

## *Participating Provider Agreement* **Summary of Principal Terms**

Participating Provider Agreements (PPA) will state the duties and obligations between Kootenai Care Network providers and Kootenai Care Network (“the Network”).

The initial draft PPA is for individual physicians joining the Network. The Network will also have forms of PPAs for medical groups and entities (rehab facilities, for example) that may wish to join the Network. All PPAs will have in common certain terms relating to the core Network tasks, including quality, data, and contracting.

The draft PPA includes the following key terms.

1. Cost. There is no membership fee or capital investment requirement.
2. Term. The initial term is two (2) years, with automatic renewals for successive one (1) year terms.
3. Termination. The Network or Physician may terminate without cause on 90-days’ notice.
4. Non-Exclusive. The agreement is non-exclusive. The physician may be a member of other CINs, ACOs, or networks, subject to certain restrictions on the physician’s participation in the leadership of other networks. Payors, however, may require some exclusivity in the future (i.e. it may not be practical for a primary care provider to participate in more than one Medicare ACO).
5. Clinical Performance Standards. The physician will implement Network standards, which will include such items as data capture, case management, and medical policies. The standards will be reviewed at least annually, with the physician encouraged to participate in the review.
6. Payor Contracts. The physician may independently contract with payors for the base fee component of professional medical services; the Network will negotiate payor contracts with incentives for quality and cost utilization. The physician led governance process will determine overall payor strategy.
7. Systems. The Network does not require a common electronic health record platform; it will require systems that are compatible with the Network data aggregation requirements. The Network will assist physicians with their technology to meet requirements.
8. Network Referrals. The strength of the Network lies in a common commitment among member physicians to use Network resources for improved patient care at a lower cost. It is an expectation these goals can be achieved by member physicians referring to other participating providers and to keep services local rather than referring out of state. Referrals outside of the Network may occur if requested by a patient or if in the physician’s medical judgment, a referral outside the Network is in the patient’s best interest.

# Participating Provider Agreement

This **PARTICIPATING PROVIDER AGREEMENT** (“Agreement” or “PPA”) is made and entered into as of the \_\_\_\_\_, 2016 (“Effective Date”), by and between Kootenai Care Network, LLC (“the Network”), an Idaho nonprofit company, and the undersigned health care provider (“Participating Provider”). The Network and the Participating Provider are the “Parties,” and each is a “Party.” The health care providers who enter into the Network Participating Provider Agreements are collectively referred to as the “Participating Providers” and constitute the Network’s “Provider Network.”

## RECITALS

**WHEREAS**, Clinical Integration is defined by Federal antitrust law enforcement agencies as an active and ongoing program to evaluate and modify the clinical practice patterns of the health care providers who participate in a network to create a high degree of interdependence and cooperation among the network’s participants to control costs and ensure quality. This program may include: (1) establishing mechanisms to monitor and control utilization of health care services that are designed to control costs and assure quality of care; (2) selectively choosing network physicians who are likely to further these efficiency objectives; and (3) the significant investment of capital, both monetary and human, in the necessary infrastructure and capability to realize the claimed efficiencies; and

**WHEREAS**, the Network is a company committed to improving the quality of health care and controlling health care delivery costs through the development and implementation of multi-faceted clinical integration efforts; and

**WHEREAS**, the Network operates as a vehicle through which such clinical integration can take place by pooling the expertise, experience and resources of health care providers serving in a wide range of practice areas; and

**WHEREAS**, the Network desires to contract with health care providers who share its vision for clinical integration, and who have a reputation for providing high quality care for patients and are reasonably expected to continue providing high quality care as verified by the Network’s quality metrics; and

**WHEREAS**, the Network identified the Participating Provider as a health care provider who meets this criteria; and

**WHEREAS**, the Participating Provider desires to contract with the Network so as to aid in the realization of the Network’s goals; and

**WHEREAS**, it is the intent of the Parties to contract to meet such goals by focusing on quality, performance, service, outcomes, efficiency, coordination and continuity of care, cost of care, clinical protocols, evidence-based medicine, and information technology in the health care industry; and

**WHEREAS**, it is the intent of the Parties that the Network contract with health care Payors with terms that will benefit patients through clinical integration efforts at work within the Provider Network; and

**WHEREAS**, it is the intent of the Parties to contract in a manner that is consistent with all applicable laws and regulations, including, but not limited to, anti-kickback, physician self-referral and antitrust; and

**WHEREAS**, the Parties desire to set forth and memorialize their agreements and understandings concerning the general undertakings outlined above.

**NOW, THEREFORE**, in consideration of the premises, the mutual covenants set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each Party, the Parties agree as follows:

**1. RELATIONSHIP AND DESIGNATION OF PARTIES.**

**1.1. INDEPENDENT CONTRACTORS.** It is mutually understood and agreed that each Party is at all times acting and performing as an independent contractor, responsible only for its own acts and omissions. Nothing in this Agreement will be construed to designate either Party as a partner, agent, employee or joint venturer of the other Party and the provisions of this Agreement will not be interpreted to conflict with the intent of the Parties that the legal status of the Parties will at all times be that of independent contractors.

**2. TERM AND TERMINATION.**

**2.1. TERM.** This Agreement will be effective for an initial term of two years from its Effective Date, plus any partial year stub period from the Effective Date of the signing of the initial Agreement to the commencement of the next full fiscal year, and will automatically renew for successive periods of one year thereafter, unless written notice of termination at the end of the then effective term period is provided by a Party to the other at least ninety days prior to the expiration of the then effective term period.

**2.2. TERMINATION.** Either party may terminate this Agreement without cause on a minimum of ninety days' notice, provided however, that the Agreement would remain in effect through the remainder of the Agreement term period. In addition to any other grounds for termination provided for in this Agreement, this Agreement will automatically

terminate upon the Participating Provider's death, the dissolution of the Network, or when the Participating Provider ceases to be a Network Participating Provider, for whatever reason. This Agreement may also be terminated immediately as follows:

- 2.2.1. By mutual written consent of the Parties; or
- 2.2.2. If the Participating Provider is convicted of a felony, a crime of moral turpitude, or a crime arising from the violation of any Federal or state health care program or involving health care fraud, including, but not limited to, a false claim; or
- 2.2.3. If the Participating Provider is excluded from participation in any Federal or state health care program, including, but not limited to, the Medicare and Medicaid programs; or
- 2.2.4. If the Participating Provider's license to practice medicine in any state is revoked, suspended, reduced or limited in any way by the final determination of a state's Board of Medical Examiners, action of a competent authority or if the Participating Provider's license, permit, or certificate to prescribe drugs in any state is revoked, suspended, reduced or limited in any way by the final action of a competent authority, including but not limited to the U.S. Drug Enforcement Administration, the Idaho Board of Medicine, or any state of Federal agency, at the option of the Network; or
- 2.2.5. If the Participating Provider's medical staff membership at any hospital or health care facility is revoked, suspended, reduced or limited in any way by the final action of the hospital or health care facility or if the Participating Provider's privileges at any hospital or health care facility are revoked, suspended, reduced or limited in any way by the final action of the hospital or health care facility, at the option of the Network; or
- 2.2.6. If, by reason of disability, the Participating Provider fails to render medical services for a period of sixty consecutive days or for a period of ninety nonconsecutive days within any four month period, at the option of the Network; or
- 2.2.7. If the Participating Provider sues the Network for any reason, at the option of the Network; or
- 2.2.8. If the Participating Provider does not meet the insurance requirements of section 5.7 of this Agreement, at the option of the Network; or

2.2.9. If a default under this Agreement remains uncured after the lapse of thirty days following written notice by the non-defaulting Party to the defaulting Party of the default; at the option of the nondefaulting Party.

The investigation, charging or indictment of the Participating Provider by any competent authority will not alone be grounds for termination of this Agreement.

**3. PARTICIPATING PROVIDER'S WARRANTIES AND DISCLOSURES.**

The Participating Provider warrants that, as of the Effective Date of this Agreement, and except as otherwise disclosed in advance to the Network in a writing acknowledged and expressly accepted by the Network, he or she:

- 3.1. Has a valid and unrestricted license to practice medicine in the State of Idaho; and
- 3.2. Has a valid and unrestricted license, permit, or certificate to prescribe drugs in the State of Idaho; and
- 3.3. Is a member in good standing on the medical staff of a hospital in the Provider Network or meets the Network's exception criteria; and
- 3.4. Has not been excluded, debarred, suspended, or been otherwise determined to be, or identified as, ineligible to participate in any Federal or state health care program or is not, to his or her knowledge, about to be excluded, debarred, suspended, or otherwise determined to be, or identified as, ineligible to participate in any Federal or state health care program; and
- 3.5. Has not received any information or notice, or become aware, by any means or methods, that he or she is the subject of any investigation or review regarding his or her participation in any Federal or state health care program; and
- 3.6. Has not been indicted for or convicted of any crime involving fraud or relating to any Federal or state health care program; and
- 3.7. Has no contractual affiliation, whether by employment or otherwise, with any person that he or she knows or should know is excluded from participation in any Federal or state health care program; and
- 3.8. Is not subject to any obligation or restriction, contractual or otherwise, which would prevent his or her provision of professional medical services pursuant to any contracts which the Network negotiates with any Payor for the benefit of the Participating Provider; and

**3.9.** Should the above warranties, through true as of the Effective Date of this Agreement, cease to be true as of any date during which this Agreement is effective (i.e. a status change), the Participating Provider will, within fifteen days of the time he or she receives notice of such status change, provide the Network with written notice of such status change and the reasons therefore. Further, if the Participating Provider's medical staff membership at any hospital or health care facility is revoked, suspended, reduced or limited in any way by a final action of a hospital or health care facility or if the Participating Provider's privileges at any hospital or health care facility are revoked, suspended, reduced or limited in any way by a final action of a hospital or health care facility, the Participating Provider will, within fifteen days of the time he or she receives notice of such status change, provide the Network with written notice of the status change and the reasons therefore. Failure of the Participating Provider to timely provide any notice required by this paragraph will entitle the Network to immediately terminate this Agreement, at its option.

The Participating Provider will also provide the above written warranties and disclosures to the Network at one year intervals, so long as this Agreement remains effective, in a form and manner directed by the Network.

The Participating Provider also represents and warrants that, as of the Effective Date of this Agreement, he or she has disclosed to the Network in a writing approved by the Network any and all management and/or committee position(s) which he or she holds with any clinically integrated network and/or association of health care providers other than the Network. The disclosure will include the name of the network(s) and/or association(s), the nature of the management and/or committee position(s), and the Participating Provider's responsibilities. Should the Participating Provider hereinafter obtain a management and/or committee position(s) at any time during which this Agreement is effective (whether during the original term or any renewal term), he or she will make the foregoing disclosures to the Network in writing within fifteen days of obtaining a position(s). Failure of the Participating Provider to timely report a position(s) to the Network in writing will entitle the Network to immediately terminate this Agreement for cause, at its option. The Participating Provider's management position with any clinically integrated network or association of health care providers other than the Network, will entitle the Network to immediately terminate this Agreement, change or modify any management or committee position(s) The Participating Provider holds with the Network, or remove the Participating Provider from the management or committee position(s), at the Network's option.

#### **4. THE NETWORK'S OBLIGATIONS.**

##### **4.1. CLINICAL PERFORMANCE PROGRAMS.**

4.1.1 The Network will, with the assistance of its members, managers, the Participating Providers and any other necessary parties, develop, implement, review, and revise, as may be necessary from

time to time, clinical performance standards, protocols and benchmarks for integration into the Participating Provider's practice. These clinical performance standards, protocols and benchmarks may deal with issues including, but not limited to, data capture and transmittal, case management, disease management, medical policies, and billing practices. The Network will provide the Participating Provider an electronic or paper copy of the standards, protocols and benchmarks, along with any amendments.

4.1.2 The Network will provide the Participating Provider an electronic or paper listing of all health care providers in the Provider Network and will keep the Participating Provider updated with any additions or deletions to the listing.

4.1.3 The Network may provide and maintain an electronic data portal through which the Participating Provider will share billing, clinical and other records to allow for extrapolation of data from his or her patient encounters. The Network will develop written policies and procedures to maintain the confidentiality of this information to prevent its utilization or disclosure for non-Network functions.

4.1.4 The Network will establish such committees as necessary to effectuate its clinical integration and other goals, including committees charged with the development, implementation, review and revision of clinical performance standards, protocols and benchmarks and the monitoring and evaluation of the Participating Providers with regard to clinical performance standards, protocols and benchmarks, and committees seeing to the organizational and business operations of the Provider Network.

4.1.5 The Network will, not less than annually, review its clinical performance standards, protocols and benchmarks to ensure they conform to industry best practices with reference to quality, performance, service, outcomes, efficiency, coordination and continuity of care, cost of care, clinical protocols, evidence-based medicine, and information technology. The Network will amend its clinical performance standards, protocols and benchmarks as necessary based on the results of its review.

4.1.6 The Network may, from time to time, adopt antitrust guidelines, policies and procedures for integration into the Participating Provider's practice.

**4.2. CONTRACTING.** For purposes of this Agreement, "Payor Contract" means any contract executed by the Network to provide covered services to enrollees in health benefit plans maintained by payors.

In conjunction with its obligations under Section 4.1, the Network will negotiate and execute Payor Contracts with third party health care payors (including, but not limited to, health plans, self-funded groups, and government health care programs) (“Payors”), pursuant to the Network’s payor strategy, for the benefit of the Participating Provider. The Network will provide The Participating Provider with a copy of the contracts. The Network will be entitled to and responsible for the receipt and, in the Network’s sole discretion, distribution of any performance incentive payments received through Payor Contracts.

- 4.3. PAYMENT.** The Network, at its sole and exclusive discretion, may compensate the Participating Provider for services the Participating Provider performs pursuant to Section 5.2 of this Agreement. Any payments received by the Participating Provider arising from or related to this Agreement will be considered taxable income to the Participating Provider and not to the Network.

**5. PARTICIPATING PROVIDER’S OBLIGATIONS.**

**5.1. PARTICIPATION FEES & CAPITAL CONTRIBUTIONS.**

5.1.1. The Participating Provider will not be charged a fee for membership or be required to make a capital investment.

5.1.2. The Participating Provider will be responsible for maintaining electronic systems, and utilize the Network’s systems, sufficient to facilitate electronic sharing of data in a form acceptable to the Network, pursuant to the Network policy as adapted from time to time.

**5.2. ADDITIONAL PARTICIPATION UNDERTAKINGS.**

5.2.1 The Participating Provider may be requested by the Network to assist it in the development, implementation, review and revision, as necessary, of its clinical performance standards, protocols and benchmarks for the Participating Providers.

5.2.2 The Participating Provider may be requested by the Network to serve on one or more of the Network’s various committees.

5.2.3 The Participating Provider is responsible for investing the human capital necessary to educate and train himself or herself, his or her employees, and other Participating Providers on the clinical integration efforts and other Network strategies set forth or contemplated in this Agreement.

5.2.3.1. The Participating Provider will complete, and have his or her employees complete, clinical integration education and other training as directed by the Network.



- 5.2.3.2. The Participating Provider will complete, and have his or her employees complete, information technology education and training as required by the Network.
- 5.2.4 Except as otherwise expressly agreed to in an advance writing by the Parties, the Participating Provider will not be entitled to any compensation from the Network for his or her fulfillment of any of the obligations outlined in this Agreement.
- 5.2.5 If, at any point during the term of this Agreement, the Participating Provider voluntarily or involuntarily leaves or terminates his or her affiliation with any medical practice with which he or she was affiliated, or affiliates with or joins a new medical practice, he or she will notify the Network in writing of such fact within five days of its occurrence.

### **5.3. CREDENTIALS AND STANDARDS.**

- 5.3.1. The Participating Provider will maintain a valid and unrestricted license to practice medicine in the State of Idaho.
- 5.3.2. The Participating Provider will maintain a valid and unrestricted license, permit, or certificate to prescribe drugs in the State of Idaho.
- 5.3.3. The Participating Provider will be board certified by the appropriate certifying organization for his or her practice area(s) or, with the prior written approval of the Board, will satisfy all requirements needed to take the requisite written board certification examination(s) or otherwise satisfy the Network's Board policy related to exceptions to the Board certification requirement as may be amended from time to time.
- 5.3.4. The Participating Provider will not be excluded, debarred, suspended, or otherwise determined to be, or identified as, ineligible to participate in any Federal or state health care program.
- 5.3.5. The Participating Provider will, within the time limitations set forth by the Network, comply with any additional credentialing requirements and other standards, policies and procedures developed by the Network.
- 5.3.6. Nothing in this Agreement will be construed to limit the Network's right to, in its sole and exclusive discretion, waive, revise or supplement the credentialing requirements, standards or other requirements for admission by any health care provider as a Participating Provider in the Network.

### **5.4 CLINICAL INTEGRATION EFFORTS**

- 5.4.1. The Participating Provider will conduct his or her medical practice in conformity with the clinical performance standards, protocols

and benchmarks developed by the Network, as they may be amended from time to time.

5.4.2. As requested by the Network, the participating Provider will electronically transmit records, from which claims, encounter and other data may be extrapolated, to the Network through the Participating Provider will include records for all services the Participating Provider provided, regardless of the location at which patient was provided those services (i.e. office, hospital or otherwise) and regardless of the contract under which patient was billed.

5.4.3. The Participating Provider will not subject himself or herself to any restriction, contractual or otherwise, that would prevent his or her participation in any payment arrangement which the Network negotiates with any Payor on behalf of the Participating Providers or that would prevent his or her fulfillment of any of his or her obligations under this Agreement.

5.4.4. The Participating Provider permits the Network to use the Participating Providers name, business telephone number(s), business address(es), and a description of the Participating Providers specialty and services in connection with the Network's marketing, promotion, and administration of clinical integration initiatives.

**5.5 NEGOTIATED PAYOR CONTRACTS.** The Participating Provider authorizes the Network to negotiate and execute Payor Contracts for his or her benefit, pursuant to the Network's Payor strategy. The Participating Provider will be bound by all terms and conditions of the Payor Contracts; provided, however, that the Participant Provider will always have the right and duty to use his or her independent professional medical judgement providing medical services. The Participating Provider (a) will retain independent contracting authority with Payors for the base fee component of professional medical services ("Base Fee Contracts"), (b) may contract directly with Payors for Base Fee Contracts and (c) may participate in contracts of other clinically integrated networks or associations of health care providers other than those of the Network, provided this participation does not interfere with, diminish or preclude the Participating Provider's ability to fulfill his or her obligations under this Agreement, including participation in the Network Payor Contracts.

**5.6 NETWORK REFERRALS.** It is anticipated that because of the expertise, resources and quality care provided through the Provider Network the Participating Providers will be able to offer patients outstanding, cost-effective medical care by sending and receiving in-network referrals.

5.6.1. When the Participating Provider has a patient who requires referral to another health care provider, the Participating Provider will

refer the patient to a health care provider in the Provider Network except when:

- 1 In the Participating Provider's sound medical judgement, referral to a health care provider outside the Provider Network would be in the patient's best interest; or
- 2 None of the health care providers in the Provider Network practice in the area or specialty for which the referral is required; or
- 3 The Participating Provider's patient is unwilling to receive treatment from a Participating Provider; or
- 4 The referral is in accordance with the Payor's in-network referral policies and procedures.

**5.7 INSURANCE.** While this Agreement is effective, the Participating Provider will maintain malpractice insurance consistent with the Network's Participating Provider Insurance Policy.

5.7.1. Proof of insurance and qualification will be provided by the Participating Provider to the Network upon execution of this Agreement and, thereafter, upon the Network's request.

6. **MEDICAL JUDGEMENT.** Nothing in this Agreement will be construed as affecting the Participating Provider's obligation and right to exercise independent medical judgment, consistent with the applicable standard of care, in providing professional medical services.
7. **NON-EXCLUSIVITY.** The Participating Provider (a) will retain independent contracting authority with Payors for Base Fee Contracts, (b) may participate in incentive contracts of other networks or associations of health care providers other than those of the Network, provided this participation does not interfere with, diminish or preclude the Participating Provider's ability to fulfill his or her obligations under this Agreement, including participation in Payor Contracts.
8. **CONFIDENTIALITY.** The Parties acknowledge that during time this Agreement is effective each Party will receive confidential information of the other Party. Accordingly, the Parties agree that:

**8.1.** Neither the Participating Provider nor the Network will disclose to any unauthorized third party confidential or proprietary information received from the other pursuant to this Agreement ("Confidential Information"), unless the disclosure is required by law, is authorized in writing by the other Party, or is disclosed in a manner that does not identify the patient, health care provider, or the Participating Provider, as applicable, and is for the purpose of studying or demonstrating the Participating Providers' conformity to the Network's clinical performance standards, protocols and benchmarks. Confidential Information includes, but is not limited to:

8.1.1 Payor contracts, including any terms thereof, negotiated by the Network for the benefit of the Participating Providers;

- 8.1.2 Billing records and any other clinical quality data collected from the Participating Provider; and
- 8.1.3 Any other information or documents evidencing the business operations, practices and procedures of the Participating Provider, or the Network, including information or documents concerning or related to staffing, strategies, financial plans and budgets, contractual relationships or terms, practice management procedures, health information technology systems and systems or processes related to the specific operation of the Participating Provider, or the Network.

In no case, however, will Confidential Information be shared with other networks or other associations of health care providers.

The duty to maintain confidentiality and non-disclosure will survive the term of this Agreement in perpetuity.

- 8.2. Notwithstanding the foregoing, the Participating Provider may disclose Payor Contracts, including any terms thereof, negotiated by the Network for the benefit of the Participating Provider, to his or her employees, agents or attorneys with a need to know and who have undertaken a duty of nondisclosure.
- 8.3. With regard to protected health information shared by the Participating Provider with the Network pursuant to this Agreement, the Network, including its members and managers, will be deemed the “business associate” of the Participating Provider pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the Parties will execute and abide by the terms of the Network’s Business Associate Agreement (BAA).
- 8.4. The Parties will take all steps necessary and appropriate under applicable local, state, and Federal law, including, but not limited to, HIPAA, the Health Information Technology for Economic and Clinical Health Act (“HITECH”), and their related regulations, to safeguard Confidential Information during transmission and keeping. The Network may issue additional requirements regarding the safeguarding of Confidential Information, which requirements will be followed by the Participating Provider.

## 9. **COMPLIANCE.**

- 9.1. The Parties recognize that this Agreement will at all times be subject to applicable local, state, and Federal laws including, but not limited to, the Social Security Act, the rules, regulations and policies of the Department of Health and Human Services, the Federal Trade Commission and the Idaho State Board of Medicine The Parties further recognize that this Agreement will be subject

to amendments to laws and to new legislation, including new rules, regulations and departmental policies. Should a court, board, agency or other entity of competent jurisdiction determine any provision of applicable law invalidates or is otherwise materially inconsistent with any provision of this Agreement, or causes one or both of the Parties to be in violation of the law under this Agreement, or if counsel retained pursuant to the Network's compliance plan makes a similar determination, then the Parties will exercise their best efforts to amend the offending provision(s) of this Agreement to accommodate the intent of this Agreement to the greatest extent possible consistent with the requirements of law.

- 9.2. The Parties do not intend to violate state or Federal anti-kickback, physician self-referral, or antitrust laws, as the same may be amended from time to time. The Parties do not contract based on the volume or value of referrals any person may receive as a consequence of this Agreement.
- 9.3. There is no intention by the Network to influence the independent professional medical judgement of the Participating Provider.
- 9.4. The Participating Provider will not contract, whether by employment or otherwise, with any person it knows or should know is excluded from participation in any Federal or state health care program.
- 9.5. The Network will maintain a compliance plan, a copy of which will be available for review by the Participating Provider. The Participating Provider agrees to abide by the provisions of the Network's compliance plan and he or she will, at the Network's request, execute documentation further evidencing this agreement. The Participating Providers failure to abide by the provisions of the Network's compliance plan, will be grounds for the Network's immediate termination of this Agreement.

## 10. **LIABILITY.**

- 10.1. The Network and the Participating Provider are independent persons contracting sole for the purpose of implementation the provisions of this Agreement. Neither the Network nor any of its Participating Providers, or any of their respective trustees, directors, managers, members, officers, employees or agents, will be liable to the Participating Provider for any action taken or recommendation made in good faith within the scope of, arising out of, or related to this Agreement. This provision will survive termination of this Agreement.
- 10.2. The Participating Provider will be solely responsible and liable, to the exclusion of the Network, for any claims, losses, damages, liabilities, costs, expenses, obligations or litigation, including, without limitation, attorneys' fees, court costs and punitive and/or other similar damages, arising out of or resulting from the negligent, fraudulent, dishonest or other acts or omissions of the

Participating Provider or the Participating Provider's representative(s). This provision will survive termination of this Agreement.

- 10.3.** The Network will be solely responsible and liable, to the exclusion of the Participating Provider, for any claims, losses, damages, liabilities, costs, expenses, obligations or litigation, including, without limitation, attorneys' fees, court costs and punitive and/or other similar damages, arising out of or resulting from the negligent, fraudulent, dishonest or other acts or omissions of the Network or the Network's representative(s). This provision will survive termination of this Agreement.

**11. MISCELLANEOUS.**

- 11.1. NOTICES.** Unless otherwise expressly provided for herein, all notices, requests, demands or other communications will be in writing and will be deemed to have been duly given to a Party, if by hand delivery, on the date of delivery to such Party (or its agent as may be designated in writing), or, if mailed postage prepaid, on the third business day following posting or, if sent via facsimile, on the day it was sent via facsimile if sent on a business day and, if not sent on a business day, on the next business day after it was sent via facsimile, to the following persons, addresses or numbers (or to such other person, address or number as a Party may designate in writing):

**KOOTENAI CARE NETWORK:**

Office of the President  
2003 Kootenai Health Way  
Coeur d'Alene, ID 83814

With a copy to: General Counsel at the same address

**PARTICIPATING PROVIDER:** As listed in the Participating Provider's signature block on this Agreement.

- 11.2. AMENDMENT.** This Agreement may be amended only by the written consent of the Parties.
- 11.3. ASSIGNMENT AND DELEGATION.** No assignment of rights or delegation of obligations hereunder will be valid without the specific written consent of the Parties, except that this Agreement may be assigned by the Network to any affiliate wholly controlled by the Network or to any successor entity. Subject to the prohibition contained in this paragraph, this Agreement will be binding upon and inure to the benefit of the successors and permitted assigns of the Parties hereto.
- 11.4. ENTIRE AGREEMENT.** Except as otherwise stated in this Agreement, this Agreement, including any and all exhibits and attachments, constitutes the

entire agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes all prior agreements, negotiations, and communications, whether written or oral, between the Parties hereto, with respect to the subject matter hereof.

**11.5. NO THIRD PARTY BENEFICIARIES.** The Parties do not intend to make any other person or entity a third-party beneficiary under this Agreement. No action to enforce the terms of this Agreement may be brought against any Party by any person or entity that is not a Party to this Agreement.

**11.6. WAIVER.** No waiver may be deemed to have been made under this Agreement unless made expressly in writing and signed by the waiving Party. The waiver by either Party of a breach or violation of any provision of this Agreement will not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof. No failure by either Party to insist upon the strict performance of any provision of this Agreement may be construed as depriving that Party of the right to insist on strict performance of that provision or of any other provision in the future.

**11.7. WARRANTY OF AUTHORITY.** Each of the Parties represents and warrants to the other that it has the full power and authority to enter into this Agreement, that all required action has been duly taken in connection therewith, and that, upon execution, this Agreement will become a binding obligation, enforceable in accordance with its provisions and applicable laws.

**11.8. INTERPRETATION.** The Parties hereto acknowledge and agree that;

11.8.1 Each Party has reviewed the provisions of this Agreement; and

11.8.2 The provision of this Agreement will be construed fairly as to each Party hereto and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

**11.9. ACCESS TO RECORDS.** To the extent require by Section 1395x(v)(1)(I) of Title 42 of the United States Code and the applicable rules and regulations there under, and until the expiration of four years after termination of this Agreement, the Parties will make available, upon written request by the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the costs of the services provided by the Parties under this Agreement. The Parties further agree that in the event they carry out any of their respective obligations under this Agreement through a subcontract with a value or cost of ten thousand dollars (\$10,000) or more over a twelve month period with a related organization, such subcontract will contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization will make available, upon written request

by the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of such subcontract and such books, documents and records of such organization as are necessary to verify the nature and extent of such costs. Disclosure pursuant to this Section will not be construed as a waiver of any other legal right to which the Parties may be entitled under applicable law. This provision will survive the termination of this Agreement.

- 11.10. SEVERABILITY.** If any provision of this Agreement is found to be wholly or partially invalid under any applicable law, the remaining provisions which are not invalid will remain in full force and effect and will be binding upon the Parties hereto.
- 11.11. HEADINGS.** The headings contained in this Agreement are for convenient reference only, and will not in any way affect the meaning or interpretation of this Agreement.
- 11.12. COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which will be an original, but all of which will constitute one and the same instrument.
- 11.13. GOVERNING LAW.** This Agreement will be construed in accordance with the laws of the State of Idaho, without regard to that State's conflicts of laws provisions.



**IN WITNESS WHEREOF**, the Kootenai Care Network, appearing herein through David Chambers, M.D., its Chairman of the Board and duly authorized agent, has duly executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, effective as of the day, month, and year therein above set forth.

**KOOTENAI CARE NETWORK**

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

Printed Name: David Chambers, M.D.

Its: Chairman of the Board

**PARTICIPATING PROVIDER**

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

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

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Facsimile: \_\_\_\_\_

**EXHIBIT I**

Participating Provider Information

For each Participating Provider to be included in this Agreement, please provide the following information.

Physician Name: \_\_\_\_\_

Practice Name: \_\_\_\_\_

Practice Address: \_\_\_\_\_

Practice Phone Number: \_\_\_\_\_

Principle Medical Specialty: \_\_\_\_\_

Active Business Email Address: \_\_\_\_\_

Tax ID Number: \_\_\_\_\_

DEA Number: \_\_\_\_\_

Provider NPI Number: \_\_\_\_\_

Organizational NPI Number: \_\_\_\_\_

Name of EHR Software \_\_\_\_\_

(Electronic Health Record)