

Healthcare Facility Agreement

This Healthcare Facility Agreement (hereinafter, the “Agreement”) is entered into between **City of Billings** (hereinafter “PAYOR”) and **Sisters of Charity of Leavenworth Health System, Inc.**, a Kansas not-for-profit Corporation doing business as SCL Health (“SCL”), as the disclosed agent for **St. Vincent Healthcare, a Montana public benefit corporation** (hereinafter referred to individually, and collectively as “FACILITY”). The effective date of this agreement is the January 1, 2020.

In consideration of the mutual promises and covenants set forth herein, PAYOR and FACILITY agree as follows:

1. DEFINITIONS

1.1 Benefit Plan means a program offered by or administered by PAYOR for the payment of Covered Services provided to an eligible Participant.

1.2 Clean Claim means a claim for Covered Services that (a) is timely received by the PAYOR and/or its claims administrator, as applicable; (b) (i) when submitted via paper has all the elements of the UB 04 or CMS 1500 (or successor standard) forms; or (ii) when submitted via an electronic transaction, uses only permitted transaction code sets (e.g. CPT4, ICD9, ICD10, HCPCS) and has all the elements of the standard electronic formats required by applicable Federal authority; (c) is a claim for which the Benefit Plan is the primary payor or the Benefit Plan’s responsibility as a secondary payor has been established; and (d) contains no defect, error or other shortcoming resulting in the need for additional information to adjudicate the claim.

1.3 Coinsurance means a cost-sharing obligation that requires the Participants to pay a percentage of the cost of specified Covered Services.

1.4 Copayment means the amount that a Participant is responsible to pay under PAYOR’s Benefit Plan at the time of service.

1.5 Covered Services means those specified Medically Necessary health care services for which a Participant is eligible to receive benefits under the Benefit Plan.

1.6 Deductible means the amount a Participant must pay for Covered Services each calendar or plan year before a PAYOR commences payment as defined under the Benefit Plan.

1.7 Medical Necessity or Medically Necessary means a medical service or medical supply, which meets all of the following criteria:

1. It is required for the treatment or diagnosis of a covered medical condition;
2. It is the most appropriate supply or level of service that is essential for the diagnosis or treatment of the Participant’s covered medical condition;
3. It is known to be effective in improving health outcomes for the Participant’s covered medical condition in accordance with sufficient scientific evidence and professionally recognized standards;
4. It is not furnished primarily for the convenience of the Participant or Facility of services; and
5. If this definition of Medically Necessary is not consistent with the definition of Medically Necessary in the Benefit Plan, the definition in the Benefit Plan will control.

Medical necessity alone does not determine coverage.

1.8 Participant means any person who is eligible to receive Covered Services under the terms and conditions of PAYOR's Benefit Plan.

2. DUTIES OF FACILITY

2.1 Provide or Arrange for Covered Services

FACILITY agrees to arrange or provide for the provision of Medically Necessary Covered Services on a timely basis, without regard to health status or medical condition, and in accordance with generally accepted medical practice guidelines and standards pursuant to the terms of this Agreement. Except in the case of emergency, FACILITY agrees to use reasonable commercial efforts to verify each Participant's eligibility prior to providing Covered Services. FACILITY shall use reasonable commercial efforts to notify PAYOR of all Participant admissions, the time of admission, or in the event that an admission occurs on a non-business day, no later than the noon of the next business day after admission.

FACILITY agrees to furnish Covered Services to Participant on the same basis as such services are made available to individuals who are not Participants, and without regard to the Participant's enrollment in PAYOR's Benefit Plan. In providing services under this Agreement, FACILITY shall exercise the degree of care, skill and knowledge expected of a prudent health care FACILITY. FACILITY shall remain solely responsible for the quality of services rendered.

2.2 Accessibility and Hours of Service

FACILITY shall arrange for the provision of Covered Services to Participants during normal hours for such services.

2.3 Emergency Services

If within FACILITY's scope of services, FACILITY shall provide Participant access to emergency services without a referral or prior approval from PAYOR. FACILITY shall notify PAYOR or PAYOR's claims administrator of the provision of emergency services to a Member within two (2) business days immediately following the provision of such services.

2.4 Facility Updates

FACILITY shall identify on Schedule B and update periodically, as necessary, the name and Facility identification number of all physicians, mid-level Facility's and other healthcare professionals that will be subject to this Agreement. Upon request, FACILITY shall provide a current W-9 for a Facility tax identification number that is subject to this Agreement.

2.5 Licensing Requirements

FACILITY and its Facility-based professionals shall remain in good standing with all necessary licenses, certifications and/or registrations required by law, permits or other approvals required by State and Federal law to provide or arrange for the provision of Covered Services to Participants. FACILITY shall submit evidence of such licenses, permits or other approvals to PAYOR upon request. FACILITY shall immediately notify PAYOR, in writing, regarding any revocation or restriction placed upon any such license, permit or other approval.

For its Facility-based professionals, FACILITY shall use reasonable commercial efforts to promptly notify PAYOR, in writing, of any action against their license, certification, or registration; any change in business address; any legal, governmental, or Board action; any change in clinical privileges; any change in hospital staff privileges; any changes in practice scope; any sanctions or restrictions; any medical or mental health problems that could affect the

care of patients; or any other problem or situation which may impair the FACILITY's ability to carry out their responsibilities under this Agreement.

2.6 Insurance

FACILITY shall provide and maintain, at its sole cost and expense and for the duration of this Agreement, policies of general comprehensive liability and professional liability insurance, or self-insurance, in an amount acceptable to PAYOR. Such policies shall insure against any claim or claims for damage arising by reason of personal injury or death occasioned directly or indirectly in connection with the acts or omissions of FACILITY, agents or employees pursuant to the terms of this Agreement. FACILITY shall notify PAYOR immediately but no more than two (2) business days from notification of any revocation, reduction in coverage, or termination of any such policy. Upon request, FACILITY shall provide PAYOR with evidence of compliance with this insurance requirement in the form of a certificate of insurance or evidence of self-insurance in an amount and form acceptable to PAYOR.

2.7 Medical Management Programs

FACILITY agrees to comply with and participate in PAYOR's and/or its claims administrator's medical management/utilization management programs and requirements, whichever is applicable, which may include but are not limited to, pre-authorization, notification, concurrent review, retrospective review, re-admission guidelines, case management, disease management programs, pharmacy and specialty pharmacy programs, referral management, quality assurance and improvement programs and medical necessity oversight.

FACILITY further agrees to share Participant information as specifically related to these programs. FACILITY is required to allow access to Participant records, provide for copying and release of records at FACILITY's expense, and to speak to the PAYOR or its claims administrator or designee upon request, as allowed by law, in a timely manner to facilitate the Medical Management program. Non-compliance with the Medical Management program may result in non-payment.

2.8 Compliance

FACILITY agrees to comply with all applicable federal and state laws and regulations. FACILITY further agrees to comply with the following:

2.8.1 FACILITY agrees that in no event, including, but not limited to, non-payment by PAYOR, insolvency, or breach of this contract shall FACILITY bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against a Participant or person acting on their behalf, other than PAYOR, for services provided pursuant to this agreement. This provision shall not prohibit collection of deductibles, co-payments, coinsurance, and/or non-covered services, which have not otherwise been paid by a primary or secondary carrier in accordance with terms of the Benefit Plan.

2.8.2 FACILITY agrees, in the event of PAYOR's insolvency, to continue to provide the services promised in this contract to Participant until the Participant's discharge from in-patient facilities.

2.8.3 FACILITY may not bill the Participant for Covered Services (except for Deductibles, Co-payments, or Coinsurance) where PAYOR denies payment because the FACILITY has failed to comply with the terms or conditions of this Agreement.

2.8.4 Notwithstanding any other provision of this agreement, nothing in this Agreement shall be construed to modify the rights and benefits contained in the Benefit Plan.

2.9 Non-Covered Services/Exclusions

FACILITY shall provide notice to Participant of their personal financial obligations for non-covered services. FACILITY may bill a Participant for non-covered services if FACILITY has, prior to the provision of non-covered services, obtained a written acknowledgment and acceptance of financial responsibility from the Participant after full disclosure of (i) FACILITY's intent to bill Participant for non-covered services, and (ii) the non-liability of PAYOR for such non-covered services.

2.10 Claims Payment

FACILITY shall look only to PAYOR for payment of claims. FACILITY may not collect or attempt to collect from Participant money owed to FACILITY by PAYOR.

2.11 Acceptance of Payment

FACILITY shall accept payment as described in SCL's confidential response to the City of Billings' RFP Direct Contract request as payment in full for Covered Services rendered, less Coinsurance, Copayments, Deductibles, and non-covered or ineligible charges as described in the Benefit Plan. Except for Co-payments, FACILITY agrees to refrain from billing Participant for any amounts due until such time that the claim is processed by PAYOR or its claims administrator and any applicable Co-insurance and/or Deductible amounts have been properly identified on an EOB. FACILITY further agrees not to balance bill Participant for the difference between the amounts agreed to in the confidential RFP response and FACILITY's billed charges. In the event that a claim payment is under dispute or appeal, FACILITY shall refrain from seeking payment from the Participant until such dispute is resolved.

2.12 Records

FACILITY shall establish and maintain medical, financial, and other records for Participants who receive Covered Services. Such records will be maintained in accordance with generally accepted medical, accounting, and bookkeeping practices, and will be preserved as may be necessary for compliance with applicable State and Federal laws, and accrediting bodies of the FACILITY. FACILITY shall make all records relating to this Agreement available to PAYOR and/or its claims administrator, and governmental authorities having jurisdiction over this Agreement for inspection and copying at reasonable times upon receipt of at seven (7) days prior written notice. If PAYOR requests the information pursuant to an inspection or an audit, then PAYOR will protect the confidentiality of such records in accordance with applicable legal standards. PAYOR will reimburse FACILITY for all reasonable copying costs incurred by FACILITY as a result of said record inspection or audit.

3. RESPONSIBILITIES OF PAYOR

3.1 Payment for Covered Services

PAYOR shall pay FACILITY for Covered Services rendered to Participants in accordance with the Benefit Plan and Section 4 of this Agreement.

3.2 Facility Directories and Promotion

PAYOR agrees to include FACILITY in appropriate Facility directories or website listings.

3.3 Eligibility

PAYOR shall require its claims administrator to confirm a Participant's eligibility for Covered Services upon request by FACILITY. During ordinary business hours, PAYOR shall assure

reasonable access, through standard means of communication, for the confirmation that services are covered and a Participant is eligible under a Benefit Plan.

3.4 FACILITY's Right to Inform Patients

PAYOR shall not in any way preclude or discourage FACILITY from informing Participants of the care they require, including various treatment options, and whether in their view such care is consistent with medical necessity, medical appropriateness, or otherwise covered by the Participant's Benefit Plan, nor prohibit, discourage, or penalize FACILITY otherwise practicing in compliance with the law from advocating on behalf of a patient with a health carrier. Nothing in this Agreement shall be construed to authorize FACILITY to bind PAYOR or its claims administrator to pay for any services.

3.5 ID Cards

PAYOR shall provide each Participant with a membership identification card displaying any applicable network logos, the Participant's name and identifier, group name and/or number, telephone number to confirm eligibility and benefit verification, utilization management vendor name and telephone number to confirm necessary pre-authorization for services.

3.6 Explanation of Benefits

PAYOR shall ensure that its claims administrator provides an Explanation of Benefits (EOB) during the claim adjudication process which, at a minimum, identifies: PAYOR, total billed charges, allowed amount in accordance with SCL's confidential response to the City of Billings' RFP Direct Contract request, amount PAYOR responsible to pay, amount Participant responsible to pay, and non-covered codes or services.

4. CLAIMS SUBMISSION AND PAYMENT

4.1 Claims Submission

FACILITY shall use reasonable commercial efforts to submit a claim for services provided preferably within sixty (60) days but in no event later than one (1) year of the date services were incurred by the Participant, provided the Participant is identified as an eligible Participant under the Benefit Plan, and shall cooperate with PAYOR or its claims administrator, as applicable, to provide additional information requested to process the claim as a Clean Claim.

4.2 Payment of Claims

PAYOR shall pay FACILITY for Covered Services provided to a Participant, subject to the following minimum standards:

4.2.1 PAYOR shall pay or cause its claims administrator to pay the rate set forth in SCL's confidential response to the City of Billings' RFP Direct Contract request for Covered Services provided to Participants within thirty (30) business days of the date PAYOR and/or its claims administrator receives a Clean Claim, unless PAYOR and/or its claims administrator makes a reasonable request for additional information or documents in order to evaluate the claim during this time period. If PAYOR and/or its claims administrator makes a request for additional information to evaluate the claim, PAYOR and/or its claims administrator agrees to provide an explanation of the necessary additional information in a format that meets the requirements of 29 CFR 2560.503-1 and Section 2719 of the Public Health Service Act and its implementing guidance and allow at least 45 days for the recipient to provide the information;

4.2.2 PAYOR and/or its claims administrator, as applicable, or FACILITY may request contractually supported corrective adjustments to a payment made to FACILITY hereunder

during the twelve (12) months following payment of the claim. Thereafter, the payment shall be deemed final and PAYOR shall have no obligation to pay and FACILITY shall have no obligation to refund.

4.2.3 Claims may be subject to standard claims editing software to detect bundling and unbundling, as well as incorrect billing. Upon request, PAYOR shall provide FACILITY with an explanation of unbundling and incorrect billing edits.

4.2.4 PAYOR or its designated third party auditor (“Auditor”) may inspect claims data and billing records relating to the Covered Services provided to PAYOR’s Participants at its expense. Audit materials or documentation provided by FACILITY will be confined to PAYOR or Participant -specific information.

These standards do not apply to claims about which there is substantial evidence of fraud or misrepresentatin by FACILITY or Participant.

4.3 Coordination of Benefits and Third Party Liability

FACILITY agrees to cooperate with PAYOR's coordination of benefits (COB) and third party liability policies and programs.

5. MAINTENANCE OF RECORDS, INSPECTION AND AUDIT

5.1 Maintenance of Records

FACILITY shall maintain all appropriate medical, administrative and financial records for each Participant who receives services from FACILITY. Such records shall be maintained as is required by law and generally accepted medical practice and professional ethics.

PAYOR shall have the right to request, inspect and audit any and all records of FACILITY related to a Participant as permitted by law, and as may be necessary for PAYOR to perform its obligations under this Agreement. Where documents are requested by PAYOR for audit purposes, including audits subject to Section 4.2.4, PAYOR shall reimburse FACILITY for reasonable costs incurred in providing copies of requested documents, at the maximum amount allowed by Montana law, or if not specified by Montana law, a rate of \$.10 per page.

FACILITY shall have the right to request, inspect and audit any and all records of PAYOR directly related to a Participant as permitted by law, and as may be necessary for FACILITY to perform its obligations under this Agreement. Where documents are requested, FACILITY shall reimburse PAYOR for reasonable costs incurred in providing copies of requested documents, at the maximum amount allowed by Montana law, or if not specified by Montana law, a rate of \$.10 per page.

Neither party shall be reimbursed for copies of documents requested for purposes of payment of claims, resolution of quality of care or service concerns, complaints and/or grievances, or medical management review and coverage determinations.

5.2 Record Retention

Both parties shall retain all records relating to this Agreement for a minimum of seven (7) years.

5.3 External Audits

Both parties agree to cooperate with any external audits mandated by state or federal law, and shall make records available to appropriate state and federal authorities involved in assessing the quality of care or investigating the grievances or complaints of Participants, subject to applicable state and federal laws related to the confidentiality of medical records.

6. CONFIDENTIAL AND PROPRIETARY INFORMATION

6.1 Information Relating to this Agreement

Both parties agree that all information of this Agreement, including reimbursement rates and fees in SCL’s confidential response to the City of Billings’ RFP Direct Contract request, as well as other information identified by either party as confidential or proprietary, including the reimbursement terms disclosed in SCL’s confidential response to the City of Billings’ RFP Direct Contract request herein, shall not be disclosed without the prior written consent of the other party. Upon termination of this Agreement, any documents identified by either party as proprietary shall be returned to the respective party.

6.2.1 Participant Health Information

6.2.2 The parties agree to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, as amended (HITECH) all applicable requirements and obligations under HIPAA and HITECH governing any uses and disclosures of all Protected Health Information (PHI) or Electronic PHI (E-PHI) that may occur as a result of this Agreement as applicable to each party. Each party warrants it will maintain and protect the confidentiality of all PHI and E-PHI in accordance with its obligations under HIPAA, HITECH, and all applicable federal and state laws and regulations.

6.2.3 The parties shall implement a documented privacy program that includes administrative, technical and physical safe guards designed to prevent the accidental or otherwise unauthorized use or disclosure of PHI or E-PHI.

6.2.4 Upon termination of this Agreement, at the request of the party that owns PHI or E-PHI, the other party shall promptly return to the requesting party all such PHI or E-PHI which has been provided to it or dispose of such PHI or E-PHI in a mutually agreed upon manner.

6.3 Effect of Termination

The parties understand that the requirements of this Section 6, shall survive the termination of this Agreement.

7. INDEMNIFICATION

PAYOR and FACILITY shall indemnify and hold the other party harmless from loss, damage, or defense costs (including, but not limited to reasonable attorney’s fees) arising from actual or alleged negligent acts or omissions of the other party, its officers, employees, subcontractors, or other agents in performing services contemplated under this Agreement which are solely the responsibility of either PAYOR or FACILITY. Neither party shall be liable for any liability of the other party, its agents, officers or employees, whether resulting from judgment, settlement, award fine or otherwise, which arises out of such other party’s actions or omissions under this Agreement.

8. TERM AND TERMINATION

8.1 Term of Agreement

This Agreement will commence effective as of the date specified on page 1 of this Agreement, and shall continue for a period of five (5) years. Thereafter, this Agreement shall automatically renew with the same terms and conditions as set forth herein for successive one-year, up to an additional five (5) years, terms unless terminated in accordance with the terms of this Agreement.

8.2 Termination

8.2.1 Termination Without Cause

Either party may terminate this Agreement without cause, upon one-hundred eighty (180) days prior written notice to the other party.

8.2.2 Termination for Cause

Either party may terminate this Agreement for cause by giving the other party thirty (30) days prior written notice. Such notice shall specify the reasons for the termination and shall provide the other party thirty (30) days from the date of receipt of the notice of termination to correct the cause to the satisfaction of the complaining party. Should the cause not be cured within this thirty (30) day period, termination shall occur thirty (30) days from the end of that period.

8.3 Effect of Termination

This Agreement shall be of no further force or effect as of the effective date of termination except that:

8.3.1 PAYOR shall be responsible for payment of Covered Services provided by FACILITY to a Participant as of the effective date of termination.

8.3.2 FACILITY shall not seek compensation from the Participant for any Covered Services provided under the terms of this Agreement prior to the termination date, except for any applicable Deductible, Copayment or Coinsurance amounts.

8.3.3 FACILITY shall continue the treatment of Participants who were receiving care in an inpatient FACILITY as of the effective date of termination, for a period which is the lesser of (i) the date the Participant is discharged from the FACILITY, (ii) until PAYOR arranges for the Participant to be transferred from the FACILITY, or (iii) thirty (30) days after termination. The provisions of this Agreement, including negotiated reimbursement rates, will not apply after the Agreement termination date.

9. DISPUTE RESOLUTION

The parties will meet and confer in an attempt to resolve any dispute arising out of or relating to this Agreement. A dispute not resolved within thirty (30) days of this meeting will be submitted to mediation, which will be held in a mutually agreed upon location in Montana, in accordance with the American Arbitration Association (“AAA”) Rules of Procedure for Mediation. A single mediator, selected by AAA and having at least 10 years’ legal experience in ERISA and health care will mediate the dispute. If the dispute is not resolved through mediation, the parties will be free to pursue all legal and equitable remedies otherwise available, provided, however that any action taken or remedy sought must be initiated within one (1) year of the parties’ first meeting to resolve the dispute. In the event any party to this Agreement takes legal action to enforce its rights hereunder, including, but not limited to, the submission of an issue for mediation pursuant to this Section 9 or a request for an injunction or other equitable relief through the courts, each party to such action shall bear their own costs and expenses related to such action, and one-half (1/2) of any common costs and expenses of mediation.

The provisions of this Section 9 shall not affect either party's right to terminate this Agreement as provided for under Section 8.2 of this Agreement.

10. GENERAL PROVISIONS

10.1 Independent Contractors

Each party to this Agreement shall be acting as an independent contractor. None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement.

10.2 Amendment

This Agreement may be amended from time to time by either party only by providing the other party sixty (60) days advance written notice of the amendment, and only upon the mutual written consent of the parties.

10.3 Severability/Conformity with Law

In the event any provision of this Agreement is rendered invalid or unenforceable by any State or Federal regulation, or declared null and void by any court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect to the fullest extent possible consistent with the intent and purpose of this Agreement, unless the severance of any such provision substantially impairs the benefits of the remaining provisions of this Agreement. This Agreement shall be interpreted, and if necessary, amended, to conform to applicable federal and state law in effect on or after the Agreement's effective date.

10.4 Entire Agreement

This Agreement, its Attachments, and any documents incorporated herein by reference, constitute the entire Agreement between the parties. No implied covenants shall be read into this Agreement. This Agreement supersedes all prior agreements between the parties.

10.5 Waiver of Breach

Neither the failure nor delay on the part of either party to exercise any right under this Agreement shall serve as a waiver of that right. If either party should waive a breach of any provision of this Agreement, it shall not be deemed or construed as a waiver of any other breach of the same or different provision.

10.6 Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Montana and applicable Federal laws and regulations.

10.7 Medical Care

It is hereby understood that FACILITY is solely responsible for all decisions and liability regarding their medical care and treatment of Participants. It is also agreed that the traditional relationship between FACILITY and patient shall in no way be affected by or interfered with by any of the terms of this Agreement. FACILITY understands that any determinations made by PAYOR or its claims administrator and any determinations made in connection with utilization review are solely for purposes of determining whether services are Covered Services under the terms of a Benefit Plan and the extent to which payments may be made thereunder. Accordingly, such determinations shall in no way affect the responsibility of FACILITY to provide appropriate services to Participants.

10.8 Assignment

Neither party shall assign this agreement without the express written consent of the other.

10.9 Notices

Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and may be sent electronically or by U.S. mail, First Class, postage prepaid, to FACILITY or PAYOR at their respective addresses set forth on the signature page of this Agreement, except for notice given under Section VI, which shall be sent by Certified Mail, return receipt requested. Notice shall be deemed given when received or three (3) business days after notice is deposited in the mail as set forth above, whichever is earlier.

10.10 Force Majeure


Neither party shall be required to comply with the provisions of this Agreement if the failure to comply is occasioned by any act of God, bankruptcy, act of a governmental authority responding to an act of God or other emergency, or the result of a strike, lockout, or other labor dispute.

10.11 Ethical and Religious Directives

The Parties acknowledge that the FACILITY is an institution operated in accordance with the *Ethical and Religious Directives for Catholic Health Care Services*, as approved by the United States Conference of Catholic Bishops. Notwithstanding any provision of this Agreement to the contrary, Provider shall not be required, nor shall any provision hereof be construed to require Provider to provide services or participate in activities that are inconsistent with the health care ethics or precepts of the Catholic Church.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives as of the date written below.

FACILITY



Signature

Troy Holmes

(Print Name)

VP Payer Strategies and Contracting

Title

November 12, 2019

Date

PAYOR

Signature

(Print Name)

Title

Date

Contact Info:

Business Office Contact

Business Office Address, Suite #

City, State, Zip

Contact's Phone Number/Email

Contact Info:

Primary Contact Name

Office Address, Suite #

City, State, Zip

Contact's Phone Number/Email

81-0232124 – St. Vincent Healthcare
Facility's Tax ID #

1083655997 – St. Vincent Healthcare
Facility's NPI #

SCHEDULE A

Effective July 1, 2019, for Covered Services provided to Participants at St. Vincent Healthcare, Tax ID #81- 0232124, PAYOR shall pay and FACILITY agrees to accept the rates and terms set forth in SCL's confidential response to the City of Billings' RFP Direct Contract request as payment in full.