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

3.20

FROM: Human Resources Department

SUBMITTAL DATE:
January 23, 2012

SUBJECT: 2012 Retiree Group Health Service Agreement with SCAN Health Plan

RECOMMENDED MOTION: That the Board 1) ratify and approve the attached Retiree Group Health Service Agreement with SCAN Health Plan, effective January 1, 2012, as a plan offered to eligible County retirees and their eligible dependents; 2) authorize the Chairperson to sign five (5) copies of each service agreement; 3) retain one (1) copy of the signed renewal agreement; and 4) return four (4) copies of each service agreement to Human Resources for distribution.

BACKGROUND: On October 18, 2011, Item 3.24, the Board of Supervisors approved the 2012 SCAN Health Plan rates for retired employees and their dependents who are Medicare eligible. SCAN Health Plan is a fully insured Medicare Advantage plan with approximately 88 subscribers. SCAN was not prepared to submit the Service Agreement until the Centers for Medicare and Medicaid Services released their reimbursement rate. The County contribution toward retiree premiums ranges from $25 to $256 per month, and retirees pay the remainder of the premiums. There is no additional cost to the County as a result of the recommended action.

Barbara A. Olivier
Asst. County Executive Officer/Human Resources Dir.

FINANCIAL DATA				
	Current F.Y. Total Cost:	$ 163,554	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	$ 0	For Fiscal Year:	2011/12

SOURCE OF FUNDS: Retiree Health Insurance Premiums.

Positions To Be Deleted Per A-30 ☐

Requires 4/5 Vote ☐

C.E.O. RECOMMENDATION:

APPROVE

BY: Elizabeth J. Olson

County Executive Office Signature

Departmental Concurrence

FORM APPROVED COUNTY COUNSEL
BY: TAWNY VALIEU DATE 1/25/12

☐ Consent ☒ Policy — Dep't Recomm.:

☐ Consent ☒ Policy — Per Exec. Ofc.:

Prev. Agn. Ref.: 10/18/2011, 3.24 | **District:** All | **Agenda Number:** 3.18

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ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

RETIREE

GROUP HEALTH SERVICES AGREEMENT

BETWEEN

SCAN HEALTH PLAN

AND

COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, A PUBLIC ENTITY

GROUP NUMBER: 117
EFFECTIVE: JANUARY 1, 2012

INTRODUCTION

Under this RETIREE GROUP HEALTH SERVICES AGREEMENT, SCAN Health Plan will arrange for the provision of Benefits to **County of Riverside** Group Retirees and their eligible Dependents ("Members") in accordance with the terms and conditions of this Agreement, the Plan "Combined Evidence of Coverage and Disclosure Information" and the Plan "Employer Group Application," which are all fully incorporated herein by these references, and together constitute the entire "Agreement" between the parties.

RECITALS OF FACTS

SCAN Health Plan ("Plan"), a California not-for-profit corporation, is a health care service plan that arranges for the provision of medical, hospital and preventive medical services to persons enrolled as Members through contracts with associations of licensed physicians, hospitals and other health care providers. County of Riverside ("Contractholder"), a political subdivision of the State of California, is an employer, union, trust organization, or association, which desires to provide such health care services for its eligible Members. Plan desires to contract with Contractorholder to arrange for the provision of such health care services to Members of Contractholder, and Contractholder desires to contract with Plan to arrange for the provision of such services to its Members.

IMPORTANT

There is no vested right to receive Benefits under this Agreement. No Member has the right to receive the Benefits of this Agreement for services or supplies furnished following termination of coverage, except as specifically provided herein. Benefits of this Agreement are available only for services and supplies furnished during the term it is in effect and while the Member claiming Benefits is actually covered by this Agreement. Benefits may be modified during the term of this Agreement under the terms set forth herein, or upon renewal. If Benefits are modified, the revised Benefits (including any reduction in Benefits or the elimination of Benefits) apply for services or supplies furnished on or after the effective date of the modification.

ARTICLE I
DEFINITIONS

1.1 Applicable Law - all federal, state and local statutes, rules, regulations, plans, ordinances, policies and ethical standards applicable to the subject matter of this Agreement or the parties' performance of their duties and obligations hereunder, including but not limited to, those promulgated by the federal Department of Health and Human Services ("DHHS"), the federal Centers for Medicare and Medicaid Services ("CMS"), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Public Law 104-191, enacted August 21, 1996, the Health Information Technology for Economic and Clinical Health Act ("HITECH") provisions of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, enacted February 17, 2009, the California Department of Managed Health Care (DMHC"), California Department of Health Services ("DHS"), Title 28 of the California Code of Regulations, the California Knox-Keene Health Care Service Plan Act of 1975 and its implementing regulations, and all standards, rules and regulations of all accreditation bodies that have jurisdiction over the subject matter of this Agreement or the parties' performance of their duties hereunder.

1.2 Benefits (Covered Services) - those Services, which a Member is entitled to receive pursuant to the terms of this Agreement.

1.3 Calendar Year - a period beginning at 12:01 a.m. on January 1 and ending at 12:01 a.m. on January 1 of the next year.

1.4 Combined Evidence of Coverage and Disclosure Information ("EOC") - the contract between a Member and the Plan under which the Member is entitled to receive certain hospital, medical, and other health and/or social services under the Plan Benefits. The EOC is attached to this Agreement and fully incorporated herein.

1.5 Contracted Medical Group/IPA - A group of Physicians organized to provide medical care. The Contracted Medical Group/IPA has an agreement with the Plan to provide medical services to Members.

1.6 Close Relative - the spouse, child, brother, sister or parent of a subscriber or Dependent.

1.7 Contractholder - the Employer entering into this Agreement for the Benefit of its Retirees.

1.8 Copayment - are fees payable to a health care provider by the Member at the time of provision of services, which are in addition to the Health Plan Premiums paid by the Contractholder. Such fees may be a specific dollar amount or a percentage of total fees as specified herein, depending on the type of services provided.

1.9 Covered Services (Benefits) - those Services which a Member is entitled to receive pursuant to the terms of this Agreement.

1.10 Dependent -

1.10.1 A subscriber's legally married spouse who is not covered for Benefits as a subscriber under another health plan, not legally separated from the subscriber, and is entitled to Benefits under the federal Medicare program, and is eligible to enroll in the Plan.

1.10.2 A subscriber's Domestic Partner, with whom the subscriber has filed a "Declaration of Domestic Partnership" with the California Secretary of State pursuant to California Family Code Section 298, who is not covered for Benefits as a subscriber under another health plan, is entitled to Benefits under the federal Medicare program, and is eligible to enroll in the Plan.

1.10.3 A subscriber's or subscriber's spouse/Domestic Partner's disabled child who is entitled to Benefits under the federal Medicare program and meets all eligibility requirements established by Contractholder.

1.11 Durable Medical Equipment ("DME") - equipment designed for repeated use, which is medically necessary to treat an illness or injury, to improve the functioning of a malformed body member, or to prevent further deterioration of the patient's medical condition. DME includes wheelchairs, hospital beds, respirators, and other items that the Plan determines are DME.

1.12 Emergency Medical Condition - A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in; 1) Serious jeopardy to the health of the individual; 2) Serious impairment to bodily functions; or 3) Serious dysfunction of any bodily organ or part.

A psychiatric Emergency Medical Condition is a condition where a layperson with an average knowledge of mental health, feels the absence of immediate psychiatric attention would 1) Place the mental or physical health of either the Member or others in serious jeopardy; 2) Cause serious impairment to bodily or mental functions; 3) Cause serious dysfunction of bodily organs; or 4) Result in serious mental dysfunction.

1.13 Emergency Services - Inpatient or outpatient covered Services that are 1) Furnished by a provider qualified to furnish emergency services; and 2) Needed to evaluate or stabilize an Emergency Medical Condition.

1.14 Inpatient - an individual who has been admitted to a hospital or a Skilled Nursing Facility as a registered bed patient and is receiving Services under the direction of a Physician.

1.15 Late Enrollee - an eligible Retiree or Dependent who has declined enrollment in this Plan at the time of the initial enrollment period, and who subsequently requests enrollment in this Plan, provided that the initial enrollment period shall be a period of at least 30 days.

1.16 Medical Group - an organization of Physicians who are generally located in the same facility and provide Benefits to Members.

1.17 Medically Necessary - medical Services or hospital Services which are determined by the Plan to be:

1.17.1 Rendered for the treatment or diagnosis of an injury or illness,

1.17.2 Appropriate for the symptoms, consistent with diagnosis, and otherwise in accordance with sufficient scientific evidence and professionally recognized standards,

1.17.3 Not furnished primarily for the convenience of the Member, the attending physician, or other Contracted Provider of service, and

1.17.4 Furnished in the most economically efficient manner, which may be provided safely and effectively to the Member.

1.17.5 Whether there is "sufficient scientific evidence" shall be determined by the Plan based upon the following: peer-reviewed medical literature; publications, reports, evaluations, and regulations issued by state and federal government agencies, Medicare local carriers, and intermediaries; and such other authoritative medical sources as deemed necessary by the Plan.

1.18 Member – an enrollee, subscriber or Dependent as defined herein.

1.19 Open Enrollment Period - is established annually by the Contractholder during which eligible individuals and their Dependents may transfer from another health benefit plan sponsored by the Contractholder to the Plan.

1.20 Personal Care Physician ("PCP") - a general practitioner, board-certified or eligible family practitioner, internist or obstetrician/gynecologist who has contracted with the Plan as a PCP to provide primary care Benefits to Members and to refer, authorize, supervise and coordinate the provision of all Benefits to Members in accordance with this Agreement.

1.21 Physician Group Service Area - a thirty (30) mile linear radius from any Member's assigned PCP office location.

1.22 Physician - an individual licensed and authorized to engage in the practice of medicine (M.D.) or osteopathic medicine (D.O.).

1.23 Plan - SCAN Health Plan, a California not-for-profit corporation.

1.24 Plan Hospital - a hospital licensed under Applicable Law and contracting with the Plan to provide Benefits to Members of the Plan.

1.25 Plan Provider - a provider who has a contract with the Plan to provide Plan Benefits to Members.

1.26 Plan Service Area - which geographic area served by the Plan.

1.27 Premium - the monthly pre-payment that is made to the Plan on behalf of each Member.

1.28 Provider - a Medical Group or Independent Practice Association ('IPA") and all associated Physicians, Plan Hospitals and ancillary services providers that contract with the Plan to provide Benefits to Members under this Agreement.

1.29 Retiree(s) - any person who was formerly employed by Contractholder and is, thereby, entitled to Benefits under this Agreement.

1.30 Services - includes Medically Necessary health care services as provided for in the EOC, and Medically Necessary supplies furnished incident to those Services.

1.31 Skilled Nursing Facility - a facility licensed by the California Department of Health Services as a "Skilled Nursing Facility."

1.32 Urgently Needed Services - Covered Services provided when the Member needs medical attention right away for an unforeseen illness or injury and it may not be reasonable, given the circumstances, to obtain the medical care from the Member's PCP or Contracted Medical Provider.

ARTICLE II
RETIREE & DEPENDENT ELIGIBILITY

2.1 The following persons are eligible for Benefits under this Agreement:

a. Retirees

b. Dependents as defined herein.

2.2 The date of eligibility for Retirees who declined enrollment in this Plan during the initial enrollment period and later apply for coverage shall be determined as follows:

a. A Late Enrollee who declined enrollment during the initial enrollment period shall be eligible for coverage the earlier of, 12 months from the date of his application for coverage or at the Contractholder's next open enrollment period.

b. A Retiree will not be considered a Late Enrollee if he or his Dependent loses coverage under another employer health benefit plan and shall be eligible for coverage on the date of loss of coverage, provided enrollment is requested within 60 days after termination of that other employer health benefit plan coverage. Retirees will be required to furnish the Contractholder proof of the loss of coverage.

c. A Retiree may add newly acquired Dependents as defined herein.

2.3. The date of eligibility for Dependents of Retirees who are enrolled during the initial enrollment period is the latest to occur of the following:

a. The date of eligibility of the subscriber.

b. The date the subscriber acquires a Dependent.

c. The date the Dependent reaches sixty-five (65) years of age.

2.4. The date of eligibility for Dependents of Retirees who declined enrollment in this Plan during the initial enrollment period or Dependents who do not request enrollment in this Plan within 60 days of eligibility as provided herein, and later apply for coverage, shall be determined as follows:

a. A Dependent who is a Late Enrollee and who has declined coverage during the initial enrollment period, or Dependents who do not request enrollment within 60 days of eligibility as provided herein, shall be eligible for coverage at Contractholder's next open enrollment period.

2.5. NOTIFICATION OF ELIGIBILITY CHANGES. It is the Contractholder's responsibility to notify the Plan within 60 calendar days of all changes in eligibility affecting enrollment in this Plan.

ARTICLE III
EFFECTIVE DATES FOR SUBSCRIBERS AND DEPENDENTS

3.1. INITIAL ENROLLMENT PERIOD. Benefits shall become effective when a completed enrollment application indicating the subscriber's and Dependent's choice of PCP is received before the effective date. Enrollment Applications received later than the first day of eligibility may delay coverage until the first day of the month following the day of receipt. An effective date is always the first day of the month.

a. The Benefits of a subscriber and Dependent who enroll on the effective date of this Agreement and who make a written request for enrollment during the initial enrollment period, shall become effective on the date this Agreement becomes effective for the Contractholder.

b. Coverage for an individual who becomes eligible at a time other than during the original effective date of this Agreement (e.g. new spouse or newly transferred Retiree) will become effective on the first day of the month after eligibility was obtained as provided herein.

Newly added Dependents are subject to all other provisions of this Agreement.

3.2. OUTSIDE OF INITIAL OR OPEN ENROLLMENT PERIOD:

a. The Benefits of a subscriber or Dependent who is not a Late Enrollee shall become effective on the date of loss of coverage under another employer health benefit plan, provided enrollment is requested within 60 days of the loss of that other employer health benefit plan coverage. The subscriber will be required to furnish the Contractholder proof of the loss of coverage.

b. A subscriber requesting reinstatement of his Benefits or Dependent Benefits after they have been discontinued due to voluntary cancellation would not be eligible for Benefits until the Retiree's former employer's next open enrollment period.

3.3 EXCEPTIONS TO LATE ENROLLEE STATUS. The following individuals are not considered Late Enrollees:

a. The Retiree or Dependent was covered under another employer health benefit plan at the time of initial eligibility;

b. The Contractholder offers multiple health benefit plans and the Retiree elects a different plan during an Open Enrollment Period;

c. If a Retiree declines enrollment during the initial enrollment period and subsequently requests enrollment for him and eligible Dependent due to a mid-year qualifying event, the Retiree and Dependent coverage will be effective on the first day of the month following receipt of request for enrollment;

d. If the Member is receiving Inpatient care at a non-Plan facility when coverage becomes effective. The Plan will provide Benefits only for as long as the Member's medical condition prevents transfer to a Plan facility in the Member's PCP Service Area, as approved by the Plan. Unauthorized continuing or follow-up care in a non-Plan facility or by non-Plan Providers is not a Covered Service.

ARTICLE IV
DISCONTINUANCE OF SUBSCRIBER AND/OR DEPENDENT BENEFITS

4.1 Except as specifically provided herein, there is no right of either a subscriber or his Dependents to receive Benefits following termination of this Agreement, or any part of it. The Benefits for each cease on the first of the following to occur, with respect to the subscriber and/or Dependent, as applicable:

a. The date of discontinuance of any part of this Agreement providing Benefits;

b. The date of discontinuance of this Agreement;

c. The end of the last period for which the subscriber has made his contribution for Dependent Benefits

d. The date of termination of the subscriber's coverage;

e. The date the Agreement is amended to terminate the eligibility of any class of Retirees of which the subscriber is a member.

f. The last day of the month in which the Dependent ceases to qualify as a Dependent as defined herein, including a spouse following the entry of a final decree of annulment or dissolution of marriage from the subscriber, unless a different date on which the Dependent no longer meets the requirements for eligibility has been agreed to between the Plan and the Contractholder;

g. A subscriber or subscriber's Domestic Partner files with the California Secretary of State a, "Notice of Termination of Domestic Partnership" pursuant to California Family Code Section 298.

ARTICLE V
PREMIUM RATES ("PREMIUMS")

5.1 PREMIUMS - Effective: January 1, 2012 through December 31, 2012

Retiree Only	$257.93
Retiree & Spouse	$515.86
Retiree, Spouse & Disabled Child	$773.79

5.2 WHEN AND WHERE PAYABLE:

a. The first month's Premiums must be paid to the Plan by the effective date of this Agreement and subsequent Premiums shall be prepaid in full by the same date of each succeeding month. No Member will be covered under this Agreement until the first month's Premiums payment has been received by the Plan.

b. Premiums for Retirees and/or Dependents who become eligible on a date other than the bill date are waived for the month during which eligibility for covered Benefits is attained. Premiums for Retirees and/or Dependents whose eligibility for covered Benefits terminates on a date other than the bill date are due in full for the month during which eligibility is terminated.

c. All Premiums are payable by the Contractholder to the Plan. The payment of any Premiums shall not maintain the Benefits under this Agreement in force beyond the date immediately preceding the next transmittal date.

5.3 GRACE PERIOD FOR PAYMENT. A grace period of 60 calendar days will be granted for the payment of Premiums accruing, other than those due on the effective date of this Agreement, during which period this Agreement shall continue in force. The Contractholder shall be liable to the Plan for the payment of all Premiums accruing during the period the Agreement continues in force.

5.4 CHANGES TO BENEFIT AMOUNTS OR PREMIUMS. The Benefit amounts or the Premiums payable may be changed from time to time as set forth herein.

a. If a state or any other taxing authority imposes upon the Plan a tax or license fee that is levied upon or measured by the base Premiums or by the gross receipts of the Plan, or any portion of either, then the Plan may amend the Agreement to increase the base Premiums by an amount sufficient to cover all such taxes or license

fees rounded to the nearest cent, provided that Contractholder receives 60 days of written notice and approves of such increase in base Premiums. If Contractholder approves of the increase in base Premiums, the effective date of such increase shall be the date indicated in the mutual written Amendment executed by Contractholder and Plan and shall not be earlier than the date of the imposition of such tax or license fee imposed by the state or taxing authority.

b. If Benefit amounts are changed pursuant to a mutual written Amendment executed by Contractholder and Plan, the Premiums charged therefore may be made, or the Premiums credit therefore may be given, as of the date indicated in such mutual written Amendment.

ARTICLE VI
INDEPENDENT CONTRACTORS

6.1 Plan Providers are neither agents nor employees of the Plan, but are independent contractors. In no instance shall the Plan be liable for the negligence, wrongful acts or omissions of any person receiving or providing Services, including any Physician, Plan Hospital, or other provider or their employees, subject to the Managed Health Care Insurance Accountability Act of 1999 (California Civil Code Section 3428).

6.2 The relationship between Contractholder and Plan is an independent contractor relationship. Neither party nor its employees and/or agents shall be considered to be an employee and/or agent of the other party. 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 contacting for the purposes of effectuating this Agreement.

ARTICLE VII
PLAN SERVICE AREA

7.1 The Service Area of this Plan is as described in the EOC that the Plan distributes to all Members.

7.2 Within the Physician Group Service Area, Members will be entitled to receive all Covered Services specified in the EOC. The Plan will not pay for Covered Services that are not provided by, referred by and authorized by the Member's PCP and/or the Plan, where applicable. The Member will be required to pay for the cost of any services that are not approved by the PCP or the Plan, including services that the Member receives from non-contracting providers, except for Emergency Services or Urgently Needed Services. Procedures for obtaining Emergency Services and Urgently Needed Services are described in the EOC.

ARTICLE VIII
COORDINATION OF BENEFITS

8.1 If a Member is covered under one or more other health insurance plans, the Benefits of this Plan will be coordinated with the benefits payable by those other health insurance plans in accordance with the following provisions.

a. PLAN IS PRIMARY - If a Member possesses health benefits coverage through another policy, which is secondary to the Plan under applicable coordination of Benefits rules, including the Medicare secondary payer program, the Plan will determine its Benefit coverage obligations before the other policy, including applicable Copayments.

b. PLAN IS SECONDARY - If a Member possesses health benefits coverage through another policy which is primary to the Plan under applicable coordination of Benefits rules, including the Medicare secondary payer program, or if the Member is entitled to payment under a Workers' Compensation policy, the Plan will determine its Benefit coverage obligations after the other policy or Workers' Compensation policy, consistent with Applicable Laws and regulations. In such event, the Benefit coverage under the Plan will not exceed the amount of the out-of-pocket expenses (i.e. coinsurance, Copayments and deductibles) that the Member would incur in the absence of Member's secondary coverage.

ARTICLE IX
DISPUTES BETWEEN THE PLAN AND CONTRACTHOLDER

9.1 Plan and Contractholder 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.

9.2 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 timeframe, the non-breaching party has sole discretion to extend such cure period. If the breach is not cured within this timeframe, 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 Plan has failed to provide services, or the safety, health and/or welfare of Members is at risk, at the sole determination of the Contractholder.

9.3 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.

ARTICLE X
MEMBER GRIEVANCE AND APPEALS PROCEDURES

10.1 ADMINISTRATION - The Plan shall be responsible for establishing and administering the Appeal and Grievance Procedures as described in the EOC.

10.2 PARTICIPATION BY CONTRACTHOLDER - Contractholder agrees to cooperate fully, participate in, and provide assistance and information to the Plan as may be necessary or helpful to the Plan in administering such Appeal and Grievance Procedures, including participation in any independent external review of coverage decisions.

10.3 BINDING ARBITRATION - In the event any grievance or appeal of a Member cannot be settled through the grievance mechanism described herein, such matter may be submitted to binding arbitration in accordance with the terms of the EOC. In such event, Contractholder shall cooperate and, when necessary, participate, in any arbitration proceedings arising there from, subject to either party's right to seek judicial review thereof in accordance with the terms of the EOC.

10.4 APPEALS - Appeals of claims denials and/or referral for service denials by Members shall be resolved according to the appeals and reconsideration procedures established by CMS as outlined in the EOC or in applicable CMS regulations, policies, or letters or instructions, which documents shall supersede the provisions outlined in the EOC.

ARTICLE XI
INDEMNIFICATION, ACTS AND OMISSIONS, LIABILITY AND INSURANCE

11.1 INDEMNIFICATION - Plan shall indemnify and hold harmless the Contractholder, 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 the conduct of Plan, its officers, employees, subcontractors, agents or representatives in connection with performing its obligations under 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 Plan, its officers, agents, employees, subcontractors, agents or representatives from this Agreement; Plan 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 Contractholder, 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 Plan, Plan 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 Contractholder; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Plan's indemnification to Contractholder as set forth herein.

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

The specified insurance limits required in this Agreement shall in no way limit or circumscribe Plan's obligations to indemnify and hold harmless the Contractholder 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 Plan from indemnifying the Contractholder to the fullest extent allowed by law.

11.2 CONTRACTHOLDER ACTS OR OMISSIONS - Contractholder agrees to defend, indemnify, and hold harmless Plan and its officers, directors, agents, and employees from and against any and all fines, claims, demands, suits, actions, and costs (including, without limitation, reasonable attorney's fees) of any kind and nature arising by reasons of the acts or omissions of Contractholder, or of its officers, directors, agents, and employees in connection with the obligations imposed by this Agreement.

11.3 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.

11.4 INSURANCE - Without limiting or diminishing the Plan's obligation to indemnify or hold the Contractholder harmless, Plan shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement.

a. Workers' Compensation:
If the Plan has employees as defined by the State of California, the Plan shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than $1,000,000 per person per accident. This policy shall be endorsed to waive subrogation against the Contractholder for claims arising from this Agreement.

b. Commercial General Liability:
Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of Plan's performance of its obligations hereunder. Policy shall name the Contractholder, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured's. Policy's limit of liability shall not be less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

c. Vehicle Liability:
If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then Plan shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

d. Professional Liability Insurance:

Plan shall maintain Professional Liability Insurance providing coverage for the Plan's performance of work included within this Agreement, with a limit of liability of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate. If Plan's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and Plan shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that Plan has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of five (5) years beyond the termination of this Agreement.

e. General Insurance Provisions - All lines:

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to do business in the United States and have an A M BEST rating of not less than A-: VII (A-:7) unless such requirements are waived, in writing, by the Contractholder Risk Manager. If the Contractholder's Risk Manager waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only for one policy term.

2) Plan shall cause Plan's insurance carrier(s) to furnish the Contractholder with either 1) a properly executed Certificate(s) of Insurance and copies of Endorsements effecting coverage as required herein, and 2) if requested to do so in writing by the Contractholder Risk Manager, provide copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall provide for not. In the event of a, cancellation, this Agreement shall terminate forthwith, unless the Contractholder receives another properly executed Certificate of Insurance and copies of endorsements or policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. *Plan shall not commence operations until the Contractholder has been furnished Certificate (s) of Insurance and copies of endorsements and if requested, policies of insurance including all endorsements and any and all other attachments as required in this Section.*

4) It is understood and agreed to by the parties hereto that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the Contractholder's insurance

and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) The Contractholder's Reserved Rights--Insurance. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work which will add to additional exposures (such as the use of aircraft, watercraft, cranes, etc.) the Contractholder reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if; in the Contractholder Risk Manager's reasonable judgment, the amount or type of insurance carried by the Plan has become inadequate.

6) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the Contractholder.

ARTICLE XII
CANCELLATION

12.1 CANCELLATION WITHOUT CAUSE – Either party may cancel this Agreement without cause at any time by providing sixty (60) days' prior written notice to the other party. If the Agreement is cancelled on or after the 15th of the month, the Contractholder is liable for a full month's payment of Premiums. If the Agreement is cancelled prior to the 15th of the month, then Premiums payment will be waived and refunded to the Contractholder. In the event of such cancellation by either the Plan or the Contractholder, the Contractholder shall promptly pay any earned Premiums that have not previously been paid, and the Plan shall within 30 days:

a. return to the Contractholder the amount of prepaid Premiums, if any, that the Plan determines will not have been earned as of such cancellation date;

b. be responsible for Benefits for which charges were incurred prior to such cancellation date.

12.2 CANCELLATION FOR CAUSE – Either party may cancel 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.

a. CANCELLATION BY PLAN. The following shall constitute cause for immediate cancellation of this Agreement by Plan:

1. Contractholder's breach of any material term, covenant, or condition of this Agreement and subsequent failure to cure such breach within thirty (30) days following written notice of such breach, including:

   i. Failure of the Contractholder to pay any Premiums in accordance with the conditions of this Agreement; or

   ii. Failure of the Contractholder to abide by and enforce the conditions of enrollment as set forth in this Agreement and in the "Employer Group Application."

2. Insolvency of Contractholder, including the filing of bankruptcy by Contractholder.

3. A change in ownership of Contractholder.

4. A change in Contractholder-Retiree relationship.

b. CANCELLATION BY CONTRACTORHOLDER. The following shall constitute cause for immediate cancellation of this Agreement by Contractholder:

1. Plan'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.

2. Failure of Plan to provide services to Members as authorized in this Agreement.

3. Reasonable determination by Contractholder that the safety, health and/or welfare of Members are placed in danger by Plan.

4. Failure of Plan to secure and maintain the necessary governmental licenses, permits, accreditation or certification required for the performance of duties hereunder.

5. Failure by Plan to maintain adequate general and professional liability insurance coverage, as provided in this Agreement.

6. Insolvency of Plan, including the filing of bankruptcy by Plan.

12.3 Either party may cancel this Agreement for cause in accordance with Section 9.2 (Cure Period Provision), Section 9.3 (Adverse Government Action) or Section 16.4 (Limitation on Severability).

12.4 NOTIFICATION OF CANCELLATION TO SUBSCRIBERS - If this Agreement is rescinded, or cancelled by either party, the Contractholder shall be responsible for providing written notification of rescission or cancellation to the subscriber. The Contractholder shall promptly mail a legible, true copy of the Plan's notice of the rescission or cancellation to each subscriber at the subscriber's current address and shall promptly provide proof of such mailing and the date thereof to the Plan.

12.5 CANCELLATION OF INDIVIDUAL MEMBERS FOR CAUSE - The Plan may terminate coverage of a Member and his/her Dependent(s) for cause immediately upon notice to the Member for any of the reasons set forth in the EOC.

ARTICLE XIII
HIPAA AND HITECH

HIPAA AND HITECH COMPLIANCE

13.1 Plan and Contractholder shall comply with all applicable requirements of HIPAA and HITECH, including the laws and regulations promulgated and in full force and effect thereunder, upon the compliance dates set forth in the rules and regulations promulgated pursuant to HIPAA and HITECH. For purposes of this Agreement, HIPAA and HITECH rules, regulations and/or requirements include, but are not limited to, all rules and regulations promulgated by the Department of Health and Human Services, or any office, administration or division thereof, pursuant to HIPAA and HITECH. The Parties shall be in compliance and shall remain in compliance with the requirements of HIPAA and HITECH, and the laws and regulations promulgated subsequent thereto, as may be amended from time to time.

HIPAA BUSINESS ASSOCIATE AGREEMENT

13.2 The Parties shall adhere to all terms and conditions as outlined and specified in Exhibit 1 – Business Associate Agreement ("BAA") Addendum attached hereto and by this reference incorporated herein. The Parties agree to cooperate in accordance with the terms and intent of this Agreement and the BAA Addendum for implementation of relevant laws and/or regulations promulgated under HIPAA and HITECH, as may be amended from time to time.

ARTICLE XIV
Term and Termination

14.1 The term of this Agreement shall become effective on January 1, 2012, and shall terminate on December 31, 2012, unless this Agreement is terminated as provided

in **ARTICLE XII CANCELLATION** herein. Wherever this Agreement provides for a date of commencement or termination of any part or all of this Agreement, commencement or termination shall be effective as of 12:01 A.M. Pacific Standard Time of that date.

ARTICLE XV
IDENTIFICATION OF OFFICERS, OWNERS, STOCKHOLDERS, CREDITORS

15.1 On annual basis, Contractholder shall identify the names of the following persons by listing them on Exhibit 2 of this Agreement, attached hereto and incorporated herein by this reference.

A. Contractholder officers;
B. Contractholder owners, including parent corporation(s);
C. Stockholders owning greater than 10% of any stock issued by Contractor;
D. Major creditors holding more than 10% of any debts owed by Contractor.

ARTICLE XVI
GENERAL PROVISIONS

16.1 USE OF MASCULINE PRONOUN - Whenever a masculine pronoun is used in this Agreement, it shall include the feminine gender unless the context clearly indicates otherwise.

16.2 ASSIGNMENT AND DELEGATION - This Agreement and the rights, interests, and benefits hereunder shall not be assigned, transferred, pledged, or hypothecated in any way by Plan or Contractholder, 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 Plan to a third party shall be void unless prior written approval is obtained from Contractholder.

16.3 INVALIDITY AND SEVERABILITY - If any provision of this Agreement is found to be invalid or unenforceable by any court or becomes invalid or unenforceable by Act of Congress, statute passes by the California Legislature, local ordinance, or any regulation duly promulgated by officers of the United States or of the State of California acting in accordance with law, such provision shall be in effect only to the extent that it is not in contravention of applicable laws without invalidating the remaining provisions hereof.

16.4 LIMITATIONS OF SEVERABILITY - In the event the removal of any provision rendered invalid or unenforceable pursuant to Section 16.3 has the effect of

materially altering the obligations of either party in such manner as to cause serious financial hardship to such party, the parties shall make all reasonable efforts to negotiate amendments to this Agreement to abrogate the effects of such removal and to avoid, to the extent possible under the circumstances, interruption of the delivery of services, or interference with the business activities of the parties. In the event the parties cannot reach mutual agreement on any amendments, the affected party shall have the right to terminate this Agreement upon providing thirty (30) days prior written notice to the other party.

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

16.6 ENTIRE AGREEMENT - This Agreement (together with all attachments hereto), and any requirements promulgated by Contractholder, 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 Plan and Contractholder 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 that are not expressly set forth herein, or are not promulgated by Contractholder, shall be of no further force, effect or legal consequence after the effective date hereunder.

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

16.8 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 attorney's fees and reasonable costs, in addition to any other relief to which such party may be entitled.

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

16.10 GOVERNING LAW - Contractholder, Plan 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 Applicable Law, and regulations thereto shall bind Contractholder and Plan, whether or not expressly provided in this Agreement. Any provision of this Agreement which is in conflict with, or does not conform with Applicable Law as applied to the Plan shall be amended automatically to conform to the requirements of such Applicable Law.

16.11 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.

16.12 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.

16.13 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.

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

16.15 FORCE MAJEURE - Neither party shall be liable to the other party or be deemed to have breached this Agreement for any failure or delay in the performance of all or any portion of its obligations under this Agreement if such failure or delay is due to any contingency beyond its reasonable control (a 'force majeure"). Without limiting the generality of the foregoing, such contingency includes, but is not limited to, acts of God, fires, floods, pandemics, storms, earthquakes, riots, boycotts, strikes, lock-outs, acts of terror, wars and war operations, restraints of government, power or communication line failure or other circumstance beyond such party's reasonable control, or by reason of a judgment, ruling or order of any court or agency of competent jurisdiction or change of law or regulation subsequent to the execution of this Agreement. Both parties are obligated to provide reasonable back-up capability to avoid the potential interruptions described above. If a force majeure occurs, the party delayed or unable to perform shall give immediate notice to the other party. Plan acknowledges and agrees that in the event Contractholder is unable to make timely payments due to causes beyond its reasonable control, Contractoholder shall not be held liable to Plan for such delay in payment, including any interest for untimely payments.

16.16 APPROVAL OF DMHC/DHS/CMS - All amendments, including but not limited to renewals of this Agreement, and any proposed amendments governing premiums, Covered Services, or the term hereof, shall be submitted by Plan to applicable/appropriate regulatory agencies for prior approval at least thirty (30) days before their effective date. No such amendment between Contractholder and the Plan shall be effective unless the appropriate approval from the regulatory agencies have been obtained.

16.17 NOTICE - Written notice required under this Agreement shall be delivered personally, or sent by United States registered certified mail or express mail, postage prepaid and return receipt requested, and shall be deemed given when so delivered by hand or if mailed, on the date of delivery shown on the receipt and addressed or delivered to each of the parties at the following address (or such other address as may hereafter be designated by a party by written notice thereof to the other party):

Plan: SCAN Health Plan
3800 Kilroy Airport Way, Suite 100
Long Beach, California 90801-5616
Attn: Gil Miller, Senior Vice President

Contractholder: County of Riverside, Human Resources
P.O. Box 1569
Riverside, CA 92502
Attn: Human Resources Division Manager

16.18 RECORDS AND INFORMATION TO BE FURNISHED - The Contractholder shall furnish the Plan such information as the Plan may require enabling it to administer this Plan, to determine the Premiums and to enable it to perform its obligations under the Agreement. All of the Contractholder's records that relate to eligibility and Benefits of this Plan shall be made available for inspection by the Plan when and so often as reasonably required.

16.19 LIMITATION OF LIABILITY - Members shall not be responsible to Plan Providers for payment for Services to the extent they are a Benefit of this Plan. When a Plan Provider renders Covered Services, the Member is responsible only for the applicable Copayments, and for non-benefit items. Members are responsible for the full charges for any non-covered services they obtain.

16.20 PAYMENT OF PROVIDERS - The Plan generally Contracts with groups of Physicians to provide Services to Members. A fixed, monthly fee is generally paid to the groups of Physicians for each Member whose PCP is in the group. This payment system, capitation, includes incentives to the group of Physicians to manage all Services provided to Members in an appropriate manner consistent with this Agreement. Members may request additional information about this payment system by contacting the Plan's Member Services Department or the Member's Plan Provider.

16.21 PLAN INTERPRETATION - For the purpose of providing Benefits to Members, the Plan shall have the power and discretionary authority to construe and interpret the provisions of this Agreement to determine the Benefits of this Agreement and determine eligibility to receive Benefits under this Agreement. The Plan shall exercise this authority for the benefit of all Members entitled to receive Benefits under this Agreement.

16.22 CONDITIONS PRECEDENT TO THE EFFECTIVENESS OF THIS AGREEMENT:

a. SERVICE DELIVERY SYSTEM COMPLETION - This Agreement is contingent upon execution of contracts by the Plan with hospitals, physicians, and ancillary service providers who collectively constitute the Plan-Contracted Network. The Plan shall pursue these agreements in good faith, but does not covenant that such agreements can be reached.

b. GOVERNMENTAL APPROVAL - This Agreement is contingent upon the Plan receiving approval from the appropriate local, state, and federal governmental or quasi-governmental agencies, which have regulatory or quasi-regulatory powers over the Plan or its programs. Such agencies include, but are not limited to DMHC, DHS, CMS and any other relevant state, federal and local agencies. Additionally, this Agreement is contingent upon approval by DMHC in writing, or by operation of law.

16.23 CONTRACTHOLDER NOTICE OBLIGATIONS - It is Contractholder's obligation to advise enrollees and/or their dependents of any rights they may have under the Employee Retirement Income Security Act of 1974 ("ERISA"), the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") and Cal-COBRA, to the extent applicable.

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

[The remainder of this page was intentionally left blank]

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

ATTEST:
Clerk of the Board
Kecia Harper-Ihem

By: _____
Deputy

Date: _____

COUNTY OF RIVERSIDE:

By: _____
Chairman, Board of Supervisors

Date: _____

Approved as to form:

Pamela J. Walls
County Counsel

By: _____
Deputy County Counsel

SCAN HEALTH PLAN,
a California not-for-profit corporation

By: _____

Printed Name: Chris Wing

Title: CEO

Date: January 9, 2012

EXHIBIT 1

HIPAA Business Associate Agreement
Addendum to Contract
Between the County of Riverside and SCAN Health Plan.

This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of the Retiree Group Health Services Agreement (the "Underlying Agreement") between the County of Riverside ("County") and SCAN Health Plan ("Contractor") and shall be effective as of the date the Underlying Agreement is approved by both Parties (the "Effective Date").

RECITALS

WHEREAS, County and Contractor entered into the Underlying Agreement pursuant to which the Contractor provides services to County, and in conjunction with the provision of such services certain protected health information ("PHI") and/or certain electronic protected health information ("ePHI") may be created by or made available to Contractor for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Public Law 104-191 enacted August 21, 1996, and the Health Information Technology for Economic and Clinical Health Act ("HITECH") of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 enacted February 17, 2009, and the laws and regulations promulgated subsequent thereto, as may be amended from time to time, are applicable to the protection of any use or disclosure of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, County is a covered entity, as defined in the Privacy Rule; and,

WHEREAS, Contractor when a creator or recipient of, or when they have access to, PHI and/or ePHI of County, is a business associate as defined in the Privacy Rule; and,

WHEREAS, pursuant to 42 USC §17931 and §17934, certain provisions of the Security Rule and Privacy Rule apply to a business associate of a covered entity in the same manner that they apply to the covered entity, the additional security and privacy requirements of HITECH are applicable to business associates and must be incorporated into the business associate agreement, and a business associate is liable for civil and criminal penalties for failure to comply with these security and/or privacy provisions; and,

WHEREAS, the parties mutually agree that any use or disclosure of PHI and/or ePHI must be in compliance with the Privacy Rule, Security Rule, HIPAA, HITECH and any other applicable law; and,

WHEREAS, the parties intend to enter into this Addendum to address the requirements and obligations set forth in the Privacy Rule, Security Rule, HITECH and HIPAA as they apply to Contractor as a business associate of County, including the establishment of permitted and required uses and disclosures of PHI and/or ePHI created or received by Contractor during the course of performing services on behalf of County, and appropriate limitations and conditions on such uses and disclosures;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.

   A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted by the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402. For purposes of this definition, "compromises the security or privacy of PHI" means poses a significant risk of financial, reputational, or other harm to the individual, unless a use or disclosure of PHI does not include the identifiers listed at 45 CFR §164.514(e)(2), date of birth and zip code. Breach excludes:

      (1) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.

      (2) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.

      (3) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

   B. "Data aggregation" has meaning given such term in 45 CFR §164.501.

   C. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.

D. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.

E. "Electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).

F. "Health care operations" has the meaning given such term in 45 CFR §164.501.

G. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected health information.

H. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.

I. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.

J. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, which includes ePHI.

K. "Required by law" has the meaning given such term in 45 CFR §164.103.

L. "Secretary" means the Secretary of the Department of Health and Human Services ("HHS").

M. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.

N. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized individuals through use of a technology or methodology specified by the Secretary in the guidance issued under 42 USC §17932(h)(2) on the HHS web site.

2. **Scope of Use and Disclosure by Contractor of County's PHI and/or ePHI.**

A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.

B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:

(1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,

(2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:

(a) The disclosure is required by law; or,

(b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:

(i) Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,

(ii) Notify Contractor of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,

(3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County; and,

(4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.

C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

3. **Prohibited Uses and Disclosures.**

A. Contractor may neither use, disclose, nor access PHI and/or ePHI in a manner not authorized by the Underlying Agreement or this Addendum without patient authorization or de-identification of the PHI and/or ePHI and as authorized in writing from County.

B. Contractor may neither use, disclose, nor access PHI and/or ePHI it receives from County or from another business associate of County, except as permitted or required by this Addendum, or as required by law.

C. Contractor agrees not to make any disclosure of PHI and/or ePHI that County would be prohibited from making.

D. Contractor shall not use or disclose PHI for any purpose prohibited by the Privacy Rule, Security Rule, HIPAA and/or HITECH, including, but not limited to 42 USC §§17935 and 17936. Contractor agrees:

(1) Not to use or disclose PHI for fundraising or marketing purposes, unless pursuant to the Underlying Agreement and as permitted by and consistent with the requirements of 42 USC §17936;

(2) Not to disclose PHI, except as otherwise required by law, to a health plan for purposes of carrying out payment or health care operations, if the individual has requested this restriction pursuant to 42 USC §17935(a) and 45 CFR §164.522, and has paid out of pocket in full for the health care item or service to which the PHI solely relates; and,

(3) Not to receive, directly or indirectly, remuneration in exchange for PHI, unless permitted by 42 USC §17935(d)(2) and with the prior written consent of County. This prohibition shall not apply to payment by County to Contractor for services provided pursuant to the Underlying Agreement.

4. **Obligations of County.**

A. County agrees to make its best efforts to notify Contractor promptly in writing of any restrictions on the use or disclosure of PHI and/or ePHI agreed to by County that may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.

B. County agrees to make its best efforts to promptly notify Contractor in writing of any changes in, or revocation of, permission by any individual to use or disclose PHI and/or ePHI, if such changes or revocation may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.

C. County agrees to make its best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use or disclosure of PHI and/or ePHI.

D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.

E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying Agreement.

5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI, Contractor agrees to:

   A. Use or disclose PHI only if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e). Contractor shall also comply with the additional privacy requirements that are applicable to covered entities in HITECH, as may be amended from time to time.

   B. Not use or further disclose PHI and/or ePHI other than as permitted or required by this Addendum or as required by law. Contractor shall promptly notify County if Contractor is required by law to disclose PHI and/or ePHI.

   C. Use appropriate safeguards to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Addendum.

   D. Mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI and/or ePHI by Contractor in violation of this Addendum.

   E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or Security Rule of which Contractor becomes aware.

   F. Require any subcontractors or agents to whom Contractor provides PHI and/or ePHI to agree to the same restrictions and conditions that apply to Contractor with respect to such PHI and/or ePHI, including the restrictions and conditions pursuant to this Addendum.

   G. Make available to County or the Secretary, in the time and manner designated by County or Secretary, Contractor's internal practices, books and records relating to the use, disclosure and privacy protection of PHI received from County, or created or received by Contractor on behalf of County, for purposes of determining, investigating or auditing Contractor's and/or County's compliance with the Privacy Rule.

   H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR §164.502(b)(1).

   I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.

   J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including

the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.

K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.

L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.

6. **Access to PHI, Amendment and Disclosure Accounting.** Contractor agrees to:

A. **Access to PHI and electronic health record.** Provide access to PHI in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524. If Contractor uses or maintains electronic health records, Contractor shall, at the request of County, provide electronic health records in electronic format to enable County to fulfill its obligations under 42 USC §17935(e).

B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.

C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:

(1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.

(2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.

(3) Make available for County information required by this section for six (6) years preceding the individual's request for accounting of disclosures of PHI, and for three (3) years preceding the individual's request for accounting of disclosures of electronic health record.

7. **Security of ePHI.** In the event Contractor needs to create, receive, or have access to County ePHI, in accordance with 42 USC §17931 and 45 CFR §§164.314(a)(2)(i), and 164.306, Contractor shall:

   A. Implement the administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County as required by the Security Rule, including without limitations, each of the requirements of the Security Rule at 45 CFR §§164.308, 164.310, and 164.312;

   B. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;

   C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;

   D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;

   E. Ensure compliance by Contractor's workforce;

   F. Ensure that any agent, including a subcontractor, to whom it provides ePHI agrees to implement reasonable appropriate safeguards to protect it;

   G. Report to County any security incident of which Contractor becomes aware; and,

   H. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.

8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not limited to 45 CFR §164.410.

   A. **Discovery and notification.** Following the discovery of a breach of unsecured PHI, Contractor shall notify County in writing of such breach without unreasonable delay and in no case later than 60 calendar days after discovery of a breach, except as provided in 45 CFR §164.412.

      (1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).

(2) **Content of notification.** The written notification to County relating to breach of unsecured PHI shall include, to the extent possible, the following information if known (or can be reasonably obtained) by Contractor:

(a) The identification of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, used or disclosed during the breach;

(b) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;

(c) A description of the types of unsecured PHI involved in the breach, such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved;

(d) Any steps individuals should take to protect themselves from potential harm resulting from the breach;

(e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and,

(f) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

B. **Cooperation.** With respect to any breach of unsecured PHI reported by Contractor, Contractor shall cooperate with County and shall provide County with any information requested by County to enable County to fulfill in a timely manner its own reporting and notification obligations, including but not limited to providing notice to individuals, media outlets and the Secretary in accordance with 42 USC §17932 and 45 CFR §§ 164.404, 164.406 and 164.408.

C. **Breach log.** To the extent breach of unsecured PHI involves less than 500 individuals, Contractor shall maintain a log or other documentation of such breaches and provide such log or other documentation on an annual basis to County not later than fifteen (15) days after the end of each calendar year for submission to the Secretary.

D. **Delay of notification authorized by law enforcement.** If Contractor delays notification of breach of unsecured PHI pursuant to a law enforcement official's statement that required notification, notice or posting would impede a criminal investigation or cause damage to national security, Contractor shall maintain documentation sufficient to demonstrate its compliance with the requirements of 45 CFR §164.412.

E. **Payment of costs.** With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to pay any and all costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary. This provision shall not be construed to limit or diminish Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this Addendum.

F. **Documentation.** Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164, Subpart D, or that such use or disclosure did not constitute a breach.

9. **Hold Harmless/Indemnification.**

A. Contractor agrees to indemnify and hold harmless County, all Agencies, Districts, Special Districts and Departments of County, 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 Addendum, including but not limited to property damage, bodily injury, 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 Addendum. 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, of County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents or representatives in any claim or action based upon such alleged acts or omissions.

B. 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 choice, subject to the approval of County, which shall not be unreasonably withheld, 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 to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. 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.

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

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

E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.

10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.

11. **Termination.**

A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:

(1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.

(2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.

(3) If termination of the Underlying Agreement is not feasible, the non-breaching party may report the problem to the Secretary, and upon the non-breaching party's request, the breaching party at its own expense shall implement a plan to cure the breach and report regularly on its compliance with such plan to the non-breaching party.

B. **Effect of Termination.**

(1) Upon termination of this Addendum, for any reason, Contractor shall return or destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.

(2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.

12. **General Provisions.**

A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.

B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.

C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.

D. **Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.

E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.

F. **Interpretation of Addendum.**

(1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.

(2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH generally.

G. **Notices to County.** All notifications required to be given by Contractor pursuant to the terms of this Addendum shall be in writing and delivered to the County by either registered or certified mail return receipt requested or guaranteed overnight mail with tracing capability at the address listed below, or at such other address as County may hereafter designate. All notices provided by Contractor pursuant to this Section shall be deemed given or made when received by County.

Name: Barbara A. Olivier

Title: Assistant CEO/Human Resources Director

Address: 4080 Lemon St. 7th floor

Riverside, CA 92502

EXHIBIT 2

Name of Business: SCAN Health Plan

OWNERSHIP INFORMATION

Check one:

Corporation		
Partnership		
Sole Proprietorship		
Other	X	Not-For-Profit Corporation

Board of Directors:

Colleen Cain, Co-Founder and former CEO, Benova, Inc
Michael L. Noel, Chairman, Noel Consulting Company
Tom Higgins, The Laurel Company
Tom McDaniel, Edison International (retired)
Kim L. Hunter, LA Grant Communications
Pat Seaver, Lathan & Watkins (retired)
Andrew Allocco, Aetna Inc. (retired)

Officers and Executives:

Chris Wing, Chief Executive Officer
Randy Stone, Chief Financial Officer
Bill Roth, Chief Operating Officer
Timothy Schwab, MD, FACP, Chief Medical Officer
Douglas A. Jaques, Esq., Senior Vice President, General Counsel and Secretary
Roger L. Lapp, Senior Vice President, Sales/Membership
Gil Miller, Senior Vice President of National Sales
Rebecca Mauritson, Learner, Senior Vice President and Compliance Officer
Deborah A. Miller, Senior Vice President, Health Care Services
Sherry L. Stanislaw, Senior Vice President, Service Operations/Marketing
Merlin Swackhamer, Chief Information Officer
Peter Begans, Senior Vice President, Public and Government Affairs

Additional Shareholders: