

Ancillary Provider Participation Agreement

This Agreement is entered into by and between UnitedHealthcare Insurance Company, contracting on behalf of itself, AmeriChoice of New Jersey, Inc. (“UnitedHealthcare Community Plan”) and _____ (“Ancillary Provider”).

This Agreement is effective on the (the “Effective Date”):

i) _____

Through contracts with physicians and other providers of health care services, United maintains one or more networks of providers that are available to Customers. Ancillary Provider is a provider of health care services.

United wishes to arrange to make Ancillary Providers’s services available to Customers. Ancillary Provider wishes to provide those services, under the terms and conditions set forth in this Agreement.

The parties therefore enter into this Agreement.

Article I. Definitions

The following terms when used in this Agreement have the meanings set forth below:

- 1.1 Benefit Plan** means a certificate of coverage, summary plan description, or other document or agreement, whether delivered in paper or electronic format, under which a United is obligated to provide coverage of Covered Services for a Customer.
- 1.2 Covered Service** is a health care service or product for which a Customer is entitled to receive coverage from a United, pursuant to the terms of the Customer’s Benefit Plan with United.
- 1.3 Customary Charge** is the fee for health care services charged by Ancillary Provider that does not exceed the fee Ancillary Provider would ordinarily charge another person regardless of whether the person is a Customer.
- 1.4 Customer** is a person eligible and enrolled to receive coverage from a United for Covered Services. Customer may also be referred to as Member.
- 1.5 Medically necessary or medical necessity.** Services or supplies necessary to prevent, evaluate, diagnose, correct, prevent the worsening of, alleviate, ameliorate, or cure a physical or mental illness or condition; to maintain health; to prevent the onset of an illness, condition, or disability; to prevent or treat a condition that endangers life or causes suffering or pain or results in illness or infirmity; to prevent the deterioration of a condition; to promote the development or maintenance of maximal functioning capacity in performing daily activities, taking into account both the functional capacity of the individual and those functional capacities that are appropriate for individuals of the same age; to prevent or treat a condition that threatens to cause or aggravate a handicap or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the Customer. The services provided, as well as the type of provider and setting, must be reflective of the level of services that can be safely provided, must be consistent with the diagnosis of the condition and appropriate to the specific medical needs of the Customer and not solely for the convenience of the Customer or provider of service and in accordance with standards of good medical practice and generally recognized by the medical scientific community as effective. Course of treatment may include mere observation or, where appropriate, no treatment at all. Experimental services or services generally regarded by the medical profession as unacceptable treatment are not medically necessary for purposes of this contract. Medically necessary services provided must be based on peer-reviewed publications, expert pediatric, psychiatric, and medical opinion, and medical/pediatric community acceptance.

In the case of pediatric Customers, this definition shall apply with the additional criteria that the services, including those found to be needed by a child as a result of a comprehensive screening visit or an interperiodic encounter whether or not they are ordinarily covered services for all other Medicaid or CHIP Benefit Plan Customers, are appropriate for the age and health status of the individual and that the service will aid the overall physical and mental growth and development of the individual and the service will assist in achieving or maintaining functional capacity.

1.6 Payment Policies are the guidelines adopted by United outside of this Agreement for calculating payment of claims to facilities (including claims of Ancillary Provider under this Agreement). The Payment Policies may change from time to time as discussed in section 5.1 of this Agreement.

1.7 Protocols are the programs and administrative procedures adopted by United to be followed by Ancillary Provider in providing services and doing business with United under this Agreement. These Protocols may include, among other things, credentialing and recredentialing processes, utilization management and care management processes, quality improvement, peer review, Customer grievance, or concurrent review or other similar United programs. The Protocols may change from time to time as discussed in section 4.4 of this Agreement and may be amended by United subject to the procedure identified in Section 4.4.

Article II. Representations and Warranties

2.1 Representations and warranties of Ancillary Provider. Ancillary Provider, by virtue of its execution and delivery of this Agreement, represents and warrants as follows:

- i) Ancillary Provider is a duly organized and validly existing legal entity in good standing under the laws of its jurisdiction of organization.
- ii) Ancillary Provider has all requisite corporate power and authority to conduct its business as presently conducted, and to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement by Ancillary Provider have been duly and validly authorized by all action necessary under its organizational documents and applicable corporate law. This Agreement has been duly and validly executed and delivered by Ancillary Provider and (assuming the due authorization, execution and delivery of this Agreement by United) constitutes a valid and binding obligation of Ancillary Provider, enforceable against Ancillary Provider in accordance with its terms, except as enforceability may be limited by the availability of equitable remedies or defenses and by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally.
- iii) The execution, delivery and performance of this Agreement by Ancillary Provider do not and will not violate or conflict with (a) the organizational documents of Ancillary Provider, (b) any material agreement or instrument to which Ancillary Provider is a party or by which Ancillary Provider or any material part of its property is bound, or (c) applicable law.
- iv) Ancillary Provider has obtained and holds all registrations, permits, licenses, and other approvals and consents, and has made all filings, that it is required to obtain from or make with all governmental entities under applicable law in order to conduct its business as presently conducted and to enter into and perform its obligations under this Agreement.
- v) Ancillary Provider has been given an opportunity to review the Protocols and Payment Policies and acknowledges that it is bound by the Protocols and that the claims under this Agreement will be paid in accordance with the Payment Policies.

- vi) Each submission of a claim by Ancillary Provider pursuant to this Agreement shall be deemed to constitute the representation and warranty by it to United that (a) the representations and warranties of it set forth in this Section 2.1 and elsewhere in this Agreement are true and correct as of the date the claims is submitted; (b) it has complied with the requirements of this Agreement with respect to the Covered Services involved and the submission of the claim, (c) the charge amount set forth on the claim is the Customary Charge and (d) the claim is a valid claim.

2.2 Representations and Warranties of United. United, by virtue of its execution and delivery of this Agreement, represents and warrants as follows:

- i) United is a duly organized and validly existing legal entity in good standing under the laws of its jurisdiction of organization.
- ii) United has all requisite corporate power and authority to conduct its business as presently conducted, and to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement by United have been duly and validly authorized by all action necessary under its organizational documents and applicable corporate law. This Agreement has been duly and validly executed and delivered by United and (assuming the due authorization, execution and delivery of this Agreement by Ancillary Provider) constitutes a valid and binding obligation of United, enforceable against United in accordance with its terms, except as enforceability may be limited by the availability of equitable remedies or defenses and by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally.
- iii) The execution, delivery and performance of this Agreement by United do not and will not violate or conflict with (a) the organizational documents of United, (b) any material agreement or instrument to which United is a party or by which United or any material part of its property is bound, or (c) applicable law.
- iv) United has obtained and holds all registrations, permits, licenses, and other approvals and consents, and has made all filings, that it is required to obtain from or make with all governmental entities under applicable law in order to conduct its business as presently conducted and to enter into and perform its obligations under this Agreement.

Article III. Applicability of this Agreement

3.1 Ancillary Provider 's services. This Agreement applies to Covered Services provided at Ancillary Provider's service locations set forth in Appendix 1. In the event Ancillary Provider begins providing services at other service locations, new types of facilities or under other Taxpayer Identification Number(s) (either by operating such locations itself, or by acquiring, merging, or affiliating with an existing provider that was not already under contract with United to participate in a network of health care providers), those additional Taxpayer Identification Numbers, new type of facilities or locations will become subject to this Agreement only upon the written agreement of the parties.

In the event Ancillary Provider acquires or is acquired by, merges with, or otherwise becomes affiliated with another provider of health care services that is already under contract with United to participate in a network of health care providers, the payment rates for each of Ancillary Provider's locations specified in this Agreement and the payment rates for the acquired provider will be lesser of (1) the rates set forth in the other agreement, or (2) the rates set forth in the applicable Payment Appendix to this Agreement.

In the event that Ancillary Provider's asset transfer, as described in this section, to another entity constitutes a subcontract to the transferee, that transfer is subject to applicable regulatory approval, including approval by the Division of Medical Assistance and Health Services.

- 3.2 Payers and Benefit Plans.** United may access Ancillary Provider's services under this Agreement for Benefit Plans, as described in Appendix 2. United must obtain written assent from Providers for all Benefit Plan type additions to this Agreement.
- 3.3 Services not covered under a Benefit Plan.** This Agreement does not apply to services not covered under the applicable Benefit Plan. Ancillary Provider may seek and collect payment from a Customer for such services, provided that the Ancillary Provider first obtain the Customer's written consent.
- This section does not authorize Ancillary Provider to bill or collect from Customers for Covered Services for which claims are denied or otherwise not paid. That issue is addressed in Sections 6.5 and 6.8 of this Agreement.
- 3.4 Patients who are not Customers.** This Agreement does not apply to services rendered to patients who are not Customers at the time the services were rendered. Section 6.6 of this Agreement addresses circumstances in which claims for services rendered to those patients are inadvertently paid.
- 3.5 Health Care.** Ancillary Provider acknowledges that this Agreement and Customer Benefit Plans do not dictate the health care provided by Ancillary Provider, or govern Ancillary Provider's determination of what care to provide its patients, even if those patients are Customers. The decision regarding what care is to be provided remains with Ancillary Provider and with Customers and their physicians, and not with United.
- 3.6 Communication with Customers.** Nothing in this Agreement is intended to limit Ancillary Provider's right or ability to communicate fully with a Customer and the Customer's physician regarding the Customer's health condition and treatment options. Ancillary Provider is free to discuss all treatment options without regard to whether or not a given option is a Covered Service. Ancillary Provider is free to discuss with a Customer any financial incentives Ancillary Provider may have under this Agreement, including describing at a general level the payment methodologies contained in this Agreement.

Article IV. Duties of Facility

- 4.1 Provide Covered Services.** Ancillary Provider will provide Covered Services to Customers. Ancillary Provider must be in compliance with section 2.1(iv) of this Agreement and credentialed by United or its delegate prior to furnishing any Covered Services to Customers under this Agreement.
- 4.2 Nondiscrimination.** Ancillary Provider will not discriminate against any patient, with regard to quality of service or accessibility of services, on the basis that the patient is a Customer.
- 4.3 Accessibility.** Ancillary Provider will be open 24 hours a day, seven days a week.
- 4.4 Cooperation with Protocols.** Ancillary Provider will cooperate with and be bound by United's Protocols. The Protocols include but are not limited to all of the following:
- i) Ancillary Provider will use reasonable commercial efforts to direct Customers only to other providers that participate in United's network, except as permitted under the Customer's Benefit Plan or otherwise authorized by United.
 - ii) Ancillary Provider will provide notification for certain Covered Services, accept and return telephone calls from United staff, and respond to United requests for clinical information as required by United as described in the Protocols.

The Protocols will be made available to Ancillary Provider online or upon request. Some or all Protocols also may be disseminated in the form of an administrative manual or guide or in other communications.

United may change the Protocols from time to time. United will use reasonable commercial efforts to inform Ancillary Provider at least 30 days in advance of any material changes to the Protocols. United may implement changes in the Protocols without Ancillary Provider's consent if the change is applicable to all or substantially all facilities in United's network located in the same state as Ancillary Provider. Otherwise, changes to the Protocols proposed by United to be applicable to Ancillary Provider are subject to the terms of section 9.2 of this Agreement applicable to amendments.

- 4.5 Employees and subcontractors.** Ancillary Provider will assure that its employees, affiliates and any individuals or entities subcontracted by Ancillary Provider to render services in connection with this Agreement adhere to the requirements of this Agreement. The use of employees, affiliates or subcontractors to render services in connection with this Agreement will not limit Ancillary Provider's obligations and accountability under this Agreement with regard to these services. Ancillary Provider affiliates are those entities that control, are controlled by or are under common control with Ancillary Provider.
- 4.6 Licensure.** Ancillary Provider will maintain, without material restriction, such licensure, registration, and permits as are necessary to enable Ancillary Provider to lawfully perform this Agreement.
- 4.7 Liability insurance.** Ancillary Provider will procure and maintain liability insurance. Except to the extent coverage is a state mandated placement, Ancillary Provider's coverage must be placed with responsible, financially sound insurance carriers authorized or approved to write coverage in the state in which the Covered Services are provided. Ancillary Provider's liability insurance must be, at a minimum, of the types and in the amounts set forth below. Ancillary Provider's medical malpractice insurance shall be either occurrence or claims made with an extended period reporting option. Prior to the Effective Date of this Agreement and within 10 days of each policy renewal thereafter, Ancillary Provider will submit to United in writing evidence of insurance coverage.

TYPE OF INSURANCE	MINIMUM LIMITS
Medical malpractice and/or professional liability insurance	One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) aggregate
Commercial general and/or umbrella liability insurance	One Million Dollars (\$1,000,000.00) per occurrence and aggregate

In lieu of purchasing the insurance coverage required in this section, Ancillary Provider may, with the prior written approval of United, self-insure its medical malpractice and/or professional liability, as well as its commercial general liability. Ancillary Provider shall maintain a separate reserve for its self-insurance. Prior to the Effective Date, Ancillary Provider shall provide a statement, verified by an independent auditor or actuary, that its reserve funding levels and process of funding appears adequate to meet the requirements of this section and fairly represents the financial condition of the fund. Ancillary Provider will provide a similar statement during the term of this Agreement upon United's request, which will be made no more frequently than annually. Ancillary Provider will assure that its self-insurance fund will comply with applicable laws and regulations.

- 4.8 Notice.** Ancillary Provider will give notice to United within 10 days after any event that causes Ancillary Provider to be out of compliance with section 4.6 or 4.7 of this Agreement, or of any change in Ancillary Provider's name, ownership, control, or Taxpayer Identification Number. In addition, Ancillary Provider will give written notice to United 45 days prior to the effective date of changes in existing remit address(es) and other demographic information. This section does not apply to changes of ownership or control that result in Ancillary Provider being owned or controlled by an entity with which it was already affiliated prior to the change. Section 8.2 provides additional requirements regarding termination of this Agreement.

4.9 Customer consent to release of medical record information. This section is applicable to reference laboratories only. Ancillary Provider will obtain any Customer consent required in order to authorize Ancillary Provider to provide access to requested information or records as contemplated in section 4.10 of this Agreement, including copies of the Ancillary Provider's medical records relating to the care provided to Customer.

4.10 Maintenance of and access to records. Ancillary Provider will maintain adequate medical, financial and administrative records related to Covered Services rendered by Ancillary Provider under this Agreement, including claims records, for at least six (6) years following the end of the calendar year during which the Covered Services are provided, unless a longer retention period is required by applicable law.

Ancillary Provider will provide access to these records as follows:

- i) to United or its designees, in connection with United's utilization management / Care CoordinationSM, quality assurance and improvement and for claims payment, and other administrative obligations, including reviewing Ancillary Provider's compliance with the terms and provisions of this Agreement and appropriate billing practice. Ancillary Provider will provide access during ordinary business hours within fourteen days after a request is made, except in cases of a United audit involving fraud investigation or the health and safety of a Customer (in which case, access must be given within 48 hours after the request) or of an expedited Customer appeal or grievance (in which case, access will be given so as to enable United to reasonably meet the timelines for determining the appeal or grievance); and
- ii) to agencies of the government, in accordance with applicable law, to the extent that access is necessary to comply with regulatory requirements applicable to Ancillary Provider, or United.

Ancillary Provider will cooperate with United on a timely basis in connection with any such audit including, among other things, in the scheduling of and participation in an audit interview within 30 days of United's request.

If such information and records are requested by United, Ancillary Provider will provide copies of the records free of charge.

4.11 Access to data. Ancillary Provider represents that in conducting its operations, it collects and reviews certain quality data relating to care rendered by Ancillary Provider that is reported in a manner which has been validated by a third party as having a clear, evidence-based link to quality or safety (e.g. AHRQ standards) or which has been created by employer coalitions as proxies for quality (e.g., Leapfrog standards)-

United recognizes that Ancillary Provider has the sole discretion to select the metrics which it will track from time to time and that Ancillary Provider's primary goal in so tracking is to advance the quality of patient care. If the information that Ancillary Provider chooses to report on is available in the public domain in a format that includes all data elements required by United, United will obtain quality information directly from the source to whom Ancillary Provider reported. If the Ancillary Provider does not report metrics in the public domain, on a quarterly basis, Ancillary Provider will share these metrics with United as tracked against a database of all discharged, commercial patients (including patients who are not United customers). United may publish this data to entities to which United renders services or seeks to render services, and to Customers. Notwithstanding the foregoing, Ancillary Provider agrees it will participate in The Leapfrog Group's annual patient safety survey.

4.12 Compliance with law. Ancillary Provider will comply with applicable regulatory requirements, including but not limited to those relating to confidentiality of Customer medical information.

- 4.13 Electronic connectivity.** When made available by United, Ancillary Provider will do business with United electronically. Ancillary Provider will use United's online provider resources to check eligibility status, claims status, and submit requests for claims adjustment for products supported by UnitedHealthcare Online® or other online resources as supported for additional products. Ancillary Provider will use United's online provider resources for additional functionalities (for instance, notification of admission) after United informs Ancillary Provider that these functionalities have become available for the applicable Customer.
- 4.14 Implementation of Patient Safety Programs.** Ancillary Provider will implement quality programs recommended by nationally recognized third parties from time-to-time as agreed to by United and Provider.
- 4.15 This section intentionally left blank.**

Article V. Duties of United and Payers

- 5.1 Payment of claims.** As described in further detail in Article VI of this Agreement, Payers will pay Ancillary Provider for rendering Covered Services to Customers. United will make its Payment Policies available to Ancillary Provider online or upon request. United may change its Payment Policies from time to time.
- 5.2 Liability insurance.** United will procure and maintain professional and general liability insurance, as United reasonably determines may be necessary to protect United and United's employees against claims, liabilities, damages or judgments that arise out of services provided by United or United's employees under this Agreement.
- 5.3 Licensure.** United will maintain, without material restriction, such licensure, registration, and permits as are necessary to enable United to lawfully perform this Agreement.
- 5.4 Notice.** United will give written notice to Ancillary Provider within 10 days after any event that causes United to be out of compliance with section 5.2 or 5.3 of this Agreement, or of any change in United's name, ownership, control, or Taxpayer Identification Number. This section does not apply to changes of ownership or control that result in United being owned or controlled by an entity with which it was already affiliated prior to the change.
- 5.5 Compliance with law.** United will comply with applicable regulatory requirements, including but not limited to those relating to confidentiality of Customer medical information and those relating to prompt payment of claims, to the extent those requirements are applicable.
- 5.6 Electronic connectivity.** United will do business with Ancillary Provider electronically by providing eligibility status, claims status, and accepting requests for claim adjustments, for those Benefit Plans supported by United's online provider resources. United will communicate enhancements in United's online provider resources functionality as they become available, as described in section 4.13 and will make information available as to which Benefit Plans are supported by United's online provider resources.
- 5.7 Employees and subcontractors.** United will assure that its employees, affiliates and any individuals or entities subcontracted by United to render services in connection with this Agreement adhere to the requirements of this Agreement. The use of employees, affiliates or subcontractors to render services in connection with this Agreement will not limit United's obligations and accountability under this Agreement with regard to those services.

Article VI. Submission, Processing, and Payment of Claims

- 6.1 Form and content of claims.** Ancillary Provider must submit claims for Covered Services in a manner and format prescribed by United, as further described in the Protocols. Unless otherwise directed by United, Ancillary Provider shall submit claims using current CMS 1500 or successor forms for paper claims and HIPAA standard professional or institutional claim formats for electronic claims, as applicable, with applicable coding including, but not limited to, ICD-9-CM, CPT, Revenue and HCPCS coding-
- 6.2 Electronic filing of claims.** Within six months after the Effective Date of this Agreement, Ancillary Provider will use electronic submission for all of its claims under this Agreement that United is able to accept electronically.
- 6.3 Time to file claims.** All information necessary to process a claim must be received by United no more than 180 days from the date all Covered Services were rendered. In the event United requests additional information in order to process a claim, Ancillary Provider will provide that additional information within 90 days of United's request. If United is not the primary payer, and Ancillary Provider is pursuing payment from the primary payer, the 180 day filing limit will begin on the date Ancillary Provider receives the claim response from the primary payer.
- 6.4 Payment of claims.** United will pay claims for Covered Services as further described in the applicable Payment Appendix to this Agreement and in accordance with Payment Policies.

Claims for Covered Services subject to coordination of benefits will be paid in accordance with the Customer's Benefit Plan and applicable state and federal law.

The obligation for payment under this Agreement is solely that of United.

- 6.5 Denial of claims for not following Protocols, Not Filing Timely, or Lack of Medical Necessity.** Payment may be denied in whole or in part if Ancillary Provider does not comply with a Protocol or does not file a timely claim as required under section 6.3 of this Agreement. Payment may also be denied for services provided that are determined by United to medically unnecessary, and Ancillary Provider may not bill the Customer for such services unless the Customer has, with knowledge of United's determination of a lack of Medical Necessity, agreed in a writing meeting the Division of Medical Assistance and Health Services standards, to be responsible for payment of those charges.

In the event payment of a claim is denied for lack of notification or for untimely filing, will be reversed if Ancillary Provider appeals within 12 months after the date of the denial and can show all of the following:

- that, at the time the Protocols required notification or at the time the claim was due, Ancillary Provider did not know and was unable to reasonably determine that the patient was a Customer, and
- that Ancillary Provider took reasonable steps to learn that the patient was a Customer, and
- that Ancillary Provider promptly provided notification, or files the claim after learning the patient was a Customer.

- 6.6 Retroactive correction of information regarding whether patient is a Customer.** Prior to rendering services, Ancillary Provider will ask the patient to present his or her Customer identification card. In addition, Ancillary Provider may contact United to obtain the most current information on the patient as a Customer.

However, Ancillary Provider acknowledges that such information provided by United is subject to change retroactively, under the following circumstances, (i) if United has not yet received information that an individual is no longer a Customer; (ii) if the individual's Benefit Plan is terminated retroactively for any reason including, but not limited to, non-payment of premium; (iii) as a result of the Customer's final decision regarding continuation of coverage pursuant to state and federal laws; or (iv) if eligibility information United receives is later proven to be false.

If Ancillary Provider provides health care services to an individual, and it is determined that the individual was not a Customer at the time the health care services were provided, those services will not be eligible for payment under this Agreement and any claims payments made with regard to those services may be recovered as overpayments under the process described in section 6.10 of this Agreement. Ancillary Provider may then directly bill the individual, or other responsible party, for those services.

6.7 Payment under this Agreement is payment in full. Payment as provided under section 6.4 of this Agreement, together with any co-payment, deductible or coinsurance for which the Customer is responsible under the Benefit Plan, is payment in full for a Covered Service. Ancillary Provider will not seek to recover, and will not accept, any payment from Customer, United, or anyone acting in their behalf, in excess of payment in full as provided in this section 6.7, regardless of whether that amount is less than Ancillary Provider billed charge or Customary Charge.

6.8 Customer hold harmless. Ancillary Provider will not bill or collect payment from the Customer, or seek to impose a lien, for the difference between the amount paid under this Agreement and Ancillary Provider's billed charge or Customary Charge, or for any amounts denied or not paid under this Agreement due to:

- i) Ancillary Provider's failure to comply with the Protocols,
- ii) Ancillary Provider's failure to file a timely claim,
- iii) United's Payment Policies,
- iv) inaccurate or incorrect claim processing,
- v) insolvency or other failure by United to maintain its obligation to fund claims payments
- vi) a denial based on medical necessity or prior authorization, except as provided in section 6.5 of this Agreement.

This obligation to refrain from billing Customers applies even in those cases in which Ancillary Provider believes that United has made an incorrect determination. In such cases, Ancillary Provider may pursue remedies under this Agreement against United, but must still hold the Customer harmless.

This section 6.8 and section 6.7 will survive the termination of this Agreement, with regard to Covered Services rendered prior to when the termination takes effect.

6.9 Consequences for failure to adhere to Customer protection requirements. If Ancillary Provider collects payment from, brings a collection action against, or asserts a lien against a Customer for Covered Services rendered (other than for the applicable co-payment, deductible or coinsurance), contrary to section 6.7 or 6.8 of this Agreement, Ancillary Provider will be in breach of this Agreement. This section 6.9 will apply regardless of whether Customer or anyone purporting to act on Customer's behalf has executed a waiver or other document of any kind purporting to allow Ancillary Provider to collect such payment from Customer.

In the event of such a breach, United may deduct, from any amounts otherwise due Ancillary Provider, the amount wrongfully collected from Customers, and may also deduct an amount equal to any costs or expenses incurred by the Customer, or United in defending the Customer from such action and otherwise enforcing sections 6.7 through 6.9 of this Agreement. Any amounts deducted by United in accordance with this provision will be used to reimburse the Customer and to satisfy any costs incurred. The remedy contained in this paragraph does not preclude United from invoking any other remedy for breach that may be available under this Agreement.

6.10 Correction of claims payments. In the event that either Party believes that a claim has not been paid correctly, or that funds were paid beyond or outside of what is provided for under this Agreement, either Party may seek correction of the payment, except that Ancillary Provider may not seek correction of a payment more than 12 months after it was made.

Ancillary Provider will repay overpayments within 30 days of written or electronic notice of the overpayment. Ancillary Provider will promptly report any credit balance that it maintains with regard to any claim overpayment under this Agreement, and will return the overpayment to United within 30 days after posting it as a credit balance.

Ancillary Provider agrees that recovery of overpayments may be accomplished by offsets against future payments.

Article VII. Dispute Resolution

The parties will work together in good faith to resolve any and all disputes between them (“Disputes”) including but not limited to all questions of arbitrability, the existence, validity, scope or termination of this Agreement or any term thereof.

If the parties are unable to resolve any such Dispute within 60 days following the date one party sent written notice of the Dispute to the other party, and if either party wishes to pursue the Dispute, it shall thereafter be submitted to binding arbitration before a panel of three arbitrators in accordance with the Commercial Dispute Procedures of the American Arbitration Association (“AAA”), as they may be amended from time to time (see <http://www.adr.org>). Unless otherwise agreed to in writing by the parties, if the party wishing to pursue the Dispute must initiate the arbitration within one year after the date on which written notice of the Dispute was given, or, shall be deemed to have waived its right to pursue the Dispute in any forum.

Any arbitration proceeding under this Agreement will be conducted in Essex County, New Jersey. The arbitrator(s) may construe or interpret but must not vary or ignore the terms of this Agreement and will be bound by controlling law. The arbitrator(s) have no authority to award punitive, exemplary, indirect or special damages, except in connection with a statutory claim that explicitly provides for that relief.

The parties expressly intend that any dispute relating to the business relationship between them be resolved on an individual basis, so that no other Dispute with any third party(ies) may be consolidated or joined with this Dispute. The parties agree that any arbitration ruling by an arbitrator allowing class action arbitration, or requiring consolidated arbitration involving any third party(ies), would be contrary to their intent and would require immediate judicial review or such ruling.

If the Dispute pertains to a matter which is generally administered by certain United procedures, such as a credentialing or quality improvement plan, the policies and procedures set forth in that plan must be fully exhausted by Ancillary Provider before Ancillary Provider may invoke any right to arbitration under this Article VII.

The decision of the arbitrator(s) on the points in dispute will be binding, and judgment on the award may be entered in any court having jurisdiction thereof. The parties acknowledge that because this Agreement affects interstate commerce the Federal Arbitration Act applies.

In the event that any portion of this Article or any part of this Agreement is deemed to be unlawful, invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not serve to invalidate any other part of this Article or Agreement. In the event any court determines that this arbitration procedure is not binding or otherwise allows litigation involving a Dispute to proceed, the parties hereby waive any and all right to trial by jury in, or with respect to, the litigation. The litigation would instead proceed with the judge as the finder of fact.

In the event a party wishes to terminate this Agreement based on an assertion of uncured material breach, and the other party disputes whether grounds for the termination exist, the matter will be resolved through arbitration under this Article VII. While the arbitration remains pending, the termination for breach will not take effect.

This Article VII governs any dispute between the parties arising before or after execution of this Agreement and, shall survive any termination of this Agreement.

**Article VIII.
Term and Termination**

8.1 Term. This Agreement will take effect on the Effective Date. This Agreement shall have an initial term one year, and will renew automatically for renewal terms of one year, until terminated pursuant to section 8.2

8.2 Termination. This Agreement may be terminated under any of the following circumstances:

- i) by mutual written agreement of the parties;
- ii) by either party, upon at least 90 days written notice, effective at the end of the initial term or effective at the end of any renewal term;
- iii) by either party, upon 60 days prior written notice, in the event of a material breach of this Agreement by the other party; except that, the termination will not take effect if the breach is cured within 60 days after notice of the termination; moreover, such termination may be deferred as further described in Article VII of this Agreement;
- iv) by either party, immediately upon written notice, in the event the other party loses licensure or other governmental authorization necessary to perform this Agreement, or fails to have insurance as required under section 4.7 or section 5.2 of this Agreement;
- v) by United, upon 10 days prior written notice, in the event Ancillary Provider loses accreditation; or
- vi) by United, upon 90 days prior written notice, in the event:
 - a) Ancillary Provider loses approval for participation under United’s credentialing plan, or
 - b) Ancillary Provider does not successfully complete the United’s re-credentialing process as required by the credentialing plan; or
- vii) notwithstanding the foregoing, by United immediately upon written notice—in the event of imminent, potential or actual harm to Customer.

8.3 Ongoing Services to certain Customers after termination takes effect. In the event a Customer is receiving any of the Covered Services listed below, as of the date the termination of this Agreement takes effect, Ancillary Provider will continue to render those Covered Services to that Customer, and this Agreement will continue to apply to those Covered Services, after the termination takes effect, for the length of time indicated below:

Inpatient Covered Services	30 days or until discharge, whichever comes first
Pregnancy, Third Trimester – Low Risk	Through postpartum follow up visit
Pregnancy, First, Second or Third Trimester – Moderate Risk and High Risk	Through postpartum follow up visit
Non-Surgical Cancer Treatment	30 days or a complete cycle of radiation or chemotherapy, whichever is greater

End Stage Kidney Disease and Dialysis	30 days
Symptomatic AIDS undergoing active treatment	30 days
Circumstances where Payer is required by applicable law to provide transition coverage of services rendered by Facility after Facility leaves the provider network accessed by Payer.	As applicable

**Article IX.
Miscellaneous Provisions**

- 9.1 Entire Agreement.** This Agreement is the entire agreement between the parties with regard to its subject matter, and supersedes any prior written or unwritten agreements between the parties or their affiliates with regard to the same subject matter.
- 9.2 Amendment.** This Agreement may only be amended in a writing signed by both parties, except that this Agreement may be unilaterally amended by United upon written notice to Ancillary Provider in order to comply with applicable regulatory requirements. United will provide at least 30 days notice of any such regulatory amendment, unless a shorter notice is necessary in order to accomplish regulatory compliance.
- 9.3 Nonwaiver.** The waiver by either party of any breach of any provision of this Agreement shall not operate as a waiver of any subsequent breach of the same or any other provision.
- 9.4 Assignment.** This Agreement may not be assigned by either party without the written consent of the other party, except that this Agreement may be assigned by United to any of United's Affiliates.
- 9.5 Relationship of the parties.** The sole relationship between the parties to this Agreement is that of independent contractors. This Agreement does not create a joint venture, partnership, agency, employment or other relationship between the parties.
- 9.6 No third-party beneficiaries.** United and Ancillary Provider are the only entities with rights and remedies under this Agreement.
- 9.7 Delegation.** United may delegate (but not assign) certain of its administrative duties under this Agreement to one or more other entities. No such delegation will relieve United of its obligations under this Agreement.
- 9.8 Notice.** Any notice required to be given under this Agreement must be in writing, except in cases in which this Agreement specifically permits electronic notice, or as otherwise permitted or required in the Protocols. All written or electronic notices shall be deemed to have been given when delivered in person, by electronic communication, by facsimile, or, if delivered by first-class United States mail, on the date mailed, proper postage prepaid and properly addressed to the appropriate party at the address set forth on the signature portion of this Agreement or another more recent address of which the sending party has received written notice. Notwithstanding the previous sentence, all notices of termination of this Agreement by either party must be sent by certified mail, return receipt requested. Each party will provide the other with proper addresses, facsimile numbers and electronic mail addresses of all designees that should receive certain notices or communication instead of that party.

9.9 Confidentiality. Neither party may disclose to a Customer, other health care providers, or other third parties any of the following information (except as required by an agency of the government):

- i) any proprietary business information, not available to the general public, obtained by the party from the other party;
- ii) the specific reimbursement amounts provided for under this Agreement, except for purposes of administration of benefits.

At least 48 hours before either party issues a press release, advertisement, or other media statement about the business relationship between the parties, that party will give the other party a copy of the material the party intends to issue.

Except as otherwise required by applicable law or stock exchange rule, Ancillary Provider will not, and will not permit any of its representative affiliates, representatives or advisors to, issue or cause the publication of any press release or make any other public announcement, including, without limitation, any “tombstone” or other advertisement, with respect to this Agreement without the consent of United.

9.10 Governing law. This Agreement will be governed by and construed in accordance with the laws of the state in which Ancillary Provider renders Covered Services, and any other applicable law.

9.11 Regulatory appendices. One or more regulatory appendix may be attached to this Agreement, setting forth additional provisions included in this Agreement in order to satisfy regulatory requirements under applicable law. These regulatory appendices, and any attachments to them, are expressly incorporated into this Agreement and are binding on the parties to this Agreement. In the event of any inconsistent or contrary language between a regulatory appendix and any other part of this Agreement, including but not limited to appendices, amendments and exhibits, the regulatory appendix will control, to the extent it is applicable.

9.12 Severability. Any provision of this Agreement that is unlawful, invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining provisions of this Agreement or the lawfulness, validity or enforceability of the offending provision in any other situation or jurisdiction.

9.13 Survival. Sections 4.10, 6.7, 6.8, Article VII and Section 8.3 and 9.9 (except for the last paragraph) of this Agreement, will survive the termination of this Agreement.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES.

as signed by its authorized representative:	Address to be used for giving notice to Facility under this Agreement:
Signature: {{_es_signer1_signature}}	Street:
Print Name: _____	City:
Title:	State: Zip Code:
Date: _____ {{_es_signer1_date}}	Email:

UnitedHealthcare Insurance Company, on behalf of itself, Oxford Health Plans (NJ), Inc., and its other affiliates, as signed by its authorized representative:

Signature: {{_es_signer2_signature}}
Print Name: _____
Title:
Date: _____ {{_es_signer2_date}}

Address to be used for giving notice to United under this Agreement:
Street:
City:
State: Zip Code:
For Plan Use Only:
Month and year in which agreement is first effective: _____