Centers for Medicare & Medicaid Services
Center for Medicare & Medicaid Innovation
State Population Health Group

Maryland Total Cost of Care Model Maryland Primary Care Program Fifth Amended and Restated MDPCP Practice Participation Agreement

(2019 Starters)

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Maryland Total Cost of Care Model
Maryland Primary Care Program
Fifth Amended and Restated MDPCP Practice Participation Agreement

This fifth amended and restated participation agreement is between the Centers for Medicare & Medicaid Services ("**CMS**") and ________________________________(the "**MDPCP Practice**"), collectively the "**Parties.**"

RECITALS

CMS is the agency within the U.S. Department of Health and Human Services ("**HHS**") that is charged with administering the Medicare and Medicaid programs.

CMS is implementing the Maryland Total Cost of Care Model ("**Model**") under section 1115A of the Social Security Act ("**Act**"), which authorizes CMS, through its Center for Medicare and Medicaid Innovation ("**Innovation Center**"), to test innovative payment and service delivery models that have the potential to reduce Medicare, Medicaid, or Children's Health Insurance Program expenditures while maintaining or improving the quality of beneficiaries' care.

The purpose of the Model is to test whether statewide health care delivery transformation, in conjunction with population-based payments, improves population health and care outcomes for beneficiaries, while controlling the growth of Medicare Total Cost of Care ("**TCOC**") in Maryland.

CMS executed the Maryland Total Cost of Care Model State Agreement (the "**State Agreement**") with the Health Services Cost Review Commission ("**HSCRC**"), the Maryland Department of Health ("**MDH**"), and the Governor of Maryland (collectively the "**State**" or "**Maryland**").

The Maryland Primary Care Program ("**MDPCP**") is an initiative under the Model that is designed to provide patient-centered care for Medicare fee-for-service ("**FFS**") beneficiaries who reside in Maryland.

The MDPCP Practice's participation in the MDPCP pursuant to this Agreement will take place through a single "**MDPCP Practice Site**," defined as a group of one or more physicians, or physicians and non-physician practitioners, each of whom is listed on the Practitioner Roster, as defined in Article II, that bills for Primary Care Services furnished at ___________________________ [*insert a single street address*] under a single Medicare-enrolled TIN belonging to the MDPCP Practice.

The MDPCP Practice submitted an application to participate in MDPCP and CMS selected the MDPCP Practice for participation in the MDPCP through the MDPCP Practice Site.

In December 2018, the Parties executed a participation agreement governing their rights and obligations under the MDPCP (the "**Agreement**"). In December 2019, the Parties executed the first amended and restated participation agreement, which made modifications to the Eligible

Beneficiary attribution methodology, the requirements related to the CMF Percentage Payment Options, the PBIP Quality Component performance calculations, Model payment policies, and various other changes. On June 14, 2020 CMS executed a unilateral amendment pursuant to Article 16.4 of the Agreement to remove the reconciliation process for the Performance Year 2019 PBIP and to remove certain related quality reporting requirements. On June 14, 2020, CMS executed a unilateral amendment pursuant to Article 15.4 of the Agreement to remove the reconciliation process for the Performance Year 2019 PBIP and to remove certain related quality reporting requirements. In December 2020, the Parties executed the second amended and restated participation agreement, which made modifications necessary to implement the inclusion of Federally Qualified Health Centers ("**FQHCs**") in the MDPCP and certain amendments to better reflect the implementation of the MDPCP by CMS and the MDPCP Practice.

In December 2021, the Parties executed the third amended and restated participation agreement, which made modifications necessary to implement the inclusion of Federally Qualified Health Centers ("**FQHCs**") in Track 2 of the MDPCP, add an Efficiency Component to the Performance Based Incentive Payment methodology, add a Health Equity Advancement Resource and Transformation (HEART) Payment add-on to the Care Management Fee, and HEART Payment-specific Care Transformation Requirements for Performance Year 2022, modify the HCC risk score tiers, and add a term regarding electronic signatures.

In early December of 2022, the Parties executed the fourth amended and restated participation agreement, which made modifications necessary to implement a third track (Track 3) of MDPCP, include definitions to accommodate the payment methodology for Track 3 of MDPCP, add a Telehealth Benefit Enhancement, reduce requirements for how the MDPCP Practice must use the HEART Payment, modify the reconsideration process, and revise certain other definitions.

On December 14, 2022, CMS executed a unilateral amendment pursuant to Article 16.4 of the Agreement to correct the HCPCS code errors in the definition of SPCS in Article II.

CMS now wishes to amend the terms of the Agreement to: reflect the end of Track 1 of MDPCP; modify certification requirements; correct errors in percentages related to the Performance Based Adjustment Framework; make available the Federal anti-kickback statute safe harbor for CMS-sponsored Model Patient Incentives (42 C.F.R. § 1001.952(ii)(2)), replace the term "PBA Financial Report" with "PBA Performance Report"; change the timeframe of issuing the Quarterly Payment and Attribution Report; update the Quality Component's CMS identification numbers in Appendix B; and revise certain definitions.

The Parties hereby agree as follows:

Article I - Agreement Term

1.1 *Effective Date*

This Agreement became effective (the "**Effective Date**") when it was signed by both Parties. The amendments hereby made to the Agreement will be effective as of January 1, 2024.

1.2 *Agreement Term*

The term of this Agreement ("**Agreement Term**") began on the Effective Date and expires two years after the last day of the Agreement Performance Period defined in Article 1.3, unless this Agreement is sooner terminated by either Party in accordance with Article XIV.

1.3 *Agreement Performance Period*

The first Performance Year of the Agreement began on January 1, 2019 (the "**Start Date**") and will end on December 31, 2019. Subsequent Performance Years shall each be 12 months in duration, beginning on January 1. The performance period of this Agreement ("**Agreement Performance Period**") began on the Start Date and ends at 11:59 PM ET on December 31, 2026, unless the Agreement Performance Period or the Agreement is sooner terminated by either Party in accordance with Article XIV.

1.4 *Amended and Restated Agreements*

(a) CMS offered the MDPCP Practice an opportunity to sign, and the MDPCP Practice signed, this amended and restated version of the Agreement prior to the start of the fourth Performance Year of the Agreement Performance Period. No later than thirty (30) Days prior to the start of the fifth Performance Year of the Agreement Performance Period or any subsequent Performance Year, CMS may offer the MDPCP Practice the opportunity to sign an amended and restated version of this Agreement to take effect on the first day of such Performance Year.

(b) If the MDPCP Practice fails to sign an amended and restated version of this Agreement offered by CMS pursuant to Article 1.4(a) by the first day of the Performance Year in which the amended and restated version of this Agreement takes effect, CMS may immediately or with advance notice terminate the Agreement Performance Period or the Agreement in accordance with Article XIV.

1.5 *Transitioning to Track 2 for Track 1 MDPCP Practices*

(a) The MDPCP Practice must participate in Track 2 under this Agreement beginning no later than the start of the fourth Performance Year of the Agreement Performance Period.

(b) If the MDPCP Practice participated in Track 1 during a Performance Year prior to Performance Year 2024, CMS may have taken into account the following considerations in determining whether the MDPCP Practice could transition to Track 2 for the next Performance Year: the MDPCP Practice Site's Quality Component and Utilization Component; the MDPCP Practice Site's capacity to perform the Track 2 Care Transformation Requirements; the MDPCP Practice's history of compliance with the terms of this Agreement and with Medicare program requirements; the MDPCP Practice's ability to repay any Other Monies Owed; and such other criteria CMS deemed relevant.

(c) [Reserved.]

(d) As of January 1, 2024, Track 1 of MDPCP has ended.

1.6 *Transitioning to Track 3 from Track 1 or Track 2*

(a) If the MDPCP Practice participated in Track 1 of MDPCP prior to Performance Year 2024, or if the MDPCP Practice is participating in Track 2 under this Agreement during a Performance Year, CMS may take into account the following considerations in determining whether the MDPCP Practice may, beginning in Performance Year 2024 and in each subsequent Performance Year, transition to Track 3 for the next Performance Year: the MDPCP Practice Site's Quality Component and Utilization Component; the MDPCP Practice Site's capacity to perform the Track 3 Care Transformation Requirements; the MDPCP Practice's history of compliance with the terms of this Agreement and with Medicare program requirements; the MDPCP Practice's ability to repay any Other Monies Owed; and such other criteria CMS deems relevant.

(b) The MDPCP Practice must transition to Track 3 dependent upon the Performance Year the MDPCP Practice began participating in Track 2 of the MDPCP.

(i) If the MDPCP Practice began participating in Track 2 in 2019, the MDPCP Practice must transition to Track 3 by January 1, 2023.

(ii) If the MDPCP Practice began participating in Track 2 in 2020, the MDPCP Practice must transition to Track 3 by January 1, 2023.

(iii) If the MDPCP Practice began participating in Track 2 in 2021, the MDPCP Practice must transition to Track 3 by January 1, 2024.

(iv) If the MDPCP Practice began participating in Track 2 in 2022, the

MDPCP Practice must transition to Track 3 by January 1, 2025.

(v) If the MDPCP Practice begins participating in Track 2 in 2023, the MDPCP Practice must transition to Track 3 by January 1, 2026.

(vi) If the MDPCP Practice begins participating in Track 2 in 2024, the MDPCP Practice must transition to Track 3 by January 1, 2026.

(c) If the MDPCP Practice is participating in Track 2 under this Agreement in 2024, and CMS determines, taking into account the considerations described in Article 1.6(a), that the MDPCP Practice may not transition to Track 3 by January 1, 2026, CMS will terminate this Agreement to take effect at 11:59 PM ET on December 31 of the Performance Year in which CMS makes such determination.

Article II - Definitions

"Action Group" means an ongoing learning and collaboration forum where practices and CTOs participating in the MDPCP are actively working on a similar set of improvement activities and share resources around best practices and lessons learned.

"Affinity Group" means a learning forum where practices and CTOs participating in the MDPCP with similar issues can share best practices and lessons learned.

"Area Deprivation Index ("ADI")" means a ranking of neighborhoods by socioeconomic disadvantage based on factors for the theoretical domains of income, education, employment, and housing quality as defined by the University of Wisconsin-Madison.

"Biannual Practice Reporting" means the submission of a biannual practice transformation progress report that the MDPCP Practice Site submits to CMS beginning during the third Performance Year of the Agreement Performance Period, as described in Article 6.2.

"Care Management Fee ("CMF")" means a prospective payment made by CMS to the MDPCP Practice participating in Track 2 under this Agreement for the MDPCP Practice Site Activities, and, if applicable, to its MDPCP Partner CTO for the CTO Activities performed by the CTO incident to the professional services of MDPCP Practitioners that are integral to meeting the MDPCP Practice Site's Care Transformation Requirements. For Performance Year 2021, the CMF is a risk-stratified per beneficiary per month (PBPM) payment. Beginning for Performance Year 2022, the CMF includes two separate payments: a risk stratified per beneficiary per month (PBPM) payment and the HEART Payment.

"**Care Management Professional**" means any individual who meets the definition of "auxiliary personnel" as defined at 42 CFR § 410.26(a)(1) and who performs CCM Services. A Care Management Professional does not include administrative staff, data analysts, or consultants.

"Care Transformation Organization (**"CTO")"** means a legal entity that deploys an Interdisciplinary Care Management Team to: (1) furnish care coordination services to MDPCP Beneficiaries attributed to one or more primary care practices or, beginning in 2021, to one or more FQHCs, that are participating in the MDPCP and have entered into a CTO Arrangement with the CTO; and (2) perform other activities integral to helping each primary care practice or FQHC that has entered into a CTO Arrangement with the CTO to meet the applicable Care Transformation Requirements.

"Care Transformation Requirements" means the requirements related to the five Comprehensive Primary Care Functions of Advanced Primary Care and, only for Performance Year 2022, related to the HEART Payment, that the MDPCP Practice must ensure the MDPCP Practice Site meets under the terms of this Agreement, described in Appendix A. The applicable Care Transformation Requirements for a given practice depend on whether the MDPCP Practice is participating in Track 2 or Track 3 under this Agreement.

"Change in Control" means any of the following: (1) the acquisition by any "person" (as such term is used in sections 13(d) and 14(d) of the Securities Exchange Act of 1934) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934), directly or indirectly, of voting securities of the MDPCP Practice representing more than 50% of the MDPCP Practice's outstanding voting securities or rights to acquire such securities; (2) the acquisition of the MDPCP Practice or MDPCP Practice Site by any other individual or entity; (3) any merger, division, dissolution, or expansion of the MDPCP Practice or MDPCP Practice Site; (4) any sale, lease, exchange or other transfer (in one transaction or a series of transactions) of all or substantially all of the assets of the MDPCP Practice or MDPCP Practice Site; or (5) the approval and completion of a plan of sale or liquidation of the MDPCP Practice or MDPCP Practice Site or an agreement for the sale or liquidation of the MDPCP Practice or MDPCP Practice Site.

"Chronic Care Management ("CCM") Services" means the services described by the code or codes, as modified from time to time, that are used to bill Medicare for separately payable Chronic Care Management services under the Medicare Physician Fee Schedule, as described in the MDPCP Payment Methodologies Paper described in Article 9.1(e).

"CMS Certification Number ("CCN")" means the number assigned by CMS and used to verify Medicare/Medicaid certification for survey and certification, assessment-related activities and communications.

"Comprehensive Primary Care Functions of Advanced Primary Care" means the five functions that the MDPCP Practice must ensure the MDPCP Practice Site performs under the terms of this Agreement to transform to beneficiary-centered and team-based primary care. The Comprehensive Primary Care Functions of Advanced Primary Care include: access and continuity; care management; comprehensiveness and coordination across the continuum of care; patient and caregiver experience; and planned care for health outcomes

"Comprehensive Primary Care Payment ("CPCP")" means a prospective payment made by CMS on a quarterly basis to the MDPCP Practice under this Agreement if the MDPCP Practice is participating in Track 2 under this Agreement. The CPCP replaces a percentage of the MDPCP Practitioners' Medicare FFS payments during the Performance Year, based on the CPCP Percentage selected by the MDPCP Practice under this Agreement.

"Concierge Medicine" means the collection of a periodic fee from patients in exchange for more personalized care, better access to medical care, or other amenities.

"Covered Services" means the scope of health care benefits described in section 1832 of the Act for which payment is available under Part B of Title XVIII of the Act.

"CPCP Percentage" means the percentage of Medicare payments for select Primary Care Services furnished by the MDPCP Practice Site's MDPCP Practitioners to MDPCP Beneficiaries

that the MDPCP Practice elects to be paid in the form of a CPCP under this Agreement to the extent the MDPCP Practice is participating in Track 2 under this Agreement.

"**CTO Activities**" means the types of activities a CTO may perform to assist the MDPCP Practice Site in achieving the MDPCP Practice Site's Care Transformation Requirements that do not require a physician's personal professional services.

"**CTO Arrangement**" means a contractual arrangement between the MDPCP Practice and a CTO pursuant to which the CTO provides care management services to MDPCP Beneficiaries attributed to the MDPCP Practice Site and performs other CTO Activities that are integral to meeting the MDPCP Practice Site's Care Transformation Requirements.

"**CTO Geographic Coverage Area**" means the geographic area to which a CTO will deploy its Interdisciplinary Care Management Team, composed of a county or counties in the state of Maryland, as described by the CTO in its application to participate in the MDPCP and verified by CMS.

"Days" means calendar days unless otherwise specified.

"Descriptive MDPCP Practice Materials and Activities" include, but are not limited to, general audience materials such as brochures, advertisements, outreach events, letters to MDPCP Beneficiaries, web pages, mailings, social media, or other activities conducted by or on behalf of the MDPCP Practice, when used to educate, notify, or contact MDPCP Beneficiaries regarding the MDPCP. The following communications are not Descriptive MDPCP Practice Materials and Activities: communications that do not directly or indirectly reference the MDPCP (for example, information about care coordination generally would not be considered Descriptive MDPCP Practice Materials and Activities); materials that cover MDPCP Beneficiary-specific billing and claims issues; educational information on specific medical conditions; referrals for health care items and services; and any other materials that are excepted from the definition of "marketing" under the HIPAA Privacy Rule (45 CFR Part 160 & Part 164, subparts A & E).

"Diagnosis of Dementia" means a diagnosis identified by having at least one Medicare claim with International Classification of Diseases version 10 (ICD10) codes from a select list during a two-year lookback period ending four months prior to the start of the Performance Year. The select list of ICD10 codes are further described in the MDPCP Payment Methodologies Paper.

"eCQM" means electronic clinical quality measure.

"Efficiency Component" means for Performance Years prior to Performance Year 2023, the PBIP-specific measure of a MDPCP Partner Practice's performance on the Total per-Capita Cost measure described in Appendix B determined in accordance with Article 7.4(c) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect as of January 1, 2022. Beginning for Performance Year 2022, CMS will calculate an Efficiency Component for those MDPCP Partner Practices participating in Track 2 as part of determining

the amount of the CTO's PBIP for Performance Year 2022 and each subsequent Performance Year that the CTO must repay to CMS. Beginning for Performance Year 2023, the Efficiency Component means the MDPCP Practice Site's performance on the Total per-Capita Cost measure described in Appendix B, used in calculating the PBIP and the PBA.

"Eligible Beneficiary" means a Beneficiary who:

a. Is enrolled in both Medicare Parts A and B;

b. Has Medicare as his or her primary payer;

c. Has an address of primary residence within Maryland or a Maryland hospital Primary Service Area;

d. Is not entitled to Medicare on the basis of an end stage renal disease (**"ESRD"**) diagnosis;

e. Is not enrolled in hospice;

f. Is not covered under a Medicare Advantage or other Medicare health plan;

g. Is not institutionalized;

h. Is not incarcerated;

i. Is not assigned or aligned to a participant in any program or model that includes a Medicare FFS shared savings opportunity, or otherwise enrolled in such a program or model, except that an Eligible Beneficiary may be aligned to a Medicare Shared Savings Program (**"Shared Savings Program"**) Accountable Care Organization ("**ACO**") in which the MDPCP Practice is an ACO participant (as such terms are defined in 42 C.F.R. §425.20), provided that such participation is consistent with the provisions in Article 3.5; and

j. Has not elected to receive Medicaid Health Home Services (as defined in Section 1945(h)(4) of the Act) from a Section 1945 Medicaid Health Home, unless CMS notifies the MDPCP Practice otherwise prior to the start of the applicable Performance Year in a form and manner to be determined by CMS.

"Eligible Taxonomy Code" means the type, classification, and/or specialization code that health care providers must select when applying for a National Provider Identifier (NPI) from the National Plan and Provider Enumeration system (NPPES), as further described in the MDPCP Payment Methodologies Paper

"Federally Qualified Health Center ("FQHC") means a legal entity identified by an organizational NPI, a CMS Certification Number (CCN), and a Taxpayer Identification Number (TIN), and that is certified as an FQHC as defined under section 1861(aa)(4) of the Act.

"FFS Reduction Factor" means the percentage by which the MDPCP Practice's reimbursement for a Primary Care Service is reduced if the MDPCP Practice is participating in Track 2 under

this Agreement and such service is furnished by a MDPCP Practitioner to a MDPCP Beneficiary and billed under the TIN of the MDPCP Practice.

"Financial Report" means for Performance Years prior to Performance Year 2023, the annual report that the MDPCP Practice submits to CMS in accordance with Article IX for each Performance Year that documents how the MDPCP Practice used its CMF payment amounts, and, if applicable, its CPCPs received under this Agreement, during that Performance Year. Beginning for Performance Year 2023, the Financial Report means the annual report that the MDPCP Practice submits to CMS in accordance with Article IX for each Performance Year that documents either how the MDPCP Practice used the CMFs, and if applicable, CPCPs received under this Agreement, during a Performance Year in which the MDPCP Practice participated in Track 1 or Track 2; or how the MDPCP Practice used the PBPs and HEART Payments received under this Agreement, during a Performance Year in which the MDPCP Practice participated in Track 3.

"Flat Visit Fee (FVF)" means a payment made by CMS to the MDPCP Practice in Track 3 for SPCS furnished to MDPCP Beneficiaries upon CMS's receipt of a claim for SPCS furnished to MDPCP Beneficiaries. Beginning in Performance Year 2023, the FVF replaces the payment amounts set forth under the Physician Fee Schedule for SPCS furnished to MDPCP Beneficiaries.

"Getting Started with MDPCP Guide" means the handbook provided by CMS to the MDPCP Practice that contains guidance on MDPCP requirements.

"HEART Payment" stands for Health Equity Advancement Resource and Transformation Payment and for Performance Year 2022 means an add-on to the CMF, for each MDPCP Beneficiary who is in one of the two highest risk tiers and in the highest quartile. Beginning in Performance Year 2023, the HEART Payment means a quarterly payment, paid on a per beneficiary per month basis, to the MDPCP Practice for each MDPCP Beneficiary who is in the 4th HCC risk score tier or the complex risk score tier and falls within the High Deprivation ADI-quintile.

"Interdisciplinary Care Management Team" means the Care Management Professionals and other staff, who are identified on a roster that is submitted to CMS by the CTO (the "**CTO Roster**"), hired and managed by a MDPCP Partner CTO to furnish CTO Activities to MDPCP Beneficiaries on behalf of one or more primary care practices and, beginning in 2021, FQHCs participating in the MDPCP.

"MDPCP Beneficiary" means an Eligible Beneficiary who is attributed to the MDPCP Practice Site by CMS using the methodology set forth in Article 4.1.

"MDPCP Partner CTO" means a CTO that has entered into a CTO Arrangement with the MDPCP Practice.

“**MDPCP Participant**” means any primary care practice or FQHC that has entered into an MDPCP Participation Agreement with CMS, including the MDPCP Practice.

“MDPCP Payer Partner” means a third party payer that has signed a memorandum of understanding with CMS under which the payer indicates its intent to support primary care practices and, beginning in 2021, FQHCs in delivering advanced primary care by aligning with the principles of the MDPCP in the following areas: financial incentives, care management, quality measures, data sharing, and practice learning.

“MDPCP Payments” means for Performance Years prior to Performance Year 2023, the CMF, PBIP, and, as applicable, the CPCP payments made to the MDPCP Practice by CMS pursuant to Article IX of this Agreement. For Performance Year 2023 and subsequent Performance Years, MDPCP Payments means the CMF, including the HEART Payment, PBIP, and, as applicable, the CPCP; the Total Primary Care Payment (TPCP), including the FVF and PBP in Track 3; and the HEART Payment in Track 3.

“MDPCP Portal” means the secure online website that fosters the exchange of data and reports between CMS, the MDPCP Practice, MDPCP Practice Site, and, if applicable, the MDPCP Partner CTO.

“MDPCP Practice Site Activities” means activities, including but not limited to the Care Transformation Requirements described in Article VI, Quality Reporting Requirements as described in Article VII, and learning network described in Article 11.5, conducted by the MDPCP Practice Site, at the direction of the MDPCP Practice, under the terms of this Agreement.

“MDPCP Practice Coach” means an individual trained to provide support, guidance, collaboration, and learning network coordination to assist the MDPCP Practice Site and, if applicable, the MDPCP Partner CTO in meeting the Care Transformation Requirements.

“MDPCP Practitioner” means for Performance Year 2024 and each subsequent Performance Year, a Medicare-enrolled practitioner identified by an individual NPI who bills under the TIN of the MDPCP Practice and who:

a. Is a physician (as defined in section 1861(r) of the Act) or non-physician practitioner (as defined in section 1842(b)(18)(C) of the Act);

b. Has an Eligible Taxonomy Code as described in the MDPCP Payment Methodologies Paper referenced in Article 9.1(e), or has a specialty code of Psychiatry and is co-located with an MDPCP Practitioner with an Eligible Taxonomy Code as described in the MDPCP Payment Methodologies Paper;

c. Is identified on the Practitioner Roster; and

d. Is approved by CMS to participate in the MDPCP pursuant to Article 3.4.

For Performance Year 2023 and prior Performance Years, MDPCP Practitioner has the meaning set forth in the Definitions section of the Fourth Amended and Restated MDPCP Participation Agreement that was in effect as of January 1, 2023.

"Measurement Period" means the period for which the eCQM data described in Article 7.1 must be reported to CMS, which is January 1 through December 31 of a given Performance Year

"NPI" means National Provider Identifier.

"Other Monies Owed" means a monetary amount owed by either Party to this Agreement, as determined by CMS through the settlement of MDPCP Payments and identified in the financial settlement reports described in Article 9.12.

"Payer Partnership" means an arrangement between the MDPCP Practice and a MDPCP Payer Partner.

"Performance Based Adjustment" means a prospectively applied adjustment made to the TPCP based on the MDPCP Practice's performance on the Quality, Utilization and Efficiency Component Measure Sets as described in Appendix B.

"Performance Based Incentive Payment ("PBIP")" means an annual prospective payment made by CMS to the MDPCP Practice under this Agreement for a Performance Year pursuant to Article 9.4 that is subsequently settled by CMS pursuant to Article IX based on the MDPCP Practice Site's performance on the Quality Component, the Utilization Component, and beginning for Performance Year 2022, if the MDPCP Practice is participating in Track 2 under the Agreement, the Efficiency Component for that Performance Year.

"Performance Year" means the 12-month period of time that begins on January 1st of each year during the Agreement Performance Period and concludes on December 31st of that same year. The final Performance Year ends at 11:59 PM ET on December 31, 2026, unless the Agreement Performance Period or this Agreement is sooner terminated in accordance with Article XIV.

"Population Based Payment" or "PBP" means a per beneficiary per month (PBPM) amount that is calculated in accordance with Article 9.10(c) and is paid prospectively on a quarterly basis, beginning in Performance Year 2023.

"**Practice Risk Tier**" means a tier to which the MDPCP Practice will be assigned on a quarterly basis, based on the average HCC risk scores of MDPCP Beneficiaries attributed to the MDPCP Practice prior to the start of each quarter, during the Agreement Performance Period if the MDPCP Practice is participating in Track 3 under this Agreement.

"**Practitioner Roster**" means the roster submitted to CMS by the MDPCP Practice pursuant to Article 3.4(a), and periodically updated thereafter, that identifies by name and NPI every MDPCP Practitioner.

"Primary Care Services" means the services described by the evaluation and management code set, as modified from time to time, that is used to bill for office and outpatient visits under the Medicare Physician Fee Schedule, and beginning in 2021, the FQHC Services defined in Section 1861(aa)(3) of the Act payable under the Federally Qualified Health Center Prospective Payment System, as described in the MDPCP Payment Methodologies Paper defined in Article 9.1(e).

"Primary Service Area" means the geographic area or areas served by a hospital located in Maryland for which payments are regulated by the State for all payers ("**Regulated Maryland Hospital**"), as such area is defined pursuant to a written agreement between the Regulated Maryland Hospital and the HSCRC governing payment for the Regulated Maryland Hospital's services.

"Quality Component" means for Performance Years prior to Performance Year 2023, the PBIP-specific measure of the MDPCP Practice Site's performance on the quality measures described in Article 9.4(c) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect as of January 1, 2022. CMS will calculate a Quality Component for the MDPCP Practice Site as part of determining the amount of the MDPCP Practice's PBIP for a Performance Year that the MDPCP Practice must repay to CMS. Beginning in Performance Year 2023, the Quality Component means the PBIP-specific measure of the MDPCP Practice Site's performance on the quality measures described in Appendix B for MDPCP Participants in Track 1 or Track 2 under this Agreement or the PBA-specific measure of the MDPCP Practice Site's performance on the quality measures described in Appendix B for MDPCP Participants in Track 3 under this Agreement.

"**Quarterly Practice Reporting"** means the submission of a quarterly practice transformation progress report that the MDPCP Practice Site submits to CMS during the first and second Performance Years of the Agreement Performance Period, as described in Article 6.2.

"Reduced FFS Payment" means the Medicare FFS payment for Primary Care Services furnished by the MDPCP Practice Site's MDPCP Practitioners to MDPCP Beneficiaries, if the MDPCP Practice is participating in Track 2 under this Agreement, as adjusted by the FFS Reduction Factor.

"Section 1945 Medicaid Health Home" means a designated provider, a team of health care professionals operating with such a provider, or a health team that receives payments for the provision of health home services to eligible individuals with chronic conditions (as these terms are described under Section 1945(h) of the Act) under a program established by the State pursuant to Section 1945 of the Act.

“SPCS” means select primary care services identified by Healthcare Common Procedure Coding System (HCPCS) codes, as modified from time to time, in the MDPCP Payment Methodologies Paper.

For Performance Year 2023 and prior Performance Years, SPCS has the meaning set forth in the Definitions section of the Fourth Amended and Restated MDPCP Participation Agreement that was in effect as of January 1, 2023.

“Start Date” means January 1st of the first Performance Year of the Agreement Performance Period.

“Total Primary Care Payment” means the FVF plus the PBP.

“Track 1” means for Performance Years prior to Performance Year 2023, one of the two tracks of MDPCP in which a primary care practice or, beginning in 2021, an FQHC that has signed an MDPCP practice participation agreement with CMS may participate. For Performance Year 2023, Track 1 means one of the three tracks of MDPCP in which an MDPCP Participant may participate. For Performance Year 2024, and each subsequent Performance Year, Track 1 means one of the three tracks of MDPCP in which an MDPCP Participant could have participated prior to January 1, 2024. Relative to a participant in Track 2, a primary care practice or FQHC participating in Track 1 was subject to less comprehensive Care Transformation Requirements.

“Track 2” means for Performance Years prior to Performance Year 2023, one of the two tracks of MDPCP in which a primary care practice that has signed an MDPCP practice participation agreement or, beginning in Performance Year 2022, an FQHC that has signed an FQHC Participation Agreement with CMS may participate. For Performance Year 2023, Track 2 means one of the three tracks of MDPCP in which an MDPCP Participant may participate. Relative to a participant in Track 1, an MDPCP Participant in Track 2 is subject to more comprehensive Care Transformation Requirements. Beginning for Performance Year 2024, and each subsequent Performance Year, Track 2 means one of the two tracks of MDPCP in which an MDPCP Participant may participate.

“Track 3” means for Performance Year 2023, one of the three tracks of MDPCP in which a primary care practice that has signed an MDPCP practice participation agreement with CMS may participate, beginning for Performance Year 2023, and each subsequent Performance Year. A primary care practice participating in Track 3 is subject to more financial risk than a primary care practice participating in Track 1 or Track 2. Beginning in Performance Year 2024 and each subsequent Performance Year, Track 3 means one of the two tracks of MDPCP in which a primary care practice that has signed an MDPCP practice participation agreement with CMS may participate. A primary care practice participating in Track 3 is subject to more financial risk than a primary care practice participating in Track 2.

“Utilization Component” means for Performance Years prior to Performance Year 2023, the PBIP-specific measure of the MDPCP Practice Site’s performance on the claims-based measures

of inpatient admissions and emergency department visits determined in accordance with 9.4(c) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect as of January 1, 2022. CMS will calculate a Utilization Component for the MDPCP Practice Site as part of determining the amount of the MDPCP Practice's PBIP for a Performance Year that the MDPCP Practice must repay to CMS. Beginning in Performance Year 2023, Utilization Component means the PBIP-specific measure of the MDPCP Practice Site's performance on the claims-based measures of inpatient admissions and emergency department visits as described in Appendix B for MDPCP Participants in Track 1 or Track 2 under this Agreement, or the PBA-specific measure of the MDPCP Practice Site's performance on the claims-based measures of inpatient admissions and emergency department visits as described in Appendix B for MDPCP Participants in Track 3 under this Agreement.

Article III - General MDPCP FQHC Requirements

3.1 *MDPCP Practice Eligibility Requirements*

(a) The MDPCP Practice acknowledges that it has met, and that it shall continue throughout the Agreement Term to meet the following eligibility requirements:

(i) Is a legal entity formed under applicable state, federal, or tribal law, and authorized to conduct business in each state in which it operates for the purpose of carrying out the activities required by this Agreement;

(ii) Participates in the MDPCP under this Agreement through the MDPCP Practice Site, which must be located in the state of Maryland;

(iii) Maintains a cumulative count of at least 125 unique MDPCP Beneficiaries attributed to the MDPCP Practice Site during each Performance Year based on the attribution methodology described in Article IV;

(iv) Uses a single TIN, although not necessarily the same Medicare billing number, for billing all Primary Care Services furnished to MDPCP Beneficiaries by MDPCP Practitioners, and for receiving all MDPCP Payments from CMS;

(v) Is not enrolled, and the MDPCP Practice Site is not enrolled, under Medicare as a Federally Qualified Health Center ("FQHC"), a Rural Health Clinic ("RHC"), a Critical Access Hospital ("CAH");

(vi) Does not, and all of the MDPCP Practice Site's MDPCP Practitioners do not, engage in Concierge Medicine;

(vii) Is not a party to, and none of the MDPCP Practice Site's MDPCP Practitioners is a party to, an agreement with CMS or another entity regarding participation in the Next Generation ACO Model, the ACO Investment Model, the Comprehensive End Stage Renal Disease Care Model, or another Innovation Center model or initiative that involves shared savings except the Shared Savings Program; and

(viii) Is not a party to, and none of the MDPCP Practice Site's MDPCP Practitioners is a party to, an agreement with CMS or another entity regarding participation in an Innovation Center model, or track of an Innovation Center model, that prohibits simultaneous participation in the MDPCP.

(ix) The MDPCP Practice shall provide advance written notice to CMS if, at any time during the Agreement Term, the MDPCP Practice fails to meet any eligibility requirement set forth in Article 3.1(a) other than the requirement in paragraph (iii).

3.2 *Requirements for MDPCP Practitioners*

(a) The MDPCP Practice shall notify the MDPCP Practice Site's physicians and non-physician practitioners that participation in the MDPCP as a MDPCP Practitioner is voluntary.

(b) The MDPCP Practice shall issue written notice to every MDPCP Practitioner prior to the MDPCP Practitioner's participation in MDPCP indicating that he or she has been added to the Practitioner Roster described in Article 3.4(a).

(c) If participating in Track 2, the MDPCP Practice shall require that each MDPCP Practitioner agree to accept a Reduced FFS Payment that corresponds with the CPCP Percentage selected by the MDPCP Practice pursuant to Article 9.5(b). The written notice described in Article 3.2(b) must notify every MDPCP Practitioner that he or she will receive Reduced FFS Payments that correspond with the CPCP Percentage selected by the MDPCP Practice. The MDPCP Practice must specify the CPCP Percentage that it selects under this Agreement in the MDPCP Portal.

(d) Beginning in Performance Year 2023, and each subsequent Performance Year, if participating in Track 3, the MDPCP Practice shall require that each MDPCP Practitioner agree to accept an FVF for SPCS furnished to MDPCP Beneficiaries rather than the payment amounts set forth under the Physician Fee Schedule. The written notice described in Article 3.2(b) must notify every MDPCP Practitioner that the MDPCP Practitioner will receive the FVF for SPCS furnished to MDPCP Beneficiaries rather than the payment amounts set forth under the Physician Fee Schedule.

(e) The MDPCP Practice shall require each of the MDPCP Practice Site's MDPCP Practitioners to:

 (i) Submit a completed Form CMS-460 to CMS; and reassign his or her right to receive Medicare payment to the MDPCP Practice and bill Medicare using the TIN of the MDPCP Practice.

3.3 *CTO Arrangement*

(a) In advance of each Performance Year, CMS will provide the MDPCP Practice with a list of the CTOs with a CTO Geographic Coverage Area that includes the MDPCP Practice Site at a time and in a manner to be specified by CMS. The MDPCP Practice may elect to enter into a CTO Arrangement with a CTO identified on the list of CTOs provided by CMS. The CTO will be required under the terms of its MDPCP CTO participation agreement with CMS to enter into a CTO Arrangement with the MDPCP Practice unless entering into such CTO Arrangement would exceed the CTO's capacity or the MDPCP Practice Site is located outside of the CTO's CTO Geographic Coverage Area.

(b) If the CTO determines that it does not have the capacity to enter into a CTO Arrangement with the MDPCP Practice for a given Performance Year, the CTO will inform CMS in writing regarding the number of arrangements with other primary care practices and, beginning in Performance Year 2021, FQHCs participating in the MDPCP to which the CTO is a party for the applicable Performance Year and the reason why the CTO is unable to enter into a CTO Arrangement with the MDPCP Practice for that Performance Year. CMS will then communicate to the MDPCP Practice that the CTO is not entering into any new arrangements with primary care practices or, if applicable, FQHCs participating in the MDPCP for the applicable Performance Year and the MDPCP Practice will be given an opportunity to select a different CTO for that Performance Year.

(c) If the MDPCP Practice chooses to partner with a CTO for the first Performance Year of the Agreement Performance Period, the MDPCP Practice must enter into a CTO Arrangement with a CTO by the Start Date.

(d) The CTO must offer to perform a consistent suite of CTO Activities, in terms of both nature and scope, on behalf of every primary care practice and FQHCs that participates in the same track of MDPCP (Track 2) and that has selected the same CMF Percentage Payment Option (as that term is defined in Article 9.2(d)(ii)).

(e) The CTO must offer to perform a consistent suite of CTO Activities, in terms of both nature and scope, on behalf of every primary care practice that participates in Track 3 and that has selected the same PBP and HEART Payment Percentage Payment Option (as that term is defined in Article 9.10(d)).

(f) If the MDPCP Practice participate in Track 1 or Track 2 under this Agreement, the value of the services rendered by the MDPCP Partner CTO to the MDPCP Practice shall not exceed the CMF payment amounts paid to the MDPCP Practice.

(g) If the MDPCP Practice participates in Track 3 under this Agreement, the value of the services rendered by the MDPCP Partner CTO to the MDPCP Practice shall not exceed the PBP amounts paid to the MDPCP Practice.

(h) The CTO Arrangement must satisfy the following requirements:

   (i) The only parties to the CTO Arrangement are the MDPCP Partner CTO and the MDPCP Practice.

   (ii) The CTO Arrangement must be in writing and validly executed by both parties before the MDPCP Partner CTO performs CTO Activities on behalf of the MDPCP Practice.

   (iii) The CTO Arrangement must be for a term of at least one Performance Year, but must also permit early termination by the MDPCP Partner CTO or the MDPCP Practice, or both, if CMS terminates the MDPCP Partner CTO's MDPCP CTO participation agreement; if CMS or the MDPCP

Practice terminates this Agreement pursuant to Article XIV; if the CTO Arrangement is terminated as required by CMS pursuant to Article 3.3(f) or Article 14.1(a)(v); or for such other reasons as may be approved by CMS in writing. The MDPCP Practice must notify CMS in writing at least 90 Days prior to terminating a CTO Arrangement. The MDPCP Practice must notify its MDPCP Partner CTO in writing at least 30 Days prior to terminating its CTO Arrangement.

(iv) The CTO Arrangement must specify the following:

(A) The CTO Activities that the MDPCP Partner CTO offers to perform on behalf of the MDPCP Practice at the MDPCP Practice's request to assist the MDPCP Practice Site in meeting the applicable Care Transformation Requirements and either;

(B) The CMF Percentage Payment Option (as such term is defined in Article 9.2(d)(ii)); or

(C) The PBP and HEART Payment Percentage Payment Option as such term is defined in Article 9.10(d)

(v) The CTO Arrangement must comply with all relevant laws and regulations, including all applicable fraud and abuse laws, the applicable terms of this Agreement, and the applicable terms of the MDPCP Partner CTO's MDPCP CTO participation agreement.

(vi) In establishing the terms of the CTO Arrangement, neither party gives or receives remuneration in return for or to induce business other than the business covered by the CTO Arrangement.

(vii) The CTO Arrangement must require the MDPCP Practice to notify the MDPCP Partner CTO of any changes to the MDPCP Practice's Medicare enrollment information within 30 Days after such change.

(viii) The CTO Arrangement must require the MDPCP Practice to notify the MDPCP Partner CTO upon termination of this Agreement or the Agreement Performance Period pursuant to Article XIV, and must require the MDPCP Partner CTO to notify the MDPCP Practice upon termination of the MDPCP Partner CTO's MDPCP CTO participation agreement.

(i) The MDPCP Practice shall retain a copy of each CTO Arrangement entered into by the MDPCP Practice in accordance with Article 13.2 and shall provide copies of such CTO Arrangements to CMS upon request.

(j) The CTO Arrangement must not permit the MDPCP Partner CTO to take any action to limit the ability of the MDPCP Practice to make treatment recommendations or decisions in the best interests of a MDPCP Beneficiary.

(k) CMS may require the MDPCP Practice to terminate its CTO Arrangement if CMS determines that the MDPCP Practice or MDPCP Partner CTO:

(i) Has failed to comply with any Medicare program requirement, rule, or regulation, or the terms of this Agreement;

(ii) Has failed to comply with a CMS-approved Corrective Action Plan described in Article 14.1(a)(xi) or other remedial action imposed by CMS pursuant to Article 14.1 or pursuant to the MDPCP Partner CTO's MDPCP CTO participation agreement;

(iii) Has failed to cooperate with CMS's monitoring activities described in Article XII or in the MDPCP Partner CTO's MDPCP CTO participation agreement; or

(iv) Has taken any action that threatens the health or safety of an MDPCP Beneficiary or other patient.

(l) CMS provides no opinion on the legality of any arrangement that the MDPCP Practice or MDPCP Partner CTO has proposed, implemented, or documented. The receipt by CMS of any CTO Arrangement-related documents in the course of the application process, during the Agreement Term, or otherwise shall not be construed as a waiver or modification of any applicable laws, rules or regulations, and will not preclude CMS, HHS or its Office of Inspector General (**"OIG"**), a law enforcement agency, or any other federal or state agency from enforcing any and all applicable laws, rules and regulations.

3.4 *Rosters*

(a) Practitioner Roster

(i) The MDPCP Practice shall not include a physician or non-physician practitioner on the Practitioner Roster if the physician or non-physician practitioner is listed on such a roster for another MDPCP practice site that is participating in or intends to participate in the MDPCP.

(ii) The Parties acknowledge that the MDPCP Practice submitted to CMS a proposed Practitioner Roster prior to the Effective Date. CMS shall review the proposed Practitioner Roster and issue an approved list of MDPCP Practitioners to the MDPCP Practice Site no later than thirty (30) Days after the Start Date.

(iii) The MDPCP Practice shall ensure that the Practitioner Roster remains accurate and up to date in accordance with Article 3.4(a)(iv). The MDPCP Practice must attest to the accuracy of the Practitioner Roster in the MDPCP Portal on at least a quarterly basis.

(iv) The MDPCP Practice may update its Practitioner Roster at any time in accordance with the following:

(A) The MDPCP Practice shall submit to CMS through the MDPCP Portal information specified by CMS regarding each practitioner the MDPCP Practice Site wishes to add to or remove from the Practitioner Roster.

(B) CMS will approve or reject a practitioner proposed for addition to the Practitioner Roster based on the results of a program integrity screening, whether the practitioner satisfies the definition of a MDPCP Practitioner (with the exception of subsection (d) of the definition of a MDPCP Practitioner, as defined in Article II), and whether the practitioner is listed on such a roster for another MDPCP practice site that is participating in or intends to participate in the MDPCP. CMS will notify the MDPCP Practice Site in a form and manner determined by CMS whether CMS has approved or rejected the inclusion of the practitioner on the Practitioner Roster.

(C) During the first and second Performance Years of the Agreement Performance Period, CMS-approved additions to the Practitioner Roster that were submitted to CMS at least ninety (90) Days before the beginning of a calendar quarter became effective on the first day of the first calendar quarter following the submission. CMS-approved additions to the Practitioner Roster that were submitted fewer than ninety (90) Days before the beginning of a calendar quarter will become effective on the first day of the second calendar quarter following the submission. During the third Performance Year of the Agreement Performance Period and each subsequent Performance Year, CMS-approved additions to the Practitioner Roster that are submitted to CMS on or before the first day of the third month during the applicable calendar quarter shall become effective on the first day of the first calendar quarter following the submission. CMS-approved additions to the Practitioner Roster that are submitted after the first day of the third month during the applicable calendar quarter will become effective on the first day of the second calendar quarter following the submission.

(D) The effective date of the removal of a practitioner from the Practitioner Roster will be the date the practitioner ceased to satisfy the definition of MDPCP Practitioner.

(b) Staff Roster

(i) During the first and second Performance Years of the Agreement Performance Period, any individuals who conduct MDPCP Practice Site

Activities for the MDPCP Practice Site, but who are not MDPCP Practitioners, must be listed on the MDPCP Practice Site's roster of staff ("**Staff Roster**"). The types of individuals who must be included on the Staff Roster include, but are not limited to, non-billing clinicians (e.g., RNs, medical assistants, care managers), administrative staff (e.g., receptionists, office managers, data analysts), consultants, and any other individuals who conduct MDPCP Practice Site Activities for the MDPCP Practice Site who are not MDPCP Practitioners.

(ii) The MDPCP Practice must submit to CMS a Staff Roster via the MDPCP Portal no later than 90 Days after the Start Date. During the first and second Performance Years of the Agreement Performance Period, the MDPCP Practice must update and verify the accuracy of the Staff Roster via the MDPCP Portal at least quarterly.

3.5 *Participation in the Medicare Shared Savings Program*

(a) The MDPCP Practice may continue to participate in an ACO under the Shared Savings Program if it is an ACO participant (as such term in defined in 42 CFR §425.20) in such ACO on the Effective Date of this Agreement.

(b) The MDPCP Practice may, during the Agreement Term, become an ACO participant in an ACO participating in the Shared Savings Program, subject to the notification requirements in Article 3.5(c).

(c) Notification

(i) If the MDPCP Practice plans to become an ACO participant in an ACO participating in the Shared Savings Program after the Effective Date of this Agreement, the MDPCP Practice shall, no later than 30 Days prior to becoming an ACO participant, submit written notice to CMS detailing its intention to become an ACO participant in addition to its participation in MDPCP.

(ii) If the MDPCP Practice becomes an ACO participant in the Shared Savings Program after the Effective Date of this Agreement, the MDPCP Practice shall, no later than thirty (30) Days after the MDPCP Practice becomes an ACO Participant, submit to CMS a written statement signed by a representative of the leadership of the Shared Savings Program ACO acknowledging that any CMFs and, if applicable, CPCPs paid to the MDPCP Practice participating in Track 2 under this Agreement or for Performance Year 2023, and each subsequent Performance Year, any PBPs and HEART Payments paid to the MDPCP Practice participating in Track 3 under this Agreement will be included in the ACO's total expenditures for financial calculations under the Shared Savings Program.

(iii) If, at any time during the Agreement Term, the MDPCP Practice's participation as an ACO participant in the Shared Savings Program is terminated, the MDPCP Practice shall notify CMS no later than 30 Days after the effective date of such termination.

(d) If the MDPCP Practice is participating in Track 1 or Track 2 under this Agreement, the MDPCP Practice shall not be eligible to receive any PBIP under this Agreement during any Performance Year in which the MDPCP Practice participates as an ACO participant in the Shared Savings Program for any part of that Performance Year. However, participation in the Shared Savings Program as an ACO participant in no way affects the obligation of the MDPCP Practice to report to CMS on quality measures identified in Article VII pursuant to Article 5.1.

(e) If the MDPCP Practice is participating in Track 3 under this Agreement, the MDPCP Practice shall not be eligible to receive a payment amount paid by CMS as a result of the PBA under this Agreement during any Performance Year in which the MDPCP Practice participates as an ACO participant in the Shared Savings Program for any part of that Performance Year. However, participation in the Shared Savings Program as an ACO participant in no way affects the obligation of the MDPCP Practice to report to CMS on quality measures identified in Article VII pursuant to Article 5.1.

3.6 *Payer Partnership*

In advance of each Performance Year, beginning in the second Performance Year of the Agreement Performance Period, CMS will provide the MDPCP Practice with a list of MDPCP Payer Partners. The MDPCP Practice may elect to enter into a Payer Partnership with one or more MDPCP Payer Partners identified on that list. Entering into any such Payer Partnerships is at the discretion of the MDPCP Practice and not a requirement of participation in MDPCP.

3.7 *Telehealth Benefit Enhancement*

(a) General

1. Beginning in Performance Year 2025, if the MDPCP Practice selects to offer the Telehealth Benefit Enhancement, submits a **Telehealth Benefit Enhancement** Plan under section 3.7(a)(ii) for the Telehealth Benefit Enhancement to CMS, and CMS has not rejected the Telehealth Benefit Enhancement Plan under Section 3.7(a)(vii), MDPCP Practitioners may furnish telehealth services on or after January 1, 2025, regardless of the geographic or site of service of the MDPCP Beneficiary, including in the MDPCP Beneficiary's home, ("Telehealth Benefit Enhancement"), subject

to certain conditions and safeguards. The MDPCP Practice shall implement the Telehealth Benefit Enhancement in accordance with the terms of Article 3.7 and Appendix F.

2. During each Performance Year, beginning in Performance Year 2025, in a form and manner and by a deadline specified by CMS, the MDPCP Practice shall submit to CMS its selection of whether to offer the Telehealth Benefit Enhancement for the applicable Performance Year. Appendix F shall apply to this Agreement only if the MDPCP Practice has selected to offer the Telehealth Benefit Enhancement for the given Performance Year.

3. Beginning for Performance Year 2025, if the MDPCP Practice selects to offer the Telehealth Benefit Enhancement, the MDPCP Practice shall submit to CMS, in a form and manner and by a date specified by CMS, a plan for implementing the Telehealth Benefit Enhancement ("**Telehealth Benefit Enhancement Plan**"). The MDPCP Practice shall also submit a revised Telehealth Benefit Enhancement Plan to CMS in advance of any Performance Year during which a material amendment to the Telehealth Benefit Enhancement that was previously selected by the MDPCP Practice will take effect, in advance of any Performance Year for which the MDPCP Practice has selected to offer the Telehealth Benefit Enhancement, and at such other times specified by CMS.

4. If the MDPCP Practice selects to offer the Telehealth Benefit Enhancement, its MDPCP Practitioners must be authorized under applicable Medicare rules and applicable state law to bill for telehealth services, and its MDPCP Practitioners may submit claims for telehealth services furnished pursuant to the Telehealth Benefit Enhancement during that Performance Year.

5. The MDPCP Practice shall ensure its MDPCP Practitioners do not furnish telehealth services in lieu of necessary in-person services or encourage, coerce, or otherwise influence a MDPCP Beneficiary to seek or receive telehealth services in lieu of necessary in-person services when the MDPCP Practitioner knows or should know in-person services are medically necessary.

6. CMS may require the MDPCP Practice to report data on the use of the Telehealth Benefit Enhancement to CMS. Such data shall be reported in a form and manner and by a date specified by CMS.

7. If CMS determines that the MDPCP Practice's implementation or proposed implementation of the Telehealth Benefit Enhancement does not satisfy the applicable requirements of this Agreement, including the appendices hereto, or is likely to result in program abuse, CMS may reject the MDPCP Practice's selection to offer

the Telehealth Benefit Enhancement or may reject, or require the amendment of, the MDPCP Practice's Telehealth Benefit Enhancement Plan. If CMS rejects the MDPCP Practice's Telehealth Benefit Enhancement Plan for the Telehealth Benefit Enhancement, the MDPCP Practice's shall not implement the Telehealth Benefit Enhancement.

ii. Requirements for Termination of the Telehealth Benefit Enhancement

1. The MDPCP Practice must obtain CMS consent before ceasing to offer the Telehealth Benefit Enhancement effective during a Performance Year. The MDPCP Practice shall provide CMS with at least thirty (30) days advanced written notice of its intent to terminate its selection to offer the Telehealth Benefit Enhancement during a Performance Year. The effective date for such termination will be the date specified in the written notice to CMS. CMS shall cease paying claims within thirty (30) days after the effective date of such termination.
2. If during a Performance Year , CMS terminates the MDPCP Practice's use of the Telehealth Benefit Enhancement by the MDPCP Practice the effective date of such termination will be the date specified in writing by CMS. CMS shall cease paying claims immediately upon the effective date of such termination.
3. If this Agreement is terminated by either party prior to the end of a Performance Year, CMS shall terminate the MDPCP Practice's selection to offer the Telehealth Benefit Enhancement on the effective date of the termination of the Agreement. CMS shall cease paying claims for telehealth services furnished pursuant to the Telehealth Benefit Enhancement within thirty (30) days after the effective date of such termination.
4. In the case of any termination of the MDPCP Practice's selection of the Telehealth Benefit Enhancement, the MDPCP Practice shall provide written notice of such termination to its MDPCP Practitioners and affected MDPCP Beneficiaries within thirty (30) days after the effective date of termination. Such notification shall state that claims for services furnished under the Telehealth Benefit Enhancement will no longer be paid by Medicare and that the MDPCP Beneficiary may be responsible for the payment for such services.

iii. Discontinuation of the Telehealth Benefit Enhancement

1. If the MDPCP Practice selected to offer the Telehealth Benefit Enhancement for a Performance Year and does not select to offer the Telehealth Benefit Enhancement for the next Performance year, the MDPCP Practice shall notify its MDPCP Practitioners

and affected MDPCP Beneficiaries that the Telehealth Benefit Enhancement will not be offered during the next Performance Year. Such notices must be furnished no later than thirty (30) days prior to the start of the next Performance Year.

Article IV - Eligible Beneficiary Attribution, Notification, and Protections

4.1 *Eligible Beneficiary Attribution to the MDPCP Practice Site*

(a) Beginning for the third Performance Year of the Agreement Performance Period, CMS will attribute Eligible Beneficiaries to the MDPCP Practice Site for each calendar quarter during each Performance Year in accordance with this Article 4.1. An Eligible Beneficiary will be attributed to the MDPCP Practice Site for a given quarter, if, during the most recent 24-month look-back period and in the following order of precedence:

(i) Practitioners with an Eligible Taxonomy Code as described in the "MDPCP Practitioner" definition in Article II, whether they are listed on the Practitioner Roster or not, have billed Medicare FFS for a plurality of Primary Care Services furnished to the Eligible Beneficiary under the TIN of the MDPCP Practice, and the most recent claim for a Primary Care Service furnished to the Eligible Beneficiary was billed by an MDPCP Practitioner under the TIN of the MDPCP Practice; or

(ii) If the Eligible Beneficiary is not attributed to a site participating in the MDPCP pursuant to Article 4.1(a)(i) of the MCPDP practice participation agreement or Article 4.1(a)(i) of the MDPCP FQHC participation agreement, and an MDPCP Practitioner has billed Medicare FFS for the most recent Annual Wellness Visit as described at 42 CFR §410.15, or for a Welcome to Medicare visit as described at 42 CFR §410.16, or for a CCM Service furnished to the Eligible Beneficiary; or

(iii) If none of the services described in Article 4.1(a)(ii) has been billed for the Eligible Beneficiary during the 24-month look-back period by a site participating in the MDPCP, and the MDPCP Practitioners have billed Medicare FFS for a plurality of the Primary Care Services furnished to the Eligible Beneficiary; or

(iv) In the event that an equal number of Primary Care Services has been billed to Medicare FFS by the MDPCP Practitioners and by practitioners of one or more other sites participating in MDPCP, and the MDPCP Practitioner has billed Medicare FFS for the most recent Primary Care Service furnished to the Eligible Beneficiary.

(b) The Parties acknowledge that beneficiary attribution for the first Performance Year of the Agreement Performance Period is governed by Article 4.1 of the MDPCP Practice Participation Agreement that was in effect on January 1, 2019.

(c) The Parties acknowledge that beneficiary attribution for the second Performance Year of the Agreement Performance Period is governed by Article 4.1 of the MDPCP Practice Participation Agreement that was in effect on January 1, 2020.

4.2 *Beneficiary Notifications*

By no later than sixty (60) Days after CMS provides the MDPCP Practice with a list of its MDPCP Beneficiaries, and no less than quarterly thereafter during the first Performance Year of the Agreement Performance Period, the MDPCP Practice shall provide its newly attributed MDPCP Beneficiaries with a beneficiary notification letter via mail or electronic mail. During the first Performance Year of the Agreement Performance Period and each subsequent Performance Year, the MDPCP Practice shall post at the address identified in the recitals to this Agreement in a public place viewable by all patients a bulletin explaining that the MDPCP Practitioners are participating in MDPCP. Beginning in the second Performance Year of the Agreement Performance Period, each bulletin posted in accordance with this Article 4.2 must also include language notifying MDPCP Beneficiaries that they have the opportunity to decline to have CMS share their personally identifiable information with the MDPCP Practice and, if applicable, the MDPCP Practice's MDPCP Partner CTOs.

4.3 *Descriptive MDPCP Practice Materials and Activities*

(a) The MDPCP Practice may create Descriptive MDPCP Practice Materials and Activities for the sole and explicit purposes of educating, notifying, or contacting MDPCP Beneficiaries regarding the MDPCP.

(b) The MDPCP Practice, including the MDPCP Practice Site and any other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities on behalf of the MDPCP Practice, shall not use the logo, seal, identity mark, or symbols of HHS or CMS in the creation or use of any Descriptive MDPCP Practice Materials and Activities.

(c) The MDPCP Practice, including the MDPCP Practice Site and any other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities on behalf of the MDPCP Practice, shall provide any Descriptive MDPCP Practice Materials and Activities to CMS upon request.

(d) The MDPCP Practice, including the MDPCP Practice Site and any other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities on behalf of the MDPCP Practice, shall cease use of any Descriptive MDPCP Practice Materials or Activities no later than five (5) Days after receiving written notice of disapproval from CMS.

(e) The MDPCP Practice shall retain, and shall require the MDPCP Practice Site to retain, copies of all current and historical written and electronic Descriptive MDPCP Practice Materials and Activities and appropriate records for all other Descriptive MDPCP Practice Materials and Activities provided to MDPCP Beneficiaries in a manner consistent with Article 13.2.

4.4 ***Availability of Services***

(a) The MDPCP Practice shall make preventive and medically necessary Covered Services available to all patients in accordance with applicable laws, regulations and guidance, and shall require the MDPCP Practitioners to do the same. Beneficiaries and their assignees retain their right to appeal claims determinations in accordance with 42 C.F.R. § 405, Subpart I.

(b) The MDPCP Practice shall not take any action, and shall prohibit the MDPCP Practitioners from taking any action, to select or avoid treating certain Medicare beneficiaries based on their diagnoses, care needs, dual eligibility status or other factors that would render the MDPCP Beneficiary an 'at risk beneficiary' as defined at 42 C.F.R. § 425.20.

4.5 ***Beneficiary Freedom of Choice***

(a) At all times, MDPCP Beneficiaries attributed to the MDPCP Practice Site pursuant to Article 4.1 remain free to select the providers and suppliers of their choice and will continue to be responsible for all applicable beneficiary cost-sharing, except that the MDPCP Practice and its MDPCP Practitioners may reduce or waive beneficiary cost sharing in compliance with all applicable laws and regulations. MDPCP does not include any restrictions on or changes to Covered Services, nor does CMS permit Eligible Beneficiaries to opt out of attribution to the MDPCP Practice Site for purposes of the MDPCP.

(b) Consistent with section 1802(a) of the Act, neither the MDPCP Practice nor other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities shall commit any act or omission, nor adopt any policy, that inhibits Medicare beneficiaries from exercising their freedom to obtain health services from providers and suppliers who are not the MDPCP Practice, MDPCP Practitioners, or—if applicable—the MDPCP Partner CTO.

(c) Notwithstanding the foregoing, the MDPCP Practice may communicate to Medicare beneficiaries the benefits of receiving care under MDPCP. All such communications shall be deemed Descriptive MDPCP Practice Materials and Activities.

4.6 ***Prohibition on Beneficiary Inducements***

(a) General. Except as otherwise permitted by applicable law and Section 4.6(c), the MDPCP Practice shall not provide gifts or other remuneration, and shall not permit the MDPCP Practitioners or other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities to provide gifts or other remuneration to MDPCP Beneficiaries to induce them to receive or to continue receiving items or services from the MDPCP Practice, its

MDPCP Partner CTO, or a provider or supplier that has an ownership interest in the MDPCP Practice.

(b) Availability of Safe Harbor Protection for Beneficiary Engagement Incentives. CMS has determined that beginning on January 1, 2024, the Federal anti-kickback statute safe harbor for CMS-sponsored Model Patient Incentives (42 C.F.R. § 1001.952(ii)(2)) is available to protect remuneration furnished by the MDPCP Practice, MDPCP Practitioners or other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities to a MDPCP Beneficiary if the remuneration meets all safe harbor requirements set forth in 42 C.F.R. § 1001.952(ii)(2) and the requirements of Section 4.6(c).

(c) Exception for Certain In-Kind Remuneration.

(i) Consistent with the provisions of Sections 4.6(a) and 4.6(b), and subject to compliance with all other applicable laws and regulations, beginning on January 1, 2024, the MDPCP Practice may provide, and may permit its MDPCP Practitioners or other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities to provide, certain in-kind items or services to MDPCP Beneficiaries if the following conditions are satisfied:

(A) The in-kind items or services are preventive care items and services or will advance one or more of the following clinical goals for the MDPCP Beneficiary: adherence to a treatment regimen, adherence to a drug regimen, adherence to a follow-up care plan, or management of care plan.

(B) The in-kind item or service has a reasonable connection to the MDPCP Beneficiary's health care.

(C) The in-kind item or service is not a Medicare-covered item or service for the MDPCP Beneficiary on the date the in-kind item or service is furnished to that Beneficiary.

(D) The in-kind item or service is furnished to an MDPCP Beneficiary directly by the MDPCP Practice, a MDPCP Practitioner, or by an agent of the MDPCP Practice operating under the MDPCP Practice's direction and control.

(ii) For each in-kind item or service provided under this Section 4.6(c), the MDPCP Practice shall maintain and make available to the government upon request and shall require its MDPCP Practitioners to maintain and make available to the government upon request, all materials and records sufficient to establish whether such in-kind item or service was furnished in a manner that meets the conditions of this Section 4.6(c). Such materials

and records must be maintained in accordance with Article XII and include, without limitation, documentation of the following:

(A) The nature of the in-kind item or service;

(B) The identity of each MDPCP Beneficiary that received the in-kind item or service;

(C) The identity of the individual or entity that furnished the in-kind item or service; and

(D) The date the in-kind item or service was furnished.

4.7 *HIPAA Requirements*

In executing this Agreement, the MDPCP Practice asserts:

(a) That the MDPCP Practice either is a covered entity or the business associate of the MDPCP Practitioners as those terms are defined in 45 C.F.R. § 160.103.

(b) That the MDPCP Practice will maintain the privacy and security of all MDPCP-related information that identifies individual beneficiaries in accordance with the Health Insurance Portability and Accountability (HIPAA) Privacy and Security Rules and all relevant HIPAA Privacy and Security guidance applicable to the use and disclosure of PHI by covered entities and their business associates, as well as all other applicable laws and regulations and this Agreement–

Article V - MDPCP Practice Reporting and Certification Requirements

5.1 *General Reporting Requirements*

(a) The MDPCP Practice shall complete and, if applicable, shall ensure that the MDPCP Practice Site completes all reporting required under this Agreement by a time and in a manner specified by CMS. CMS will periodically issue guidance with a list of data that the MDPCP Practice and, if applicable, the MDPCP Practice Site must report to CMS pursuant to the following provisions of the Agreement, as well as the specific dates and manner by which such data must be reported to CMS:

(i) Article III (General MDPCP Practice Requirements);

(ii) Article 5.2 (Certification of Data and Information);

(iii) Article 5.3 (Certifications);

(iv) Article 6.2 (MDPCP Practice Reporting);

(v) Article VII (Quality Reporting Requirements);

(vi) Article 9.1 (General Payment Policies); and

(vii) Article XI (Participation in Evaluation, Learning Network, and MDPCP Practice Site Visits).

(b) CMS will include instructions on how and when the MDPCP Practice or, if applicable, the MDPCP Practice Site may request a reporting deadline extension in the Getting Started with MDPCP Guide. CMS reserves the right to reject an extension request for any reason.

(c) If the MDPCP Practice or, if applicable, the MDPCP Practice Site fails to comply with any reporting deadlines, or fails to report by the last day of an extension approved by CMS in accordance with Article 5.1(b), CMS may take remedial action or terminate this Agreement or the Agreement Performance Period in accordance with Article XIV.

(d) If this Agreement or the Agreement Performance Period is terminated in accordance with Article XIV, the MDPCP Practice shall complete and, if applicable, shall ensure that the MDPCP Practice Site completes all reporting requirements, including the Financial Report requirement in Article 9.1(h), and meet all reporting deadlines for the entire duration of the quarter in which this Agreement or the Agreement Performance Period is terminated, even if such quarter ends after the effective date of termination. The MDPCP Practice is not required to comply with reporting requirements beginning for the quarter following the quarter that includes the effective date of termination of this Agreement or the Agreement Performance Period, as applicable.

(e) The rights and obligations under this section of this Agreement shall survive expiration of this Agreement and shall apply until all reporting requirements described in Article 5.1(a) are complete.

5.2 ***Certification of Data and Information***

With respect to data and information that are submitted to CMS by the MDPCP Practice, or by other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities, the MDPCP Practice shall ensure that an individual with the authority to legally bind the individual or entity submitting such data or information certifies the accuracy, completeness, and truthfulness of the data and information to the best of his or her knowledge, information, and belief. Such certifications are a condition of the MDPCP Practice receiving MDPCP Payments under this Agreement.

5.3 ***Certifications. For Performance***

Years prior to Performance Year 2024, beginning in the second quarter of the first Performance Year of the Agreement Performance Period, an individual with the legal authority to bind the MDPCP Practice must make the following certification at the end of each quarter. For Performance Year 2024 and each subsequent Performance Year, an individual with the legal authority to bind the MDPCP Practice shall certify on at least an annual basis to the best of their knowledge, information, and belief the following:

(a) That the MDPCP Practice, MDPCP Practitioners, and other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities are in compliance with the terms of this Agreement; and

(b) The accuracy, completeness, and truthfulness of all data and information that are submitted by the MDPCP Practice, the MDPCP Practice Site or other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities pursuant to this Agreement, including any quality data, financial reporting, or other information or data relied upon by CMS in determining the MDPCP Practice's eligibility for, and the amount of, MDPCP Payments. This certification is a condition of the MDPCP Practice receiving MDPCP Payments under this Agreement.

Article VI - Care Transformation Requirements

6.1 *General*

(a) During the first and second Performance Years of the Agreement Performance Period, the MDPCP Practice shall require and ensure that its MDPCP Practitioners and staff identified on the Staff Roster implement the applicable Care Transformation Requirements. During the third Performance Year of the Agreement Performance Period and each subsequent Performance Year, the MDPCP Practice shall require and ensure that its MDPCP Practitioners implement the applicable Care Transformation Requirements in accordance with Appendix A.

(b) CMS may collaborate with the State, the MDPCP Practice, other primary care practices and, beginning in 2021, FQHCs participating in the MDPCP to modify the Care Transformation Requirements for future Performance Years. CMS may, at CMS's sole discretion, amend this Agreement without the consent of the MDPCP Practice to update the Care Transformation Requirements in Appendix A to help the State reach its goals and targets under the Maryland Total Cost of Care Model State Agreement. To the extent practicable, CMS shall provide the MDPCP Practice with 60 Days' advance written notice prior to the first day of the Performance Year in which such amendment would take effect.

(c) Each Performance Year, CMS will provide the MDPCP Practice with the Getting Started with MDPCP Guide, which will include additional information regarding the Care Transformation Requirements and other information regarding the MDPCP for the upcoming Performance Year.

(d) The MDPCP Practice shall ensure that a MDPCP Practitioner oversees or directs any work related to the Care Transformation Requirements performed by an individual or entity that is not directly employed by the MDPCP Practice including, if applicable, the members of the Interdisciplinary Care Management Team of an MDPCP Partner CTO.

6.2 *MDPCP Practice Reporting*

Beginning in the second calendar quarter of the first Performance Year of the Agreement Performance Period through the final calendar quarter of the second Performance Year of the Agreement Performance Period, the MDPCP Practice shall submit a quarterly report to CMS regarding the MDPCP Practice Site's progress on implementing the applicable Care Transformation Requirements. During the third Performance Year of the Agreement Performance Period and each subsequent Performance Year, the MDPCP Practice shall submit a biannual report to CMS in a form and manner and by a deadline specified by CMS regarding the MDPCP Practice Site's progress on implementing the applicable Care Transformation Requirements.

Article VII - Quality Reporting Requirements

7.1 *Electronic Clinical Quality Measures ("eCQMs")*

(a) Except as otherwise specified in this Agreement, following each Measurement Period, the MDPCP Practice shall report to CMS a performance rate and the values used to calculate the performance rate for each eCQM in the set of MDPCP eCQM measures listed in Appendix B ("**MDPCP eCQM Set**") using data from all months of the Measurement Period and from only the MDPCP Practice Site as further described in the MDPCP Payment Methodologies Paper defined in Article 9.1(e). The MDPCP Practice is not required to report to CMS the performance rates and values specified in this Article 7.1(a) for the Measurement Period that began on January 1, 2019.

(b) The MDPCP Practice shall report the data described in Article 7.1(a) to CMS via the State's designated HIE, Chesapeake Regional Information System for our Patients ("**CRISP**"), or a similar product from another health information exchange ("**HIE**") that is capable of communicating with CRISP.

7.2 *Determination of MDPCP Practice Site Performance Scores*

(a) In determining the PBIP as described in Article 9.4 and the PBA as described in Article 9.11, CMS assesses the MDPCP Practice Site's performance on the Quality Component, the Utilization Component, and the Efficiency Component during that Performance Year.

(b) CMS calculates the Utilization Component for the MDPCP Practice Site based on an analysis of the two claims-based utilization measures of inpatient admissions and emergency department visits listed in Appendix B for MDPCP Beneficiaries attributed to the MDPCP Practice Site. These measures are available in the Healthcare Effectiveness Data and Information Set ("**HEDIS**"). The Inpatient Admissions measure accounts for 67% of the Utilization Component while the Emergency Department Utilization measure accounts for 33% of the Utilization Component.

(c) CMS calculates the Quality Component for the MDPCP Practice Site based on a weighted average of performance scores across each of the following quality measures as reported by the MDPCP Practice Site:

   (i) The performance rate for each of the eCQMs in the MDPCP eCQM Set reported in accordance with Article 7.1. The weight of the four eCQMs is 70%, each of the eCQMs has an individual weight of 17.5%.

   (ii) The CG-CAHPS survey measures gathered in accordance with Article 7.2. The collective weight of the CG-CAHPS survey measures is 30%.

(iii) Starting in the second Performance Year of the Agreement Performance Period, unless otherwise notified by CMS, if the MDPCP Practice is participating in Track 2 or Track 3 under this Agreement, a PROM reported in accordance with Article 7.4.

(d) The MDPCP Practice Site must report on all eCQMs in the MDPCP eCQM Set to be eligible to receive any portion of the PBIP or the PBA.

(e) If the MDPCP Practice is participating in Track 2 or Track 3 under this Agreement, CMS calculates the Efficiency Component for the MDPCP Practice Site based on the MDPCP Practice Site's performance on the Total per-Capita Cost measure described in Appendix B.

(f) CMS may, in consultation with the State, revise the quality, utilization, and efficiency measures identified in Appendix B without the consent of the MDPCP Practice in order to align with the statewide population health goals under the Maryland Total Cost of Care Model State Agreement or CMS' quality measure strategy. To the extent practicable, CMS will notify the MDPCP Practice regarding any such changes at least thirty (30) Days prior to the Performance Year in which the revised quality, utilization, and efficiency measures take effect.

(g) CMS may share the MDPCP Practice Site's quality, utilization, and efficiency performance data and scores with CTOs and with other primary care practices and FQHCs participating in the MDPCP and may publish aggregate utilization, quality, and efficiency performance data.

7.3 ***CG-CAHPS***

For monitoring and assessment purposes, CMS will administer a Consumer Assessment of Healthcare Providers and Systems Clinician & Group Survey (**"CG-CAHPS"**) to a sample of the MDPCP Practice Site's entire patient population, using a mode and methodology determined by CMS. The MDPCP Practice shall ensure that the MDPCP Practice Site supplies CMS with any information CMS deems necessary for purposes of administering the survey (e.g., a roster of all active patients who receive care through the MDPCP Practice Site and the contact information for such patients). CMS will share the results of the CG-CAHPS survey with the MDPCP Practice Site at a time and in a manner specified by CMS.

7.4 ***Patient Reported Outcome Measures ("PROMs") (Track 2 and Track 3 only)***

(a) CMS will develop PROM instruments to screen for and capture beneficiaries reported clinical outcomes for common medical and social problems, such as depression, problems with physical functioning, social isolation, or pain.

(b) If the MDPCP Practice is participating in Track 2 or Track 3 of MDPCP under this Agreement, the MDPCP Practice shall ensure that the MDPCP Practice Site

administers the PROM instrument developed by CMS to specified beneficiaries, at such times and in such a manner determined by CMS. At CMS's discretion, CMS may also administer the PROM instrument to the MDPCP Beneficiaries and the MDPCP Practice must ensure that the MDPCP Practice Site provides CMS with any information CMS determines is necessary to administer the PROM instrument.

(c) CMS will notify the MDPCP Practice of the PROM no later than thirty (30) Days prior to the Start Date of the Performance Year in which the PROM takes effect.

Article VIII - **Use of Certified Electronic Health Record Technology**

8.1

By no later than the Start Date, the MDPCP Practice must ensure that the MDPCP Practice Site is capable of connecting to the State's designated health information exchange ("**HIE**"), Chesapeake Regional Information System for our Patients ("**CRISP**"), or a similar product from another HIE that is capable of communicating with CRISP. By no later than the Start Date, the MDPCP Practice shall ensure that the MDPCP Practice Site uses certified EHR technology (**"CEHRT"**) as such term is defined for purposes of the Quality Payment Program at 42 CFR § 414.1305, throughout the Agreement Performance Period in a manner sufficient to meet the applicable requirements of 42 CFR § 414.1415(a)(1)(i), including any amendments thereto.

8.2

If the MDPCP Practice has entered into a CTO Arrangement with a MDPCP Partner CTO under the MDPCP, the MDPCP Practice shall ensure that the MDPCP Practice Site offer access to its electronic health records (EHRs) to the MDPCP Partner CTO to ensure that the CTO's Interdisciplinary Care Management Team has real time access to the MDPCP Beneficiaries' medical records.

Article IX - **Payment Policies**

9.1 ***General***

(a) CMS shall make, adjust, settle, and seek repayment of MDPCP Payments in accordance with this Article IX.

(b) The MDPCP Practice shall ensure that all MDPCP Payments made by CMS to the MDPCP Practice under this Agreement are segregated from all other revenues received by the MDPCP Practice, and that all CMF payments, including for Performance Year 2022 and each subsequent Performance Year, the HEART Payment, for Performance Year 2023 and each subsequent Performance Year, PBPs, and, if applicable, CPCPs are used by the MDPCP Practice solely for the purposes described in this Article IX. If CMS determines that the MDPCP Practice has used one or more MDPCP Payments in a manner inconsistent with the terms of this Agreement, CMS may take remedial action or terminate this Agreement or the Agreement Performance Period in accordance with Article XIV.

(c) If the MDPCP Practice bills under a TIN that is also used by physicians and non-physician practitioners who are not MDPCP Practitioners, or if the MDPCP Practice is an ACO participant in the Shared Savings Program, the MDPCP Practice shall ensure that all MDPCP Payments made to the MDPCP Practice by CMS under this Agreement remain segregated from all other revenues received by the MDPCP Practice and that all such MDPCP Payments are used solely for the purposes described in this Agreement. The MDPCP Practice shall document in writing the methodologies and procedures used to segregate and distribute MDPCP Payments, and shall maintain these records in a manner consistent with Article 13.2.

(d) Form CMS-588

(i) The MDPCP Practice shall submit its Electronic Funds Transfer Authorization Agreement (Form CMS-588) to CMS by a time and manner specified by CMS prior to the Start Date. CMS will withhold MDPCP Payments to the MDPCP Practice until the first calendar quarter after the Form CMS-588 submitted by the MDPCP Practice has been processed by CMS.

(ii) The MDPCP Practice shall update its Form CMS-588 if there is a change in the MDPCP Practice's bank account, a Change in Control, a change in the MDPCP Practice's TIN, or a change in the address identified in the recitals to this Agreement.

(iii) If the MDPCP Practice fails to submit a valid Form CMS-588 to CMS and, as a result, CMS has withheld MDPCP Payments for at least one

quarter, CMS may take remedial action or terminate this Agreement or the Agreement Performance Period pursuant to Article XIV.

(e) All methodologies used to calculate MDPCP Payments are described in a paper entitled "MDPCP Payment Methodologies: Beneficiary Attribution Payments and Performance Assessment" ("**MDPCP Payment Methodologies Paper**"), which CMS will make available to the MDPCP Practice. CMS may revise the MDPCP Payment Methodologies Paper for any reason without the MDPCP Practice's consent. To the extent practicable, CMS will provide the MDPCP Practice with thirty (30) Days advance written notice of any such revisions to the MDPCP Payment Methodologies Paper.

(f) The MDPCP Practice shall not bill Medicare, and shall not allow any of its MDPCP Practitioners to bill Medicare for CCM Services furnished to MDPCP Beneficiaries. CMS will not reimburse the MDPCP Practice or any MDPCP Practitioner under the Medicare Physician Fee Schedule for any CCM Services furnished by an MDPCP Practitioner to a MDPCP Beneficiary.

(g) [RESERVED]

(h) For Performance Years prior to Performance Year 2024, no later than 90 Days after the end of each Performance Year, the MDPCP Practice shall submit to CMS a Financial Report for the prior Performance Year. Beginning for Performance Year 2024 and each subsequent Performance Year, the MDPCP Practice shall submit to CMS a Financial Report for the prior Performance Year no later than 120 Days after the end of the relevant Performance Year.

(i) CMS will issue guidance and instructions regarding how to prepare and submit the Financial Report.

(j) The MDPCP Practice shall record and track the use of all CMF payments, including, for Performance Year 2022 and each subsequent Performance Year, the HEART Payment, for Performance Year 2023 and each subsequent Performance Year, PBPs, and, if the MDPCP Practice participates in Track 2 under this Agreement, its CPCPs, as applicable, to ensure the accuracy of each Financial Report submitted by the MDPCP Practice to CMS.

(k) The MDPCP Practice shall retain all documentation used to produce the Financial Report submitted pursuant to this Article 9.1, including documentation of expenditures of, as applicable, CMF payment amounts, including, for Performance Year 2022 and each subsequent Performance Year, the HEART Payment, for Performance Year 2023 and each subsequent Performance Year, PBPs, and, if applicable, CPCPs, in accordance with Article 13.2. Upon request, the MDPCP Practice shall submit such documentation to CMS in a form and manner specified by CMS. All such documentation is subject to audit by CMS pursuant to Article 13.1.

(l) If the MDPCP Practice fails to submit a Financial Report for any Performance Year, CMS may take remedial action in accordance with Article XIV.

(m) CMS will not make any MDPCP Payments for services furnished by the MDPCP Practitioners after the effective date of termination of the Agreement Performance Period.

9.2 *Care Management Fee (CMF)*

(a) General

(i) If the MDPCP Practice is participating in Track 2 under this Agreement, CMS will make CMF payments to the MDPCP Practice on a quarterly basis.

(ii) The CMF payment amount is calculated by CMS in accordance with Article 9.2(c), as more fully described in the MDPCP Payment Methodologies Paper. CMS may amend this Agreement without the consent of the MDPCP Practice to adjust the methodology for calculating the MDPCP Practice's CMF payment amount at CMS' sole discretion to enable the State to meet the savings targets in the Maryland Total Cost of Care Model State Agreement. To the extent practicable, CMS will notify the MDPCP Practice regarding any such adjustment at least 90 Days prior to the quarter in which such adjustment will take effect.

(iii) CMS will not issue the MDPCP Practice an Annual CMF Settlement Report except as otherwise provided in the MDPCP Practice Participation Agreement in effect on January 1, 2019. CMS will issue a Quarterly Payment Adjustment Report in accordance with Article 9.7(a).

(b) Determination of MDPCP Beneficiary Risk

(i) For purposes of calculating the CMF payment amount, there will be five (5) hierarchical condition category (HCC) risk score tiers, as well as a complex risk tier. The 5 HCC risk score tiers for Performance Year 2019 through Performance Year 2021 are defined as follows: the 1st HCC risk score tier is the 1st to 24th percentile of HCC risk scores; the 2nd HCC risk score tier is the 25th to 49th percentile of HCC risk scores; the 3rd HCC risk score tier is the 50th to 74th percentile of HCC risk scores; the 4th HCC risk score tier is 75th to 89th percentile of HCC risk scores; and the complex risk tier includes the 90th to 99th percentiles of HCC risk scores and those MDPCP Beneficiaries (regardless of HCC risk score) with assigned diagnoses of persistent and severe mental illness, substance use disorder, or dementia according to flags within the CMS Chronic Conditions Warehouse, an internal CMS database. Beginning for Performance Year 2022, the 5 HCC risk score tiers are defined as follows:

the 1st HCC risk score tier is the 1st to 24th percentile of HCC risk scores; the 2nd HCC risk score tier is the 25th to 49th percentile of HCC risk scores; the 3rd HCC risk score tier is the 50th to 74th percentile of HCC risk scores; the 4th HCC risk score tier is 75th to 89th percentile of HCC risk scores; and the complex risk tier includes the 90th to 99th percentiles of HCC risk scores and those MDPCP Beneficiaries (regardless of HCC risk score) with an assigned Diagnosis of Dementia according to flags within the CMS Chronic Conditions Warehouse, as internal CMS database.

(ii) CMS determines a MDPCP Beneficiary's HCC risk score based on a measure of individual disease burden as calculated using the CMS HCC community risk adjustment model as further described in the MDPCP Payment Methodologies Paper.

(iii) CMS will calculate the HCC risk scores for MDPCP Beneficiaries on a quarterly basis, using a rolling twelve (12) months of claims data (e.g. 2023 Q1 HCC risk scores for MDPCP Beneficiaries will be based on claims data from 2021Q1 through 2021Q4) as further described in the MDPCP Payment Methodologies Paper.

(iv) CMS will include in the MDPCP Payment Methodologies Paper the detailed HCC risk score calculation and, through Performance Year 2021, the methodology for flagging MDPCP Beneficiaries with persistent and severe mental illness, substance use disorder, or dementia, as applicable. Beginning for Performance Year 2023, CMS will only include in the MDPCP Payment Methodologies Paper the detailed HCC risk score calculation and the methodology for flagging MDPCP Beneficiaries with a Diagnosis of Dementia. CMS will monitor coding practices and HCC risk score changes closely throughout the Agreement Term.

(v) CMS may, at CMS's sole discretion, amend this Agreement without the consent of the MDPCP Practice to modify the assigned diagnosis identified in Article 9.2(b)(i) at any time during the Agreement Term. To the extent practicable, CMS will inform the MDPCP Practice of this modification at least thirty (30) Days prior to the date on which such adjustment takes effect.

(c) CMF Payment Amounts.

(i) The CMF payment amount is calculated as the sum of the per-beneficiary per-month (PBPM) payments described in this Article 9.2(c)(ii) for all of the MDPCP Beneficiaries attributed to the MDPCP Practice Site. The amount of each such PBPM payment depends on the MDPCP Beneficiary's risk score determined in accordance with Article 9.2(b).

Beginning in Performance Year 2022, the CMF payment amount will also include the HEART Payment, as further described in Article 9.7.

(ii) For Performance Years prior to Performance Year 2024, if the MDPCP Practice participated in Track 1 of MDPCP, the PBPM payment was $6 for each MDPCP Beneficiary in the 1st HCC risk tier; $8 for each MDPCP Beneficiary in the 2nd HCC risk tier; $16 for each MDPCP Beneficiary in the 3rd HCC risk tier; $30 for each MDPCP Beneficiary in the 4th HCC risk tier; and $50 for each MDPCP Beneficiary in the complex risk tier.

(iii) If the MDPCP Practice is participating in Track 2 under this Agreement, the PBPM payment shall equal $9 for each MDPCP Beneficiary in the 1st HCC risk tier; $11 for each MDPCP Beneficiary in the 2nd HCC risk tier, $19 for each MDPCP Beneficiary in the 3rd HCC risk tier; $33 for each MDPCP Beneficiary in the 4th HCC risk tier; and $100 for each MDPCP Beneficiary in the complex risk tier.

(iv) The Parties acknowledge that the HEART Payment calculation for the Performance Years preceding Performance Year 2023 is governed by Article 9.2(c)(iv) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect on January 1, 2022.

(d) MDPCP Partner CTO CMF Payment Options

(i) If the MDPCP Practice chooses to enter into a CTO Arrangement with a MDPCP Partner CTO under this Agreement, CMS will pay a percentage of the CMF payment amount that would otherwise be paid to the MDPCP Practice under this Agreement to the MDPCP Partner CTO in accordance with Article 9.2(d).

(ii) CMS will determine the percentage of the MDPCP Practice's CMF payment amount paid by CMS to the MDPCP Partner CTO based on the option for apportioning the CMF payment amount ("**CMF Percentage Payment Option**") that the MDPCP Practice and MDPCP Partner CTO specify in the CTO Arrangement in accordance with Article 3.3(h)(iv)(B). The two CMF Percentage Payment Options include:

(A) *Option 1.* The MDPCP Partner CTO receives 50% of the applicable CMF payment amount described in Article 9.2(c) and the remaining 50% of such CMF payment amount is paid to the MDPCP Practice. Under this option, the MDPCP Partner CTO will provide the MDPCP Practice Site with one or more individuals who are fully dedicated to the care management functions of the MDPCP Practice Site ("**Lead Care Manager**"). During the first Performance Year of the Agreement Performance Period, the MDPCP Partner CTO will provide the MDPCP Practice Site with

at least one Lead Care Manager for every 2,000 MDPCP Beneficiaries. During the first and second Performance Years of the Agreement Performance Period, the MDPCP Partner CTO must support the MDPCP Practice in maintaining at least 5% of its MDPCP Beneficiaries in targeted, proactive, relationship-based care management as reported by the MDPCP Practice in its Quarterly Reporting to CMS. During the third Performance Year of the Agreement Performance Period and each subsequent Performance Year, the MDPCP Partner CTO must support the MDPCP Practice in maintaining resources to provide care management to at least 5% of its MDPCP Beneficiaries as reported by the MDPCP Practice in its Biannual Practice Reporting to CMS.

(B) *Option 2*. The MDPCP Partner CTO receives 30% of the CMF payment amount described in Article 9.2(c) and the remaining 70% of such CMF payment amount is paid to the MDPCP Practice. The MDPCP Partner CTO is not required to deploy a Lead Care Manager to the MDPCP Practice Site under this option. During the first and second Performance Years of the Agreement Performance Period, the MDPCP Partner CTO must support the MDPCP Practice in maintaining at least 5% of its MDPCP Beneficiaries in targeted, proactive, relationship-based care management as reported by the MDPCP Practice in its Quarterly Reporting to CMS. During the third Performance Year of the Agreement Performance Period and each subsequent Performance Year, the MDPCP Partner CTO must support the MDPCP Practice in maintaining resources to provide care management to at least 5% of its MDPCP Beneficiaries as reported by the MDPCP Practice in its Biannual Practice Reporting to CMS.

(e) *Quarterly CMF Adjustments*. If CMS determines that the amount of a CMF payment made to the MDPCP Practice by CMS has been calculated in error, CMS will calculate the difference between the amount of the CMF payment that was paid to the MDPCP Practice and the amount of the CMF payment that should have been paid to the MDPCP Practice. CMS will adjust the amount of the MDPCP Practice's next quarterly CMF payment by the amount of the difference (each adjustment, a "**CMF Adjustment**").

(i) If the amount of the CMF payment actually made to the MDPCP Practice exceeds the correct CMF payment amount, CMS will recoup the excess amount from a subsequent quarterly CMF payment amount in the manner described in the MDPCP Payment Methodologies Paper.

(ii) If the amount of the CMF payment actually made to the MDPCP Practice is less than the correct CMF payment amount, CMS will make an additional CMF payment to the MDPCP Practice during a subsequent calendar quarter in the amount of the payment deficiency in the manner described in the MDPCP Payment Methodologies Paper.

(iii) CMS will notify the MDPCP Practice via the Quarterly Payment and Attribution Report specified in Article 9.7(a) of any CMF overpayments or underpayments made by CMS with respect to MDPCP Beneficiaries who are no longer Eligible Beneficiaries or for whom the MDPCP Practice has inadvertently or mistakenly billed CCM Services.

9.3 *Limitations on Spending the CMF Payment Amounts*

(a) The MDPCP Practice shall use all CMF payment amounts received by the MDPCP Practice from CMS under this Agreement exclusively for performing the applicable Care Transformation Requirements. For Performance Year 2022, the MDPCP Practice shall use the HEART Payment of the CMF exclusively for the Care Transformation Requirements described in Section II of Appendix A. Examples of permitted uses of CMF payment amounts are described in Article 9.3(b) and Article 9.3(e) and examples of prohibited uses of CMF payment amounts are described in Article 9.3(c).

(b) With the exception of the HEART Payment of the CMF, examples of permitted uses of CMF payment amounts received by the MDPCP Practice from CMS include, but are not limited to:

(i) To pay for wages, including associated payroll taxes and benefits, for MDPCP Practitioners and practice staff (e.g., care manager, care coordinator, pre-visit planner, quality/data analyst, pharmacist, or behavioral health clinician) to perform Care Transformation Requirements, as long as the wages and benefit costs are in proportion to the time the staff spend performing the Care Transformation Requirements;

(ii) To pay for care delivery tools (e.g., shared decision making aids, patient survey instruments), including the purchase of licenses to access such tools electronically, related to performing the Care Transformation Requirements; and

(iii) To pay the costs of training MDPCP Practitioners and MDPCP Practice Site staff, including necessary attendance, travel, and accommodations expenses, if such expenses are directly related to performing the Care Transformation Requirements (e.g., attending MDPCP learning network meetings).

(c) Examples of prohibited uses of CMF payment amounts received by the MDPCP Practice from CMS include, but are not limited to:

(i) To pay for the purchase of electronic health record software, including upgrades;

(ii) To pay income tax or to make other tax payments not expressly permitted by the terms of this Agreement;

(iii) To pay for the purchase of imaging equipment or Medicare-covered durable medical equipment;

(iv) To pay for the purchase of drugs, biologicals, or other medications;

(v) To pay for continuing medical education (CME) (if not directly related to the MDPCP);

(vi) To pay for personnel or other costs directly related to the MDPCP Practice or MDPCP Practice Site billing or coding;

(vii) To pay for office space, supplies, or decorations; and

(viii) To make payments to MDPCP Practitioners and other MDPCP Practice Site staff for purposes other than supporting work directly related to the Care Transformation Requirements.

(d) The MDPCP Practice shall have methodologies and procedures for tracking and clearly documenting that the MDPCP Practice's use of CMF payment amounts received from CMS is for the purposes permitted under this Article 9.3.

(e) For Performance Year 2022, examples of permitted uses of the HEART Payment for those MDPCP Beneficiaries that meet the criteria in Article 9.2(c)(iv) include, but are not limited to:

(i) To pay for services that address financial sustainability, language barriers, and social determinants of health such as housing, food, transportation, education, and employment;

(ii) To pay for care transformation, behavioral health, telehealth, remote patient management technology, chronic disease management and prevention services;

(iii) To pay for services intended to promote maternal and infant health;

(iv) To pay for the collection and/or analysis of demographic and quality data that will inform and direct services that address the needs of its underserved populations.

9.4 *Performance-Based Incentive Payment (PBIP)*

(a) General

(i) If the MDPCP Practice is participating in Track 2 under this Agreement, no later than March 31 of each Performance Year, CMS will pay the MDPCP Practice a PBIP for the Performance Year, which shall be calculated in accordance with Article 9.4(b) and as further described in the MDPCP Payment Methodologies Paper.

(ii) Except as otherwise specified in this Agreement, CMS will issue the MDPCP Practice a PBIP financial settlement report for each Performance Year in accordance with Article 9.12(b) ("**Annual PBIP Settlement Report**"). The Annual PBIP Settlement Report will be issued after the end of each Performance Year and will identify the amount, if any, of the PBIP received by the MDPCP Practice from CMS under this Agreement for the relevant Performance Year that must be repaid to CMS as Other Monies Owed in accordance with Article 9.12. CMS will not issue the MDPCP Practice an Annual PBIP Settlement Report for the PBIP paid to the MDPCP Practice for the first Performance Year of the Agreement Performance Period or require the MDPCP Practice to repay to CMS any portion of such PBIP as Other Monies Owed.

(iii) The MDPCP Practice shall not receive a PBIP from CMS under this Agreement if the MDPCP Practice is participating in the Shared Savings Program for any portion of the Performance Year.

(b) PBIP Calculation

(i) In advance of each Performance Year, CMS will calculate the MDPCP Practice's PBIP for the Performance Year. For Performance Years prior to Performance Year 2024, except as otherwise specified in this section, if the MDPCP Practice participated in Track 1, the MDPCP Practice's PBIP was composed of a PBIP for quality (**"PBIP-Q"**) and a PBIP for utilization (**"PBIP-U"**). If the MDPCP Practice is participating in Track 2, the MDPCP Practice's PBIP will be composed of the PBIP-Q, PBIP-U, and, beginning for Performance Year 2022, a PBIP for efficiency (**"PBIP-E"**). The PBIP-Q, PBIP-U, and PBIP-E will be calculated based on the number of MDPCP Beneficiaries attributed to the MDPCP Practice Site.

(ii) For Performance Years prior to Performance Year 2024, if the MDPCP Practice participated in Track 1 of MDPCP, the PBIP-Q was $1.25 PBPM and the PBIP-U shall be $1.25 PBPM, for a total PBIP amount of $2.50 PBPM.

(iii) For Performance Year 2021, if the MDPCP Practice participated in Track 2 of the MDPCP, the PBIP-Q was $2 PBPM and the PBIP-U was $2 PBPM, for a total PBIP amount of $4 PBPM. For Performance Year 2022 and Performance Year 2023, if the MDPCP Practice participated in Track 2 of MDPCP the PBIP-Q was $2 PBPM, the PBIP-U was $1

PBPM, and the PBIP-E was $1, for a total PBIP amount of $4 PBPM. Beginning for Performance Year 2024 and for each subsequent Performance Year, if the MDPCP Practice is participating in Track 2 of the MDPCP under this Agreement, the PBIP-Q shall be $2 PBPM, the PBIP-U shall be $1.33 PBPM, and the PBIP-E shall be $0.67, for a total PBIP amount of $4 PBPM.

(iv) CMS may adjust the PBIP-Q, PBIP-U, and, beginning for Performance Year 2022 if the MDPCP Practice is participating in Track 2 under this Agreement, the PBIP-E, payment amounts at CMS' sole discretion to enable the State to meet the savings targets in the State Agreement. To the extent practicable, CMS will notify the MDPCP Practice regarding any such adjustment at least thirty (30) Days prior to the date on which such adjustment takes effect.

(c) Determination of MDPCP Practice Site Performance Scores

(i) In determining the portion of the PBIP payment amount, if any, that the MDPCP Practice must repay to CMS for a Performance Year, with the exception of the first Performance Year of the Agreement Performance Period, CMS assesses, in accordance with Article 7.2, the MDPCP Practice Site's performance on the Quality Component, the Utilization Component, and, beginning for Performance Year 2022 if the MDPCP Practice is participating in Track 2 under this Agreement, the Efficiency Component, during that Performance Year.

(ii) The Parties acknowledge that the determination of MDPCP Practice Site performance scores for the Performance Years preceding Performance Year 2023 is governed by Article 9.4(c)(ii) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect on January 1, 2022.

(iii) The Parties acknowledge that the determination of MDPCP Practice Site performance scores for the Performance Years preceding Performance Year 2023 is governed by Article 9.4(c)(iii) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect on January 1, 2022.

(iv) The Parties acknowledge that the determination of MDPCP Practice Site performance scores for the Performance Years preceding Performance Year 2023 is governed by Article 9.4(c)(iv) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect on January 1, 2022.

(v) The Parties acknowledge that the determination of MDPCP Practice Site performance scores for the Performance Years preceding Performance Year 2023 is governed by Article 9.4(c)(v) of the Third Amended and

Restated MDPCP Practice Participation Agreement that was in effect on January 1, 2022.

(vi) The Parties acknowledge that the determination of MDPCP Practice Site performance scores for the Performance Years preceding Performance Year 2023 is governed by Article 9.4(c)(vi) of the Third Amended and Restated MDPCP Practice Participation Agreement that was in effect on January 1, 2022.

9.5 ***CPCPs and Reduced FFS Payments***

(a) General

(i) For Performance Years prior to Performance Year 2024, if the MDPCP Practice participated in Track 1of MDPCP, the Medicare FFS payments for Primary Care Services furnished to MDPCP Beneficiaries by MDPCP Practitioners remained unchanged and was paid under the Medicare Physician Fee Schedule.

(ii) If the MDPCP Practice is participating in Track 2 under this Agreement, CMS will make a CPCP payment to the MDPCP Practice under this Agreement for each calendar quarter of the Agreement Performance Period during which the MDPCP Practice is participating in Track 2. CMS calculates the amount of the CPCP in accordance with Article 9.5(c). The purpose of the CPCP is to fund the provision of Primary Care Services, inclusive of office/outpatient visit evaluation and management (E&M) and prolonged service with direct patient contact, by MDPCP Practitioners to MDPCP Beneficiaries in a manner that does not require MDPCP Beneficiaries to visit the MDPCP Practice Site.

(iii) CMS may, at CMS's sole discretion, amend this Agreement without the consent of the MDPCP Practice to adjust the methodology for calculating the CPCP payment amount to enable the State to meet the savings targets in the Maryland Total Cost of Care Model State Agreement. To the extent practicable, CMS will notify the MDPCP Practice regarding any such adjustment at least 60 Days prior to the date on which such adjustment takes effect.

(iv) For each quarter that CMS makes a CPCP payment to the MDPCP Practice under this Agreement, CMS will make Reduced FFS Payments for select Primary Care Services furnished by MDPCP Practitioners to MDPCP Beneficiaries in accordance with the CPCP Percentage elected by the MDPCP Practice in accordance with Article 9.6(b) and billed under the MDPCP Practice's TIN, as further described in the MDPCP Payment Methodologies Paper defined in Article 9.1(e).

(v) CMS will not issue the MDPCP Practice an Annual CPCP Settlement Report as otherwise provided in the original MDPCP Practice Participation Agreement. CMS will issue a Quarterly Payment and Attribution Report in accordance with Article 9.7(a).

(b) Determination of CPCP Percentage

(i) [Reserved]

(ii) For all subsequent Performance Years, the MDPCP Practice is participating in Track 2 under this Agreement, the MDPCP Practice shall make its CPCP Percentage selection through the MDPCP Portal by a time and in a manner specified by CMS. Beginning in Performance Year 2023, subject to the requirements of Article 9.6(b)(iii), the MDPCP Practice shall select its CPCP Percentage from among the following options:

(A) For its first Performance Year participating in Track 2: 25%, 40%, or 65% CPCP Percentage; and

(B) For each subsequent Performance Year participating in Track 2: 40% or 65% CPCP Percentage.

(iii) If the MDPCP Practice's CPCP Percentage for a Performance Year prior to Performance Year 2023 is either 10% or 25%, the MDPCP Practice shall increase its CPCP Percentage for each subsequent Performance Year until its CPCP Percentage is at least 40%. Beginning for Performance Year 2023, if the MDPCP Practice's CPCP Percentage for Performance Year is 25%, the MDPCP Practice shall increase its CPCP Percentage for each subsequent Performance Year until its CPCP Percentage is at least 40%.

(c) CPCP Payment Amount

(i) The amount of the CPCP payment is calculated by first determining the average monthly Medicare FFS payments for Primary Care Services furnished by the MDPCP Practitioners to Eligible Beneficiaries who received one or more Primary Care Services during a historical reference period, increased by ten (10) percent to account for the increased depth and breadth of care that the MDPCP Practice Site is expected to deliver when the MDPCP Practice is participating in Track 2 under this Agreement.

(ii) The amount determined in accordance with Article 9.6(c)(i) is then multiplied by the CPCP Percentage selected by the MDPCP Practice for the Performance Year in accordance with Article 9.5(b).

(iii) CMS shall partially reconcile the CPCP on an annual basis. If CMS determines significant variation between expected E&M Services

furnished outside of the MDPCP Practice and actual E&M Services furnished outside of the MDPCP Practice, as detailed in the MDPCP Payment Methodologies Paper, CMS shall reconcile the difference by adjusting subsequent payments to the MDPCP Practice accordingly. Additionally, if CMS determines during a Performance Year that the amount of a CPCP payment made to the MDPCP Practice by CMS during that Performance Year has been calculated in error, CMS will calculate the difference between the amount of the CPCP payment that was paid to the MDPCP Practice and the amount of the CPCP payment that should have been paid to the MDPCP Practice. CMS will adjust the amount of the MDPCP Practice's next quarterly CPCP payment made to the MDPCP Practice during the Performance Year by the amount of the difference (each adjustment, a "**CPCP Adjustment**"). Any such CPCP Adjustments will be specified in the Quarterly Payment and Attribution Report specified in Article 9.12(a).

(d) Reduced FFS Payment Amounts

(i) To calculate the Reduced FFS Payment amount, CMS will multiply the amount billed under the Medicare Physician Fee Schedule for Primary Care Services furnished by MDPCP Practitioners to MDPCP Beneficiaries during the Performance Year by an FFS Reduction Factor that shall equal:

(A) 90% if the MDPCP Practice selects a 10% CPCP during any Performance Year prior to the start of Performance Year 2023;

(B) 75% if the MDPCP Practice selects a 25% CPCP;

(C) 60% if the MDPCP Practice selects a 40% CPCP; or

(D) 35% if the MDPCP Practice selects a 65% CPCP.

9.6 *Limitations on Spending CPCP Payments*

(a) The MDPCP Practice shall use the CPCP payment amounts received from CMS, if any, exclusively to fund the provision of Primary Care Services by MDPCP Practitioners to MDPCP Beneficiaries, including but not limited to such services furnished via telehealth, including asynchronous store and forward technologies (as defined in 42 CFR § 410.78(a)(1)), and other services performed outside of the address identified in the recitals to this Agreement in a manner that does not require the MDPCP Beneficiary to visit that physical location.

(b) If the MDPCP Practice participates in Track 2 under this Agreement, the MDPCP Practice shall have methodologies and procedures for tracking and clearly documenting that the MDPCP Practice's use of CPCPs received from CMS is for the purposes permitted under Article 9.6(a).

9.7 *HEART Payment*

(a) General

(i) If the MDPCP Practice participates in Track 2 under this Agreement, the HEART Payment is a component of the CMF payment made to the MDPCP Practice.

(ii) Beginning in Performance Year 2023, if the MDPCP Practice participates in Track 3 under this Agreement, the HEART Payment is a separate payment made to the MDPCP Practice on a quarterly basis.

(iii) The MDPCP Practice shall have methodologies and procedures for tracking and clearly documenting that the MDPCP Practice's use of HEART Payments received from CMS is for the purposes permitted under this Article 9.

(iv) For purposes of determining the HEART Payment, CMS will determine the ADI for each beneficiary attributed to a primary care practice or FQHC participating in the MDPCP who is in either the 4th risk score tier or the complex risk tier as defined in Article 9.2(b)(i). CMS will then divide all such beneficiaries into quintiles.

(b) Determination of ADI Score and Quintile for an MDPCP Beneficiary

(i) CMS determines the ADI score for each MDPCP Beneficiary on a quarterly basis. For Performance Year 2022 and Performance Year 2023, an MDPCP Beneficiary's ADI score is based on the MDPCP Beneficiary's zip code of residence as of four months prior to the start of that quarter. For Performance Year 2024 and each subsequent Performance Year, an MDPCP Beneficiary's ADI score is based on the MDPCP Beneficiary's zip code of residence as of three months prior to the start of that quarter.

(ii) CMS uses the ADI scores for all MDPCP Beneficiaries to separate the MDPCP Beneficiaries by ADI quintile. CMS calculates the distribution of MDPCP Beneficiaries in each quintile as further described in the MDPCP Payment Methodology Paper.

(iii) CMS assigns each MDPCP Beneficiary to one of 5 ADI quintiles for each quarter.

(iv) The ADI quintiles are defined as follows: the 1st quintile is Low Deprivation; the 2nd quintile is Low-Moderate Deprivation; the 3rd quintile is Moderate Deprivation; the 4th quintile is Moderate-High Deprivation; and the 5th quintile is High Deprivation.

(c) HEART Payment Amount

(i) For Performance Year 2022 and Performance Year 2023, the HEART Payment shall equal $110, multiplied by the total number of MDPCP Beneficiaries who both:

(A) are in either the 4th HCC risk tier or the complex risk tier as defined in Article 9.2(b)(i); and

(B) fall within the High Deprivation quintile established by CMS as described in Article 9.7(b)(iv).

(ii) Beginning for Performance Year 2024 and each subsequent Performance Year, the HEART Payment shall equal $110, multiplied by the total number of MDPCP Beneficiaries identified in the first quarter of each Performance Year who both:

(A) are in either the 4th HCC risk tier or the complex risk tier as defined in Article 9.2(b)(i); and

(B) fall within the High Deprivation quintile established by CMS as described in Article 9.7(b)(iv).

(d) Limitations on HEART Payments

(i) Beginning in Performance Year 2023, if the MDPCP Practice receives the HEART Payment, the MDPCP Practice shall provide enhanced care transformation services to improve outcomes and address the relatively high cost of care for MDPCP Beneficiaries in the 4th HCC risk score tier or the complex risk tier and who fall within the High Deprivation ADI-quintile, for example by implementing care management strategies that may be described in CMS guidance.

(ii) Examples of prohibited uses of the HEART Payment include, but are not limited to:

(A) To pay income tax or to make other tax payments not expressly permitted by the terms of this Agreement;

(B) To pay for the purchase of imaging equipment or Medicare-covered durable medical equipment;

(C) To pay for the purchase of drugs, biologicals, or other medications;

(D) To pay for continuing medical education (CME) (if not directly related to the MDPCP);

(E) To pay for personnel or other costs directly related to the MDPCP Practice or MDPCP Practice Site billing or coding;

(F) To pay for office space, supplies, or decorations; and

(G) Beginning in Performance Year 2023, to make payments to MDPCP Practitioners and other MDPCP Practice Site staff for purposes other than supporting work directly related to enhanced care transformation services.

9.8 *Total Primary Care Payment (TPCP)*

(a) Beginning in Performance Year 2023, if the MDPCP Practice is participating in Track 3 under this Agreement, CMS will pay TPCPs to the MDPCP Practice.

(b) The TPCP consists of the FVF for SPCS as described in Article 9.9, and a quarterly PBP as described in Article 9.10. The TPCP is subject to a PBA as described in Article 9.11.

(c) The TPCP is subject to Medicare sequestration, if sequestration is in effect for the quarter in which the TPCP is made to the MDPCP Practice, and to the Merit-based Incentive Payment System ("MIPS") adjustment, which will be applied as described in the MDPCP Payment Methodologies Paper and in accordance with applicable laws and regulations.

(d) CMS may amend this Agreement without the consent of the MDPCP Practice to adjust the methodology for calculating the MDPCP Practice's TPCP amount at CMS' sole discretion to enable the State to meet the savings targets in the Maryland Total Cost of Care Model State Agreement. To the extent practicable, CMS will notify the MDPCP Practice regarding any such adjustment at least 90 Days prior to the quarter in which such adjustment will take effect.

9.9 *Flat Visit Fee*

(a) General

(i) Beginning in Performance Year 2023, if the MDPCP Practice is participating in Track 3 under this Agreement, CMS will pay an FVF to the MDPCP Practice for SPCS.

(ii) CMS may adjust the FVF during the Agreement Performance Period for reasons including but not limited to adjustments to reflect updates to relevant Physician Fee Schedule payment rates for SPCS and HCPCS coding changes.

(iii) CMS will include in the MDPCP Payment Methodologies Paper the FVF payment amounts for Performance Year 2023 and subsequent Performance Years, as applicable.

(b) FVF Calculation

(i) For Performance Year 2023, CMS will use FFS expenditure data from July 1, 2021 through June 30, 2022 to calculate the FVF for Performance

Year 2023. For Performance Year 2024, CMS will use FFS expenditure data from July 1, 2022 through June 30, 2023 to calculate the FVF for Performance Year 2024. CMS will use this FFS expenditure data to determine all MDPCP Participants' billing frequency of SPCS claims.

(ii) For Performance Year 2023, CMS applies the PFS payment rates for Performance Year 2023 to the frequency of SPCS claims from July 1, 2021 through June 30, 2022 to calculate weighted average payment amount for SPCS codes. For Performance Year 2024, CMS applies the PFS payment rates for Performance Year 2024 to the frequency of SPCS claims from July 1, 2022 through June 30, 2023 to calculate weighted average payment amount for SPCS codes.

(iii) The weighted average payment amount for SPCS codes is multiplied by approximately 73.5%. This calculation removes the MDPCP Beneficiaries' deductible and coinsurance.

(iv) The amount determined in accordance with Article 9.7(b)(iii) is then multiplied by 60% to determine the FVF for SPCS.

(c) CMS will calculate a separate FVF for SPCS performed in a facility setting and a non-facility setting to reflect different PFS rates for SPCS and different billing frequencies of SPCS, as further described in the MDPCP Payment Methodologies Paper.

(d) CMS will geographically adjust the FVF to standardize payments to MDPCP Participants across geographic regions of Maryland. Each submitted Medicare claim for SPCS will be subject to the same geographic adjustment factor applicable to the MDPCP Practice Site, as further described in the MDPCP Payment Methodologies Paper.

(e) CMS will adjust the FVF to account for any earned Merit-Based Incentive Payment System adjustments during the Performance Year.

9.10 ***Population Based Payment (PBP)***

(a) General

(i) Beginning in Performance Year 2023, if the MDPCP Practice is participating in Track 3 under this Agreement, CMS will make PBPs to the MDPCP Practice or, if applicable, to the MDPCP Partner CTO, on a quarterly basis.

(ii) If the MDPCP Practice is participating in Track 3 under this Agreement, CMS will assign the MDPCP Practice to a Practice Risk Tier on a quarterly basis.

(iii) For purposes of calculating the PBP, CMS will calculate the base PBP amount in accordance with Article 9.10(c) for each Practice Risk tier.

(iv) CMS will calculate a separate base PBP amount for SPCS performed in a facility setting and a non-facility setting to reflect different PFS rates for SPCS and different billing frequencies of SPCS, as further described in the MDPCP Payment Methodologies Paper.

(v) CMS may amend this Agreement without the consent of the MDPCP Practice to adjust the methodology for calculating the MDPCP Practice's PBP at CMS' sole discretion to enable the State to meet the savings targets in the Maryland Total Cost of Care Model State Agreement. To the extent practicable, CMS will notify the MDPCP Practice regarding any such adjustment at least ninety (90) Days prior to the quarter in which such adjustment will take effect.

(b) Practice Risk Tiers

(i) CMS will calculate the average HCC risk score of the MDPCP Beneficiaries attributed to the MDPCP Practice on a quarterly basis. CMS will use that average HCC risk score to assign the MCPCP Practice a Practice Risk Tier.

(ii) CMS will establish five (5) Practice Risk Tiers based on the average HCC risk scores for all MDPCP Participants in Track 3. After ordering the MDPCP Participants in Track 3 from lowest to highest average HCC risk score, CMS will create percentiles that correlate to the HCC risk scores in order to establish the Practice Risk Tiers. The percentile cut of points for each Practice Risk Tier are 0 to less than 40 percent; 40 percent to less than 60 percent; 60 percent to less than 80 percent; and 80 percent to less than 90 percent and 90 percent to 100 percent, with 0 being the lowest and 100 percent being the highest average HCC risk scores, as described in greater detail in the MDPCP Methodologies Paper.

(iii) CMS will notify the MDPCP Practice of its Practice Risk Tier in a manner and form determined by CMS in the beginning of the quarter to which Practice Risk Tier applies.

(iv) CMS may adjust the HCC risk score calculation, including as discussed in Article 9.2(b)(4), during the Agreement Term to account for significant, unexpected, or irregular changes in coding as further described in the MDPCP Payment Methodologies Paper. CMS will notify the MDPCP Practice in a manner and form determined by CMS prior to relevant quarter of the calendar year.

(c) PBP Calculation

(i) For purposes of calculating the PBP, CMS will calculate the base PBP amount for each Practice Risk Tier, in accordance with Article 9.10(c)(ii).

(ii) Base PBP amount

(A) The base PBP amount is calculated by multiplying the amount determined in accordance with Article 9.9(b)(iii) by 40%, and then multiplying that number by 110%.

(B) The amount determined in accordance with Article 9.10.(c)(ii)(A) is then added to the CMF payment amount determined in accordance with Article 9.2(c)(iii), as if the MDPCP Practice is participating in Track 2 under this Agreement;

(C) The amount determined in accordance with Article 9.10.(c)(ii)(B) is then added to the PBIP determined in accordance with Article 9.4(b)(iii), as if the MDPCP Practice is participating in Track 2 under this Agreement.

(D) CMS will divide the amount determined in accordance with Article 9.10(c)(ii)(C) by the total MDPCP Beneficiary months to get a base PBP amount. For Performance Year 2023, CMS will determine the total MDPCP Beneficiary months by calculating the total number of months an MDPCP Beneficiary attributed to any MDPCP Participant is observed in Medicare FFS expenditure data from July 1, 2021 through June 30, 2022. For Performance Year 2024, CMS will determine the total MDPCP Beneficiary months by calculating the total number of months an MDPCP Beneficiary attributed to any MDPCP Participant is observed in Medicare FFS expenditure data from July 1, 2022 through June 30, 2023.

(E) CMS will include in the MDPCP Payment Methodologies Paper the base PBP amounts for Performance Year 2023 and subsequent Performance Years, as applicable.

(d) MDPCP Partner CTO PBP and HEART Payment Options

(i) If the MDPCP Practice participates in Track 3 under this Agreement and chooses to enter into a CTO Arrangement with an MDPCP Partner CTO under this Agreement, CMS will make a portion of the PBP and HEART Payment directly to the MDPCP Partner CTO and will reduce the PBPs and HEART Payment to the MDPCP Practice by a corresponding amount in accordance with Article 9.10(d)(ii).

(ii) CMS will determine the percentage of the MDPCP Practice's PBP and HEART Payment paid by CMS to the MDPCP Partner CTO based on the option for apportioning the PBP and HEART Payment ("**PBP and HEART Payment Percentage Payment Option**") that the MDPCP

Practice and MDPCP Partner CTO specify in the CTO Arrangement in accordance with Article 3.3(h)(iv)(B). The two PBP and HEART Payment Percentage Payment Options include:

(A) *Option 1*. The MDPCP Partner CTO receives 40% of the applicable PBP described in Article 9.10 and 40% of the HEART Payment described in Article 9.7, and the remaining 60% of such PBP and HEART Payment is paid to the MDPCP Practice. Under this option, the MDPCP Partner CTO will provide the MDPCP Practice Site with one or more Lead Care Managers. The MDPCP Partner CTO must support the MDPCP Practice in maintaining resources to provide care management to at least 5% of its MDPCP Beneficiaries as reported by the MDPCP Practice in its Biannual Practice Reporting to CMS.

(B) *Option 2*. The MDPCP Partner CTO receives 24% of the applicable PBP described in Article 9.10 and 24% the HEART Payment described in Article 9.7, and the remaining 76% of each PBP and HEART Payment is paid to the MDPCP Practice. The MDPCP Partner CTO is not required to deploy a Lead Care Manager to the MDPCP Practice Site under this option. The MDPCP Partner CTO must support the MDPCP Practice in maintaining resources to provide care management to at least 5% of its MDPCP Beneficiaries as reported by the MDPCP Practice in its Biannual Practice Reporting to CMS.

(e) PBP Adjustments

(i) CMS may adjust the base PBP amount during the Performance Year to reflect updates to relevant PFS payment rates for SPCS.

(ii) CMS will make additional adjustments to the PBP during the Performance Year, as further described in the MDPCP Payment Methodologies Paper.

(A) CMS will geographically adjust the Medicare claims-based portion of the PBP to account for cost variation in Maryland by applying the geographic adjustment factor to the base PBP amount, as further described in the MDPCP Payment Methodologies Paper.

(B) CMS will notify the MDPCP Practice via the Quarterly Payment and Attribution Report specified in Article 9.12(a)(ii) of any PBP overpayments or underpayments made by CMS with respect to MDPCP Beneficiaries who are no longer Eligible Beneficiaries.

(iii) CMS will perform a retrospective reconciliation at the end of each calendar quarter to calculate amounts from prior PBPs that must be repaid

to CMS by the MDPCP Practice or, if applicable, the MDPCP Partner CTO, as further described in the MDPCP Methodologies Paper.

(iv) The PBP adjustments described in Article 9.10(e), and as described in the MDPCP Payment Methodologies Paper, will be described in the Quarterly Payment and Attribution Report provided to the MDPCP Practice as described in Article 9.12(a)(ii).

9.11 *Performance Based Adjustment (PBA)*

(a) General

(i) If the MDPCP Practice, and if applicable its MDPCP Partner CTO, is participating in Track 3 under this Agreement, CMS will calculate the PBA on a biannual basis. CMS will apply the first biannual PBA to the TPCP staring in the fourth quarter of PY 2024 through the end of first quarter of PY 2025, and CMS will apply the second biannual PBA to the TPCP staring in the second quarter of PY 2025 through the end of third quarter of PY 2025, as further described in the MDPCP Methodologies Paper.

(ii) CMS will calculate the PBA by the comparing the MDPCP Practice Site's overall performance on Quality, Utilization, and Efficiency Measure Sets against both relative and absolute performance thresholds, whereby minimum and maximum thresholds are determined from a benchmark population, as further described in the MDPCP Payment Methodologies Paper.

(iii) Beginning in the fourth quarter of Performance Year 2024, CMS will issue the MDPCP Practice a PBA Performance Report twice during each Performance Year (" **PBA Performance Report**"). The PBA Performance Report will identify the MDPCP Practice's PBA, if any. The PBA Performance Report will identify the amount CMS will withhold from the MDPCP Practice, and, if applicable, the MDPCP Partner CTO or the amount CMS must pay the MDPCP Practice, and, if applicable, the MDPCP Partner CTO.

(iv) CMS will withhold the amount described in the PBA Performance Report from the MDPCP Practice's and, if applicable, MDPCP Partner CTO's future PBPs, or add the amount described in the PBA Performance Report to future PBPs paid to the MDPCP Practice and, if applicable, the MDPCP Partner CTO.

(b) Performance Scores

(i) For purposes of determining the MDPCP Practice's overall performance score, CMS will use the MDPCP Practice Site's performance on the

Quality Component, the Utilization Component, and the Efficiency Component Measure Sets in Appendix B, in accordance with Article 7.2.

(ii) For purposes of calculating the MDPCP Practice's first biannual PBA, CMS will use following time frames:

(A) For the Utilization Component and the Efficiency Component Measure Sets, CMS will use Medicare claims data from Q2 of 2023 to Q1 of 2024.

(B) For the MDPCP eCQM Set and CAHPS, CMS will use data from Q1 of 2023 to Q4 of 2023.

(iii) For purposes of calculating the MDPCP Practice's second biannual PBA, CMS will use following time frames:

(A) For the Utilization Component and the Efficiency Component Measure Sets, CMS will use Medicare claims data from Q4 of 2023 to Q3 of 2024.

(B) For the MDPCP eCQM Set and CAHPS, CMS will use data from Q1 of 2023 to Q4 of 2023.

(c) PBA Adjustment Framework

(i) CMS will apply a negative 10% PBA to the TPCP if the MDPCP Practice's performance on the Quality, Utilization, and Efficiency Measure Sets falls into the benchmark range of the 0-9th percentile.

(ii) CMS will apply a negative 5% PBA to the TPCP if the MDPCP Practice's performance on the Quality, Utilization, and Efficiency Measure Sets falls into the benchmark range of the 10-39th percentile.

(iii) CMS will apply a 0% PBA to the TPCP if the MDPCP Practice's performance on the Quality, Utilization, and Efficiency Measure Sets falls into the benchmark range of the 40-74th percentile.

(iv) CMS will apply a positive 5% PBA to the TPCP if the MDPCP Practice's performance on the Quality, Utilization, and Efficiency Measure Sets falls into the benchmark range of the 75-89th percentile.

(v) CMS will apply a positive 10% PBA to the TPCP if the MDPCP Practice's performance on the Quality, Utilization, and Efficiency Measure Sets falls into the benchmark range of the 90-94th percentile.

(vi) CMS will apply a positive 25% PBA to the TPCP if the MDPCP Practice's performance on the Quality, Utilization, and Efficiency Measure Sets falls into the benchmark range of the 95-99th percentile.

9.12 *Financial Settlement*

(a) Quarterly Payment and Attribution Report

(i) If the MDPCP Practice is participating in Track 1 or Track 2 under this Agreement, during the second quarter of the first Performance Year of the Agreement Performance Period and during each subsequent quarter, CMS will issue a Quarterly Payment and Attribution Report to the MDPCP Practice regarding the quarters' CMF and, if applicable, CPCP payments. The Quarterly Payment and Attribution Report will identify, for the relevant quarter of the Performance Year, the amount of any CMF Adjustment and the amount of any CPCP Adjustment.

(ii) For Performance Years prior to Performance Year 2024, if the MDPCP Practice is participating in Track 3 under this Agreement, beginning the second quarter of the fifth Performance Year of the Agreement Performance Period and during each subsequent quarter, CMS will issue a Quarterly Payment and Attribution Report regarding the quarters' PBP, including the amount of any adjustments to the PBP as discussed in Article 9.10(e) and Article 9.11(a)(iv) and including the amount of any adjustments to the FVF, for the relevant quarter of the Performance Year. Beginning in Performance Year 2024, and each subsequent Performance Year, if the MDPCP Practice is participating in Track 3 under this Agreement, CMS will issue a Quarterly Payment and Attribution Report regarding the quarters' PBP, including the amount of any adjustments to the PBP as discussed in Article 9.10(e) and Article 9.11(a)(iv) and including the amount of any adjustments to the FVF, for the relevant quarter of the Performance Year. The Quarterly Payment and Attribution Report will identify the HEART Payments provided to the MDPCP Practice.

(iii) The Quarterly Payment and Attribution Report is deemed final 10 Days after it is issued unless the MDPCP Practice submits a Timely Error Notice in accordance with Article 9.12(d)

(b) Annual PBIP Settlement Report

(i) The Annual PBIP Settlement Report will identify, for the relevant Performance Year, the amount of the MDPCP Practice's PBIP payment that must be repaid to CMS, determined in accordance with Article 9.4(c). If the MDPCP Practice fails to report the information specified in Article 7.2(c) in accordance with Article VII, the Annual PBIP Settlement Report will specify that the full PBIP amount for the applicable Performance Year must be repaid to CMS. The amount identified in the Annual PBIP Settlement Report shall be Other Monies Owed and must be repaid to CMS by the MDPCP Practice in accordance with Article 9.12(d).

(ii) The Annual PBIP Settlement Report is deemed final 31 Days after it is issued unless the MDPCP Practice submits a Timely Error Notice in accordance with Article 9.12(d).

(c) PBA Performance Report

(i) The PBA Performance Report will identify the MDPCP Practice's PBA, if any, for the next 6 months. CMS will withhold the amount identified in the PBA Performance Report from future PBPs to account for a negative adjustment or CMS will add the amount identified in the PBA Performance Report to future PBPs to account for a positive adjustment.

(ii) The PBA Performance Report is deemed final 31 Days after it is issued unless the MDPCP Practice submits a Timely Error Notice in accordance with Article 9.12(e).

(d) Final Financial Settlement Report (Early Termination Only)

(i) Upon the termination of this Agreement or the Agreement Performance Period pursuant to Article XIV, CMS will issue a settlement report to the MDPCP Practice setting forth the amounts owed by or to the MDPCP Practice under this Agreement for the final Performance Year ("**Final Financial Settlement Report**").

(ii) If the MDPCP Practice is participating in Track 2 under this Agreement, the Final Financial Settlement Report will set forth the following amounts, all of which shall be Other Monies Owed:

(A) The entire amount of the prospective PBIP paid to the MDPCP Practice by CMS under this Agreement for the Performance Year in which the termination of this Agreement or the Agreement Performance Period takes effect;

(B) The portion of the CMF or, if applicable, CPCP payment amount paid to the MDPCP Practice by CMS under this Agreement for the calendar quarter in which the termination of this Agreement or the Agreement Performance Period takes effect, based on the number of Days in the quarter that remain after the effective date of such termination, as well as any amount owed based on CMF or CPCP settlement from prior quarters not already collected by CMS through CMF Adjustments pursuant to Article 9.2(e) and CPCP Adjustments pursuant to Article 9.5(c)(iii); and

(C) The entire amount of any CMF payment or, if applicable, CPCP payment made to the MDPCP Practice under this Agreement for the calendar quarter(s) following the effective date of termination of this Agreement or the Agreement Performance Period.

(iii) Beginning in Performance Year 2023 and each subsequent Performance Year, if the MDPCP Practice is participating in Track 3 under this Agreement, the Final Financial Settlement Report will set forth the following amounts, all of which shall be Other Monies Owed:

(A) The entire amount of PBA, and portion of PBP paid to the MDPCP Practice by CMS under this Agreement for the Performance Year in which the termination of this Agreement or the Agreement Performance Period takes effect; and

(B) The entire amount of the HEART Payment paid to the MDPCP Practice by CMS under this Agreement for the Performance Year in which the termination of this Agreement or the Agreement Performance Period takes effect.

(iv) The Final Financial Settlement Report is deemed final 31 Days after it is issued unless the MDPCP Practice files a Timely Error Notice in accordance with Article 9.12(e).

(e) Timely Error Notice

(i) The MDPCP Practice may submit to CMS a written notice of an error in the mathematical calculations in any Quarterly Payment and Attribution Report, Annual PBIP Settlement Report, PBA Performance Report or the Final Financial Settlement Report ("**Timely Error Notice**"). The MDPCP Practice must submit to CMS a Timely Error Notice with respect to any Quarterly Payment and Attribution Report within 10 Days after the Quarterly Payment and Attribution Report is issued. The MDPCP Practice must submit to CMS a Timely Error Notice with respect to any Annual PBIP Settlement Report, PBA Performance Report or Final Financial Settlement Report within 30 Days after such report is issued.

(ii) Upon receipt of a Timely Error Notice, CMS shall review the calculations in question and any mathematical issues raised by the MDPCP Practice in the MDPCP Practice's Timely Error Notice.

(iii) CMS shall issue to the MDPCP Practice either a written determination that the report is correct, or a revised report. If CMS determines that the report is correct, the report is deemed final on the date of CMS's written determination. If CMS issues a revised report, the revised report is deemed final on the date it is issued by CMS.

(iv) There shall be no further administrative or judicial review of the final report, written determination, or revised report.

(f) Reopening

(i) If, as a result of any inspection, evaluation, investigation, or audit, it is determined that the amount due to the MDPCP Practice from CMS under this Agreement or due to CMS from the MDPCP Practice under this Agreement has been calculated in error, CMS reserves the right for a period of six years following the expiration or termination of this Agreement to reopen any Quarterly Payment and Attribution Report, PBA Performance Report or settlement report in order to recalculate the amount of Other Monies Owed, issue a revised report, and make or demand payment of any monies owed to or by the MDPCP Practice.

(ii) CMS may reopen and revise any Quarterly Payment and Attribution Report and PBA Performance Report, or settlement report at any time in the event of fraud or similar fault by the MDPCP Practice and, if applicable, its parent organization.

(iii) Any amounts determined to be owed to CMS as a result of a settlement reopening shall be Other Monies Owed and the MDPCP Practice shall pay such amount to CMS in accordance with Article 9. 12(g)(ii).

(iv) Any amounts determined to be owed to the MDPCP Practice as a result of a reopening shall be Other Monies Owed and CMS will pay such amount to the MDPCP Practice in accordance with Article 9. 12(g)(ii).

(g) Payment of Amounts Owed

(i) If CMS owes the MDPCP Practice Other Monies Owed as a result of a settlement report deemed final in accordance with this Article 9.12, or a revised settlement upon reopening, CMS shall pay the MDPCP Practice in full within thirty (30) Days after the date on which the relevant settlement report is deemed final.

(ii) If the MDPCP Practice owes CMS Other Monies Owed as a result of a settlement report deemed final in accordance with this Article 9.12, or revised settlement upon reopening, the MDPCP Practice shall pay CMS in full within 30 Days after the date on which the relevant settlement report is deemed final.

(iii) If CMS does not timely receive payment in full, the remaining amount owed will be considered a delinquent debt subject to the provisions of Article 9.12(h).

(h) Delinquent Debt

(i) If CMS does not receive payment in full by the applicable due date, CMS shall pursue payment and may withhold payments otherwise owed to the MDPCP Practice under this Agreement or under any other CMS program or initiative.

(ii) If the MDPCP Practice fails to pay the amounts due to CMS in full by the applicable due date, CMS will assess simple interest on the unpaid balance at the rate applicable to other Medicare debts under 42 CFR § 405.378. If applicable, interest shall be calculated in 30-day periods and shall be assessed for each thirty (30)-day period that payment is not made in full.

(iii) CMS and the U.S. Department of the Treasury may use any applicable debt collection tools available and invoke all legal means necessary to collect the debt, including referral of the remaining monies owed to the U.S. Department of the Treasury.

Article X - Data Sharing and Reports

10.1 *General*

(a) Subject to the limitations discussed in this Agreement, and in accordance with applicable law, in advance of each Performance Year starting in the second Performance Year of the Agreement Performance Period, and at any other time deemed necessary by CMS, CMS will offer the MDPCP Practice an opportunity to request certain data and reports, which are described in Article 10.2, Article 10.3, and, if applicable, Appendix C in this Agreement.

(b) The data and reports provided to the MDPCP Practice under the preceding paragraph will omit individually identifiable data for MDPCP Beneficiaries who have opted out of claims data sharing for care coordination and quality improvement purposes with the MDPCP Practice and, as applicable, the MDPCP Practice's MDPCP Partner CTO as described in Article 10.4. The data and reports provided to the MDPCP Practice will also omit substance use disorder data for any MDPCP Beneficiaries who have not opted into substance use disorder data sharing, as described in Article 10.5.

(c) CMS may share patient-de-identified data that identifies the MDPCP Practice Site's performance with other primary care practices and, beginning in 2021, FQHCs participating in the MDPCP, for the purpose of comparing primary care practice site and FQHC performance in the MDPCP to motivate performance improvement and to provide learning opportunities for participating primary care practices and FQHCs. This may include information about the MDPCP Practice Site's progress on the Care Transformation Requirements gathered through Quarterly Practice Reporting and Biannual Practice Reporting, Quality Component, Utilization Component, or other relevant data aggregated to the practice site-level. Such data will not include individually identifiable health information, as defined by the HIPAA requirements in 45 CFR § 164.514(b), and will incorporate de-identified data from MDPCP Beneficiaries who have opted out of data sharing pursuant to Article 10.4 or not opted into data sharing pursuant to Article 10.5.

10.2 *Provision of Certain Beneficiary-Identifiable Claims Data*

(a) CMS believes the care coordination, and quality improvement work of the MDPCP Practice (that is acting on its own behalf as a HIPAA CE, or that is a BA acting on behalf of its MDPCP Practitioners) would benefit from the receipt of certain beneficiary-identifiable claims data on MDPCP Beneficiaries. CMS will therefore offer to the MDPCP Practice an opportunity to request specific beneficiary-identifiable claims data using the HIPAA-Covered Data Disclosure Request, Attestation and Data Specification Worksheet (Appendix C). All requests for beneficiary-identifiable claims data will be granted or denied at CMS' sole discretion based on CMS' available resources, the limitations in this Agreement, and applicable law.

(b) The HIPAA-Covered Data Disclosure Request, Attestation and Data Specification Worksheet assumes the requester is basing their disclosure request on the "health care operations" disclosure basis under the HIPAA Privacy Rule, 45 CFR § 164.506(c)(4). However, in offering this worksheet, CMS does not represent that the MDPCP Practice has met the applicable HIPAA requirements for establishing a BA relationship or requesting data as a CE or its BA under 45 CFR § 164.506(c)(4). The MDPCP Practice should consult with its own counsel to make those determinations prior to requesting this data from CMS.

(c) The beneficiary-identifiable data available for request by the MDPCP Practice and provided by CMS via the MDPCP Portal includes:

(i) Payment and Attribution Reports: These reports will include lists of the MDPCP Practice Site's MDPCP Beneficiaries as well as an accounting of the MDPCP Practice's MDPCP Payments under this Agreement for the Performance Year. The MDPCP Practice may request to receive these files on a quarterly basis.

(ii) Beneficiary Data: These files will include individually identifiable demographic and Medicare eligibility status information for the MDPCP Practice Site's MDPCP Beneficiaries. During the first and second Performance Years of the Agreement Performance Period, the MDPCP Practice may request to receive these files on a quarterly basis. During the third Performance Year of the Agreement Performance Period and each subsequent Performance Year, the MDPCP Practice may request files containing historical data for the preceding three years for newly attributed MDPCP Beneficiaries and quarterly files for all MDPCP Beneficiaries thereafter.

(iii) Detailed Claims Data: These files will include individually identifiable Medicare FFS claim and claim line feed (CCLF) data for services provided by the MDPCP Practice Site to MDPCP Beneficiaries. The

MDPCP Practice may request files containing historical data for the preceding three years and quarterly files thereafter.

(d) If a system for Data Aggregation exists or can be created where the MDPCP Practice is located, CMS may release detailed MDPCP Beneficiary-identifiable claims data as described in Article 10.2(c) to a common data aggregator, as that term is understood under the HIPAA Privacy Rule, and in accordance with HIPAA requirements. That contractor must also be the BA (as that term is defined at 45 CFR § 160.103, and used in 45 C.F.R. §§ 164.502(e), and 164.504(e)) of the MDPCP Practice. At the MDPCP Practice's direction, this common data aggregator could perform analysis linking Medicare FFS claims data from its patient population to other sources of individually-identifiable health information, such as another primary care practices' and, beginning in 2021, FQHC's patient data, extract patient de-identified findings, and deliver those results to the MDPCP Practice for use in the MDPCP Practice's quality improvement and other health care operations activities.

(e) The Parties mutually agree that, except as described in Article 10.2(n) below, CMS retains all ownership rights to the data files referred to in Appendix C, and the MDPCP Practice and any downstream data recipients do not obtain any right, title, or interest in any of the data furnished by CMS.

(f) The MDPCP Practice represents, and in furnishing the data files specified in Appendix C CMS relies upon such representation, that such data files will be disclosed, used, or reused only as permitted or required by this Agreement and applicable law.

(g) The MDPCP Practice represents that it intends to use the requested information as a tool to inform their delivery of coordinated, high quality care for MDPCP Beneficiaries. Information derived from the CMS files specified in Appendix C may be shared and used within the legal confines of the MDPCP Practice and its MDPCP Practitioners in a manner consistent with Article 10.2(h) below and applicable law to enable the MDPCP Practice to deliver comprehensive primary care.

(h) The MDPCP Practice may use original or derivative data without prior written authorization from CMS for clinical treatment, care management and coordination, and quality improvement activities. Furthermore, the MDPCP Practice shall not disseminate individually identifiable original or derived information from the files specified in Appendix C to anyone, unless the recipient is directly involved in treating MDPCP Beneficiary(ies); a HIPAA BA of that HIPAA CE; the MDPCP Practice's BA; or a subcontractor BA hired by the MDPCP Practice's BA and/or performing MDPCP Practice Site Activities, or unless otherwise required by law. When using or disclosing PHI or personally identifiable information ("**PII**"), obtained from or derived from files specified in

Appendix C, the MDPCP Practice must make "reasonable efforts to limit" the information used, disclosed, or requested to the "minimum necessary" to accomplish the intended purpose of the use, disclosure, or request. The MDPCP Practice shall further limit its disclosure of such information to the types of disclosures that CMS itself would be permitted to make under the "routine uses" in the applicable systems of records listed in Appendix C.

(i) Subject to the limits specified above and elsewhere in this Agreement and applicable law, the MDPCP Practice may link individually identifiable information specified in Appendix C (including directly or indirectly identifiable data) or derivative data to other sources of individually-identifiable health information, such as other medical records available to the MDPCP Practice. The MDPCP Practice may disseminate such data that has been linked to other sources of individual identifiable health information provided such data has been de-identified in accordance with HIPAA requirements in 45 CFR § 164.514(b).

(j) The MDPCP Practice agrees to establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized use or access to it. The safeguards shall provide a level and scope of security that is not less than the level and scope of security requirements established for federal agencies by the Office of Management and Budget (OMB) in in OMB Circular No. A-130, Appendix I--Responsibilities for Protecting and Managing Federal Information Resources (https://www.whitehouse.gov/omb/circulars_default) as well as Federal Information Processing Standard 200 entitled "Minimum Security Requirements for Federal Information and Information Systems" (http://csrc.nist.gov/publications/fips/fips200/FIPS-200-final-march.pdf); and, NIST Special Publication 800-53 "Recommended Security Controls for Federal Information Systems" (http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf). The MDPCP Practice acknowledges that the use of unsecured telecommunications, including the Internet, to transmit directly or indirectly identifiable information from the files specified in Appendix C or any such derivative data files is strictly prohibited. Further, the MDPCP Practice agrees that the data specified in Appendix C must not be physically moved, transmitted, or disclosed in any way from the site of the custodian indicated in Appendix C, other than as provided in this Agreement without written approval from CMS, unless such movement, transmission or disclosure is required by a law.

(k) The MDPCP Practice agrees to grant access to the data and/or the facility(ies) in which the data are maintained to the authorized representatives of CMS or HHS OIG, including at the site of the custodian indicated in Appendix C, for the purpose of inspecting to confirm compliance with the terms of this Agreement.

(l) The MDPCP Practice shall report any breach of PHI or PII from or derived from the CMS data files, loss of these data, or improper use or disclosure of these data by or to any unauthorized persons to the CMS Action Desk by telephone at (410) 786-2850 or by email notification at cms_it_service_desk@cms.hhs.gov within one (1) hour following discovery of the incident. The MDPCP Practice shall cooperate fully in the federal incident security process that results from such improper use or disclosure.

(m) The Parties mutually agree that the individual named in Appendix C is designated as custodian of the CMS data files on behalf of the MDPCP Practice and will be responsible for the observance of all conditions of use and disclosure of such data and any derivative data files, as well as for the establishment and maintenance of security arrangements as specified in this Agreement, to prevent unauthorized use or disclosure. Furthermore, such custodian is responsible for contractually binding any downstream recipients of such data to the terms and conditions in this Agreement as a condition of receiving such data. The MDPCP Practice agrees to notify CMS within fifteen (15) Days of any change of custodianship. The Parties mutually agree that CMS may disapprove the appointment of a custodian or may require the appointment of a new custodian at any time.

(n) Data disclosed to the MDPCP Practice pursuant to Appendix C may be retained by the MDPCP Practice until the termination of this Agreement. The MDPCP Practice is permitted to retain any individually identifiable health information from such data files or derivative data files after the termination of the Agreement if the MDPCP Practice remains a HIPAA CE, and the data has been incorporated into the subject beneficiaries' medical records that are part of a designated record set under HIPAA. Furthermore, any HIPAA CE to whom the MDPCP Practice provides such data in the course of carrying out the MDPCP initiative may also retain such data if the recipient entity is a HIPAA CE or BA as defined in 45 CFR § 160.103, and the data is incorporated into the subject beneficiaries' medical records that are part of a designated record set under HIPAA. The MDPCP Practice shall destroy all other data and send written certification of the destruction of the data files and/or any derivative data files to CMS within 30 Days following the termination of the Agreement. Except for disclosures for treatment purposes, the MDPCP Practice shall bind any downstream recipients to these terms and conditions as a condition of disclosing such data to downstream entities and permitting them to retain such records under this paragraph. These retention provisions survive termination of the Agreement.

10.3 *De-Identified Reports*

CMS will provide the following reports to the MDPCP Practice, which will be de-identified in accordance with HIPAA requirements in 45 CFR § 164.514(b):

(a) Quarterly Payment Reports: CMS will provide the MDPCP Practice's quarterly

MDPCP Payment information under this Agreement. The quarterly payment information will not contain individually identifiable data. The design and data source used to generate the quarterly payment information is also used for the Quarterly Payment and Attribution Report described in Article 9.12(a), the Annual PBIP Settlement Report described in Article 9.12(b),), beginning in Performance Year 2023 and each subsequent Performance Year, the PBA Performance Report described in Article 9.12(c), and the Final Financial Settlement Report described in Article 9.12(c). In the event that data contained in the quarterly payment information conflicts with data provided from any other source, the data in the settlement reports issued pursuant to Article IX will control with respect to settlement under Article 9.12 of the Agreement.

(b) Feedback Reports: These files will include summary data aggregated to the MDPCP Practice Site level on data relevant to MDPCP Practice Site Activities and performance in the MDPCP, including the demographic and claims-based data described above. When aggregated at the MDPCP Practice Site level, this aggregate information will not include individually identifiable information and will incorporate de-identified data from MDPCP Beneficiaries who have opted out of data sharing or opted into data sharing pursuant to Articles 10.4 and 10.5. These reports are provided for informational purposes.

10.4 *Beneficiary Rights to Opt Out of Data Sharing*

(a) The MDPCP Practice shall provide MDPCP Beneficiaries who inquire about and wish to modify their preferences regarding claims data sharing with the MDPCP Practice and, if applicable, the MDPCP Practice's MDPCP Partner CTOs with information about how to modify their data sharing preferences. The MDPCP Practice shall inform them that they may modify their data sharing preferences by submitting a beneficiary data sharing form provided by CMS (**"MDPCP Beneficiary Data Sharing Form"**) to CMS via the MDPCP Practice or by contacting the MDPCP helpdesk via phone at 1-844-711-2664 option number 7. Such communications shall note that, even if an MDPCP Beneficiary has elected to decline claims data sharing for purposes of the recipient's health care operations, CMS may prospectively reserve the right to engage in certain limited claims data sharing for its own healthcare operations and payment purposes.

(b) The MDPCP Practice shall allow MDPCP Beneficiaries to reverse a claims data sharing preference at any time by submitting the MDPCP Beneficiary Data Sharing Form to CMS or by contacting the MDPCP helpdesk via phone at 1-844-711-2664 option number 7.

(c) CMS will maintain the data sharing preferences of MDPCP Beneficiaries who elect to decline claims data sharing for the recipients' health care operations purposes.

(d) The MDPCP Practice may affirmatively contact a MDPCP Beneficiary who has elected to decline claims data sharing no more than one time in a given Performance Year to provide information regarding data sharing. Such contact includes mailings, phone calls, electronic communications, or other methods of communicating with MDPCP Beneficiaries outside of a clinical setting.

(e) In the event that an MDPCP Practitioner is terminated from the MDPCP Practice for any reason, if that departing MDPCP Practitioner is the sole MDPCP Practitioner in the MDPCP Practice to have submitted claims for a particular MDPCP Beneficiary during the 12-month period prior to the effective date of the termination, CMS will administratively opt the MDPCP Beneficiary out of all claims data-sharing with the MDPCP Practice and, if applicable, the MDPCP Practice's MDPCP Partner CTOs under this Article X within 30 Days of the effective date of the termination, unless—

(i) The MDPCP Beneficiary affirmatively authorizes the continued sharing of such claims data with the MDPCP Practice and, if applicable, the MDPCP Practice's MDPCP Partner CTOs through an authorization that meets the requirements under 45 CFR § 164.508(b); or

(ii) The MDPCP Beneficiary subsequently becomes the patient of another MDPCP Practitioner within the MDPCP Practice, as described in Article 10.4(f).

(f) CMS will administratively opt an MDPCP Beneficiary back into such claims data sharing if he or she was administratively opted out of such claims data sharing solely due to the termination of his or her only treating MDPCP Practitioner within the MDPCP Practice if he or she is subsequently re-attributed to the same MDPCP Practice due to becoming a patient of another current MDPCP Practitioner. In those cases, CMS will administratively opt the beneficiary back into such claims data sharing, unless the MDPCP Beneficiary affirmatively opts out of data sharing in accordance with this Article 10.4.

(g) Notwithstanding the foregoing, the MDPCP Practice and, if applicable the MDPCP Practice's MDPCP Partner CTOs shall receive claims data regarding substance use disorder treatment only if the MDPCP Beneficiary has submitted a CMS-approved form electing to share Part 2-covered data with the MDPCP Practice and, if applicable, the MDPCP Practice's MDPCP Partner CTOs in accordance with Article 10.5 of this Agreement and has not elected to decline data sharing or otherwise been opted out of data sharing.

10.5 *Beneficiary Substance Use Disorder Data Opt-In*

(a) The MDPCP Practice may inform each newly attributed MDPCP Beneficiary, in compliance with applicable law:

(i) That he or she may elect to allow the MDPCP Practice and, if applicable, the MDPCP Practice's MDPCP Partner CTOs to receive beneficiary-level claims data regarding their utilization of substance use disorder services;

(ii) Of the mechanism by which the MDPCP Beneficiary can make this election; and

(iii) That 1-844-711-2664 option number 7 (or, for the first and second Performance Years of the Agreement Performance Period, 1-800-MEDICARE) will answer any questions regarding claims data sharing of substance use disorder services.

(b) An MDPCP Beneficiary may opt-in to substance use disorder data sharing only by submitting a CMS-approved substance use disorder opt-in form to the MDPCP Practice. The MDPCP Practice shall promptly send the opt-in form to CMS via mail.

Article XI - Participation in Evaluation, Learning Network, and MDPCP Practice Site Visits

11.1 *Survival*

With the exception of Article 11.5, the rights and obligations under this Article XI shall survive termination or expiration of this Agreement and shall apply for one year after termination or expiration of this Agreement.

11.2 *Evaluation Requirement*

(a) The MDPCP Practice shall participate in and cooperate with any evaluation activities conducted by CMS aimed at assessing the impact of the MDPCP on the goals of better quality and lower costs of care for beneficiaries.

(b) The MDPCP Practice shall use its best efforts to ensure that all individuals on the Practitioner Roster and, if applicable, Staff Roster, and all other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities, cooperate with all evaluation activities carried out by CMS.

11.3 *Evaluation Primary Data*

In conducting its evaluation activities, CMS may collect qualitative and quantitative data from the following sources:

(a) Site visits;

(b) Interviews with the MDPCP Practice Site's patients and their caregivers;

(c) Focus groups of the MDPCP Practice Site's patients and their caregivers;

(d) Interviews with MDPCP Practitioners, individuals on the Staff Roster (if applicable), and MDPCP Practice staff;

(e) Focus groups with MDPCP Practitioners and MDPCP Practice staff;

(f) Direct observation of beneficiaries' interactions with MDPCP Practitioners and the MDPCP Practice Site's staff, care management meetings among MDPCP Practitioners and/or the MDPCP Practice Site's staff, and other activities related to the MDPCP Practice's participation in the MDPCP or another CMS initiative;

(g) MDPCP Practice reported percent of MDPCP Practice revenue by payer;

(h) Surveys; and

(i) Other activities that CMS determines necessary to conduct a comprehensive evaluation.

11.4 ***Evaluation Secondary Data***

In its evaluation activities, CMS may use data or information submitted by the MDPCP Practice as well as claims submitted to CMS for items and services furnished to MDPCP Beneficiaries. This data may include, but are not limited to:

(a) Survey data from CAHPS surveys;

(b) Clinical data such as lab values; and

(c) Medical records.

11.5 ***Learning Network***

(a) *General*. The Parties acknowledge that the learning system requirements for the first Performance Year of the Agreement Performance Period are governed by Article 9.5 of the MDPCP Practice Participation Agreement that was in effect on January 1, 2019. Beginning for the second Performance Year of the Agreement Performance Period and for each subsequent Performance Year:

(i) The MDPCP Practice may designate an individual working at the address identified in the recitals of this Agreement who will act as the learning lead and oversee the MDPCP Practice Site's participation in learning activities.

(ii) The MDPCP Practice may encourage MDPCP Practice Site staff to participate in CMS-sponsored learning activities designed to strengthen results and share learning that emerges from participation in the MDPCP.

(iii) The MDPCP Practice may encourage the MDPCP Practice Site staff to participate in periodic conference calls, site visits, and virtual or in-person meetings, and actively share resources, tools and ideas with other participants in the MDPCP to improve the overall performance of the MDPCP.

(iv) The MDPCP Practice may encourage the MDPCP Practice Site staff to participate in periodic assessments administered by CMS. To the extent practicable, CMS will provide the MDPCP Practice with no less than 10 Days' advance notice of the distribution of any such assessments and will affirmatively work to minimize any associated reporting burden.

(v) The MDPCP Practice may encourage the MDPCP Practice Site staff to coordinate and collaborate with the State and the MDPCP Practice Coach, as needed for practice coaching purposes and related learning network activities.

(b) The Learning Network Activities.

(i) During the second Performance Year of the Agreement Performance Period, if the MDPCP Practice participates in the learning network, the MDPCP Practice shall ensure that the MDPCP Practice Site staff completes any baseline assessment administered by CMS.

(ii) During the second Performance Year of the Agreement Performance Period and each subsequent Performance Year, if the MDPCP Practice participates in the learning network, the MDPCP Practice shall ensure that the MDPCP Practice Site staff engages in periodic learning activities, designed to support the achievement of goals under the MDPCP, including but not limited to:

(A) Webinars to orient primary care practices and, beginning in 2021, FQHCs that are participating in the MDPCP and CTOs to the MDPCP requirements and to introduce new concepts;

(B) Face-to-face and/or virtual learning sessions;

(iii) If the MDPCP Practice participates in the learning network, the MDPCP Practice shall ensure that the MDPCP Practice Site staff engages in groups of MDPCP participants that use collaborative learning to accelerate practice change, to include Action Groups and/or Affinity Groups during the first and second Performance Years of the Agreement Performance Period.

11.6 ***MDPCP Practice Site Visits***

(a) The MDPCP Practice shall ensure that the MDPCP Practice Site staff cooperates in periodic site visits by CMS to the address identified in the recitals of this Agreement or other location in order to facilitate Model monitoring, evaluation, and shared learning activities, or to assess the MDPCP Practice's compliance with the terms of this Agreement.

(b) CMS shall schedule site visits no fewer than fifteen (15) Days in advance. To the extent practicable, CMS will attempt to accommodate the request of the MDPCP Practice or the request of the MDPCP Practice's MDPCP Partner CTO for particular dates in scheduling site visits. However, the MDPCP Practice Site or MDPCP Partner CTO may not request a date that is more than sixty (60) Days after the date of the initial site visit notice from CMS.

(c) The MDPCP Practice shall make available personnel with the appropriate responsibilities and knowledge associated with the purpose of the site visit.

(d) The MDPCP Practice shall require and ensure that at least one MDPCP Practitioner who performs activities consistent with Care Transformation Requirements is present at any site visit initiated by CMS.

(e) Notwithstanding the foregoing, CMS may perform unannounced site visits at the address identified in the recitals to this Agreement or other locations at any time to investigate concerns about the health or safety of MDPCP Beneficiaries or other program integrity issues.

(f) Nothing in this Agreement shall be construed to limit or otherwise prevent CMS from performing site visits otherwise permitted by applicable law or regulations.

11.7 *Rights in Data and Intellectual Property*

(a) CMS may use any data obtained pursuant to the MDPCP to evaluate the Model and to disseminate quantitative results and successful care management techniques, to other providers and suppliers and the public. De-identified data to be disseminated may include results of patient experience of care and quality of life surveys as well as measures based upon claims and medical records.

(b) Notwithstanding any other provision in this Agreement, all proprietary trade secret information and technology of the MDPCP Practice shall remain the sole property of the MDPCP Practice and, except as required by federal law, shall not be released by CMS without the express written consent of the MDPCP Practice. CMS does not acquire by license or otherwise, whether express or implied, any intellectual property right to the MDPCP Practice's proprietary information or technology.

(c) The MDPCP Practice acknowledges that it has submitted to CMS a form identifying specific examples of what it considers proprietary and confidential information currently contained in its program that should not be publicly disclosed unless such release is required by law. This form is attached as Appendix E of this Agreement.

11.8 *MDPCP Practice Release of Information*

The MDPCP Practice must include the following statement on the first page of any press release, external report, or statistical/analytical material that materially and substantially references the MDPCP Practice's participation in the MDPCP: "The statements contained in this document are solely those of the authors and do not necessarily reflect the views or policies of CMS. The authors assume responsibility for the accuracy and completeness of the information contained in this document."

Article XII - CMS Monitoring and Oversight Activities

12.1 *CMS Monitoring and Oversight Activities*

(a) CMS will conduct monitoring activities to assess the MDPCP Practice's compliance with the terms of this Agreement, to promote the safety of MDPCP Beneficiaries, and to ensure the integrity of the MDPCP.

(b) The monitoring activities will include comprehensive review of all MDPCP Practice data reported in accordance with Article V.

(c) The monitoring activities may additionally include, without limitation:

(i) Review of any and all data submitted to CMS by the MDPCP Practice and, if applicable, the MDPCP Practice Site at the direction of the MDPCP Practice, and, if applicable, the MDPCP Partner CTO via the MDPCP Portal;

(ii) Review of utilization, efficiency, and quality data collected by CMS or reported to CMS by the MDPCP Practice and, if applicable, the MDPCP Practice Site at the direction of the MDPCP Practice, and, if applicable, the MDPCP Partner CTO;

(iii) Review of any documentation necessary to confirm the MDPCP Practice's eligibility based on the eligibility requirements described in Article 3.1;

(iv) Review of any documentation related to the MDPCP Practice's compliance with laws submitted in accordance with Article 12.3;

(v) Review of any documentation related to a Change in Control or to a change in the MDPCP Practice's name or TIN;

(vi) If applicable, review of the MDPCP Practice's CTO Arrangement;

(vii) Review of arrangements with MDPCP Practitioners;

(viii) Interviews with MDPCP Practitioners and, if applicable, individuals identified on the Staff Roster;

(ix) Interviews with MDPCP Practice Site's patients and their caregivers;

(x) If applicable, interviews with the MDPCP Practice's MDPCP Partner CTO;

(xi) Review of any of the MDPCP Practice's records and documentation relating to its participation in the MDPCP, including but not limited to charts, medical records, health IT reports, employment contracts, and other data from the MDPCP Practice;

(xii) Site visits to the MDPCP Practice Site; and

(xiii) Documentation sent to the MDPCP Practice for the MDPCP Practice to complete and return to CMS, including surveys and questionnaires.

(d) In conducting monitoring activities, CMS may use any relevant data or information including, without limitation, all Medicare claims submitted for items or services furnished to beneficiaries.

(e) Nothing in this Agreement shall be construed to limit or otherwise prevent CMS from monitoring as permitted by applicable law or regulations.

(f) CMS may monitor the MDPCP Practice pursuant to this Article XII for up to one calendar year after the effective date of termination or expiration of this Agreement.

12.2 ***MDPCP Practice Compliance with Monitoring and Oversight Activities***

(a) The MDPCP Practice shall cooperate with all CMS monitoring requests and activities specified in Article 12.1.

(b) The MDPCP Practice shall ensure it has sufficient access to all records, data, and information necessary to comply with the monitoring activities described herein. As necessary, the MDPCP Practice shall request this information from any individuals or entities performing functions or providing services related to MDPCP Practice Site Activities, including but not limited to MDPCP Practitioners and, if applicable, individuals identified on the Staff Roster.

(c) If the MDPCP Practice fails to comply with any monitoring request or activity, CMS may take remedial action or terminate this Agreement or the Agreement Performance Period in accordance with Article XIV.

12.3 ***Compliance with Laws***

(a) Agreement to Comply

(i) The MDPCP Practice shall comply, and shall require all MDPCP Practitioners and other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities to comply with the applicable terms of this Agreement and all applicable laws and regulations, including without limitation: (a) federal criminal laws; (b) the federal False Claims Act (31 U.S.C. § 3729 et seq.); (c) the federal Anti-Kickback statute (42 U.S.C. § 1320a-7b(b)); (d) the civil monetary penalties law (42 U.S.C. § 1320a-7a); (e) the physician self-referral law (42 U.S.C. § 1395nn); and (f) applicable state laws.

(ii) The MDPCP Practice shall notify CMS within fifteen (15) Days after becoming aware that the MDPCP Practice or any MDPCP Practitioner has been the subject of an investigation or prosecution by, or settlement with, the U.S. Department of Health and Human Services Office of Inspector

General (HHS-OIG), the U.S. Department of Justice (DOJ), or any other federal or state law enforcement agency at any time, within the previous five years relating to allegations of failure to comply with any of the laws identified in Article 12.3(a)(i), including, without limitation, the imposition of program exclusion, debarment, civil monetary penalties, corrective action plans, and revocation of Medicare billing privileges.

(iii) The MDPCP Practice shall notify CMS within fifteen (15) Days after becoming aware that the MDPCP Practice or any MDPCP Practitioner is under investigation, being prosecuted or sanctioned by, or is in settlement with, HHS-OIG, DOJ, or any other federal or state law enforcement agency relating to allegations of failure to comply with any of the laws identified in Article 12.3(a)(i) above, including, without limitation, the imposition of program exclusion, debarment, civil monetary penalties, corrective action plans, and revocation of Medicare billing privileges.

(iv) This Agreement does not waive any obligation of the MDPCP Practice to comply with the terms of any other CMS contract, agreement, model, or demonstration.

(b) Except for the waivers of certain Medicare payment rules for MDPCP as set forth in Appendix D, and, beginning for Performance Year 2023, the Telehealth Benefit Enhancement for MDPCP as set forth in Article 3.7 and Appendix F, this Agreement does not provide any waivers of laws, and individuals and entities participating in MDPCP must comply with all applicable laws and regulations, except as explicitly provided in any separate waiver that may be granted pursuant to section 1115A(d)(1) of the Act specifically for MDPCP.

(c) Reservation of Rights

(i) Nothing contained in this Agreement or in the application process for the MDPCP is intended or shall be construed as a waiver by the DOJ, the Internal Revenue Service, the Federal Trade Commission, the HHS-OIG, or CMS of any right to institute any proceeding or action for violations of any statutes, rules or regulations administered by the federal government, or to prevent or limit the rights of the federal government to obtain relief under any other federal statutes or regulations, or on account of any violation of this Agreement or any other provision of law. This Agreement cannot be construed to bind any federal government agency except CMS and this Agreement binds CMS only to the extent provided herein.

(ii) The submission of any information, business plans or documents during the MDPCP application process does not imply that CMS has reviewed or approved the information, business plans or documents, and does not in any way imply or constitute a determination that the MDPCP Practice's plans, processes or documents comply with federal law or regulations.

(iii) The failure by CMS to require performance of any provision of this Agreement shall not affect CMS's right to require performance at any time thereafter, nor does a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

(d) None of the provisions of this Agreement limit or restrict the authority of the HHS-OIG to audit, evaluate, investigate, or inspect the MDPCP Practice, including MDPCP Practitioners and/or other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities.

(e) None of the provisions of this Agreement limit or restrict any federal government authority that is permitted by law to audit, evaluate, investigate, or inspect the MDPCP Practice, MDPCP Practitioners, and other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities.

Article XIII - Audits and Record Retention

13.1 ***Right to Audit and Inspection.***

The MDPCP Practice agrees, and must require all MDPCP Practitioners and other individuals and entities performing functions or providing services related to MDPCP Practice Site Activities to agree that the federal government, including CMS, HHS, and the Comptroller General or their designees, has the right to audit, inspect, investigate, and evaluate any books, contracts, records, documents and other evidence of the MDPCP Practice, MDPCP Practitioners, and other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities, including records that pertain to the following:

(a) The MDPCP Practice's compliance with the terms of this Agreement, as well as the compliance of all the MDPCP Practitioners and other individuals and entities performing functions or providing services related to MDPCP Practice Site Activities;

(b) The quality of the services performed under this Agreement;

(c) The MDPCP Practice's use of CMFs, HEART Payments, and, if applicable, CPCPs;

(d) The MDPCP Practice's ability to bear the risk of potential financial losses and to repay Other Monies Owed to CMS;

(e) The MDPCP Practice's use of Descriptive MDPCP Practice Materials and Activities; and

(f) Patient safety.

13.2 ***Maintenance of Records.***

The MDPCP Practice agrees, and shall require that the MDPCP Practice Site and all MDPCP Practitioners and all other individuals and entities performing functions or providing services related to MDPCP Practice Site Activities agree to the following:

(a) To maintain and give the government, including CMS, HHS, and the Comptroller General or their designees, access to all books, contracts, records, documents, and other evidence (including data related to Medicare utilization and costs, quality performance measures, and other financial arrangements) sufficient to enable the audit, evaluation, inspection, or investigation of the following: the MDPCP Practice's compliance with the terms of this Agreement; the quality of services furnished to MDPCP Beneficiaries; the MDPCP Practice's right to, and use of, MDPCP Payments; and the MDPCP Practice's obligation and ability to pay any Other Monies Owed to CMS.

(b) To maintain such books, contracts, records, documents, and other evidence for a period of six (6) years from the expiration or termination of this Agreement or from the date of completion of any audit, evaluation, inspection, or investigation, whichever is later, unless:

(i) CMS determines there is a special need to retain a particular record or group of records for a longer period and notifies the MDPCP Practice at least thirty (30) Days before the normal disposition date set forth above; or

(ii) There has been a termination, dispute, or allegation of fraud or similar fault against the MDPCP Practice, or other individuals or entities performing functions or providing services related to MDPCP Practice Site Activities, in which case the records shall be maintained for an additional six years from the date of any resulting final resolution of the termination, dispute, or allegation of fraud or similar fault.

Article XIV - Remedial Action and Termination

14.1 ***Remedial Action***

(a) If CMS determines that any provision of this Agreement may have been violated, CMS may take one or more of the following remedial actions:

(i) Notify the MDPCP Practice and, if applicable and appropriate, the MDPCP Partner CTO of the violation;

(ii) Require the MDPCP Practice to provide additional information to CMS;

(iii) Conduct on-site visits, interview MDPCP Beneficiaries or MDPCP Partner CTOs, or take other actions to gather information;

(iv) Place the MDPCP Practice on a monitoring plan and/or auditing plan developed by CMS;

(v) Require the MDPCP Practice to terminate its CTO Arrangement with an MDPCP Partner CTO;

(vi) Require the MDPCP Practice to remove an MDPCP Practitioner from the Practitioner Roster or, if applicable, an individual from the Staff Roster;

(vii) Require the MDPCP Practice to terminate the MDPCP Practice's relationship with any individual or entity performing functions or providing services related to MDPCP Practice Site Activities.

(viii) Deny, withhold, suspend, or recoup MDPCP Payments.

(ix) Amend this Agreement without the consent of the MDPCP Practice to provide that any or all waivers of existing law made pursuant to section 1115A(d)(1) of the Act, if applicable, will be inapplicable;

(x) Discontinue the data sharing and providing reports to the MDPCP Practice under Article 10.3; and

(xi) Request a corrective action plan ("**CAP**") from the MDPCP Practice that is acceptable to CMS. If CMS requests a CAP, the following provisions would apply:

(A) The MDPCP Practice shall submit a CAP to CMS for approval by a deadline established by CMS;

(B) The CAP must address what actions the MDPCP Practice will take within a specified time period to ensure that all deficiencies will be corrected and that the MDPCP Practice will be in compliance with the terms of this Agreement; and

(C) If the MDPCP Practice does not comply with a CMS-approved CAP within the specified time period, CMS may take appropriate

remedial action, up to and including termination of the Agreement Performance Period or this Agreement.

(b) CMS may impose additional remedial actions or terminate this Agreement or the Agreement Performance Period pursuant to Article 14.2 if CMS determines that remedial actions described in Article 14.1(a) were insufficient to correct the MDPCP Practice's noncompliance with the terms of this Agreement.

14.2 *Termination by CMS*

(a) CMS may immediately or with advance notice terminate this Agreement or the Agreement Performance Period if:

(i) CMS determines that the Agency no longer has the funds to support the MDPCP or the Model;

(ii) CMS modifies or terminates the Model pursuant to Section 1115A(b)(3)(B) of the Act;

(iii) CMS or the State terminates the Model or the State Agreement;

(iv) CMS or the State terminates the MDPCP pursuant to the State Agreement; or

(v) CMS determines that the MDPCP Practice:

(A) Has failed to comply with any terms of this Agreement or any other Medicare program requirement, rule, or regulation;

(B) Has failed to sign an amended and restated version of this Agreement offered by CMS pursuant to Article 1.4;

(C) Has failed to comply with a monitoring and/or auditing plan imposed by CMS;

(D) Has failed to submit, obtain approval for, implement, or fully comply with the terms of a CAP required pursuant to Article 14.1;

(E) Has failed to demonstrate improved performance following any remedial action taken by CMS pursuant to this Agreement;

(F) Has taken any action that threatens the health or safety of an MDPCP Beneficiary or other patient;

(G) Has submitted false data or made false representations, warranties, or certifications in connection with any aspect of the MDPCP;

(H) Is subject to sanctions or other actions of an accrediting organization or a federal, state, or local government agency;

(I) Is subject to investigation or action by HHS (including HHS-OIG and CMS) or DOJ due to an allegation of fraud or significant

misconduct, including being subject to the filing of a complaint, filing of a criminal charge, being subject to an indictment, being named as a defendant in a False Claims Act qui tam matter in which the government has intervened, or similar action; or

(J) Assigns or purports to assign any of the rights or obligations under this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or any manner, without the written consent of CMS.

(b) CMS shall provide a written notice to the MDPCP Practice which sets forth the effective date of such termination.

14.3 *Termination by the MDPCP Practice*

The MDPCP Practice may terminate this Agreement or the Agreement Performance Period at any time for any reason upon no less than thirty (30) Days advance written notice to CMS in the manner prescribed by CMS. Such notice must specify the effective date of the termination.

14.4 *Financial Settlement Upon Termination*

If the Agreement Performance Period or this Agreement is terminated by either Party pursuant to this Article XIV, CMS will issue a Final Financial Settlement Report to the MDPCP Practice in accordance with Article 9.7(c).

14.5 *Notice of Termination*

(a) If this Agreement or the Agreement Performance Period is terminated by either Party pursuant to this Article XIV, the MDPCP Practice shall provide written notice of the termination to all MDPCP Practitioners, and, if applicable, the MDPCP Practice's Partner CTO. The MDPCP Practice shall deliver such written notice in a manner determined by CMS no later than thirty (30) Days before the effective date of termination of this Agreement unless a later date is specified by CMS. The MDPCP Practice shall include in such notices the effective date of termination and any additional content specified by CMS, including but not limited to information regarding data retention and/or destruction requirements.

(b) The MDPCP Practice may also provide written notice of the termination of this Agreement to MDPCP Beneficiaries. If the MDPCP Practice elects to send a notice of termination to MDPCP Beneficiaries, the MDPCP Practice shall deliver such notice as soon as is practicable in a manner determined by CMS. The MDPCP Practice shall include in such notices any content specified by CMS. Any notice to MDPCP Beneficiaries is deemed to be "Descriptive MDPCP Practice Materials and Activities."

Article XV - Limitation on Review and Dispute Resolution

15.1 *Limitations on Review*

There is no administrative or judicial review under sections 1869 or 1878 of the Act or otherwise for the following:

(a) The selection of models for testing or expansion under section 1115A;

(b) The selection of organizations, sites, or participants to test those models selected, including the decision by CMS to terminate this Agreement or to require the termination of a relationship between the MDPCP Practice and an MDPCP Partner CTO or between the MDPCP Practice and any individual or entity performing functions or providing services related to MDPCP Practice Site Activities;

(c) The elements, parameters, scope, and duration of such models for testing or dissemination;

(d) Determinations regarding budget neutrality under section 1115A(b)(3);

(e) The termination or modification of the design and implementation of a model under section 1115A(b)(3)(B);

(f) Decisions about expansion of the duration and scope of a model under section 1115A(c), including the determination that a model is not expected to meet criteria described in sections 1115A(c)(1) or 1115A(c)(2);

(g) CMS' selection of quality performance measures;

(h) CMS' assessment of the quality and efficiency of care furnished by the MDPCP Practice;

(i) The attribution of MDPCP Beneficiaries to the MDPCP Practice Site;

(j) The amount, calculation, adjustment, and payment of CMFs and, if applicable, CPCPs; or

(k) Once deemed final, a Quarterly Payment and Attribution Report issued pursuant to Article 9.12(a), an Annual PBIP Settlement Report issued pursuant to Article 9.12(b), a PBA Performance Report issued pursuant to Article 9.12(c) and the Final Financial Settlement Report issued pursuant to Article 9.12(d), including without limitation the determination of—

    (i) The amount, calculation, adjustment, and payment of if applicable CMFs, PBIPs, CPCPs, HEARTs, PBPs, and PBAs; and

    (ii) The amount and calculation of Other Monies Owed and periodic CMF CPCP, and PBP Adjustments specified in Article IX.

15.2 *Dispute Resolution*

(a) Right to Reconsideration.

(i) The MDPCP Practice may request reconsideration of a determination made by CMS pursuant to this Agreement only if such reconsideration is not precluded by section 1115A(d)(2) of the Act or this Agreement.

(ii) Any request for reconsideration by the MDPCP Practice must satisfy the following criteria:

(A) The request must be submitted to a designee of CMS ("**Reconsideration Official**") who—

(i) Is authorized to receive such requests; and,

(ii) Did not participate in the determination that is the subject of the reconsideration request.

(B) The request must contain a detailed, written explanation of the basis for the dispute, including supporting documentation.

(C) The request must be made within 30 Days of the date of the determination for which reconsideration is being requested via email to CMS at the address specified in Article 16.1 or such other address as may be specified by CMS.

(b) Requests that do not meet the requirements of Article 15.2(a) will be denied by the Reconsideration Official.

(c) Within ten (10) business Days of receiving a request for reconsideration, the Reconsideration Official will send to the MDPCP Practice and to CMS a written acknowledgement of receipt of the reconsideration request. Such an acknowledgement will set forth:

(i) The reviewing procedures; and,

(ii) A briefing schedule that permits each Party to submit one or more written position papers, including any supporting documentation, for consideration by the Reconsideration Official in support of the Party's position. The submission of any supporting documentation will be at the sole discretion of the Reconsideration Official.

15.3 *Standards for Reconsideration*

(a) The Parties shall proceed diligently with the performance of this Agreement during the course of any dispute arising under this Agreement.

(b) The reconsideration review will consist of a review of documentation that is submitted timely and in accordance with this Agreement and the standards specified by the Reconsideration Official.

(c) The burden of proof is on the MDPCP Practice to demonstrate to the Reconsideration Official with clear and convincing evidence that CMS' determination was inconsistent with the terms of this Agreement.

15.4 *Reconsideration Determination*

(a) The reconsideration determination will be based only upon:

(i) The position papers and supporting documentation that are timely submitted to the Reconsideration Official and meet the standards for submission; and

(ii) Documents and data that were timely prepared and, if applicable, submitted in the required format before CMS made the determination that is the subject of the reconsideration request.

(b) The Reconsideration Official will issue to CMS and to the MDPCP Practice written notification of the reconsideration determination ("Reconsideration Determination"). Absent unusual circumstances, the Reconsideration Determination will be issued within sixty (60) Days of the Reconsideration Official's receipt of timely filed position papers and supporting documentation.

15.5 *Effect of the Reconsideration Determination*

(a) The Reconsideration Determination is final and binding thirty (30) Days after its issuance, unless the MDPCP Practice or CMS timely requests review of the Reconsideration Determination in accordance with Section 15.2(a).

15.6 *CMS Administrator Review*

(a) A request for CMS Administrator review must be made via email to MarylandModel@cms.hhs.gov or such other address as specified by CMS, within thirty (30) Days after the date of the Reconsideration Determination.

(b) The request must include a copy of the Reconsideration Determination and a detailed, written explanation of why the Practice disagrees with the Reconsideration Determination.

(c) Within thirty (30) business days after receiving a request for review, the CMS Administrator (or a delegate acting on behalf of the CMS Administrator) will send the parties a written acknowledgement of receipt of the request for review. Such an acknowledgement will set forth:

(i) Whether the request for review is granted or denied; and

(ii) If the request for review is granted, the review procedures and a schedule that permits each party to submit a brief in support of the party's position for consideration by the CMS Administrator.

(d) If the request for review is denied, the Reconsideration Determination is final and binding as of the date the request for review is denied.

(e) If the request for review is granted:

(i) The record for review will consist of timely submitted briefs and the evidence contained in the record of the proceedings before the Reconsideration Official. The CMS Administrator will not consider documentation submitted for review other than the documents and data described in Section 19.04.a.2.

(ii) The CMS Administrator will review the record and issue to CMS and to the Practice a written determination.

(iii) The written determination of the CMS Administrator is final and binding.

(f) The dispute resolution process under this Agreement does not negate, diminish, or otherwise alter the applicability of existing laws, rules, and regulations or determinations made by other government agencies.

Article XVI - Miscellaneous

16.1 ***Agency Notifications and Submission of Reports***

Unless otherwise specified in this Agreement or stated in writing after the Effective Date, all notifications and reports required under this Agreement shall be submitted to the Parties at the addresses set forth below:

CMS: Maryland TCOC Model
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Mailstop: WB-06-05
Baltimore, MD 21244
Email: marylandmodel@cms.hhs.gov

MDPCP Practice: ______________________________________
____
____
____
____
____

MDPCP Practice Email: ______________________________________

16.2 ***Notice of Bankruptcy***

In the event the MDPCP Practice enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the MDPCP Practice agrees to furnish, by certified mail, written notification of the bankruptcy to CMS. This notification shall be furnished within 5 calendar Days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the court in which the bankruptcy petition was filed, and a listing of government contracts, project agreements, contract officers, and project officers for all government contracts and project agreements against which final payment has not been made. This obligation remains in effect until the expiration or termination of this Agreement and repayment of Other Monies Owed by the MDPCP Practice under this Agreement has been made.

16.3 ***Severability***

In the event that any one or more of the provisions of this Agreement is, for any reason, held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been included in this Agreement, unless the deletion of such provision or provisions would result in such a material change to this Agreement so as to cause continued participation under the terms of this Agreement to be unreasonable.

16.4 *Entire Agreement; Amendment*

This Agreement, including all appendices, constitutes the entire agreement between the Parties. The Parties may amend this Agreement or any appendix hereto at any time by mutual written agreement; provided, however, that CMS may amend this Agreement or any appendix hereto without the consent of the MDPCP Practice as specified in this Agreement or appendix, or for good cause or as necessary to comply with applicable federal or state law, regulatory requirements, accreditation standards or licensing guidelines or rules. To the extent practicable, and unless otherwise specified in this Agreement or an appendix hereto, CMS shall provide the MDPCP Practice with thirty (30) Days advance written notice of any such unilateral amendment, which notice shall specify the amendment's effective date.

16.5 *Survival*

Expiration or termination of this Agreement by any Party shall not affect the rights and obligations of the Parties accrued prior to the effective date of the expiration or termination of this Agreement, except as provided in this Agreement. The rights and duties under the following sections of this Agreement shall survive the expiration or termination of this Agreement and apply thereafter:

Article V (MDPCP Practice Reporting and Certification Requirements);

Article 9.12 (Financial Settlement)

Article X (Data Sharing and Reports);

Article 11.1 (Survival);

Article 11.2 (Evaluation Requirement);

Article 11.3 (Evaluation Primary Data);

Article 11.4 (Evaluation Secondary Data);

Article 11.6 (MDPCP Practice Site Visits);

Article 11.7 (Rights in Data and Intellectual Property);

Article 12.1 (CMS Monitoring and Oversight Activities);

Article 12.2 (MDPCP Practice Compliance with Monitoring and Oversight Activities)

Article XIII (Audits and Record Retention);

Article 14.4 (Financial Settlement Upon Termination)

Article 14.5 (Notice of Termination)

Article 15.1 (Limitations on Review)

Article 16.2 (Notice of Bankruptcy)

Article 16.5 (Survival)

Article 16.7 (Change of MDPCP Practice Name)

Article 16.8 (Change in MDPCP Practice TIN)

Article 16.9 (Change in Control)

Article 16.10 (Prohibition on Assignment)

16.6 *Precedence*

If any provision of this Agreement conflicts with a provision of any document incorporated herein by reference, the provision of this Agreement shall prevail.

16.7 *Change of MDPCP Practice Registered Name*

If the MDPCP Practice changes the registered business legal name of the legal entity, the MDPCP Practice shall forward to CMS a copy of the document effecting the registered name change, authenticated by the appropriate state official, and the Parties shall execute an agreement reflecting the change of the MDPCP Practice's registered name.

16.8 *Change in MDPCP Practice TIN*

The MDPCP Practice shall provide written notice to CMS at least ninety (90) Days before the effective date of any change in the TIN under which any MDPCP Practitioners bill Medicare for Primary Care Services furnished by MDPCP Practitioners.

16.9 *Change in Control*

(a) The MDPCP Practice shall provide CMS at least ninety (90) Days advance written notice of any Change in Control. This obligation of the MDPDP Practice shall remain in effect until the effective date of termination of this Agreement or until the MDPCP Practice has repaid all Other Monies Owed to CMS under this Agreement, whichever is later.

(b) CMS may terminate this Agreement and may require immediate repayment of all Other Monies Owed under this Agreement if the MDPCP Practice undergoes or will undergo a Change in Control that will render the MDPCP Practice ineligible for participation in MDPCP. Examples of such Changes in Control that would render the MDPCP Practice or MDPCP Practice Site ineligible for participation in MDPCP include, but are not limited to:

(i) Changes in Control that result in the cessation of Primary Care Services being furnished at the address identified in the recitals to this Agreement;

(ii) Changes in Control that result in the MDPCP Practice or MDPCP Practice Site engaging in Concierge Medicine or being designated as a Rural Health Clinic, Federally Qualified Health Center, or a Critical Access Hospital; or

(iii) Changes in Control that result in the MDPCP Practice's participation in a CMS model with a no-overlaps policy with MDPCP, such as the Next Generation ACO Model.

16.10 *Prohibition on Assignment*

(a) Except with the prior written consent of CMS, the MDPCP Practice shall not transfer, including by merger (whether the MDPCP Practice is the surviving or disappearing entity), consolidation, dissolution, or otherwise:

(i) any discretion granted it under this Agreement;

(ii) any right that it has to satisfy a condition under this Agreement;

(iii) any remedy that it has under this Agreement; or

(iv) any obligation imposed on it under this Agreement.

(b) The MDPCP Practice shall provide CMS ninety (90) Days advance written notice of any such transfer. This obligation remains in effect until the expiration of termination of this Agreement and the MDPCP Practice has repaid all Other Monies Owed to CMS under this Agreement. CMS may condition its consent to such transfer on full or partial repayment of Other Monies Owed. Any purported transfer in violation of this Article is voidable at the discretion of CMS.

16.11 *Certification*

The individual signing this Agreement on behalf of the MDPCP Practice certifies to the best of his or her knowledge, information, and belief that the information submitted to CMS and contained in this Agreement (inclusive of appendices), is accurate, complete, and truthful, and that he or she is authorized by the MDPCP Practice to execute this Agreement and to legally bind the MDPCP Practice on whose behalf he or she is executing this Agreement to its terms and conditions.

16.12 *Execution in Counterpart*

This Agreement and any amendments hereto may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page

were an original thereof. This Agreement and any amendments hereto may be signed by autopen or electronic signature (e.g., DocuSign or similar electronic signature technology) and may be transmitted by electronic means. Copies of this Agreement and any amendments hereto that are so executed and delivered have the same force and effect as if executed with handwritten signatures and physically delivered.

[SIGNATURE PAGE FOLLOWS]

Each Party is signing this Agreement on the date stated opposite that Party's signature. If a Party signs but fails to date a signature, the date that the other Party receives the signing Party's signature will be deemed to be the date that the signing Party signed this Agreement. Beginning in Performance Year 2023 and each subsequent Performance Year, this Agreement may be signed by autopen or electronic signature (e.g., DocuSign or similar electronic signature technology) and may be transmitted by electronic means. Copies of this Agreement and any amendments hereto that are so executed and delivered have the same force and effect as if executed with handwritten signatures and physically delivered.

MDPCP PRACTICE:

____

By: ________________________________ Date: ______________________________

___________________________________ ___________________________________
Name of authorized signatory Title of authorized signatory

MDPCP Practice ID: ___________________

CMS:

By: ________________________________ Date: ______________________________

___________________________________ ___________________________________
Name of authorized signatory Title of authorized signatory

Appendices

A. Care Transformation Requirements

B. Quality and Utilization Measure Set

C. HIPAA-Covered Disclosure Request Attestation and Data Specification Worksheet

D. Medicare Payment Waivers

E. MDPCP Practice Proprietary & Confidential Information

F. Telehealth Benefit Enhancement

Appendix A – Care Transformation Requirements

The Care Transformation Requirements for the first and second Performance Years of the Agreement Performance Period are governed by Appendix A of the MDPCP Practice Participation Agreement that was in effect on January 1, 2020, as if such appendix were included in this Fifth Amended and Restated MDPCP Practice Participation Agreement. The Care Transformation Requirements for the third? Performance Year of the Agreement Performance Period are governed by Appendix A of the MDPCP Practice Participation Agreement that was in effect on January 1, 2021, as if such appendix were included in this Fifth Amended and Restated MDPCP Practice Participation Agreement. The Care Transformation Requirements for the fourth Performance Year of the Agreement Performance Period are governed by Appendix A of the MDPCP Practice Participation Agreement that was in effect on January 1, 2022, as if such appendix were included in this Fifth Amended and Restated MDPCP Practice Participation Agreement. The Care Transformation Requirements for the fifth Performance Year of the Agreement Performance Period are governed by Appendix A of the MDPCP Practice Participation Agreement that was in effect on January 1, 2023, as if such appendix were included in this Fifth Amended and Restated MDPCP Practice Participation Agreement. The Care Transformation Requirements table in this Section I. of Appendix A is for Performance Year 2024 and each subsequent Performance Year.

Comprehensive Primary Care Functions of Advanced Primary Care	MDPCP Track 2	MDPCP Track 3
Access and Continuity	• Empanel MDPCP Beneficiaries to MDPCP Practitioner or care team. • Ensure MDPCP Beneficiaries have 24/7 access to a care team or MDPCP Practitioner with real-time access to the beneficiary's EHR. • Ensure MDPCP Beneficiaries have regular access to the care team or MDPCP Practitioner through at least one alternative care strategy.	• Empanel MDPCP Beneficiaries to MDPCP Practitioner or care team. • Ensure MDPCP Beneficiaries have 24/7 access to a care team or MDPCP Practitioner with real-time access to the beneficiary's EHR. • Ensure MDPCP Beneficiaries have regular access to the care team or MDPCP Practitioner through at least two alternative care strategies,

Comprehensive Primary Care Functions of Advanced Primary Care	MDPCP Track 2	MDPCP Track 3
		in addition to telehealth.
Care Management	• Ensure all empaneled, MDPCP Beneficiaries are risk stratified. • Ensure all empaneled MDPCP Beneficiaries identified as increased risk and likely to benefit receive targeted, proactive, relationship-based (longitudinal) care management. • Ensure empaneled MDPCP Beneficiaries who have received follow-up after ED, hospital discharge, or other triggering event receive short-term (episodic) care management. • Ensure empaneled MDPCP Beneficiaries receive a follow-up interaction from the MDPCP Practice within one week for ED discharges and two business days for hospital discharges. • Ensure MDPCP Beneficiaries in longitudinal care management are engaged in	• Ensure all empaneled, MDPCP Beneficiaries are risk stratified. • Ensure all empaneled MDPCP Beneficiaries identified as increased risk and likely to benefit receive targeted, proactive, relationship-based (longitudinal) care management. • Ensure empaneled MDPCP Beneficiaries who have received follow-up after ED, hospital discharge, or other triggering event receive short-term (episodic) care management. • Ensure empaneled MDPCP Beneficiaries receive a follow-up interaction from the MDPCP Practice within one week for ED discharges and two business days for hospital discharges. • Ensure MDPCP Beneficiaries in longitudinal care management are engaged in

Comprehensive Primary Care Functions of Advanced Primary Care	MDPCP Track 2	MDPCP Track 3
	a personalized care planning process, which includes at least their goals, needs, and self-management activities.	a personalized care planning process, which includes at least their goals, needs, and self-management activities. • Ensure MDPCP Beneficiaries in longitudinal care management have access to comprehensive medication management.
Comprehensiveness and Coordination across the Continuum of Care	• Ensure coordinated referral management for MDPCP Beneficiaries seeking care from high-volume and/or high-cost specialists as well as EDs and hospitals. • Ensure MDPCP Beneficiaries with behavioral health needs have access to care consistent with at least one option from a menu of options for integrated behavioral health supplied to MDPCP Beneficiaries by the MDPCP Practice. • Facilitate access to resources that are available in the MDPCP Practice's community for MDPCP Beneficiaries with identified health-related social needs.	• Ensure coordinated referral management for MDPCP Beneficiaries seeking care from high-volume and/or high-cost specialists as well as EDs and hospitals. • Ensure MDPCP Beneficiaries with behavioral health needs have access to care consistent with at least one option from a menu of options for integrated behavioral health supplied to MDPCP Beneficiaries by the MDPCP Practice. • Facilitate access to resources that are available in the MDPCP Practice's community for MDPCP Beneficiaries with identified health-related

Comprehensive Primary Care Functions of Advanced Primary Care	**MDPCP Track 2**	**MDPCP Track 3**
		social needs.
Beneficiary & Caregiver Experience	• Convene a Patient-Family/ Caregiver Advisory Council (PFAC) at least annually and integrate PFAC recommendations into care and quality improvement activities.	• Convene a Patient-Family/ Caregiver Advisory Council (PFAC) at least annually and integrate PFAC recommendations into care and quality improvement activities. • Engage MDPCP Beneficiaries and caregivers in a collaborative process for advance care planning
Planned Care for Health Outcomes	• Continuously improve the MDPCP Practice's performance on key outcomes, including cost of care, electronic clinical quality measures, beneficiary experience, and utilization measures.	• Continuously improve the MDPCP Practice's performance on key outcomes, including cost of care, electronic clinical quality measures, beneficiary experience, and utilization measures.

II. HEART PAYMENT SPECIFIC CARE TRANSFORMATION REQUIREMENTS

For Performance Year 2022, the Care Transformation Requirements described below apply whether the MDPCP Practice is participating in MDPCP Track 1 or Track 2. For Performance Year 2022 as specified in Article 9.3(a) of the Agreement, the MDPCP Practice must use the HEART Payment to perform Care Transformation Requirements described in this Section II of Appendix A for those MDPCP Beneficiaries that meet the criteria in Article 9.2(c)(iv). Beginning for Performance Year 2023, and for each subsequent Performance Year, the Care Transformation Requirements described in this Section II of Appendix A no longer apply.

Comprehensive Primary Care Functions of Advanced Primary Care	MDPCP Track 1 and MDPCP Track 2
Access and Continuity	• Identify and address barriers to care initiation, continuity, and preventative care for MDPCP Beneficiaries including, but not limited to, language barriers, transportation, cost, and/or health system navigation and health literacy. • Identify and address barriers to care continuity through the use of technology such as telehealth and remote patient management technology
Care Management	• Provide holistic high intensity care management that may include coordination for essential clothing, education/employment support, access to safe exercise facilities, and emergency preparation needs. • Provide an MDPCP Beneficiary experiencing interpersonal violence/toxic stress with services such as ongoing safety planning and management or linkages to community-based social services and mental health agencies with interpersonal violence experience • Provide one-on-one case management or educational services to assist MDPCP Beneficiary in addressing food insecurity and access to safe water. Assist the MDPCP Beneficiary in accessing community-based food and nutrition resources, such as food pantries, farmers market voucher programs, etc.
Comprehensiveness and Coordination	• Facilitate access to health-related legal supports • Facilitate access to food and nutrition care management services

Comprehensive Primary Care Functions of Advanced Primary Care	**MDPCP Track 1 and MDPCP Track 2**
across the Continuum of Care	• Facilitate access to housing navigation, support, and sustaining services, including access to essential utilities. • Connect the MDPCP Beneficiary to social services to help with finding housing necessary to support meeting medical care needs. • Connect the MDPCP Beneficiary to home remediation services that may eliminate known home-based health and safety risks (i.e. pest eradication, carpet or mold removal)
Beneficiary & Caregiver Experience	• Engage beneficiaries and caregivers in identifying and mitigating barriers to recommended resources (i.e. assistance with enrollment in additional eligible benefits and/or supports) • Build practice capacity to provide culturally competent care and strong patient-provider partnerships through activities such as access to language interpreter services, extending linguistic competency beyond the clinical encounter, providing staff with training on implicit bias, cultural competency, or other related knowledge and skills • Take action to ensure racial, ethnic, and socioeconomic diversity among PFAC members that represents the community served by the practice
Planned Care for Health Outcomes	• Implementation and tracking of social needs assessment screening, customizing electronic health records to capture social determinants and demographic information and linking data through health information exchanges, screening for unfilled prescriptions or underdosing of medications due to cost, behavioral health and substance use screening, intimate partner violence screening, adverse childhood experiences scoring, and/or determining rates of preventive health screenings, vaccinations, and/or management of chronic diseases in order to optimize care of underserved populations fare on MDPCP practice performance on quality, patient experience, and utilization measures • Data collection and analysis, including disaggregated data on

Comprehensive Primary Care Functions of Advanced Primary Care	MDPCP Track 1 and MDPCP Track 2
	race and ethnicity, gender identity, family size and income through the use of social determinants of health (SDOH) screening systems with standards equivalent to or better than those specified by CMS.

Appendix B – Quality, Utilization, And Efficiency Component Measure Set

The Quality and Utilization Measure Set for the first Performance Year of the Agreement Performance Period is governed by Appendix B of the MDPCP Practice Participation Agreement that was in effect on January 1, 2019, as if such appendix were included in this Fifth Amended and Restated MDPCP Practice Participation Agreement. The Quality and Utilization Measure Set for the second Performance Year of the Agreement Performance Period is governed by Appendix B of the MDPCP Amended and Restated Practice Participation Agreement that was in effect on January 1, 2020, as if such appendix were included in this Fifth Amended and Restated MDPCP Practice Participation Agreement. The Quality and Utilization Measure Set for the third, fourth, and fifth Performance Year of the Agreement Performance Period is governed by Appendix B of the MDPCP Second Amended and Restated Practice Participation Agreement that was in effect on January 1, 2021, as if such appendix were included in this Fifth Amended and Restated MDPCP Practice Participation Agreement. The Quality, Utilization, and Efficiency Component Measure Sets below are for Performance Year 2024 and each subsequent Performance Year.

Quality Component

MDPCP eCQM Set			
CMS ID#	**Measure Title**	**Measure Type/ Data Source**	**Domain**
CMS165v12	Controlling High Blood Pressure	Outcome/eCQM	Effective Clinical Care
CMS122v12	Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%)	Outcome/eCQM	Effective Clinical Care
CMS69v12	Preventive Care and Screening: Body Mass Index (BMI) Screening and Follow-Up Plan	Process/eCQM	Population Health
CMS2v13	Preventive Care and Screening: Screening for Depression and Follow-Up Plan	Process/eCQM	Population Health

CG-CAHPS Measure		
Domain	**Source**	**Measure Title**
Patient Experience	NQF#0005	CG-CAHPS survey

Utilization Component

Utilization Measures			
Domain	**Measure Title**	**Source**	**Measure Description**
Utilization	Emergency Department Utilization	HEDIS	Ambulatory care: summary of utilization of ambulatory care in the following categories: ED visits
Utilization	Acute Hospital Utilization	HEDIS	The Acute Hospital Utilization (AHU) measure (previously titled Inpatient Hospital Utilization [IHU]) assesses the rate of acute hospitalizations and observation stay discharges among members 18 years of age and older. Medicare and commercial health plans report the measure in three categories: surgery, medicine and total hospitalizations. The measure is risk-adjusted for age, gender and comorbid conditions.

Efficiency Component

Efficiency Measure			
Domain	**Measure Title**	**Source**	**Measure Description**
Efficiency	Total per Capita Cost (TPCC)	MIPS	CMS takes the per-capita standardized allowed amount of Medicare Parts A+B spending, with exclusions for anesthesia, radiation, and chemotherapy services, for MDPCP Beneficiaries attributed to the MDPCP Practice Site during a given beneficiary month (observed) and divides by an expected allowed amount. The expected allowed amount is the predicted value of a simple liner regression on Maryland Medicare beneficiaries' Hierarchical Condition Category (HCC) risk scores. The MDPCP Practice's performance on the TPCC measure is compared to the TPCC performance benchmark for Maryland established by CMS.

Appendix C – HIPAA-Covered Disclosure Request Attestation and Data Specification Worksheet

The MDPCP Practice requests to receive from CMS certain data listed in the MD Data Specification Worksheet MDPCP Practice rev 20181206.xlsx (**Exhibit A**) and makes the following assertions regarding its ability to meet the HIPAA requirements for receiving such data:

The MDPCP Practice is a (select one):

- o A HIPAA Covered Entity (CE) as defined in 45 CFR § 160.103.
- o The Business Associate (BA) of a HIPAA CE as defined in 45 CFR § 160.103.
- o Neither a HIPAA CE nor a BA of a HIPAA CE.

The MDPCP Practice is seeking protected health information (PHI), as defined in 45 CFR § 160.103 (select one):

- o For its own "health care operations" that fall within the first and second definition of that phrase under the HIPAA Privacy Rule (45 C.F.R. § 164.501).
- o For its own use, not falling under the above: Please attach a description of the intended use.
- o On behalf of a CE for which the MDPCP Practice is a BA.
- o Other: Please attach a description of the intended purpose (e.g., for "research" purposes, for "public health" purposes, etc.).

The MDPCP Practice requests (select one):

- o For the MDPCP Practice Site's MDPCP Beneficiaries using the methodology described in this Agreement: (i) three years of historical data files for the data elements identified in Exhibit A for its MDPCP Beneficiaries; and (ii) monthly claims data files for the data elements identified in Exhibit A for its MDPCP Beneficiaries, from the following CMS data files:

Data	Source
Part A Claims Header	CCW
Part A Claims Revenue Center	CCW
Part A Procedure Codes	CCW
Part A Diagnosis Codes	CCW
Part B Physicians	CCW
Part B Durable Medical Equipment	CCW
Part D	CCW
Beneficiary Demographics	CCW
Beneficiary Cross-Reference (XREF)	CCW
Outcome and Assessment Information Set (OASIS)	CCW
Minimum Data Set 3.0	CCW

- Other: Please attach a detailed description the data requested.

The MDPCP Practice intends to use the requested data to carry out (select one):

- "Health care operations" that fall within the first and second paragraphs of the definition of that phrase under the HIPAA Privacy Rule (45 CFR § 164.501).
- Other: Please attach a detailed description of the intended purpose (e.g., for "research" purposes, for "public health" purposes, etc.) and the MDPCP Practice's qualifications for receiving such data for such purpose(s).

The data requested is (select one):

- The "minimum necessary" (as defined at 45 CFR § 164.502) to carry out the health care operations or other activities described in this Agreement above.
- Other: Please attach a description of how (if applicable) the data requested exceeds what is needed to carry out the work described above.

This HIPAA-Covered Disclosure Request Attestation supersedes all such prior attestations made by the MDPCP Practice to CMS at any time during its participation in the MDPCP.

In making this request, the MDPCP Practice names the following individual as the MDPCP Practice's data custodian. In providing this information, the MDPCP Practice attests that this individual is either an MDPCP Practice employee or an employee of a business associate that requires access to the requested data for purposes of carrying out certain healthcare operations on behalf of the MDPCP Practice (all of which fall within paragraph one or two of the definition of that term in the HIPAA Privacy Rule).

The MDPCP Practice's data custodian for the requested data are as follows:

____
(MDPCP Practice data custodian name)

____
(organization)

______________________ ______________________________
(phone number) (e-mail)

____
(physical address)

The following individuals shall serve as alternative contacts regarding this data request:

____
(alternative contact #1 name)

____
(organization)

__________________________ ______________________________________
(alternative contact phone number) (alternative contact e-mail)

____
(alternative contact physical address)

____
(alternative contact #2 name)

____
(organization)

____
(alternative contact phone number)

____
(alternative contact e-mail)

____
(alternative contact physical address)

MDPCP Practice’s authorized signatory

By: ___________________________________ Date: ______________________________

____
[Print] Name of MDPCP Practice’s authorized signatory

Exhibit A: MD Data Specification Worksheet MDPCP Practice rev 20181206.xlsx [attached hereto]

Appendix D – Medicare Payment Waivers

In accordance with section 1115A(d)(1) of the Act, CMS finds that it is necessary solely for the purposes of testing MDPCP to waive the following requirements of Title XVIII of the Act:

1) Beneficiary Cost Sharing: CMS finds that it is necessary for purposes of testing MDPCP to waive the requirements for beneficiary cost-sharing under section 1833(a)(1)(N) through (O) and section 1833(b) of the Act to the extent otherwise applicable for purposes of the CMF, CPCP, PBIP, FVF, and PBP. MDPCP Beneficiaries will not be subject to any cost-sharing for the CMF, PBIP, CPCP, FVF or PBP.
2) Physician Fee Schedule: CMS finds that it is necessary for purposes of testing MDPCP to waive the requirements under sections 1833(a)(1)(O)(i) through (ii) and 1848(a)(1) of the Act that payment amounts for physician services be determined under the Physician Fee Schedule (PFS) to allow the CMF, CPCP, PBIP, FVF, PBP, and Reduced FFS Payments to be made as set forth in this Agreement.
3) Payment of FQHC Benefits: CMS finds that it is necessary for purposes of testing MDPCP to waive the requirements under sections 1833(a)(3) and 1834(o) of the Act and the implementing regulations to the extent necessary to carry out the terms of the MDPCP with respect to services provided by FQHCs to allow the CMF, PBIP, and, beginning in 2022, the CPCP to be made to FQHCs as set forth in the MDPCP FQHC Participation Agreement.
4) Appeals: CMS finds that it is necessary for purposes of testing MDPCP to waive the requirements of section 1869 of the Act to the extent otherwise applicable as well as any other appeals related requirements of the Act to the extent otherwise applicable.

Appendix E – MDPCP Practice Proprietary & Confidential Information

The following are specific examples, without limitation, of what the MDPCP Practice considers proprietary and confidential information currently contained in its program that should not be publicly disclosed:

1)

2)

3)

In accordance with Article 11.7 of this Agreement, this information shall remain the sole property of the MDPCP Practice and, except as required by federal law, shall not be released by CMS without the express written consent of the MDPCP Practice.

Appendix F – Telehealth Benefit Enhancement

This Appendix and Article 3.7 of this Agreement outline the requirements for the MDPCP Telehealth Benefit Enhancement. The Telehealth Benefit Enhancement will only apply to telehealth services furnished on or after January 1, 2025.

1) If the MDPCP Practice wishes to offer the Telehealth Benefit Enhancement during a Performance Year, the MDPCP Practice shall timely submit to CMS its selection of the Telehealth Benefit Enhancement in accordance with Article 3.7(a).

2) Waiver

   a) CMS waives the following requirements to the extent necessary to permit an MDPCP Practitioner to furnish otherwise covered telehealth services to an MDPCP Beneficiary in accordance with the terms and conditions set forth in this Appendix:

      i) Waiver of Originating Site Requirements: Section 1834(m)(4)(C) of the Act and 42 CFR § 410.78(b)(3) and (4) with respect telehealth services furnished in accordance with this Appendix.

      ii) Waiver of Originating Site Requirement in the Eligible Telehealth Individual Provision: The requirement in Section 1834(m)(4)(B) of the Act that telehealth services be "furnished at an originating site" when the services are furnished in accordance with this Appendix.

      iii) Waiver of Originating Site Facility Fee Provision: The requirement in Section 1834(m)(2)(B) of the Act and 42 CFR § 414.65(b) with respect to telehealth services furnished to an MDPCP Beneficiary at an MDPCP Beneficiary's home or place of residence when furnished in accordance with this Appendix.

3) Eligibility Requirements

   a) For telehealth services to be eligible for reimbursement under this Appendix, the MDPCP Beneficiary must be:

      i) An MDPCP Beneficiary at the time the telehealth services are furnished; and

      ii) Located at an originating site that is either:

         (1) One of the sites listed in Section 1834(m)(4)(C)(ii) of the Act; or

         (2) The MDPCP Beneficiary's home or place of residence.

   b) For telehealth services to be eligible for reimbursement under this Appendix, the MDPCP Practice must bill for the telehealth services using one of the following HCPCS codes G9481-G9489, G0438-G0439.

   c) All telehealth services furnished in accordance with the Telehealth Benefit Enhancement under this Appendix must be furnished in accordance with all other applicable state and Federal laws and all other Medicare coverage and payment criteria, including the

remaining requirements of Section 1834(m) of the Act and 42 CFR §§ 410.78 and 414.65.

4) Responsibility for Denied Claims

   a) If a claim for any telehealth services furnished by an MDPCP Practitioner under the Telehealth Benefit Enhancement is denied as a result of a CMS error and the MDPCP Practice and MDPCP Practitioner did not know, and could not reasonably have been expected to know, as determined by CMS, that the claim would be denied, payment shall notwithstanding such denial, be made by CMS for such telehealth services under the terms of the Telehealth Benefit Enhancement as though the coverage denial had not occurred.

   b) If a claim for any telehealth services furnished by an MDPCP Practitioner is denied for any reason other than a CMS error and CMS determines that the MDPCP Practice and MDPCP Practitioner did not know, and could not reasonably have been expected to know, as determined by CMS, that payment would not be paid for such items or services under Part B of Title XVIII of the Act:

      i) CMS shall, notwithstanding such denial, pay for such telehealth services under the terms of the Telehealth Benefit Enhancement as though the coverage denial had not occurred, but such amounts shall be considered to be a Medicare overpayment, which CMS will recover from MDPCP Practitioner or MDPCP Practice through recoupment or offset in accordance with applicable law.

      ii) The MDPCP Practice shall ensure that the MDPCP Practitioner that provided the telehealth services does not charge the MDPCP Beneficiary for the expenses incurred for such services; and

      iii) The MDPCP Practice shall ensure that the MDPCP Practitioner that provided the telehealth services returns to the MDPCP Beneficiary any monies collected from the MDPCP Beneficiary related to such services as soon as practicable.

   c) If a claim for any telehealth services furnished by a MDPCP Practitioner is denied and the MDPCP Practice or MDPCP Practitioner knew, or reasonably could be expected to have known, as determined by CMS, that payment would not be made for such items or services under Part B of Title XVIII of the Act:

      i) CMS will not make payments to the MDPCP Practice for such services;

      ii) The MDPCP Practice shall ensure that the MDPCP Practitioner that provided the telehealth services does not charge the MDPCP Beneficiary for the expenses incurred for such services; and

      iii) The MDPCP Practice shall ensure that the MDPCP Practitioner that provided the telehealth services returns to the MDPCP Beneficiary any monies collected from the MDPCP Beneficiary related to such services.

5) Compliance and Enforcement

a) CMS may prohibit an MDPCP Practitioner from furnishing, or the MDPCP Practice from billing for, telehealth services at any time, or take other remedial action pursuant to Article XIV of the Participation Agreement, if CMS determines that a MDPCP Practitioner's participation in the Telehealth Benefit Enhancement might compromise the integrity of the Model.

b) The MDPCP Practice must have appropriate procedures in place to ensure that MDPCP Practitioners have access to the most up-to-date information regarding MDPCP Beneficiary attribution to the MDPCP Practice.

c) CMS will monitor the MDPCP Practice's use of the Telehealth Benefit Enhancement to ensure that the telehealth services are furnished consistent with the terms of this Appendix and the Participation Agreement.