

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

*H/OA*



**FROM:** Human Resources Department

**SUBMITTAL DATE:**  
June 9, 2009

**SUBJECT:** Exclusive Care - New EPO Medical Contractor Agreement with MinuteClinic Diagnostic Medical Group of Orange County, Inc., a California Professional Medical Corporation.

**RECOMMENDED MOTION:** 1) Ratify and approve the attached Medical Contractor Agreement from May 1, 2009 - April 30, 2014, with MinuteClinic Diagnostic Medical Group of Orange County, Inc., a California Professional Medical Corporation; 2) authorize the Chairperson to sign four (4) copies of the attached Agreement and; 3) retain one (1) copy of the signed Agreement and return three (3) copies to Human Resources for distribution.

**BACKGROUND:** In 1999, the Board of Supervisors established the County's self-funded Exclusive Provider Option (EPO) health plan, Exclusive Care, to provide a value health plan option to the employees of Riverside County and their families. To provide services to its enrolled members, Exclusive Care has contracted with a variety of healthcare providers.

(Continued)

*[Signature]*

Ronald W. Komers  
Asst. County Executive Officer/Human Resources Dir.

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	None
	Annual Net County Cost:	\$ to be determined by claims	For Fiscal Year:	2008/09

<b>SOURCE OF FUNDS:</b> Premiums paid by members	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE

BY: *[Signature]*  
Elizabeth J. Olson

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL  
BY: *[Signature]* TAWNY V. LIEU  
DATE: 6/23/09

Departmental Concurrence

Consent     Policy  
 Consent     Policy

Dept's Recomm.:  
 Per Exec. Ofc.:

**Prev. Agn. Ref.:** \_\_\_\_\_ **District:** \_\_\_\_\_ **Agenda Number:** \_\_\_\_\_

**ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD**

**3.48**

**BACKGROUND continued:**

This agreement adds participation in the Exclusive Care Provider Network under terms similar to other comparable providers under contract.

**RIVERSIDE COUNTY - EXCLUSIVE CARE  
EXCLUSIVE PROVIDER ORGANIZATION AGREEMENT**

This Agreement is made by and between the County of Riverside, State of California (hereafter "County"), a public entity, and MinuteClinic Diagnostic Medical Group of Orange County Inc., A California Professional Medical Corporation. (hereafter "Contractor), with reference to the following facts:

**WHEREAS**, County has developed an Exclusive Provider Organization (EPO) to provide health care services to the employees of Riverside County and other area municipalities; and,

**WHEREAS**, Contractor is a health care provider that includes healthcare professionals who are capable of providing services for the EPO; and,

**WHEREAS**, the parties wish to entered into an agreement for County's use of the Minute Clinic healthcare professionals and their Minute clinic location now, therefore,

IN CONSIDERATION of their mutual promises and covenants, the parties agree as follows:

**1.0 DEFINITIONS**

As used in this Agreement, the following terms shall have the meaning described below:

1.1 Agreement means this Provider Agreement for the provision of services for the EPO of County, and all attachments, addendums and amendments hereto.

1.2 Co-payment, Co-Insurance or Deductible means any nominal fee, approved by EPO, that may be charged to Members at the time of service for designated Health Care Services.

1.3 Director means the Director of Human Resources for Riverside County, or his or her designee.

1.4 Emergency Medical Conditions means a medical condition which is manifested by acute symptoms of sufficient severity (including severe pain) such that a prudent lay person, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one or more of the following conditions: placing the health or the individual or unborn child in serious jeopardy; serious impairment to bodily function; or serious dysfunction of any bodily organ or part.

1.5 Emergency Services means those health services needed to evaluate or stabilize an Emergency Medical Condition.

1.6 Exclusive Provider Organization (EPO) means the health care plan developed, and implemented by the County for the provision of health care services to County employees and their dependents - to be known as Exclusive Care.

1.7 Health Care Services means all Medically Necessary services to which Members are entitled under the EPO, including medical, wellness & preventive, common illnesses, skin conditions and vaccines.

1.8 Medically Necessary means all services which are reasonable and necessary to protect life, to prevent significant illness or significant disability or to alleviate severe pain and the diagnosis or treatment of disease, illness or injury.

1.9 Member means any eligible beneficiary who has enrolled in the County EPO for whom the County, by and through the EPO, provides Health Care Services.

1.10 Member Non-Physician Medical Practitioner means nurse practitioner, physician assistants or certified nurse midwives licensed to practice in the State of California and who are employees, subcontractors or who have written agreements with Contractor to provide medical services to Members.

1.11 Outside Providers means licensed physicians, surgeons, osteopaths, paramedics, hospitals and other licensed health care facilities which provide Health Care Services to Members eligible to receive benefits under the EPO and have written agreements with the Contractor.

1.12 PCP means a physician who is the Primary Care Physician responsible for supervising, coordinating and providing initial, primary and preventive care to Members, for initiating referrals, maintaining continuity of Member care, and providing health counseling and education. This may include physicians who are in Family Practice, Pediatrics, Internal Medicine, Obstetrics, or General Practice.

1.13 Quality Assessment and Improvement Program (QAIP) means a program established by the EPO to oversee quality assessment and quality improvement reviews of services provided to Members.

1.14 Referrals means recommended directions of non primary care services of Members to physicians, including Outside Providers, or providers of ancillary services such as lab, x-ray and physical therapy, EKG, EEG, health education, medical social service, home health care, mental health, for the purposes of obtaining Health Care Services.

1.15 State means the State of California.

1.16 Surcharge means an additional fee which is charged to a Member for covered services of a health plan or the County or appropriate government agency and disclosed in the evidence of coverage or the disclosure form used as the evidence of coverage. For purposes of this Agreement, surcharges are not allowable charges.

## 2.0 DUTIES OF CONTRACTOR

2.1 CONTRACTOR'S RESPONSIBILITIES - Contractor shall ensure that its practitioners supply Members those Health Care Services which are Medically Necessary and in accordance with this Agreement.

2.2 ACCESSIBILITY OF SERVICES - Contractor ensure that it's network providers shall provide timely access to Health Care Services, and provide for reasonable hours of operations in compliance with EPO established standards for access and availability. Wellness & Preventive care, Common Illnesses, Skin Conditions, Vaccines and additional services outlined in this agreement shall be provided during hours of location

operation.

2.3 INTRODUCTION OF EPO - Contractor agrees to provide a general overview of EPO to it's practitioners.

2.4 PROTECTION OF MEMBERS – Contractor may not impose any limitations on the acceptance of Members for care or treatment that it does not impose on other patients of the Contractor. Contractor shall not refuse or fail to provide Health Care Services to any Member.

2.5 REFUSAL BY PHYSICIAN - If Contractor or any of its practitioners refuses Health Care Services to an EPO Member their EPO participation may be terminated immediately.

2.6 STANDARDS - Contractor agrees to perform its duties under this Agreement in a manner consistent with the reasonable administrative guidelines developed by EPO and all applicable state and federal laws and regulations relating to the delivery of Health Care Services, and in accordance with community standards. Health Care Services shall be rendered by qualified medical providers. All Health Care Services shall be provided by professional personnel in a facility maintained in accordance with generally accepted industry standards in compliance with the standards developed by EPO. Contractor agrees to maintain and demonstrate to EPO, upon request, throughout the term of this Agreement, compliance with the following:

- A. Credentialing Information as provided herein.
- B. Credentialing Requirements as provided herein.

2.7 CREDENTIALING INFORMATION - Contractor being delegated for Credentialing by EPO, shall maintain a credentialing process in accordance with NCQA standards for Organizational Providers.

2.8 CREDENTIALING REQUIREMENTS - Contractor acknowledges and agrees that it shall report Company affiliated practitioners as required by the California Business and Professions Code Section 805 et. seq. (Section 805). Contractor further agrees to maintain and demonstrate to EPO upon request, compliance with the following:

A. Contractor shall ensure that its Company affiliated practitioners are licensed by the State of California, have current Drug Enforcement Agency (DEA) registration and adhere to other EPO credentialing requirements. Contractor shall notify EPO in writing, immediately upon its knowledge, of any of the following actions taken by or against a Company affiliated practitioner:

- 1. The surrendering, revocation, or suspension of a license;
- 2. The surrendering, revocation, or suspension of current DEA registration.
- 3. A change in hospital staff status or hospital clinical privileges, including any restrictions or limitations;

4. Loss of, or any material change or reduction in limits of malpractice insurance.

B. Furthermore, Contractor agrees to notify EPO in writing within fifteen (15) days of its knowledge of any of the following:

1. Any filing pursuant to Section 805;
2. Any filing pursuant to the National Practitioner Data Bank;
3. The filing Any settlement or payment of any malpractice claim of more than ten thousand dollars (\$10,000).

C. If Contractor fails to report the information, within the required time frames set forth herein when it has notice of such facts, Contractor shall indemnify and hold harmless EPO from and against any claim, loss, damage, cost, expense or liability arising out of or related to such nonperformance by Contractor, its affiliated practitioners or employees. Failure to comply with this Section 2.13 may be considered material breach whereby EPO may terminate this agreement immediately in accordance with section 9.3.

2.9 ASSURANCE OF MEMBER CARE - Health Care Services shall be rendered by qualified medical providers, unhindered by fiscal and administrative management. Contractor's fiscal and administrative concerns or any dispute with EPO and Contractor concerning their respective obligations under this Agreement or otherwise shall not influence nor cause any delay in services provided by Contractor to Members.

2.10 INSPECTION OF FACILITIES - Facilities used by Contractor to provide Health Care Services shall comply with applicable state and/or federal law, and regulations. Contractor agrees that it shall cooperate with inspections of Contractor's facilities, which are required to assure compliance with required facility standards. Any inspections shall be requested at least 5 business days in advance, the specific time and date to be mutually agreed upon by the parties.

2.11 CITATIONS - Contractor shall notify EPO in writing of any legal or government action against any of its licenses, accreditations, or certifications; or any other situation that will materially impair the ability of Contractor to carry out the duties and obligations under this Agreement. The parties shall meet within thirty (30) days and shall, in good faith, attempt to negotiate a modification to this Agreement that minimizes the adverse effect. Termination of the Agreement may occur as stipulated in Section 7.3.

2.12 UTILIZATION REVIEW (UR) - Contractor agrees to participate in the reasonable UR program developed by EPO, upon invitation, and to abide by decisions resulting from that review, subject to any rights of reconsideration that may be available under EPO's UR program. Contractor agrees to provide access to EPO utilization review and case management personnel at a mutually agreed upon date and time for the purpose of conducting concurrent review and case management on Members who are receiving Health Care Services.

2.13 QUALITY ASSURANCE (QA) PROGRAM - Contractor agrees to cooperate in the EPOs QA program, with regular EPO monitoring and evaluation of compliance with the QA standards and EPO policies and procedures, including participation in Member grievance resolutions and quality of care studies. Contractor shall also implement its own ongoing quality assurance program which shall develop procedures for ensuring that the quality of care provided by Contractor conforms with generally accepted Contractor practices. Contractor shall develop written procedures for remedial action whenever, as determined by the quality assurance program, inappropriate or substandard services have been furnished or services that should have been furnished have not been furnished.

2.14 SUBCONTRACTS - Contractor shall identify those subcontracted providers that have chosen to participate in the EPO and shall ensure that the subcontracted provider's delivery health care services in accordance community and any additional standards required by EPO. Contractor shall ensure that all subcontractors are bound by the provisions of this Agreement, and shall ensure that all subcontractors have not been excluded from participation in any state or federal program.

2.15 OTHER CONTRACTUAL COMMITMENTS - Contractor represents and assures EPO and County that contractual commitments to other medical plans and/or other related entities do not restrict or impair Contractor from performing its duties under this Agreement.

2.16 NONDISCRIMINATION - Contractor represents and assures that Health Care Services are provided to Members in the same manner and quality as such services are provided to Contractor's other patients. Members shall not be subject to any discrimination whatsoever by Contractor in regard to access to Health Care Services.

Contractor agrees to comply with the provisions of Title 2, CCR, Section 8107 et. seq., as may be amended from time to time, as incorporated by reference herein. Contractor agrees to include this Nondiscrimination Clause in any and all subcontracts to perform services under this Agreement. The provisions of subsection (b) of Title 2, CCR, Section 8107 shall be applicable for this Agreement.

2.17 CONFORMANCE TO OTHER LAW - Contractor certifies compliance with the Americans with Disabilities Act of 1990 (42 USC, Section 12100 et. seq.), Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996 and the Drug Free Workplace Act of 1990 (Government Code Section 8355 et. seq.). Contractor certifies awareness of the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor, the derivative Cal/OSHA standard and laws and regulations relating thereto and shall comply therewith as to all relative elements under this Agreement.

2.18 IDENTIFICATION OF OFFICERS, OWNERS, STOCKHOLDERS, CREDITORS - Contractor shall identify the names of the following persons by listing

them on Attachment 1 of this Agreement, attached hereto and incorporated herein by this reference.

- A. Contractor's officers and owners;
- B. Stockholders owning greater than 10% of any stock issued by Contractor;
- C. Major creditors holding more than 10% of any debts owed by Contractor.

As may be reasonably necessary, EPO shall request changes made to information in Attachment 1. Contractor shall provide any applicable changes in Attachment 1 to EPO within thirty (30) days of any receipt of such request.

2.19 PROVISION OF INFORMATION - Contractor shall provide EPO and/or governmental agencies with such data and other information regarding the rendition of services as may be reasonably requested or as may be otherwise required for compliance with applicable regulatory and disclosure requirements. Contractor shall execute such additional verifications or documents as may be required by law or regulation.

2.20 OTHER REPORTING - Contractor agrees to submit all information or reports as may be reasonably required to enable EPO to fulfill its reporting and other obligations under the Agreement.

2.21 ADMINISTRATIVE GUIDELINES - Contractor agrees to perform its duties under this Agreement in a manner consistent with the reasonable administrative guidelines provided by the EPO.

2.22 WITHDRAWAL OF AN CONTRACTOR FACILITY - In the event Contractor seeks to withdraw one or more of the Contractor's facilities from providing Health Care Services to Members under this Agreement, Contractor shall notify EPO in writing ninety days (90) of withdrawal.

### 3.0 DUTIES OF COUNTY AND EPO

3.1 ADMINISTRATION - County agrees to perform all necessary administrative, accounting and reporting requirements and other functions to state and federal regulators consistent with the administration of EPO and this Agreement.

3.2 MEMBER SERVICES - EPO agrees to provide Member Services, including, but not limited to, processing Member complaints and grievances, informing Members of EPO policies and procedures, providing Members with information about EPO and its network of the Contractor, hospitals and PCPs.

3.3 CONTRACTORS ASSISTANCE - County agrees to assist and cooperate with

Contractor in the development and initial implementation of procedures necessary to carry out the intent of this Agreement. EPO shall provide necessary training regarding EPO policies and procedures.

3.4 ADMINISTRATION OF PAYMENTS - County agrees to pay Contractor's contracted providers in accordance with the terms and procedures set forth in this Agreement.

#### 4.0 BILLING AND COMPENSATION

4.1 PAYMENT – EPO shall pay Contractor in accordance with Attachment 3.

4.2 COLLECTION OF CHARGES FROM MEMBERS - Contractor agrees that the only charges for which a Member may be liable and be charged by Contractor shall be for Co-payments, Co-Insurance or Deductibles, as established by EPO, or for services not covered under the EPO. Contractor shall advise Member, in writing, of their payment responsibility, if any, prior to rendering non-authorized or non covered Health Care Services or services that require Co-payments, Co-Insurance or Deductibles. Contractor shall notify the Member, in writing, that he or she will be responsible for the payment of any non-covered services that are provided to Member. The right of Contractor to collect charges from Members for non-covered services, except as provided herein, shall not be affected by this Agreement or its termination.

4.3 SERVICE WAIVER - In the event Health Care Services are denied by EPO, as not being Medically Necessary, or as not a covered benefit under the EPO, Contractor shall not charge a Member unless Contractor has obtained a written waiver from Member. The waiver must be obtained in advance of rendering services and shall clearly state that the Member is responsible for payment of those services denied by EPO.

4.4 SURCHARGES - Notwithstanding the provisions herein, Contractor network provider shall in no event, including, without limitation, nonpayment by EPO, insolvency of EPO, or breach of the Agreement, bill, charge, collect and deposit, or attempt to bill, charge, collect or receive any form of payment from any Member for Health Care Services provided pursuant to this Agreement. Contractor network provider also agrees it shall not maintain any action at law or equity against a Member to collect sums owed by County to Contractor.

Upon notice of any such surcharge or action, County may terminate this Agreement consistent with the provisions contained herein and take all other appropriate action consistent with the terms of this Agreement to eliminate such activity. Contractor's network provider's obligations regarding the collection of surcharges from Members shall survive the termination of this Agreement.

Failure of Contractor network provider to act in accordance with any of the provisions of this section shall constitute a material breach of the Agreement and the Agreement or EPO network participation may be subject to termination by County pursuant to the provisions herein. In addition, County may take any other appropriate administrative or legal action to enjoin and otherwise restrain Contractor's violation of the provisions of this section, including offsetting the amount of said collections against any future payment, and/or reimbursement to Members or their representatives of any charges or surcharges collected by Contractor from Members.

4.5 COLLECTION OF CHARGES FROM THIRD PARTIES - EPO shall coordinate the benefits covering tort liability of a third party, and estates from deceased Members, and EPO shall be entitled to any recovery under such coordination of benefits. Contractor shall cooperate with EPO coordination of benefits.

4.6 COMPENSATION - County shall pay Contractor, in accordance with the rates as outlined in Attachment 2.

4.7 ADEQUACY OF COMPENSATION - Contractor shall accept the payments specified in this Agreement as payment in full for network access, administrative services or other duties provided by Contractor and listed herein. In the event County fails to make any payments to Contractor as provided herein, whether from EPOs insolvency or otherwise, Members shall not be liable to Contractor, under any circumstances. Contractor's prohibition regarding the collection of payments from Members for services covered by EPO shall survive the termination of this Agreement.

## 5.0 RECORDS MAINTENANCE, AVAILABILITY, INSPECTION AND AUDIT

5.1 CONTRACTOR'S RESPONSIBILITY - Contractor shall maintain and provide adequate records and information as reasonably necessary to County so that County may properly administer the EPO and consistent with state and federal law. Such records shall be retained by Contractor for at least five (5) years from the close of County's fiscal year in which this Agreement is in effect. Records shall be maintained according to HIPAA guidelines. This obligation is not terminated upon a termination of the Agreement, whether by rescission or otherwise.

5.2 PROPRIETARY NATURE OF INFORMATION - EPO and Contractor agree to treat all Member information as confidential and shall safeguard the confidentiality of Member health records and treatment in accordance with all applicable state and federal laws, and regulations.

5.3 RECORDS OPEN FOR INSPECTION - All books, records and papers of Contractor or subcontractor of Contractor relating to the performance of this Agreement must be open to inspection at a mutually agreed upon date and time during normal business hours by the EPO, or state and/or federal regulators. Records shall include, without limitation, Member patient records (subject to applicable state and federal law governing the confidentiality of medical records), and/or financial records pertaining to the cost of operations and income received for Health Care Services rendered to Members. Such records shall be made available at mutually agreed upon times at the Contractor upon reasonable request by County. Contractor shall maintain its books and records in accordance with general standards for books and record keeping.

5.4 PUBLIC RECORDS - Contractor acknowledges and agrees that information, communications, and documents given by or to County, and/or EPO and meetings involving County and/or EPO management may be subject to the public records and meetings laws and regulations of the State of California. Documents which are protected from disclosure by applicable law shall remain confidential.

5.5 QUALITY ASSURANCE AND UTILIZATION REVIEW RECORDS - Contractor shall cooperate with EPOs QA and UR programs and, upon reasonable request, shall provide EPO with summaries of, or access to records maintained by Contractor and required in connection with such programs, subject to applicable state and federal laws concerning the confidentiality of medical records.

## 6.0 INDEMNIFICATION AND INSURANCE

6.1 CONTRACTOR LEVEL OF INSURANCE - Contractor and Contractor's network providers shall maintain such insurance and Certificate(s) of Insurance as set forth in Attachment 3, attached hereto and incorporated herein by reference.

6.2 CONTRACTOR ACTS OR OMISSIONS - Contractor shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Contractor, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Agreement;

Contractor shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed

officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein.

Contractor's obligation hereunder shall be satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless the County herein from third party claims.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the Contractor from indemnifying the County to the fullest extent allowed by law.

**6.3 COUNTY ACTS OR OMISSIONS** – County shall indemnify and hold harmless the Contractor, its officers, agents, employees, subcontractors, agents or representatives from any liability whatsoever, based or asserted upon any services of County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives, arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from this Agreement. County shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by County, County shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of Contractor; provided, however, that any such adjustment,

settlement or compromise in no manner whatsoever limits or circumscribes County's indemnification to Contractor as set forth herein.

County's obligation hereunder shall be satisfied when County has provided to Contractor the appropriate form of dismissal relieving Contractor from any liability for the action or claim involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe County's obligations to indemnify and hold harmless the Contractor herein from third party claims.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the County from indemnifying the Contractor to the fullest extent allowed by law.

6.4 LIABILITY FOR OBLIGATIONS - Nothing contained in this Agreement shall cause either party to be liable or responsible for any debt, liability, or obligation of the other party, or any third party, unless such liability or responsibility is expressly assumed by the party sought to be charged therewith. Each party shall be solely responsible for and shall indemnify and hold the other party harmless against any obligation for the payment of wages, salaries or other compensation (including all state, federal and local taxes and mandatory employee benefits), insurance and voluntary employment related or other contractual or fringe benefits as may be due or payable by the party to or on behalf of such party's employees, agents and representatives.

## 7.0 DISPUTE RESOLUTION

7.1 DISPUTES - EPO and Contractor agree to meet and confer in good faith to resolve any problems or disputes that may arise under this Agreement, prior to the filing of a claim under the Government Claims Act (Government Code Section 900 et. seq.), and prior to the initiation of any litigation by either party.

7.2 CURE PERIOD PROVISIONS - In the event that either party defaults in the performance of any duties or obligations under this Agreement, the non-breaching party shall serve written notice of breach of contract on the breaching party. The breaching party shall have thirty (30) days from receipt of the notice of breach to cure said breach. If the breach is not cured within this time frame, the non-breaching party has sole discretion to extend such cure period. If the breach is not cured within this time frame, as may be extended at non-breaching party's sole discretion, this Agreement may thereafter be terminated as provided herein.

These cure period provisions shall not be applicable when the breach is of a nature where Contractor has failed to provide services, or the safety, health and/or welfare

of Members is at risk, at the reasonable determination of the Director.

7.3 ADVERSE GOVERNMENT ACTION - In the event any action of any department, branch or bureau of the federal, state, or local government has a material adverse effect on either party in the performance of their obligations hereunder, then that party shall notify the other of the nature of this action, including in the notice a copy of the adverse action. The parties shall meet within thirty (30) days and shall, in good faith, attempt to negotiate a modification to this Agreement that minimizes the adverse effect. Notwithstanding the provisions herein, if the parties fail to reach a negotiated modification concerning the adverse action, then the affected party may terminate this Agreement by giving at least ninety (90) days notice or may terminate sooner if agreed to by both parties.

## 8.0 TERM OF AGREEMENT

8.1 TERM - The term of this Agreement shall become effective as of May 1, 2009, and shall continue in effect for five (5) years, until April 30, 2014.

## 9.0 TERMINATION

9.1 TERMINATION FOR MATERIAL CAUSE - Either party, as appropriate, may terminate this Agreement immediately for cause as set forth herein upon written notice of termination stating the actions of the other party constituting cause for termination.

9.2 CAUSE FOR IMMEDIATE TERMINATION OF AGREEMENT BY CONTRACTOR - The following shall constitute cause for immediate termination of this Agreement by Contractor:

- A. Breach of Material Term and Failure to Cure - County's breach of any material term, covenant, or condition and subsequent failure to cure such breach within thirty (30) days following written notice of such breach.
- B. Insolvency of EPO - filing of bankruptcy by EPO.
- C. Dissolution of EPO - dissolution of EPO by an act of the Board of Supervisors for Riverside County.

9.3 CAUSE FOR IMMEDIATE TERMINATION OF AGREEMENT BY COUNTY - The following shall constitute cause for immediate termination of this Agreement by County:

- A. Breach of Material Term and Failure to Cure - Contractor's breach of any material term, covenant, or condition and subsequent failure to cure such breach within thirty (30) days following written notice of such breach.
- B. Failure to Provide Services - Failure of Contractor to provide Health Care Services to Members as authorized herein.
- C. Preservation of the Safety, Health and/or Welfare of Members -

Determination by County that the safety, health and/or welfare of Members are placed in danger by Contractor.

D. Loss of State Licensing - Failure by Contractor to ensure that practitioners secure and maintain the necessary governmental licenses, accreditation or certification required for the performance of duties hereunder.

E. Loss of Insurance Coverage - Failure by Contractor to maintain adequate general and professional liability insurance coverage, as provided herein.

F. Insolvency of Contractor - including the filing of bankruptcy of Contractor.

G. Dissolution of EPO - dissolution of EPO by an act of the Board of Supervisors for Riverside County.

H. Discontinuance of EPO Services by County - discontinuance of the offering of EPO as a health care benefits plan option for Riverside County employees.

9.4 TERMINATION WITHOUT CAUSE - Either party may terminate this Agreement without cause. In the event either party desires to terminate this Agreement without cause, the terminating party shall give the other party at least ninety (90) days written notice of termination.

## 10.0 CONTINUING CARE RESPONSIBILITIES

10.1 CARE OF MEMBERS - If this Agreement is terminated for any reason by either party, Contractor shall not be released of its obligation to continue to provide or arrange for Health Care Services during the phase-out period, and shall continue to provide and be compensated for Health Care Services under the terms of this Agreement to Members.

The phase out period shall end when EPO secured the transfer of Members to another participating medical group or physician for further treatment, and has notified Contractor of such transfer in writing.

10.2 MEMBER RECORDS - Upon termination of this Agreement, Contractor agrees to assist EPO in the transfer of Member medical care by making available copies of medical records, patient files and other pertinent information necessary for efficient case management of Members.

10.3 PHASE-OUT PAYMENT - During the phase-out period, Contractor may file a claim with EPO for services provided. Compensation during the phase-out period shall be at the agreed contract rate and applicable terms that are in effect for the last term of this Agreement.

11.0

CONFIDENTIAL AND PROPRIETARY INFORMATION

11.1 INFORMATION CONFIDENTIAL AND PROPRIETARY TO COUNTY - Contractor acknowledges that all Members participating in the EPO receiving Health Care Services shall be Members of EPO. All such information shall follow the current HIPAA regulations. Member information shall include, without limitation, the names, addresses and telephone numbers of all Members, administrative service manuals and all forms related thereto, and records, files (other than patient medical files) and lists contained in Contractor and EPO files. Contractor acknowledges that County believes all such information is confidential and proprietary to County and that such Member information contains valuable trade secrets of County.

11.2 CONTRACTOR USE OF INFORMATION - Contractor shall maintain all Member information as confidential and shall be protected under the current HIPAA guidelines. Contractor shall not disclose or use any confidential and proprietary information for its own benefit or gain either during the term of this Agreement or after the date of termination of this Agreement, provided, however Contractor may use the name, address and telephone number or other medical information of a Member if medically necessary for the proper treatment of such Member or upon express prior written permission of EPO or the Member. Nothing contained herein abrogates the right of the Member to disenroll from EPO.

11.3 TERMINATION AGREEMENT - Upon the effective date of termination of this Agreement, Contractor shall provide and return to County all confidential and proprietary information and trade secrets in its possession in a reasonable manner to specified by County.

11.4 NON-SOLICITATION OF MEMBERS - Contractor shall not directly or indirectly engage in the solicitation of Members without County's prior written consent. Solicitation shall mean conduct by an officer, agent, employee or subcontractor of Contractor or its assignee or successor during the term of this Agreement and continuing for a period of one (1) year after the effective date of termination of this Agreement, which may be reasonably interpreted as designed to persuade Members to discontinue their enrollments with EPO or to encourage Members to participate in another health services plan.

11.5 DISSEMINATION OF INFORMATION - Contractor agrees County may use Contractor's name, address, and telephone number in any informational and marketing material routinely distributed to Members and for other purposes related to the administration of EPO as an indication of Contractors willingness to provide Health Care Services to Members.

11.6 CONTRACTOR ADVERTISING - Prior to listing or otherwise referencing

EPO or County in any promotional or advertising brochures, media announcements or other advertising or marketing material, Contractor shall first obtain the prior written consent of the Director, except that Contractor does not need approval to list EPO or County in any informational material distributed, displayed or advertised, listing EPO and/or County as a participating health plan at Contractor.

11.7 USE OF NAMES AND TRADEMARKS - County, EPO and Contractor each reserve the right to control the use of its name, symbols, trademarks, or other marks currently existing or later established. However, either party may use the other party's symbol, trademarks, or other marks with the prior written approval of the other party. County shall be allowed to use the name of Contractor in its promotional activities and marketing campaign as described in section 11.5 herein.

12.0 GENERAL PROVISIONS

12.1 NOTICES - Any notice required to be given hereunder shall be in writing either delivered personally or sent by registered or certified mail, return receipt requested, to either County or Contractor at the addresses listed below, or at such other address as either County or Contractor may hereafter designate to the other:

**COUNTY:**

**HUMAN RESOURCES DEPT**

County Administrative Center  
4080 Lemon Street, 7<sup>th</sup> Floor  
Riverside, CA 92502

Attn: Ron Komers, Director

**CONTRACTOR:**

**MINUTECLINIC**

Payer Relations & Contracting  
920 Second Avenue South  
Suite 400

Minneapolis, MN 55402

All notices shall be deemed given on the date of delivery if delivered personally or on the third business day after such notice is deposited in the United States mail, addressed and sent as provided above.

12.2 ASSIGNMENT AND DELEGATION - This Agreement and the rights, interests, and benefits hereunder shall not be assigned, transferred, pledged, or hypothecated in any way by Contractor or County, and shall not be subject to execution, attachment or similar process, nor shall the duties imposed herein be subcontracted or delegated without the prior written consent of the other party. Any assignment or delegation of this Agreement by Contractor to a third party shall be void unless prior written approval is obtained from County.

12.3 INVALIDITY AND SEVERABILITY - If any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be in effect

only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof.

12.4 LIMITATIONS OF SEVERABILITY - In the event the removal of a provision rendered invalid or unenforceable or declared null and void had the effect of materially altering the obligations of either party in such manner as to cause serious financial hardship to such party, the party so affected shall have the right to terminate this Agreement upon providing thirty (30) days prior written notice to the other party.

12.5 CAPTIONS - Captions in this Agreement are descriptive only and do not affect the intent or interpretation of the Agreement.

12.6 HEALTH INSURANCE PORTABILITY ACCOUNTABILITY ACT (HIPAA)- The Contractor in this Agreement is subject to all relevant requirements contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the laws and regulations promulgated subsequent thereto. The Contractor hereto agrees to cooperate in accordance with the terms and intent of this Agreement for implementation of relevant law(s) and/or regulations(s) promulgated under this Law. The Contractor further agrees that it shall be in compliance, and shall remain in compliance with the requirements of HIPAA, and the laws and regulations promulgated subsequent hereto, as may be amended from time to time.

12.7 ENTIRE AGREEMENT - This Agreement (together with all attachments hereto), and any requirements promulgated by EPO, shall constitute the entire agreement between the parties related to the rights herein granted and the obligations herein assumed. It is the express intention of Contractor and County that any and all prior or contemporaneous agreements, promises, negotiations or representations, either oral or written, relating to the subject matter and period governed by this Agreement which are not expressly set forth herein, or are not promulgated by EPO or the Director, shall be of no further force, effect or legal consequence after the effective date hereunder.

12.8 AMENDMENT - This Agreement may be amended or modified only by mutual written consent of the parties.

12.9 ATTORNEYS FEES - If any action at law or in equity is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and reasonable costs, in addition to any other relief to which such party may be entitled.

12.10 TIME IS OF THE ESSENCE - Time shall be of the essence of each and every term, obligation, and condition of this Agreement.

12.11 GOVERNING LAW - County, Contractor and this Agreement are subject to the laws

of the State of California and the United States of America, and regulations promulgated thereto. Any provision required to be in this Agreement by any of applicable federal or state law, and regulations thereto shall bind County and Contractor, whether or not expressly provided in this Agreement. This Agreement shall be construed pursuant to the laws of the State of California.

12.12 VENUE - All actions and proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state and federal (if permitted by law and a party elects to file an action in federal court) courts located in the County of Riverside, State of California.

12.13 GOVERNMENT CLAIMS ACT - The provisions of the Government Claims Act (Government Code section 900 et. seq.) must be followed first for any disputes arising under this Agreement.

12.14 INDEPENDENT CONTRACTOR - The relationship between County and Contractor is an independent contractor relationship. Neither Contractor nor its employee(s) and/or agent(s) are or shall be considered to be an employee(s), and/or agent(s) of County, and neither County nor any employee(s) and/or agent(s) of County are or shall be considered to be an employee(s) and/or agent(s) of Contractor. Contractor is solely responsible for all Health Care Services provided to Members by Contractor, its employees, agents or assigns. None of the provisions of this Agreement shall be construed to create a relationship of agency, representation, joint venture, ownership, control or employment between the parties other than that of independent parties contracting for the purposes of effectuating this Agreement.

12.15 CONFLICT OF INTEREST - The parties hereto and their respective employees or agents shall have no interest, and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required under this Agreement.

12.16 EXHIBITS - All exhibits attached to this Agreement, and referenced herein, are incorporated into and made part of this Agreement.

12.17 CERTIFICATION OF AUTHORITY TO EXECUTE THIS AGREEMENT - Contractor certifies that the individual signing herein has authority to execute this Agreement on behalf of Contractor, and may legally bind Contractor to the terms and conditions of this Agreement, and any attachments hereto.

IN WITNESS WHEREOF, the parties hereto have caused their duly appointed representatives to execute this Agreement.

**ATTEST:**

Clerk to the Board  
Kecia Harper - Ithem

By \_\_\_\_\_  
Deputy

Date \_\_\_\_\_

**COUNTY OF RIVERSIDE:**

By \_\_\_\_\_  
Chairman, Board of Supervisors

Date \_\_\_\_\_

Approved as to form and content:

Pamela J. Walls

County Counsel

By:   
Deputy County Counsel

**CONTRACTOR:** Minute Clinic Diagnostic Medical Group of Orange County, Inc. A California Professional Medical Corporation

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

Printed Name: SARA RATNER

Title: SR LEGAL COUNSEL

Date: 5/19/2009