AMENDMENT TO
PARTICIPATING ASSOCIATE PROVIDER AGREEMENT

MEDICARE COMPLIANCE PROVISIONS

WHEREAS, Associate Provider has entered into a Participating Associate Provider Agreement with Central Oregon Independent Practice Association ("COIPA"), as amended from time to time (the "Agreement");

AND WHEREAS, Associate Provider and COIPA wish to amend the Agreement to ensure compliance with all the requirements of the Medicare Program;

NOW THEREFORE, for good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the parties hereby enter into this Amendment effective as of January 1, 2009.

1. **Definitions**. Any terms not otherwise defined herein shall have the meaning set forth in the Agreement. "Plan" shall refer to and expressly include PacificSource Health Plans.

2. **Precedence**. In the event of any conflict or inconsistency between this Amendment and the Agreement, such conflict or inconsistency shall be resolved by giving precedence first to this Amendment then the Agreement.

3. **Laws & Rules**. Associate Provider agrees to comply with all applicable Medicare, Medicare Advantage, and Medicare Part D laws, rules, and regulations, reporting requirements, and the Centers for Medicare and Medicaid Services ("CMS") instructions to the extent applicable to Associate Provider and to cooperate, assist, and provide information, as requested to CMS and/or its designee. (42 CFR §422.504(i)(4)(i)&(v) and 42 CFR §423.505(i)(4)(iv)).

4. **Records**. Associate Provider agrees to comply with all applicable state and federal requirements regarding the privacy, confidentiality, accuracy, and retention of records of members of the Plan, including the requirements established by CMS which include, but are not limited to, the retention of all records for a period of ten years from the date this Agreement expires or terminates or the completion of any Medicare-related audit, whichever is later. (42 CFR §422.504(a)(13) and 42 CFR §422.118).

5. **Monitoring of Services**. Associate Provider agrees that the Plan may monitor the performance of Associate Provider on an ongoing basis regarding the provision of services to Plan members enrolled in Medicare Advantage or Medicare Part D. Monitoring may include auditing of records or requests for information related to the provision of such services. Any auditing activities shall be conducted in accordance with the terms of the medical services agreement between the Plan and COIPA. (42 CFR §422.504(i)(4)(iii) and 42 CFR §423.505(i)(4)(iii)).

6. **Right to Audit**. Associate Provider agrees that CMS, Health and Human Services ("HHS"), and the Comptroller General or their designees shall have the right to audit, evaluate, or inspect any books, contracts, medical records, patient care documentation, or other records of Associate Provider that pertain to or are related to any aspect of the services provided

under the Agreement for a period of up to ten (10) years from the date the Agreement expires or terminates, or the completion of any Medicare-related audit, whichever is later, and such other periods in excess of ten (10) years or more as defined in Medicare, Medicare Advantage, and Medicare Part D laws, rules, and regulations and CMS instructions. This provision shall survive the termination of the Agreement for any reason. (42 CFR §422.504(e)(2) through (4), 42 CFR §422.504(i)(2)(i) and (ii) and 42 CFR §423.505(i)(2)(i) and (ii)).

7. **Ultimate Responsibility**. Notwithstanding any term or provision of the Agreement, the Plan maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its Medicare Advantage and Medicare Part D contracts with CMS (42 CFR 422.504(i)(1) and 42 CFR §423.505(i)(1)). Associate Provider acknowledges and agrees that the services it provides under this Agreement shall be consistent with and shall comply with the Plan's contractual obligations with CMS regarding benefit plans, which are subject to Medicare, Medicare Advantage, and/or Medicare Part D laws, rules, and regulations and CMS instructions. Associate Provider agrees to cooperate with the Plan in meeting its responsibilities under Medicare Advantage and Medicare Part D. (42 CFR §422.504(i)(3)(iii) and 42 CFR §423.505(i)(3)(iii)).

8. **Member Hold Harmless**. Associate Provider agrees that in no event, including, but not limited to, non-payment by the Plan, insolvency of the Plan or other financial difficulties of the Plan, shall Associate Provider bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from or have any recourse against a Plan member for any fees that are the legal obligation of the Plan. Nothing in this section is intended to interfere with the Associate Provider's ability to collect fees that are not a legal obligation of the Plan such as member copayments or charges related to services not covered under the member's benefit plan. This provision shall survive termination or expiration of this Agreement for any reason. (42 CFR §422.504(g)(1), 42 CFR §422.504(i)(3)(i) and 42 CFR §423.505(i)(3)(i)).

9. **Federal Funds/Non-Discrimination**. Associate Provider acknowledges that the payments made hereunder are funded in whole or in part from federal funds thereby subjecting the parties to certain laws applicable to individuals and entities receiving federal funds, including but not limited to, Title VI of the Civil Rights Act of 1964, as implemented by regulations at 45 CFR part 80; the Age Discrimination Act of 1975, as implemented by regulations at 45 CFR part 91; and the Americans with Disabilities Act This provision shall survive termination or expiration of this Agreement for any reason.

10. **Prompt Payment**. The Plan shall reimburse Associate Provider within thirty (30) days of receipt of a Clean Claim for Medically Necessary Services provided to Members.

11. **Other CMS Matters**. The Plan shall oversee and is accountable to CMS for any functions or responsibilities that are described in 42 CFR §422.504(i)(3). Upon prior written consent of both parties, the parties agree to include in this Agreement such other terms and conditions as CMS may find necessary and appropriate in order to implement the Medicare Advantage or Medicare part D programs. (42 CFR §422.504(j) and 42 CFR §423.505(j)).

12. **Exclusion from Medicare.** Associate Provider represents and warrants that Associate Provider is not excluded from participation in the Medicare program. Further, Associate Provider represents and warrants that Associate Provider shall not employ or contract with any individual who is excluded from participation in the Medicare program to perform any

services related to the provision or administration of any benefits under a federal health care program. Associate Provider agrees to take reasonable precautions to review federal exclusion lists when hiring individuals and to take appropriate corrective action upon the discovery that an individual is excluded from participation in the Medicare program. (42 CFR §422.204(b)(4) and 42 CFR §422.752(a)(8)).

13. **Compliance with Policies and Procedures**. To the extent applicable, Associate Provider agrees to comply with and abide by the rules, policies, and procedures the Plan has established as part of its Medicare Advantage and Medicare Part D Programs.

14. **Training Requirements**. Associate Provider shall provide compliance training and education to its employees upon hire and thereafter at least annually in accordance with CMS requirements. Associate Provider shall maintain accurate and complete records, including, but not limited to, educational records and proof of compliance by each employee, and shall provide such records to the Plan at least annually and upon request, If requested by Associate Provider, the Plan shall provide Associate Provider with access to training materials or sufficient information about training materials to comply with the CMS requirements for compliance training and education.

15. **Subcontracting Entities**. In the event Associate Provider enters into contracts with other entities to perform its obligations hereunder, such subcontractors shall agree to comply with the terms of this Agreement, which include, but are not limited to, the following:

    (a) The subcontractor must comply with all applicable federal and state laws, including but not limited to, Medicare laws, Medicare regulations, CMS instructions and the Plan's policies and procedures in the performance of his/her duties under the terms of any subcontract as it pertains to services performed on behalf on Members.

    (b) Notwithstanding any term or provision of this Agreement, the Plan maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its Medicare Advantage and Medicare Part D contracts with CMS (42 CFR 422.504(i)(1) and 42 CFR §423.505(i)(1)). All services by a subcontracting entity provided in relation to satisfaction of the Plan's CMS contractual obligations shall be subject to oversight by the Plan and to revocation under the terms of this Agreement if the Plan determines that such obligations are not being performed to the satisfaction of CMS.

    (c) The subcontractor shall maintain and provide to the Plan, the Oregon Department of Consumer and Business Services, and/or Insurance Division, all necessary records and information which may be required for compliance with state law including, without limitation, the Oregon insurance code and the regulations promulgated thereunder, and to the Department of Health and Human Services ("HHS") as may be required for compliance with applicable federal law, including, without limitation, 42U.S.C. 300e, et seq., Section 1876 of the Social Security Act, as amended, and 42 CFR Part 417. Specifically to the extent that the cost of such services is reimbursable by the Medicare program, Associate Provider agrees to comply with the Access to Books, Documents and Records of Subcontractor provision of Section 952 of the Omnibus Budget Reconciliation Act of 1980 (PL-499) and 42 CFR Part 420, Subpart D, Section 420.300 et seq. In accordance with these provisions, Associate Provider and any of its subcontractors will, upon proper written notice, allow the Comptroller General of the United States, the Secretary of Health and

Human Services and their duly authorized representatives access to their subcontractor agreements, to their facilities and to their books, documents, and records necessary to certify the nature and extent of the costs of Medicare reimbursable services provided under this Agreement as well as the right to inspect, evaluate, and audit any pertinent information for any particular contract period. Such access will be allowed, upon request, until the expiration of ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later. If the contract between Associate Provider and the subcontractor to carry out any of the duties of the Agreement has a value of $10,000 or more over a twelve (12) month period, such subcontract shall contain a clause which requires the subcontractor to comply with the above statues and regulations.

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the date first set forth above.

ASSOCIATE PROVIDER	**CENTRAL OREGON INDEPENDENT PRACTICE ASSOCIATION**
By: _____	By: _____
(Signature)	(Signature)
_____	Stephen Mann, DO
(Print Name)	(Print Name)
_____	_____
(Date)	(Date)