FIRST AMENDMENT TO AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND MEDIMPACT HEALTHCARE SYSTEMS, INC.

THIS AMENDMENT TO THE AGREEMENT, entered into this _____ day of _____, 20_____, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and MEDIMPACT HEALTHCARE SYSTEMS, INC., hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, MedImpact Healthcare Systems, Inc.® ("Contractor"), a California corporation located at 10680 Treena Street, 5th Floor, San Diego, CA 92131, and County of San Mateo ("County"), located at 225 West 37th Avenue, San Mateo, CA 94403, entered into an Agreement on September 25, 2007, whereby Contractor provides certain services relating to prescription claim processing, eligibility verification, pricing, pharmacy network administration, and reporting required by County; and

WHEREAS, the parties wish to amend the Agreement to extend the Agreement term through June 30, 2010, and to increase the maximum obligation by $15,644,000 to a new maximum of $28,888,000, effective January 1, 2009.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Paragraph 1. Exhibits and Attachments is amended as follows:

The following exhibits are attached hereto and incorporated by reference herein:
Exhibit A—Services
Exhibit B—Payments and rates effective July 1, 2007 – December 31, 2008
Exhibit B-1—Payments and rates effective January 1, 2008 – June 30, 2010
Exhibit C—Performance Guarantees and Penalties effective July 1, 2007 – December 31, 2008
Exhibit C-1—Performance Guarantees and Penalties effective January 1, 2008 – June 30, 2010
Attachment H—HIPAA Business Associate requirements
Attachment I—§ 504 Compliance

2. Paragraph 3. Payments is hereby deleted and replaced with the Paragraph 3. Payments below:

   In consideration of the services provided by contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A", County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B" and Exhibit "B-1. " The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this contract exceed TWENTY-EIGHT MILLION EIGHT HUNDRED EIGHT-EIGHT THOUSAND DOLLARS ($28,888,000).

3. Paragraph 4. Term and Termination is hereby deleted and replaced with the Paragraph 4. Term and Termination below:

   Subject to compliance with all terms and conditions, the term of this agreement shall be from July 1, 2007 through June 30, 2010.

   This Agreement may be terminated by Contractor, the Director of Health or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

   In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

4. Exhibit B-1, attached hereto and incorporated by reference herein, is added to the Agreement, effective for the period January 1, 2009 through June 30, 2010.

5. Exhibit C-1, attached hereto and incorporated by reference herein, is added to the Agreement, effective for the period January 1, 2009 through June 30, 2010.

6. All other terms and conditions of the Agreement dated September 25, 2007, between the County and Contractor shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By:_____
Adrienne Tissier, President
Board of Supervisors, San Mateo County

Date:_____

ATTEST:

By:_____
Clerk of Said Board

MEDIMPACT HEALTHCARE SYSTEM, INC.®

_____
~~Dale Brown~~ DAVE WHEELER
~~Senior Vice President~~ CHIEF FINANCIAL OFFICER

Date: 11/17/08

Clerk of Said Board

EXHIBIT B-1
MEDIMPACT HEALTHCARE SYSTEMS, INC.
January 1, 2009 through June 30, 2010

In consideration of the services provided by Contractor in Exhibit "A", County shall pay Contractor based on the following fee schedule.

I. Maximum Obligation

Notwithstanding the method of payment set forth herein, in no event shall County pay nor be obligated to pay Contractor more than the sum of FIFTEEN MILLION SIX HUNDRED FORTY-FOUR THOUSAND DOLLARS ($15,644,000) for services provided under Schedule A of this Agreement for the period of January 1, 2009, through June 30, 2010.

A. Mental Health Services

1. For the term of January 1, 2009 through June 30, 2009, the maximum obligation due to Contractor shall not exceed FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS ($4,800,000). This amount includes a maximum of SIXTY THOUSAND DOLLARS ($60,000) for administrative charges, and a maximum of FOUR MILLION SEVEN HUNDRED FORTY THOUSAND DOLLARS ($4,740,000) for drug costs.

2. For the term of July 1, 2009 through June 30, 2010, the maximum obligation due to Contractor shall not exceed TEN MILLION SIX HUNDRED FORTY THOUSAND DOLLARS ($10,640,000). This amount includes a maximum of ONE HUNDRED TWENTY THOUSAND DOLLARS ($120,000) for administrative charges, and a maximum of TEN MILLION FIVE HUNDRED TWENTY THOUSAND DOLLARS ($10,520,000) for drug costs.

3. Maximum for Mental Health Services

For the term of January 1, 2009, through June 30, 2010, the maximum obligation due to Contractor for services provided through this Agreement shall not exceed FIFTEEN MILLION FOUR HUNDRED FORTY THOUSAND DOLLARS ($15,440,000).

4. Advance

MedImpact

a. Contractor acknowledges that prior to the start date of this Agreement the County has paid Contractor in advance ("Prior Advance") an amount of ONE MILLION ONE HUNDRED SIXTY THOUSAND FIVE HUNDRED DOLLARS ($1,160,500) .

b. County will pay the Contractor an advance ("New Advance") in the amount of THREE HUNDRED FIFTY THOUSAND DOLLARS ($350,000). This advance will be due from County within ten (10) business days of receipt of an invoice for this amount from Contractor. Contractor shall initiate this invoice within thirty (30) days of the signing of this Agreement by County.

c. Within ten (10) business days of receipt of New Advance, Contractor shall return the Prior Advance received from County in the amount of ONE MILLION ONE HUNDRED SIXTY THOUSAND FIVE HUNDRED DOLLARS ($1,160,500).

d. Within ten (10) business days of termination of this Agreement, Contractor shall return the New Advance received from County in the amount of THREE HUNDRED FIFTY THOUSAND DOLLARS ($350,000).

B. San Mateo Medical Center – WELL Program

1. For the term of January 1, 2009 through June 30, 2009, the maximum obligation due to Contractor shall not exceed SIXTY-EIGHT THOUSAND DOLLARS ($68,000). This amount includes a maximum of TWELVE THOUSAND DOLLARS ($12,000) for administrative charges, and a maximum of FIFTY-SIX THOUSAND DOLLARS ($56,000) for drug costs.

2. For the term of July 1, 2009 through June 30, 2010, the maximum obligation due to Contractor shall not exceed ONE HUNDRED THIRTY-SIX THOUSAND DOLLARS ($136,000). This amount includes a maximum of TWENTY-FOUR THOUSAND DOLLARS ($24,000) for administrative charges, and a maximum of ONE HURNDRED TWELVE THOUSAND DOLLARS ($112,000) for drug costs.

3. Maximum for San Mateo Medical Center – WELL Program

For the term of January 1, 2009, through June 30, 2010, the maximum obligation due to Contractor for services provided through this Agreement shall not exceed TWO HUNDRED FOUR THOUSAND DOLLARS ($204,000).

4. County may discontinue the WELL program upon 30-day written notice to the Contractor.

C. **CLAIMS PROCESSING FEE:** **$0.44 Per Processed Claim Electronically Submitted***

* ***Processing charges must meet a minimum of $750.00 per bi-weekly invoice cycle for each plan to qualify for fee schedule. Add ten percent (10%) to Claims Processing Charges if reports are requested in other than via FTP.***

The claims processing fees include the following:

- Processing and payment of all Claims
- Concurrent Drug Utilization Reviews (DUR)
- Monthly and quarterly standard reports
- Administration of a standard MAC program
- Standard benefit design and implementation services
- Eligibility management
- EOB claims payment detail sent to Participating Pharmacies
- Biweekly Check-Run Control Totals sent to County
- Pharmacy Network Administration
- Med**Access**® – five (5) concurrent users with Claims and profile access, including associated access and modem lines for said users
- Med**Manager**™ – four (4) concurrent users are included
- Deductible with/without benefit maximum
- Maximum benefit only by group
- Prior authorization services
- Toll free customer service help desk dedicated to San Mateo County Plans
- On-line messaging

D. **PHARMACY RATES*** **

1. Retail Blended Pharmacy Rates – Preferred Pharmacies:

- San Mateo Medical Center Pharmacy
- Ted's Village Pharmacy
- Baneth's Willow Road Pharmacy
- Anchor Drugs
- Medicine Shoppe in Half Moon Bay
- The Apothecary in Daly City

Brand: Average Wholesale Price (AWP) less thirteen percent (13%) + FIVE DOLLARS ($5.00) dispensing fee

Generic: The lesser of AWP – twenty-two percent (22%) or Maximum Allowable Cost (MAC) with sixty-six percent (66%) Generic Effective Rate + FIVE DOLLARS ($5.00) dispensing fee.

2. Retail Blended Pharmacy Rates – Independent Pharmacies that provide additional service*:

Brand: Average Wholesale Price (AWP) less fourteen percent (14%) + TWO DOLLARS FIFTY CENTS ($2.50) dispensing fee

Generic: The lesser of AWP – twenty-two percent (22%) or Maximum Allowable Cost (MAC) with sixty-six percent (66%) Generic Effective Rate + TWO DOLLARS SEVENTY-FIVE CENTS ($2.75) dispensing fee.

3. Retail Blended Pharmacy Rates – Chain Pharmacies:

Brand: Average Wholesale Price (AWP) less fifteen percent (15%) + TWO DOLLARS ($2.00) dispensing fee

Generic: The lesser of AWP – twenty-two percent (22%) or Maximum Allowable Cost (MAC) with sixty-six percent (66%) Generic Effective Rate + TWO DOLLARS ($2.00) dispensing fee.

4. Patient Assistance Program from Pharmaceutical Companies:

Contractor shall work with County to ensure separate processing of obtained medications. These medications shall be reimbursed a FIVE DOLLAR TWENTY-ONE CENT ($5.21) dispensing fee only.

Contractor shall work with County to ensure separate processing of obtained medications. These medications shall be reimbursed a FIVE DOLLAR TWENTY-ONE CENT ($5.21) dispensing fee only.

There shall be no prescription costs provided by these pharmacies. Only administrative fees for claims processing, data reporting, etc. shall apply.

5. WELL Patients:

For WELL patients, fees charged to County shall be net of the SEVEN DOLLAR ($7) co-pay per script paid by the patient at the point of service. If the patient fails to pay the co-pay, Contractor may bill County for the SEVEN DOLLAR ($7) per prescription co-pay. The co-pay billing shall include a remittance advice (see Schedule A, Section VI.C.).

* *"Blended" reimbursement rates means that the contracted reimbursement rate between Contractor and a Participating Pharmacy may vary from the rates described in this Schedule B; however, the amounts that County shall reimburse Contractor under this Agreement are solely the amounts described above.*

** *The Generic drug effective rate is an aggregate across all generic drugs (generic drugs being defined as any such drug which is available through three (3) or more manufacturers and which has an "A" rating according to the United States Food and Drug Administration (FDA) Orange Book) dispensed, both MAC and non-MAC. In reconciling the generic effective rate, potential underperformance at the pharmacy level for one category (e.g. brand drugs) may be offset with over-performance on another category (e.g. generic drugs). MedImpact shall report such reconciliations on a quarterly basis and any amounts to be credited to Client shall be credited within ninety (90) days after the end of the calendar year.*

** *It is MedImpact's intent to derive no revenue between amounts charged to Client and amounts paid to Participating Pharmacies, however, MedImpact may retain such amounts so derived and reconcile and report such amounts on a quarterly basis. Any net positive amounts shall be credited to Client ninety (90) days after the end of the calendar year.*

6.	MedDividend® (manufacturer rebate administration) *(Includes clinical and formulary management)*	Admin Fee 25% of quarterly rebate recovery shall be retained by MedImpact 75% of quarterly rebate recovery shall be retained by County
	Clinical Services – Clinical Services are included at no additional charge if the MedDividend® option is selected.	$0.10 per member per month if MedDividend® option is not selected

County shall be responsible for all travel and lodging expenses and for reasonable time and materials charges for Clinical Pharmacist attendance at Pharmacy & Therapeutics (P&T) Committee meetings.	
Formulary Maintenance – The following are included at no charge if MedDividend® option is selected: a. Assistance in the coding of the selected medication formulary for claims adjudication. b. Initial working copy of the Contractor recommended drug formulary for County to photocopy, print, and distribute to providers. c. Quarterly Contractor updates. d. Custom formulary will incur additional charges as outlined in this Schedule B.	$0.05 per member per month if MedDividend® option is not selected
Retrospective Drug Utilization Evaluations (DUE)*:	One (1) standard, scheduled per quarter included
Additional Retrospective DUEs:	$0.04 per member per month with a $750.00 minimum charge; $7,500.00 maximum charge
**MedImpact's scheduled standard DUEs on a quarterly basis; County will be charged time and materials for modifications.*	

E. **THE FOLLOWING INCUR ADDITIONAL CHARGES:**

1.	Paper submitted Claims *(Charged to the Participating Pharmacy)*	$1.00 per Claim

2.	Paid Claims Data	
	a. NCPDP Modified/Contractor format	$75.00 per tape, CD, FTP
	b. Non-standard format	$100.00 per tape, CD, FTP
3.	Member direct reimbursement	$1.50 per Claim
4.	MedAccess® (member database access)	Five concurrent users, and associated access and modem lines for said users, included with Claims and profile access
		$250.00 per month for each additional concurrent user
	Additional Claims Access....	$75.00 per user per month
	Additional Profile Access...	$75.00 per user per month
	Drug file access.....	$5,000.00 per user per year
	County is responsible for any additional telephone line charges, installation and set-up fees, equipment, including emulation software, and MedImpact's minimum system requirements that are above and beyond the associated access and modem lines for the five (5) included users.	
	Installation and set up fees:	$285.00 – one time charge per installation
5.	MedManager™ 3 On-line	Four (4) concurrent users included
	a. County will be responsible for all telecommunication and telephone charges and MedImpact's minimum system requirements, including operating system and hardware	

MedImpact

b. County shall be responsible for reasonable time and material charges for training.

6.	MedFocus®	Claims Per Month	Fee Per Processed Claim
	Charges must meet a minimum of $500.00 per check cycle for each plan to qualify for fee schedule. 30 Standard Physician Report Cards are included; time and materials for additional Physician Report Cards	Less than 10,000	$0.09
		10,000 – 19,999	$0.06
		20,000 – 29,999	$0.05
		30,000 – 39,999	$0.04
		40,000 – 49,999	$0.03
		50,000 and above	$0.02
		or $11,000 annually.	
7.	Med**Overview**®	$0.03 per processed Claim for each set of four (4) concurrent users.	
8.	Med**Preferred**®	$30.00 per successful conversion or $10.00 per notice for non-conversion based programs*	

* *A successful conversion occurs upon the Eligible Member's receipt of the initial prescription from the Participating Pharmacy.*

9.	Therapeutic Interchange Program	25% of savings or $40.00 per successful conversion* or $10.00 per notice for non-conversion based programs*
	* *A successful conversion occurs upon the Eligible Member's receipt of the initial prescription from the Participating Pharmacy.*	
10.	Internet access to patient profile Personal Health [Rx] Physician Access	$5,000.00 (one time charge)
	a. Set Up Fee	$1,500.00 per month
	b. Maintenance Fee	
	c. Registration Fee Physician Registrants	
	<1,000	$3.00 per physician
	1,000 – 3,000	$2.50 per physician
	>3,000	$2.00 per physician
11.	ID cards	Price Per Card
	Standard cards (plastic)	$0.50
	Custom cards (plastic)	$1.25
12.	Prior authorization administration	Included
	Operational	Included
	Therapeutic	$25 per PA or $45,000 annually
13.	Plan file data *(Manual input and maintenance from hardcopy)*	
	Members	$1.00 per record
	Groups/Divisions	$10.00 per record
	Pharmacies	$5.00 per record
	Physicians	$5.00 per record
14.	Additional standard reports	$100.00 per report

	Custom reports (to include): Programming time Run time	 $150.00 per hour $100.00 per hour
15.	Changes in selection of standard reports	$50.00 minimum charge
16.	Pharmacy Audits Documentation and verification audits	 35% recovery on a contingency fee basis
	On-site audits	35% recovery on a contingency fee basis
17.	Mailings Inserted & mailed w/financial reports Additional cost of separate mailing	 $1.00 per packet $0.10 per insert
18.	Out-of-pocket expenses Mailing expenses / postage Air freight / overnight letters	Time and materials
19.	Custom Formulary setup fees	Time and materials
20.	HIPAA compliance consultative services	$100.00 per Contractor response to County inquiry
21.	Late eligibility fee	Time and materials to include any necessary overtime charges associated with data conversion and eligibility processing
22.	Customized implementation fee	Time and materials to include any necessary overtime charges
23.	Information technology programming time	$200.00 per hour
24.	Clinical Pipeline with Med**Dividend**® & a Med**Impact** standard formulary	1 year subscription: No charge, bundled service

25.	Clinical Pipeline – stand alone	1 year subscription, stand alone: Up to 4 users, $1,200 5 to 8 users, $1,800 8 to 12 users, $2,400 More than 12 users, TBD

F. Additional provisions

1. The Director of the Health Department is authorized to execute contract amendments which modify the County's maximum fiscal obligation by no more than $25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions..

2. Contractor shall bill all eligible third-party payors financially responsible for a beneficiary's health care services that Contractor provides through this Agreement. Contractor shall provide to County a written account of the amounts of all such third-party payments and/or denials of such third-party payments with each invoice. The County may withhold payment for any and all services for which this required proof of third-party payments and/or denials of such payments is not provided. County may deduct from its payments the amount of any such third-party payment. County accepts no financial responsibility for services provided to beneficiaries where there is a responsible third party payor, and to the extent that County inadvertently makes payments to Contractor for such services rendered, County shall be entitled to recoup such reimbursement.

3. Beneficiary Billing

Contractor shall not submit a claim to, demand or otherwise collect reimbursement from, the beneficiary or persons acting on behalf of the beneficiary for any specialty mental health or related administrative services provided under this contract except to collect other health insurance coverage, share of cost and co-payments. The Contractor shall not hold beneficiaries liable for debts in the event that the County becomes insolvent, for costs of covered services for which the State does not pay the County, for costs of covered services for which the State or the County does not pay the Contractor, for costs of covered services provided under this or other contracts, referral or other arrangement rather than from the County, or for payment of subsequent screening and treatment needed to diagnose the specific condition of or stabilize a beneficiary with an emergency psychiatric condition.

4. Budget modifications may be approved by the Director of the Health Department or designee, subject to the maximum amount set forth in Paragraph 3 (Payments) and the Maximum Obligation as stated in this Exhibit B-1.

5. If County or Contractor finds that performance is inadequate, at the County's discretion, a meeting may be called to discuss the causes for the performance problem, and this Agreement may be renegotiated, allowed to continue to end of term, or terminated pursuant to Paragraph 4 of this Agreement. Any unspent monies due to performance failure may reduce the following year's agreement, if any.

6. In the event this Agreement is terminated prior to June 30, 2010, the Contractor shall be paid for services already provided pursuant to this Agreement.

7. In the event Contractor claims or receives payment from County for a service, reimbursement for which is later disallowed by County or the State of California or the United States Government, then Contractor shall promptly refund the disallowed amount to County upon request, or, at its option, County may offset the amount disallowed from any payment due or become due to Contractor under this Agreement or any other agreement.

8. Claims Certification and Program Integrity

a. Contractor shall comply with all state and federal statutory and regulatory requirements for certification of claims, including Title 42, Code of Federal Regulations (CFR) Part 438, Sections 438.604, 438.606, and, as effective August 13, 2003, Section 438.608, as published in the June 14, 2002 Federal Register (Vol. 67, No. 115, Page 41112), which are hereby incorporated by reference.

b. Anytime Contractor submits a claim to the County for reimbursement for services provided under Exhibit A of this Agreement, Contractor shall certify by signature that the claim is true and accurate by stating the claim is submitted under the penalty of perjury under the laws of the State of California.

The claim must include the following language and signature line at the bottom of the form(s) and/or cover letter used to report the claim.

"Under the penalty of perjury under the laws of the State of California, I hereby certify that this claim for services complies with all terms and conditions referenced in the Agreement with San Mateo County.

Executed at _____ California, on _____, 20__

Signed _____ Title _____

Agency _____"

c. The certification shall attest to the following for each beneficiary with services included in the claim:

1) The beneficiary was eligible to receive services described in Exhibit A of this Agreement at the time the services were provided to the beneficiary.
2) The services included in the claim were actually provided to the beneficiary.
3) Services are offered and provided without discrimination based on race, religion, color, national or ethnic origin, sex, age, or physical or mental disability.

d. Except as provided in Paragraph IX.A. of Exhibit A relative to medical records, Contractor agrees to keep for a minimum period of three years from the date of service a printed representation of all records which are necessary to disclose fully the extent of services furnished to the client. Contractor agrees to furnish these records and any information regarding payments claimed for providing the services, on request, within the State of California, to the California Department of Health Services; the Medi-Cal Fraud Unit; California Department of Mental Health; California Department of Justice; Office of the State Controller; U.S. Department of Health and Human Services, Managed Risk Medical Insurance Board or their duly authorized representatives, and/or the County.

EXHIBIT C-1
Performance Guarantees and Penalties
MEDIMPACT HEALTHCARE SYSTEMS, INC.
FY 2008-2010

Performance	Standard	Guarantee	Frequency
Reporting			
MedAccess (Schedule A, Section VIIA)	Available during normal business hours	$100 for every hour beyond the first hour that access is not provided, up to an annual maximum penalty of $5,000.	Annual reconciliation

Timeliness of production for standard reports, MedManager CD updates, and MedFocus. (Schedule A, Section VIIH)	Reports and CD updates will be delivered by the thirtieth (30th) of the month at the end of the reporting period.	$100 per day per report or CD, up to an annual maximum penalty of $1,000. Reports will be produced from UPS tracking records.	Measured Monthly Reported Quarterly, Annual reconciliation