged for a Member’s failure to (i) keep scheduled appointments or (ii) pay a Member Cost Share at the time a Covered Service is provided.

3.3.3 **Exceptions to Payment in Full.**

3.3.3.1 **Billing Other Responsible Payors.** Contractor shall look to other responsible payors in the following circumstances:

3.3.3.1.1 **Other Coverage.** If a Member is entitled to benefits under another payor’s health benefits, workers’ compensation or other coverage, and such coverage is primary, Contractor will look first to the primary carrier for compensation for Services and then to the applicable secondary payor, unless Payor (as the secondary payor) has reserved the right to bill and collect such sums from other
payors to which it is secondary, in accordance with Section 3.4 (Coordination of Benefits).

3.3.3.1.2 **Medicare.** If Contractor provides Services to a Medicare Member, Contractor shall submit the Claim as described in the Provider Manual, Exhibit 3 (Billing Instructions and Compensation/Payment Rates), Exhibit 4 (Special Situations), or, as applicable, as otherwise directed by CMS (for example, with respect to CMS’s "national coverage decisions") or Payor.

3.3.3.2 **Billing Members.** Contractor may bill a Member for Services and shall have no recourse against Payor in the following circumstances:

3.3.3.2.1 **Member Cost Share.** Contractor shall collect Member Cost Share. Contractor’s compensation from Payor for Covered Services shall be reduced by the amount of such Member Cost Share. Where Member Cost Share is a deductible or based on a percentage calculation, such amount shall be calculated based upon the negotiated rate specified in Exhibit 3 (Billing Instructions and Compensation/Payment Rates), rather than based upon full billed charges, or any other measure of charges not specified in such Exhibit 3. If a Medicare Advantage Member is also enrolled in Medi-Cal (or another State’s Medicaid program), and any such Medicaid program is responsible for the Member’s Medicare Advantage Cost Share, Contractor shall not hold the Member liable for such Member Cost Share, and Contractor shall either accept payment pursuant to this Agreement as payment in full, or bill the applicable Medicaid program for such Member Cost Share, but in no event bill the Member.

3.3.3.2.2 **Not a Covered Benefit After Coverage Exhausted or Denied or Authorization or Approval Not Sought by Member.** If Contractor provides Services to a Member for which the Member has no Covered Benefit (as determined by Payor in its sole discretion) or if a Member elects to continue receiving Services from Contractor after his/her Covered Benefits for that service are exhausted or Services are not Authorized, Contractor may bill the Member for such Services, provided that before providing the Services (i) Contractor has notified the Member that Services are not Covered Services and (ii) the Member has signed a Financial Responsibility Form. If Contractor has not satisfied the requirements of (i) and (ii) above, Contractor shall not charge such Member more than the amount of that Member’s Member Cost Share that would be applicable if the services had been Authorized prior to Contractor providing the services.
3.3.3.2.3 **Patient Amenities.** Any personal services or items that are customarily charged by Contractor (including telephone and television, as applicable) but are not Authorized shall be charged directly to the Member, provided that (i) Contractor has notified the Member that the services or items are not Covered Services and (ii) the Member has signed a Financial Responsibility Form.

3.4 **Coordination of Benefits.** Contractor shall comply with the coordination of benefits ("COB") program, as described in the Provider Manual.

3.4.1 **Primary.** When is primary under applicable COB rules, shall pay to Contractor, as set forth in Section 3.1 (Payment of Compensation) and Exhibit 3 (Billing Instructions and Compensation/Payment Rates), the amount due for Covered Services rendered to Members.

3.4.2 **Secondary.** When is secondary under applicable COB rules, or another payor is primary to Contractor shall first bill the other payor(s) to which is secondary and forward to a copy of such other payor’s explanation of payment along with the billing information specified in Section 3.1 (Payment of Compensation), Exhibit 3 (Billing Instructions and Compensation/Payment Rates), and Exhibit 4 (Special Situations), as applicable. shall pay an amount equal to the Member’s liability determined by the primary payor’s adjudication process, up to, but not to exceed, the amount payable for Covered Services in accordance with Exhibit 3 if had been the primary payor. Unless otherwise directed by when another payor is primary to Contractor shall not collect Member Cost Share directly from Member as may otherwise be directed in Section 3.3.2.1 of this Agreement. Payment by is subject to the receipt of all information reasonably necessary to determine payor liability. However, if has reserved the right to bill and collect such sums from other payors to which it is secondary, then Contractor shall not bill such other payors for such identified services and shall grant to the sole right to collect any payments due from other payors for such services.

3.4.3 **Other Payor Secondary.** When an Other Payor is secondary under applicable COB rules, Contractor shall comply with the COB program, as described in the Other Payor Provider Manual.

3.4.4 **Cooperation with COB Rules.** Contractor shall cooperate and comply with Payor’s administration of COB rules. Such cooperation shall include the following: (i) Contractor shall screen each Member receiving Services to determine if the Member has other relevant healthcare coverage, including fee-for-service Medicare, worker’s compensation or other coverage as a retiree or as a dependent through the Member’s spouse, and shall provide such other coverage information to as soon as it is identified; and (ii) if, following payment by Payor for Services, Contractor discovers that Contractor is entitled to payment or receives payment for such Services from another payor that is primary to Payor, then Contractor shall notify Payor of such payment or
entitlement and Promptly refund to Payor any amount paid by Payor in excess of the amount set forth in Section 3.4.2 (Secondary) or 3.4.3 (Other Payor Secondary).

3.5 **Liens and Third Party Claims.** Contractor shall not, directly or indirectly through assignment or otherwise, assert any lien claim, subrogation claim, or any other claim against a Member, or any other person or organization against which a Member may hold a potential claim for the personal injury, or against the proceeds of a Member’s personal injury recovery based on Services that Contractor provided to the Member under this Agreement for an injury or illness allegedly caused by a third party. Unless prohibited by applicable Law, Payor alone shall have the right to pursue and collect such claims for its own account, and Contractor agrees to assist Payor’s collection efforts by Promptly informing Payor of Services provided by Contractor for which there may be potential third party liability.

3.6 **Changes to Payment Rates.** Either party may propose a change to the rate of compensation with at least sixty (60) Calendar Days Notice, provided, however, that the effective date of the rate change occurs after the Base Period, including contractual extensions thereto, if any. The payment rates in effect as of the date of submission of such proposed changes shall remain in effect unless the parties mutually agree to a change to the payment rates and execute a written amendment to this Agreement.

3.7 **Interest.** Payor shall pay Contractor any interest and penalties on late payment of Claims only as required by applicable Law. The parties acknowledge that the Law on applicable interest and penalties may differ according to the type of Member receiving Covered Services.

**ARTICLE 4. TERM AND TERMINATION**

4.1 **Term.** This Agreement will begin on the Effective Date, will proceed for at least the Base Period (which shall not be less than one (1) year) and thereafter continue until such time that one or more parties terminate the Agreement in accordance with the terms of this Agreement.

4.2 **Termination of This Agreement.**

4.2.1 **General Termination Rights.** Any party to the Agreement may terminate this Agreement as to such party’s participation at any time, effective after the completion of the Base Period, for any reason or no reason, upon one (1) year prior Notice, or such other period set forth in the Exhibits. In such an event, the parties will comply with the requirements of Article 8 (Notice) and all other applicable provisions of this Agreement.

4.2.2 **For Cause.** This Agreement may be terminated for cause for any of the following events:

4.2.2.1 Material breach of this Agreement by [Blank] or Contractor, Including a failure by Contractor to meet the availability requirements set forth in this Agreement or to cooperate with [Blank] QI standards;
4.2.2 Failure by [redacted] and Contractor to reach agreement as to a material modification to the Provider Manual that [redacted] has determined will be implemented notwithstanding the lack of mutual agreement by the parties;

4.2.3 Failure by Contractor to materially comply with any Program Requirements (other than licensure, certification and permit requirements subject to Section 4.2.2.4);

4.2.4 Failure by Contractor to maintain any licenses, certifications or permits required to perform its obligations under this Agreement;

4.2.5 Any misrepresentation or falsification of any licensure, credentialing or recredentialing information submitted by Contractor;

4.2.6 Contractor’s dissolution, merger or consolidation, or the sale of all or substantially all of Contractor’s assets, or a change of control in Contractor’s ownership or legal structure;

4.2.7 Any act or conduct by Contractor or Subcontractor which threatens the health, safety or legal privacy rights of any Member;

4.2.8 Failure by Contractor or Subcontractor to comply with the insurance requirements in Article 9 (Insurance and Indemnification);

4.2.9 Contractor’s filing of a petition in or for bankruptcy, reorganization or an arrangement with creditors; making a general assignment for the benefit of creditors; being adjudged bankrupt; being unable to pay debts as they come due; having a trustee, receiver or other custodian appointed on its behalf; or having a case or proceeding commenced against it under any bankruptcy or insolvency law;

4.2.10 Contractor’s, Subcontractor’s, Practitioner’s or Facility’s sanction under or debarment from or exclusion from any federal program, Including Medicare or Medicaid; or

4.2.11 Incapability of Contractor to perform Services, or failure to adequately provide such Services.

4.2.3 **Cure Period.** The nonbreaching party shall notify the breaching party of the breach in a manner that complies with the requirements of Article 8 (Notice) and all other applicable provisions of this Agreement ("Proper Notice"). For those causes set forth in Sections 4.2.2.1, 4.2.2.2 and 4.2.2.3, or any other cause not specified above, the breaching party will have thirty (30) Calendar Days from receipt of the Proper Notice, or such later time as is specified by the nonbreaching party, to cure such breach to the satisfaction of the nonbreaching party ("Cure Period"). For those causes set forth in Sections 4.2.2.4 through 4.2.2.11, [redacted] may specify a shorter or longer Cure Period, Including the option of no cure period. At the close of the Cure Period, the nonbreaching party shall
send Notice to the breaching party which shall either (i) confirm that the breach has been cured, or (ii) invoke the right to terminate the Agreement ("Termination Notice").

4.2.4 **For Cause Termination Notice Period.** If the nonbreaching party sends a Termination Notice, the termination shall be effective ninety (90) Calendar Days, or such later date as is determined by the nonbreaching party, after the Termination Notice has been sent to the breaching party. However, termination for any events in Sections 4.2.2.4 through 4.2.2.11 may be effective at an earlier date, as may be stated in the Termination Notice by [redacted] or by Contractor related to Section 4.2.2.2, if required by Law), provided that, if applicable, such expedited termination is approved by the relevant regulatory agency. For-cause terminations may be effective during the Base Period.

4.2.5 **Termination for Material Change in Provider Agreement or Legal/Regulatory Change.** Upon a failure of the Parties to agree to an amendment pursuant to Section 10.9.2 or to a Provider Manual change pursuant to Section 10.9.3, Contractor may send a Termination Notice to [redacted], which shall be effective sixty (60) Calendar Days from receipt of such notice.

4.3 **Suspension or Exclusion of Participation of a Practitioner or Location.**

4.3.1 **Generally.** [redacted] may, at any time, suspend or exclude the participation of a Practitioner or Location for any reason or no reason upon ninety (90) Calendar Days prior Notice.

4.3.2 **For Cause.** [redacted] may, at any time if done in accordance with the Notice requirements of this Agreement, suspend or exclude the participation under this Agreement of a Practitioner or Location for cause, which shall include any of the following events.

4.3.2.1 Failure to materially comply with any of the terms and conditions of this Agreement and/or with any Program Requirements (other than maintenance of licenses, certifications or permits, which shall be subject to Section 4.3.2.2), Including failure to meet the [redacted] QI standards;

4.3.2.2 Failure to maintain any licenses, certifications or permits required to provide Services to Members;

4.3.2.3 Any misrepresentation or falsification of any licensure, credentialing or recredentialing information submitted by Contractor or Subcontractor;

4.3.2.4 Suspension, involuntary restriction, voluntary restriction or termination of clinical privileges at any Location, or any other facility, if applicable;

4.3.2.5 Failure to comply with [redacted] QI and UM programs, or any other facility policies and procedures;

4.3.2.6 Commission or omission of any act or conduct for which the Practitioner’s or Location’s license, certification, permit or hospital staff privileges may be subject to suspension, restriction or termination, whether or not actually
suspended, restricted or terminated, if the Practitioner or Location is
disciplined by any licensing, regulatory, accrediting or professional
organization with jurisdiction;

4.3.2.7 Failure by a Practitioner or Location to comply with the insurance
requirements set forth in this Agreement;

4.3.2.8 Criminal charges made against a Practitioner for any act involving
professional misconduct or moral turpitude;

4.3.2.9 Any act or conduct by a Practitioner or Location or circumstances at a
Location that threatens the health, safety or legal privacy rights of any
Member; or

4.3.2.10 Incapability of Practitioner or Location to perform Services, or failure to
adequately provide such Services.

4.3.3 **Cure Period.** [ ] shall give Proper Notice to the Contractor of any breach. For those
causes set forth in Section 4.3.2.1, or for any other cause not specified above, Contractor
will have thirty (30) Calendar Days from receipt of the Proper Notice, or such later time
as is specified by [ ] to cure such breach to the satisfaction of [ ]. For those
causes set forth in Sections 4.3.2.2 through 4.3.2.10, [ ] may specify a shorter or
longer Cure Period, or it may immediately suspend the continuing performance of a
Practitioner or Location. At the close of the Cure Period, [ ] shall send Notice to
Contractor which shall either (i) confirm that the breach has been cured, or (ii) invoke the
right to continue to suspend or exclude the Practitioner or Location
("Suspension/Exclusion Notice").

4.3.4 **For Cause Suspension/Exclusion Notice Period.** If [ ] sends a
Suspension/Exclusion Notice, the suspension/exclusion shall be effective ninety (90)
Calendar Days, or such later date as is determined by [ ] after the
Suspension/Exclusion Notice has been sent to Contractor. However,
suspension/exclusion for any events in Sections 4.3.2.2 through 4.3.2.10 may be effective
at an earlier date, as may be stated in the Suspension/Exclusion Notice by [ ]
provided that, if applicable, such expedited suspension or exclusion is approved by the
relevant regulatory agency. For-cause suspensions/exclusions may be effective during the
Base Period.

4.4 **Termination of Services Provided to Certain Members.** In the event that (i) the Medicare
Advantage contract between CMS and [ ] or the (ii) FEHBP contract between the Federal
Office of Personnel Management ("OPM") and [ ] is terminated or is not renewed, this
Agreement will be terminated as to Medicare Advantage Members or FEHBP Members
(respectively), unless CMS or OPM (respectively) and [ ] agree, that such Members should
continue to receive care pursuant to this Agreement. If termination is required, [ ] will serve
Contractor with Notice as to the date upon which the termination will become effective,
consistent with CMS’s or OPM’s direction, as appropriate.
4.5 **Continuation of Services Following Termination of Agreement Due to Insolvency.** As required by Law, in the event of insolvency or other cessation of operations, Contractor will continue to provide Services to Members under this Agreement through the period for which dues or premiums have been paid, or if a Member is confined in a facility on the date of insolvency or other cessation of operations, until the Member can be discharged in accordance with an appropriate professional standard of care. **Notwithstanding anything to the contrary contained herein, [insert name] shall be obligated to compensate Contractor for any post-termination Covered Services according to the terms of this Agreement.**

4.6 **Cooperation in Transfer of Members.** Upon termination of this Agreement, Contractor shall cooperate, and shall require any Subcontractors to agree to cooperate, with [insert name] in the transfer of Members to other practitioners or facilities contracting with [insert name].

4.7 **Continuation of Care Obligations.** Upon termination of this Agreement, Contractor will continue to provide Services pursuant to all of the terms and conditions set forth in this Agreement to Members who are under the care of Contractor at the time of termination for those specific conditions, and in accordance with the limitations and mandated time period that Payor is required by Law to provide continuity of care for those Members.

4.8 **Survival of Obligations.** With respect to the provision of Services provided during the term of this Agreement, the obligations of Contractor and Subcontractor under Section 2.4 (Quality Assurance and Quality Improvement), Section 2.5 (Utilization Management and Review), Section 2.10 (Subcontracts), Section 2.11 (Delegation and Other Activities), Section 3.2 (Adjustments to Payment), Section 3.3 (Payment in Full), Section 3.4 (Coordination of Benefits), Article 4 (Term and Termination), Article 5 (Dispute Resolution), Article 6 (Records and Confidentiality), Article 7 (Compliance), Section 8.1.1 (Notice to [insert name] of Member Complaints), Section 8.1.4 (Notice of Pending Actions), Article 9 (Insurance and Indemnification), Section 10.1 (Assignment, Successors, and Assigns), Section 10.2 (No Third Party Beneficiaries), Section 10.4 (Use of Name), and Section 10.5 (Publicity), and any other supplemental provision in the Exhibits that modifies one of the named Sections above, or any other provision specifically named as a surviving provision in the Exhibits or that, by its nature, is intended to survive or can not be fully performed prior to the expiration or termination of this Agreement shall (i) survive the termination of this Agreement, regardless of the cause giving rise to termination and (ii) supersede any oral or written contrary agreement now existing or hereafter entered into by the parties as they relate to Services provided to Members during the term of this Agreement.

4.9 **All Payors.** Termination of the Agreement with respect to [insert name] shall constitute termination of the Agreement with respect to all Payors.

**ARTICLE 5. DISPUTE RESOLUTION**

5.1 **Disputes Between [insert name] and Contractor, Generally.** The dispute resolution provisions set forth herein shall apply to all claims and disputes between the parties to this Agreement arising from,
relating to or in connection with this Agreement, including the performance of or failure to perform any term, condition or covenant herein ("Dispute(s)").

5.2 **Provider Appeals Process.** Disputes must be submitted in accordance with the procedural requirements set forth in the Provider Manual. maintains a provider appeals process to resolve Disputes arising from this Agreement. This process is administered in a manner consistent with the requirements of the Knox-Keene Laws, and is described in the Provider Manual.

5.2.1 **Claims Disputes Between an Other Payor and Contractor.** Claims payment disputes arising from, or related to, Services rendered to Members for which an Other Payor is financially liable shall be resolved pursuant to the claims dispute resolution process set forth in the Other Payor Provider Manual and applicable to the Other Payor and shall not constitute an event giving Contractor the right to terminate the Agreement with cause.

5.3 **Meet and Confer.** For any dispute not subject to the provider appeals process or not resolved thereby, or if any party to the Agreement has a Dispute it seeks to address informally, the parties shall use reasonable efforts to informally meet and confer to try and resolve the Dispute. The parties agree to meet and confer within thirty (30) days of a written request submitted in conformity with Section 8.2 (Procedure for Giving Notice) by any party to the Agreement in an effort to settle any Dispute. If the written request specifically references this Section 5.3 (Meet and Confer), and any party to the Agreement fails to meet within the thirty (30) day period, that party shall be deemed to have waived the meet and confer requirement, and at the other party’s option, the Dispute may proceed immediately to arbitration. At each meet and confer meeting, each party shall be represented by persons with final authority to settle the Dispute.

5.4 **Mediation.** If the parties are not able to resolve the Dispute through the meet and confer process, upon mutual agreement they may submit the Dispute to mediation to be conducted by a retired judge of the California (Superior Court or above) or United States courts (the "Mediator") in accordance with the following provisions:

5.4.1 **Mediator Selection.** The Mediator shall be selected as soon as reasonably possible but in no event later than thirty (30) days following the parties’ agreement to mediate. The parties agree that mediation is most likely to be productive if they use an experienced mediator agreeable to both parties and they shall, therefore, use their best efforts to Promptly agree on a Mediator after they agree to mediate. If they are unable to agree upon a Mediator during that thirty (30) day period, the matter shall be submitted to JAMS for selection of a JAMS panel Mediator.

5.4.2 **Mediation Procedures.** The mediation shall commence Promptly after the Mediator is identified but in no event later than thirty (30) days after the Mediator is identified, unless the parties mutually agree to a different schedule. The mediation of the Dispute shall be completed in no more than one full day, unless the parties agree otherwise or the Mediator believes that additional time would more likely than not lead to resolution of the Dispute.
5.4.3 **Mediation Settlement.** If as a result of mediation, a voluntary settlement is reached, the parties agree that such settlement will be reduced to writing and signed by all parties. This signed agreement will be treated the same as, and have the same force and effect as, an arbitration awarded rendered pursuant to Section 5.5 (Arbitration).

5.4.4 **Attorney’s Fees/Costs.** The parties shall be responsible for their own attorney’s fees and costs incurred in preparing for and attending the mediation. and Contractor shall share equally the costs of the mediation.

5.4.5 **Mediation Venue.** The mediation shall be conducted in Alameda County, California.

5.4.6 **Mediation Confidentiality.** The entire mediation process shall be confidential and the privileges and protections of Chapter 2, Division 9 of the California Evidence Code shall apply.

5.5 **Arbitration.** If the Dispute is not resolved by the parties through the methods described in Section 5.2 (Provider Appeals Process), Section 5.3 (Meet and Confer) or Section 5.4 (Mediation), or the foregoing methods have been waived by the parties, then it shall be submitted to binding arbitration in Alameda County, California.

5.5.1 **Notice of Arbitration.** Notice of the party’s demand to arbitrate the Dispute shall be given as set forth in Section 8.2 (Procedure for Giving Notice).

5.5.2 **Venue/Applicable Law.** The arbitration shall be conducted in Alameda County, California. The construction, validity and performance of all arbitrations conducted pursuant to this Agreement shall be governed by the law of the State of California, including California Code of Civil Procedure Section 1280 et seq., and specifically section 1283.05, and Section 2 of the Federal Arbitration Act.

5.5.3 **Administration of Arbitration.** Unless otherwise agreed to by the parties, the binding arbitration shall be administered by JAMS in accordance with the JAMS rules applicable to commercial arbitrations (titled as of the date of this Agreement, "JAMS Comprehensive Arbitration Rules and Procedures" and referred to herein as "JAMS Rules"), except that this Agreement shall control in instances where it conflicts with the JAMS Rules.

5.5.4 **Arbitrator Selection and Fees.** The parties prefer that the arbitrator ("Arbitrator") be a retired judge of the California Superior, Appellate or Supreme Court or of a United States court sitting in California. If no such retired judge is available, the Arbitrator may be an attorney with at least fifteen (15) years of experience including at least five (5) years in managed health care. If the parties are unable to agree on the Arbitrator within thirty (30) days of the date JAMS accepts the arbitration, the Arbitrator shall be selected by JAMS from a list of four potential arbitrators (all of whom shall be on JAMS’ panel of arbitrators) submitted by the parties, two from each side; provided, however, that nothing stated in this Section (Arbitrator Selection) shall prevent a party from disqualifying an Arbitrator based on a conflict of interest. The parties shall be responsible for their own
attorney’s fees and costs incurred in preparing for and attending the arbitration. Contractor shall share equally the fees of the Arbitrator.

5.5.5 **Joinder of Interested Parties.** The parties agree that any and all proper parties may be joined in the arbitration, but the parties agree to proceed with arbitration of all Disputes between them even if other parties refuse to participate. The parties agree that in no event shall a Member be considered a proper party for purposes of this Agreement, and the Arbitrator shall not have the power to join a Member as a party.

5.5.6 **Written Decision.** The Arbitrator shall issue a written, reasoned decision setting forth the parties’ contentions, findings of fact and conclusions of law applying California and applicable federal law (the "Decision") within thirty (30) days of the conclusion of the arbitration of each Dispute. For arbitration awards of two hundred fifty thousand ($250,000.00) or more, the Arbitrator shall issue a tentative Decision within such thirty (30) day period and the parties may each file a response to the tentative Decision within ten (10) days of the date it is issued. In addition, at the request of any party to the Agreement, the Arbitrator shall conduct a hearing on the tentative Decision, which shall be held within thirty (30) days of the date of the tentative decision or the earliest possible date thereafter that is mutually agreed to by the parties and the Arbitrator. The Arbitrator shall then have twenty (20) additional days to issue the final Decision. The Arbitrator’s final Decision shall be conclusive and binding, and it may be confirmed thereafter as a judgment by the Superior Court of the State of California, subject only to challenge on the grounds set forth in California Code of Civil Procedure Section 1281 et seq.

5.5.7 **Waiver of Rights.** By agreeing to binding arbitration as set forth in Section 5.5 (Arbitration), the parties acknowledge that they are waiving certain substantial rights and protections which otherwise may be available if a Dispute between them were determined by litigation in a court, including the right to a jury trial, attorneys’ fees and certain rights of appeal.

5.5.8 **Confidentiality Requirements.** The parties acknowledge and agree that Disputes based on contract interpretation arise, or are likely to arise, in the ordinary course of business and that this fact creates unusually sensitive issues with respect to the exchange of information related to their Dispute(s). The parties agree that it is not their intent to use the discovery process described herein, regardless of the forum, to obtain the other party’s highly confidential and proprietary business information, nor will the parties so use the information except to the extent that such information is critical to the presentation of a party’s case or defense. Where appropriate, the parties shall enter into protective orders, and those protective orders shall include creating a category of discovery documents "for attorney’s eyes only," which shall provide that counsel, including in-house counsel, to whom such documents are provided shall not participate in, or provide any such information contained therein to those who participate in, the business negotiations or transactions between the parties. Further, the parties agree to fully cooperate with each other in ensuring that discovery materials which are subject to protective orders are and remain sealed by a court and/or Arbitrator, including joining in any motion or application for an order that the court/Arbitrator accepts and seals such documents and/or information. At the conclusion of the dispute, whenever feasible, each
party shall return or destroy all such information, and shall provide to the other party an authorized representative’s attestation indicating that all such information has been returned or destroyed.

5.5.9 **Injunctive Relief.** The parties agree that a breach of the confidentiality obligations set forth in this Agreement, including Article 6 (Records and Confidentiality), would cause irreparable injury to the injured party which could not be compensated adequately in damages, and that the injured party shall be entitled, in addition to any other remedies or damages, to injunctive relief to restrain violation of such confidentiality obligations, without the necessity of proving irreparable injury. Such injunctive relief shall be granted without requiring the injured party to post bond or other security. Any party to the Agreement may seek such temporary or preliminary injunctive relief in a court of competent jurisdiction to restrain a violation of the confidentiality obligations, or other provisions of this Agreement, but any permanent injunctive relief, including permanent injunctive relief to restrain the violation of other obligations under this Agreement, shall be resolved by arbitration in accordance with Section 5.5 (Arbitration) above. The arbitrator(s) shall have authority to issue final injunctive relief, and any orders necessary to carry out that relief, and such orders shall be confirmed as an enforceable judgment in a court of competent jurisdiction.

5.6 **Fair Hearing Rights Regarding Practitioner Disputes.** Notwithstanding the foregoing, any Contractor or Practitioner who disputes an adverse credentialing decision may be subject to the fair hearing plan and credentialing policies and procedures of or the hearing and appeals procedures as are set forth in the applicable professional staff bylaws. If these hearing and appeals policies and procedures are applicable to Practitioner or Contractor, the terms of this Article 5 (Dispute Resolution), with the exception of Section 5.7 (Disputes Between Member and Contractor) shall not apply. If determines that Contractor or any such Practitioner is entitled to any fair hearing or appeal, shall so notify Contractor and, if necessary, the Practitioner, and Contractor shall cooperate with so that may fulfill all relevant regulatory requirements. Nothing stated herein shall create any contract rights, whether express or implied, in favor of practitioner, including any Practitioner or Subcontractor, who is not a signatory to this Agreement.

5.7 **Disputes Between Member and Contractor.** Contractor shall cooperate with in identifying, processing and resolving all Complaints and grievances. Contractor shall comply with resolution of any such Complaints and grievances. All decisions regarding Covered Benefits are reserved to Payor, and Contractor shall refer Members who have inquiries or disputes regarding Covered Benefits to the applicable Payor for response and resolution.

**ARTICLE 6. RECORDS AND CONFIDENTIALITY**

6.1 **Maintenance of Records.** Contractor shall maintain books, charts, documents, papers, reports and records (including financial, accounting, administrative, and patient medical records and prescription files) related to Services provided to Members, to the cost thereof, to payments received from Members or others on their behalf, and to the financial condition of Contractor ("Records"). Records also include those that are customarily maintained by Contractor for
purposes of verifying Claims information, reviewing appropriate utilization of Services, and
documenting the credentials and privileges of Practitioners. Contractor shall maintain Records in
accordance with (i) applicable state and federal requirements, including privacy and
confidentiality requirements, and (ii) general standards applicable to that form of book- or
record-keeping. The Member’s medical record shall reflect, in a prominent place, whether or not
the Member has executed an advance directive. Contractor shall be fully bound by the
requirements in Title 42 CFR Section 2.1 et seq., relating to the maintenance and disclosure of
Member Records received or acquired by federally assisted alcohol or drug programs. Contractor
shall preserve Records for the longest of: (i) one (1) year after the Member reaches the age of
majority, if the Member is a minor; (ii) ten (10) years from the effective date of termination of
this Agreement or from the date of completion of any audit conducted by DHHS, the
Comptroller General or their designees, whichever is longer, or longer if so required by CMS; or
(iii) the period of time required by Law (including the period required by the Knox-Keene
Laws), and by the Medicare and Medi-Cal programs and contracts to which is subject.

6.2 **Access to Records.** To the extent permitted by Law and subject to reasonable request and
notification, or the applicable Payor, and their authorized agents shall have access to and
may inspect the Records, including for the purpose of meeting legal, regulatory and accreditation
requirements applicable to (or the applicable Payor) or addressing any inquiry from a
Government Official. In addition, Contractor shall provide for timely access by Members to their
medical records and other relevant information.

6.3 **Copies of Records and Other Information.** Without charge, Contractor shall Promptly
forward to the Physician prescribing or authorizing the Services (i) copies of initial
consultation reports upon completion of such consultations and (ii) summaries of patient care or
patient results upon completion of such patient care or discharge. Upon request and without
charge, Contractor shall Promptly furnish to or the applicable Payor) copies of Records,
Including medical records of Members transferred or repatriated following termination pursuant
to Section 4.2 (Termination of This Agreement) or 4.3 (Termination or Suspension of
Participation of a Practitioner or Facility). Upon request and consistent with applicable Law,
Contractor shall transmit Records to or the applicable Payor) by telephone or other
electronic means. Subject to reasonable request and notification, may arrange for copying of
Records to which it is entitled under this Agreement through a copying service. In addition,
Contractor shall supply or the applicable Payor) with periodic reports and other information
(Including Contractor’s policies and procedures, patient care protocols, survey reports,
investigations, assessments, formal evaluations or citations) pertaining to Services provided to
Members by Contractor on such forms and within such times as requested by and in such
manner and time frames that will enable (or the applicable Payor) to meet all federal, state,
accreditation and contractual reporting requirements (Including with respect to Delegated
Activities, if any).

6.4 **Access for and Disclosure to Government Officials.** Contractor shall comply with all
provisions of the Omnibus Reconciliation Act of 1980, the Balanced Budget Act of 1997, and
the Medicare Prescription Drug Improvement and Modernization Act of 2003, and any other
relevant or successor laws or regulations regarding access to books, records, documents, and
contractual agreements. Without limitation, Contractor shall and shall cause its Subcontractors to
maintain, provide access to, and provide copies of Records, this Agreement and other
information to Government Officials. Such Records shall be available at all reasonable times at Contractor’s place of business or at some other mutually agreeable location in California or as required by such Government Officials.

6.5 **Inspection.** In addition, at reasonable times and with reasonable notification, Contractor shall, and shall cause its Subcontractors and Facilities, to permit and cooperate with inspections of their sites and Records by and/or Government Officials. shall provide as much advance notification as possible for such inspections.

6.6 **Incorporation of Prior Medical Data.** If provides copies to Contractor of medically acceptable medical histories, tests (such as laboratory, radiology or other diagnostic tests), reports (such as pre-admission and pre-operative reports) and examinations (collectively, "Data") for a Member, such Data shall become part of Contractor’s medical record for that Member. Contractor shall accept such Data and shall not require Members to repeat such Data, unless required by the Member’s medical condition, the accreditation organization applicable to Contractor or applicable Law.

6.7 **Confidentiality of Information.**

6.7.1 **Confidential Information Defined.** The parties shall keep in strictest confidence and in compliance with all applicable Law: (i) the terms of this Agreement; (ii) any patient information, including a Member’s name, address and health records (including mental health records); (iii) information concerning any matter relating to the business of the other, including the other’s, or any Payor’s, employees, products, services, membership, prices, operations, business systems, planning and finance, policies, procedures and practice guidelines; (iv) materials, data, data elements, records or other information obtained from the other during the course of or pursuant to this Agreement; and (v) any information learned while performing obligations under this Agreement, which if provided by the other, would be required to be kept confidential (collectively, "Confidential Information"). Subject to applicable Law and except as provided in Section 6.7.2 (Exceptions), neither party shall disclose Confidential Information to a third party unless authorized in writing in advance by the other, provided however that patient information may be disclosed to the patient, his authorized representative, Practitioners participating in his/her care, and others as permitted by Law. In addition, except as permitted by Law, data shared with employers, whether self-insured or insured, shall not implicitly or explicitly identify a Member without the written consent of the Member.

6.7.2 **Exceptions.** The prohibitions on disclosure set forth in Section 6.7.1 (Confidential Information Defined) do not apply to information that (i) is required by Law to be disclosed or to be provided to Government Officials; (ii) is required by accreditation organizations of or Contractor; (iii) is disclosed in legal or government administrative proceedings; (iv) was publicly known at the time of the disclosure; (v) becomes publicly known through no fault of the disclosing party after the disclosing party's receipt of the Confidential Information; (vi) was developed by the disclosing party independently of and without reference to any of the Confidential Information; (vii) is disclosed as necessary to enforce a party’s rights for coordination of benefits, liens, reimbursement or subrogation; or (viii) is disclosed as necessary to a party’s agents to perform essential
corporate activities as permitted by Law. The prohibitions on disclosure also do not apply to payment information provided to Members who are financially responsible for Member Cost Share or to sharing of information pertaining to the Agreement with Payors, the or their delegates as necessary for the performance of administrative and management functions such as claims adjudication and payment, medical management, credentialing and network administrative functions.

6.8 Certification of Accuracy of Data. Contractor recognizes that is required to certify the accuracy, completeness and truthfulness of data that CMS and other local, state and federal governmental agencies and accrediting organizations request. Such data Include encounter data, payment data, and any other information provided to by its contractors and subcontractors. Contractor hereby represents and warrants that any such data submitted to by Contractor will be accurate, complete and truthful. Upon request, Contractor shall make such certification in the form and manner specified by in order to meet legal, regulatory, accreditation and contractual requirements.

6.9 HIPAA. Contractor understands and agrees that this Agreement and certain data exchanged hereunder may be subject to HIPAA. If Contractor is or becomes a "Covered Entity", as such term is defined by HIPAA, Contractor shall comply with all relevant HIPAA requirements. If Contractor is "Business Associate", as such term is defined by HIPAA, Contractor shall abide by the terms of a Business Associate Agreement with attached when applicable as Exhibit 4.10, or as may be executed separately by Contractor and

ARTICLE 7. COMPLIANCE

7.1 Compliance with Laws.

7.1.1 Generally. Contractor represents and warrants that it is currently, and for the Term shall remain, in material compliance with all applicable Law, Including those (i) regarding licensure and certification; (ii) regulating the operations and safety of any Facility listed pursuant to Exhibit 2 (Facilities and Practitioners); (iii) regarding Occupational Safety and Health Administration (OSHA) standards; and (iv) regarding advance directives. acknowledges that it is subject to applicable Law, as monitored and enforced by relevant Government Officials.

7.1.2 Medicare/Medicaid. Contractor represents and warrants that it is currently, and for the Term, shall remain in material compliance with all applicable Laws and CMS instructions necessary for participation in the Medicare and Medicaid/Medi-Cal programs, Including fraud and abuse Laws, the patient self-determination amendments of the Omnibus Budget Reconciliation Act of 1990, and (if applicable) the Medicare and Medicaid conditions of participation. Contractor shall not knowingly (and shall use best efforts not to) employ or contract with, directly or indirectly, entities or individuals (i) excluded from participation in Medicare or Medicaid under Sections 1128 or 1128A of the Social Security Act or (ii) who have opted out of Medicare for the provision of health care services, utilization review, medical social work or administrative services to Members. If Contractor becomes aware that it has employed or contracted with such a
person, Contractor shall take Prompt and appropriate remedial action. With respect to Services provided to Medicare Advantage Members, Contractor shall comply with all applicable Laws governing the Medicare Advantage program and with the obligations required of and applicable to Contractor that are set forth in the contract between CMS and governing participation in it. Any provision required to be in this Agreement by the Laws governing the Medicare Advantage program shall bind the parties, whether or not provided in this Agreement. With respect to Services provided to Medi-Cal Members, Contractor shall comply with (i) all applicable obligations in the Medi-Cal Contracts and (ii) the applicable policies and procedures regarding identifying, referring and treating special Medi-Cal Member populations.

7.1.3 **Knox-Keene Laws.** Contractor agrees that it will cooperate with in maintaining and Cal’s compliance with the Knox-Keene Laws for Covered Services to Knox-Keene Members under this Agreement, and when required to maintain or Cal’s Knox-Keene licenses, comply with the relevant provisions of the Knox-Keene Laws.

7.1.4 **Nondiscrimination.** Contractor will provide services to Members without discrimination on the basis of race, color, gender, creed, religion, national origin, age, health status, physical or mental disability, genetic information, veteran’s status, marital status, sexual orientation, income, source of payment, evidence of insurability (including conditions arising out of acts of domestic violence), status as a Member or as a participant in a publicly financed program (Including Medicare and Medicaid/MediCal, either fee-for-service or managed), whether a Member has filed a Complaint, whether a Member has executed an advance directive, or other status protected by applicable Laws. Contractor shall make Services available to all categories of Members, in the same manner, in accordance with the same standards, and with the same availability, as to Contractor’s other patients. In addition, during the performance of this Agreement, Contractor shall comply with Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, all as amended; shall provide reasonable access and accommodation to persons with disability to the extent required of a health services provider under the Americans with Disabilities Act, or any applicable state law or regulation; and shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment on the basis of any factor prohibited by Law, Including those already delineated in this Section 7.1.4 (Nondiscrimination).

7.2 **No Conflict.** Contractor represents and warrants that the requirements of this Agreement do not conflict with the terms of its agreements with Subcontractors or with the terms of Contractor’s employment of Practitioners. Nonetheless, Contractor represents that the terms of this Agreement shall apply in any situation where there is an inconsistency or conflict with the terms of any such agreement, and that Contractor shall be responsible to for any such inconsistency or conflict of terms. This provision shall supersede any similar provision in any agreement between Contractor and a Practitioner or a Subcontractor.

7.3 **Licensure, Accreditation and Certification.** Contractor represents and warrants that it shall be, and shall remain throughout the Term of this Agreement, as applicable, duly licensed by the State of California (and/or the state where Services are rendered to a Member), accredited by the
relevant accreditation organization(s) required by ❆ certified by the relevant certification organization(s), and certified by the Medicare and Medicaid/Medi-Cal Programs, under Title XVIII and Title XIX, respectively, of the Social Security Act. Contractor shall Promptly provide documentary evidence of its licensing, certification and accreditation (i) upon obtaining them, (ii) upon any material change to them, and (iii) periodically as requested by ❆. Contractor shall comply with the standards of any organization accrediting ❆ as they apply to the Services provided by Contractor under this Agreement. Upon request, Contractor shall provide ❆ with copies of survey reports, investigations, assessments, formal evaluations or citations of Contractor by any regulatory or governmental agency or accreditation organization applicable to Contractor and that have more than a minimal likelihood of materially affecting Contractor’s ability to perform its/their obligations under this Agreement. If at any time during the Term of this Agreement, Contractor’s license, certification, or accreditation is suspended, revoked, expired, or not renewed, Contractor shall ensure that Members do not receive Services from such Contractor or in the affected Facility of such Contractor absent prior written approval by ❆.

7.3.1 **Joint Commission Standards.** To the extent Contractor provides Services in conjunction with any ❆ entity accredited by the Joint Commission, Contractor agrees to provide such Services in accordance with applicable Joint Commission standards.

7.4 **Credentials.**

7.4.1 **Applicable Credentials.** Contractor and Practitioners shall only provide Services within the scope of their licensure, certification, training and experience. Contractor further represents and warrants that each Practitioner through whom it or any Subcontractor will provide Services shall, as applicable, (i) maintain a current, unrestricted license to practice his/her profession or vocation in California, or the state in which Services are provided, (ii) be certified to participate in the Medicare and Medicaid/Medi-Cal programs, (iii) be certified by the appropriate medical specialty board (for physicians) or by the appropriate vocational or professional board or agency to provide required Services, as required by Law or by ❆ policy (Including ❆ credentialing requirements), (iv) maintain staff membership (for physicians) at one or more local facility (or at any facilities designated by ❆ in this Agreement), and (v) maintain unrestricted clinical privileges (for physicians and other allied health professionals) at one or more local facilities (Including any such facilities designated by ❆ necessary to perform required Services. Upon request, Contractor shall provide satisfactory documentary evidence of licensure, certification, accreditation and qualifications of Contractor and Practitioners.

7.4.2 **Removal of Practitioner or Location.** Subject to any applicable hearing rights set forth in Exhibit 1 (Additional Terms), if Section 8.5 (Notification of Changes to Practitioner and Facility Licenses and Credentials) is triggered or if there is conduct or performance by a Practitioner or Location that could adversely affect the health or welfare of a Member, Contractor shall, upon ❆ written request, ensure that such Practitioner does not thereafter render Services to Members or render Services at such Location until the matter has been resolved to ❆ satisfaction and ❆ consents in writing to the provision of Services by such Practitioner or at such Location.
7.4.3 **Credentialing.** Contractor, Including Practitioners and Facilities, if any, shall be and shall remain throughout the Term of this Agreement, credentialed and privileged, as applicable, consistent with credentialing requirements prior to providing Services to Members, and shall be recredentialed and reprivileged, as applicable, in accordance with credentialing and privileging policies. Contractor shall and shall cause its Subcontractors, Practitioners and Facilities, if any, to cooperate with credentialing and privileging processes.

7.4.4 **Approval/Suspension of Practitioners and Locations.** retains the right, as part of its QI and UM programs, to approve new Practitioners and Locations and to terminate or suspend the right of individual Practitioners to provide Services to Members or to provide such Services at a particular Location.

7.5 **Government Contractor.** Contractor recognizes that as a government contractor, is subject to various Laws and executive orders regarding equal opportunity and affirmative action which also may be applicable to subcontractors. Contractor, therefore, agrees that any and all applicable equal opportunity and affirmative action clauses from the Federal Acquisition Regulations (FAR) at 48 CFR Part 52 shall be incorporated herein by reference as required by federal laws, executive orders and regulations, including the following FAR clauses: (a) Equal Opportunity (Feb. 1999) at FAR 52.222-26; (b) Affirmative Action for Disabled Veterans of the Vietnam Era (April 1998) at FAR 52.222-35; (c) Affirmative Action for Workers with Disabilities (June 1998) at FAR 52.222-36; and (d) Small Business Subcontracting Plan (Oct. 1999) at FAR 52.219-9. In addition, Executive Order 13496 concerning the obligations of federal contractors and subcontractors to provide notification to employees about their rights under Federal Labor Laws shall be incorporated herein by reference. Contractor shall comply with applicable provisions of the Fair Employment and Housing Act (Government Code, Section 12900, et seq.) and the applicable regulations promulgated thereunder (CCR, Title 2, Section 7285 et seq.). If Contractor is not otherwise subject to compliance with the Laws and executive orders specified in this Section (Government Contractor), the inclusion of this Section (Government Contractor) shall not be deemed to impose such requirements upon Contractor.

7.6 **Prohibition Against Sending PHI Offshore.** Contractor shall not downstream any obligation of this Agreement which requires access, use or disclosure of protected health information (PHI), as such term is defined by HIPAA, to any Subcontractor that is not located in the United States, or is not subject to the jurisdiction of a court in the United States, nor shall Contractor fulfill any obligation of this Agreement through such means.

7.7 **ERISA.** Notwithstanding other terms of the Agreement, Other Payors that are the sponsors of self-funded health plans formed pursuant to the requirements of the federal Employee Retirement Income Security Act of 1974 at 29 USC 1001 et. seq. (“ERISA”), as may be amended and interpreted from time to time, as well as the self-funded health plan formed pursuant to ERISA requirements, shall not be subject to terms any or conditions which are included in this Agreement solely for the purpose of complying with any state law, if such state law which are inapplicable (preempted by ERISA) to the sponsor of an ERISA self-funded
health benefit plan or to the self-funded health benefit plan itself or which otherwise would be an impermissible direct or indirect regulation of such sponsor or plan in violation of ERISA.

ARTICLE 8. NOTICE

8.1 **Contractor’s Responsibilities to Provide Notice to** [Party A] Notice must be given to [Party A] in accordance with the procedure set forth in Section 8.2 (Procedure for Giving Notice). Notice must be given as is set forth elsewhere in this Agreement, including:

8.1.1 **Notice to [Party A] of Member Complaints.** Contractor will Promptly send Notice to [Party A] of (i) receipt of any Complaints from or on behalf of Members that have not been, in the reasonable judgment of Contractor, resolved within two (2) Business Days, (ii) Complaints to Contractor or Subcontractor regarding discrimination against Members because of race, color, creed, sex, religion, age, national origin, ancestry, marital status, sexual orientation or physical or mental handicap, (iii) contact by an attorney regarding any Complaint or (iv) any professional liability claims filed or asserted regarding Services provided to Members under this Agreement by or on behalf of Contractor or (v) any Complaints made to Contractor or Subcontractor by Members of an alleged violation of HIPAA.

8.1.2 **Notice of Changes in Subcontract.** Contractor shall provide Notice to [Party A] within thirty (30) Calendar Days after Contractor and Subcontractor make a material change to their Subcontract that may impact the Services provided to Members under this Agreement.

8.1.3 **Notice of Changes in Contractor Status.** Contractor has an affirmative obligation to be aware and shall send Notice to [Party A] in writing within five (5) Business Days of Contractor’s knowledge of the pending voluntary occurrence of any of the following events or as soon as practicable after the involuntary occurrence of any of the following events: (i) the termination, suspension or interruption of any Services; (ii) any change in Contractor’s operations that will materially affect the manner in which it provides Services to Members; (iii) any unusual occurrence that affects any Member receiving Services and that is required to be reported to any governmental or regulatory body or to an applicable accreditation organization; (iv) any change in legal status, tax identification number, Medicare, or Medicaid/Medi-Cal number; (v) any material change in ownership, control, name, or location; (vi) any change to the Practitioners or Facilities listed pursuant to Exhibit 2 (Facilities and Practitioners); or (vii) any other event or circumstance that materially impairs Contractor’s ability to provide Services as required by this Agreement, Including Contractor’s inability to provide services at a Location where [Party A] expects Contractor to provide Covered Services. Without limitation, Contractor shall use best efforts to notify [Party A] in writing at least ninety (90) Calendar Days prior to cessation or suspension of any Services and three hundred sixty-five (365) Calendar Days prior to cessation or suspension of any primary care physician Services provided under this Agreement.
8.1.4 **Notice of Pending Actions.** Contractor shall provide Notice to [redacted] Promptly of the initiation of any legal, accreditation agency, regulatory or governmental action that has more than a minimal likelihood of materially affecting Contractor’s ability to perform its obligations under this Agreement.

8.1.5 **Notice of Changes in Insurance.** Contractor shall provide [redacted] at least thirty (30) Calendar Days’ prior Notice before insurance coverage is canceled, terminated, not renewed, limited or expired. Contractor shall provide Notice to [redacted] directly or require its insurance carrier to notify [redacted] at the time of any material modification to its coverage, including changes in insurance carrier, limits or deductibles to the extent such change may impact Contractor’s fulfillment of the obligations set forth in the Agreement.

8.1.6 **Notice of Condition for Termination.** Contractor has an affirmative duty to provide Notice in the event that any of the conditions evoking cause for termination listed in Section 4.2 (Termination of this Agreement) or Section 4.3 (Suspension or Exclusion of a Practitioner or Facility) occur, and such Notice shall be in accordance with the terms of those Sections.

8.2 **Procedure for Giving Notice.** All Notices provided under this Agreement shall be in writing, signed by an authorized signatory, and shall be deemed given upon receipt if sent as follows: personally delivered or sent by confirmed fax, sent by USPS or a commercial service with confirmed delivery, or certified mail (return receipt requested) addressed as follows:

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If Notice is sent by USPS, commercial service or facsimile, delivery is effective at the date and time shown on the confirmation or return receipt. Any faxed Notice shall be followed by a copy sent by USPS or commercial service. Any party to the Agreement may change its address for Notice purposes by Notice to each other party.

8.3 **Notification of QI and UM Compliance Requirements.** Contractor acknowledges that (i) it has been notified that it must comply with [redacted] QI and UM programs and procedures, and that it has received a copy of the Provider Manual, at least fifteen (15) Business Days prior to Contractor’s execution of this Agreement, in compliance with Section 1375.7(b)(3) of the
California Health and Safety Code, and (ii) if applicable, it is entitled to and has received the fee schedule required by Title 28 CCR Section 1300.71(O).

8.4 **Notification to [Redacted] of Emergency Services Provided.** Contractor will Promptly notify [Redacted] of any Emergency Services provided to a Member, upon stabilization of the Member’s Emergency Medical Condition in accordance with the applicable provisions of the Provider Manual.

8.5 **Notification of Changes to Practitioner and Facility Licenses and Credentials.** Contractor shall Promptly notify [Redacted] if: (i) the licenses, certifications or clinical privileges of Contractor or any Practitioner are revoked, suspended, restricted, expired or not renewed; (ii) the licenses, certifications, or accreditations of any of Contractor’s Facilities, if any, are suspended, restricted, or revoked; (iii) any peer review action, inquiry or formal corrective action proceeding, or investigation is initiated against Contractor or a Subcontractor or Practitioner by any Peer Review Body or applicable accreditation organization; (iv) Contractor, Subcontractor or any Practitioner is the subject of legal action or governmental action concerning qualifications or ability to perform Services; (v) there is any formal report submitted to the Medical Board of California or the medical board or licensing agency of any state or U.S. territory, the Board of Registered Nursing or the National Practitioner Data Bank of adverse credentialing or peer review action regarding Contractor, Subcontractor or a Practitioner or Facility; (vi) there is any material change in any of the credentialing or privileging information regarding Contractor, Subcontractor, or a Practitioner or Facility; (vii) Contractor, Subcontractor, or a Practitioner or Facility is subject to sanction under or is debarred from or excluded from any federal program, including Medicare or Medicaid; or (viii) there is any incident that may affect any license, certification, privileges or accreditation held by Contractor, or any Subcontractor, Practitioner, or Facility, if any, or that may materially affect performance of its/their obligations under this Agreement.

8.6 **Identification of Payors.** [Redacted] shall distribute to Contractor periodically, but no less frequently than annually or as may otherwise be required by Law, and upon reasonable request by Contractor, a list of Other Payors as of such date. To the extent allowable by applicable Law, [Redacted] reserves the right to add to, delete from or otherwise modify such list. In addition, [Redacted] by serving Notice to Contractor, may add or delete names from the list of [Redacted] Affiliated Payors set forth in Section 1.33.

**ARTICLE 9. INSURANCE AND INDEMNIFICATION**

9.1 **Insurance.** Contractor shall maintain or cause to be maintained the following coverage either through insurance, or through self-insurance programs that are deemed acceptable to [Redacted] or in such other manner as may be set forth in Exhibit 1 (Additional Terms), covering itself and each Subcontractor through whom Contractor provides Services at the following levels: (i) commercial general liability and property damage insurance with limits of liability not less than one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) annual aggregate, (ii) a policy of professional liability insurance with limits of liability not less than one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) annual aggregate, or such other amount as set forth in Exhibit 1 (Additional Terms) and (iii) such other insurance or self insurance acceptable to [Redacted] as shall be necessary to insure Contractor against
any claim or claims for damages arising under this Agreement, including claims arising by reason of personal injury or death in connection with the performance of any Service, or use of any property or facility pursuant to this Agreement. Such insurance coverage shall apply to all Facilities of Contractor and to Services provided by Contractor and its Subcontractors to Members at any [_____] facility or other site.

9.1.1 **Standards.** All insurance required of Contractor (including its Subcontractors, if any) under Section 9.1 (Insurance) shall be obtained from a company(ies) that is duly licensed to do business in the State of California, or the state in which Services are delivered and that either (i) has a Best’s rating of at least A or has a comparable rating from another rating company or (ii) is acceptable to Contractor shall provide certificates of insurance evidencing such coverage to [_____] upon execution of this Agreement in a form acceptable to [_____] and from time to time thereafter upon request. [_____] may also accept those self-insurance programs that are deemed appropriate by [_____].

9.1.2 **Tail Coverage.** If Contractor obtains one or more claims-made insurance policies to fulfill its obligations under this Section 9.1 (Insurance), Contractor will (i) maintain coverage with the same company during the Term of this Agreement and for at least five (5) years following termination of this Agreement, or (ii) purchase or provide coverage that assures protection against claims based on acts or omissions that occur during the period of this Agreement but which are asserted after the claims-made insurance policy has expired.

9.2 **Indemnification.**

9.2.1 **Contractor Indemnification.** Contractor shall indemnify and hold harmless [_____] (Including each in its role as [_____] ASO), and each of their respective officers, directors, partners, shareholders, agents and employees to the extent allowed by Law, from and against any and all demands, claims, losses, damages, liability, costs, expenses (Including the payment of attorneys’ fees and costs actually incurred, whether or not litigation is commenced), judgments or obligations, actions or causes of action whatsoever, to the extent arising from or in connection with any acts, failures to act or the performance of or failure to perform obligations hereunder by Contractor, its officers, partners, employees, Subcontractors or agents.

9.2.2 **Reciprocal Indemnification.** [_____] shall indemnify and hold harmless Contractor, its officers, directors, partners, shareholders, agents and employees to the extent allowed by Law, from and against any and all demands, claims, losses, damages, liability, costs, expenses (Including the payment of attorneys’ fees and costs actually incurred, whether or not litigation is commenced), judgments or obligations, actions or causes of action whatsoever, to the extent arising from or in connection with any acts, failures to act or the performance of or failure to perform obligations hereunder by [_____] its officers, partners, employees, or agent.

[_____] shall indemnify and hold harmless Contractor, its officers, directors, partners, shareholders, agents and employees to the extent allowed by Law, from and against any and all demands, claims, losses, damages, liability, costs, expenses (Including the
payment of attorneys' fees and costs actually incurred, whether or not litigation is commenced), judgments or obligations, actions or causes of action whatsoever, to the extent arising from or in connection with any acts, failures to act or the performance of or failure to perform obligations hereunder by its officers, partners, employees, or agents.

9.2.3 **Obligations.** To the extent required by the Knox Keene Laws, nothing in this Agreement shall be construed to require indemnification from Contractor for any liability imposed upon as a result of duty to provide or arrange for the provision of medically necessary health care services to Members where the health care services are a benefit provided under the applicable Membership Agreement.

9.3 **Cooperation of Parties.** The parties shall cooperate with each other in the investigation and disposition of any claim arising out of or relating to the activities of this Agreement, provided that nothing shall require any party to the Agreement to cooperate to their own legal detriment, to disclose any documents, records or communications that are protected from such disclosure under the peer review privilege, the attorney-client privilege or the attorney work-product doctrine or other rules governing such privileged materials.

**ARTICLE 10. MISCELLANEOUS**

10.1 **Assignment, Successors and Assigns.** Except as otherwise provided in this Agreement, Contractor will not assign this Agreement, or any rights hereunder, or Subcontract or delegate any of its duties and obligations under this Agreement without the prior written consent of Any material change of ownership or control of Contractor or a sale of all or substantially all of Contractor’s assets will be deemed an assignment. In any event, all obligations of Contractor under this Agreement will be enforceable against any successors and assigns. In the event of a sale, lease or other transfer of Contractor's ownership or control or assets, Contractor shall, unless objects, ensure that the buyer, lessee or transferee takes complete Assignment of this Agreement or agrees to enter into a services agreement with pursuant to which such buyer, lessee or other transferee will provide to Members Services under the same terms and for the same rates as Contractor is obligated to accept for such Services hereunder. No transfer of the rights, duties or obligations of this Agreement, nor the change of ownership or transfer of assets shall be deemed to modify, reduce, or limit Contractor's duty to either obligate any successor or assignee to provide all Services at the designated Locations pursuant to the terms and conditions of this Agreement, or to continue performing the full duties and obligations of this Agreement. Further, any succession or assignment without express written consent, will not relieve or otherwise affect the liability of the predecessor or assignor, who will remain liable, jointly and severally with the successor or assignee.

10.2 **No Third Party Beneficiaries.** Nothing in this Agreement will be construed to give any person other than Contractor or any benefits, rights or remedies, except that Members will be a third party beneficiary of certain Section(s) of this Agreement, Including Section 3.3.1 (Member Hold Harmless), and Section 4.7 (Continuation of Care Obligations), and each Payor, at its option, will have access to rates established herein.
10.3 **Force Majeure.** Any party to this Agreement will be excused from any inability to meet any or all of its obligations under this Agreement due to extraordinary circumstances beyond its reasonable control, including war, acts of government, acts of terrorism, fire, flood, earthquake, labor disputes, extreme weather or other acts of nature, provided that the affected party gives Notice to the other party within two (2) Business Days of discovery, or as soon as practicable, of any of the foregoing events or conditions, including a description with the date of occurrence and the anticipated duration. Any party to the Agreement giving such Notice must use its best efforts to minimize potential adverse effects to the other party, and the other party will be entitled to take any necessary measures or actions, including temporarily making alternative arrangements to fulfill the obligations of the party providing Notice until the fulfillment of the obligations under the Agreement can be resumed for the balance of the Term, or until the other party determines that it is no longer practicable for the excused party to resume the terms of the Agreement. When the event is satisfactorily concluded, the parties shall promptly confer to determine a mutually agreeable date that the terms of the Agreement shall recommence and any interruption of payment for Services rendered prior to the force majeure event, where such interruption in payment was as a result of that event, shall be remedied promptly.

In the event a Location is directly or indirectly affected by a labor dispute, including any strike, walk-out or similar event, upon Notice to Contractor by [Name], the parties’ obligations relating to this Agreement specific to such Location, except for payment for Services already rendered, shall be suspended for the duration of the labor dispute. Subsequently, upon [Name] satisfaction that such labor dispute has been resolved, the parties shall promptly confer to determine a mutually agreeable date that the terms of the Agreement specific to such Location shall recommence. Notwithstanding the foregoing, [Name] may issue Notice to Contractor for the parties to re-implement the terms of this Agreement specific to such Location within seven (7) Calendar Days from the date of Notice, and Contractor shall implement such terms by such date. If Contractor is not able to do so, [Name] has the option to immediately terminate the Agreement with respect to such Location so that it can make permanent alternative arrangements with another party.

10.4 **Use of Name.** Each party reserves to itself the right to and the control of the use of, its names, symbols, trademarks and service marks, presently existing or hereinafter established, and no party will use another party’s names, symbols, trademarks or service marks in any advertising or promotional materials or communication of any type or otherwise without the latter party’s prior written consent. Notwithstanding the foregoing, Contractor consents to [Name] use of its name, address and telephone number in lists of contracting practitioners and other marketing materials that [Name] may publish from time to time during the Term of this Agreement.

10.5 **Publicity.** In the interest of presenting accurate information to the general public and Members, and of maintaining good public relations, the parties will consult with each other regarding any issue relating to this Agreement or to a Member receiving Services under this Agreement which gives rise to media interest or public relations concern, and will cooperate in developing any statements or press releases in connection with any such issue.

10.6 **Governing Law.** The validity, enforceability and interpretation of any provision of this Agreement will be governed by the laws of the State of California and by federal law.
provision required to be in this Agreement by Knox-Keene Laws will bind the parties whether or not specifically articulated in this Agreement. This Agreement will be construed and governed in accordance with applicable contractual requirements imposed upon by the Medicaid/Medi-Cal, Medicare, CalPERS and FEHBP programs.

10.7 **Severability.** If any provision is determined invalid, void or unenforceable, in whole or in part, the remaining provisions will remain in full force and effect.

10.8 **Waiver.** A failure of any party to the Agreement to exercise any provision of this Agreement will not be deemed a waiver. Any waiver of any provision of this Agreement will be in writing and signed by the party against whom the waiver is sought to be enforced. Any such waiver will not operate or be construed as a waiver of any other provision of this Agreement or a future waiver of the same provision. Contractor will not be required to waive any rights that are prohibited from waiver under Law.

10.9 **Amendments.**

10.9.1 **Amendments by Mutual Consent.** Except as otherwise set forth in Sections 10.9.2 (Change in Legal or Regulatory Requirements) and 10.9.3 (Material Change to Provider Manual), amendments to this Agreement will be adopted only by mutual consent in a written amendment signed by all of the parties to this Agreement.

10.9.2 **Change in Legal or Regulatory Requirements.** Notwithstanding any other provision of this Agreement, if reasonably determines that a modification of this Agreement is necessary to cause to conform with Law, or the requirements imposed upon by an accrediting or regulatory agency, or in order for to participate in government-funded products, then will give Contractor Notice of the proposed modification, and the date on which it is to go into effect, which will not be less than forty-five (45) Business Days following the date of the Notice, unless a different period is permitted or required by Law or Government Officials, and the modification will go into effect on that date, and the Agreement will be so amended. will consider any written objections delivered by Contractor to within thirty (30) Calendar Days of the date of Notice that concern the proposed modification during the Notice period, and the parties agree to act in good faith to negotiate mutually acceptable language before the effective date of the proposed modification. If the parties fail to agree upon language that will bring the Agreement into conformity, Contractor may terminate the Agreement will be so amended in accordance with Section 4.2.5 herein.

10.9.3 **Material Change to Provider Manual.** Notwithstanding any other provision of this Agreement, if reasonably determines that a material change to the Provider Manual is necessary to cause it to conform with Law or operations or policy, then will give Contractor Notice of the proposed modification, and the date on which it is to go into effect, which will not be less than forty-five (45) Business Days following the date of the Notice, and the modification will go into effect on that date, and the Provider Manual will be so amended. will consider any written objections delivered within thirty (30) Calendar Days by Contractor concerning the proposed modification during the Notice period, and the parties agree to act in good faith to
negotiate mutually acceptable language before the effective date of the proposed modification. If the parties fail to agree upon language that will bring the Provider Manual into conformity, the Provider Manual will be so amended, or to the extent allowed by Law, Contractor may terminate the Agreement in accordance with Article 4 (Term and Termination) in accordance with Section 4.2.5 herein.

10.10 **Interpretation of the Agreement.** This Agreement will be interpreted according to its fair intent and not for or against any one party on the basis of whether such party drafted the Agreement. The captions or section headings are for convenience of reference only and will not affect in any way the meaning or interpretation of this Agreement.

10.11 **Statutory and Other References.** Any reference to a statute, regulation or accreditation standard refers to the statute, regulation or accreditation standard, as amended from time to time, and to any successor statute, regulation or accreditation standard.

10.12 **Counterparts.** This Agreement may be executed in separate counterparts, none of which need contain the signatures of all parties, and each of which, when so executed, will be deemed an original, even if an executed signature page is maintained as a facsimile copy. Such counterparts will together constitute and be one of the same instrument.

10.13 **Non-Exclusivity.** This is not an exclusive Agreement. Contractor and [blank] may enter into similar agreements with other parties. [blank] reserves the right to arrange for any Services for Members from any other provider.

10.14 **No Volume Guarantee.** [blank] does not represent, warrant or covenant any minimum volume of patients or Members that will be referred to Contractor under this Agreement.

10.15 **Independent Contractor.** Contractor enters into this Agreement, and will remain throughout the term of this Agreement, as an independent contractor. Nothing in this Agreement is intended to create nor shall it be construed to create between [blank] and Contractor a relationship of principal, agent, employee, partnership, joint venture or association. Neither [blank] nor Contractor has authorization to enter into any contracts, assume any obligations or make any warranties or representations on behalf of the other. No individual through whom Contractor renders Services shall be entitled to or shall receive from [blank] compensation for employment, employee welfare and pension benefits, fringe benefits or employment, workers’ compensation, life or disability insurance or any other benefits of employment, in connection with providing Services. Contractor represents and warrants that it will be responsible for all legally required tax withholding for itself and its employees. Contractor includes Contractor and its Subcontractors and Practitioners.

10.16 **Entire Agreement.** This Agreement, together with all Exhibits and subexhibits attached hereto and incorporated by reference herein, contains all the terms and conditions between the parties and supersedes any prior contracts, agreements, negotiations, proposals or understandings relating to the subject matter of this Agreement.

10.17 **Remedies Cumulative.** All rights and remedies provided for in this Agreement are cumulative, and are in addition to any other rights or remedies that may exist in Law or equity.
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the dates set forth below.
HEALTH CARE SERVICES AGREEMENT

LIST OF EXHIBITS

EXHIBIT 1 ADDITIONAL TERMS
   EXHIBIT 1.3 ADDITIONAL TERMS SKILLED NURSING FACILITY ("SNF") SERVICES

EXHIBIT 2 FACILITIES AND PRACTITIONERS

EXHIBIT 3 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES
   EXHIBIT 3.2 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR
   FACILITY SERVICES

EXHIBIT 4 SPECIAL SITUATIONS
   EXHIBIT 4.1 DELEGATED ACTIVITIES
EXHIBIT 1
ADDITIONAL TERMS

If any Services could be classified under more than one subexhibit attached to this Exhibit 1 and/or to Exhibit 4, [Company Name] shall determine in its sole discretion which of the attached subexhibits shall govern the provision of those Services.

The following subexhibit(s) attached to this Exhibit 1 describe(s) additional terms applicable to this Agreement:

EXHIBIT 1.1 ADDITIONAL TERMS PROFESSIONAL SERVICES
EXHIBIT 1.2 ADDITIONAL TERMS HOSPITAL SERVICES
  EXHIBIT 1.2.1 DISTINCT-PART SKILLED NURSING FACILITY ("SNF") (DELIVERED BY AN ACUTE CARE HOSPITAL)
  EXHIBIT 1.2.2 PSYCHIATRIC SERVICES (DELIVERED BY AN ACUTE CARE HOSPITAL)
  EXHIBIT 1.2.3 DETOXIFICATION AND CHEMICAL DEPENDENCY SERVICES (DELIVERED BY AN ACUTE CARE HOSPITAL)
EXHIBIT 1.3 ADDITIONAL TERMS SKILLED NURSING FACILITY ("SNF") SERVICES
EXHIBIT 1.4 ADDITIONAL TERMS HOME HEALTH SERVICES
  EXHIBIT 1.4.1 DIVERTED HOME HEALTH SERVICES
  EXHIBIT 1.4.2 SUPPLEMENTAL HOME HEALTH SERVICES
  EXHIBIT 1.4.3 HOME HEALTH SERVICES IN OTHER AREAS
EXHIBIT 1.5 ADDITIONAL TERMS HOSPICE SERVICES
  EXHIBIT 1.5.1 DIVERTED HOSPICE SERVICES
  EXHIBIT 1.5.2 SUPPLEMENTAL HOSPICE SERVICES
  EXHIBIT 1.5.3 HOSPICE SERVICES IN OTHER AREAS
EXHIBIT 1.6 ADDITIONAL TERMS PSYCHIATRIC HOSPITAL SERVICES
EXHIBIT 1.7 ADDITIONAL TERMS AMBULATORY SURGERY CENTER SERVICES
EXHIBIT 1.8 ADDITIONAL TERMS PSYCHIATRIC HOSPITAL ALTERNATIVE SERVICES
EXHIBIT 1.9 ADDITIONAL TERMS RESIDENTIAL RECOVERY PROGRAM SERVICES
EXHIBIT 1.10 ADDITIONAL TERMS CHRONIC RENAL SERVICES
EXHIBIT 1.11 ADDITIONAL TERMS HOME INFUSION PHARMACY SERVICES
The following additional terms apply to Contractor’s provision of SNF Services.

I. **Definitions.** The following terms supplement Article 1 (Definitions) of the Agreement.

   A. **Supportive Services** are physical therapy, occupational therapy, and speech therapy Services provided by Contractor to any Member who is receiving inpatient care that is below the level of skilled care (i.e., inpatient care that is not a Covered Benefit).

II. **Contractor’s Obligations.** The following terms supplement Article 2 (Contractor’s Obligations) of the Agreement.

   A. **Services To Be Provided.** Contractor shall provide Services as defined elsewhere in this Agreement, Including any additional items in Exhibit 4 (Special Situations) and the following:

      1. **Availability/Accessibility of Services.** Contractor shall be available to provide Services twenty-four (24) hours per day, seven (7) days per week.

      2. **IV Therapies.** With respect to IV pharmaceuticals that require use of a pump, Contractor shall supply the pump, Including PCA pump, and tubing. These IV therapies Include: TPN, Amphotericin, Including for bladder irrigation, Pentamidine, hydration (if Physician or physician authorized by determines that Member’s fluid balance is critical enough to require a pump), analgesic drips, heparin drips, vasopressors, and chemotherapy. For IV pharmaceuticals not requiring a pump (e.g., Aminoglycocides and Vancomycin), Contractor shall provide the rate control device.

      3. **Supplies.** Contractor shall provide all supplies used for dressings, IV administration and catheter care, Including heparin lock and saline flush solutions.

      4. **Medical Equipment.** Contractor shall provide all medical equipment required to be provided by Contractor under Medicare guidelines, whether or not such guidelines apply by Law to the Member. or its contracted medical equipment provider may provide for any medical equipment needed by Member which Medicare guidelines do not require Contractor to provide.

      5. **Ancillary Services.** Contractor shall provide ancillary Services, Including laboratory Services, X-rays, and EKGs.

      6. **Nursing Coverage.** Contractor shall provide RN coverage twenty-four (24) hours a day/seven (7) days a week at each Facility.

      7. **Included Physician Services.** Physician Services Included as Contractor’s Services are as follows:

         None.
8. **Administration of Vaccines.** Contractor shall offer and provide Members with influenza and pneumococcal immunizations, as required by Law and in accordance with the orders of the Member’s physician.

9. **Therapy.** Contractor shall provide a minimum of one and a half (1.5) hours of physical, speech and/or occupational therapy ("PT, ST and OT") on average per day to Members in accordance with physicians’ orders. PT, ST and OT provided to Members shall meet prescribed intensity and frequency levels, and other standards for functional gains, as determined by [ ] and/or its representative.

**B. Quality Assurance and Quality Improvement ("QI").**

1. **Contractor QI Activities.** If required by Government Officials or Law, Contractor shall maintain a formal QI program at all times during the Term of the Agreement that meets all state and federal licensing, accreditation and certification requirements applicable to Contractor. Whether or not Contractor is required to have a formal QI program, Contractor shall maintain a quality assurance committee that develops and implements a quality assurance plan with respect to any Services provided under this Agreement. Upon [ ] request, Contractor shall provide [ ] with a copy of its quality assurance plan, including all updates and revisions thereto. [ ] shall have the right to participate in Contractor’s QI program to the extent permitted by Law.

2. **Individual Responsible for Quality of Care.** Contractor shall designate an individual (such as medical director, director of nursing or administrator) who shall be responsible for addressing any urgent quality of care concerns identified by [ ] that originate in its Facility(-ies) or pertain to the delivery of Services. Such individual shall investigate and respond immediately to all quality issues and inform [ ] in writing of action taken within seven (7) Business Days of receipt of notification of the concern from [ ].

**C. Other.**

1. **Use of Non-Physicians.** Following the initial admission visit, [ ] may elect to have a [ ] physician’s assistant, nurse practitioner or clinical nurse specialist participate in the care of Members admitted to Contractor’s Facility(-ies) to the extent permitted by Law. Contractor shall use all reasonable efforts to cooperate with these practitioners in the provision of care to Members. **Notwithstanding the foregoing, prior to any professional being involved in the care of any resident at Contractor’s facilities, [ ] must submit to Contractor all appropriate credentialing information, health screening information and adequate proof of professional liability insurance. If a professional does not meet Contractor’s professional policies and procedures or cannot present adequate evidence of professional liability insurance, Contractor may refuse to allow such professional to participate in any resident care.**

**III. Dispute Resolution.** The following terms supplement Article 5 (Dispute Resolution) of the Agreement.

A. The parties to the Agreement acknowledge that Members, their heirs and personal representatives, and other claimants (collectively, "Claimants") may be subject to Membership Agreements that require arbitration of claims. In any dispute involving a Claimant, Contractor shall submit claims asserted by or against Contractor to binding arbitration, and Contractor shall accept and be bound by
the arbitration provisions of the Membership Agreement, as it may be amended from time to time, in the resolution of such claims.

IV. Compliance. The following terms supplement Article 7 (Compliance) of the Agreement:

A. CMS Required Notices. Contractor shall deliver written notification to each appropriate Medicare Advantage Member of the Member’s right to appeal termination of Services using CMS standardized notice entitled “Notice of Medicare Non-Coverage,” as required by Law.

V. Notice. The following terms supplement Article 8 (Notice) of the Agreement.

A. Notifications Related to Practitioners and Subcontractors. Unless prohibited by Law, Contractor shall immediately notify [Redacted] if any of the following events occur at or relate to a Facility, any [Redacted] practitioner or [Redacted] subcontractor is the subject of any legal (malpractice) action or governmental action, inquiry or formal allegation concerning his or her qualifications or ability to perform services (Including any allegation of malpractice).
EXHIBIT 2
FACILITIES AND PRACTITIONERS

This Exhibit 2 incorporates by reference, as applicable, a listing of (i) the Practitioners providing Services to Members under this Agreement, (ii) the name, location, and address of each physical site (Facility) at which Contractor, Including Subcontractors, provides Services to Members under this Agreement, and (iii) related Contractor information as reasonably requested by from time to time to administer this Agreement. Prior to execution of this Agreement and thereafter upon request by Contractor shall (i) complete a Provider Payment Information Form ("PPIF"), (ii) ensure that an individual with fully granted signature authority signs such PPIF, and (iii) deliver such PPIF to prior to execution of this Agreement. reserves the right to modify the format and/or change the information required on the PPIF from time to time.

In the event that Contractor intends to amend the information provided on the PPIF, it shall give thirty (30) Calendar Days’ Notice of any intended addition, deletion or substitution of Practitioners or Facilities. No addition of a Practitioner or Facility shall be effective unless and until approves such change and the Practitioner or Facility meet all the terms and conditions of this Agreement necessary to provide Services to Members.

Contractor shall not use any Practitioner or Location to deliver Services to a Member under this Agreement unless and until (i) approves such Practitioner and/or Location and (ii) such Practitioner and/or Location meets the conditions specified in Article 7 (Compliance) of the Agreement.

Whether or not Contractor has properly notified about the Practitioners (Including Subcontractors) providing Services to Members and the Locations at which Contractor provides Services to Members under this Agreement, this Agreement shall be deemed to apply to all Practitioners providing Services to Members and all Locations where Services are provided to Members.
EXHIBIT 3
BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES

The rates set forth in this Exhibit 3 are all-inclusive and are applicable to all Services, including supplies, provided by Contractor to Members in accordance with the specific provisions of the subexhibits to this Exhibit 3. The subexhibit(s) listed below and attached to this Exhibit 3 describe(s) billing instructions and compensation/payment rates for Services provided under this Agreement.

If any Services could be classified under more than one subexhibit attached to this Exhibit 3, shall determine in its sole discretion which of the attached subexhibits shall govern the payment for those Services.

EXHIBIT 3.1 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR PROFESSIONAL SERVICES
EXHIBIT 3.2 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR FACILITY SERVICES
EXHIBIT 3.4 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR HOME HEALTH SERVICES
EXHIBIT 3.5 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR HOSPICE SERVICES
EXHIBIT 3.10 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR CHRONIC RENAL SERVICES
EXHIBIT 3.11 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR HOME INFUSION PHARMACY SERVICES
EXHIBIT 3.20 BILLING INSTRUCTIONS RELATING TO CLAIMS FOR SERVICES TO REGULAR MEDICARE MEMBERS
EXHIBIT 3.2
BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES
FOR FACILITY SERVICES

In accordance with the provisions of Article 3 (Billing and Payment) and this Exhibit 3.2, Contractor shall be paid for Covered Services rendered to Members.

I. **General Provisions.** Subject to all provisions of this Agreement, Contractor shall be paid for Covered Services at the rates set forth below, reduced by applicable Member Cost Share. Contractor shall accept such amounts as payment in full for Covered Services, irrespective of the cost to Contractor of providing such Services Including supplies, or of Contractor’s customary charges for such Services.

II. **Instructions Relating to Claims.**

A. **Claim Submission.** Contractor shall submit all Claims for Services rendered to Medicare Advantage Members, Medi-Cal Members and Commercial Members to the billing address indicated on the written Authorization or, for Emergency Services, as specified in the Provider Manual. Contractor shall submit all Claims for Services rendered to Regular Medicare Members to CMS unless Contractor is directed to bill a Payor directly. Claims shall be submitted in accordance with this Agreement and the billing procedures set forth in the Provider Manual, as a condition for payment.

B. **Compensation by Membership Classification.**

1. **Commercial Members.** Contractor shall be paid for Covered Services provided to Commercial Members the lesser of (i) covered billed charges or (ii) the applicable rates set forth in Section II.C, below.

2. **Medicare Advantage Members.** Contractor shall be paid for Covered Services provided to Medicare Advantage Members the lesser of (i) covered billed charges, (ii) the applicable Medicare allowable rate, or (iii) the applicable rate set forth in Section II.C, below. However, if the applicable payment rate in Section II.C. is a Case Rate (as described below), Contractor shall be paid the lesser of (i) covered billed charges or (ii) the Case Rate.

   1 The Medicare allowable rate is based on the then-current published rates from CMS in effect at the time of service, includes the appropriate geographical wage index adjustment and other applicable factors.

3. **Medi-Cal Members.** Contractor shall be paid for Covered Services provided to Medi-Cal Members the lesser of (i) covered billed charges, (ii) the applicable rate set forth in Section II.C, below, or (iii) the published Medi-Cal rate, if any. However, if the applicable payment rate in Section II.C. is a Case Rate (as described below), Contractor shall be paid the lesser of (i) covered billed charges or (ii) the Case Rate.

4. **Regular Medicare Members.** In addition to a Claim, Contractor shall submit a copy of the Medicare Summary Notice as a condition of payment unless Contractor is directed to bill a Payor directly for applicable Services in Exhibit 3. Contractor shall be paid for Covered Services provided to Regular Medicare Members (i) any applicable Member Cost Share for which a Payor is responsible unless Contractor is directed to collect same, and (ii) any amounts due for Covered Services.
Services that are not covered by Medicare at the lesser of (a) covered billed charges or (b) the applicable rate set forth in Section II.C, below.

C. Rates.

1. Rates for Services.

<table>
<thead>
<tr>
<th>Type(s) of Service ¹¹</th>
<th>Rate(s) ¹²</th>
</tr>
</thead>
</table>

¹¹ Services (Including emergent Services) that are provided to a Member within twenty-four (24) hours of an inpatient admission and are provided in connection with the condition for which the Member was admitted shall not be paid separately, but shall be deemed Included in the rate for Inpatient Services.

¹² Per day rate(s) means payment due for Services provided for a twenty-four (24) hour period or portion thereof, ending at midnight, including the day of admission, but excluding the day of discharge or death.

2. Case Rates. The following "Case Rates" apply to all Services related to an individual treatment, or a course of treatment for a diagnosis or group of related diagnoses provided to a specific Member by Contractor. For inpatient and outpatient surgeries and other procedures to which Case Rates apply, the Case Rate shall apply to Services starting at admission or registration (as applicable), and ending at discharge or release (unless otherwise specified). Payment of the Case Rate includes not only the Services described by any indicated code(s) and/or descriptions which trigger or otherwise describe the Case Rate, but all other Services delivered during the individual treatment or course of treatment. For description purposes only, Contractor shall indicate on the billing form all codes for Services rendered by Contractor and its Subcontractors.

There are no Case Rates.

D. Periodic Updates. The parties acknowledge that any codes and ranges of codes set forth in this Exhibit 3.2 are updated periodically. Successor or replacement codes shall automatically be substituted for any codes and ranges of codes set forth herein so long as the Services described by the replacement codes remain substantially similar to those of the superseded codes.

III. Instructions Relating to Invoices for Other Contracted Functions.

A. Invoice Submission. Contractor shall submit all Invoices for Other Contracted Functions, as applicable, to [ ] Invoices shall be submitted in accordance with this Agreement and the billing procedures set forth in the Provider Manual, as a condition for payment.

1. Contractor will submit the Invoices for Other Contracted Functions, as applicable, to [ ] at the designated department and address as may be communicated to Contractor from time to time.

2. Invoices shall be produced on letterhead or other pre-printed invoice with Contractor’s name, address and tax identification number. The Invoice shall indicate the amount due and the pay-to address, if different than Contractor’s address.

3. Contractor shall date and sign the Invoices.
4. Contractor shall not bill CMS or a CMS intermediary or other CMS Payor or agent for any Other Contracted Functions provided to Medicare Members.

B. **Other Contracted Functions Rates.**

There are no Other Contracted Functions Rates.
EXHIBIT 3.20

BILLING INSTRUCTIONS RELATING TO CLAIMS FOR SERVICES TO REGULAR MEDICARE MEMBERS

I. For those Services listed below and provided to Regular Medicare Members, Contractor is directed to submit Claims directly to the Affiliated Payor indicated on the written Authorization or, for Emergency Services, as specified in the Provider Manual. Contractor shall not bill CMS or a CMS carrier or other CMS payor or agent for such Services. reserves to itself the right to bill CMS for such Services. Contractor shall be paid for such Services according to the applicable provisions of Exhibit 3 and its subexhibits.

A. All Services.
EXHIBIT 4
SPECIAL SITUATIONS

If any Services could be classified under more than one subexhibit attached to this Exhibit 4 and/or to Exhibit 1, [ ] shall determine in its sole discretion which of the attached subexhibits shall govern the provision of those Services.

The following subexhibit(s) attached to this Exhibit 4 describe(s) further obligations related to special situations applicable to this Agreement:

EXHIBIT 4.1 DELEGATED ACTIVITIES
EXHIBIT 4.2 STAFFING QUALIFICATIONS
EXHIBIT 4.3 SNF-HOSPICE SERVICES
   EXHIBIT 4.3.1 IHS FACILITIES
EXHIBIT 4.4 SUB-ACUTE LEVEL OF CARE CRITERIA
EXHIBIT 4.5 END OF LIFE SKILLED CARE SERVICES
EXHIBIT 4.6 BED RESERVATION
EXHIBIT 4.7 RADIATION THERAPY SERVICES SUPPLEMENTAL OBLIGATIONS
EXHIBIT 4.8 BIOMEDICAL EQUIPMENT
EXHIBIT 4.9 EXECUTIVE OVERSIGHT AND JOINT OPERATING COMMITTEES
EXHIBIT 4.10 BUSINESS ASSOCIATE AGREEMENT
EXHIBIT 4.11 PROFESSIONAL TIME WORKED
   EXHIBIT 4.11.1 PHYSICIAN JOINDER AND REASSIGNMENT AGREEMENT
EXHIBIT 4.1
DELEGATED ACTIVITIES

No activities are delegated to Contractor. The delegation of credentialing requires approval first by [REDACTED] and then by [REDACTED] before it can even be discussed with a potential contractor. CM to obtain Exhibit 4.1.1 from Regulatory Leader.