12.1.2 Authority. Validity and Binding Effect.

The execution and delivery of this Agreement, and each of the documents to be executed by or on behalf of PPH pursuant to this Agreement, and the performance of the transactions contemplated hereby, have been duly authorized by all necessary actions on the part of PPH and, if necessary or appropriate under District Law, by the voters entitled to vote regarding matters affecting PPH. PPH has full power and authority to enter into, consummate and perform this Agreement and carry out all of the terms and provisions of this Agreement.

12.1.3 No Violation of Corporate Documents, Contracts or Other Obligations.

(a) Governing Documents.

Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby violates or conflicts with any provision of District Law or the organizational or governing documents of PPH.

(b) Laws, Regulations, Orders and Decrees.

The execution and delivery of this Agreement by PPH, and the consummation by PPH of the transactions contemplated hereby, do not and shall not (i) violate or conflict with any order of any governmental or regulatory authority, any judgment, decree, order or award of any court, arbitrator, administrative agency or governmental authority, or any license, consent, permit, order, approval or any other authorization of any governmental or regulatory authority, or any statute, law, ordinance, rule or regulation by which PPH is bound (including without limitation the District Law); or (ii) require any approval, consent or authorization of any federal, state or local governmental or regulatory authority or court to be obtained by PPH that has not been obtained.

12.1.4 Financial Statements.

PPH has furnished to KFH true and complete copies of PPH's audited financial statements for the fiscal year ended June 30, 2003. The financial statements fairly present in all material respects the financial condition and the results of operations and changes in cash flows of PPH as at the respective dates of and for the periods referred to in such financial statements, all in accordance with generally accepted accounting principles ("GAAP"). PPH has maintained all its financial and other books and records in its usual and customary manner consistent with the prior practice of PPH. PPH shall prepare financial statements in accordance with GAAP, and shall provide KFH annually with copies of its audited financial statements no later than thirty (30) days after such audited financial statements have been completed, but in no event later than one hundred eighty (180) days after the end of any fiscal year of PPH.

12.1.5 Litigation, Claims and Proceedings.

PPH has not been served with any summons, complaint or written notice to arbitrate, and no suit, litigation, claim (equitable or legal), administrative arbitration, investigation or other proceeding is pending or threatened against PPH by or before any court, governmental department, commission, board, bureau, agency, mediator, arbitrator or other person or instrumentality, that might, if determined against PPH, materially and adversely affect PPH's ability to perform its obligations under this Agreement or participate in any governmental health care program (including the Medicare or Medicaid Program).

12.1.6 Medical Staff.

PPH has received no notice of any pending appeals, challenges, disciplinary or corrective actions, or disputes involving members of any of the Facilities' Medical Staffs who may provide services to

Members pursuant this Agreement. PPH has delivered to KFH and Medical Group's Area Associate Medical Director-San Diego a complete and correct list of all members of the Facilities' Medical Staffs and a correct and complete copy of the Facilities' Medical Staff bylaws and rules and regulations, and PPH shall provide to the Kaiser Permanente Liaison all subsequent changes thereto during the term of this Agreement.

12.1.7 Condition of Facilities.

The Facilities are, and at all times during the Term shall be, in good condition and repair and in material compliance with all applicable building and safety and seismic laws. The Facilities have sufficient capacity, personnel, infrastructure, and systems capability to provide Hospital Services to Members as contemplated by this Agreement, subject to the provisions of Section 2.6.1 (Maintenance of Capacity). PPH has complied with all material zoning and other land use requirements applicable to the Facilities. Neither the Facilities nor PPH is in violation of any applicable statutes, regulations or ordinances (including building codes or zoning ordinances), or other laws applicable to PPH that would in any manner materially and adversely affect PPH's ability to perform its obligations hereunder, including any state, federal or local laws pertaining to the regulation of hazardous materials, as such term is defined by California's Department of Toxic Substances Control or the United States Environmental Protection Agency.

12.1.8 Claims and Actions.

PPH shall promptly notify KFH of any claim, grievance or complaint threatened or filed against PPH by any Member seeking or having obtained Covered Hospital Services at PPH with respect to such Covered Hospital Services.

12.1.9 Bankruptey or Reorganization.

PPH shall promptly report to KFH the filing of any petition seeking (a) declaration of PPH as bankrupt, (b) reorganization of PPH under bankruptcy laws or (c) appointment of a receiver with respect to all or a substantial portion of PPH's assets.

12.1.10 Accuracy of Representations and Warranties.

No representation or warranty of PPH contained in this Agreement, or any statement, document or certificate furnished or to be furnished to KFH pursuant to this Agreement, is or shall be incomplete, inaccurate or contain any untrue statement of any material fact known to PPH, or intentionally omit to state any material fact known to PPH necessary to make the statements contained therein not misleading. During the term of this Agreement, PPH shall notify KFH promptly upon the occurrence of any event that causes any of the foregoing representations and warranties in this Section 12.1 to no longer be true and correct in all material respects.

12.2 KFH's Representations, Warranties and Covenants.

KFH represents and warrants that, as of the Effective Date and covenants that, except as set forth in Appendix 12.2 (Exceptions to KFH's Representations and Warranties):

12.2.1 Organization and Standing,

KFH is a California nonprofit public benefit corporation. KFH possesses all requisite power and authority necessary to carry on its operations as the same are now being conducted. KFH has received a determination from the Internal Revenue Service that it is an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and has received a determination from the Franchise Tax Board of the State of California that it is an organization exempt from taxation under Section 23701d of

the Revenue and Taxation Code of the State of California, which determinations have not been revoked, rescinded or modified. KFH possesses all licenses, permits, authorizations, franchises, certifications, accreditations, and rights and privileges as necessary to perform its obligations under this Agreement. KFH is not a party to, nor shall it enter into, any contract or agreement or be subject to any restriction that would prevent or restrict the power or authority of KFH to enter into or perform this Agreement. This Agreement shall not result in a breach of any other agreement between KFH and any hospital, physician, physician group, contractor or consultant of KFH.

12.2.2 Authority.

The execution and delivery of this Agreement and each of the documents to be executed on or behalf of KFH pursuant to this Agreement, have been, or shall be prior to the Effective Date, duly authorized by all necessary corporate actions on the part of KFH. KFH has full power and authority to enter into, consummate, perform and carry out all of the terms and provisions of this Agreement.

12.2.3 No Violation of Organizational Documents or Law.

(a) Articles. Bylaws and Corporate Documents.

Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby violates or conflicts with any provision of KFH's articles of incorporation, bylaws or other organizational or governing documents of KFH.

(b) Laws, Regulations, Orders and Decrees.

The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby does not and shall not: (i) violate or conflict with any order of any governmental or regulatory authority, any judgment, decree, order or award of any court, arbitrator, administrative agency or governmental authority, or any license, consent, permit, order, approval or any other authorization of any governmental or regulatory authority, or any statute, law, ordinance, rule or regulation by which KFH is bound; or (ii) require any approval, consent or authorization of any federal, state or local governmental or regulatory authority or court to be obtained by KFH that has not been obtained.

(c) Required Governmental Consents.

Other than with respect to the DMHC and CMS, no consent, approval, authorization of or filing or registration with any governmental authority (federal, state or local) is required to be obtained or made by KFH in order for KFH to enter into this Agreement or to consummate the transactions contemplated by this Agreement.

12.2.4 Litigation, Claims and Proceedings.

KFH has not been served with any summons, complaint or written notice to arbitrate and no suit, litigation, claim (equitable or legal), administrative arbitration, investigation or other proceeding is pending or threatened against KFH by or before any court, governmental department, commission, board, bureau, agency, mediator, arbitrator or other person or instrumentality that might, if determined against KFH, materially and adversely affect KFH's ability to perform its obligations under this Agreement or participate in any governmental health care program (including the Medicare or Medi-Cal Programs).

12.2.5 Claims and Actions,

KFH shall promptly notify PPH, as follows:

- (a) Any claim, grievance or complaint threatened or filed by any Member seeking or having obtained Hospital Services at PPH, with respect to such Hospital Services.
- (b) Any action by KFH or Medical Group against PPH or Independent Physicians who are known to be members of the Medical Staff of one or more Facilities.
- (c) Any action by KFH or Medical Group, or (if the action comes to Kaiser Permanente's attention) any governmental agency, against any license, certification, Medical Staff membership or clinical privileges of any physician or care provider, to the extent applicable to the provision of Hospital Services pursuant to this Agreement.

12.2.6 Bankruptcy or Reorganization.

KFH shall promptly report to PPH the filing of any petition seeking (a) declaration of Kaiser Permanente as bankrupt, (b) reorganization of Kaiser Permanente under bankruptey laws or (c) appointment of a receiver with respect to all or a substantial portion of Kaiser Permanente's assets.

12.2.7 Accuracy of Representations and Warranties.

No representation or warranty of KFH contained in this Agreement, or any statement, document or certificate furnished or to be furnished to PPH pursuant to this Agreement, is or shall be incomplete, inaccurate or contain any untrue statement of any material fact known to KFH, or intentionally fails to state any material fact known to KFH necessary to make the statements contained therein not misleading. During the term of this Agreement, KFH shall notify PPH promptly upon the occurrence of any event that causes any of the foregoing representations and warranties in this Section 12.2 to no longer be true and correct in all material respects.

12.3 Survival of Representations and Warranties.

The representations and warranties by the parties in this Agreement shall survive for a period of four (4) years from the Effective Date. The foregoing limitation on survival shall not apply to covenants of the parties.

ARTICLE 13 - TERM AND TERMINATION

13.1 Term.

The term of this Agreement shall begin on the Effective Date and shall continue until 11:59 p.m. on September 30, 2020 (the "Initial Term"). From and after October 1, 2015, the term thereafter shall be a rolling five (5) year term which on each subsequent September 30 automatically shall be increased from four (4) to five (5) years, subject to either party's right to not extend the term beyond the Initial Term or any anniversary date of the end of the Initial Term pursuant to the following sentence. Either party may elect not to extend this Agreement beyond the Initial Term or any subsequent extension thereof by providing at least five (5) years' prior written notice to the other party stating that the notifying party desires not to extend this Agreement beyond the fifth (5th) anniversary date of the next subsequent September 30 after such notice is delivered (a "Non-Renewal Notice"), which effective date of non-renewal shall in no event be a date earlier than September 30, 2020. The Initial Term and each subsequent extension thereafter are referred to collectively herein as the "Term".

13.2 Conditions Precedent.

The provisions of Sections 13.1 (Term) notwithstanding, this Agreement shall not be effective until each of the following conditions precedent ("Conditions Precedent") has been satisfied, or waived by the party for whose benefit the Condition Precedent exists and such party notifies the other by

providing a certificate signed by its authorized representative certifying to the satisfaction and/or waiver of each such condition, in which event the date of the last occurrence of satisfaction or waiver (if a date later than the stated Effective Date above) shall be deemed for all purposes hereunder to be the "Effective Date":

- (a) Each party shall have obtained all necessary board of directors and management approvals required for execution, delivery and performance of this Agreement (provided that the failure to obtain such approvals shall under no circumstances constitute a breach of any provision of this Agreement);
- (b) No event shall have occurred and be continuing that would permit either party to give notice of termination of this Agreement for cause (assuming the Agreement were then in effect);
- (c) PPH shall have delivered to KFH the opinion of PPH's legal counsel in the form attached hereto as Exhibit A (Form of Opinion of PPH Counsel); and
- (d) Neither Kaiser Permanente nor PPH shall be subject to an injunction enjoining the entering into or performance of this Agreement, nor shall any governmental or action be threatened in writing or pending against Kaiser Permanente or PPH with respect to the execution, delivery or performance of this Agreement.

The foregoing Conditions Precedent shall be for the benefit of both parties.

13.3 <u>Termination Generally.</u>

This Agreement may be terminated as set forth in this Section.

13.3.1 Termination for Cause.

This Agreement may be terminated for cause, as follows:

(a) By KFH.

KFH may terminate this Agreement on written notice to PPH, as follows:

(i) Immediately:

- (A) On the effective date of termination of accreditation of PMC or any other Facility by JCAHO.
- (B) On the effective date of termination of certification of PPH's participation in the Medicare or Medi-Cal Programs.
- (C) On the effective date of revocation of any material license of PPH necessary for the provision of any Covered Hospital Service in accordance with this Agreement, unless prior thereto PPH shall have entered into one or more contracts with hospitals, approved by KFH in writing in advance (which approval shall not be unreasonably delayed or withheld), for the provision by such hospital(s) of Hospital Services under this Agreement, at no additional cost and at no material inconvenience to KFH, Members or Medical Group, wherein such hospitals are obligated fully to comply with the provisions of this Agreement, and such hospitals are ready, willing and able to do so, to KFH's reasonable satisfaction. The effective date of the written decision of the licensing authority setting forth such revocation shall conclusively be the effective date of termination of this Agreement. The material licenses, permits, accrediations and

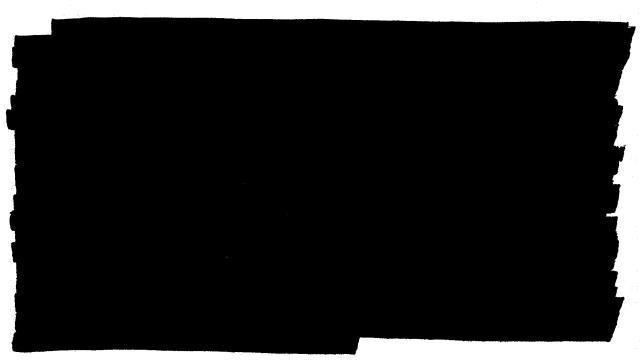
certifications of PPH necessary for the provision of Covered Hospital Services at PMC and Pomerado Hospital include those listed in Appendix 13.3.1(a)(i)(C), which PPH shall update and the EOC shall approve from time to time as necessary.

(D) As provided in Section 13.7.2 (Major Damage).



5. The date of PMC Expanded Facilities Completion, which date shall be no later than February 28, 2010.

- (F) Immediately upon notice (or, as specified in the notice, such later date or time period up to one (1) year following the date of such notice) by KFH in the event of any change in organizational status of PPH from a California health care district subject to the District Law to any other form of entity, notwithstanding any assignment or change of control otherwise permitted (with or without KFH's consent) pursuant to Section 15.10.
- (G) Immediately upon notice (or, as specified in the notice, such later date or time period up to one (1) year following the date of such notice) by KFH in the event PPH refuses to accept a Required Modification as set forth in Section 15,12.2.



- (ii) Upon thirty (30) days' prior written notice, subject to PPH's ability to cure the asserted breach prior to the expiration of such thirty (30) day period, if:
- (A) Any insurance required to be maintained by PPH pursuant to Article 10 (Insurance) is canceled or terminated, or modified so that PPH no longer complies with Article 10 (Insurance) in any material respect.
- (B) KFH makes a reasonable, good faith determination, in consultation with PPH's chief executive officer and state and federal regulatory agencies, that the continuation of this Agreement poses an immediate threat to the health, safety or welfare of any Members, as demonstrated by cited conditions, verified complaints or the like.
- (C) To the extent legally permissible, if PPH files a petition in or for bankruptcy, reorganization or an arrangement with creditors, or is unable to pay its debts as they become due; or a trustee, receiver or other custodian is appointed on PPH's behalf for all or a substantial portion of its assets.
- (D) Failure of PPH to develop a plan reasonably acceptable to KFH pursuant to Section 13.7.2 (Major Damage) or failure by PPH to implement a plan approved by KFH pursuant to Section 13.7.2 (Major Damage) in accordance with the terms of such approved plan;

provided, however, that KFH shall not disapprove any such plan developed by PPH which is consistent with standards previously approved by KFH for the PMC Expanded Facilities or the Additional Facility, as applicable.

- (iii) Upon ninety (90) days' prior written notice, subject to PPH's ability to cure the asserted breach prior to the expiration of such ninety (90) day period, if:
- (A) except as provided above in this Section 13.3.1(a), PPH commits a material breach of this Agreement;
- (B) Medical Group is unable to enter into and/or maintain (other than due to Medical Group's uncured material breach) a reasonably satisfactory contract with an exclusive provider of Hospital-Based Professional Medical Services, as provided in Appendix 2.1.1 (Hospital-Based Professional Medical Services); or
- (C) there is a material failure of PPH to comply substantially with the Performance Standards, if any, established pursuant to Section 5.6 (Performance Standards).

(b) By PPH.

PPH may terminate this Agreement on written notice to KFH, as follows:

- (i) Immediately on the effective date of the termination of Health Plan's license as a California health care service plan.
- (ii) Upon thirty (30) days' prior written notice, subject to KFH's ability to cure the asserted breach prior to the expiration of such thirty (30) day period, if:
- (A) To the extent legally permissible, Kaiser Permanente files a petition in or for bankruptcy or reorganization, or an arrangement with creditors, or is unable to pay its debts as they become due; or a trustee, receiver, or other custodian is appointed on KFH's behalf for all or a substantial portion of its assets, and this appointment is not vacated or stayed within the thirty (30) day period.
- (B) Any insurance or other program required to be maintained or arranged for by Kaiser Permanente pursuant to Article 10 (Insurance and Indemnification) is canceled or terminated, or modified such that Kaiser Permanente no longer complies with Article 10 (Insurance and Indemnification).
- (C) KFH commits a material breach of its obligations pursuant to Section 4.2.2 (Payment), other than with respect to claims for payment of Direct Patient Care Rates under Attachment A to Appendix 4.1 (Rates) for which the Knox-Keene Act provides for payment of interest and/or penalties as a statutory remedy.
- (D) KFH unreasonably disapproves of a revised plan proposed by PPH pursuant to Section 13.7.2 (Major Damage).
- (iii) Upon one hundred eighty (180) days' prior written notice, if KFH commits a material breach of this Agreement other than as described in Section 13.3.1(b)(i) and (ii).

13.3.2 Medicare+Choice Termination.

In the event that the Medicare+Choice contract between Health Plan and CMS is terminated or not renewed, this Agreement shall simultaneously terminate as to Medicare+Choice Members, unless

CMS, Health Plan and PPH agree to the contrary. Such termination shall be accomplished by delivery upon at least fifteen (15) working days notice (or less, if required by CMS) prior written notice to PPH of the date upon which such termination shall become effective.

13.4 Effect of Notice of Termination

Upon receiving notice of termination pursuant to Section 13.3.1(a)(ii), 13.3.1(a)(iii), 13.3.1(b)(iii) or 13.3.1(b)(iii), the breaching party shall have a period of time equivalent to the number of days prior written notice required by such Section to cure the default; provided, however, that if the default cannot be cured within such period, but can be cured within a reasonable time, and within such period the defaulting party, to the reasonable satisfaction of the non-defaulting party, commences and diligently pursues a cure, this Agreement shall not terminate. If a default that cannot be cured within the notice period has not within a reasonable time been cured or a cure has not been commenced and pursued to the reasonable satisfaction of the non-defaulting party, the non-defaulting party may terminate this Agreement by giving further written notice to the breaching party, which notice shall set forth (i) the basis upon which such party has determined that the other party has failed to cure or otherwise eliminate the circumstances constituting cause for termination and (ii) the effective date of termination.

Upon the giving of a notice of termination by a party pursuant to any provision of Section 13.3.1 (Termination for Cause), without regard to the right of a breaching party to cure a default, KFH and PPH shall meet and confer (the "Termination Meet and Confer") no later than fifteen (15) days after the notice to determine in good faith an appropriate plan for curing the breach or otherwise remedying the basis for the cause for termination. Failure of the breaching party timely to meet and confer in good faith, other than in the case of the non-breaching parties' unwillingness or unavailability to do so, shall entitle the party who gave the notice to accelerate, by further written notice to the breaching party, the effective date of termination to a date no sooner than thirty (30) days after the date of the first notice.

Unless the Termination Meet and Confer results in an appropriate plan for curing the breach or otherwise remedying the basis (if remedy is available) for the cause for termination, the party that receives the notice of termination may, in its reasonable discretion, invoke Dispute Resolution proceedings pursuant to Article 9 hereof. If such Dispute Resolution proceedings have not concluded as of the effective date of such termination, and if PPH is the party that provided the notice of termination, then PPH shall have the right to suspend performance of this Agreement. If such Dispute Resolution proceedings have not concluded as of the effective date of such termination, and if KFH is the party that provided the notice of termination, then PPH and KFH shall provisionally amend this Agreement for the duration of the Dispute Resolution Proceedings (the "Provisional Amendment") in order to accomplish the following: (1) limit KFH compensation payable for Covered Hospital Services to payment of Direct Patient Care Rates only

however, that if the Term of the Agreement resumes following conclusion of the Dispute Resolution Proceedings, any suspension shall no longer apply and any Provisional Amendment shall terminate and be of no further force or effect except with respect to the parties' respective rights and obligations accruing prior to termination of the Provisional Amendment. The rights and obligations of the parties pursuant to Section 13.5 herein shall apply during the suspension of, or duration of the Provisional Amendment to, the Agreement as though termination had occurred with finality. If both parties have cause to provide notice of termination to the other party, then each shall have recourse to remedies provided in the preceding sentences. Except as otherwise set forth above in this paragraph, all other rights and obligations of the parties under this Agreement shall remain in full force and effect prior to any suspension of, or Provisional Amendment of, the Agreement.

Notwithstanding the foregoing, if notice of termination results from the termination of PMC's or any other Facility's licensure (Section 13.3.1(a)(i)(A)), results in permanent revocation of provider certification in the Medicare or Medi-Cal program (Section 13.3.1(a)(i)(B), results in termination of facility licensure (Section 13.3.1(a)(i)(C), or if notice of termination results from termination of Health

Plan's license as a California health care service plan (Section 13.3.1(b)(i) (collectively, the "Illegal Operation Notices"), then the parties shall suspend performance of this Agreement immediately upon the provision of such notice as necessary to avoid illegality. Notwithstanding the foregoing, (i) with respect to PPH, the Term of this Agreement shall, if applicable, revive immediately upon reversal of the termination that gave rise to the notice of termination, provided that any adverse findings with respect to PPH, PMC, or any of the Facilities that may have caused such grounds for termination have been reversed or vacated; and (ii) with respect to KFH, the Term of this Agreement shall, if applicable, revive immediately upon reversal of the termination that gave rise to the notice of termination, provided that any adverse findings with respect to KFH that may have caused such termination has been reversed or vacated. The rights and obligations of the parties pursuant to Section 13.5 below shall continue to the extent applicable during the suspension of performance as though termination had occurred with finality. The parties shall conduct a Termination Meet and Confer no later than ten (10) days following the provision of notice of termination to discuss remaining obligations pursuant to the Agreement and during the course of any Dispute Resolution proceedings that might apply.

13.5 Effect of Termination.

13.5.1 Continuation of Covered Hospital Services.

Following the effective date of termination of this Agreement, PPH shall continue to provide Covered Hospital Services under the terms of this Agreement to each Member under the care of PPH at the time of termination, until the Covered Hospital Services being provided are completed and the Members are discharged, until KFH makes reasonable and medically appropriate provision for the assumption of such Covered Hospital Services by a new contractor or by KFH, whichever is sooner. Upon termination of this Agreement, PPH shall act in such a manner as to facilitate assumption of Covered Hospital Services by KFH or a new contractor, including cooperating with KFH in arranging for the medically appropriate transfer of Members under the care of PPH to another provider designated by KFH.

13.5.2 Post-Termination Compensation.

Following the effective date of termination of this Agreement, KFH shall continue to pay PPH the rates set forth in Appendix 4.1 (Rates) in effect under this Agreement as of the effective date of termination (less applicable Copayments) for Covered Hospital Services provided by PPH to Members who are under the care of PPH as of the date of termination, until the earlier of (i) the Hospital Services being provided to such Member by or through PPH are completed and the Member is discharged, or (ii) KFH makes reasonable and medically appropriate alternative provisions for the transfer and assumption of such Covered Hospital Services by a new contractor or by KFH. Such rate shall be paid following the provision of Covered Hospital Services, pursuant to the procedures set forth in Article 4 (Compensation, Billing and Payment). Such rates shall remain in effect until all Members who are under the care of PPH as of the effective date of termination have been discharged from the Facilities.





13.5.3 Insolvency of KFH or Health Plan.

In the event of the insolvency or other cessation of operations of KFH or Health Plan, PPH shall continue to provide Covered Hospital Services to Members who are Inpatients on the date of insolvency or other cessation of operations until their discharge.

13.5.4 Notice and Hearing Rights upon Suspension or Termination of Agreement.

In the event that KFH suspends or terminates this Agreement and gives written notice of such to PPH, Independent Physicians for whom PPH typically bills Professional Medical Services on PPH's billing statements together with Hospital Services, if any, shall have such rights to notice and a hearing as required by the Medicare+Choice statutes, rules and regulations. PPH shall give each Independent Physician who is entitled to notice and a hearing under the Medicare+Choice Program written notice of such suspension or termination. The notice shall include notice of the right to appeal and the process and timing for such appeal or reference to Kaiser Permanente's applicable policies and procedures. Notwithstanding any such rights of appeal, the suspension or termination shall be final within the period stated in such notice to PPH. Nothing stated herein shall prohibit KFH from contracting with other providers to provide the Covered Hospital Services under this Agreement, and PPH shall have no claim whatsoever against KFH if it exercises such right. PPH shall have no rights of appeal.

Nothing stated herein shall create any contract rights, whether express or implied, in favor of a physician who is not a signatory to this Agreement. Further, no notice, appeal or hearing shall have the effect of tolling the term neither of this Agreement during the notice or appeal period nor of extending the term of this Agreement beyond the date stated in the Agreement or the notice of termination.

In the event that this Agreement terminates at the end of its term, such termination is by mutual consent and is not a suspension or termination for purposes of this section. A non-renewal of this Agreement shall not be considered a suspension or termination.

13.5.5 Other Agreements.

Termination of this Agreement shall not affect any other agreement between the parties except in accordance with the terms of such agreement.

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13.6 Survival.

13.6.1 Provisions Requiring Completion of Performance.

Provisions of this Agreement that are not fully performed or are not capable of being fully performed as of the effective date of termination or nonrenewal shall survive the termination of this Agreement, including Section 5.1 (Quality Assessment and Improvement), Section 5.4 (Utilization Management), Section 8.1 (Maintenance of Medical Records) through and including Section 8.10 (Confidentiality of Information), Section 9.4 (Dispute Resolution), Article 10 (Insurance and Indemnification) and Article 14 (Compliance with Laws).

13.6.2 Members Not Liable.

Article 4 (Compensation, Billing and Payment) and Section 13.5.3 (Insolvency of KFH or Health Plan) shall (i) survive the termination of this Agreement regardless of the cause giving rise to termination, (ii) be construed to be for the benefit of Members and (iii) supersede any oral or written contrary agreement now existing or subsequently entered into by the parties. Any modification to this Section 13.6.2 shall become effective only after proper state and federal regulatory authorities have received written notification of the proposed change.

13.7 Damage to Facilities.

If the Facilities are damaged or destroyed in whole or in part, whether material or immaterial, PPH shall promptly provide notice to KFH and shall proceed as follows:

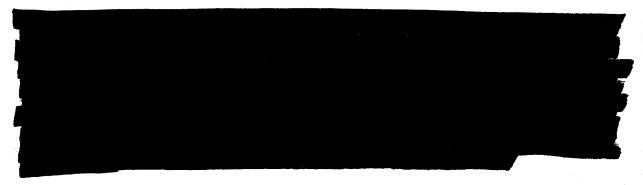
13.7.1 Minor Damage.

If the Facilities sustain damage that prevents PPH from providing any of the Hospital Services required by this Agreement, but PPH in good faith represents in writing to KFH that PPH can resume all such Hospital Services within thirty (30) days after the date of such damage, this Agreement shall continue in full force and effect. If PPH is unable to provide all of the Hospital Services required by this Agreement within such thirty (30) day period, Subsection 13.7.2 (Major Damage) shall govern.

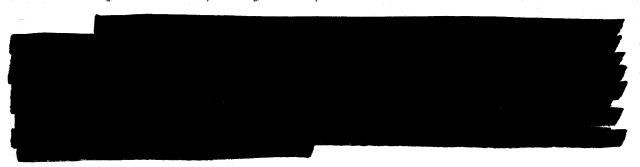
13.7.2 Major Damage.

- (a) If the Facilities sustain damage that prevents PPH from providing any of the Covered Hospital Services required by this Agreement for longer than thirty (30) days from the date of such damage ("Major Damage"):
- (i) within five (5) working days, the JOC shall meet for the purpose of receiving a report from PPH on the nature and extent of the Major Damage and to discuss preliminarily the feasibility and desirability of effecting repair and reconstruction;
- (ii) within seven (7) working days after such meeting, PPH shall develop and present to KFH a short-term plan for providing Covered Hospital Services pending the implementation of a long-term plan developed pursuant to Subsection 13.7.2 (c) below. KFH, in consultation with Medical Group, in good faith shall grant or withhold its approval of such plan within seven (7) working days after submission by PPH, which approval shall not be unreasonably withheld. Upon approval by KFH, the short-term plan shall be attached to this Agreement as Appendix 13.7.2-1, and PPH shall immediately implement such plan;

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(b) In the event that this Agreement is not terminated pursuant to Subsection 13.7:2(a) above, the parties shall cooperate to make arrangements with alternative health care facilities, reasonably acceptable to KFH, at which Covered Hospital Services can be provided during the period during which PPH is unable to provide any Covered Hospital Services. The selection of such facilities shall take into consideration the geographic accessibility to Members, Kaiser Permanente's need to prevent membership loss by meeting Members' needs for convenient Hospital Services, the parties' mutual desire to use their internal resources to serve Members, and the need to balance service considerations against the cost of providing such Hospital Services.



13.7.3 Effect of Termination.

The provisions of Sections 13.5.1 (Continuation of Covered Hospital Services) and 13.5.2 (Post-Termination Compensation) shall apply in the event of termination pursuant to this Section 13.7.

ARTICLE 14 - COMPLIANCE WITH LAWS

14.1 Applicable Local, State and Federal Laws, Regulations, Rules and Directions.

- (a) PPH shall comply with all local, state and federal laws, regulations, rules and directions applicable to the performance of its obligations under this Agreement.
- (b) KFH shall comply with all local, state and federal laws, regulations applicable to the performance of its obligations under this Agreement.

14.2 Knox-Keene Act.

In the performance of PPH's responsibilities under this Agreement, PPH agrees to: (i) comply with the provisions of the Knox-Keene Act and the regulations promulgated thereunder applicable to PPH, (ii) cooperate with Health Plan, KFH and Medical Group in complying with such provisions, including the medical survey procedure under the Knox-Keene Act and (iii) subject to any recognized statutory or common law privileges, participate in, and comply with the recommendations of, office audits and quality assurance studies in accordance with the requirements under the Knox-Keene Act and

regulatory authority thereunder. The parties to this Agreement shall be bound by all of the requirements of the Knox-Keene Act and regulations, whether or not they are expressly stated in this Agreement.

14.3 Medi-Cal Program.

This Agreement shall be governed by and construed in accordance with contractual requirements imposed upon Health Plan under the Medi-Cal Program.

14.4 Licensing, Certification and Accreditation.

PPH shall be, and remain throughout the Term, duly licensed by the State of California, accredited by JCAHO and certified by the Medicare and Medi-Cal programs, under Title XVIII and Title XIX, respectively, of the Social Security Act. PPH shall provide documentary evidence of its licensing, certification and accreditation (i) upon execution of this Agreement, (ii) upon any change in licensing, certification or accreditation, and (iii) annually. PPH shall provide written notification to KFH immediately upon the initiation of any legal, JCAHO, regulatory or governmental action that has more than a minimal likelihood of materially affecting PPH's ability to perform its obligations under this Agreement and shall notify KFH immediately upon any material change in PPH's license, certification or JCAHO accreditation. PPH shall comply with the standards of NCQA and other external and KP quality certification requirements, as they apply to Hospital Services provided under this Agreement, including the provisions set forth in Appendix 14.4 (Quality Assurance Requirements). PPH may, from time to time, satisfy the requirements of this Section by foregoing such accreditation if JCAHO and/or NCQA cease to exist or are no longer providing such accreditation, and no alternative accrediting authority exists to replace them.

14.5 Nondiscrimination.

14.5.1 Prohibited Discrimination Against Members.

PPH shall not discriminate against Members on the basis of race, color, creed, religion, sex, sexual orientation, national origin, health status, age, ancestry, physical or mental handicap, marital status, veteran's status, income, source of payment or status as a Member of Health Plan, or because a Member has filed a complaint concerning PPH. PPH shall not condition treatment or otherwise discriminate on the basis of whether a Member has executed an advance directive. PPH shall comply with Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973. PPH shall provide reasonable access and accommodation to persons with disabilities to the extent required of a health services provider under the Americans with Disabilities Act or any applicable state law.

14.5.2 Compliance with Government Contractor Requirements.

PPH recognizes that as a government contractor, Health Plan and KFH are subject to various federal laws, executive orders and regulations regarding equal opportunity and affirmative action that may also be applicable to subcontractors. PPH, therefore, agrees that any and all applicable equal opportunity and affirmative action clauses shall be incorporated herein as required by federal laws, executive orders, and regulations, including the following:

- (a) The nondiscrimination and affirmative action clauses contained in: Executive Order 11246; the Rehabilitation Act of 1973; the Vietnam Era Veterans Readjustment Assistance Act of 1974; and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60 of the Code of Federal Regulations.
- (b) The utilization of small and minority business concerns clauses contained in: the Small Business Act; Executive Order 11625, and the Federal Acquisition Regulation (FAR) at 48 CFR Chapter 1, Part 19, Subchapter D and Part 52, Subchapter H.

14.5.3 Prohibited Discrimination Against Employees.

During the performance of this Agreement, PPH shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual orientation, age, or sex. PPH shall insure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. PPH shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Sections 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0, et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. PPH shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other agreement.

14.6 Disqualified Persons.

PPH shall not employ or contract with directly or indirectly, entities or individuals excluded from participation in Medicare or Medicaid under Sections 1128 or 1128A of the Social Security Act, for the provision of health care services, utilization review, medical social work, or administrative services with respect to Members. If PPH becomes aware that it has employed or contracted with such a person, PPH shall take prompt and appropriate remedial action.

14.7 Title 22 Requirements.

Administrative and professional responsibility for Outpatient Services provided by PPH to patients of KFH shall remain with KFH, as required by Title 22 CCR Section 70713. The foregoing shall not modify the allocation of liability or indemnification obligations between the parties as set forth in this Agreement or as otherwise provided by law.

14.8 Subcontracting.

If PPH arranges for the provision of any Covered Hospital Services from other health care providers, PPH shall include in its written agreements with such providers all of the contractual and legal obligations from time to time required by all laws, regulations, rules and directions of CMS, DMHC, DHS and other governmental and accrediting agencies including: the provisions as set forth in Section 2.1 (Hospital Services), 2.10 (Continuation of Services for Medicare+Choice Members), Section 4.2 (Billing and Payment), Section 4.8 (Payment in Full), Section 5.1 (Quality Assessment and Improvement), Section 6.3 (Privileging), Section 6.10 (Qualifications of Independent Physicians and Allied Health Practitioners), Article 8 (Maintenance of Medical Records and Business Records) and Article 14 (Compliance with Laws). Upon request, PPH shall make such written agreements available to Kaiser Permanente, DHS, Medi-Cal Plans, DHMC, CMS and any other governmental or accrediting agencies for review. To the extent that any governmental or accrediting agency requires additional provisions to be included in such subcontracts, PPH shall amend its contracts accordingly, or to the extent permitted by law, such amendments shall be deemed included in all such subcontracts.

14.9 Accoumability to CMS.

Kaiser Permanente is responsible to CMS for providing oversight in the administration of the provisions governing the Medicare+Choice Program for Members enrolled in the Kaiser Permanente Senior Advantage program and in any other Medicare product offered by Health Plan.

ARTICLE 15 - MISCELLANEOUS

15.1 Counterparts.

This Agreement may be signed in multiple counterparts, which shall, when executed by all parties, constitute a single binding Agreement.

15.2 Nondisclosure.

Except as otherwise expressly provided in this Agreement and consistent with Section 8.10 (Confidentiality of Information), neither PPH nor KFH shall disclose to any person not a party to this Agreement in any manner whatsoever any information in or about this Agreement, including, information about either party's duties or benefits hereunder or the contents of any of the Appendices without the prior written consent of the other party. PPH and KFH, however, will work together on a joint announcement and its joint release to notify the public of the fact that this Agreement has been executed. Notwithstanding anything to the contrary stated herein, (i) KFH, in its own discretion, may disclose to Health Plan and Medical Group, and to the respective officers, directors, employees, attorneys, accountants, consultants or other advisors of an such entity only to the extent necessary for the proper drafting, negotiation and implementation hereof, any information about this Agreement obtained as a result of this Agreement and (ii) PPH, in its own discretion, may disclose to entities controlled by or under common control with PPH, and their respective officers, directors, employees, attorneys, accountants, consultants or other advisors only to the extent necessary for the proper drafting, negotiation and implementation hereof, any information about this Agreement obtained as a result of this Agreement.

15.3 Identification of PPH.

Health Plan, KFH and Medical Group hereby are given the written approval of PPH to list and publicize the name, address and telephone number of the Facilities and a description of the Facilities and Hospital Services in membership materials and in lists typically furnished to Health Plan's, KFH's and Medical Group's other providers to facilitate referrals ("Member/Provider Materials"). Health Plan, KFH and Medical Group shall not list or publicize any of the above information and/or pictorial representations of the Facilities and their locations (e.g., by means of maps, video tapes and/or photographs) and/or other information, such as awards, accolades and commendations relating to the provision of Hospital Services, in advertisements, promotional materials and other information directed to current and/or prospective Members ("Marketing Materials") without the prior written consent of PPH, which consent shall not be unreasonably delayed or withheld, and further provided that once PPH has provided consent with respect to certain information and/or presentation of information in Marketing Materials, consent need not be sought or obtained again by KP with respect to such information and/or presentation. The parties shall exercise their best efforts to expedite review of Member/Provider Materials and Marketing Materials pursuant to this Section, and shall, whenever possible, coordinate review of such materials in a manner that avoids duplicative or inconsistent determinations with respect to similar items.

15.4 Identification of KFH, Health Plan and Medical Group.

PPH is hereby granted the authority to use KFH's, Medical Group's and Health Plan's name, address and telephone number in handbooks and newsletters. Except as otherwise provided herein, PPH shall not use KFH's, Medical Group's or Health Plan's name or the name "Kaiser Permanente" or any symbols owned by these entities in any manner or publish these names or proprietary symbols in any other literature or materials without the prior review and written approval of Health Plan's Public Affairs Manager or designee. Such review shall be timely and approval shall not be unreasonably withheld.

15.5 Proprietary Marks of KFH, Health Plan and Medical Group,

Except as otherwise expressly provided in this Agreement, KFH reserves for itself and for Health Plan and Medical Group, the right to use and control the use of their names, symbols, trademarks and service marks now existing or later established by any of such entities or other entities participating in the program known as the "Kaiser Permanente Medical Care Program." PPH shall use the names, symbols, trademarks and service marks of KFH, Health Plan, Medical Group or any other entities participating in the program known as the "Kaiser Permanente Medical Care Program" in advertising or promotional materials or any other material whatsoever only with the prior written consent of the legal owner of such name, symbol, trademark or service mark, and in accordance with any restrictions imposed by the owner on such use.

15.6 Proprietary Marks of PPH.

Except as otherwise expressly provided in this Agreement, PPH reserves for itself the right to use and control the use of their names, symbols, trademarks and service marks now existing or later established by any of such entities, including the names, symbols, trademarks or service marks associated with PPH and the Facilities, and KFH shall use the names, symbols, trademarks or service marks in any advertising or promotional material or otherwise only with the prior written consent of the legal owner of such mane, symbol, trademark or service mark, and in accordance with any restrictions imposed by the owner on such use.

15.7 Consultation and Cooperation.

The parties shall consult with each other regarding any issue pertaining to this Agreement which causes media interest or a party's concern about public relations, and the parties shall cooperate in developing any statements or press releases in connection with any such issue. When situations arise involving Members that have a public, community, political or media impact, KFH and PPH shall coordinate and cooperate in all aspects of their response(s).

15.8 Independent Contractors.

In the execution and performance of this Agreement, it is intended and agreed that each of the parties hereto is and shall be at all times acting as independent contractors of each other. Nothing in this Agreement shall be construed or deemed to create a relationship of employer and employee, principal and agent, partnership, joint venture or association, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of this Agreement. No party hereto has any authority to enter into any contracts, assume any obligations or make any representations or warranties on behalf of any other party hereto. No employees of a party hereunder is or shall be deemed an employee of any other party hereunder for any purpose, including employee welfare and pension benefits, fringe benefits of employment, workers' compensation, disability insurance or compensation for services. Each party warrants that it shall be responsible for all legally required tax withholding for itself and its employees.

15.9 Third Party Beneficiaries.

This Agreement is not intended to create, and does not create, any third-party beneficiary rights in any person (including any Members), except (i) Medical Group shall be a third party beneficiary of Appendix 2.1.1 (Hospital-Based Professional Medical Services), and (ii) as provided in Section 4.8 (Payment in Full) and Section 13.6.2 (Members Not Liable) and (iii) Health Plan shall be a beneficiary of the obligations and covenants of PPH under this Agreement; and without limiting the generality of the foregoing, no third parties shall be the beneficiaries of Section 2.8 (Independent Physicians in the Area), it being the intent of the parties that the right to enforce Section 2.8 (Independent Physicians in the Area) shall be exclusively with PPH. No action to enforce the terms of this Agreement may be brought by any

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person who is not a party hereto, except Health Plan. The addition of Health Plan or Medical Group as a third party beneficiary as set forth above shall not under any circumstances increase or otherwise change the nature of PPH's obligations under this Agreement.

15.10 Assignment: Change of Control.

15.10.1 Assignment by PPH.

This Agreement may not be assigned, transferred, subcontracted or delegated, in whole or in part, by PPH without the prior written consent of KFH, which consent may be withheld in KFH's sole and absolute discretion; provided, however, that PPH may assign this Agreement or delegate any of its rights under this Agreement, to a California nonprofit public benefit corporation subsidiary controlled by PPH if such assignment or delegation does not result in a Change of Control and such assignee or delegate has assumed in writing all rights and obligations that accrue from and after the effective date of assignment; provided, further, that if such assignment has been made, then such assignee may not, in turn, assign, transfer, subcontract or delegate, directly or by operation of law, this Agreement in whole or in part without the prior written consent of KFH, which consent may be delayed or withheld in KFH's sole and absolute discretion. The foregoing shall not in any way be deemed to modify or be inconsistent with the limitations on Change of Control as set forth below in Section 15,10.3.

15.10.2 Assignment by KFH.

This Agreement may not be assigned, transferred, subcontracted or delegated, in whole or in part, by KFH without the prior written consent of PPH, which consent may be withheld in PPH's sole and absolute discretion; provided, however, that KFH shall have the following assignment rights:

- (a) KFH may assign this Agreement, or delegate any of its rights under this Agreement, to KFH or Health Plan, or any wholly-owned subsidiary of KFH or Health Plan, so that this Agreement or such rights are held by KFH and/or Health Plan (or its respective subsidiary) exclusively, or by KFH and/or Health Plan (or its respective subsidiary) on a joint basis, if but only if such assignee has not engaged in a Change of Control on or after the Effective Date; provided, however, that (i) such assignee has assumed in writing all obligations correlative to the rights assigned that accrue from and after the effective date of assignment, and (ii) following any such assignment to KFH, Health Plan, or both, neither KFH nor such assignee(s) may (except with respect to the entities specifically set forth above in this paragraph, in accord with the terms of this paragraph) further assign, transfer, subcontract or delegate, directly or by operation of law, this Agreement in whole or in part, without the prior written consent of PPH.
- KFH or its permitted assignee pursuant to paragraph (a) of this Subsection 15,10.2 may assign the rights and responsibilities set forth in the Sections of this Agreement specified below to any other health care service plan licensed by the State of California pursuant to the Knox-Keene Act or a successor law (a "Successor Plan"), which agrees to assume KFH's responsibilities under such Sections from and after the effective date of such assignment if the following circumstances apply: (i) the Successor Plan's credit worthiness, as measured by the public rating from any nationally recognized rating agency, is at a level equal to or greater than the claims paying rating of Health Plan as of the Effective Date: or (ii) if the Successor Plan has a lesser claims paying rating than Health Plan. Health Plan (or in the sole discretion of PPH, an Affiliate of Health Plan, including without limitation KFH) guarantees in writing all compensation due PPH for any purpose under this Agreement by such assignee (including without limitation the Fixed Payments) from the effective date of such assignment for the remainder of the then current Initial Term or then current extension term (and which guaranty shall terminate and be of no further force and effect after the expiration of the then current Initial Term or extension term regardless of whether this Agreement shall not extend for any additional period after the then current Initial Term or extension term unless PPH agrees to such extension with such assignee in writing, notwithstanding PPH's failure to provide a Notice of Non-Renewal in accordance with Section 13.1

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(Term). The rights and responsibilities under this Agreement that may be assigned pursuant to clause (i) or (ii) of this subsection in accord with this Section 15.10.2(b) are limited to the following: Such provisions of Article 1 as apply to the remainder of the Agreement; all of Article 2, except for Sections 2.1.1 and 2.8); all of Articles 3, 4, and 5; Section 6.10; Articles 7, 8, 9, 10, and 11; Article 12, except Section 12.2; and Articles 13 through 15. If and to the extent the approval of any state agency is required by law or pursuant to Health Plan's Medi-Cal or SCHIP contracts, assignment or delegation of this Agreement shall be contingent upon such approval being obtained or, in the election of KFH, to the extent legally permissible, this Agreement shall be assigned without application to affected Members. Notwithstanding anything in the foregoing to the contrary, the term "Successor Health Plan" shall be strictly construed, and shall not include limited license Knox-Keene Plans, or any integrated delivery system, hospital or physician group as a result of their affiliation or contract with a Successor Plan.

15.10.3 Change of Control.

PPH shall not permit or engage in a Change of Control unless, prior to implementing such Change of Control, PPH and KFH agree that each of the following conditions has been satisfied:

- (a) The Change of Control will not result in a change in the organizational form of the surviving entity; and
- (b) PPH shall have certified to KFH that, immediately after the date of the proposed transaction, neither a breach under this Agreement by PPH nor an event that, with the passage of time or the giving of notice or both, would become a breach under this Agreement, shall have occurred: and
- (c) PPH shall have caused to be delivered to KFH an opinion of counsel, in form and substance reasonably satisfactory to both parties, referencing facts attested to by an officer of PPH, to the effect that the contemplated transaction does not adversely affect the enforceability of this Agreement or the ability of the successor to perform all obligations of PPH from and after such Change of Control; and
- (d) The successor or surviving entity shall have assumed in writing all obligations that accrue from and after the Change of Control.

15.11 Successors and Assigns,

Subject to the restrictions on assignment contained herein, this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns.

15.12 Change to this Agreement.

15.12.1 Mutual Written Consent.

Unless otherwise specifically provided in this Agreement, this Agreement may be Changed only by the mutual, written consent of the parties.

15.12.2 Required Modifications.

Unless otherwise specifically provided in this Agreement, this Agreement may be amended only by mutual, written consent of each party's duly authorized representative(s). Notwithstanding the foregoing, if any Agency (including any private accreditation agency) requires, or if KFH reasonably determines necessary, any modification of this Agreement or the Manual in order for this Agreement to be in conformity with applicable federal or state law or regulation, or private accreditation agency requirements, or requirements for participation in federal health care programs, KFH shall notify PPH of such proposed modification ("Required Modification"). Any such Required Modification shall be deemed accepted by PPH, and this Agreement so amended, if PPH does not, within the shorter of (i) forty-five

(45) business days following the date of delivery of notice thereof or (ii) such shorter time period required to comply with the applicable law or private accreditation agency requirement, deliver to KFH its written rejection of such Required Modification. In the event of such a rejection of the Required Modification by PPH, KFH shall have the right, but not the obligation, to terminate this Agreement in accordance with Section 13.3.1(a)(i)(G).

15.13 Entire Agreement of Parties.

This Agreement, including all appendices, exhibits and other attachments hereto which are attached hereto and hereby incorporated herein by reference, contain the entire agreement between KFH and PPH relating to the subject matter hereof. Any prior negotiations, proposals or understandings relating to the subject matter of this Agreement, between KFH and PPH or any PPH subsidiary or PPH affiliate, not expressly set forth herein are superseded.

15.14 Remedies: Limits on Certain Damages.

All rights and remedies provided for in this Agreement are cumulative, and not in derogation of any other rights or remedies that may exist in equity or at law. The foregoing notwithstanding, except to the extent expressly set forth in this Agreement to the contrary, no party hereto shall be liable to the other for damages other than actual or compensatory damages. Actual or compensatory damages exclude, without limitation, consequential, expectancy, incidental, prospective, speculative, punitive and exemplary damages.

15.15 Notices.

Unless expressly provided otherwise, all notices herein provided to be given, or which may be given, shall be deemed to have been fully given three (3) days after deposited in the United States mail, certified and postage prepaid, return receipt requested, or one (1) day after delivered to an overnight delivery service with written proof of delivery, or on the same day delivered in person, and addressed as follows:

To KFH:

Kaiser Foundation Hospitals 393 E Walnut Street, 7th Floor

Pasadena, CA 91188

Atm: Vice President, Community Medical Services

Telephone: 626-405-5174

With copies to:

Kaiser Foundation Hospitals

4511 Orcuit Avenue San Diego, CA 92108

Attn: San Diego Service Area Manager

Telephone: 619-528-3390

Kaiser Foundation Hospitals

393 E Walnut Street Pasadena, CA 91188

Attn: Legal Department, Business Section

Telephone: 626-405-5041

To Medical Group (to

the extent specified): Southern California Permanente Medical Group

4511 Orcutt Avenue

San Diego, CA 92108

Attn: Area Associate Medical Director-San Diego

Telephone: 619-528-5812

To PPH:

Palomar Pomerado Health

15255 Innovation Drive, Suite 204 San Diego, CA 92128-3410

Attn: Vice President of Finance & Chief Financial Officer

Telephone: 858-675-5562

With a copy to:

Palomar Pomerado Health

15255 Innovation Drive, Suite 204 San Diego, CA 92128-3410

Attn: President & Chief Executive Officer

Telephone: 858-675-5107

With respect to any notice sent by either party pursuant to this Section 15.15 relating to a termination event or event which, if not cured or with the passage of time or upon notice, would be the basis for termination, such notice shall not be valid unless it is signed by at least two (2) officers of the party sending such notice with a title of Vice President or higher. Any party that changes its address shall notify promptly the other parties in writing of its new address in accordance with the procedure set forth in this Section. If required by Health Plan's Medi-Cal agreements of which PPH has knowledge, PPH shall provide notice of amendment or termination of this Agreement to DHS and Medi-Cal Plans, by first-class, certified mail, postage prepaid.

15.16 Waiver.

No party shall be deemed to have waived any rights or remedies hereunder unless the waiver is made in writing and signed by the waiving party or that party's duly authorized representative. Except as expressly provided herein to the contrary, all rights and remedies provided for under this Agreement are cumulative. A waiver by any party of a breach of a provision of this Agreement or warranty or representation set forth herein shall not constitute a waiver of that provision, warranty or representation or any other provision, warranty or representation.

15.17 Severability.

If any provision of this Agreement is held to be invalid, void or unenforceable, the remaining provisions hereof shall continue in full force and effect, provided that the remaining provisions continue to contain all material legal and business terms.

15.18 Time Is of the Essence.

Time is of the essence in each and all of the agreements, covenants and conditions of this Agreement.

15.19 Good Faith and Fair Dealing.

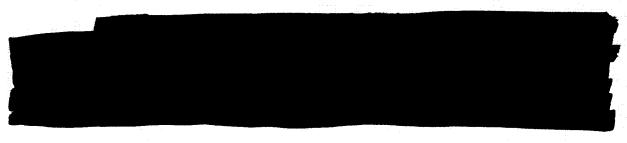
The parties acknowledge that mutual covenants of good faith and fair dealing are implicit terms of this Agreement, as and to the extent required by applicable law.

15.20 Force Majeure.

15.20.1 PPH.

Except as otherwise provided in Section 13.7 (Damage to Facilities), in the event of any nonperformance or defective or late performance by PPH under this Agreement as a result of fire; earthquake; storm; war or mass civil disturbance; terrorism; acts of any Agency (other than any act by an Agency to revoke, suspend or otherwise limit any license, certification or other right of a party); labor disputes resulting in work stoppages that KFH determines in its reasonable discretion were unavoidable or not feasibly prevented by PPH; unavailability or delays of Agencies resulting in failure to survey or accredit PMC or other Facilities as required to provide Hospital Services therein or to bill therefor; substantial failure of public utilities or common carriers, or other causes beyond the reasonable control of PPH (a "PPH Event"), PPH shall not be liable for such nonperformance or defective or late performance, but PPH shall promptly notify KFH of the nature and extent of the PPH Event and the anticipated consequences of the PPH Event on PPH's performance of this Agreement, and if the nonperformance or defective or late performance continues for more than two (2) working days.

- (i) a meeting of the JOC shall be immediately convened for the purpose of receiving a report from PPH on the nature and extent of the PPH Event and to discuss preliminarily the potential consequences of the PPH Event on PPH's ability to continue to perform its obligations under this Agreement in accordance with its terms;
- (ii) within seven (7) working days after such meeting, if the PPH Event shall be continuing, PPH shall develop and present to KFH a short-term plan for providing Covered Hospital Services pending the implementation of a long-term plan developed pursuant to subparagraph (iii) of this Subsection 15.20.1. KFH, in consultation with Medical Group, shall grant or withhold its approval of such plan within seven (7) working days of submission by PPH. Upon approval by KFH, the short-term plan shall be attached to this Agreement as Appendix 15.20.1-1, and PPH shall immediately implement such plan. If KFH does not approve such short-term plan, KFH shall provide PPH reasonable additional time within which to develop a plan acceptable to KFH;
- (iii) within fifteen (15) working days following KFH's approval of the short-term plan pursuant to Section 13.7.2(a)(i), if the PPH Event shall be continuing, PPH shall develop and present to KFH a long-term plan for providing Covered Hospital Services. KFH shall grant or withhold its approval of such plan within fifteen (15) working days of submission by PPH. Upon approval by KFH, the long-term plan shall be attached hereto as Appendix 15.20.1-2, and PPH shall immediately implement such plan. If KFH does not approve such long-term plan, KFH shall provide PPH reasonable additional time within which to develop a plan acceptable to KFH.
- (b) The parties shall cooperate to make arrangements with alternative health care facilities, reasonably acceptable to KFH, at which Covered Hospital Services can be provided during the period during which PPH is unable to provide any Covered Hospital Services. The selection of such facilities shall take into consideration the geographic accessibility to Members, Kaiser Permanente's need to prevent membership loss by meeting Members' needs for convenient services, the parties' mutual desire to use their internal resources to serve Members, and the need to balance service considerations against the cost of providing such services.



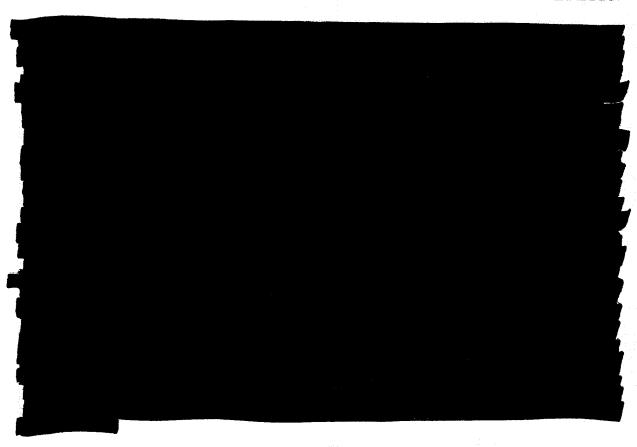
15.20.2 KFH

In the event of any nonperformance or defective or late performance by KFH under this Agreement as a result of fire, earthquake, storm, war, terrorism or civil disturbance, acts of any governmental agency (other than any act by a governmental agency to revoke, suspend or otherwise limit any license, certification or other right of a party as a result of an act or omission of the party), labor disputes, failure of public utilities or common carriers, or other causes beyond the reasonable control of KFH (a "KFH Event"), KFH shall not be liable for such nonperformance or defective or late performance, but KFH shall promptly notify PPH of the nature and extent of the KFH Event and the anticipated consequences of the KFH Event on KFH's performance of this Agreement, and shall regularly, no less than every ten (10) working days of such nonperformance or defective or late performance, provide PPH with a written report of the status of the KFH Event and the anticipated consequences of the KFH Event on KFH's performance or defective or late performance continues for more than two (2) working days,

- (a) a meeting of the JOC shall be immediately convened for the purpose of receiving a report from KFH on the nature and extent of the KFH Event and to discuss preliminarily the potential consequences of the KFH Event on KFH's ability to continue to perform its obligations under this Agreement in accordance with its terms:
- (b) within seven (7) working days after such meeting, if the KFH Event shall be continuing, KFH shall develop and present to PPH a short-term plan for resuming performance pending the implementation of a long-term plan developed pursuant to subparagraph (c). PPH shall grant or withhold its approval of such plan within seven (7) working days of submission by KFH. Upon approval by PPH, the short-term plan shall be attached to this Agreement as Appendix 15.20.2-1, and KFH shall immediately implement such plan. If PPH does not approve such short-term plan, KFH shall provide PPH reasonable additional time within which to develop a plan acceptable to PPH;
- (c) within fifteen (15) working days following PPH's approval of the short-term plan pursuant to Section 13.7.2(b), if the KFH Event shall be continuing, KFH shall develop and present to PPH a long-term plan for resuming performance. PPH shall grant or withhold its approval of such plan within fifteen (15) working days of submission by KFH. Upon approval by PPH, the long-term plan shall be attached hereto as Appendix 15.20.2-2, and KFH shall immediately implement such plan. If PPH does not approve such long-term plan, PPH shall provide KFH reasonable additional time within which to develop a plan acceptable to PPH.

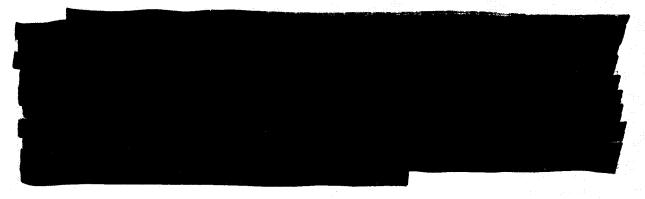
15.21 Electronic Transmission

Nothing contained in any electronically transmitted communication between the parties (including any attachment thereto) shall satisfy the requirements for a writing or constitute a contract or electronic signature under the Electronic Signatures in Global and National Commerce Act, any version of the Uniform Electronic Transactions Act (including California Civil Code Sections 1633 et seq.) or any other statute governing electronic transactions.



"Affiliate" means any legal entity controlled by, under the control of, under common control with, or with common governing board membership with, KFH or Health Plan or other entity referenced above.

"Defined Area" means the geographic area defining the PPH service area in accordance with California law as of the Effective Date. A map generally describing the PPH service area as of the Effective Date is attached hereto as Appendix 15.22 for purposes of general reference, but such map is not a definitive description of the geographic area included in the Defined Area.



[THIS SPACE INTENTIONALLY LEFT BLANK - SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of that date first indicated above in this Agreement.

KAISER FOUNDATION HOSPITALS,	ر پرستانهی
a California nonprofit public benefit corporation	
By State Dat Valent	Ву:
Nathaniel L. Oubre, Jr.	Richard D. Cordova
Title: Senior Vice President- San Diego	Title: President, Southern California Region
Date: Service Area 2/27/04	Date: 3/4/64
PALOMAR POMERADO HEALTH,	
a California statutory hospital district	
By: Micheller	By: / (
Name: Michael H. Covert	Name: Robert Hemker
Title: Président & Chief Executive Office	Title: Chief Financial Officer
Date: 2/1-1/24	Date: 9/27/07

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of that date first indicated above in this Agreement.

KAISER FOUNDATION HOSPITALS, a California nonprofit public benefit corporation By Mathemata Calbri f	By:
Nathaniel L. Oubre, Jr. Title: Senior Vice President- San Diego Service Area Date: 3/21/04	Richard D. Cordova Title: President, Southern California Region Date:
PALOMAR POMERADO HEALTH, a California statutory hospital district	
By:	By: Name: Title: Date:

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EXECUTION VERSION

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KAISER FOUNDATION HOSPITALS, a California nonprofit public benefit corporation

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Date:	Date:	
PALOMAR POMERADO HEALTH, a Culifornia statutory hospital district		
By: Meal H Con	By /	
Name: MICHAEL of COVERS	Name: Replace Flore Hug	

Title:

Date: