

IGT RESPONSIBILITY AGREEMENT
BETWEEN
THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION
AND
NON-STATE GOVERNMENTAL ENTITY

I. CONTRACTING PARTIES

This Agreement is between the Texas Health and Human Services Commission (“**HHSC**”) and the Nueces County Hospital District (“**Governmental Entity**”) (individually, a “**Party**” and collectively, “the **Parties**”).

II. BACKGROUND AND PURPOSE

- A. HHSC is the single state agency designated in Texas to administer the medical assistance program known as Medicaid.
- B. HHSC administers the Network Access Improvement Program (“**NAIP**”) through Medicaid managed care organizations (“**MCOs**”). The Centers for Medicare and Medicaid Services (**CMS**) has determined that NAIP payments meet the following definition of “pass-through payments” contained in 42 C.F.R. §438.6(a):

[A]ny amount required by the State to be added to the contracted payment rates, and considered in calculating the actuarially sound capitation rate, between the MCO, PIHP, or PAHP and hospitals, physicians, or nursing facilities that is not for the following purposes: A specific service or benefit provided to a specific enrollee covered under the contract; a provider payment methodology permitted under paragraphs (c)(1)(i) through (iii) of this section for services and enrollees covered under the contract; a subcapitated payment arrangement for a specific set of services and enrollees covered under the contract; GME payments; or FQHC or RHC wrap around payments.

Under NAIP, MCOs will be required by HHSC to provide pass through payments to eligible Public Hospitals.

- C. The purposes of this Agreement are:
1. To provide terms and conditions for the Governmental Entity to transfer non-federal public funds to HHSC for use as the non-federal share of NAIP pass through payments to the Public Hospital from the MCO(s);
 2. To describe the expectations of the Parties in the event the Governmental Entity fails to timely transfer funds to HHSC for this purpose; and



3. To describe the process that will be used to reconcile the non-federal percentage of payments from HHSC to the MCOs with the amount of funds transferred to HHSC from the Governmental Entity.

III. DEFINITIONS

For purposes of this Agreement, the following terms have the meanings as described below:

- A. Intergovernmental Transfer (IGT) -- A transfer of Public Funds from a Non-state Governmental Entity to HHSC.
- B. Managed Care Organization (MCO) -- A Medicaid managed care organization contracted with HHSC to provide health care services to Medicaid recipients.
- C. Non-state Governmental Entity -- A hospital authority, hospital district, health district, city or county.
- D. Public Hospital -- The hospital located in Nueces County, Texas and qualifying as a public hospital as defined in Section 355.8065(b)(46) of the Texas Administrative Code, in which the Governmental Entity owns a membership interest (i.e. CHRISTUS Spohn Health System Corporation).
- E. Public Funds -- Funds derived from taxes, assessments, levies, investments, and other public revenues within the sole and unrestricted control of the Governmental Entity that owns a membership interest in the Public Hospital. Public funds do not include gifts, grants, trusts, or donations, the use of which is conditioned on supplying a benefit solely to the donor or grantor of the funds.

IV. PROGRAM PERIOD AND CONTRACT PERIOD

- A. The term of the NAIP initiative (the “**Program Period**”) begins on the later of September 1, 2018, or the day that HHSC implements the NAIP initiative, and ends on August 31, 2019.
- B. The term of this Agreement (the “**Contract Period**”) begins on the latest date a party signs this Agreement and continues until completion of the final reconciliation that is described in Section VIII of this Agreement.
- C. The term of the Program Period or Contract Period may be modified by written agreement between the Parties.



V. CONTRACT AMOUNT

- A. For each Medicaid managed care program and service area in which the Public Hospital participates in a NAIP pass through arrangement, HHSC's managed care contract with participating MCOs will require the MCOs to allocate a fixed percentage of the capitation rates to the Public Hospital's NAIP payments (the "**NAIP Rate Component**"). The Governmental Entity agrees to reimburse HHSC for the non-federal percentage of the NAIP Rate Component for all Medicaid programs and service areas in which the Public Hospital participates in the NAIP program.
- The non-federal percentage of the NAIP Rate Component equals one-hundred percent minus the applicable Federal Medical Assistance Percentage for Medicaid for Texas in effect when HHSC incurs the expense.
- B. The Parties estimate that the amount of this Agreement will not exceed \$8,048,844.00 (EIGHT MILLION, FORTY-EIGHT THOUSAND, EIGHT HUNDRED AND FORTY-FOUR DOLLARS) ("**Contract Amount**"), which equals (1) the non-federal percentage of the pass-through amount plus ten percent, and (2) the non-federal percentage of the risk margin, administrative fee, and any other NAIP-related amounts HHSC is required to pay each applicable MCO pursuant to the associated managed care contract between HHSC and the MCO. The estimated maximum Contract Amount is subject to the provisions of sections V.A. and VII of this Agreement.

VI. STATEMENT OF SERVICES TO BE PERFORMED

- B. Governmental Entity's responsibilities under this Agreement include the following:
1. Beginning on August 10, 2018, and continuing on the tenth day of each month through July 10, 2019, the Governmental Entity will transfer to HHSC an amount equal to one-twelfth of the estimated Contract Amount. If at any time during the Program Period HHSC determines that the Contract Amount is likely to exceed the amount described in section V.B. of this Agreement, HHSC will notify the Governmental Entity in writing of a revised amount that the Governmental Entity must transfer on the tenth day of each month remaining in the Program Period.
 2. The Governmental Entity will transfer any shortfall amount calculated as described in Section VIII of this Agreement. The Governmental Entity will complete the transfer within 30 calendar days of receipt of HHSC's notice regarding the shortfall.
- C. HHSC's responsibilities under this Agreement include the following:
1. Prior to August 10, 2018, HHSC will provide the Governmental Entity with the NAIP Rate Component for each applicable MCO, Medicaid program, and service area in which the Public Hospital participates in NAIP.

2. HHSC will perform the reconciliation processes described in Section VIII of this Agreement.

VII. FAILURE BY THE GOVERNMENTAL ENTITY TO TRANSFER FUNDS TO HHSC

If the Governmental Entity does not transfer the full amount described in Section VI.A. of this Agreement for one or more months, HHSC may elect to take any or all of the following actions:

- A. Determine that the Public Hospital is ineligible to participate in NAIP for future eligibility periods, subject to Section VIII of this Agreement;
- B. Withhold any or all future Medicaid payments from the Public Hospital until HHSC has recovered an amount equal to the amount of the shortfall; and
- C. Retain any funds that would normally be returned to the Governmental Entity as part of the reconciliation process described under Section VIII of this Agreement.

VIII. RECONCILIATION

HHSC will complete the reconciliation in multiple parts:

- A. HHSC will confirm that the amount owed by the Governmental Entity under this Agreement equals the amount actually paid by the Governmental Entity under this Agreement by completing a reconciliation in multiple parts, as follows:
 1. For each Medicaid program and service area in which the Public Hospital participates in NAIP, HHSC will determine the non-federal percentage of the NAIP Rate Component expended by HHSC for the Program Period by multiplying the NAIP Rate Component by the total member months included in the Program Period. Total member months include any adjustments to enrollment that occurred for the Program Period prior to the reconciliation.
 2. HHSC will compare the amount transferred by the Governmental Entity to HHSC for the Program Period and any amounts identified in Section VII of this Agreement, to the non-federal percentage of the NAIP Rate Component expended by HHSC for the Program Period.
 - a. If the amount transferred by the Governmental Entity exceeds 102% of the non-federal percentage of the NAIP Rate Component expended by HHSC:
 - I. HHSC will refund the difference between the amount transferred and 102% of the amount expended by HHSC; and
 - II. HHSC will return any excess funds following the reconciliation described in Paragraph C. of this Section.



IX. TERMINATION

- A. HHSC may terminate this Agreement at any time at its discretion by providing written notice to the Governmental Entity.
- B. The Governmental Entity has no termination rights for the duration of the Contract Period.

X. ADDITIONAL TERMS

- A. The services specified above are necessary and authorized for activities that are properly within the statutory functions and programs of the Parties.
- B. The services contracted for are not required by Section 21 of Article XVI of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.
- C. The proposed arrangements serve the interest of efficient and economical administration of state government.
- D. All acts required under this Agreement will be done in conformity with federal and state laws and regulations.
- E. If any portion of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement remains valid and enforceable.
- F. The dispute resolution process provided for in Chapter 2260 of the Texas Government (Resolution of Certain Contract Claims Against the State) will be used by the Parties to attempt to resolve any claim for breach of the Agreement.
- G. This Agreement may only be amended or modified by written agreement of the Parties.
- H. Information related to the performance of this Agreement may be subject to the Chapter 552 of the Texas Government Code (Public Information Act) and will be withheld from public disclosure or released to the public only in accordance therewith. The Governmental Entity shall make any information required under the Public Information Act available to the HHSC in portable document file (".pdf") format or any other format agreed between the Parties.
- I. This Agreement and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Agreement shall be in a court of competent jurisdiction in Travis County, Texas. The Governmental Entity irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Agreement or any document related hereto. NOTHING IN THIS SECTION SHALL BE CONSTRUED



AS A WAIVER OF SOVEREIGN IMMUNITY BY HHSC OR GOVERNMENTAL IMMUNITY BY THE GOVERNMENTAL ENTITY.

- J. If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.
- K. Neither Party shall assign or subcontract the whole nor any part of the Agreement, including any right or duty required under it, without the other Party's prior written consent. Any assignment made contrary to this shall be void.

XI. NOTICE

- A. All communications to the Governmental Entity under this Agreement will be sent to:

Name: Jonny F. Hipp
Title: Administrator/Chief Executive Officer
Address: Nueces County Hospital District
555 North Carancahua Street, Suite 950
Corpus Christi, TX 78401-0835
Phone: 361-808-3300
Email: jonny.hipp@nchdcc.org

- B. All communications to HHSC under this Agreement will be sent to Charles Smith, Executive Commissioner, Health and Human Services Commission, Brown-Heatly Bldg., 4900 North Lamar Blvd., Austin, TX 78751.

Certification by Governmental Entity

By signing this Agreement, the person signing on behalf of the Governmental Entity certifies that this Agreement has not been altered, amended, or changed from the version of the Agreement sent by HHSC to the Governmental Entity.

The individuals below are authorized representatives of their respective agencies and have the authority to bind their respective agencies in a contractual agreement:



**HEALTH AND HUMAN SERVICES
COMMISSION**

GOVERNMENTAL ENTITY

By: _____
Charles Smith
Executive Commissioner

Signature Date: _____

By: Jonny F. Hipp
Name: Jonny F. Hipp
Title: Administrator/CEO
Signature Date: 05/07/2018

**Attachment A
NAIP Program Financial Assumptions**

United - CHRISTUS Spohn Health System

September 1, 2018 - August 31, 2019										
Program	SDA	All Funds	IGT (w/o 10% buffer)	FMAP	Net to Provider	TAXES	TAXES %	ADMIN	ADMIN %	Monthly IGT w/ 10% Margin
STAR+Plus	Nueces	5,791,065	2,421,244	58.19%	5,501,512	275,076	4.75%	14,478	0.25%	221,947
STAR	Nueces	1,410,000	589,521	58.19%	1,339,500	66,975	4.75%	3,525	0.25%	54,039
		7,201,065	3,010,765		6,841,012	342,051		18,003		275,987

Handwritten signature

Attachment A
NAIP Program Financial Assumptions

Superior - CHRISTUS Spohn Health System

		September 1, 2018 - August 31, 2019								
Program	SDA	All Funds	IGT (w/o 10% buffer)	FMAP	Net to Provider	TAXES	TAXES %	ADMIN	ADMIN %	Monthly IGT w/ 10% Margin
STAR, STAR+Plus	Nueces	5,791,065	2,421,244	58.19%	5,515,989	260,598	4.50%	14,478	0.25%	221,947
STAR, STAR+Plus	Nueces	4,508,781	1,885,121	58.19%	4,294,614	202,895	4.50%	11,272	0.25%	172,803
		10,299,846	4,306,366		9,810,603	463,493		25,750		394,750

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