

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("**Agreement**") is made this ^{22nd} day of February 2019 (the "**Effective Date**"), by and between RCG North Platte, LLC ("**RCG**") and the following "**Defendants**": The County of Keith, Nebraska ("**Keith County**") and Meritain Health, Inc. ("**Meritain**") (each a "**Party**" and all together with RCG, the "**Parties**").

RECITALS:

WHEREAS, RCG delivered medical services to an individual, R.M., who was a participant in, or beneficiary of, a health plan sponsored by Keith County (the "**Beneficiary**");¹

WHEREAS, a dispute arose between RCG and the Keith County regarding the amount of payment due to RCG for claims for services provided to the Beneficiary as described in the Amended Complaint filed in Case No. CI 17-86 pending in the District Court for Lincoln County, Nebraska (the "**Litigation**"); and

WHEREAS, without admitting any liability or expressing any opinion as to the validity of the Litigation, and acknowledging that the amount of the settlement payment represents a compromise of the amount that the Parties believe is owed, the Parties now desire to resolve their dispute in an amicable fashion;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and the other consideration recited in this Agreement, all of which are expressly acknowledged to be sufficient and valid, the Parties agree as follows:

1. **Settlement Payment.** In full and final settlement of the Litigation, the Keith County agrees to make a settlement payment totaling **\$500,000** to RCG (the "**Settlement Payment**"). The Keith County will make the Settlement Payment by submitting a check made payable to RCG North Platte, LLC within 14 days of the Effective Date of this Agreement. Payment should be sent to:

**RCG North Platte, LLC
PO Box 849121
Dallas, TX 75284-9121**

2. **Releases.** Upon receipt of the Settlement Payment, RCG, on behalf of itself and each of its agents, representatives, elected or appointed officials, principals, partners, members, officers, directors, employees, independent contractors, shareholders, predecessors, successors, assigns, parent companies, subsidiaries, affiliates, and affiliated companies, will unconditionally and irrevocably release and forever discharge Defendants, their agents, representatives, elected or appointed officials, principals, partners, members, officers, directors, employees, independent contractors, shareholders, predecessors, successors, assigns, parent companies, subsidiaries,

¹ The Beneficiary's full name is not included for confidentiality reasons, but the Parties are all aware of the person's identity.

affiliates, and affiliated companies related to Defendants in any way whatsoever of and from any and all causes of action or other claims, arising from or related to the Litigation. Defendants, on behalf of themselves and each of their agents, representatives, elected or appointed officials, principals, partners, members, officers, directors, employees, independent contractors, shareholders, predecessors, successors, assigns, parent companies, subsidiaries, affiliates, and affiliated companies, will unconditionally and irrevocably release and forever discharge RCG, its agents, representatives, elected or appointed officials, principals, partners, members, officers, directors, employees, independent contractors, shareholders, predecessors, successors, assigns, parent companies, subsidiaries, affiliates, and affiliated companies related to RCG in any way whatsoever of and from any and all causes of action or other claims, arising from or related to the Litigation. Specifically excluded from these releases are all obligations and duties described in this Agreement and all obligations and duties with respect to claims not encompassed by the Litigation.

3. **Dismissal.** Upon RCG's legal counsel emailing Keith County's legal counsel that the Settlement Payment was received, Keith County will file pleadings (prepared by Keith County and with the prior review and consent of RCG) necessary to dismiss with prejudice all of RCG's claims made against both Keith County and Meritain in the Litigation and all claims RCG may allege arising out of treatment RCG provided to R.M at any time. Keith County and/or Meritain may continue to pursue all claims against any third party arising from the claims in the Litigation (including any indemnity claims Meritain may have against Keith County), and nothing in this Agreement limits Keith County's or Meritain's rights in this respect, except that Keith County and Meritain may not serve a discovery request or subpoena upon RCG.

4. **Representations and Warranties.** Each Party represents that (a) the individual executing this Agreement on its behalf has the legal capacity to execute and deliver this Agreement and to bind the Party to perform its obligations and consummate the transactions contemplated by this Agreement; (b) this Agreement has been duly executed and constitutes a legal, valid, and binding obligation, enforceable against each Party in accordance with its terms; (c) it has consulted with its counsel regarding all facts and information relevant to this Agreement, has been advised of the effect of this Agreement by its counsel, and it is not relying upon any representation or acknowledgment, whether oral or in writing, of any other Party except as contained in this Agreement; and (d) it has read and understands each and every provision of this Agreement. Further, each Party expressly waives any rights to rescind this Agreement.

5. **Joint Draftsmanship.** This Agreement is a product of negotiation and preparation by and among each Party. The Parties acknowledge and agree that this Agreement will not be deemed prepared or drafted by any one Party and will be construed accordingly. Any rules of contractual construction resolving ambiguities against the drafting party are inapplicable to this Agreement.

6. **Full and Final Agreement.** This Agreement contains the final and entire agreement between the Parties. There are no promises or agreements between the Parties that are not expressly contained herein. No amendments or alterations to this Agreement will be effective unless done in writing and signed by all Parties.

7. **Severability.** This Agreement will be construed and interpreted to effectuate the intent of the Parties to resolve completely the Litigation. If any provision of this Agreement is determined to be invalid, void, or illegal, such provision will be construed and amended in a manner to permit its enforcement but in no event may such provision affect, impair, or invalidate any other provision of this Agreement. The failure of any Party to enforce any term of this Agreement is not a waiver of that term of any other term of this Agreement. No waiver is effective unless in writing and executed by the party against whom enforcement of the waiver is sought.

8. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will constitute a duplicate original. The counterparts of this Agreement may also be transmitted by electronic means. A photocopy of this Agreement may be used as though it was a duplicate original. However, the Agreement will not be binding until all required counterparts are fully executed and delivered to each Party.

9. **Notice.** Any notice to be given to one of the Parties with respect to the matters in this Agreement must be in writing and given either by personal delivery, overnight delivery, or by registered or certified mail with return receipt requested and addressed to the names and addresses listed on signature page of this Agreement.

10. **Governing Law.** This Agreement will be construed and interpreted according to the laws of Nebraska, exclusive of choice of law principles. The Parties irrevocably submit to the jurisdiction of the state and federal courts in Nebraska, whichever is applicable, over any action arising out of this Agreement. If for any reason all such courts decline to exercise jurisdiction, suit may be brought in any court of competent jurisdiction.

SIGNATURES FOLLOW

On behalf of RCG North Platte, LLC:

By Scott R Ochs Print Name Scott R Ochs

Position Regional Vice President

Date 2/22/2019

Notices to RCG:

Jeremy Evans, Esq.
Legal Department
Fresenius Medical Care North America
920 Winter Street
Waltham, MA 02451

With a copy to:
Brian D. Schneider, Esq.
Rebecca W. Foreman, Esq.
Arent Fox LLP
1717 K Street, NW
Washington, D.C. 20006

On behalf of The County of Keith, Nebraska:

By Kim H. Elder Print Name Kim H. Elder

Position Chairman

Address for notice: 511 N. Spruce Street Suite # 102

Date 2-27-19 Ogallala, NE 69153

On behalf of Meritain Health, Inc.:

By _____ Print Name _____

Position _____

Address for notice: Daniel A. Platt, Loeb & Loeb LLP, 10100 Santa Monica Blvd., Suite 2200, Los Angeles, CA 90067

Date _____