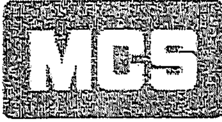

MEDICAL CARD SYSTEM, INC.

REGISTRO DE CONTRATOS
TOMO 18 PAGINA 79
CONTRATO NUM. 2009-000420

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5 **PREFERRED PROVIDER ORGANIZATION (PPO) AGREEMENT**

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8 **THIS PREFERRED PROVIDER ORGANIZATION (PPO) AGREEMENT**
9 ("Agreement") is made and entered into by and between **MEDICAL CARD SYSTEM,**
10 **INC.**, (hereinafter, "MCS"), and the health care provider who signs this agreement
11 (hereinafter, "Provider"), as of the date of its signing by both parties ("Effective Date").

12 **WHEREAS**, MCS provides and/or administers health plans to provide for the
13 payment of health care benefits for individuals subscribed and eligible to receive those
14 health care benefits under the different health plans (hereinafter, "Insureds"); and

15 **WHEREAS**, MCS contracts with health care providers to render services to
16 Insureds (as defined as follows);

17 **WHEREAS**, The Provider agrees to provide covered services to all members,
18 which includes those enrolled in MCS, its subsidiary entities, plans or products; and
19

20 **WHEREAS**, Provider wishes to contract with MCS to provide services to
21 Insureds on the following terms and conditions.
22

23 **NOW, THEREFORE**, in consideration of the foregoing and of the mutual
24 covenants, promises and undertakings herein and intending to be legally bound hereby,
25 the parties agree as follows:

26 **ARTICLE I**
27 **DEFINITIONS**
28

29 When used in this Agreement, all capitalized terms shall have the
30 following meanings:

31 1.1 **Affiliate.** Affiliate, with respect to MCS, shall mean any
32 corporation, partnership or other legal entity (including any plan) directly or indirectly
33 owned or controlled by, or which owns or controls, or which is under common
34 ownership or control of MCS.

35 1.2 **Claim.** Any document and/or electronic transmission sent by a
36 provider to MCS to ask for the payment of health services provided by the provider to
37 MCS' Insureds.

38 1.3 **Clean Claim.** Unless defined otherwise pursuant to applicable
39 law, Clean Claim shall mean a claim (a) for which all information, documentation and
40 data required by MCS for processing of a claim for payment has been submitted on or
41 in connection with a HCFA 1500 form or UB92 (as appropriate), and (b) which has
42 been submitted within the applicable timeframes set forth in this Agreement.

43 1.4 **CMS**: Center for Medicaid and Medicare services.

44 1.5 **Coinsurance.** Coinsurance shall mean the percentage of the
45 rates established under this Agreement which an Insured is required to pay for
46 Covered Services under a Plan.

47 1.6 **Copayment.** Copayment shall mean a charge required under a
48 Plan that must be paid by an Insured at the time of the provision of Covered Services.

49 1.7 **Covered Services.** Covered Services shall mean those services
50 which an Insured is entitled to receive under the terms and conditions of a Plan.

51 1.8 **Deductible.** Deductible shall mean an amount that an Insured
52 must pay for Covered Services per specified period in accordance with the Insured's
53 Plan before benefits will be paid.

54 1.9 **Emergency Condition.** Emergency Condition shall mean (a) a
55 medical condition manifesting itself by acute symptoms of sufficient severity (including
56 severe pain, psychiatric disturbances, and/or symptoms of substance abuse) such that
57 a prudent lay person could think that the absence of immediate medical attention

58 could reasonably be expected to result in: (i) placing the health of the individual (or,
59 with respect to a pregnant woman, the health of the woman or her unborn child) in
60 serious jeopardy, (ii) serious impairment to bodily functions, or (iii) serious dysfunction
61 of any bodily organ or part; or (b) with respect to a pregnant woman who is having
62 contractions that: (i) there is inadequate time to effect a safe transfer to another
63 hospital before delivery, or (ii) a transfer may pose a threat to the health or safety of
64 the woman or the unborn child.

65 1.10 **Emergency Services.** Unless otherwise defined in the
66 applicable Plan, Emergency Services shall mean Medically Necessary Services to
67 treat an Emergency Condition, such services shall be available on an inpatient or
68 outpatient basis, twenty-four (24) hours per day, seven (7) days per week.

69 1.11 **HIPAA** Public Law 104-91, approved by the U.S. Congress on
70 August 21, 1996 known as the Health Insurance Portability and Accountability Act.
71 The objective of HIPAA is to regulate the continuity and portability of health plans, to
72 mandate the adoption and implementation of administrative simplification standards to
73 prevent fraud and abuse, improve health plan overall operations and guarantee the
74 privacy and confidentiality of individual identifiable health information.

75 1.12 **Insured**. Insured shall mean any person and/or family dependent
76 covered under a benefit plan agreement of MCS or its affiliates. For purposes of this
77 agreement, the term Insured shall also include any person and/or family dependent
78 that is enrolled in an MCS's benefit plan agreement.

79 1.13 **Material Breach of Contract** When any of the parties to this
80 Agreement does not comply with his obligations as set forth in this Agreement and
81 with the regulations implemented pursuant to the Health Insurance Portability and
82 Accountability Act of 1996 (HIPAA), or any other applicable federal or local regulation.

83 1.14 **Medically Necessary Services.** Unless otherwise defined in the
84 applicable Plan, Medically Necessary Services shall mean health care services that
85 are appropriate and consistent with the diagnosis in accordance with accepted

86 medical standards and which are likely to result in demonstrable medical benefit, and
87 which are the least costly of alternative supplies or levels of service which can be
88 safely and effectively provided to the patient. Medically Necessary Services do not
89 include custodial or supportive care or rest cures, or services or supplies provided for
90 the convenience of the patient, the patient's family, or the provider. Medically
91 Necessary Services must be related to diagnosis or treatment of an existing illness or
92 injury. Health services are not Medically Necessary Services if they are experimental
93 services. Medical necessity, when used in relation to services, shall have the same
94 meaning as Medically Necessary Services.

95 1.15 **Medicare** Federal health insurance program for persons 65 or
96 older, persons of any age with permanent kidney failure and certain disabled persons
97 according to Title XVII of the Social Security Act. Medicare has two parts, Part A and
98 Part B. Part A is the hospital insurance that includes inpatient hospital care and certain
99 follow up care. Part B is medical insurance that includes physician services and any
100 other ambulatory medical services.

101 1.16 **Medicare Beneficiary** Any person who is a Medicare recipient of
102 Part A or Part A and B.

103 1.17 **MCS Programs**: The utilization management and review, quality
104 assurance, peer review, credentialing, manuals and programs now present or to be
105 created in the future, including and not limited to, policies and procedures regarding
106 referrals and the reporting of clinical data, established by MCS relating to the provision
107 of covered services to the Insured.

108 1.18 **Participating Provider**. Participating Provider shall mean any
109 physician, hospital, skilled nursing facility, or other individual or entity involved in the
110 delivery of health care or ancillary services who or which has entered into and
111 continues to have a current valid contract with MCS to provide Covered Services to
112 Insureds, and has been credentialed by MCS or its designee consistent with MCS's
113 credentialing policies. Certain categories of Participating Providers may be referred to

114 herein more specifically as, e.g., "Participating Physicians," "Provider," or
115 "Participating Hospitals."

116 1.19 **Plan**. Plan shall mean any health benefit product or plan issued,
117 administered, or serviced by MCS or one of its Affiliates.

118 1.20 **Proprietary Information**. Proprietary Information shall mean
119 information developed by or belonging to MCS, including, but not limited to, this
120 Agreement, mailing lists, patient lists, employer lists, MCS rates and procedures,
121 product related information and structure, utilization review procedures, formats and
122 structure and related information and documents concerning MCS's systems and
123 operations of its Plans.

124 **ARTICLE II**
125 **TERMS AND CONDITIONS**
126

127 **2.1** Provider shall furnish to Insured's those Covered Services for which the
128 Insured is entitled under any of MCS´s benefit plan agreement. It is understood and
129 agreed that MCS shall have final authority to determine whether any services provided
130 by Provider were Covered Services and to adjust or deny payment for services
131 rendered by Providers to Insured's in accordance with the results of such
132 determinations. Provider agrees to provide only those services which are medically
133 necessary services according to the Insured's health circumstances.

134 **2.2** Covered Services shall be delivered in a prompt manner, consistent with
135 professional, clinical and ethical standards, and in the same manner as provided to
136 Provider's other patients. Provider shall accept Insured's as new patients on the same
137 basis as Provider is accepting non-Insured's as new patients. Provider shall not
138 discriminate against a Insured on the basis of age, race, color, creed, religion, gender,
139 sexual preference, national origin, health status, benefits, use of Covered Services,
140 income level or the filing by the Insured of a complaint or grievance.

141 **2.3** Provider shall provide prompt notice to MCS of any significant changes in
142 the capacity of Provider to provide or arrange for the provision of Covered Services to
143 Insureds as contemplated by this Agreement.

144 **2.4** Provider shall provide services to the Insured in an economical and
145 efficient manner consistent with professional standards of medical care generally
146 accepted in the medical community.

147 **2.5** Provider shall have available all services in accordance to the policies and
148 procedures of MCS and under the terms of this contract.

149 **2.6** Provider may verify the Insured's eligibility for covered services by
150 accessing the eligibility records of the Insured through the electronic means available or
151 by calling MCS during business hours. As set forth in the policies and procedures of
152 MCS or in the benefit plan, pre-authorization is required for the provision of certain non-
153 emergency covered services to the Insured. If the Provider has received pre-
154 authorization from MCS that the procedure constitutes a covered service, MCS shall
155 accept such determination for payment purposes, unless the Provider withheld relevant
156 information that would affect such determination, and subject to utilization review.

157 **2.7** Provider acknowledges that it shall be responsible for the professional
158 advice and treatment rendered to the Insured pursuant to this Agreement, and MCS
159 disclaims any liability with respect to such matters.

160 **2.8** Provider agrees to provide to MCS all information necessary for MCS
161 and/or its affiliates to meet its data reporting and submission obligations to CMS,
162 including, but not limited to, the data necessary for MCS and/or its affiliates to meet its
163 reporting obligations under 42 CFR §422.516.

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ARTICLE III
MEDICAL RECORDS

170 **3.1** Provider will ensure that it maintains with respect to each Insured
171 receiving covered services, a medical record documenting all medical notes made by
172 the Provider, consultations, covered services and any and all other information
173 necessary to validate the diagnosis and the treatment that was administered to the
174 Insured.

175 **3.2** The medical record of the Insured and the personal information contained
176 therein will be considered confidential. The Provider shall comply with all state and
177 federal laws and regulation and corporate policies of MCS regarding confidentiality of
178 medical records. The confidentiality provision herein contained shall survive the
179 termination of this contract and shall bind the Provider as long as they maintain any
180 individually identifiable information relating to the Insured.

181 **3.3** Provider shall preserve in a readily accessible form, for their inspection
182 by CMS, the Office of the Inspector General (OIG), MCS and any other authorized state
183 and federal agency, the records of all MCS Insured's during the term of this agreement
184 and for a period of six (6) years thereafter unless:

185 **1.** It is determined by CMS that a special necessity exists that requires
186 that a medical record or a group of medical records be kept
187 accessible for an additional period and CMS notifies MCS of it, at
188 least thirty (30) days before the conclusion of the initial period of six
189 (6) years.

190 **2.** There has been a dispute, fraud or fault in which case the retention
191 according to applicable laws may be extended to three (3) years
192 from the date of any resulting settlement.

193 **3.** There has been an audit intervention by CMS, the Comptroller of
194 Puerto Rico, or the OIG, in which case the retention may be
195 extended until conclusion of the audit and publication of the final
196 report.

197

198 **3.4** Provider agrees to maintain Insured health records and other information
199 with respect to Insured in an accurate and timely manner.

200

201
202 **ARTICLE IV**
203 **BILLING AND COMPENSATION**
204

205 **4.1** Provider shall comply with MCS's billing and claim processing procedures.
206 **4.2** MCS shall pay Provider in accordance with the compensation terms
207 established by MCS from time to time and notified to the Provider via internet or any other
208 form of electronic notification. MCS shall pay Providers for services rendered to MCS
209 Advantage beneficiaries as established in **Exhibit A** of this Agreement. Provider agrees to
210 accept such compensation as payment in full for all Covered Services rendered to
211 Insured's.
212 **4.3** Provider shall submit the claims to MCS within ninety (90) days of the date of
213 service. MCS will not be obligated to pay any claims received after ninety (90) days.
214 **4.4** Provider shall submit any additional information that may be required by MCS
215 to process the claim.
216 **4.5**All payments will be made no later than fifty (50) days from the date that a full,
217 complete and ready to process claim is received by MCS.
218 **4.6** In the event that a claim is totally or partially contested by MCS, Provider shall
219 be notified in writing within forty (40) days that the claim is contested and the reasons that
220 support the denial of payment. Provider agrees to submit request for adjustment of claims
221 within forty five (45) days of receipt of notification of contested claim. Upon receipt of a
222 corrected or supplemented claim, MCS shall pay the claim within thirty (30) days.
223 **4.7** MCS may reduce or deny payment for services which are not submitted for
224 payment in accordance with the provisions of this Agreement or which are not billed or
225 coded in accordance with generally accepted industry standards for billing and coding
226 practices.

227 **4.8** Except for co-payments, coinsurance or deductibles required under the benefit
228 plan, Provider shall accept the compensation payable hereunder as payment in full for all
229 services provided to the Insured.

230 **4.9** Provider acknowledges that no manual claims will be accepted by MCS, unless
231 prior written authorization by MCS. Unless otherwise directed by MCS, Provider shall
232 submit claim or encounter data using the current HCFA 1500 forms or an electronic
233 transmission format which fully complies with the Codes and Transactions Standard
234 established by the Department of Health and Human Services of the United States in
235 accordance with the provisions of the Health Insurance Portability and Accountability Act of
236 1996 (EDI Rule).

237 **4.10** MCS will always be secondary payer in relation to any other health plan. MCS
238 will not be responsible for the payment of covered services, which are the responsibility of
239 the primary payer.

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244 **ARTICLE V**

245 **PAYMENTS IN EXCESS OR MADE IN ERROR**

246

247 **5.1** Provider acknowledges that it could receive payments that exceed the
248 amount that the Provider is entitled to bill MCS. Provider further acknowledges that it
249 could receive payments that are addressed to a third party or are not of its property.

250 **5.2** Provider shall inform and refund MCS of any and all payments it receives
251 as described in article 5.1 of this Agreement within five (5) days of receipt. Should
252 Provider fail to notify MCS and appropriates the payments in question, MCS may
253 recover from Provider any amount within a period of six (6) years beginning on the date
254 payment was made. Provider authorizes MCS to offset said payment against any
255 amount MCS owes to Provider.

256

257 ## ARTICLE VI
258 ## LICENSURE AND CREDENTIALS

259

260 **6.1** Provider represents and warrants that: (a) it has and shall maintain
261 throughout the term of this Agreement all appropriate license(s) and certification(s)
262 mandated by any governmental regulatory agencies with authority over the Provider; (b)
263 Provider shall comply with all applicable federal and commonwealth laws and
264 regulations related to this Agreement and the services to be provided hereunder,
265 including, but not limited to, laws and regulations related to fraud, abuse, discrimination,
266 disabilities, confidentiality, self-referral, false claims, and prohibition of kickbacks; (c)
267 Provider, has not been debarred or suspended from any federal agency; and (d)
268 executing and performing its obligations under this Agreement shall not cause Provider
269 to violate any term or covenant of any other arrangement now existing or hereafter
270 executed.

271 **6.2** Provider shall notify MCS immediately should any action of any kind be
272 initiated which could result in the suspension or loss of its licensure or certification.

273 **6.3** Provider agrees to notify MCS within seventy two (72) hours of any material
274 change in its credentials, including but not limited to, knowledge of the occurrence of any of
275 the following:

276 **1.** The revocation, restriction, termination or voluntary relinquishment of
277 any of the licenses, certification or accreditation's required to practice
278 medicine; or

279 **2.** The imposition of any disciplinary action, including censure and
280 reprimand, by any State licensing board; or

281 **3.** Any final disposition or settlement of any legal action against the
282 Provider for Professional negligence; or

283 **4.** Any conviction for any criminal charge except for minor traffic
284 infractions; or

285 **5.** Any lapse, termination or material change in the liability insurance
286 coverage required by this Agreement; or

287 6. Any restriction, suspension, revocation or voluntary relinquishment of
288 staff membership or clinical privileges at any health care facility; or
289 7. The existence of an impairment of the Provider's ability to provide
290 professional services caused by alcohol, drugs, physical or mental
291 disability; or
292 8. Conduct, which has harmed or endangers the health or welfare of a
293 patient.

294
295 **ARTICLE VII**
296 **CREDENTIALING AND RECREDENTIALING**
297

298 **7.1** Provider acknowledges that it is the policy of MCS to have in its network of
299 providers, physicians that comply with its credentialing process established by MCS. In
300 accordance with this policy MCS will verify and will update the Provider's record to
301 make sure that all information and documents have been updated.

302 **7.2** MCS shall have the right to require to the Provider evidence of the
303 license, certifications or any other document necessary to establish the credentials of
304 the Provider, at any time during the term of this agreement.

305 **7.3** Provider authorizes MCS to contact any state, federal or private entity and
306 request and copy any and all information that is relevant to the recredentialing process.

307

308 **ARTICLE VIII**
309 **COMPLIANCE WITH POLICIES AND PROCEDURES**
310

311 **8.1** Provider shall comply with all policies and procedures established and
312 notified by MCS. Said policies and procedures when notified by MCS, will be
313 automatically incorporated to this Agreement.

314 **8.2** In Particular, Provider agrees to comply with all regulations related to the
315 Medicare Advantage Program, as established from time to time by the Centers for
316 Medicaid and Medicare Services (CMS).

317 **8.3** Provider shall cooperate with any grievance procedures or programs
318 sponsored by MCS. Provider must notify MCS promptly upon knowledge of any dispute,
319 complaint, or grievance relating to the patient care or other disputes involving MCS, its
320 Clients or it's Insured.

321 **8.4** Provider acknowledges that MCS and its affiliates shall oversee and
322 monitor Provider's performance on an ongoing basis. Provider further acknowledges
323 that MCS affiliates are accountable to CMS for the functions and responsibilities
324 described in the Medicare Advantage contract and regulatory standards and ultimately
325 responsible to CMS for the performance of all services.

326 **8.5** Provider agrees to comply, with all applicable Medicare laws, regulations,
327 and CMS instructions. Further, Provider agrees that any services provided by the
328 Provider or its subcontractors to MCS Medicare Advantage Insured or potential
329 Medicare Advantage insured will be consistent with and will comply with MCS affiliates
330 Medicare Advantage contractual obligations.

331

332 **ARTICLE IX**
333 **HIPAA COMPLIANCE WARRANTY**
334

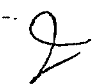
335 **9.1** Provider acknowledges that during the term of this agreement, it must
336 comply with all statutory requirements as set forth in Subtitle F of HIPAA (Administrative
337 Simplification Act), and the regulatory requirements promulgated by the Secretary of
338 Health and Human Services Department. In the event of noncompliance by the Provider
339 with these statutory and regulatory requirements, MCS will require that the Provider
340 present evidence of compliance. The Provider further acknowledges that if not in
341 compliance, MCS will consider this conduct as a material breach of contract by the

342 Provider. Provider shall indemnify MCS for all the losses, damages, injuries, harms,
343 costs and expenses caused by such breach of the Agreement.

344 **9.2** MCS acknowledges that during the term of this Agreement, it must comply
345 with all statutory requirements as set forth in Subtitle F of HIPAA (Administrative
346 Simplification Act), and the regulatory requirements promulgated by the Secretary of
347 Health and Human Services Department. In the event of noncompliance by MCS with
348 these statutory and regulatory requirements, Provider will require that MCS present
349 evidence of compliance. MCS further acknowledges that if MCS is not in compliance,
350 the Provider will consider this conduct as a material breach of the contract by MCS.
351 MCS shall indemnify Provider for all the losses, damages, injuries, harms, costs and
352 expenses caused by such breach in contract.

353 **ARTICLE X**
354 **GENERAL TERMS AND CONDITIONS**
355

356 **10.1** Provider agrees that in no event, including, but not limited to, nonpayment
357 by MCS, MCS insolvency, or breach of this Agreement, shall Provider bill, charge,
358 collect a deposit from, seek compensation, remuneration or reimbursement from, or
359 have any recourse against an Insured or persons other than MCS acting on their behalf,
360 for services rendered under this Agreement. This section shall not prohibit collection of
361 applicable Copayments, Coinsurance, or Deductibles from the appropriate source.
362 Provider further agrees that: (i) this provision shall survive termination of this
363 Agreement regardless of the cause giving rise to termination and shall be construed to
364 be for the benefit of the Insured; (ii) this provision supercedes any oral or written
365 contrary agreement now existing or hereafter entered into between Provider and a
366 Insured or a person acting on Insured's behalf; and (iii) in the case that Provider make
367 an incorrect or non authorized charge to an Insured, MCS will have the authority to
368 reimburse this amount to the Insured and to offset this reimbursement against any
369 amount MCS owes to the Provider.



370 **10.2** Any denial, unreasonable delay or rationing of services is expressly
371 prohibited.

372 **10.3** MCS shall notify to the Provider with an explanation of benefits available
373 to Insureds under its plans, utilization standards and administrative requirements in
374 MCS, and timely notification of significant changes in this information. MCS will include
375 Provider in the applicable Participating Provider directory or directories and will make
376 such directories available to Insured's.

377 **10.4** MCS, as part of its Insured identification process, shall make available to
378 Provider electronic eligibility information regarding all current Insured's via the Internet.
379 MCS shall provide each Insured with a card, properly identifying MCS, the Insured's
380 name, eligibility dates, the Insured's identification number and the applicable information
381 regarding where Provider can verify eligibility and certification information in order to
382 provide covered services to an Insured ("Identification Card"). Provider will employ all
383 reasonable efforts shall be made to verify the eligibility and status of Insured's. The
384 verification process shall include, but not be limited to, checking Identification Cards,
385 Insured listings, Insured eligibility available via Internet or, if necessary, contacting
386 MCS.

387 **10.5** Provider shall verify the identity of the Insured by: (i) requiring the Insured
388 to produce his/her Identification Card (as defined in Section 4.5 hereof) and another
389 form of identification with a photo whenever possible; or (ii) if no Identification Card has
390 yet been issued, two forms of identification, at least one of which shall be a photo
391 identification whenever possible. If Insured is a minor, parent's identification will be
392 acceptable if Insured's eligibility is verified with MCS in accordance with this Agreement.
393 If MCS later determines that a Insured, verified as an eligible Insured at the time of
394 receipt of Covered Services, was retroactively terminated for non-receipt of premiums or
395 otherwise, MCS will promptly notify Provider, and Provider may bill the Insured.
396 Provider agrees that MCS shall not be responsible for any payment for services that
397 may have been rendered to a non-eligible Insured or individual. If Provider does not
398 agree with a denial or payment revocation determination made by MCS, Provider may

399 file an appeal with MCS in accordance with the appeal procedures set forth in MCS's
400 policies and procedures.

401 **10.6** In the case of an Emergency Medical Condition, Provider will use best
402 efforts to obtain prior verification and authorization, but such efforts shall not require
403 Provider to violate any federal, state or local law relating to the provision of Emergency
404 Services.

405 **10.7** Provider agrees to participate in and comply with MCS's programs to
406 monitor the quality and utilization of Provider's services ("UM/QA Program") to promote
407 the efficient use of resources. Such UM/QA Program will be established by MCS and
408 may be amended from time to time by MCS in its sole and absolute discretion. Provider
409 shall comply with and, subject to any right to appeal as provided in the UM/QA Program,
410 be bound by such UM/QA Program. Failure by Provider to comply with the
411 requirements of this paragraph will be deemed to be a material breach of this
412 Agreement. All documents and information received or obtained by MCS during its
413 activities pursuant to this paragraph shall be held confidential by MCS during and after
414 the term of this Agreement and shall not be disclosed to any person without the prior
415 written consent of Provider.

416 **10.8** Provider agrees that all Proprietary Information constitutes the confidential
417 information of MCS, and Provider shall keep the Proprietary Information strictly
418 confidential. Provider agrees that the Proprietary Information is the exclusive property
419 of MCS and that Provider shall have no right, title or interest in the same. Provider shall
420 not use the Proprietary Information for any purpose other than those provided for
421 herein, nor shall it disclose any Proprietary Information to any third party, in either case
422 except pursuant to the advance written consent of MCS. Proprietary Information shall
423 not include information which is otherwise publicly available or which is required by law
424 or a government agency to be disclosed, provided that Provider shall notify MCS
425 immediately upon receipt of any such required disclosure and shall reasonably
426 cooperate in obtaining any protective order or other appropriate remedy desired or
427 sought by MCS. In the event of a breach or a threatened breach of this section by

428 Provider, MCS shall have the right of specific performance and injunctive relief in
429 addition to any and all other remedies and rights at law or in equity, and such rights and
430 remedies shall be cumulative. This section shall survive the expiration and termination
431 of this Agreement, regardless of the cause of termination.

432 **10.9** Any notice required or permitted to be given pursuant to the terms and
433 provisions of this Agreement shall be sent in writing and delivered either personally or
434 by the US Post Office (by certified or registered mail) provided written confirmation of
435 delivery is available. Mailed notices shall be mailed to the address indicated below,
436 though either party shall be entitled to change its written address in accordance with this
437 section. Notices by mail shall be deemed received not later than five (5) working days after
438 the date of such mailing.

439

440 **MEDICAL CARD SYSTEM, INC.**
441 MCS Plaza
442 Ponce De Leon Ave. 255, Suite 1500
443 Hato Rey, P.R. 00918
444

445 **10.10** None of the terms or provisions of this Agreement is intended to create
446 nor shall be deemed to create any relationship between MCS and Provider other than
447 that of independent entities contracting with each other hereunder solely for the purpose
448 of complying with the provisions of this Agreement. Neither of the parties hereto, nor
449 any of their respective employees, shall be construed to be the agent, employer,
450 employee, or representative of the other.

451 **10.11** MCS and Provider each reserves the right to and control of the use of its
452 name, symbols, trademarks, and service marks presently existing or later established.
453 In addition, except as provided herein, neither MCS nor Provider shall use the other
454 party's name, symbols, trademarks, or service marks in advertising or promotional
455 materials or otherwise, without the prior written consent of that party and shall cease
456 any such usage immediately upon written notice of the party or on termination of this
457 Agreement, whichever is sooner. Provider consents to the use of its name and other

458 identifying and descriptive information in provider directories and in other materials and
459 marketing literature of MCS in all formats, including, but not limited to, electronic media.

460 **10.12** Provider shall not counsel or advise, directly or indirectly, Insureds or
461 other entities who are currently under contract with MCS or any affiliate to cancel,
462 modify, or not renew said contracts.

463 **10.13** This Agreement shall be governed in all respects by the laws of the
464 Commonwealth of Puerto Rico.

465 **10.14** Any determination that any provision of this Agreement or any application
466 thereof is invalid, illegal or unenforceable in any respect in any instance shall not affect
467 the validity, legality and enforceability of such provision in any other instance, or the
468 validity, legality, or enforceability of any other provision of this Agreement.

469 **10.15** This Agreement is not exclusive, and nothing herein shall preclude either
470 party from contracting with any other person or entity for any purpose.

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ARTICLE XI
INDEMNIFICATION

475 **11.1** Each party agrees to forever indemnify and hold harmless the other party
476 and its officers, employees and agents from and against all fines, claims, demands,
477 suits, actions, or costs, including reasonable attorneys' fees, of any kind and nature, to
478 the extent they arise by reason of the indemnitor's acts or omissions.

479 **11.2** Provider shall maintain during the term of this agreement professional
480 liability insurance with a minimum coverage of $100,000.00 per occurrence and
481 $300,000.00 in the aggregate, or otherwise provided by law.

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ARTICLE XII
TERM AND TERMINATION

486 **12.1** Unless terminated sooner pursuant to this Article 12, the initial term of this
487 Agreement shall be one (1) year, commencing on the Effective Date (the "Initial Term"),
488 and the Agreement shall automatically renew for successive one-year terms upon
489 expiration of the Initial Term.

490 **12.2** Either party shall have the right to terminate this Agreement without cause
491 at any time upon sixty (60) calendar days advance written notice to the other party.

492 **12.3** This Agreement will terminate upon the occurrence of any of the following
493 events: (i) either party notifies the other of a material breach of a warranty, covenant or
494 obligation, provided that the allegedly breaching party shall have thirty (30) calendar
495 days after written notice of such breach to cure the breach; (ii) automatically and without
496 notice upon the cancellation of Provider's professional liability insurance to be
497 maintained in accordance with Section 11.2; (iii) automatically and without notice upon
498 either party's suspension by a state or the federal government sponsored program; or
499 (iv) immediately upon written notice from MCS if MCS determines in its reasonable
500 judgment that Providers's continued participation may jeopardize the health or safety of
501 Insureds.

502 **12.4** MCS or Provider (as the case may be) may terminate this Agreement
503 immediately upon the giving of notice to the other party (i) in the event of the filing of a
504 petition for relief under federal bankruptcy law by or against the other party; or (ii) in the
505 event of any liquidation, rehabilitation, conservation, or similar formal delinquency
506 proceeding under the supervision of the applicable state regulator, or upon any other
507 fiscal insolvency of MCS.

508 **12.5** In the event of termination of this Agreement at the end of a term or
509 otherwise, Provider shall continue furnishing Covered Services to any Insured then
510 receiving treatment from such Provider until the condition of the Insured is cured or
511 sufficiently stabilized as to transfer the patient to another participating provider. During
512 this period, MCS shall continue to compensate for Covered Services at the rates
513 established by MCS and in force on the date of the termination. Provider shall

514 cooperate fully with MCS and comply with MCS procedures, if any, in the transfer of
515 Insured's to other providers.

516 **12.6** Provider acknowledges that this Agreement shall be terminated
517 immediately and The Medical Group may no longer furnish services to MCS Medicare
518 Advantage enrollees if Provider is excluded from participation in Medicare under
519 Section 1128 or 1128A of the Social Security Act or from participating in any other
520 Federal Health care program as defined under Section 1128B(f) of the Social Security
521 Act. Provider affirms that its not currently excluded from participation in any Federal
522 health care program.

523 **12.7** The waiver by either party of a breach or violation of any provision of this
524 Agreement shall not operate as or be construed to be a waiver of any subsequent
525 breach thereof. To be effective, all waivers must be in writing and signed by the party to
526 be charged.

527

528 **ARTICLE XIII**
529 **ATTACHMENT AND ASSIGNMEMT**
530 **OF THIS AGREEMENT**

531 **13.1** MCS may modify or amend this agreement upon thirty (30) days written
532 notice to Provider. Any modifications, additions or deletion to these provisions shall
533 become effective on a date no earlier than 15 days after the Administration of CMS has
534 received written notice of such proposed changes.

535 **13.2** This Agreement, being intended to secure the services of Provider shall
536 not be assigned, sublet, delegated, or transferred by Provider without the prior written
537 consent of MCS. In the event of the sale or transfer of the licensed pharmacy facility,
538 Provider shall cause the transferee to assume all rights and obligations of the Provider
539 as set forth in this Agreement.

540

541 **This Agreement** (including any attached exhibits and schedules) constitutes the
542 complete and sole agreement between the parties regarding the subject hereof and
543 supersedes any and all prior or contemporaneous oral or written communications or
544 proposals not expressly included herein.

545 **Intending to be Legally Bound**, the undersigned parties have executed this
546 Agreement, intending to be bound hereby.

	PROVIDER:	MCS:
548	By:___________	By:___________
549	Printed Name:___________	Printed Name:___________
550	Title:___________	Title:___________
551	Specialty:___________	Date:___________
552	Date: May 11, 2009	

553
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555
556
557

558 **Select Network:**

559 Yes No

560 ☐ ☐ Preferred Provider Organization (PPO)

561 ☐ ☐ Medicare Advantage (Classicare)

562
563