

SAGAMORE HEALTH NETWORK
Independent Physician Association PPO Agreement

This Agreement is made and entered into by and between **Sagamore Health Network, Inc.** (Sagamore), and **Children's Community Physicians Association** (IPA).

WHEREAS, Sagamore contracts with health care providers to participate in its preferred provider organization, known as the Sagamore Health Network(s); and

WHEREAS, Sagamore enters into contracts with self-insured employers, insurance carriers, governmental agencies, third party administrators, and other similar entities to provide access to the Sagamore Health Network(s); and

WHEREAS, IPA and IPA Providers wish to participate in the Sagamore Health Network(s) as identified on the attached Network Exhibit(s).

NOW THEREFORE, in consideration of the mutual promises and covenants herein, the sufficiency of which is acknowledged by the parties, the parties agree as follows:

ARTICLE I
DEFINITIONS

As used in this Agreement, the following terms shall, unless the context otherwise requires, have the meanings set forth below:

- 1.1 **Clean Claim** means a claim submitted for payment that has no defect, impropriety, or particular circumstance requiring special treatment preventing payment and which is in compliance with the requirements specified in the SHN Provider Manual.
- 1.2 **Coordination of Benefits** or **COB** means a process by which two or more Health Benefit Plans, which are providing health benefit coverage to the same person at the same time, limit the total benefits the person receives to an amount not exceeding the actual amount of loss.
- 1.3 **Covered Person** means any person who is eligible to receive Covered Services and who is enrolled in a Health Benefit Plan which utilizes one of the Sagamore Health Networks.
- 1.4 **Covered Services** means Medically Necessary services or supplies for which benefits will be paid by the Covered Person's Health Benefit Plan when provided by a health care provider acting within the scope of his/her license.
- 1.5 **Emergency Medical Condition** means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: a) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child), in serious jeopardy; b) serious impairment to bodily functions; or c) serious dysfunction of any bodily organ or part, unless otherwise defined in the Covered Person's Health Benefit Plan and such definition is hereby incorporated by reference.
- 1.6 **Emergency** or **Emergency Services** means an Emergency Medical Condition or accidental bodily injury that reasonably requires the Covered Person to seek immediate medical care unless otherwise defined in the Covered Person's Health Benefit Plan and such definition is hereby incorporated by reference.

- 1.7 **Health Benefit Plan** means a program providing benefit coverage for Health Services issued or administered by a Payor, the plan document, or any other legally enforceable agreement by which a Covered Person may be entitled to benefits for Covered Services.
- 1.8 **Health Services** means those services and supplies that a health care provider is licensed to provide and are normally provided to individuals. Health Services includes both Covered and non-Covered Services.
- 1.9 **IPA Provider(s)** means those health care providers who are members who are participating in the IPA, who have been accepted by Sagamore for participation in SHN; who are legally obligated to the terms and conditions of this Agreement; and who are listed on Schedule 1, which is hereby incorporated by reference.
- 1.10 **Medically Necessary** or **Medical Necessity** has the meaning defined in the Covered Person's Health Benefit Plan and such definition is incorporated by reference.
- 1.11 **Network Exhibit(s)** means the document(s) attached and hereby incorporated by reference into this Agreement which identify the Sagamore Health Network(s) in which IPA is participating and include terms and conditions which apply specifically to that Sagamore Health Network.
- 1.12 **Normal Charges** means IPA or IPA Provider's usual and customary charges for Health Services.
- 1.13 **Payor** means a self-insured employer, an insurance company, a governmental agency, third party administrator, or other entity which has directly or indirectly entered into a legally enforceable contract with Sagamore, in which Payor agrees to compensate or, will require a third party to compensate SHN Providers for Covered Services provided to Covered Persons in accordance with the terms and conditions of this Agreement. For purposes of this Agreement, Sagamore is **not** a Payor.
- 1.14 **Peer Review Committee(s)** means any committee established by Sagamore in accordance with IC 534-30-15-1 *et. seq.*, which oversees and participates in such programs as the credentialing program, the Utilization Management Program, and the Quality Assurance Program.
- 1.15 **Quality Assurance Program** means the projects, policies and procedures established and modified by Sagamore from time to time to assess, including without limitation, the manner and appropriateness of the provision of Health Services.
- 1.16 **Sagamore Adjusted Charge(s)** means the per case rates, per diem rates, the Normal Charges less a specific discount or another negotiated arrangement as specified in this Agreement.
- 1.17 **Sagamore Health Network(s) or SHN** means the preferred provider organization established by Sagamore.
- 1.18 **SHN Provider Agreement** means a legally enforceable direct or indirect agreement between Sagamore and a health care provider in which the health care provider becomes a participant in the Sagamore Health Network(s).
- 1.19 **SHN Providers** means the health care providers who are contracted under a currently valid SHN Provider Agreement to participate in the Sagamore Health Network(s).
- 1.20 **Subcontractors** means any third party which has entered into an agreement with the IPA or an IPA Provider to perform part or all of IPA or IPA Provider's duties or obligations under this Agreement; provided that the foregoing shall be limited to any person, firm, corporation, or other entity providing services of a type normally billed by IPA or IPA Provider on a UB-92,

HCFA-1500 or any subsequent universal form generally accepted in the health insurance industry.

- 1.21 **Utilization Management Program** means the projects, policies and procedures established and modified by Sagamore or its designee from time to time to review, including without limitation, the extent and scope of Health Services provided to Covered Persons.

ARTICLE II SAGAMORE'S RESPONSIBILITIES

Sagamore, by entering into this Agreement, agrees that it will:

- 2.1 Authorize IPA and IPA Providers, for the duration of this Agreement, to identify and publish its status as a participant in the Sagamore Health Network(s). Sagamore reserves the right to control the use of its name and all symbols, trademarks, or service marks presently existing or later established.
- 2.2 Provide IPA with an SHN Provider Manual which Sagamore will modify and update from time to time, and which will govern various functions including without limitation, claim submission, administrative responsibilities, utilization management, and quality assurance and will include information regarding Payors. Sagamore will furnish provider with thirty (30) days written notice of any material changes to the provider manual.
- 2.3 Upon written request, Sagamore will provide IPA with a list of payors on a quarterly basis, or an updated monthly listing of participating payors and Sagamore agrees to provide IPA upon written request, with information relating to payor agreements to resolve payment issues.
- 2.4 Use its best efforts to facilitate resolution of issues that arise between IPA or IPA Providers and Payors.
- 2.5 Require by contract that Payors provide IPA and IPA Providers with inquiry services, including eligibility verification, related to the Covered Person's Health Benefit Plan.
- 2.6 Require by contract that Payors issue Covered Persons identification cards which include Sagamore's name or logo. If the Sagamore name or logo does not appear on the Covered Person's identification card, the discount will not apply. IPA, and IPA represents and warrants that IPA Providers acknowledge and agree that possession alone of such identification card is not proof that the individual is a Covered Person.
- 2.7 Require by contract that Payors provide an adequate explanation of payments made to IPA or IPA Providers.
- 2.8 Require by contract that Payors establish sufficient financial incentives to encourage the Covered Person to utilize SHN Health Network(s). Such incentives shall include, but are not limited to the reduction or elimination of a deductible or the institution of a minimum benefit differential of ten percent (10%) between in and out of network services. Failure of a Payor to incorporate such incentives shall result in the forfeiture of the discount.
- 2.9 Require by contract that Payors maintain sufficient liability insurance to cover claims arising out of acts, omissions, and/or misrepresentations by the Payor.
- 2.10 Require by contract that Payors use Sagamore products in their entirety and shall not exclude any participating Sagamore IPA or IPA Provider.

**ARTICLE III
IPA RESPONSIBILITIES**

IPA, by entering into this Agreement, agrees, and represents and warrants that IPA Providers agree to:

- 3.1 Provide Medically Necessary Health Services, within the usual and customary range of IPA or IPA Provider's services, in a cost-effective manner and in a manner which assures availability, adequacy, and continuity of care to Covered Persons similar to the manner and time period in which IPA or IPA Provider renders services to any other person, and IPA and IPA Providers will not differentiate or discriminate against Covered Persons as a result of their participation as Covered Persons or their source of payment, age, race, color, national origin, religion, sex, sexual preference, health status, or disability.
- 3.2 Warrant that all applications and all other documents provided to Sagamore that relate to initial and continuing participation in the Sagamore Health Network(s) contain true and correct information, and acknowledge that Sagamore is relying on the information. Such applications and all other documents are hereby incorporated by reference into this Agreement.
- 3.3 Participate in, cooperate, and comply with Sagamore's credentialing and recredentialing programs and provide such information as may be necessary to assist Sagamore and its Peer Review Committee in credentialing and recredentialing SHN Providers. IPA and IPA represents and warrants that IPA Providers will expressly authorize Sagamore to solicit and obtain access to information regarding IPA Provider's professional certifications or accreditations, qualifications, malpractice history, and other appropriate information at any time from any source for the duration of this Agreement and IPA Providers will agree to execute such releases as may be necessary. IPA further represents and warrants that upon request, IPA Providers will agree to provide Sagamore with the same data regarding quality of care that it provides to Payors.
- 3.4 Refer and admit Covered Persons to other SHN Providers who are participating in the same Sagamore Health Network identified on the Covered Person's identification card provided, however, referrals and admissions to non-SHN Providers may be made for Emergency Services when no SHN Providers are reasonably available or when a Medically Necessary Health Service is not available through SHN Providers.
- 3.5 Use best efforts to inform the Covered Person that lesser benefits may result under the Health Benefit Plan in the event the IPA Provider refers or admits Covered Person to non-SHN Providers.
- 3.6 Cooperate and comply with Payor's grievance and appeal procedures.
- 3.7 Authorize Sagamore for the duration of this Agreement, to identify and publish IPA and IPA Provider's name, address, telephone number, provider identification number, available services, and other appropriate information in provider directories. At its discretion Sagamore may publish such information in other informational and promotional materials. SHN will not knowingly exclude IPA or IPA Providers from the provider directory. If IPA does not appear in the provider directory due to Sagamore error, corrective action will be taken on Sagamore's part within thirty (30) working days. Corrective action will include, providing all Payors with written notification of IPA's participation in the Sagamore network and immediately updating Sagamore's internet listings.
- 3.8 Cooperate and comply with the programs, policies and procedures set forth in the SHN Provider Manual which will be updated by Sagamore from time to time.

- 3.9 Acknowledge that this Agreement does not authorize IPA to add additional providers or facility locations as SHN IPA Providers without the prior written consent of Sagamore and satisfaction of all credentialing standards then in effect. IPA will provide sixty (60) days prior written notification of any such addition.
- 3.10 Prepare and maintain all appropriate medical, billing, administrative, and other records which involve transactions relating to Covered Persons in accordance with prudent record keeping procedures. IPA and IPA represents and warrants that IPA Providers shall make such medical records or copies thereof available on a concurrent and retrospective basis to Sagamore or its designee to determine medical necessity and appropriateness of care and to appropriate State and federal authorities and their agents involved in assessing the accessibility and availability of care or investigating grievances or complaints of Covered Persons. This provision shall survive five (5) years after the termination of this Agreement.
- 3.11 Provide Sagamore and its representatives, upon reasonable written notice and during normal business hours, with appropriate documentation of Health Services rendered and grant Sagamore the right to inspect, review and make copies of all documents and records maintained by IPA or IPA Providers which relate to the provision and reimbursement of Health Services to Covered Persons. IPA and IPA represents and warrants that IPA Providers agree to provide Sagamore or its designee appropriate working space. IPA or IPA Provider shall be reimbursed for medical record duplication costs, not to exceed the allowable cost under Illinois law.
- 3.12 Immediately provide written notice to Sagamore of any legal, governmental, or other action against IPA or IPA Providers which could materially impair the ability of the IPA or a IPA Provider to meet the duties and obligations of this Agreement, including without limitation such actions as: a) any actions taken by a state licensure board or committee, b) any procedures initiating or involving the revocation or suspension of a IPA Provider's license, c) the suspension from participation in the Medicare or Medicaid Program, d) any loss, surrender, or restriction of a Drug Enforcement Administration (DEA) certificate or state controlled substance prescription authorization, e) the expiration, cancellation, reduction, termination, or lapse for any reason of any insurance policy as required herein, or f) any change or limitation materially affecting IPA or IPA Provider's delivery of Health Services.
- 3.13 Acknowledge that Sagamore does not guarantee that the IPA or any IPA Provider will be utilized by any particular number of Covered Persons.
- 3.14 Acknowledge and agree that all references to IPA also refer to IPA Providers, and IPA represents and warrants that each IPA Provider is bound to the terms and conditions of this Agreement.

ARTICLE IV
UTILIZATION MANAGEMENT and QUALITY ASSURANCE

- 4.1 Participate in, cooperate, and comply, when utilized by the Covered Person's Health Benefit Plan, with Sagamore's Utilization Management Program, or the utilization management program set forth by the Payor in the Covered Person's Health Benefit Plan, including as applicable and without limitation, the certification procedures, concurrent and retrospective evaluations, referral procedures, reporting of clinical encounter data, and grievance and appeal procedures as set forth in the SHN Provider Manual and Covered Person's Health Benefit Plan as may be established and modified from time to time.
- 4.2 Participate in, cooperate, and comply with the Quality Assurance Program as set forth in the SHN Provider Manual as it may be established and modified by Sagamore from time to time.

- 4.3 IPA and IPA represents and warrants that IPA Providers agree to reasonably abide by the decisions of Sagamore and the Peer Review Committee.
- 4.4 If a reduction or denial of benefit payment occurs due to failure of the IPA or IPA Provider to comply with a utilization management program, IPA represents and warrants that IPA Providers agree that Sagamore and Covered Person are not responsible for payment of such amount. To the extent that this obligation would require more than timely provision of required information, Sagamore agrees that all material alterations in Utilization Management Program requirements will be made available to IPA thirty (30) days prior to the effective date of the changes.

ARTICLE V FEES FOR SERVICES

- 5.1 Sagamore will require by contract that Payors make, or arrange for, payment to IPA or IPA Providers for Covered Services rendered to Covered Persons.
- 5.2 IPA represents and warrants that IPA Providers agree to accept the lesser of billed charges or the Sagamore Adjusted Charges as payment in full for all Health Services provided to Covered Persons. The Sagamore Adjusted Charges may be renegotiated annually on the anniversary of the Effective Date of this Agreement or as otherwise mutually agreed upon.
- 5.3 IPA, and IPA represents and warrants that IPA Providers are solely responsible for the notification to Covered Person and for the collection of any deductibles, coinsurance, co-payment and other balances that are Covered Person's responsibility under the Covered Person's Health Benefit Plan and agrees that the total amount will not exceed the lesser of billed charges or the amount determined by the Sagamore Adjusted Charges.
- 5.4 IPA, and IPA represents and warrants that IPA Providers acknowledge that the amounts specified by the Sagamore Adjusted Charges may be reduced when multiple procedures are performed in the same operating session or when the IPA Provider is assisting the surgeon. IPA agrees to accept the reduced amount as payment in full for the Health Services.
- 5.5 IPA, and IPA represents and warrants that IPA Providers agree not to seek payment from the Covered Person for Health Services which are not deemed Medically Necessary except when IPA or IPA Provider notifies the Covered Person or other responsible individual in writing that the Health Services are not deemed Medically Necessary prior to providing the Health Services, unless in violation of the Emergency Medical Treatment and Active Labor Act ("EMTALA") and the Covered Person agrees to accept financial responsibility for the Health Services. A financial waiver provided prior to admission for the provision of Covered Services to Covered Persons shall satisfy the prior notification requirement to the Covered Person for notification of financial responsibility.
- 5.6 IPA, and IPA represents and warrants that IPA Providers agree to promptly submit Clean Claims using the most appropriate valid codes, for providing Covered Services to Covered Persons, on UB92 or HCFA-1500 forms or their successor forms and will reasonably cooperate and comply with the procedures in the SHN Provider Manual, as may be updated from time to time, regarding such items as claim forms, claim submission, payment procedures and other administrative matters.
- 5.7 IPA, and IPA represents and warrants that IPA Providers agree to cooperate with Payors to permit effective COB, subrogation, and other third party liability arrangements which are set forth in Covered Person's Health Benefit Plan. Notwithstanding any other provision in this Agreement, when the Covered Person's Health Benefit Plan is determined to be other than the primary plan, the amount specified by the Sagamore Adjusted Charge will be reduced by the

amount paid by the primary plan and any other Health Benefit Plans and the IPA, and IPA represents and warrants that IPA Providers agree to accept such amount as payment in full for the Covered Service so that the total amount paid by all Health Benefit Plans does not exceed the lesser of billed charges or the amount specified by the Sagamore Adjusted Charge.

- 5.8 Sagamore will use its best efforts to enter into contracts with Payors that require prompt payment of Clean Claims. If a Clean Claim is not paid by the Payor within thirty (30) days after submission by the IPA Provider, and if such claim has not been disputed, IPA Provider may send notice of non-payment to Sagamore. Sagamore will then make all reasonable efforts, including enforcing any contractual rights Sagamore may have against Payor, to facilitate the resolution of the claim payment. If IPA Provider does not receive payment in thirty (30) days from the date Sagamore received notice from the IPA Provider, IPA Provider may pursue the Covered Person for the lesser of billed charges or the amount specified by the Sagamore Adjusted Charges. Notwithstanding the above, for those Payors who have entered into an agreement with Sagamore that provides that if a clean, undisputed claim is not paid within sixty (60) days from the date received by Payor, the Payor is not entitled to any discount rate specified by the Sagamore Adjusted Charges, and PHO Provider is entitled to collect up to its billed charges from Payor.
- 5.9 Provider shall be permitted to bill a patient directly at the IPA Provider's billed charges for services provided on and after the effective date or receipt of notice of a denial of eligibility and up to the date that the notification of retroactive eligibility deletion was received by the IPA Provider whenever a member's eligibility is retroactively denied by the Payor.
- 5.10 Reimbursement for Health Services provided by a Subcontractor will be included in the amount specified by the Sagamore Adjusted Charge and the IPA represents and warrants that the IPA Provider is solely responsible for reimbursing the Subcontractor and the IPA further represents and warrants that IPA Providers agree not to bill Sagamore, Payor or the Covered Person. IPA shall indemnify and hold Sagamore, Payor, and the Covered Person harmless against any claims, damages, or losses, including reasonable attorney fees, that arise from the actions or omissions of the Subcontractors.
- 5.11 IPA, and IPA represents and warrants that IPA Providers shall refund to the Payor all duplicate or erroneous claim payments regardless of cause within ninety (90) days of receipt of written notification of an overpayment.
- 5.12 Under this Agreement, Sagamore has no obligation to pay IPA or IPA Providers for any Health Services provided to Covered Persons. IPA, and IPA represents and warrants that IPA Providers expressly agree and acknowledge that Sagamore does not guarantee payment by Payor. Sagamore will use its best efforts to assist in resolution of issues involving claims and payment.

ARTICLE VI INSURANCE

- 6.1 IPA, and IPA represents and warrants that IPA Providers shall self insure or maintain for the duration of this Agreement, such policies of comprehensive commercial general liability, property and casualty and crime insurance in a minimum amount of \$1,000,000 per occurrence and \$5,000,000 in the aggregate, and professional liability insurance in the amount of at least \$1,000,000 per occurrence and \$3,000,000 in the aggregate, and other insurance as may be necessary to comply with the laws of the State of Illinois, and if doing business in Indiana, in an amount sufficient to be considered a "qualified health care provider" under the Indiana Malpractice Act, Indiana Code §35-18-1-1 et. seq., all in an amount which is sufficient to insure IPA and IPA Providers against any claim or claims for damage arising by reason of the

use of any property or facility, loss or property damage, personal injury, or death occasioned directly or indirectly in connection with the performance of any service provided under this Agreement, and IPA, and IPA represents and warrants that IPA Providers shall indemnify and hold Sagamore harmless for the negligent acts of the IPA, IPA Providers or their agent(s). IPA, and IPA represents and warrants that IPA Providers agree to provide Sagamore with a true and correct copy of a certificate of insurance for each insurance policy required in this Article, together with evidence of the payment of premiums and notify Sagamore within ten (10) days of any reduction or cancellation of such coverage.

- 6.2 Sagamore has and agrees to maintain for the duration of this Agreement, such policies of general liability and managed care organizational liability insurance and other insurance as shall be necessary to insure Sagamore and its employees against any claim or claims for damages arising by reason of personal injuries or death occasioned directly or indirectly in connection with the performance of any services by Sagamore in connection with this Agreement.
- 6.3 Each party agrees to indemnify and to hold harmless the other party against any claims, actions, liabilities, damages, and losses, including reasonable attorneys' fees and costs, which arise from duties or obligations which are solely the responsibility of Sagamore, its agents, employees, or representatives under this Agreement.

ARTICLE VII CONFIDENTIALITY

- 7.1 The parties understand and agree that all information and records related to Covered Persons are privileged and confidential. To the extent required by law, both parties will keep confidential and not disclose patient identifiable information to any third party, without the prior written consent of the Covered Person, except that information required for utilization management, quality assurance and claims adjudication will be provided to the appropriate Payor or designee.
- 7.2 All materials and information provided by one party to the other party remains proprietary to the releasing party. Such information includes but is not limited to contracts, reimbursement rates and methodology, the SHN Provider Manual, Payor lists, mailing lists and any other information regarding business operations. The receiving party, and that party's employees, agents, independent contractors, or other persons or entities over which the receiving party has control, will not disclose or use any such information or materials, nor any information regarding the other party's business activities, for any reason other than performance of its duties under this Agreement, unless such information is otherwise known to the general public. Upon termination of the Agreement all such materials are to be returned to the providing party or, at that party's discretion an officer of the receiving party may sign an certification affirming that all such materials have been destroyed.
- 7.3 Notwithstanding any other provision in this Agreement, IPA and IPA Providers are not prohibited from disclosing to the Covered Person the IPA or IPA Provider's financial incentives or treatment options available to Covered Person, including those not covered by Covered Person's Health Benefit Plan.
- 7.4 The provisions of this Article will survive termination of this Agreement.

ARTICLE VIII RELATIONSHIP OF THE PARTIES

- 8.1 For the purpose of this Agreement, Sagamore and IPA or IPA Providers are and will act at all times as an independent contractors. None of the provisions of this Agreement are intended to

create, nor shall be deemed to create any relationship other than that of an independent entities contracting with each other. This Agreement shall not be deemed or construed to establish any partnership, agency, employment agreement, or joint venture between the parties. Neither the parties, nor any of their respective officers, directors, employees, agents or representatives shall be construed to be the agent, employee, or representative of the other.

- 8.2 IPA, and IPA represents and warrants that IPA Providers shall be solely responsible to Covered Persons for providing Health Services and the quality of those services. In no way shall Sagamore be construed as a provider of Health Services. SHN Providers have a duty to exercise independent medical judgment regardless of any utilization management or quality assurance program and regardless of whether a Health Service is determined to be a Covered Service. Nothing in this Agreement is intended to create any right for Sagamore to intervene in the medical decision making regarding a Covered Person.

ARTICLE IX DISPUTE RESOLUTION

- 9.1 Informal Negotiation: Except for disputes related to any agreement between a patient and a hospital or health care provider to submit to binding arbitration a claim for damage pursuant to the Illinois Health Care Arbitration Act, 710 ILCS 15/1 *et seq.*, disputes over which a state's workers' compensation board has jurisdiction, or as otherwise provided herein, any claim or dispute arising out of or relating to this Agreement, not otherwise resolved by the appropriate representatives of the parties by informal negotiations conducted in good faith and held within fourteen (14) days of the respondent's receipt of a written notice describing the dispute and a written request for such meeting(s) by one representative to the other, will, on the request of one party served on the other, be submitted to mediation in accordance with the following provisions.
- 9.2 Mediation: If a dispute arising out of this Agreement cannot be resolved through negotiation, the dispute must be mediated by the parties in accordance with the following provisions:
- a. Mediation may be demanded by either party and must be held within thirty (30) calendar days of an unsuccessful negotiation session unless there is mutual agreement to another date for mediation.
 - b. The parties shall mutually agree upon a mediator with experience in health law and managed care contracting.
 - c. If the parties cannot agree upon a mediator within five (5) calendar days of either party requesting mediation, the initiating party must petition the court to name a panel of three qualified Mediators from which the initiating party will strike one name first and the responding party with strike a second name. The remaining name will be the sole mediator for the dispute.
 - d. If either party fails to submit their nomination for a mediator or their strike of a proposed mediator within five (5) days after the notice provided herein, then the other party will make the additional strike to select the mediator to resolve the dispute or claim.
 - e. Mediation will be conducted pursuant to the Mediation Rules contained in the Commercial Arbitration Rules of the American Arbitration Association then in effect, at a location designated by the mediator. Any cost of the mediation, including any fee charged by the mediator, and cost of using the designated location, shall be shared equally by the parties. Each party shall, however, be responsible for its own attorney's fees.

- 9.3 Arbitration: Any such dispute, or claim not settled by negotiation or mediation, will be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The parties hereby submit to the in personam jurisdiction of the appropriate court for the purpose of confirming any such award and entering judgment. The provisions of this article will control over anything contained in the Commercial Arbitration Rules of the American *Arbitration Association*.
- 9.4 Each party will appoint one person with experience in the matters of prepaid health care delivery plans, preferred provider organizations, health care providers and related contractual issues within five (5) days after receipt of notice of arbitration from the noticing party. The two persons so chosen will select a third impartial person who has experience in the same matters and who shall be the sole arbitrator. If for any reason the two persons chosen to select the sole arbitrator are unable to do so, a sole arbitrator will be appointed by and in accordance with the above referenced rules . If either party fails to designate its person to select the arbitrator within five (5) days after the notice provided herein, then the person designated by the one party will select the sole arbitrator to resolve the dispute or claim. Prior to the commencement of hearings, the arbitrator shall provide an oath or undertaking of impartiality. In the event the parties are unable to agree upon a rate of compensation for the arbitrator, he/she will be compensated for services at a rate to be determined by the above referenced rules.
- 9.5 The costs of the arbitration will be borne equally by the parties to this Agreement. Each party shall, however, be responsible for its own attorney's fees.
- 9.6 The arbitrator will, upon the request of either party, issue a written opinion of his/her findings of fact and conclusions of law and will deliver such opinion to both parties by certified mail. The award of the arbitrator will be accompanied by a reasoned opinion. The arbitrator will have no authority to award consequential or punitive damages, or other damages not measured by the prevailing party's actual damages, except as required by statute.

ARTICLE X ERISA

- 10.1 The Employment Retirement Income Security Act of 1974, as amended, (ERISA), establishes certain requirements for employee welfare benefit plans.
- 10.2 Section 402(c)(2) of ERISA provides that an employee welfare benefit plan may provide that a Named Fiduciary, or a fiduciary designated by a Named Fiduciary, pursuant to a plan procedure (including a Health Benefit Plan Administrator) may employ one or more persons to render advice with regard to any responsibilities such fiduciary has under the ERISA welfare benefit plan.
- a. "Named Fiduciary" means a fiduciary who is named in the plan instrument, or who, pursuant to a procedure specified in the plan, is identified as a fiduciary with respect to the plan by a Sponsor.
 - b. "Plan Administrator" means a person designated by the plan instrument or by the Sponsor as the fiduciary authorized to serve as administrator of the separate ERISA welfare benefit plan established by a Sponsor and to exercise discretionary authority with respect to the administration of the plan.
 - c. "Sponsor" means the employer, in the case of a plan established or maintained by a single employer; the employee organization, in the case of a plan established or maintained by an

employee organization; in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or similar group of representatives of the parties who establish or maintain the plan.

- 10.3 In the event SHN or payor is regulated under ERISA or state legislation of a similar nature, the Payor, and not IPA or IPA Providers, is responsible for compliance with all requirements of ERISA and/or related state legislation. IPA, and IPA represents and warrants that IPA Providers shall reasonably cooperate with SHN and Payor by furnishing such material or information as it has access to and control of to aid SHN or Payor in meeting any statutory or regulatory requirements.
- 10.4 For the purpose of ERISA and any applicable state legislation of a similar nature, neither IPA or IPA providers are Named Fiduciaries and no fiduciary or nonfiduciary responsibilities of any employee welfare benefit plan are or shall be allocated or delegated to IPA or IPA Provider, unless IPA or IPA Provider accepts such responsibilities in writing.

ARTICLE XI TERM AND TERMINATION

- 11.1 The initial term of the Agreement shall commence at 12:01 am on the Effective Date specified below and continue in full force and effect for a period of twelve (12) months, unless terminated in accordance with the terms and conditions of this Agreement. After the initial term, this Agreement shall continue in full force and effect for additional twelve (12) month periods, unless otherwise terminated in accordance with the terms and conditions of this Agreement.
- 11.2 Either party may terminate the Agreement or a Network Exhibit without cause at the end of the initial term or any time thereafter, by giving ninety (90) days prior written notice to the other party. If this Agreement or a Network Exhibit is terminated without cause, IPA, and IPA represents and warrants that IPA Providers agree to continue to provide Health Services to Covered Persons under the terms and conditions of this Agreement until the earlier of a) the Covered Person is no longer receiving inpatient services, b) it is medically appropriate to transfer the care of that person to other SHN Providers, c) the Covered Person is no longer entitled to an extension of benefits under his/her Health Benefit Plan, or c) the Covered Person is no longer entitled by law or regulation to any further continuation of benefits. IPA, and IPA represents and warrants that IPA Providers shall be considered a participating SHN Provider for a particular Covered Person, to the extent that IPA Provider is required to provide continuation of Health Services under this provision after the termination of this Agreement.
- 11.3 If either party fails to comply with or perform when due any term or condition of this Agreement, the other party shall notify the defaulting party of its default in writing, and the defaulting party shall have thirty (30) days to cure the default. If the default is not cured within thirty (30) days, the non-defaulting party may declare, in writing and without further notice, that this Agreement is terminated, provided.
- 11.4 Notwithstanding any other provision in this Agreement, IPA, and IPA represents and warrants that IPA Providers agree that IPA Provider's status as a participant in the Sagamore Health Network(s) will terminate immediately and automatically in the event a) the IPA Provider commits any act or conduct which causes IPA Provider's license(s), permit(s), or any other required authorizations necessary to provide Health Services and conduct business operations to no longer be valid, b) IPA Provider's professional liability insurance coverage, as required herein, lapses for any reason, or c) material misrepresentations or omissions as determined by Sagamore on any documents provided to Sagamore by IPA Provider.

- 11.5 Termination of this Agreement shall have no effect on the rights and obligations of the parties arising out of any transaction occurring prior to the date of termination. IPA agrees that IPA Providers, for a period of four (4) months following termination, will be required to notify Covered Persons of such termination prior to providing Health Services.

ARTICLE XII GENERAL PROVISIONS

- 12.1 Assignment. Neither this Agreement nor any rights or obligations hereunder may be sold, leased, assigned, or otherwise delegated in whole or in part, without the prior informed written consent of the other party, which consent shall not unreasonably be withheld. This Agreement shall be binding upon and inure to the benefit of the respective legal successors of the parties. .
- 12.2 Bankruptcy and Insolvency. In the event that either party shall become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or its assets or shall avail itself of, or become subject to, any proceedings under the Federal Bankruptcy Act or any other statute of any state relating to the insolvency or the protection of rights of creditors, then, at the option of the other party, this Agreement shall terminate immediately.
- 12.3 Compliance. Both parties shall comply with all legal requirements related to their obligations under this Agreement, and will have and maintain in effect all permits, licenses, and governmental and board authorizations and approvals as necessary for its business operations.
- 12.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.
- 12.5 Entire Agreement. This document, together with any written schedules, exhibits, attachments, amendments and addenda, constitutes the entire agreement of the parties and supercedes all prior oral and written agreements or understandings between them with respect to the matters provided for herein.
- 12.6 Ethical and Religious Directives. IPA, and IPA represents and warrants that IPA Providers acknowledge that Sagamore is an institution operated in accordance with The Ethical and Religious Directives for Catholic Health Care Services as approved and amended by the National Conference of Catholic Bishops. Notwithstanding any provision of the Agreement to the contrary, Sagamore shall not be required to provide, and no provision of this Agreement shall be construed to require Sagamore to provide services that are inconsistent with the medical ethics or precepts of the Catholic Church.
- 12.7 Force Majeure. Neither party shall be deemed to be in violation of this Agreement if such party is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control, including without limitation, acts of God, or any public enemy, elements, floods, or strikes, or statutory or other laws, regulations or rules or orders of the Federal or any State and local government or any agency thereof.
- 12.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
- 12.9 Intent of the Parties. It is the intent of the parties that this Agreement is to be effective only in regards to their rights and obligations with respect to each other; it is expressly not the intent of the parties to create any independent rights in any third party or to make any third party a third party beneficiary of this Agreement.

- 12.10 Legal Actions. Either party shall notify the other in writing within five (5) working days of all matters which come to its attention involving commenced legal actions against Sagamore or the IPA or IPA Providers that are related to this Agreement. If both parties are involved, they agree to fully cooperate in the defense of such actions. If only one party is involved, the non-involved party will reasonably cooperate with the involved party in the defense of the action at no cost to itself.
- 12.11 Modifications. Any modifications to this Agreement shall be valid only if made in writing and signed by a duly authorized officer of both parties.
- 12.12 Non-exclusive Participation. None of the provisions of this Agreement shall prevent the IPA, IPA Providers or Sagamore from participating in or contracting with any preferred provider organization, health maintenance organization, physician hospital organization, or any other health delivery system or insurance program.
- 12.13 Notice. Any notice required or permitted to be given by either party under this Agreement shall be sufficient if in writing and hand delivered (including delivery by courier), expressed, or sent by postage prepaid certified mail, return receipt requested, to the parties at the addresses set forth on the signature page. Such addresses may be changed from time to time by written notice to the other party. If sent by mail, such notice shall be deemed delivered to the other party two days after such notice is deposited in the mail, properly addressed and postage prepaid. If mail is not used, notice shall be deemed given on the actual date the notice is received by the party receiving such notice. In the case of any notice sent to Sagamore, such notice shall be sent to the attention of Sagamore's General Counsel.
- 12.14 Severability. If a court determines, that any of the provisions or terms of this Agreement are unreasonable or contrary to public policy, or invalid or unenforceable such unenforceability or invalidity shall not affect the enforceability or validity of the remaining provisions and terms of this Agreement. Should any particular provision of this Agreement be held unreasonable or unenforceable for any reason, then such provision shall be given effect and enforced to the fullest extent that would be reasonable and enforceable.
- 12.15 Waiver of Breach. Neither the waiver by either party of a breach or a default of any of the provisions of the Agreement, nor the failure of either party, on one or more occasion, to enforce any provision of this Agreement, shall thereafter be construed as a waiver of any subsequent breach or default of any of the provisions of this Agreement.

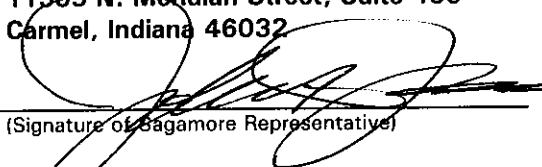
The Effective Date of this Agreement is: March 1, 2003.

Each party to this Agreement represents that it has full power and authority to enter into this Agreement and the person signing this Agreement on behalf of either party represents that he/she has been duly authorized to enter into this Agreement. The person signing this Agreement on behalf of IPA and IPA Providers represents that he/she has full power and authority to enter this Agreement to enable IPA and IPA Providers to participate in SHN.

SAGAMORE HEALTH NETWORK, INC.

**11555 N. Meridian Street, Suite 400
Carmel, Indiana 46032**

By:


(Signature of Sagamore Representative)

John Johnson
Vice President - Finance

**Children's Community Physicians
Association
1970 North Clybourn
Chicago, IL 60614**

By:


(Signature of IPA Representative)

TERESA CHAN
(Printed Name of IPA Representative)

Executive Director
(Title of IPA Representative)

SCHEDULE 1
to the PPO GROUP AGREEMENT
between SAGAMORE HEALTH NETWORK
and CHILDREN'S COMMUNITY PHYSICIANS ASSOCIATION

PARTICIPATING IPA PROVIDERS

The IPA Provider locations to be listed in the Sagamore Provider Directory and the billing addresses through which Health Services will be provided by IPA Providers include the following:

Provider Directory Listing	Billing Address
Children's Community Physicians Association 1970 North Clybourn Chicago, IL 60614	Children's Community Physicians Association Tax ID: 36-4071049
<p>* Provider Directory listing address and contact information and any different billing address information for all individual SHN IPA Providers obligated under the terms and conditions of this Agreement and billing under each IPA Provider's tax identification number are listed on Schedule 1. IPA must provide Sagamore with thirty (30) days prior written notification of all changes to the demographic information for participating IPA Physician listed on Schedule 1, especially those affecting provider directory listing and claims processing such as changes in contact information, billing information and tax identification numbers.</p>	

SAGAMORE PLUS NETWORK EXHIBIT

This Network Exhibit is hereby made part of and incorporated into the Sagamore Health Network IPA Agreement (Agreement) with **Children's Community Physicians Association (IPA)**.

This Network Exhibit is intended to supplement the terms and conditions of the Agreement and to the extent that this Network Exhibit conflicts with the terms and conditions of the Agreement, this Network Exhibit controls the relationship between the parties.

Sagamore Adjusted Charges for the Sagamore Plus Network

IPA Providers shall provide a discount from the IPA Provider's Normal Charges of twelve percent (12%).

The Effective Date of this Network Exhibit is March 1, 2003

SAGAMORE HEALTH NETWORK, INC.

11555 N. Meridian Street, Suite 400
Carmel, Indiana 46032

**Children's Community Physicians
Association**
1970 North Clybourn
Chicago, IL 60614

By: [Signature]
(Signature)

John Johnson
(Printed Name)

V.P. Finance
(Title)

By: [Signature]
(Signature)

TERESA CHAN
(Printed Name)

Executive Director
(Title)

SAGAMORE SELECT NETWORK EXHIBIT

This Network Exhibit is hereby made part of and incorporated into the Sagamore Health Network IPA Agreement (Agreement) with **Children's Community Physicians Association (IPA)**.

This Network Exhibit is intended to supplement the terms and conditions of the Agreement and to the extent that this Network Exhibit conflicts with the terms and conditions of the Agreement, this Network Exhibit controls the relationship between the parties.

Sagamore Adjusted Charges for the Sagamore Select Network

IPA Providers shall provide a discount from the IPA Provider's Normal Charges of twelve percent (12%).

The Effective Date of this Network Exhibit is March 1, 2003

SAGAMORE HEALTH NETWORK, INC.

11555 N. Meridian Street, Suite 400
Carmel, Indiana 46032

By:

(Signature)

John Johnson

(Printed Name)

V.P. Finance

(Title)

**Children's Community Physicians
Association
1970 North Clybourn
Chicago, IL 60614**

By:

(Signature)

Teresa Chan

TERESA CHAN

(Printed Name)

Executive Director

(Title)

**SAGAMORE HEALTH NETWORK, INC.
DELEGATION of CREDENTIALING ACTIVITIES AGREEMENT**

This Agreement is made and entered into by and between Sagamore Health Network, Inc. (Sagamore), and Children's Community Physicians Association (Delegate).

WHEREAS, Sagamore is engaged in the business of arranging health services by contracting with physicians, physician groups or hospital organizations; and

WHEREAS, Sagamore credentials health care providers who wish to provide health care services to Covered Persons; and

WHEREAS, Sagamore desires to contract with Delegate to perform specific credentialing activities.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the sufficiency of which is acknowledged by the parties, the parties agree as follows:

**ARTICLE I
DEFINITIONS**

- 1.1 **Accreditation Organization** means any nationally recognized organization that accredits managed care organizations including without limitation to the National Committee of Quality Assurance, the Utilization Review Accreditation Commission, and the Joint Commission on Accreditation of Healthcare Organizations.
- 1.2 **Applicant** means a health care provider who submits an application for participation in one of the Sagamore Health Network(s) .
- 1.3 **Covered Persons** means any person who is eligible to receive Covered Services and who is enrolled in a Health Benefit Plan which includes a Sagamore Health Network.
- 1.4 **Covered Services** means Medically Necessary services or supplies for which the Covered Person's Health Benefit Plan provides coverage when provided by a health care provider acting within the scope of his/her profession.
- 1.5 **Health Benefit Plan** means a program providing benefit coverage for Health Services issued or administered by a Payor, the plan document, or any other legally enforceable agreement by which a Covered Person may be entitled to benefits for Covered Services.
- 1.6 **Health Services** means those services that a health care provider is licensed to provide and are normally provided to individuals.
- 1.7 **Medically Necessary** has the meaning defined in the Covered Person's Health Benefit Plan and such definition is incorporated herein by reference.
- 1.8 **Payor** means a self-insured employer, an insurance company, a governmental agency, third party administrator, or other entity which has directly or indirectly entered into a legally enforceable contract with Sagamore, in which Payor agrees to compensate or, will require a third party to compensate SHN Providers for Covered Services provided to Covered Persons in accordance with the terms and conditions of this Agreement. For purposes of this Agreement, Sagamore is **not** a Payor.
- 1.9 **Sagamore Health Network(s)** means a network(s) of health care providers who are legally obligated under a valid PPO Agreement with Sagamore to provide Covered Services to Covered Persons.

- 1.10 **SHN Provider Agreement** means a legally enforceable direct or indirect agreement between Sagamore and a health care provider in which the health care provider becomes a participant in the SHN.
- 1.11 **SHN Provider(s)** means the health care providers who are contracted under a currently valid Agreement to participate in SHN.
- 1.12 **SHN Provider Manual** means a document issued and updated by Sagamore from time to time which contains policies, procedures, rules and specifications including but not limited to Sagamore's Credentialing and Recredentialing Criteria, criteria for on-site surveys of the facility and review of the Sagamore Provider's medical records.
- 1.13 **Subcontractors** means any third party which has entered into an agreement with Delegate to perform part or all of Delegate's duties and/or obligations under this Agreement.

ARTICLE II DELEGATE'S OBLIGATIONS

In order to fulfill the purposes and objective of this Agreement, the Delegate agrees to:

- 2.1 Develop and/or maintain policies and procedures in compliance with the standards of the Accreditation Organizations as they may be amended from time to time.
- 2.2 Cooperate and comply with the requirements of the SHN Provider Manual which will be updated by Sagamore from time to time, including without limitation, the credentialing, quality assessment and quality improvement policies.
- 2.3 Execute and provide to Sagamore an executed Sagamore Release wherein the Applicant releases Sagamore from liability for the performance of any credentialing and recredentialing activities, and expressly authorizes Sagamore to obtain access to information related to the credentialing and recredentialing of the Sagamore Provider. Delegate shall also obtain and provide any and all necessary and appropriate executed releases as needed from time to time.
- 2.4 Acknowledge that Sagamore reserves the right to approve any Applicant or suspend and terminate any Sagamore Provider.
- 2.5 Obtain, evaluate, verify and provide, upon request, any and all information necessary and appropriate for the credentialing of Applicants and recredentialing of Sagamore Providers. All verification shall be thoroughly documented. Verification shall be from primary sources in accordance with the SHN Provider Manual, including without limitation, federal or state medical examiners, boards or professional agencies, the National Practitioners Data Bank (NPDB) (if applicable), the state Medicaid and federal Medicare agencies, and other similar sources. Delegate shall also provide to Sagamore all necessary information to evaluate medical malpractice and/or professional liability claims as requested by Sagamore.
- 2.6 Upon written request, provide adequate facilities to Sagamore, or ensure that Sagamore shall have adequate facilities, to access, review, and copy any of the Sagamore Provider's credentialing records that are kept at Delegate's office and/or any hospital or medical facility where the Sagamore Provider maintains a medical staff membership or renders Covered Services to Covered Persons.
- 2.7 Perform and document on-site surveys for the purpose of documentation of medical record keeping practices and structural review. Upon written request of at least ten (10) business days, Delegate shall provide adequate facilities and permit Sagamore to review, copy and audit such surveys on an annual or on an as needed basis.

- 2.8 Recredential Sagamore Providers every two (2) years or upon request by Sagamore in accordance with Sagamore's Recredentialing Criteria in the SHN Provider Manual.
- 2.9 Cooperate and comply with the corrective action plan established by Sagamore in the event compliance with Sagamore's credentialing and recredentialing policies and procedures as set forth in SHN Provider Manual are not met. Corrective action may include, without limitation, intensifying the frequency and number of on-site audits, the temporary loss of delegated rights under this Agreement or the termination of this Agreement.
- 2.10 Immediately provide written notice to Sagamore of any legal, governmental, or other action against any SHN Provider which could materially impair the ability of the SHN Provider to meet his/her duties or obligations as an SHN Provider, including without limitation: a) any disciplinary action taken by a hospital or state licensure board; b) any revocation, suspension, charge, or limitation in staff privileges at a hospital; c) suspension from participation in the Medicare or Medicaid Programs; d) any loss, surrender, or restriction of a Drug Enforcement Administration (DEA) registration; e) the expiration, cancellation, termination, or lapse for any reason of any insurance policy as required herein; or f) the dismissal or suspension from participation in managed care entity, a physician hospital organization or other similar entity.
- 2.11 Provide a list of all providers who meet Sagamore's Credentialing Criteria as set forth in the SHN Provider Manual. For providers who fail to meet the Sagamore Credentialing Criteria, Delegate shall forward all information necessary and appropriate for the credentialing and recredentialing process to Sagamore. Delegate shall also provide Sagamore with the appropriate data elements required to maintain a provider file and credentialing database in a format that is mutually acceptable by the parties within ten (10) days after a provider has been approved by Sagamore.
- 2.12 Delegate has and agrees to maintain for the duration of this Agreement, such policies of Errors and Omissions insurance as may be necessary to insure Delegate against any claim or claims for damage arising directly or indirectly in connection with any credentialing or recredentialing actions by Delegate involving any applicant or provider, and against all other activities performed by Delegate which is directly or indirectly related to the performance of this Agreement, in a minimum amount of \$5,000,000 in the aggregate, or other amount agreeable to Sagamore, which is sufficient to protect Delegate, and Delegate shall indemnify and hold Sagamore harmless for the negligent acts of the Delegate or their agent(s).
- 2.13 Delegate shall promptly notify Sagamore in writing of any potential quality issues of which Delegate may become aware during the course of this Agreement related to the provision of Health Services to Covered Persons, Sagamore Provider's failure to meet the Sagamore Recredentialing Criteria or any related administrative services.
- 2.14 Delegate shall promptly notify and obtain prior written consent from Sagamore in the event Delegate wishes to alter, amend or modify any policies, procedures or requirements in the credentialing of Applicants and recredentialing of Sagamore Providers that do not meet the requirements set forth in the SHN Provider Manual.
- 2.15 Acknowledge that Sagamore reserves the right to perform evaluations to review the effectiveness of Delegate's credentialing process and compliance with Sagamore's Credentialing and Recredentialing Criteria including without limitation conducting performance assessments and surveys. Sagamore shall provide at least ten (10) business days prior written notice before conducting any onsite evaluation or survey.
- 2.16 Comply with the legal requirements related to Delegate's performance under this Agreement, and have and maintain in effect all permits, licenses, and governmental authorizations and approvals as necessary for its business operations.

- 2.17 If Delegate wishes to further subcontract any or all of its responsibilities under this Agreement, Delegate must obtain Sagamore's prior written approval of the Subcontractor and of the terms of the subcontract. Delegate shall warrant that the Subcontractor shall comply with all of the terms and conditions on this Agreement.

ARTICLE III SAGAMORE'S OBLIGATIONS

Sagamore, by entering into this Agreement, agrees that it will:

- 3.1 Use its best efforts to provide necessary information to Delegate, Sagamore Providers and Sagamore Providers' staff to implement and comply with this Agreement including the Sagamore Credentialing Application which shall be updated by Sagamore from time to time.
- 3.2 Provide Delegate with the SHN Provider Manual which Sagamore will modify and update from time to time.
- 3.3 Maintain a credentialing committee in compliance with Illinois law.
- 3.4 Sagamore shall promptly notify Delegate in writing of any potential quality issues of which Sagamore may become aware during the course of this Agreement related to the provision of Health Services to Covered Persons, Sagamore Provider's failure to meet the Sagamore Credentialing Criteria or any related administrative services.
- 3.5 Comply with the legal requirements related to Sagamore's performance under this Agreement, and have and maintain in effect all permits, licenses, and governmental authorizations and approvals as necessary for its business operations.

ARTICLE IV CONFIDENTIALITY

- 4.1 Delegate agrees that all credentialing materials, peer review materials and related documents are proprietary, privileged and confidential. To the extent provided by law, Delegate also agrees to keep confidential and not to publish, use or disclose any proprietary, privileged and confidential information to any third party, or authorize anyone else to publish, use or disclose such information except as is necessary for the Delegate to perform its obligations under this Agreement, or required by a court of law, or as authorized in writing by Sagamore.
- 4.2 Sagamore agrees that all credentialing materials, peer review materials and related documents are proprietary, privileged and confidential. Proprietary, privileged and confidential information includes trade secrets which Delegate may in any way acquire while doing business with Delegate. To the extent provided by law, Sagamore also agrees to keep confidential and not to publish, use or disclose any proprietary, privileged and confidential information to any third party, or authorize anyone else to publish, use or disclose such information except as is necessary for Sagamore to perform its obligations under this Agreement, or required by a court of law, or as authorized in writing by Delegate.
- 4.3 All materials and information provided or developed by Sagamore, including without limitation, the SHN Provider Manual, the Sagamore Credentialing Application, programmatic information and structure, utilization management and quality improvement programs and materials, formats, and contracts, remain proprietary to Sagamore. Delegate and Delegate's employees, agents, independent contractors, or other persons or entities over which Delegate has control, will not disclose or use any such information or materials for any reason other than performance of its duties under this Agreement. Upon termination of this Agreement, all such materials are to be returned to Sagamore, or at Sagamore's discretion an officer of the Delegate may sign an affidavit that all such materials have been destroyed.

- 4.4 The provisions of this Article will survive termination of this Agreement for a period of eight (8) years.

ARTICLE V RELATIONSHIP OF THE PARTIES

- 5.1 For the purpose of this Agreement, Delegate and SHN Providers are and will act at all times as independent contractors as they relate to Sagamore. None of the provisions of this Agreement are intended to create, nor shall be deemed to create any relationship other than that of an independent contractor. This Agreement shall not be deemed or construed to establish any partnership, agency, employment agreement, or joint venture between the parties or the providers. Neither the parties, nor any of their respective officers, directors, employees, agents nor representatives shall be construed to be the agent, employee, or representative of the other. In no way shall Sagamore be construed as a provider of Health Services.
- 5.2 This Agreement is entered into with the express understanding that it shall not be construed nor considered to be a contract between Delegate or SHN Providers and other providers who may be parties or obligated under similar agreements, nor shall it constitute an agreement that Delegate or SHN Providers may act as an agent for any other providers that become a party to a similar agreement or impose any liability upon any other provider by reason of any act or acts of omission or commission on Delegate or SHN Provider's part, nor shall Delegate or SHN Provider incur any liability by reason of any act or acts of omission or commission of any other SHN providers.

ARTICLE VI DISPUTE RESOLUTION

- 6.1 Except for disputes related to medical malpractice, disputes over which a state's workers' compensation board has jurisdiction, or as otherwise provided herein, any claim or dispute between the parties arising out of the interpretation of or performance under this Agreement, not otherwise resolved by the appropriate representatives of the parties by informal meetings held within ten (10) days of a written request for such meeting(s) by one representative to the other, which involves the construction or application of any term, covenant, or condition of this Agreement, or any claim arising out of or relating to this Agreement will, on the request of one party served on the other, be submitted to arbitration in accordance with the following provisions.
- 6.2 Any such dispute, or claim, will be settled in accordance with the rules of the American Arbitration Association then in effect and will comply with the Uniform Arbitration Act as adopted in Indiana, except as herein specifically stated, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The parties hereby submit to the *in personam* jurisdiction of the appropriate court for the purpose of confirming any such award and entering judgment. Notwithstanding anything to the contrary that may now or hereafter be contained in the rules of the American Arbitration Association, the parties agree as follows:
- a. Each party will appoint one person with experience in the matters of prepaid health care delivery plans, preferred provider organizations, health care providers and related contractual issues within five (5) days after receipt of notice of arbitration from the noticing party. The two persons so chosen will select a third impartial person who has experience in the same matters and who shall be the sole arbitrator. If for any reason the two persons chosen to select the sole arbitrator are unable to do so, a sole arbitrator will be appointed by and in accordance with the rules of the American Arbitration Association. If either party fails to designate its person to select the arbitrator within five (5) days after the notice provided herein, then the person designated by the one party will select the sole arbitrator to resolve the dispute or claim. In the event the parties are unable to

agree upon a rate of compensation for the arbitrator, he/she will be compensated for services at a rate to be determined by the American Arbitration Association.

- b. The costs of the arbitration will be borne equally by the parties to this Agreement. Each party shall, however, be responsible for its own attorney's fees.
- c. The arbitrator will, upon the request of either party, issue a written opinion of his/her findings of fact and conclusions of law.
- d. Upon receipt by the requesting party of said written opinion, either party will have the right within ten (10) days thereof, to file with the arbitrator a motion to reconsider, and the arbitrator thereupon will reconsider the issues raised by said motion and either confirm or change the decision.

ARTICLE VII TERM AND TERMINATION

- 7.1 The initial term of this Agreement shall commence at 12:01 AM on the Effective Date specified below and shall continue in full force and effect for a period of twelve (12) months, unless terminated in accordance with the terms of this Agreement. After the initial term, this Agreement shall continue in full force and effect for additional twelve (12) month periods unless terminated in accordance with the terms of this Agreement.
- 7.2 After the initial term, either party may terminate this Agreement without cause by giving thirty (30) days prior written notice to the other party.
- 7.3 If either party fails to comply with or perform when due any term or condition of this Agreement, the other party shall notify the defaulting party of its default in writing, and the defaulting party shall have thirty (30) days to cure the default. If the default is not cured within thirty (30) days, the non-defaulting party may declare, in writing and without further notice, that this Agreement is terminated.

ARTICLE VIII GENERAL PROVISIONS

- 8.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the respective legal successors of the parties. Neither this Agreement nor any rights or obligations hereunder may be assigned, in whole or in part, without the prior written consent of the other party provided, however, that Sagamore retains the right to assign to an affiliate. In the event that Delegate merges with or is acquired by another entity, Sagamore at its sole discretion, has the right to terminate this Agreement.
- 8.2 Bankruptcy and Insolvency. In the event that either party shall become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or its assets or shall avail itself of, or become subject to, any proceedings under the Federal Bankruptcy Act or any other statute of any state relating to the insolvency or the protection of rights of creditors, then, at the option of the other party, this Agreement shall terminate immediately.
- 8.3 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.
- 8.4 Ethical and Religious Directives. Sagamore is an institution operated in accordance with *The Ethical and Religious Directive for Catholic Health Care Services* as approved by the National Conference of Catholic Bishops. Notwithstanding any provision of the Agreement to the contrary, Sagamore shall not be required to provide, and no provision of this Agreement shall be construed to require Sagamore to provide services that are inconsistent with the medical ethics or precepts of the Catholic Church.

- 8.5 Descriptive Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- 8.6 Entire Agreement. This document, together with any written schedules, exhibits, amendments and addenda, constitutes the entire agreement of the parties and supersedes all prior oral and written agreements or understandings between them with respect to the matters provided for herein.
- 8.7 Force Majeure. Neither party shall be deemed to be in violation of this Agreement if such party is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control, including without limitation, acts of God, or any public enemy, elements, floods, or strikes, or statutory or other laws, regulations or rules or orders of the Federal or any State and local government or any agency thereof.
- 8.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.
- 8.9 Intent of the Parties. It is the intent of the parties that this Agreement is to be effective only in regards to their rights and obligations with respect to each other; it is expressly not the intent of the parties to create any independent rights in any third party or to make any third party a third party beneficiary of this Agreement.
- 8.10 Legal Actions. Either party shall notify the other in writing within five (5) working days of all matters which come to its attention involving potential or commenced legal actions against Sagamore or Delegate that are related to this Agreement. If both parties are involved, they agree to fully cooperate in the defense of such actions. If only one party is involved, the non-involved party will cooperate with the involved party in the defense of the action at no cost to itself.
- 8.11 Modifications. Any modifications to this Agreement shall be valid only if made in writing and signed by a duly authorized officer of both parties.
- 8.12 Non-exclusive Participation. None of the provisions of this Agreement shall prevent Delegate, a Sagamore Provider, or Sagamore from participation in or contracting with any preferred provider organization, health maintenance organization, physician hospital organization, or any other health delivery system or insurance program.
- 8.13 Notice. Any notice required or permitted to be given by either party under this Agreement shall be sufficient if in writing and hand delivered (including delivery by courier), expressed, or sent by postage prepaid certified mail, return receipt requested, to the parties at the addresses set forth on the signature page. Such addresses may be changed from time to time by written notice to the other party. If sent by mail, such notice shall be deemed delivered to the other party two days after such notice is deposited in the mail, properly addressed and postage prepaid. If mail is not used, notice shall be deemed given on the actual date the notice is received by the party receiving such notice. In the case of any notice sent to Sagamore, such notice shall be sent to the attention of Sagamore's General Counsel.
- 8.14 Severability. The parties agree that if a court determines, contrary to the intent of the parties, that any of the provisions or terms of this Agreement are unreasonable or contrary to public policy, or invalid or unenforceable for any reason in fact, law, or equity, such unenforceability or invalidity shall not affect the enforceability or validity of the remaining provisions and terms of this Agreement. Should any particular provision of this Agreement be held unreasonable or unenforceable for any reason, then such provision shall be given effect and enforced to the fullest extent that would be reasonable and enforceable.
- 8.15 Waiver of Breach. No failure or delay by either party in exercising any rights under this Agreement shall operate as a waiver of such rights, and no waiver of any breach shall constitute a waiver of

any prior, concurrent, or subsequent breach. Failure of Sagamore or Delegate to insist upon strict compliance with any of the conditions of this Agreement or the obligations of either Sagamore or Delegate shall not constitute a waiver of such conditions or obligations.

The Effective Date of this Agreement is: March 1, 2003.

Each party to this Agreement represents that it has full power and authority to enter into this Agreement and the person signing this Agreement on behalf of either party represents that he/she has been duly authorized to enter into this Agreement.

SAGAMORE HEALTH NETWORK, INC.

11555 N. Meridian Street, Suite 400
Carmel, Indiana 46032

By:



Signature of Sagamore Representative

John Johnson

Printed Name of Sagamore Representative

Vice President - Finance

Title of Sagamore Representative

**Children's Community Physicians
Association**

2300 Children's Plaza, ^{Box} Suite 113
Chicago, IL 60614

By:



Signature of Representative

Terry Chan

Printed Name of Representative

Executive Director/CCPA

Title of Representative