ADDENDUM I

**UNIVERSITY PHYSICIANS, INC. MEMBER PRACTICE AGREEMENT**

**MEMBER COVENANT NOT TO COMPETE**

1. Member acknowledges that the University of Colorado School of Medicine (“University”) has an investment in Member’s development, in the University’s patients, and in the practice of the University. Member further acknowledges that the Member has received and used, or will receive and use, trade secrets and confidential information from the University including, but not limited to, patient lists, contracting processes and terms and other confidential information. UPI shall be a direct and intended third party beneficiary of this Addendum I. In addition, Member acknowledges that University is making a significant investment in the practice of Member and that the University would suffer damage if Member were to leave as a faculty Member of University and divulge University’s confidential information and trade secrets, compete with the business of the University, or leave without sufficient notice to allow University to adequately arrange for his/her replacement. In consideration of the above, Member shall not, during the term of Member’s tenure with University and after any termination of Member’s tenure and privileges with University for any reason, with or without cause, except if terminated by the University for lack of resources or program discontinuance:
   1. For a period of two (2) years after termination, establish, operate or provide professional medical services, either in his own practice or as an independent contractor, partner, shareholder, owner, or agent of a medical practice, clinic, or hospital within a \_\_\_\_\_\_\_\_\_\_ (\_\_\_\_) mile radius of the intersection of Colfax and Ursula, Aurora, Colorado or any other facility where the Member regularly provides medical services on behalf of the University.
   2. At any time whatsoever, use University’s confidential information or trade secrets for any purpose other than his/her performance as an employee of the University nor disclose such information to any other person or entity, except as required by law or medical ethics.
2. Should Member violate the restrictions in Paragraph 1.A hereinabove, Member shall pay University and UPI all of University’s and UPI’s Actual Damages. Member acknowledges that the elements of University’s and UPI’s Actual Damages shall include, but not be limited to the following:
   1. If Member was recruited to the University and entered into this Agreement within 60months of termination of this Agreement, the amounts incurred or expended by UPI and the University to recruit and relocate Member to the University including but not limited to investments in research, equipment, practice development, and staff;
   2. The amount of the Member’s salary underwriting (“Salary Underwriting”) funded by UPI, the University, or affiliated hospital, or any of them, as determined by the Department Chair and/or affiliated hospital director in their reasonable judgment. Salary Underwriting shall mean the amount by which the Member’s allocable expenses and overhead exceeds the Member’s cash collections from professional services. Without limiting the categories of expenses that may be allocated to the Member’s Salary Underwriting, the Member agrees that the following categories of allocable expenses shall be deemed allocable to Member’s Salary Underwriting: expenses of unused or underutilized support staff, facilities, and overhead of UPI, the University, or both, allocable or attributable to Member or Member’s department or services;
   3. The amounts incurred or expended by UPI and the University to recruit a replacement Member to UPI and the University;
   4. The Salary Underwriting attributable to the Member’s replacement at UPI or the University, funded by UPI, the University, or both, as determined in accordance with Paragraph B, hereinabove;
   5. University’s and UPI’s cost of transferring patient records;
   6. Harm to University’s and UPI’s goodwill; and
   7. University’s and UPI’s costs and expense of enforcing this Agreement and Covenant Not to Compete, including but not limited to University’s and UPI’s attorneys’ fees, experts and consultants’ fees, court, court reporter, copying and related costs and expenses.

Based upon these components, the Member and University and UPI agree that these actual damages are estimated to be \_\_\_\_\_\_\_\_\_\_\_\_\_.

1. Should Member violate Paragraph 1.B hereinabove, University shall be entitled to all remedies available under applicable law.
2. Member acknowledges and agrees that these terms and conditions are reasonable as to geographic scope, duration and amount, and reasonably reflect actual damages that University and UPI would suffer. Any amounts owed by Member hereunder can be offset by University and UPI against any amounts owed by University and UPI to Member.
3. If any provisions of this covenant not to compete relating to time period, scope of activity restricted, or geographic area described herein shall be declared by any court or arbitrator of competent jurisdiction to exceed the time period, scope of activity or geographic area which the court or arbitrator deems to be reasonable and enforceable, then the time period, scope of activity restricted and/or geographic area provided for in this covenant shall be modified and this covenant deemed amended to be that time period, scope of activity and/or geographic area which the court or arbitrator finds is reasonable and enforceable.

Agreed to:

Member:

Signature Date

Print Name

Department Chair:

Signature Date

Print Name

Dean, School of Medicine:

Signature Date

Print Name