IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

ROCKHILL ORTHOPAEDICS, P.C.,	)	
	)	
Plaintiff,	)	
	)	**Case No. 0716-CV23210**
v.	)	
	)	**Division 7**
HUMANA INC., et al.,	)	
	)	
Defendants.	)	
	)	
	)	

STIPULATION OF CLASS ACTION SETTLEMENT, AGREEMENT AND RELEASE

dated as of

March 7, 2008

by and among

HUMANA INC., HUMANA INSURANCE COMPANY, and HUMANA HEALTH PLAN, INC., AND

ROCKHILL ORTHOPAEDICS, P.C.,

THE REPRESENTATIVE PLAINTIFF,

AND MOKAN CLASS COUNSEL

SETTLEMENT AGREEMENT

This Stipulation of Class Action Settlement, Agreement and Release is made and entered into as of the date set forth on the signature pages hereto by and among the Representative Plaintiff in the Actions (on behalf of itself and each of the Kansas City Class Members who have not validly and timely requested to Opt Out of this Agreement), by and through MoKan Class Counsel, and Humana Inc., Humana Insurance Company, and Humana Health Plan, Inc. ("Company") (the Representative Plaintiff, the Kansas City Class Members who have not validly and timely requested to Opt Out of this Agreement and the Company are herein collectively referred to as the "**Parties**"). The Parties intend this Agreement to resolve, discharge, and settle the Released Claims, fully, finally, and forever, according to the terms and conditions set forth below.

WITNESSETH:

WHEREAS, in January 2005, certain health care providers filed a putative class action in the District Court for Wyandotte County, Kansas, against the Company and other managed care organizations, captioned James Mirabile, M.D., et al. v. Blue Cross/Blue Shield of Kansas City, Inc., et al., Case No. 05CV000307 (hereinafter "Kansas Coding Case"), asserting claims by "all licensed doctors practicing in the State of Kansas and doctor groups or associates who have been and will continue to be injured by Defendants' actions," alleging breach of contract, coding, and business practices claims. After this settlement agreement has been approved by the Court and time for appeal has expired, MoKan Class Counsel will voluntarily dismiss Company from the Kansas Coding Case with prejudice.

WHEREAS, in January 2005, certain health care providers filed a putative class action in the Circuit Court of Jackson County, Missouri, against the Company and other managed care organizations, captioned Steven Buie, M.D., et al. v. Blue Cross/Blue Shield of Kansas City, et al., Case No. 0516-CV04901 (hereinafter "Missouri Coding Case"), asserting claims by "all licensed doctors practicing in the State of Missouri and doctor groups or associates who have been and will continue to be injured by Defendants' actions," alleging breach of contract, coding, and business practices claims. After this settlement agreement has been approved by the Court and time for appeal has expired, MoKan Class Counsel will voluntarily dismiss Company from the Missouri Coding Case with prejudice.

WHEREAS, this lawsuit ("Lawsuit") was filed on or about August 10, 2007, alleging breach of contract, coding, and business practices claims on behalf of a putative class.

WHEREAS, MoKan Class Counsel is counsel of record in each of the Released Actions, as defined below.

WHEREAS, both the Missouri Coding Case and the Kansas Coding Case were removed to federal court in their respective districts.

WHEREAS, the plaintiffs in both the Missouri Coding Case and the Kansas Coding Case set forth claims purportedly related to those alleged in a case pending before the Judicial Panel for Multidistrict Litigation, and both cases were transferred to In re Managed Care Litigation, MDL No. 1334, as tag-along actions. In re Managed Care Litigation, MDL No. 1334, began in

or about 2000, when certain health care providers filed several lawsuits against several national managed care organizations alleging claims for breach of contract, coding, and business practices claims. By Order filed October 23, 2000, the Judicial Panel on Multidistrict Litigation transferred and consolidated these lawsuits for pretrial purposes, assigning MDL Docket No. 1334, in the United States District Court for the Southern District of Florida. Two of the separate proceedings partially constituting MDL 1334 (Case No. 00-1334-MD-MORENO, commonly referred to as "Shane I", and Case No. 04-21589-CIV-MORENO, commonly referred to as "Shane II") are collectively referred to herein as "Shane". On March 15, 2006, the United States District Court for the Southern District of Florida entered a final order approving a settlement agreement ("Shane Settlement Agreement") between Company (as defined in the Shane Settlement Agreement), Representative Plaintiffs and their counsel in Shane.

WHEREAS, a number of physicians in Missouri and Kansas opted out of the Shane Settlement Agreement.

WHEREAS, those Missouri and Kansas physicians who have opted out of the Shane Settlement Agreement comprise the class of persons bringing the present Lawsuit and settling claims herein.

WHEREAS, the Parties have reached a settlement of the instant Lawsuit which includes a release of the Released Actions and the Released Claims, and to facilitate that agreement, MoKan Class Counsel and Representative Plaintiff have instituted the present Lawsuit for the purpose of facilitating settlement (the Kansas Coding Case, Missouri Coding Case, and this Lawsuit collectively referred to as the "Actions").

WHEREAS, the present Lawsuit realleges the claims alleged in the Missouri Coding Case and the Kansas Coding Case. The Company is settling this Lawsuit and, as part of the consideration, is receiving full and complete releases of the Released Actions.

WHEREAS, the Released Actions include, with respect to Released Parties only, this Lawsuit, the Kansas Coding Case, the Missouri Coding Case, the putative class action in the District Court for Wyandotte County, Kansas, against the Company and other managed care organizations, captioned James Mirable, M.D., PA, et al. v. Blue Cross and Blue Shield of Kansas City, et al., Case No. 05-CV-279 (hereinafter "Kansas Antitrust Case"), and the putative class action in the Circuit Court for Jackson County, Missouri, captioned Kansas City Urology Care, PA, et al. v. Blue Cross and Blue Shield of Kansas City, et al., Case No. 0516-CV-04219 (hereinafter "Missouri Antitrust Case") against the Company and other managed care organizations.

WHEREAS, Company denies the factual allegations and legal claims asserted in the Actions, the Kansas Antitrust Case, and the Missouri Antitrust Case, including without limitation any and all charges of wrongdoing or liability arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Released Actions including without limitation the allegations that: the Representative Plaintiff and/or other MoKan Class Members have suffered damages; Company improperly manipulated claim procedures or capitation payments or any other payments; Company paid at incorrect rates or improperly applied reimbursement policies; Company fraudulently misrepresented the criteria for insurance

coverage determinations, treatment decisions, claims payments, and adequacy of capitation payments; Company conspired with or aided and abetted wrongful conduct of any other person; Company engaged in any conspiracy to unlawfully fix the reimbursement rates paid to MoKan Class Members, including, but not limited to, any antitrust price fixing claims; and certain health care providers and/or other MoKan Class Members were harmed by the conduct alleged in the Released Actions.

WHEREAS, Company has asserted a number of defenses to the claims set forth in the Released Actions that Company believes are meritorious; nonetheless, Company has a desire to make more transparent, simplify and otherwise improve the systems through which it conducts business with Representative Plaintiff and the MoKan Class and has concluded that further litigation of the Released Actions would be protracted and expensive and that it is desirable that the Released Actions be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement.

WHEREAS, Representative Plaintiff believes that the claims asserted in the Released Actions have merit; nonetheless, Representative Plaintiff and MoKan Class Counsel recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the Released Actions against Company through trial and appeals.

WHEREAS, Representative Plaintiff and MoKan Class Counsel also have taken into account the uncertain outcome and the risk of any class actions, especially in complex matters such as the Released Actions, as well as the difficulties and delays inherent in such actions, and MoKan Class Counsel believes that the settlement set forth in this Agreement confers substantial benefits upon the Representative Plaintiff and the other MoKan Class Members.

WHEREAS, Representative Plaintiff and the MoKan Class Members are not, and should not be construed as, releasing, discharging or otherwise resolving their claims against the named defendants, other than Company, in the Actions and the Released Actions by entering into this Agreement, and the Representative Plaintiff and MoKan Class Members hereby retain any and all such claims against such other defendants not specifically released herein for specifically identified consideration.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Parties that, subject to the approval of the Court, the Actions, the Released Actions, and the Released Claims shall be finally and fully resolved, compromised, discharged, and settled under the following terms and conditions:

1. Definitions

Capitalized terms, or terms emphasized in bold, are defined as follows:

1.1. "Actions" means Kansas Coding Case, Missouri Coding Case, and this Lawsuit.

1.2. "Agreement" means this Settlement Agreement, inclusive of all exhibits hereto.

1.3. "Attorneys' Fees" means the funds for attorneys' fees and expenses that may be awarded by the Court to MoKan Class Counsel.

1.4. "Bar Order" means an Order of the Court barring the assertion of claims against the Released Parties for contribution, indemnity, or other similar claims by other Persons in the form included as part of the Final Order and Judgment associated with this Agreement.

1.5. "Company" means Humana Inc. and each of its subsidiaries, including, but not limited to, Humana Insurance Company and Humana Health Plan, Inc.

1.6. "Complaints" means the initial complaint or petitions and any and all subsequent complaints or petitions filed in the Released Actions.

1.7. "Compliance Dispute" means any claim that Company has failed to carry out any of its obligations under this agreement; provided, however, that none of the following shall be deemed a Compliance Dispute: (a) a Released Claim, (b) a Retained Claim, (c) a Billing Dispute as defined in the Shane Settlement Agreement; and (d) a claim for which the Adverse Determination review process set forth in Section 7.11 of the Shane Settlement Agreement is available.

1.8. "Compliance Dispute Claim Form" means a document in substantially the same form attached hereto as Exhibit "D"

1.9. "Compliance Dispute Facilitator" means the person who, pursuant to § 12.1(a) of this Agreement, shall screen Compliance Disputes.

1.10. "Compliance Dispute Review Officer" means the person chosen pursuant to § 12.1(b) of this Agreement and charged with the administration of Certifications and Compliance Disputes under this Agreement.

1.11. "Conclusion Date" shall have the meaning assigned to that term in the Shane Settlement Agreement.

1.12. "Court" shall refer to this Court.

1.13. "Dismissed Actions" means the Kansas Antitrust Case, the Missouri Antitrust Case, the Kansas Coding Case, and the Missouri Coding Case which will be dismissed as to the Company only after settlement has been approved and all appeal deadlines have expired.

1.14. "Effective Date" shall have the meaning assigned to that term in § 14.4 of this Agreement.

1.15. "Execution Date" means the later of: (i) the date on which the signature of Company has been delivered to MoKan Class Counsel; or (ii) the date on which the signatures of all Representative Plaintiff and MoKan Class Counsel have been delivered to Company.

1.16. "Fee-For-Service Claim" means a claim for payment submitted to Company or another health insurer by a Class Member, whether or not under contract to

Company or to such other insurer and whether or not the Class member has obtained an assignment of benefits from the Plan Member, for providing Covered Services to the Plan Member.

1.17. "Final Order and Judgment" means the order and form of judgment approving this Agreement and dismissing Company with prejudice in the form attached hereto as Exhibit "C".

1.18. "Final Order Date" means the date on which the Court enters the Final Order and Judgment.

1.19. "First Alternate" shall have the meaning assigned to that term in § 12.1(b) of this Agreement.

1.20. "Internal Compliance Officer" shall have the meaning assigned to that term in § 12.7 of this Agreement.

1.21. "MoKan Class" means any and all Physicians, Physician Groups, and Physician Organizations who are set forth in Exhibit "A".

1.22. "MoKan Class Counsel" means those persons identified in § 5 of this Agreement as Class Counsel.

1.23. "MoKan Class Member" means any Person who is a member of the MoKan Class.

1.24. "Lawsuit" shall mean the instant lawsuit.

1.25. "Mailed Notice" means the form of the notice attached hereto as Exhibit "E".

1.26. "Notice Date" shall have the meaning assigned to that term in § 6.1 of this Agreement.

1.27. "Objection Date" shall have the meaning assigned to that term in § 6 of this Agreement.

1.28. "Opt Out" shall have the meaning assigned to that term in § 6.1 of this Agreement.

1.29. "Opt Out Deadline" shall have the meaning assigned to that term in § 6.1 of this Agreement.

1.30. "Parties" means the Representative Plaintiff, the MoKan Class Members who have not timely requested to Opt Out of this Agreement, and the Company.

1.31. "Preliminary Approval Date" means the date that the Preliminary Approval Order is entered by the Court.

1.32. "Released Actions" means, with respect to Released Parties only, the Kansas Coding Case, the Missouri Coding Case, the Lawsuit, the putative class action in the District Court for Wyandotte County, Kansas, against the Company and other managed care organizations, captioned James Mirabile, M.D., PA, et al. v. Blue Cross and Blue Shield of Kansas City, et al., Case No. 05-CV-279 (hereinafter "Kansas Antitrust Case"), and the putative class action in the Circuit Court for Jackson County, Missouri, against the Company and other managed care organizations, captioned Kansas City Urology Care, PA, et al v. Blue Cross and Blue Shield of Kansas City, et al., Case No. 0516-CV-04219 (hereinafter "Missouri Antitrust Case").

1.33. "Released Parties" shall have the meaning assigned to that term in § 13.1(a) of this Agreement.

1.34. "Released Rights" or "Released Claims" shall have the meaning assigned to that term in § 13.1 of this Agreement.

1.35. "Releasing Parties" shall have the meaning assigned to that term in § 13.1(a) of this Agreement.

1.36. "Representative Plaintiff" means those persons or entities listed as plaintiffs in the Petition filed in this Lawsuit.

1.37. "Retained Claims" shall have the meaning assigned to that term in § 13.5 of this Agreement.

1.38. Reversion Amount" shall have the meaning assigned to that term in § 8.4 of this Settlement Agreement.

1.39. "Second Alternate" shall have the meaning assigned to that term in § 12.1(b) of this Agreement.

1.40. "Settlement Administrator" shall have the meaning assigned to that term in § 8.2 of this Agreement, and shall be selected by Company.

1.41. "Settlement Dollar Amount" shall have the meaning assigned to that term in § 8.1 of this Agreement.

1.42. "Settlement Fund" shall have the meaning assigned to that term in § 8.1 of this Agreement.

1.43. "Settlement Hearing Date" shall have the meaning assigned to that term in § 6.2 of this Agreement.

1.44. "Shane I" means Shane v. Humana Inc., et al., Master File No. 00-1334-MD-MORENO.

1.45. "Shane II" means Shane v. Humana Inc., et al., Case No. 04-21589-CIV-MORENO.

1.46. "Shane Settlement Agreement" means the settlement agreement between Company (as defined in that Agreement) and Representative Plaintiff and their counsel in Shane I and Shane II, which was finally approved by the United States District Court for the Southern District of Florida on March 15, 2006, and attached as Exhibit "B" hereto.

1.47. "Website" means www.humanaphysciansettlement.com.

2. The Actions and Class Covered by this Agreement

This Agreement sets forth the terms of an agreement with respect to the Actions between Company and all MoKan Class Members who have not validly and timely requested to Opt Out of this Agreement.

3. Commitment to Support this Agreement and Communications with MoKan Class Members

The Parties agree that it is in their best interests to consummate this Agreement and all the terms and conditions contained herein and to cooperate with each other and to take all actions reasonably necessary to obtain Court approval of this Agreement and entry of the orders of the Court that are required to implement its provisions. They also agree to support this Agreement in accordance with and subject to the provisions of this Agreement.

MoKan Class Counsel shall make every reasonable effort to encourage putative MoKan Class Members to participate and not to Opt Out of this Agreement. All costs associated with these reasonable efforts shall be borne by Representative Plaintiff and MoKan Class Counsel**.**

Representative Plaintiff, MoKan Class Counsel, and Company agree that Company may communicate with putative MoKan Class Members regarding the provisions of this Agreement, so long as such written communications are approved by MoKan Class Counsel prior to mailing and as long as all communications are not inconsistent with the Mailed Notice or other agreed upon communications concerning the Agreement.

4. Preliminary Approval of Settlement

Pursuant to Rule 52.08(e) of the Missouri Rules of Civil Procedure, the Parties shall submit this Agreement, together with the exhibits attached hereto, to the Court at a hearing (the "**Preliminary Approval Hearing**") for, among other things, its conditional certification of a settlement class, preliminary approval of the Agreement and the Mailed Notice and to apply to the Court for an Order of Preliminary Approval and Conditional Class Certification, substantially in the form of Exhibit "F" hereto. ("**Preliminary Approval Order**").

5. Notice to MoKan Class Members; Notice to Parties Pursuant to This Agreement; Effect of Failure to Respond to Acknowledged Notices

After the Court has entered the Preliminary Approval Order and approved the Mailed Notice, the Settlement Administrator shall disseminate the Mailed Notice to MoKan Class Members by U.S. first class mail, pursuant to the Court's direction. The Mailed Notice shall request and require that any MoKan Class Member who has assigned a claim covered by this Agreement to another Person, in whole or in part, deliver the Mailed Notice to such Person.

In the event that a Mailed Notice to a MoKan Class Member is returned to the Settlement Administrator as "undeliverable", "not at this address" or otherwise undelivered to such MoKan Class Member, the Settlement Administrator will conduct a reasonable and diligent search for current contact information for that MoKan Class Member. If the Settlement Administrator is able to determine current contact information for such MoKan Class Member, the Settlement Administrator will provide a second Mailed Notice by regular U.S. mail to such MoKan Class Member using the current contact information.

MoKan Class Counsel and Company shall be jointly responsible for identifying names and addresses of MoKan Class Members and shall cooperate with each other and the Settlement Administrator to make such identifications and determinations.

Company shall pay the cost of providing the Mailed Notice to MoKan Class Members. Payment by Company of the cost of distributing the Mailed Notice shall be non-refundable and shall be in addition to the other agreements made herein.

All notices to any Party required under this Agreement (including without limitation any designations made by MoKan Class Counsel pursuant to this Agreement), except as otherwise specifically provided herein, shall be sent by first class U.S. Mail, and by facsimile, to the recipients designated in this Agreement. Timeliness of all submissions and notices shall be measured by the date of receipt, unless the addressee refuses or delays receipt. The Persons designated to receive notices under this Agreement are as follows, unless notification of any change to such designation is given to each other Party hereto pursuant to this § 5:

Representative Plaintiff: Notice to be given to MoKan Class Counsel on behalf of Representative Plaintiff.

Class Counsel:

Diane M. Breneman, Esq.
THE BRENEMAN LAW FIRM, L.L.C.
311 Delaware
Kansas City, MO 64105
Facsimile: (816) 421-0112

R. Frederick Walters, Esq.
Karen D. Renwick, Esq.
Matthew R. Crimmins, Esq.
WALTERS BENDER STROHBEHN & VAUGHAN, PC
2500 City Center Square
1100 Main Street
P.O. Box 26188
Kansas City, Missouri 64196
Facsimile: (816) 421-4747

Robert A. Horn, Esq.
Joseph A. Kronawitter, Esq.
HORN, AYLWARD & BANDY LLC
2600 Grand Boulevard, Suite 1100
Kansas City, Missouri 64108
Facsimile: (816) 421-0899

Scott S. Bethune, Esq.
DAVIS, BETHUNE & JONES, LLC
1100 Main Street
Kansas City, Missouri 64196
Facsimile: (816) 472-5972

Company:

Kathleen Pellegrino, Esq.
HUMANA INC.
500 West Main Street
Louisville, Kentucky 40202
Facsimile: (502) 580-2799

With copies to:

Brian D. Boyle, Esq.
O'MELVENY & MYERS, LLP
1625 Eye Street, NW
Washington, D.C. 20006-4001
Facsimile: (202) 383-5414

Douglas M. Weems, Esq.
SPENCER FANE BRITT & BROWNE LLP
1000 Walnut, Suite 1400
Kansas City, Missouri 64106
Facsimile: (816) 474-3216

In the event that any Party receives a notice from any other Party (in accordance with the provisions of this § 5 of this Agreement and as required by any other provision of this

Agreement), for which there is a written acknowledgement of receipt, and such receiving Party does not respond to such notice within thirty (30) days of receipt thereof, such receiving Party shall be deemed to have accepted any proposal made by the notifying Party in such notice and shall be deemed to have waived any rights under this Agreement with respect to the matter that is the subject of such notice.

6. Procedure for Final Approval; Limited Waiver

Following the dissemination of notice as described in § 5, Representative Plaintiff, MoKan Class Counsel, and Company shall seek the Court's final approval of this Agreement. The Parties agree to urge the Court to set the Objection Date for the date that is no more than thirty (30) days after the Notice Date (the "**Objection Date**"). MoKan Class Members shall have until the Objection Date to file, in the manner specified in the Mailed Notice, any objection or other response to this Agreement.

6.1. Opt-Out Timing and Rights

The Parties will jointly request of the Court that the Mailed Notice be disseminated no later than thirty (30) days after the Preliminary Approval Date (the "Notice Date").

The text of the Mailed Notice shall be approved by the Court, and shall, among other things, describe in plain terms the material provisions of the Settlement Agreement. The Mailed Notice shall also explain in plain terms how the payment amounts to each Physician Class Member, as reflected on Exhibit "G" hereto, were derived, how they may be adjusted by the Settlement Administrator, and how Physician Class Members may learn of the precise payment amount to which they are entitled.

The Mailed Notice shall provide that MoKan Class Members may request exclusion from the MoKan Class by providing notice of such exclusion, in the manner specified in the Mailed Notice, on or before the date set by the Court as the Opt-Out Deadline. Representative Plaintiff, MoKan Class Counsel, and Company agree to urge the Court to set the Opt-Out Deadline for the date that is thirty (30) days after the Notice Date (the "Opt-Out Deadline").

MoKan Class Members have the right to exclude themselves ("Opt Out") from this Agreement and from the MoKan Class by timely submitting to the Court (with a copy provided to MoKan Class Counsel) a request to Opt Out and otherwise complying with the agreed upon Opt-Out procedure approved by the Court. MoKan Class Members who so timely request to Opt Out shall be excluded from this Agreement and from the MoKan Class. Any MoKan Class Member who does not submit a request to Opt Out by the Opt-Out Deadline or who does not otherwise comply with the agreed upon Opt-Out procedure approved by the Court shall be bound by the terms of this Agreement and the Final Order and Judgment. Any MoKan Class Member who does not Opt Out of

this Agreement shall be deemed to have taken all actions necessary to withdraw and revoke the assignment to any Person of any claim against Company.

Any MoKan Class Member who timely submits a request to Opt Out shall have until the Settlement Hearing Date to deliver to MoKan Class Counsel and the Settlement Administrator a written revocation of such MoKan Class Member's request to Opt Out. MoKan Class Counsel shall timely apprise the Court of such revocations.

Within ten (10) days after the Opt-Out Deadline, the Settlement Administrator shall furnish Company, the MoKan Class Counsel, with a complete list in machine-readable form of all Opt-Out requests filed by the Opt-Out Deadline that were not subsequently and timely revoked. Company shall pay costs of obtaining a copy of the Opt-Out requests.

Notwithstanding any other provisions in this Agreement, after reviewing said list and/or copies of Opt-Out requests and revocations, Company reserves the right, in its sole and absolute discretion, to terminate this Agreement by delivering a notice of termination to MoKan Class Counsel, with a copy to the Court, prior to the commencement of the Settlement Hearing if Company determines that Opt-Out requests have been filed by putative Class Members who, in the aggregate, received more than five percent (5%) of the total dollar value of payments made by Company to all putative Class Members during the period between January 1, 2003 and December 31, 2005, inclusive.

6.2 Setting the Settlement Hearing Date and Settlement Hearing Proceedings

Representative Plaintiff, MoKan Class Counsel, and Company agree to urge the Court to hold the Settlement Hearing on the date that is sixty (60) days after the Notice Date (the "Settlement Hearing Date") and to work together to identify and submit any evidence that may be required by the Court to satisfy the burden of proof for obtaining approval of this Agreement and the orders of the Court that are necessary to effectuate the provisions of this Agreement, including without limitation the Final Order and Judgment and the orders contained therein. At the Settlement Hearing, the Representative Plaintiff, MoKan Class Counsel, and Company shall present evidence necessary and appropriate to obtain the Court's approval of this Agreement, the Final Order and Judgment, and the orders contained therein (including without limitation the Bar Order), and shall meet and confer prior to the Settlement Hearing to coordinate their presentation to the Court in support of Court approval thereof.

6.3 Opt Outs by Physician Groups and Physician Organizations

Physician Groups and Physician Organizations shall be entitled to exclude themselves, as distinct legal entities, from the Class, but shall have no right to Opt Out individual Physicians practicing under their auspices; instead, in order to Opt Out, individual Physicians must timely submit individual requests to Opt Out. Any MoKan Class Member who does not submit a request to Opt Out by the Opt-Out Deadline, or who does not otherwise comply with the agreed upon Opt-Out procedure approved by the Court, shall be bound by the terms of this Agreement and the Final Order and Judgment. Any MoKan Class Member who does not Opt Out of this agreement shall be deemed to have taken all actions necessary to withdraw and revoke the assignment to any Person of any claim against Company.

7. Settlement Benefits and Consideration-Business Practice Initiatives

The Class Representative and Class Counsel represent that the total value of this Settlement to Class Members is at least Three Million Dollars ($3,000,000.00). Of this amount, Two Million Eight Hundred Thousand Dollars ($2,800,000.00) is being paid in cash by Company to the Settlement Fund. From the Settlement Fund, cash payments will be provided to the MoKan Class Members, to Class Counsel for reasonable attorney fees and expenses, and to plaintiffs in this action and in the Released Actions, all as set forth in more detail in § 8 below.

In addition to cash payments, the settlement consideration to the MoKan Class Members who have not validly and timely requested to Opt Out of this Agreement includes, among other things, initiatives and other commitments with respect to Company's business practices, which are estimated by the Representative Plaintiff and MoKan Class Counsel to have a value to the Class of no less than Two Hundred Thousand Dollars ($200,000.00). The Parties agree that the business practice initiatives and other commitments set forth in § 7 of the Shane Settlement Agreement, which absent this Agreement do not protect or apply to the MoKan Class Members by virtue of their having opted out of the Shane Settlement Agreement, constitute substantial value, and will enhance and facilitate the delivery of physician services by MoKan Class Members who have not validly and timely requested to Opt Out of this Agreement.

Before and since entry of a final approval order in Shane I and Shane II, which occurred on March 15, 2006, Company began implementing the business practice initiatives described in or contemplated by § 7 of the Shane Settlement Agreement. The full text of the Shane Settlement Agreement may be found at www.humanaphysciansettlement.com, and is attached as Exhibit "B" hereto. In the Shane Settlement Agreement, Company retained the unilateral and unrestricted right to block access to and/or not apply any or all of the business practice initiatives described in or contemplated by § 7 of the Shane Settlement Agreement to such putative class members who opted out of that agreement, including any MoKan Class Members. By virtue of this Agreement, Company shall waive that right and permit those MoKan Class Members who opted out of the Shane Settlement Agreement to access the business practice initiatives described in or

contemplated in § 7 of the Shane Settlement Agreement, which are expressly incorporated into this Agreement, provided they do not file a timely Opt Out of this Agreement.

Company covenants and agrees that, during the period from and after the Execution Date and until the Preliminary Approval Date, it shall not effect any material changes in the business practices that are the subject of the Actions and governed by the provisions of this Agreement, except changes to such business practices that are contemplated by or otherwise consistent with this Agreement.

If not already implemented in accordance with the Shane Settlement Agreement, Company shall be obligated to commence implementing each commitment set forth in § 7 of the Shane Settlement Agreement from and after the date set forth on Exhibit "G" attached thereto across from the relevant section number on such Exhibit (the "Implementation Date") and shall continue implementing each such commitment until the Termination Date, except as modified by § 14.6 of the Shane Settlement Agreement (the earliest of such dates, the "Conclusion Date").

With respect to each commitment set forth in § 7 of the Shane Settlement Agreement, the "Effective Period" for such commitment shall be the period of time beginning on the Implementation Date shown on Exhibit "G" of the Shane Settlement Agreement, and continuing through the Conclusion Date for such commitment. Notwithstanding anything to the contrary contained herein, with respect to each commitment set forth in § 7 of the Shane Settlement Agreement, from and after the Conclusion Date for such commitment, Company shall be under no obligation whatsoever to continue to implement such commitment, except as provided in § 14.6 of the Shane Settlement Agreement.

8. Settlement Benefits and Consideration-Cash Payments

In addition to the business initiatives incorporated in § 7 of this Agreement, the settlement consideration shall include cash payments to MoKan Class Members from the Settlement Fund, which will be established and operated in accordance with the provisions of this § 8.

8.1 Settlement Fund

By no later than ten (10) days after Preliminary Approval, Company shall cause to be established an account for the administration of settlement payments to MoKan Class Members and Attorneys' Fees as set forth in § 9 (the "**Settlement Dollar Fund**"), which account shall be governed by the terms of an escrow agreement to be entered into between Company and the escrow agent that is retained by Company to manage such account. No later than ten (10) days after the Effective Date, Company shall cause to be contributed to the Settlement Fund the amount of Two Million Eight Hundred Thousand Dollars ($2,800,000.00) (the "**Settlement Dollar Amount**"), by wire transfer in immediately available funds.

Such payment shall be treated as a payment to a Qualified or Designated Settlement Fund under I.R.C. § 468B and the regulations or proposed regulations

promulgated thereunder (including without limitation Treasury Reg. § 1.468B-1-5 or any successor regulation.

8.2 Responsibilities of the Settlement Administrator

The settlement administrator that is selected and retained by Company (the "**Settlement Administrator**") under the joint supervision of Company and MoKan Class Counsel or their designees, and subject to the supervision, direction and approval of the Court, shall be responsible for the administration of the Settlement Fund. The responsibilities of the Settlement Administrator shall be as follows: (a) administration of the Mailed Notice, and communication with Class Members who are Physicians concerning the payment amounts from the Settlement Fund to which they are entitled, as reflected in Exhibit "G" hereto; (b) determination of the final payments to Class Members from the Settlement Fund in accordance with the provisions of § 8.3 of this Agreement; (c) distribution of payments to Class Members; (d) the filing of any tax returns necessary to report any income earned by the Settlement Fund and the payment from the Settlement Fund, as and when legally required, of any tax payments (including interest and penalties) due on income earned by the Settlement Fund and to request refunds, when and if appropriate, with any such tax refunds that are issued to become part of the Settlement Fund; and (e) the compliance by the Settlement Fund with any other applicable law. The fees and expenses of the Settlement Administrator shall be paid by Company; provided that neither Company nor Class Counsel shall be responsible for any other costs, expenses or liabilities of the Settlement Fund.

8.3 Payments to MoKan Class Members

(a) Each Class Member who is a Physician or Physician Group shall be entitled to receive payment from the Settlement Fund in the amount reflected on Exhibit "G" hereto, as adjusted by the Settlement Administrator pursuant to § 8.3(b) below. Class Members shall not be required to request payment or submit claim forms in order to obtain the prescribed Settlement Fund payment.

(b) The Settlement Administrator shall increase the payment amounts reflected on Exhibit "G" hereto in the event that, pursuant to § 9 of this Agreement, the Court awards attorneys' fees to MoKan Class Counsel in an amount less than One Million Dollars ($1,000,000.00), or in the event (and to the extent) that Class Members Opt Out of this Settlement. Payment amounts shall be increased proportionally prior to disbursement of payments to MoKan Class Members as set forth herein.

(c) Upon making the adjustments required by § 8.3(b), the Settlement Administrator shall provide written notice to MoKan Class Counsel and to counsel for Company of the revised payment figures. The Settlement Administrator shall disburse payments to MoKan Class Members from the

Settlement Fund no later than (10) days after providing such notice, but in no event more than thirty (30) days after the Effective Date.

8.4. Reversion to Foundation of Unclaimed Amounts

At a reasonable time determined by the Settlement Administrator, not less than one hundred twenty (120) days after all payments have been disbursed to Class Members, the Settlement Administrator shall determine the amount of unclaimed funds remaining in the Settlement Fund (e.g., uncashed checks), including interest (if any) earned on such funds after the payments have been disbursed but excluding taxes owed (the "**Reversion Amount**"). The Settlement Administrator shall provide written notice of the Reversion Amount to Company and Class Counsel and, no later than twenty (20) business days after providing such written notice, the Settlement Administrator shall cause the Settlement Fund to remit the Reversion Amount to Operation Breakthrough - St. Vincent's Family Service Center, 3039 Troost, Kansas City MO 64109, for the limited and specific purpose of funding a medical director for that organization, by wire transfer. Following the Settlement Administrator's determination of the Reversion Amount, the Settlement Administrator may close all accounts related to payment of the Settlement Fund benefits to the Class, and no Class Member shall have any claim on the Settlement Fund or the Parties or their counsel or the Settlement Administrator thereafter.

8.5. Other Settlement Administration Provisions

(a) The Company's payment of the Settlement Dollar Amount plus accrued interest into the escrow administered by the Settlement Administrator shall be treated as a payment to a Qualified or Designated Settlement Fund under I.R.C. § 468B and the regulations or proposed regulations promulgated thereunder (including without limitation Treasury Reg. § 1.468B-1-5 or any successor regulation).

(b) The Parties, Class Counsel and Company's counsel shall not have any responsibility for, interest in, or liability whatsoever with respect to the investment of or distribution of the Settlement Fund, or any losses incurred in connection therewith. Parties, Class Counsel and Company's counsel shall not have any responsibility for, interest in, or liability whatsoever with respect to determination of the amounts of payment reflected on Exhibit "G" hereto, or for the Settlement Administrator's adjustment of same pursuant to § 8.3(b) hereof. The Settlement Administrator's adjustment of the payment amounts reflected on Exhibit "G" hereto, and determination of final payment amounts to Class Members, shall be final, and consistent with the scope of the Settlement Administrator's authority to determine and make such payments as set forth herein.

(c) The escrow agent(s) with whom the Settlement Fund is deposited shall invest the monies in those funds solely in interest bearing investments which the escrow agent(s) consider(s) to involve no substantial risk to payment of principal at maturity.

(d) No Person shall have any cause of action against the Representative Plaintiff, MoKan Class Counsel, the Settlement Administrator, Company, the Released Persons, or Company's counsel, including any counsel representing Company in connection with these Actions, based on the administration or implementation of the Agreement or orders of the Court or based on the distribution of monies under the Agreement. In such circumstances, the sole remedy (other than those provided pursuant to the terms of the Agreement) is application to this Court for enforcement of the Agreement or order pursuant to § 12 of this Agreement.

(e) The Settlement Administrator shall make appropriate reports under Internal Revenue Code § 1099 with respect to all payments it makes to MoKan Class Members under this Agreement. The Settlement Administrator shall file any tax returns necessary with respect to any income earned by the Settlement Fund and shall pay, as and when legally required to do so, any tax payments (including interest and penalties) due on income earned by such Fund, and shall request refunds, when and if appropriate, and shall apply any such refunds that are issued to the Settlement Fund to become a part thereof (or, if refunds are received after distribution, to the Foundation).

9. Attorneys' Fees and Representative Plaintiff' Fees

9.1. Attorneys' Fees

MoKan Class Counsel intend to apply to the Court for an award of Attorneys' Fees and expenses in an amount not to exceed One Million Dollars ($1,000,000.00), which application Company agrees not to oppose. The Attorneys' Fees awarded shall be paid from the Settlement Fund set forth in § 8 of this Agreement. Provided that the Court has approved the Attorneys' Fees, said Attorneys' Fees will be paid to MoKan Class Counsel out of the Settlement Fund at the same time that payments are made to MoKan Class Members. If the Court awards Attorneys' Fees in excess of One Million Dollars ($1,000,000.00) in connection with this Agreement, MoKan Class Counsel hereby covenant and agree to waive, release, and forever discharge the amount of any such excess award and to make no effort of any kind or description ever to collect same. Company shall not be obligated to pay any attorneys' fees or expenses incurred by or on behalf of any Releasing Party in connection with the Released Actions, other than the payment of Attorneys' Fees in accordance with this § 9.1.

9.2 Incentive Awards

In addition to Attorneys' Fees, Class Counsel intend to apply to the Court for the payment of incentive awards ("Incentive Awards") in the amount of One Thousand Dollars ($1,000.00) for each of the following plaintiffs in this action, and in the Released Actions, each in recognition of the service provided by such plaintiffs in bringing this action and the Related Actions for the benefit of the Class:

Blue Springs Internal Medicine, P.C., Carondelet Orthopedics, Cockerell & McIntosh Pediatrics, PC, Consultants in Gastroenterology, Dickson-Diveley Midwest Orthopaedic Clinic, Inc, Drisko Fee & Parkins, PC, Head & Neck Surgery of Kansas City, Kansas City OB-GYN Physicians, PC, Kansas City Urology Care, PA, Midwest Neurosurgery Associates, PA, Northland General Surgery, PC, Rockhill Orthopaedics, PC, Specialty Physician's Alliance, LLC; James Mirabile, M.D., PA, Paincare, PA, The Drake Institute, Kansas City Allergy and Asthma Associates, PA, Nelson Harmon and Kaplan, M.D.S. Chtd, Contemporary Women's Centre, LLC, Cynthia Romito, M.D., and Associated Orthopedics, PA.

In addition to the foregoing, Class Counsel intend to apply to the Court for the payment of supplemental Incentive Awards in the amount of Two Thousand Dollars ($2,000.00) for each of the following plaintiffs in this action and the Released Actions in recognition of the substantial time, devotion and commitment these plaintiffs have contributed to the prosecution of this action and the Released Actions, and for their work in prosecuting the claims of the MoKan Class Members, including but not limited to, active involvement in the investigation and

preparation of the Released Actions, document production, document review and other services that had tangible benefit to the Class:

Cockerell & McIntosh Pediatrics, PC, Consultants in Gastroenterology, Dickson-Diveley Midwest Orthopaedic Clinic, Inc, Drisko Fee & Parkins, PC, Head & Neck Surgery of Kansas City, Midwest Neurosurgery Associates, PA, Rockhill Orthopaedics, PC, Specialty Physician's Alliance, LLC.

These Incentive Awards, if awarded by the Court, shall be (a) payable only to the extent the recipients have not excluded themselves from the Settlement Class; (b) paid exclusively from the Settlement Fund; and (c) paid in addition to any benefits such plaintiffs may be entitled to receive under this Settlement. Company agrees not to oppose MoKan Class Counsel's application for the payment of such Incentive Awards.

9.3 Timing of Fee Payments

Company's payments pursuant to §§ 9.1 and 9.2 shall be made no later than ten (10) days after the Effective Date.

10. Application to Fully-Insured and Self-Funded Plans

This Agreement applies to Company's conduct with respect to both Fully-Insured Plans and Self-Funded Plans, except as otherwise specified in this Agreement or provided by applicable law.

11. Limited Liability

The Billing Dispute External Review Board or Boards (and its members and agents, if any) (as defined in the Shane Settlement Agreement), the Compliance Dispute Facilitator (and her/his agents, if any), the Internal Compliance Officer (and her/his agents, if any) and the Compliance Dispute Review Officer (and her/his agents, if any) do not owe a fiduciary duty to the MoKan Class Members, the Representative Plaintiff, or the Company.

12. Compliance Disputes Arising Under This Agreement

12.1. Jurisdiction

Compliance Dispute, Compliance Dispute Claim Form, Compliance Dispute Facilitator, and Compliance Dispute Review Officer are defined in Section 1 of this Agreement.

(a) Compliance Dispute Facilitator

All Compliance Disputes shall be directed not to the Court nor to any other state court, federal court, arbitration panel, or any other binding or non-binding dispute resolution mechanism but to the Compliance Dispute

Facilitator. The Parties shall endeavor to appoint the same Compliance Dispute Facilitator as in the Shane Settlement Agreement. To the extent the Parties are unable to agree to this, MoKan Class Counsel shall be permitted to appoint a Compliance Dispute Facilitator for this Agreement, provided that in such event, however, MoKan Class Counsel may not appoint as Compliance Dispute Facilitator any individual who is a Class Member in these Actions or in *Shane I* or *Shane II*, or is or has been affiliated with a Class Member in these Actions or in *Shane I* or *Shane II*.

Company shall publish on the Website the name and address of the Compliance Dispute Facilitator. The proposed Final Order and Judgment shall provide that no state or federal court or dispute resolution body of any kind shall have jurisdiction over any enforcement of § 7 of this Agreement at any time, including without limitation through any form of review or appeal, except to the extent otherwise provided in this Agreement.

(b) Compliance Dispute Review Officer

Pursuant to §§ 12.3 and 12.6, and subject to §§ 12.4 and 12.5, the Compliance Dispute Facilitator shall refer Compliance Disputes that satisfy the requirements of § 12.3(b) to the Compliance Dispute Review Officer for resolution. The Compliance Dispute Review Officer shall be appointed by mutual agreement of Company and MoKan Class Counsel within thirty (30) days of the Preliminary Approval Date, or such later date as may be mutually agreed by Company and MoKan Class Counsel. The Parties shall appoint the same Compliance Dispute Review Officer as in the Shane Settlement Agreement if that Officer is willing to accept the engagement.

If the Shane Compliance Dispute Review Officer should be any reason be unwilling to accept the comparable engagement in this settlement, or is no longer able to serve in such role for any reason, then a replacement shall be chosen by mutual agreement of MoKan Class Counsel, or their designee, and Company. If MoKan Class Counsel, or their designee, and Company cannot mutually agree on such replacement Compliance Dispute Review Officer, such replacement Compliance Dispute Review Officer shall be a Person to be agreed upon by Company and MoKan Class Counsel prior to the Effective Date (the "**First Alternate**"). If the First Alternate is unable or unwilling to serve in such role for any reason, then such replacement Compliance Dispute Review Officer shall be a Person to be agreed upon by Company and MoKan Class Counsel prior to the Effective Date (the "**Second Alternate**").

(c) Fees and Costs

Company shall pay the reasonable hourly fees and costs of the Compliance Dispute Facilitator and the Compliance Dispute Review Officer for services on compliance disputes with Company. If the parties are unable to reach agreement regarding the fees and costs of the Compliance Dispute Facilitator and the Compliance Dispute Review Officer, either party may apply to the Court for relief relating exclusively to this § 12.1(c).

12.2. Who May Petition the Compliance Dispute Facilitator

The following may petition the Compliance Dispute Facilitator (each a "**Petitioner**"):

(a) Any MoKan Class Member who has not validly and timely requested to Opt Out of this Agreement and who contends that Company has materially failed to perform specific obligations under § 7 of this Agreement, and that such MoKan Class Member is adversely affected by Company's failure to comply with such specific obligations under § 7.

(b) Nothing in subsection (a) of this § 12.2 is intended or shall be construed to limit the remedies that the Compliance Dispute Review Officer may order pursuant to § 12.6(f) herein.

12.3. Procedure for Submission, and Requirements, of Compliance Disputes

(a) Compliance Dispute Claim Form

Before the Compliance Dispute Facilitator may consider a Compliance Dispute, a Petitioner must submit a properly completed Compliance Dispute Claim Form, attached as Exhibit "D" hereto, and approved by the Court, to the Compliance Dispute Facilitator, who shall promptly provide a copy of such Compliance Dispute Form to Company. The Compliance Dispute Claim Form may include supporting documentation or affidavit testimony. The Compliance Dispute Claim Form, which is attached as Exhibit "D" hereto, shall be made available by the Compliance Dispute Facilitator to Class Members upon request.

(b) Qualifying Submissions

When the Compliance Dispute Facilitator is petitioned pursuant to §§ 12.2(a) or (b) of this Agreement, in order for the Compliance Dispute Facilitator to refer the Compliance Dispute to the Compliance Dispute Review Officer, the Compliance Dispute Facilitator must determine that:

(1) the Petitioner has satisfied the requirements of § 12.2;

(2) the Petitioner has submitted a properly completed submission not later than ninety (90) days after such Compliance Dispute arose or

after the Petitioner reasonably became aware of the Dispute, whichever is later; and

(3) in the Compliance Dispute Facilitator's judgment, the Petitioner's Compliance Dispute:

(a) is not frivolous;

(b) cannot be easily resolved by the Compliance Dispute Facilitator without the intervention of the Compliance Dispute Review Officer; and

(c) is not properly the subject of a proceeding pursuant to §§ 7.10 or 7.11 of the Shane Settlement Agreement.

If the Compliance Dispute Facilitator determines that the Petitioner's Compliance Dispute is properly the subject of an alternative dispute resolution proceeding pursuant to §§ 7.10 or 7.11 of the Shane Settlement Agreement, the Compliance Dispute Facilitator shall expressly inform the Petitioner of the External Review procedures available to such Petitioner.

12.4. Rejection of Frivolous Claims

The Compliance Dispute Facilitator may reject as frivolous, and the Compliance Dispute Review Officer shall not hear, any Compliance Dispute that the Compliance Dispute Facilitator determines in her or his sole and absolute discretion to be frivolous, filed for nuisance purposes, or otherwise without merit on its face. The Compliance Dispute Facilitator may issue a written explanation or a written order of the grounds for denial of Petitioner's Compliance Dispute. Petitioner shall have no right to appeal the Compliance Dispute Facilitator's decision.

12.5. Dispute Resolution Without Referral to Compliance Dispute Review Officer

If in the Compliance Dispute Facilitator's judgment Petitioner's Compliance Dispute can be resolved using available resources without the invocation of the Compliance Dispute Review Officer's authority, the Compliance Dispute Facilitator shall refer the Petitioner to the appropriate resources or otherwise assist in the resolution of Petitioner's Dispute. All Parties agree to assist the Compliance Dispute Facilitator in these efforts.

12.6. Procedure for Compliance Dispute Review Officer's Determination of Compliance Disputes

(a) Optional Initial Negotiation and Mediation

In the event the Compliance Dispute Facilitator has determined pursuant to §§ 12.2 – 12.5 that the Compliance Dispute Review Officer should resolve a particular Compliance Dispute, the Compliance Dispute Facilitator shall notify the Compliance Dispute Review Officer, Petitioner, and Company of such determination and the basis thereof. Unless the Petitioner specifies otherwise, the Compliance Dispute Facilitator shall serve as the Petitioner's representative in the Compliance Dispute process thereafter with respect to such Compliance Dispute. If the Petitioner, the Facilitator, and the Company agree, the Compliance Dispute Review Officer shall then direct the Petitioner and Company to convene negotiations at a mutually agreeable time and place so that they may reach agreement on whether a breach of Company's obligations under § 7 of this Agreement has occurred and, if so, what remedy, if any, should be implemented. At these negotiations, the Compliance Dispute Review Officer shall, if requested by both Petitioner and Company, serve as a non-binding mediator. If the Petitioner and Company cannot resolve the Compliance Dispute within ninety (90) days of the date of the determination and notification by the Compliance Dispute Facilitator that the Compliance Dispute Review Officer should resolve the Compliance Dispute, then they shall so inform the Compliance Dispute Review Officer.

(b) Memoranda to Compliance Dispute Review Officer

If the Compliance Dispute Review Officer has been notified pursuant to § 12.6(a) that no agreement has been reached through negotiations or if the parties have not agreed to participate in the optional initial negotiations and non-binding mediation under § 12.6(a), the Compliance Dispute Review Officer shall request written memoranda from the Petitioner and Company as to the merits of the Compliance Dispute and appropriate remedies for such Compliance Dispute. The Petitioner shall have fifteen (15) days from the date of the Compliance Dispute Review Officer's request to submit a memorandum and appropriate supporting exhibits, and Company shall respond within fifteen (15) days after Company's receipt of Petitioner's memorandum and accompanying exhibits. Requests for extensions of time for the submission of such materials must be submitted to the Compliance Dispute Review Officer and shall be granted only for good cause shown. The filing of such a request shall toll the time for submitting a memorandum and supporting exhibits until such time as the request for extension has been granted or denied.

(c) Oral Argument Concerning Compliance Dispute

Petitioner or Company may, at the time of submission of the memoranda described in § 12.6(b), request oral argument before the Compliance Dispute Review Officer on the subject of the Compliance Dispute and appropriate remedies, if any. If either the Petitioner or Company so

requests, the Compliance Dispute Review Officer shall hear such argument at a time and place convenient to the Compliance Dispute Review Officer, the Petitioner, and Company, and shall accept and consider any evidence relevant to the Compliance Dispute introduced at the hearing.

(d) Decisions by the Compliance Dispute Review Officer

In resolving a Compliance Dispute, the Compliance Dispute Review Officer shall decide, based on the written submissions, oral argument, and any other relevant evidence that the Compliance Dispute Review Officer in his or her sole discretion deems necessary: (i) whether the Compliance Dispute Facilitator properly determined pursuant to §§ 12.3 and 12.4 that the Compliance Dispute should be heard by the Compliance Dispute Review Officer and, if so, (ii) whether Company has failed to comply with its obligations under § 7 of this Agreement, and if so, direct what actions are to be taken by Company to obtain compliance. In no event shall the Compliance Dispute Review Officer direct that Company spend amounts or take actions above or below Company's obligations under § 7 of this Agreement for any violations of this Agreement, including without limitation any systemic violation under § 12.6(f). The Compliance Dispute Review Officer must base his or her decision solely on the evidence received with respect to the Compliance Dispute and not on anything outside the record, and must, at the time she or he announces her or his decision, issue a written opinion setting forth the basis of the decision.

(e) Rehearing by the Compliance Dispute Review Officer

After the Compliance Dispute Review Officer has issued a written opinion in accordance with § 12.6(d), the Petitioner or Company, or both, may petition the Compliance Dispute Review Officer within ten (10) days from receipt of the decision, in writing, for rehearing on the question of whether a § 7 violation has occurred and whether the remedies (if any) required by the Compliance Dispute Review Officer are appropriate. The Compliance Dispute Review Officer may deny the petition for rehearing or issue a new written opinion after considering such a petition.

(f) Systemic Violations

If the Compliance Dispute Review Officer determines that Company is engaged in a systematic violation of its obligations under § 7 of this Agreement, then the Compliance Dispute Review Officer may order appropriate remedies only as necessary and designed to obtain compliance with the terms of this Agreement.

(g) Finality of the Compliance Dispute Review Officer's Decision

Upon the issuance of the Compliance Dispute Review Officer's decision after a rehearing, if any, the decision of the Compliance Dispute Review Officer shall be final unless appealed to the Court, and the Compliance Dispute Review Officer's decision shall not be appealed by Petitioner or Company to any other federal court, any state court, any state medical society, any arbitration panel, or any other binding or non-binding dispute resolution mechanism. In the event that Petitioner or Company seeks review in the Court of a final decision of the Compliance Dispute Review Officer, the Court shall consider only whether the Compliance Dispute Review Officer's final decision was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," as defined by 5 U.S.C. § 706(2)(A), and/or whether the decision was contrary to or inconsistent with the second sentence of §12.6(d) of this Agreement. If and only if the Court finds the final decision was "arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law," or that the decision was contrary to or inconsistent with the second sentence of § 12.6(d) of this Agreement, the Court may remand the Compliance Dispute to the Compliance Dispute Review Officer for further proceedings.

(h) Enforcement by the Court

If the Compliance Dispute Review Officer certifies that either Company or Petitioner is not in compliance with any final decision issued or remedy ordered by the Compliance Dispute Review Officer following any appeal as provided in § 12.6(g) above, such Person shall have thirty (30) days from the date of such certification to cure the non-compliance. If after such thirty (30) day period, the Person is not in compliance and the Compliance Dispute Review Officer certifies that the Person has failed to cure the non-compliance during such thirty (30) day period, the other Person (Company or Petition, as the case may be) may petition the Court for enforcement.

12.7. Internal Compliance Officer

In addition to and separate from the Compliance Dispute Review Officer and the Compliance Dispute Facilitator, Company shall designate an "**Internal Compliance Officer**" to generally monitor and facilitate Company's compliance with the obligations set forth in this Agreement. The Internal Compliance Officer shall report to a member of Company's senior management and shall take whatever steps and conduct whatever compliance checks and investigations as she or he and senior management deem reasonably necessary and appropriate to monitor Company's compliance with this Agreement. Within thirty (30) days after the end of each calendar year during the Effective Period, the Internal Compliance Officer shall file a written report with the Compliance Dispute Review Officer, the Compliance Dispute Facilitator, and MoKan Class Counsel summarizing the Internal Compliance Officer's activities during the prior year and containing the information specified in § 7.34 of the Shane Agreement, and

shall simultaneously provide a copy of such report to the Physician Advisory Committee (as defined in the Shane Settlement Agreement)**.** Each annual report shall contain all the certifications required in the Certification to be filed at the end of the Effective Period; provided that following the initial annual report, subsequent reports may incorporate by reference any materials in prior year's reports that remain operative and have not been amended during the interim.

13. Release, Covenant Not to Sue, and Bar Order

13.1. Discharge of All Released Claims

(a) Upon the Effective Date, the "**Released Parties**," which shall include Company and each of its present and former parents, present and former wholly-owned Subsidiaries, present and former divisions and Affiliates and each of their respective current or former officers, directors, employees, agents, insurers, and attorneys (and the predecessors, heirs, executors, administrators, legal representatives, successors, and assigns of each of the foregoing), and all persons (with the sole and specific exception of Ingenix, Inc. and its subsidiaries and affiliates) not named as defendants in the Released Actions who provided claims processing services, software, proprietary guidelines or technology to Company or its Subsidiaries and Affiliates, and those contracted agents processing claims on their behalf, together with each such person's or entity's predecessors or successors (but only to the extent of such person's or entity's services and work done pursuant to contract with Company or its Subsidiaries and Affiliates), shall be released and forever discharged by all MoKan Class Members who have not validly and timely requested to Opt Out of this Agreement, and by their respective heirs, executors, agents, legal representatives, professional corporations, partnerships, assigns, and successors, but only to the extent such claims are derived by contract or operation of law from the claims of MoKan Class Members (collectively, the "Releasing Parties"), from any and all causes of action, judgments, liens, indebtedness, costs, damages, obligations, attorneys' fees, losses, claims, liabilities, and demands of whatever kind or character (each a "Claim"), arising on or before the Effective Date, including, but not limited to, those Claims that are, were, or could have been asserted against any of the Released Parties by reason of, arising out of, or in any way related to any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances, or other matters referenced in the Released Actions, whether any such Claim was or could have been asserted by any Releasing Party on its own behalf or on behalf of other Persons, or to the business practices that are the subject of § 7. This includes, without limitation and as to Released Parties only, any aspect of any Fee-for-Service Claim submitted by any MoKan Class Member to Company, and any claims of any MoKan Class Member related to or based upon any capitation agreement between Company and any MoKan Class Member or other person or entity, or the delay,

nonpayment, or amount of any capitation payments by Company, and any allegation that Company has conspired with, aided and abetted, or otherwise acted in concert with one or more defendants in the Released Actions, with other managed care organizations or other health insurance companies, and/or other third parties with regard to any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances, or other matters referred to in the Released Actions or with regard to Company's liability for any other demands for payment submitted by any MoKan Class Member to defendants in the Released Actions, or to such other managed care organizations, health insurance companies, and/or other third parties.

(b) The claims and rights released and discharged pursuant to § 13.1(a), subject to the exception regarding Retained Claims contained in § 13.5, shall be referred to collectively as "Released Rights" or "Released Claims."

13.2. Covenant Not to Sue

(a) The Releasing Parties and each of them agree and covenant not to sue or prosecute, or institute or cooperate in the institution, commencement, filing, or prosecution of any suit or proceeding, in any forum against the Company based upon or related to any Released Claim against any Released Party.

(b) Upon entry of the Final Order and Judgment and through the Termination Date, each Releasing Party shall be deemed to have covenanted and agreed not to sue or to assert or to prosecute, institute, or cooperate in the institution, commencement, filing, or prosecution of any proceeding against any Released Person, in any forum, any cause of action, judgment, lien, indebtedness, costs, damages, obligation, attorneys' fees, losses, claims, liabilities, and demands of whatever kind or character arising after the Preliminary Approval Date, against the Company that is similar to, or is based on, the causes of action and/or factual allegations in the Lawsuit, but only to the extent such cause of action, judgment, lien, indebtedness, cost, damage, obligation, attorneys' fee, loss, claim, liability or demand is based on any actions or omissions by the Company that are consistent with Company's practices and procedures as of the Execution Date, as modified by the requirements and provisions of this Agreement. Provided, however, the Covenant Not to Sue does not apply to any future claim for which this Agreement does not provide an adequate remedial process.

13.3. Bar Order

It is an essential element of the Agreement that Company obtain the fullest possible release from further liability to anyone relating to the Released Claims, and it is the intention of the Parties that the Agreement eliminate all further risk

and liability of Company relating to the Released Claims. Accordingly, the Parties agree that the Court shall include in the Final Order a Bar Order that meets all of the following requirements:

(a) The Releasing Parties are permanently enjoined from: (i) filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise) or receiving any benefits from any lawsuit, arbitration, administrative or regulatory proceeding or order in any jurisdiction based on any or all Released Claims against one or more Released Parties; (ii) instituting, organizing class members in, joining with class members in, amending a pleading in, or soliciting the participation of class members in, any action or arbitration, including but not limited to a purported class action, in any jurisdiction against one or more Released Parties based on, involving, or incorporating, directly or indirectly, any or all Released Claims; and (iii) filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), or receiving any benefits from any lawsuit, arbitration, administrative or regulatory proceeding or order in any jurisdiction based on an allegation that an action taken by Company, which is in compliance with the provisions of this Settlement Agreement, violates any legal right of any MoKan Class Member.

(b) All persons, including without limitation all defendants named in the Released Actions other than Released Parties, who are, have been, could be, or could have been alleged to be joint tortfeasors, co-tortfeasors, co-conspirators, or co-obligors with the Released Parties or any of them respecting the Released Claims or any of them, are hereby, to the maximum extent permitted by law, barred and permanently enjoined from making, instituting, commencing, prosecuting, participating in, or continuing any claim, claim-over, cross-claim, action, or proceeding, however denominated, regardless of the allegations, facts, law, theories, or principles on which they are based, in this Court or in any other court or tribunal, against the Released Parties or any of them with respect to the Released Claims, including without limitation equitable, partial, comparative, or complete contribution, set-off, indemnity, assessment, or otherwise, whether by contract, common law, or statute, arising out of or relating in any way to the Released Claims. All such claims are hereby fully and finally barred, released, extinguished, discharged, satisfied, and made unenforceable to the maximum extent permitted by law, and no such claim may be commenced, maintained, or prosecuted against any Released Party. Any judgment or award obtained by a KC Class Member against any such defendant or third party shall be reduced by the amount or percentage, if any, necessary under applicable law to relieve Company or any Released Party of all liability to such defendants or third parties on such barred claims. Such judgment reduction, partial or complete release, settlement credit, relief, or setoff, if any, shall be in an amount or percentage sufficient under applicable law as determined by the Court to

compensate such defendants or third parties for the loss of any such barred claims against Company or any Released Party. Nothing in this paragraph shall be construed to bar any person who is alleged to be a joint tortfeasor, co-tortfeasor, co-conspirator, or co-obligor with any of the Released Parties from instituting, commencing, prosecuting, or participating in any claim, claim-over, cross-claim, action, or proceeding, however denominated, against a Released Party in any litigation in which claims against the Released Party are not released and discharged pursuant to this order ("Non-Released Litigation"); provided, however, that such persons may serve discovery on a Released Party in Non-Released Litigation only to the extent such discovery is directed solely to the allegations in such litigation. Where the claims of a person who is, has been, could be, or could have been alleged to be a joint tortfeasor, co-tortfeasor, co-conspirator, or co-obligor with a Released Party respecting the Released Claims have been barred and permanently enjoined by this § 13.3, the claims of Released Parties against that person respecting those Released Claims are similarly fully and finally barred, released, extinguished, discharged, satisfied, and made unenforceable to the maximum extent permitted by law. By this Bar Order and this Agreement, the Parties are not, and should not be construed as, creating, establishing or recognizing any rights of such joint tortfeasor, co-tortfeasor, co-conspirator or co-obligor to a setoff or reduction of any judgment or award referenced herein, and the Parties believe no such remedy exists at law or in equity.

13.4. Dismissal With Prejudice

The Releasing Parties have previously or will take steps necessary to dismiss the Actions and the Released Actions with prejudice as to Released Parties. It is the Parties' intention that such dismissal shall constitute a final judgment on the merits to which the principles of *res judicata* shall apply to the fullest extent of the law as to the Released Parties. The dismissals will be filed no later than ten days after the Final Order and Judgment becomes final and nonappealable.

13.5. Retained Claims

Notwithstanding the foregoing, the Releasing Parties are not releasing claims for payment (each a "**Retained Claim**" and, collectively, the "**Retained Claims**") for Covered Services provided to Plan Members prior to or on the Effective Date as to which, as of the Effective Date: (i) no claim with respect to such Covered Services has been submitted to Company; provided that the applicable period for filing such claim has not elapsed; or (ii) a claim with respect to such Covered Services has been filed with Company but such claim has not been finally adjudicated by Company. For purposes of clause (ii), above, final adjudication shall mean completion of Company's internal appeals process. In the event that a claim referred to in clause (ii) is finally adjudicated less than thirty (30) days prior to the Effective Date, such claim shall constitute a Retained Claim if a Physician seeks relief under § 7 not later than ninety (90) days after notice of such final

adjudication, but otherwise such claim shall constitute a Released Claim. Retained Claims shall be resolved pursuant to the appropriate remedial provisions of this Agreement.

13.6. Covenant Not to Sue in Any Other Forum

Upon the Effective Date and through the Termination Date, each Releasing Party shall be deemed to have covenanted and agreed not to sue with respect to, or assert, against any Released Person, in any forum: (i) any Retained Claim; or (ii) any Compliance Dispute, which respectively shall be asserted and pursued only pursuant to the provisions of this Agreement (it being understood that this § 13.6 shall not apply to any claims that arise within twenty (20) days before the Termination Date that could not reasonably be presented or resolved pursuant to the procedures set forth in this Agreement; provided that any such claim shall be prosecuted on an individual basis only and not otherwise).

13.7. Non-Released Persons and Non-Released Claims

(a) Nothing in this Agreement is intended to relieve any Person that is not a Released Party from responsibility for its own conduct or conduct of other Persons who are not Released Parties for claims that are not Released Claims. Specifically, the MoKan Class retains their rights against and nothing shall be interpreted as in any way inhibiting their rights to pursue their claims against companies other than Released Parties, including but not limited to the defendants in the Released Actions other than Company, subject to the constraints of § 13.3(b). Nothing in this Agreement is intended to preclude any Representative Plaintiff from introducing any competent and admissible evidence to the extent consistent with §§ 13.7(d), 14.5, and 16.

(b) Nothing in this Agreement prevents the Representative Plaintiff and MoKan Class from pursuing claims to hold any person or party that is not a Released Party liable for damages caused by any Released Party.

(c) If § 13.7(b) of this Agreement should be found illegal or invalid by any court for any reason, it shall be severable from the remainder of this Agreement, and the remainder of this Agreement shall be unchanged and shall be read as if it did not contain § 13.7(b).

(d) If Plaintiffs, the MoKan Class, or any MoKan Class Members pursue claims against any person or party for damages allegedly caused by any Released Person, any finding, judgment, opinion, or other result from such proceeding under any circumstances: (i) shall not be deemed, construed, or asserted as a finding, judgment, opinion, or result against any Released Person; (ii) shall not be deemed, construed, or asserted as *res judicata,* collateral estoppel, or similar doctrines against any Released Person; and (iii) shall not be admitted or considered as evidence against or used for

any purpose against any Released Party in any judicial, administrative, regulatory, arbitration proceeding, or any other forum.

13.8. Irreparable Harm

The Parties agree that Company shall suffer irreparable harm if a Releasing Party takes action inconsistent with §§ 13.1, 13.2, 13.3, 13.4, and/or 13.6, and that in such event Company may seek an injunction from the Court as to such action without further showing of irreparable harm.

13.9. Legislative Changes

Nothing contained in this Agreement is intended, or shall be construed, to preclude any Party from seeking legislative or regulatory changes as to matters addressed herein or from seeking to enforce any such changes using any available legal remedy.

14. Stay of Discovery, Termination, and Effective Date of Agreement

14.1. Suspension of Discovery and Appeal

(a) Until the Preliminary Approval Order has been entered, including the stay of discovery as to the Released Parties in the form contained therein, the Releasing Parties and MoKan Class Counsel covenant and agree that MoKan Class Counsel shall not pursue discovery against the Released Parties and shall not in any way subsequently argue that the Released Parties have failed to comply with their discovery obligations in any respect by reason of the Released Parties' suspension of discovery efforts following the Execution Date and all pre-trial proceedings in the Released Actions against the Released Parties shall be stayed.

(b) Upon entry of the Preliminary Approval Order, all proceedings against Company in the Released Actions, other than proceedings as may be necessary to carry out the terms and conditions of the Settlement, shall be stayed and suspended until further order of the Court. The Preliminary Approval Order shall also bar and enjoin all members of the Class from commencing or prosecuting any action asserting any Released Claims, and stay any actions or proceedings brought by any member of the class asserting any Released Claims. In the event the Final Order and Judgment is not entered or is reversed for any reason, or this Agreement terminates for any reason, the Parties shall not be deemed to have waived any rights with respect to proceedings in the Released Actions that arise during the period of the stay and shall have a full and fair opportunity to present any position in any such proceedings.

(c) With respect to the Missouri Antitrust Case, MoKan Class Counsel will fully cooperate with Company's counsel to extend or sever any appeal and stay any appellate deadlines applicable to Company in appeal no. 67814

currently pending in the Missouri Court of Appeals, Western Division, to the extent possible without delaying or otherwise impeding the judicious resolution of such appeal as related to other appealing persons/entities.

With respect to the Kansas Antitrust Case, MoKan Class Counsel will fully cooperate with Company's counsel to extend or stay any appellate deadlines which might become applicable to Company, to the extent possible without delaying or otherwise impeding the judicious resolution of such appeal as related to any other person/entity that may be involved in such appeal.

14.2. Right to Terminate this Agreement

If, at the Preliminary Approval Hearing or within thirty (30) days thereafter, the Court does not enter the Preliminary Approval Order and approve the Mailed Notice submitted to the Court pursuant to § 4 of this Agreement, in each case in substantially the same form as Exhibits "F" and "E" hereto, each of MoKan Class Counsel and Company shall have the right, in the sole and absolute discretion of such Party, to terminate this Agreement by delivering a notice of termination to the other, it being understood that, notwithstanding the foregoing, if the Court does not grant the stay as provided in § 14.1, in the form contained in the Preliminary Approval Order, Company may in its sole and absolute discretion terminate this Agreement by delivering a notice of termination to MoKan Class Counsel. In the event of any termination pursuant to the terms hereof, the Parties shall be restored to their original positions, except as expressly provided herein.

14.3. Notice of Termination

If the Court has not entered the Final Order and Judgment substantially in the form attached hereto as Exhibit "C" hereto before the commencement of trial in the Kansas Coding Case and the Missouri Coding Case or the date that is one hundred eighty (180) calendar days after the Preliminary Approval Date, whichever comes first, each of MoKan Class Counsel and Company may, in their or its sole and absolute discretion, terminate this Agreement by delivering a notice of termination to the other.

14.4. Effective Date

If the Final Order and Judgment is entered by the Court and the time for appeal from all of such orders and judgment has elapsed (including without limitation any extension of time for the filing of any appeal that may result by operation of law or order of the Court) with no notice of appeal having been filed, the "**Effective Date**" shall be the next business day after the last date on which notice of appeal could have been timely filed. If the Final Order and Judgment is entered and an appeal is filed as to either of them, the "**Effective Date**" shall be the next business day after the Final Order and Judgment is affirmed, all appeals

are dismissed, and the time for taking further appeals to, or petitioning for discretionary review in, any court has expired.

14.5. Suspension of Discovery After Preliminary Approval Date

From and after the Preliminary Approval Date, the Releasing Parties and MoKan Class Counsel covenant and agree that the Releasing Parties and MoKan Class Counsel shall not pursue discovery or any other proceedings against the Released Parties until Final Approval or Termination of the Settlement, as defined herein. Nothing contained herein shall preclude the Releasing Parties or MoKan Class Counsel from introducing and relying on otherwise admissible evidence as to non-Released Parties and non-Released Claims.

14.6. Termination Date of Agreement

This Agreement shall terminate (the "Termination Date") upon the earlier to occur of: (a) termination of this Agreement by any Party pursuant to the terms hereof; or (b) October 19, 2009. Effective on the Termination Date, the provisions of this Agreement shall immediately become void and of no further force and effect and there shall be no liability under this Agreement on the part of any of the Parties, except for willful or knowing breaches of this Agreement prior to the time of such termination. On the Termination Date, all of Company's obligations under this Agreement shall be satisfied. Except as provided below in this § 14.6, no decision or ruling of the Compliance Dispute Review Officer shall have any force on the Parties after the Termination Date and Company shall be under no obligation to continue performance of any kind under this Agreement. Company may, in its sole and absolute discretion, elect to continue after the Termination Date the implementation of various business practices described in this Agreement. Company also may, where it has a good faith basis, and notwithstanding any Implementation Date in § 7 of this Agreement or in Exhibit G in the Shane Settlement Agreement, delay the implementation, in whole or in part, of any provision of this Agreement upon notice to MoKan Class Counsel, in which case, and only to the extent that implementation of a provision of this Agreement has been delayed, the term of the Agreement shall be extended with respect to the delayed provision for a period of time equal to the length of the delay. If MoKan Class Counsel believe that Company has willfully delayed implementation, in whole or in part, of any material provision of this Agreement without providing notice to MoKan Class Counsel pursuant to the preceding sentence, then MoKan Class Counsel may petition the Compliance Dispute Review Officer for a recommendation that, to the extent implementation of such a provision was delayed, the term of the Agreement be extended with respect to the delayed provision for a period of time equal to the length of the willful delay. Upon a finding of willful delay and a recommendation by the Compliance Dispute Review, MoKan Class Counsel may petition the Court for an extension of the Effective Period equal to the length of the willful delay with respect to the delayed provision, but only to the extent that implementation of such provision was delayed.

15. Deleted.

16. Not Evidence; No Admission of Liability

In no event shall this Agreement, in whole or in part, whether effective, terminated, or otherwise, or any of its provisions or any negotiations, statements, or proceedings relating to it in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Actions, in any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to enforce this Agreement. Without limiting the foregoing, neither this Agreement nor any related negotiations, statements, or proceedings shall be construed as, offered as, received as, used as, or deemed to be evidence, or an admission or concession of liability or wrongdoing whatsoever or breach of any duty on the part of Company, the other defendants in the Released Actions, or the Representative Plaintiff, or as a waiver by Company, the other defendants in the Released Actions, or the Representative Plaintiff of any applicable defense, including without limitation any applicable statute of limitations. None of the Parties waives or intends to waive any applicable attorney-client privilege or work product protection for any negotiations, statements, or proceedings relating to this Agreement. This provision shall survive the termination of this Agreement.

17. Entire Agreement; Amendment

17.1. Entire Agreement

This Agreement, including its Exhibits hereto, contains an entire, complete, and integrated statement of each and every term and provision agreed to by and among the Parties; it is not subject to any condition not provided for herein. This Agreement supersedes any prior agreements or understandings, whether written or oral, between and among Representative Plaintiff, MoKan Class Members, MoKan Class Counsel, and Company regarding the subject matter of the Actions or this Agreement. This Agreement shall not be modified in any respect except by a writing executed by MoKan Class Counsel and the Company.

17.2. Amendment Generally

This Agreement may be amended or modified only as provided in by a written instrument signed by or on behalf of Company and MoKan Class Counsel (or their successors in interest) and approved by the Court, or as set forth in § 17.3.

17.3. Amendment for Change in Circumstances

In the event Company encounters a change in circumstances that will cause performance or maintenance of one or more provisions of this Agreement to become impractical, it will provide notice thereof to MoKan Class Counsel with an explanation of the changed circumstances and the proposed change in the Agreement. For this purpose, "impractical" shall mean a change in circumstances that would place Company at a meaningful competitive or operational disadvantage, or would make performance or maintenance unduly burdensome, or

would, on account of new technology, make continued performance or maintenance inefficient or less cost-effective relative to use of the new technology. A settlement in the Actions at any time following Preliminary Approval on terms materially more favorable for the other settling defendants than for Company, including but not limited to terms relating to coding and payment, exclusions of government programs or treatment of Delegated Entities and/or Individually Negotiated Contracts, may constitute such a change of circumstances and Company may initiate the process described in this § 17.3 at that time. Within thirty (30) days of the date of such notice, counsel for Company and MoKan Class Counsel will meet and confer regarding the proposed change and will attempt in good faith to reach an agreement thereon. In this process, Company and MoKan Class Counsel will consider whether there is a more efficient way in which to fulfill the intent of the applicable aspect of the Agreement. If agreement is reached, Company and MoKan Class Counsel will jointly apply to the Court for a modification of this Agreement. If within thirty (30) days after the date of the initial meeting of Company and MoKan Class Counsel, agreement has not been reached, then Company may apply to the Court for a modification of this Agreement.

18. No Presumption Against Drafter

None of the Parties shall be considered to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof. This Agreement was drafted with substantial input by all Parties and their counsel, and no reliance was placed on any representations other than those contained herein.

19. Captions and Headings

The use of captions and headings in this Agreement is solely for convenience and shall have no legal effect in construing the provisions of this Agreement.

20. Continuing Jurisdiction and Exclusive Venue Continuing Jurisdiction

Except as otherwise provided in this Agreement, it is expressly agreed and stipulated that the Circuit Court for Jackson County, Missouri, shall have exclusive jurisdiction and authority to consider, rule upon, and issue a final order with respect to suits, whether judicial, administrative, or otherwise, which may be instituted by any Person, individually or derivatively, with respect to this Agreement. This reservation of jurisdiction does not limit any other reservation of jurisdiction in this Agreement nor do any other such reservations limit the reservation in this subsection.

Except as otherwise provided in this Agreement, Company and each MoKan Class Member who has not validly and timely requested to Opt Out of this Agreement hereby irrevocably submits to the exclusive jurisdiction and venue of the Circuit Court for Jackson County, Missouri, for any suit, action, proceeding, case, controversy, or dispute

relating to this Agreement and/or Exhibits hereto and negotiation, performance, or breach of same.

Parties Shall Not Contest Jurisdiction

In the event of a case, controversy, or dispute arising out of the negotiation of, approval of, performance of, or breach of this Agreement, and solely for purposes for such suit, action, or proceeding, to the fullest extent that they may effectively do so under applicable law, the Parties irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of such Court, or that such Court is in any way an improper venue or an inconvenient forum. Furthermore, the Parties shall jointly urge the Court to include the provisions of this § 20 in its Final Order and Judgment approving this Agreement.

21. Cooperation

Representative Plaintiff, MoKan Class Counsel, and Company agree to move the Court to enter an order to the effect that should any Person desire any discovery incident to (or which the Person contends is necessary to) the approval of this Agreement, the Person must first obtain an order from the Court that permits such discovery.

22. Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original. Facsimile signatures shall be considered valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Agreement.

23. Successors and Assigns

23.1 No Assignment Without Consent

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of Company and its respective successors and assigns; provided that Company may not assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement to a third party that is not a successor or affiliate without the consent of MoKan Class Counsel.

(b) Under no circumstances shall this Agreement create a right of MoKan Class Members or MoKan Class Counsel to review, approve, or consent to any business transaction involving the Company, including, without limitation, any sale, purchase, merger, or other business combination transaction.

(c) Notwithstanding any other provision herein, if Company shall sell or otherwise dispose of any portion of its business during the Effective Period of this Agreement that represents in the aggregate less than ten percent (10%) of Company's consolidated revenues ("Sold Business"), the

purchaser or other recipient of the Sold Business shall not be bound by the provisions of this Agreement with respect to itself or the Sold Business.

23.2 Acquisition or Change of Control Transactions

Notwithstanding any other provision of this Agreement, in the event of: (i) an acquisition or change of control of Company whereby all or substantially all of Company's assets or stock are acquired by a third person by way of merger or transfer of stock or assets; or (ii) Company consolidates with, or merges with or into, another person or any other person consolidates with, or merges with or into, Company (any such other person being referred to hereinafter as a "Combining Person"), the following provisions apply (with the term "Acquirer" referring to and including any acquiring person referred to in the foregoing clause (i) and any Combining Person referred to in the foregoing clause (ii)):

(a) The provisions of the Agreement shall continue to apply only to Company (or Company's successor by merger) and not to the Acquirer or other affiliates of the Acquirer, so long as Company (or Company's successor by merger) remains a separate affiliate of the Acquirer.

(b) If the Acquirer enters or has entered a settlement agreement with Representative Plaintiff in the Actions, the Acquirer and/or Company may seek at any time to modify the provisions of this Agreement by giving notice under the procedure set forth in § 17.3. A modification triggered under this § 23.2(b) shall not shorten the term of this Agreement as to Company, but MoKan Class Counsel and Company and/or Acquirer shall meet and confer in good faith to achieve consistency with respect to the operational requirements under § 7 and the compliance procedures under § 12 while maintaining the overall material benefits of this Agreement for MoKan Class Members. If agreement is reached, Company and/or Acquirer and MoKan Class Counsel will jointly apply to the Court for a modification of this Settlement Agreement. If within thirty (30) days after the date of the initial meeting of Company and/or Acquirer and MoKan Class Counsel, agreement has not been reached, then Company and/or Acquirer may apply to the Court for a modification of this Settlement Agreement.

(c) Notwithstanding any other provision of this Agreement, the Acquirer shall be deemed a Released Party with respect to any claims that arise from or are based on conduct by any other Released Party under this Agreement that occurred on or before the Effective Date and are or could have been alleged in the Actions, but not as to claims that arise from or are based on conduct by the Acquirer.

The term "Acquirer" includes an entity that has entered or enters a written agreement with Company for change of control or transfer of assets or stock as described above and: (i) the transaction has closed; or (ii) the transaction has not

closed but the agreement has been approved by the boards of directors of Company and Acquirer and publicly announced. An entity that is an Acquirer under condition (i) or (ii) above shall remain an Acquirer unless and until the written agreement for change of control or transfer of stock or assets is terminated, revoked, abandoned, or enjoined by order of a court of competent jurisdiction.

23.3 Acquisitions by the Company

The provisions of this Agreement shall not apply with respect to any corporation, business, or other entity acquired by Company after the Preliminary Approval Date, and Company shall have no obligations under this Agreement with respect to such corporation, business, or entity or the business operations of such corporation, business, or entity after the Preliminary Approval Date so long as such corporation, business, or entity remains a separate affiliate of the Company.

24. Governing Law

This Agreement and all agreements, exhibits, and documents relating to this Agreement shall be construed under the laws of the State of Missouri, excluding its choice-of-law rules.

EXECUTED and DELIVERED on March 18, 2008.

ROCKHILL ORTHOPAEDICS, P.C.

DATE: _____ BY:_____

TITLE: _____

HUMANA INC.

By:_____
Kathleen Pellegrino
Vice President, Acting General Counsel and Assistant Secretary

Date:_____

HUMANA HEALTH PLAN, INC.

By:_____
Kathleen Pellegrino
Vice President & Assistant Secretary

Date:_____

HUMANA INSURANCE COMPANY

By:_____
Kathleen Pellegrino
Vice President & Assistant Secretary

Date:_____

ATTORNEY APPROVAL AND WAIVER OF ATTORNEYS' LIEN

The undersigned counsel of record on behalf of themselves and their respective law firms, hereby represent and warrant that they fully approve of this Agreement and that all attorneys' liens or claims they may have, or could have had, in relation to the Released Claims are fully and completely released, waived, and discharged.

Diane M. Breneman, Esq.
The Breneman Law Firm, L.L.C.
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Davis, Bethune & Jones, LLC
1100 Main Street
Kansas City, Missouri 64196

WAIVER OF ATTORNEYS' LIEN

The undersigned, on behalf of Shaffer Lombardo Shurin, represents and warrants that all attorneys' liens or claims it or its lawyers may have, or could have had, in relation to the Released Claims are fully and completely released, waived, and discharged.

_____

Gregory P. Forney
Shaffer Lombardo Shurin
911 Main Street, Suite 2000
Kansas City, MO 64105