



**CONTRACT FOR HEALTH CARE SERVICES**  
**MARICOPA COUNTY HEALTH CARE MANDATES DEPARTMENT**  
**AND MARICOPA COUNTY CORRECTIONAL HEALTH SERVICES DEPARTMENT**

1. Contract No.: C-39-05-033-1-00 ✓      2. Contract Type: Unit Cost  
3. Contract Amount: \_\_\_\_\_      4. Contractor FEI/SSN: 86-0724578  
5. Start Date: 1/1/05 5/4/2005 ✓      6. Expiration Date: 6/30/07

This Contract is entered into by and between Medical Professional Associates of Arizona, d.b.a. MedPro, ("Contractor"), and Maricopa County, d.b.a. Maricopa County Health Care Mandates Department and Maricopa County Correctional Health Services Department (collectively "HCM/CHS"). Contractor, for and in consideration of the payments, covenants and conditions set forth herein, shall provide and perform the services as set forth below. All rights and obligations of the parties shall be governed by the terms of this document, its Exhibits, Attachments and Appendices, including any Subcontract or Amendment as provided herein.

**This Contract contains all the terms and conditions agreed to by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto. Nothing in this Contract shall be construed as a consent to any suit, action or waiver of any defense in a suit brought against the State of Arizona, Maricopa County, HCM/CHS, or Contractor, in any State or Federal Court.**

Notice to Contractor: Medical Professional Associates of Arizona, Attn: Contracts\_Phone: (602)470-5000  
Fax: (602) 470-5060

Address: 3255 E. Elwood Street, Suite 110 Phoenix, AZ 85034

Notice to Health Care Mandates Department: Maricopa County Health Care Mandates Department, Attention: Director

Address: 301 W. Jefferson, Suite 3200, Phoenix, Arizona 85003      Phone: 602-372-7040 Fax: 602-506-3806

Notice to Correctional Health Services Department: Maricopa County Correctional Health Services Department, Attention: Director

Address: 111 W. Monroe, Suite 900, Phoenix, Arizona 85003      Phone: 602-506- Fax: 602-506-

IN WITNESS WHEREOF, the parties enter into this Contract:

A. CONTRACTOR

MARICOPA COUNTY BOARD OF SUPERVISORS

BY: Paul F. West      10-25-05  
Signature      Date

BY: Don Stepley      2/16/06  
Chairman

ATTEST:

Paul F. Westover, CEO, MedPro  
Typed Name & Title

Janice Clancy  
Clerk of the Board 050405

## Maricopa County And MedPro

1. **DEFINITIONS**

Terms in this Contract shall have the meanings set forth below:

- 1.1. **Advance Directive** means a written statement by a Patient indicating the kind of medical treatment a Patient does or does not want under special serious medical conditions that render the Patient mentally or physically unable to communicate the Patient's wishes. Common forms of advance directives are: Living Will, Durable Health Care Power of Attorney and Mental Health Care Power of Attorney.
- 1.2. **AHCCCS** means the Arizona Health Care Cost Containment System.
- 1.3. **Ancillary Services** means x-rays, laboratory, ambulance, transportation, pharmacy services, therapies, dialysis, and other medically related services.
- 1.4. **Appeal** means a request for a standard or expedited reconsideration of the denial of a requested service or payment of a service.
- 1.5. **Authorization/Prior Authorization** means an administrative process whereby CHS or HCM reviews and decides whether proposed services may be approved as medically necessary and appropriate.
- 1.6. **Authorization Number** means the reference or tracking number issued by the CHS or HCM Authorization Unit for a specific service or group of services.
- 1.7. **Authorization Unit** means the CHS or HCM Medical Management component that authorizes, consults and tracks medical services to Patients.
- 1.8. **Billed Charges** means charges billed by a provider for rendering services to a Patient.
- 1.9. **Case Manager** means the person or persons designated by HCM or CHS to develop and monitor the overall plan for a Patient who receives care with a specific diagnosis or who requires extensive services.
- 1.10. **Clean Claim** means a claim that may be processed to adjudication without obtaining additional information from Contractor or provider of service or from a third party, but does not include claims under investigation for fraud or abuse or claims under review for medical necessity.
- 1.11. **Contract** means this document and all its attachments and amendments, including as applicable, contractor's/respondent's proposal.
- 1.12. **CHS** means the Maricopa County Correctional Health Services Department and includes its agents, employees, and sub-contractors.
- 1.13. **CHS Medical Director** means the physician or designee assigned by CHS to monitor and review Covered Services to Patients within CHS's authority.
- 1.14. **Contractor** means the person, firm or organization listed on the cover page of this Contract and includes its agents, employees, and sub-contractors.
- 1.15. **County** means Maricopa County, a political subdivision of the State of Arizona and includes its agents, employees, and sub-contractors.

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- 1.16. **County Contracted Employee** means a County employee whose terms and conditions of employment are contained in a written agreement.
- 1.17. **County Jail** means all facilities under the control or supervision of Maricopa County or the Maricopa County Sheriff, and whose primary purpose is to incarcerate Inmates.
- 1.18. **Covered Services** means those services and supplies that are covered by County.
- 1.19. **Delivery** means with respect to legal notice under this Contract, personal delivery or delivery by registered or certified mail to the addresses set forth in the cover page or other applicable agreement or subcontract. Delivery shall be effective upon receipt by the party to whom addressed unless otherwise provided in this Contract.
- 1.20. **Discharge Plan** means to identify and provide for a Patient's health care needs after discharge from a hospital or skilled nursing facility.
- 1.21. **Emergency Medical Condition** means a medical condition manifesting acute symptoms of sufficient severity (including severe pain) that a prudent lay person, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:
- 1.21.1. serious jeopardy to the health of the individual (or an unborn child);
  - 1.21.2. serious impairment to bodily functions; or
  - 1.21.3. serious dysfunction of any bodily organ or part.
- 1.22. **Emergency Medical Services** means services provided after the sudden onset of an Emergency Medical Condition.
- 1.23. **Explanation of Benefits (EOB)** means a record of a claim sent to the Patient after the claim is filed and processed, which shows the services billed, whether the services are covered, and how deductibles, co-insurance or benefit maximums were applied and explains the general appeals process.
- 1.24. **Formulary** means a list of drugs that HCM/CHS has selected for use in treating a Patient.
- 1.25. **Fraud** means an intentional deception or misrepresentation made or caused to be made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable state or federal law.
- 1.26. **Grievance** means a complaint concerning an adverse action, decision, or policy by Contractor, its sub-contractor, non-contracted provider, or HCM/CHS.
- 1.27. **HCM** means the Maricopa County Health Care Mandates Department and includes its agents, employees, and sub-contractors.
- 1.28. **Inmate** means a person who has been committed to County Jail by competent authority.

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- 1.29. **JCAHO** means the Joint Commission for the Accreditation of Healthcare Organizations.
- 1.30. **National Committee for Quality Assurance (NCQA)** means an independent, nonprofit group that accredits Health Maintenance Organizations (HMO), whose principal office is at 2000 L Street, Suite 500, Washington, DC 20036.
- 1.31. **Non-Covered Services** means all services that are not Covered Services.
- 1.32. **Non-Symptomatic Services** means services of a medical nature that are not occasioned by the onset of a medical condition, such as a well visit.
- 1.33. **Participating Provider** means a qualified provider of health care services, including a hospital or provider of post-acute and ancillary services, who has contracted with County to provide Covered Services to Patients.
- 1.34. **Patient** means any individual who receives health care under the authority of County, not limited to but including an inmate in a County jail.
- 1.35. **Patient Information** means medical, financial and patient specific information.
- 1.36. **Payer** means any party other than County and Contractor who is obligated to pay County and/or Contractor pursuant to a contract or standards of participation for the provision of health care services.
- 1.37. **Payer Contract** means an agreement whereby a Payer or funder pays County to arrange Covered Services for Patients.
- 1.38. **Payer of Last Resort** means with respect to County under this Contract, that a Patient must seek authorization and payment from all other insurers or providers covering Patient's medical needs before seeking coverage from County. If all of Patient's other insurers or providers do not authorize or cover the service, County will review the requested service for medical necessity, and determine whether to authorize payment.
- 1.39. **Plan of Care** means a treatment regimen that reviews all aspects of care for a Patient, leading to resolution of the Patient's medical condition.
- 1.40. **Subcontractor** means a sub-contractor to Contractor or County for a performance under this Contract.
- 1.41. **Urgent Care Services** means medical services that must be provided promptly to prevent impairment of health due to a condition that a prudent lay person would believe requires immediate attention but is not life-threatening and does not pose a high risk of permanent damage to the Patient's health. Urgent Care Services are appropriately provided in a clinic, physician's office or in a hospital emergency department if a clinic or physician's office is not available. Urgent Care Services do not include Emergency Services and Non-Symptomatic Services.
- 1.42. **Utilization Review Accreditation Commission (URAC)** means an independent organization that evaluates and accredits entities performing utilization review ("UR").

**2. TERM**

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This Contract shall be for the term set forth on the Cover Page, unless otherwise terminated or extended in accordance with the terms of this Contract. County may, in its sole and exclusive discretion, extend this Contract for additional annual renewal periods, not to exceed a total term of five years from the Effective Date.

**3. PERFORMANCE**

3.1. **Contractor's Performance.** Contractor shall perform professional medical services, as authorized by County's designees, which Contractor is capable of providing at Contractor's facilities and at Phoenix Memorial Hospital.

3.1.1. County designates CHS to authorize services to Inmates.

3.1.2. County designates HCM to authorize services to Patients who are not Inmates.

3.2. **Performance Standards.** The Parties shall perform this Contract so that Patients receive cost-effective, quality medical services.

3.2.1. Contractor shall fully cooperate with other HCM/CHS Participating Providers and subcontractors (such as ambulance services). Contractor shall not commit or permit any act that interferes with such other Participating Provider's or subcontractor's performance, except for acts necessary to protect a Patient from danger.

3.2.2. Contractor will not engage in any conduct, activity, or business or professional arrangement that jeopardizes this Contract or Contractor's performance of this Contract.

3.2.3. Contractor will not advise, counsel, solicit or refer any Patient to facilities, health plans or providers, other than Phoenix Memorial Hospital, Maricopa Medical Center, or other Participating Provider, except as permitted by written HCM/CHS policies or procedures. Notwithstanding the foregoing, Contractor may refer a Patient for medically necessary services that are not available from or provided by Maricopa Medical Center, Phoenix Memorial Hospital or other Participating Provider, provided the referral complies with applicable HCM/CHS Authorization Policy ("Attachment D"). (Where is Attachment D?) 

3.2.4. Contractor shall ensure that any laboratory testing site providing services under this Contract has a Clinical Laboratory Improvement Act ("CLIA") identification number and one of the following: a CLIA certificate of waiver, certificate of registration, or certificate of accreditation. Contractor shall ensure that the laboratory provides only those tests permitted under the terms of the laboratory's waiver or certificate.

3.2.5. Contractor's medical and clinical record system must provide HCM/CHS with accurate, timely, complete, organized and legible information.

3.2.6. Contractor shall follow HCM/CHS Authorization Policy, as amended from time to time. County will notify Contractor of any change to the Authorization Policy and the effective date. Contractor's responsibilities

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regarding the Authorization Policy include, without limitation, the following:

- 3.2.6.1. Contractor shall strictly comply with the Authorization Policy that Contractor shall evaluate a Patient only for the condition that CHS referred to Contractor. Contractor shall obtain prior authorization from CHS before addressing any other issue or condition affecting the Patient.
- 3.2.6.2. CHS, not Contractor, shall have responsibility for discussing treatment options with a Patient.
- 3.2.6.3. Contractor shall not be reimbursed or paid for repeating diagnostic tests for the Patient if current information is available from a licensed HCM/CHS vendor, Participating Provider or subcontractor. Contractor may be paid or reimbursed, subject to other conditions in this Contract, for gathering additional new diagnostic information, if indicated from the Patient's condition.
- 3.2.7. Contractor shall use the CHS Formulary, as amended from time to time. County will notify Contractor of any change to the Formulary and the effective date.
- 3.2.8. Contractor will participate as needed with the hospital in performing a Clinical Review within 24 hours after CHS has authorized admission and continued hospitalization of an Inmate. Contractor shall provide access to its facility and records, whether in person or by telephone as necessary, to CHS-authorized personnel performing utilization review or quality assurance functions.
- 3.2.9. Contractor will participate as needed with the hospital in developing a Plan of Care and Discharge Plan for each Patient and obtain required authorizations from HCM/CHS Utilization Management prior to discharge.
  - 3.2.9.1.
- 3.2.10. Contractor will fully cooperate with HCM/CHS to fulfill any quality management program requirements undertaken by HCM/CHS or required by the Arizona Department of Health Services (ADHS), and all other regulatory or accrediting bodies, including but not limited to the JCAHO, that pertain to services provided under this Contract.
- 3.2.11. Contractor shall aid HCM/CHS in obtaining contracts with Contractor's Ancillary Services providers, if their services are not billed through Contractor.
- 3.2.12. Contractor shall not use County premises, property (including equipment, instruments and supplies), or personnel for any purpose other than the performance of this Contract. Contractor will be responsible for any damage to County property when such property is the responsibility of or in the custody of Contractor, its employees or subcontractors.

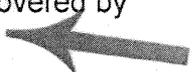
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- 3.2.13. Contractor will cooperate with County in the defense of lawsuits or other quasi-legal actions arising from work performed under this Contract or any other applicable Payer Contract. Cooperation may include, but not be limited to, participating in depositions, interpreting medical records, meeting with County Attorney staff or other County representatives.
- 3.3. **Advance Directives.** Contractor will comply with state and federal law, and HCM/CHS policies and procedures, regarding Advance Directives. At a minimum Contractor will do the following:
  - 3.3.1. Ensure compliance with requirements of federal, state and County policies and procedures regarding Advance Directives.
  - 3.3.2. Provide written information to adult Patients regarding an individual's right under state and federal law to make decisions about medical care, including the right to refuse medical care and the right to execute an Advance Directive.
    - 3.3.2.1. The information may explain any conscientious objection Contractor may have in carrying out the Advance Directive, as permitted pursuant to A.R.S. § 36-3205(C)(1).
  - 3.3.3. Provide written information to adult Patients regarding Contractor's written policies concerning Advance Directives.
  - 3.3.4. Document in the adult Patient's medical record whether the Patient has executed an Advance Directive.
  - 3.3.5. Not limit the provision of care or discriminate against a Patient because of the Patient's decision to execute or not execute an Advance Directive.
  - 3.3.6. Educate and document the education of Contractor's staff on issues concerning Advance Directives.
- 3.4. **Performance Monitoring.** HCM/CHS shall monitor Contractor's performance under this Contract.
  - 3.4.1. Contractor shall maintain a reporting system so that activity related to this contract can be specifically identified and reconciled with HCM/CHS information to assure accurate measurement.
  - 3.4.2. (Reserved)
  - 3.4.3. Contractor shall provide all reports requested by HCM/CHS, and all information from records relating to the performance of the Contract, which HCM/CHS may reasonably require. These reporting requirements may include, but are not limited to, utilization statistics, diagnostic information, demographic reports and enrollment reconciliation. Contractor will make available for inspection and copying by HCM/CHS all records requested pursuant to this Contract.
  - 3.4.4. HCM/CHS, its designees and/or its Payer/Funder may make on-site visits to monitor performance at any time during Contractor's normal business hours, announced or unannounced.

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- 3.4.5. Upon request, Contractor will investigate and respond in writing to appropriate HCM/CHS concerns within ten (10) calendar days of receipt or notification of a request. Contractor will take timely corrective action to resolve any problem identified by HCM/CHS.
- 3.4.6. If HCM/CHS requires assistance or expertise of a private accounting, auditing, health care financing or contract compliance firm, Contractor and Maricopa County may agree in writing to equally share such expenses.
- 3.4.7. County may change or add to such reporting requirements, laws, rules and regulations from time to time.

**4. COMPENSATION AND PAYMENT{PRIVATE }**

- 4.1. **Availability of Funds.** This Contract or any other applicable Payer Contract relating to payment for services shall become effective when County has received funds to compensate Contractor as provided in this Contract. The Deputy County Administrator shall be the sole authority for determining the availability of funds. HCM/CHS shall keep Contractor fully informed as to the availability of funds.
  - 4.2. **Contracted Rate.** The amount of compensation due Contractor from Maricopa County for performance of this Contract shall be computed based on the standard rate set by AHCCCS. (Attachment C not needed as those services are covered by current County MIHS Contract).
  - 4.3. **Payment in Full.** Payment for the Contracted rate shall be payment in full for Covered Services. Contractor shall not be reimbursed for any Medicare, AHCCCS and/or any other Outlier Adjustment. In the event the Contracted Rate exceeds Contractor's actual billed charges, Contractor will be reimbursed the lesser of the two (2) amounts.
  - 4.4. **Payer Requirements.** HCM/CHS and Contractor will follow policies and procedures, including but not limited to prior authorization; encounter data; claim submission; and verification of Covered Services, that a Payer requires for reimbursement for services that Contractor or HCM/CHS performs under a Payer Contract.
  - 4.5. **Claim Forms.** Contractor will submit separate claims (HCFA 1500, Universal Claim form, UB92) to Maricopa County Health Care Mandates, P.O. Box 20016, Phoenix, Arizona 85003.
    - 4.5.1.
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4.5.2. To be reimbursable by County, Contractor must provide the following information in a written claim:

Provider name

Provider number

Federal Tax ID number

CHS (or HCM) Authorization Number

Patient name

Patient identification number

Date(s) of service

Diagnostic/Procedure/Revenue code(s)/NDC(s)

Total charge

Itemized listing of services

Any additional data that HCM/CHS may require (this will not typically include the complete medical record)

Medicare and other third party liability explanation of medical benefits (EOMB)

4.6. **Electronic Claims.** Contractor may request electronic submission of claims in writing to the HCM/CHS. HCM/CHS will approve the request so long as Contractor performs the following:

4.6.1. Supplies electronic ASCII files in format compatible with HCM/CHS's claims processing system.

4.6.2. Supplies electronic ASCII files on media that is compatible with hardware used by HCM/CHS.

4.6.3. Claims transmission is operational within two (2) months after Contractor notifies HCM/CHS in writing that Contractor is able to meet minimum criteria for transmission.

4.6.4. Contractor's claims pass all applicable AHCCCS edits.

4.7. **Claims Review Criteria.** Contractor claims will be reviewed in accordance with A.A.C. R9-22-717. Through CHS's prior authorization process and concurrent review process, most decisions related to the Patient's stay are made at the time of the inpatient stay. However, HCM/CHS reserves the right to make retrospective medical review decisions, which does not include review for medical necessity.

4.8. **Payment by County Warrant.** Payment of all approved claims will be made by County warrant unless Contractor has made arrangements for wire transfer or other means of payment.

4.9. **Claims Deadlines.** County is not liable to pay any claim submitted beyond the deadlines set forth in this Section. Contractor shall submit claims within the following deadlines:

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- 4.9.1. An initial claim for payment within 180 days of the date of service to the Patient.
  - 4.9.2. A claim resubmitted as a Clean Claim within 365 days of the date of service to the Patient.
  - 4.9.3. A claim for services rendered to a Patient prior to the Contract expiration date within 60 days after the Contract expiration date, unless the HCM or CHS Director has approved the claim for payment beyond the 60-day time limit.
- 4.10. **Billing.** HCM/CHS is the Payer of Last Resort under this Contract.
- 4.10.1. Contractor shall first bill Medicare or any identified third party Payer for any service to a Patient that may be billed to Medicare or the third party Payer before submitting claims to HCM/CHS for reimbursement. Contractor shall reduce any claim to HCM/CHS by the amount payable by Medicare or the third party Payer. Contractor shall bill HCM/CHS only the difference between the maximum payment from Medicare or the third party Payer and the rate paid by HCM/CHS pursuant to this Contract.
  - 4.10.2. Contractor shall engage in Coordination of Benefits activity with any third party Payer.
  - 4.10.3. Contractor shall not bill or recover from County any amount in excess of the co-payment for Medicare-covered services to Patients who qualify for Medicare. Notwithstanding the foregoing, County will accept and reimburse claims on behalf of Medicare clients when the only basis for a denial of the Medicare payment is that the annual deductible has not been met. Such claims must be itemized separately and billed as specified in this Contract.
  - 4.10.4. Contractor shall act in good faith and exert best efforts in performance of this Section. Contractor shall document such efforts and submit the documentation with any claim to HCM/CHS. County shall not be liable to pay any claim in which Contractor failed to perform this provision.
- 4.11. **Claims Certified.** Contractor submits every claim under this Contract with the following certification:
- 4.11.1. The cost or pricing data submitted is accurate, complete and current as of the date submitted or other mutually agreed upon date, to the best of Contractor's knowledge and belief.
  - 4.11.2. Compensation received under this Contract is in accordance with the rates in Section 4, Compensation and Payment.
  - 4.11.3. Certification of cost or pricing data does not apply when federal or state law or regulations set contract rates.
- 4.12. **Inaccurate Certification Data.** Contractor shall adjust price(s) or amounts to exclude any price increase resulting from cost or pricing data that was inaccurate, incomplete or not current as of the date of certification. Contractor has a continuing duty to report to HCM/CHS that the price was increased because the

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cost or pricing data was inaccurate, incomplete or not current as of the date of certification.

4.12.1. In the event County has for any reason overpaid compensation, Contractor will notify the HCM and CHS Directors of the overpayment by facsimile transmission stating the amount of over payment and the name and phone number of a person to contact at Contractor's business regarding the overpayment.

4.13. **Price Adjustments.** Contractor shall submit requests for change in Contract terms, including price adjustments, 120 days prior to the expiration date. Any increase in the cost of service or price, must be mutually acceptable to County and Contractor and incorporated into this Contract.

4.14. **Subcontractor Invoices.** Where applicable, a Subcontractor's rate shall not exceed Contractor's rate for the same performance, unless Contractor is willing to absorb the higher rate. The Subcontractor's invoice shall be invoiced directly to Contractor, who in turn shall pass-through the costs to County, without mark-up. A copy of the Subcontractor's invoice must accompany Contractor's invoice.

4.15. **Audit and Disallowance.** County reserves the right to audit any financial records of Contractor or any Subcontractor(s), which relate to the terms under this Contract including services and billings made to HCM/CHS.

4.15.1. An audit will be made at County's expense at a time and place convenient to the Parties. If Contractor participates in the selection of the auditor, Contractor must share equally in the costs.

4.15.2. In the event HCM/CHS disallows payment for a service or commodity that has already been paid, HCM/CHS shall notify Contractor in writing of the required course of action. Contractor, upon receipt of the written notice, shall reimburse County for any payment that was disallowed.

4.15.3. HCM/CHS has the sole option to bill Contractor for the amount of a disallowance; to adjust any future claim submitted by Contractor in the amount of the disallowance; or to require repayment in the amount of the disallowance, plus interest at the rate provided in ARS § 44-1202.

4.15.4. Contractor shall upon written notice reimburse County for any payment disallowed by any other federal, state or local audit, in the amount of the disallowance.

4.15.5. Should either Party undertake court action concerning a disallowance, the prevailing party shall receive, as part of its remedy, compensation for reasonable attorney fees, costs, expenses and court costs.

5. **PROFESSIONAL STATUS, LICENSURE AND CERTIFICATION**

5.1. **Regulatory Compliance.** Contractor shall, without limitation, obtain and maintain all licenses, permits, and authority necessary to do business, render services, and perform work under this Contract, and shall comply with all laws regarding unemployment insurance, disability insurance, and worker's compensation. Contractor shall pay all charges and fees necessary and incidental to the lawful

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conduct of its business. Contractor shall be currently and fully informed of existing and future federal, state, and local laws, ordinances and regulations, which in any manner affect the performance of this Contract, and shall comply with the same.

- 5.2. **Continuing Compliance.** Contractor shall at all times maintain in good standing the following registrations, licenses and certifications, at a minimum:

5.2.1.

5.2.2. Certification from the U.S. Department of Health and Human Services to provide services to citizens under Title XVIII (18) of the Social Security Act (Medicare) as amended;

5.2.3. AHCCCS provider registration; and

5.2.4.

- 5.3. **Proof of Compliance.** Contractor shall provide HCM/CHS, prior to the provision of service under this Contract, documentation that Contractor is currently in good standing with all applicable state and federal regulatory agencies or other accreditation and licensing authorities

5.3.1. Contractor shall maintain a list of the participating Ancillary Services physicians as of the date this Contract is executed.

5.3.1.1. The list shall identify who is an employee and who is contracted.

5.3.1.2. The list must include contact information for the contracted Ancillary Services physicians whose services are not billed by the Contractor.

- 5.4. **Change in Status.** Contractor may not have operated under any provisional license or have been cited by County, an accrediting institution or governmental authority for a violation involving a Patient's life, health or safety in the last two years.

5.4.1. Contractor shall notify HCM/CHS within two working days after Contractor discovers by any means any of the following:

5.4.1.1. Any change in office location, telephone numbers, hours of business, or addition or deletion of any practitioner, including mid-level practitioners;

5.4.1.2. Any contract physician who loses practice privileges at Contractor's facilities;

5.4.1.3. A change in Contractor's professional status including but not limited to, suspension, termination, probation, resignation, or any other change, restriction, or limitation in its registration, licensure, accreditation, certification, qualifications or hospital privileges; or

5.4.1.4. Any restriction or limitation on Contractor's practice or operations.

5.4.2. A notice under this Section shall be by facsimile transmission followed by certified mail. Contractor shall include in the notice or as soon thereafter as

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info ?

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practicable copies of all statements of deficiencies, corrective actions, plans and timelines for implementation, including those requested by HCM/CHS.

## 6. (Reserved)

7. **RECORDS AND REQUESTS FOR INFORMATION**

- 7.1. **Contractor's Duty.** Contractor's duty under this Part 7 shall survive termination or expiration of this Contract.
- 7.2. **Patient Information.** County and Contractor shall safeguard, use or disclose Patient Information in the manner required by applicable federal, state and local laws, rules, and/or regulations. A Party may use or disclose Patient Information only to implement, evaluate, monitor or verify a performance of this Contract unless the use or disclosure is otherwise required under law.
- 7.3. **Parties' Shared Ownership.** Subject to applicable law, including without limitation laws regulating use or disclosure of Patient Information, the Parties shall have shared ownership rights to Patient Information whether housed by Contractor or HCM/CHS and the shared right to inspect, reproduce, duplicate, distribute, display, disclose and otherwise use all records, reports, information, data and material relating any performance under the Contract.
- 7.4. **Information Requests.** Each party shall supply to the other party, upon request, any available information, including but not limited to Patient Information, that is relevant to this Contract or any other applicable Payer Contract and to the performance of the Parties hereunder.
- 7.4.1. Contractor shall copy at no expense to HCM/CHS, supporting Patient Information that HCM/CHS deems necessary for payment of Billed Charges (this will not typically include the complete medical record). HCM/CHS shall keep the records secure, and shall shred the records after review if the records are no longer needed.
- 7.4.2. HCM/CHS representatives displaying HCM/CHS identification may during normal business hours enter Contractor's facility for the purpose of examining records and related documents pertaining to services performed under this Contract or any other applicable Payer Contract and Contractor shall make available such records as requested.
- 7.4.3. Contractor shall not bill a retrieval fee, but may bill a per copy fee for medical record requests for other than payment determination.
- 7.5. **Retention.** Contractor will retain all financial books, records, and other documents pertaining to this Contract or any other applicable Payer Contract for at least five years after final payment or until five years after the resolution of any audit questions or disputes.

8. **COVENANTS AND WARRANTIES**

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8.1. The following warranties of this Section 8 are continuing in nature and shall survive the execution of this Contract.

**8.2. Covenants and Warranties by the Parties.**

8.2.1. Contractor is an Independent Contractor in the performance of all work and services under this Contract and is not considered an officer, employee, or agent of Maricopa County.

8.2.2. This Contract is not intended to and does not constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in the contract.

**8.3. Covenants and Warranties by Contractor.**

8.3.1. No person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona-fide employees or bona-fide established commercial or selling agencies retained by Contractor for the purpose of securing business.

8.3.2. Contractor and Contractor's employees and subcontractors are not under any sanctions, restrictions or provisional status from any applicable federal or state licensing/certifying/credentialing agency, including but not limited to JCAHO.

8.3.3. Contractor is not entitled to receive and has not been impliedly or expressly promised a maximum or minimum volume, payment, reimbursement, right of refusal, option or number of units of service to be provided.

8.3.4. County may obtain the same or similar performance by a provider other than Contractor.

8.3.5. Contractor is subject to all state and federal laws, rules and regulations that pertain to this Contract, including OSHA statutes and regulations.

**8.4. Covenants and Warranties by County.**

8.4.1. This Contract does not require Contractor to render professional services exclusively on behalf of County or Patients.

**9. CHOICE OF LAW**

This Contract shall be construed in accordance with the laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Maricopa, and the appropriate municipality; any action thereon shall be brought in the Maricopa County Superior Court of the State of Arizona.

**10. INDEMNITY AND INSURANCE**

10.1. **General Indemnity.** To the extent permitted by law, each Party ("Indemnifying Party") indemnifies, defends and holds harmless the other party, its officers, agents, employees, and County Contracted Employees (collectively, the

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Indemnified Parties"), against all claims, demands, liabilities, losses and expenses of any kind (including reasonable attorney's fees and court costs), by reason of liability imposed or claimed to be imposed upon the Indemnified Parties, for any damage, bodily injury, or death sustained by any person or persons, arising out of the actions, inactions or negligence of the Indemnifying Party, its officers, agents (excluding non-employed medical staff) or employees. If any such injury, damage or death shall arise in part, but not in whole out of each Party's negligence, then contribution rights shall apply in accordance with applicable Arizona law.

- 10.1.1. County is not authorized to and shall not be liable to indemnify Contractor for punitive damages.
  - 10.1.2. Nothing in this Contract or any other Payer Contracts that are incorporated into this Contract may be construed as limiting the scope of this indemnity.
  - 10.1.3. The provisions of this Section 10.1 and Contractor's General Indemnity shall survive beyond the expiration or termination of this Contract.
- 10.2. **Contracts in Anticipation of Funding.** County is not liable for purchases or contracts made by Contractor in anticipation of funding hereunder.
- 10.3. **Taxes and Employee Benefits.** Contractor assumes sole and exclusive responsibility for the following:
- 10.3.1. Payment of any local, state and federal income taxes, federal social security taxes, workmen's and unemployment insurance benefits for its physicians, staff, agents and employees as well as any and all other mandatory governmental deductions or obligations.
  - 10.3.2. All pension or retirement program(s) for its physicians, staff, agents or employees whether or not required by law.
  - 10.3.3. Contractor indemnifies, defends and holds County harmless for any and all liability which Maricopa County may incur as a result of Contractor's failure to pay such taxes or any such financial responsibility, as well as Maricopa County's liability for any such taxes or mandatory governmental obligations. This does not limit the scope of Contractor's General Indemnity under this Contract.
- 10.4. **Insurance.** Contractor shall, at its own expense, purchase and maintain the minimum insurance specified below with companies duly licensed, with a current A.M. Best, Inc. Rating of B++6, or approved unlicensed by the State of Arizona Department of Insurance. Contractor's failure to comply with the claim reporting provisions of Contractor's policies or breach of a policy warranty shall not impair Contractor's obligation or coverage afforded under the policies to protect County.
- 10.4.1. County, its agents, representatives, officers, directors, officials, employees and County Contracted Employees shall be named as Additional Insured.
  - 10.4.2. The insurance shall be in full force and effect during the term of this Contract and until all work or services required to be performed have

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been satisfactorily completed and formally accepted by HCM/CHS. Thereafter, the insurance and indemnification provisions contained in this Contract will extend beyond the termination date of this Contract.

- 10.4.3. An insurance policy written on a "claims made" basis, shall extend coverage for at least two years beyond the termination of this Contract, and such coverage shall be evidenced in the Certificate of Insurance.
- 10.4.4. The policy, except Workers' Compensation, shall waive transfer rights of recovery (subrogation) against County, its agents, representatives, directors, officers, and employees for any claims arising out of Contractor's work or service.
- 10.4.5. The policy may provide coverage that contains deductibles or self-insured retention amounts. Contractor shall be solely responsible for the deductible and/or self-insured retention.
- 10.4.6. The insurance policy may not expire or terminate or materially change without fifteen (15) days prior written notice to County's Risk Manager at 301 W. Jefferson, 9<sup>th</sup> Floor, Phoenix, AZ 85003. If a policy is due to expire during the term of this Contract, a renewal Certificate must be sent to County at least fifteen (15) days prior to the expiration date.
- 10.4.7. The insurance shall be the primary insurance under the terms of this Contract as respects County; any insurance or self insurance program maintained by County shall not contribute to Contractor's deductible, self-retention or insurance obligations hereunder.
- 10.4.8. Contractor shall procure and maintain the following coverages:
  - 10.4.8.1. **Commercial General Liability.** Commercial General Liability insurance with a limit of not less than 1,000,000 for each occurrence and with a \$1,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual covering; the liability assumed under the indemnification provisions of this Contract shall be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093 or any replacements thereof. The Commercial General Liability additional insured endorsement will be at least as broad as the Insurance Service Office, Inc, Additional Insured, Form B, and CG 20101185.
    - 10.4.8.1.1. Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision, which would serve to limit any third party action over claims.
  - 10.4.8.2. **Workers' Compensation.** Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the

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performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

10.4.8.3. **Professional Liability.** Professional Liability insurance (for health care, and health care related services) which will provide coverage for any and all acts arising out of the work or services performed by Contractor under the terms of this Contract, with a limit of not less than \$1,000,000 for each claim, and \$3,000,000 for all (aggregate) claims.

**10.5. Certificates of Insurance.** Prior to commencing work or services under this Contract, Contractor shall furnish County with Certificates of Insurance, or formal endorsements evidencing that the required policies and/or coverage are in full force and effect during term of this Contract and where relevant, thereafter. All Certificates of Insurance shall be identified with this Contract number and title.

10.5.1. County shall receive within 10 working days of a request, certified copies of any or all of the above policies and/or endorsements referenced herein.

## **11. ASSIGNMENTS AND SUBCONTRACTS**

11.1. **By Contractor.** Contractor may not assign this Contract, or any performance thereof, to another party without County's written consent, which County may withhold in its sole discretion. Contractor may enter into Subcontractor agreements with qualified providers or with professional corporations, subject to review and prior written approval of HCM/CHS.

11.1.1. No assignment or subcontract relieves Contractor of its duty to perform every provision of this Contract. Every Subcontract shall require Subcontractor to meet all applicable performance standards and requirements of this Contract.

11.1.2. An assignment or subcontract by Contractor shall be subordinate to the terms and conditions of this Contract. Contractor shall obtain from its assignee or subcontractor an estoppel certificate or other documentation, in a form approved by County, acknowledging County's rights under this Contract and any amendment or obligation arising out of or relating to this Contract (collectively, the "Contract Documents") and subordinating assignee's or subcontractor's rights to County's rights under the Contract Documents. County shall not unreasonably withhold its consent to the form of such estoppel certificate or other documentation.

11.1.3. If Contractor is a professional corporation, professional limited liability company, partnership or other association, Contractor shall obtain documentation, in a form approved by County, binding its shareholders, members, partners or professional employees who may perform services under this Contract, to the terms and conditions of this Contract. County

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shall not unreasonably withhold its approval of the form of such documentation.

11.1.4. Contractor defends, indemnifies and holds County, its officers, agents, employees, and County Contracted Employees, harmless for any act or omission by Contractor's subcontractor or assignee, its employees, agents, officers and representatives, occurring in the course of the performance of this Contract, whether such act or omission occurs on County property or elsewhere. Contractor shall be liable for any loss or damage arising out of or related to the assignee's or subcontractor's performance under this Contract. Contractor shall bear the above stated liability for all consequential, incidental, direct, and indirect damages, and shall be liable for all costs, including attorney's fees, incurred by County to enforce this provision, even in absence of its own negligence, unless County actions caused the loss or damage. This does not limit the scope of Contractor's General Indemnity under this Contract.

11.2. **By County.** Maricopa County may, without the consent of Contractor, assign this Contract upon 90 days prior written notice to Contractor.

11.2.1. This Contract is awarded on behalf of Maricopa County in its entirety. Any Department in Maricopa County may use the services identified herein, provided however, that such other services shall be subject to the same processes for claims submission, review, and payment as stated in this Contract.

**12. TERMINATION, DEFAULT AND REMEDIES**

12.1. **Termination.** This Contract may be terminated as follows:

12.1.1. By mutual written agreement of the parties specifying the termination date therein.

12.1.2. By either party at any time upon 90 days written notice to the other party.

12.1.3. By County in the event a state agency, federal department, county government or any other agency, payer or instrumentality suspends, decreases, or terminates its fiscal obligations to County under or in connection with this Contract or any other applicable Payer Contract.

12.1.3.1. HCM/CHS shall give written notice at least 10 days in advance of the effective date of termination for lack of funding. Such notice shall be given by personal delivery or by Registered or Certified mail.

12.1.3.2. In the event of termination for lack of funding, HCM/CHS shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services performed are in accordance with the provisions of this Contract or any other applicable Payer Contract.

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- 12.1.3.3. Contractor shall receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.
- 12.1.4. Upon default in the manner provided in this Contract.
- 12.2. **Cancellation.** County may without penalty or further obligation cancel this Contract within three years after execution and recover any applicable fee or commission pursuant to A.R.S. § 38-511.
- 12.3. **Default.** Time is of the essence of this Contract. Contractor shall be in default of this Contract upon the nonperformance or breach of any provision of this Contract or upon the occurrence of any event that County believes would jeopardize Contractor's ability to perform any provision of this Contract.
  - 12.3.1. **Remedies for Default.** In the event of a default by Contractor, County may elect one or more of the following remedies:
    - 12.3.1.1. Terminate the Contract as provided herein.
    - 12.3.1.2. Obtain services of another provider or providers and obtain restitution or damages from Contractor.
    - 12.3.2. Counterclaim, recoup, set off or otherwise withhold from Contractor monies that Contractor has received for services not rendered, that should not have been provided to Contractor under this Contract or any other Payer Contract, or that HCM/CHS must recover under state or federal laws.
    - 12.3.3. For violation of A.R.S. § 38-511 County may deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
    - 12.3.4. Such other remedies as may be available in law and equity.
  - 12.3.5. **Immediate Termination, No Right to Cure.** HCM/CHS may terminate this Contract immediately upon notice to Contractor and Contractor shall have no right to cure for any one or more of the following breaches of this Contract:
    - 12.3.5.1. County determines in its sole discretion that Contractor's action or inaction jeopardizes the life, health or safety of a Patient, County employee or County Contracted Employee.
    - 12.3.5.2. Loss, restriction or suspension of Contractor's license, certification or other authority essential to its ability to perform its obligations under this Contract including, but not limited to, decertification from participation in the AHCCCS, Medicaid or Medicare programs.
    - 12.3.5.3. Insolvency, bankruptcy or dissolution of Contractor.
- 12.3.6. **Notice of Default and Right to Cure.** For a default that is not grounds for Immediate Termination, County shall give Contractor written notice of

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default by certified or registered mail, return receipt requested. Contractor shall have fourteen (14) calendar days to cure the default, after which County shall be entitled to pursue its remedies in law and equity.

12.4. **Contractor's Duties Upon Termination.** Contractor shall use best efforts to transfer care of Members to other Providers as soon as practicable upon suspension or termination of this Contract by HCM/CHS.

12.4.1. Contractor is responsible for care of Patients at the rates provided under this Contract until the Patients are accepted by another qualified provider.

12.5. **Alternative Dispute Resolution ("ADR").** Except as otherwise provided by law and this Contract, any dispute concerning the award of this Contract shall be submitted to the Maricopa County Dispute Process as specified in Maricopa County Procurement Code Article 9 (available at [www.maricopa.gov](http://www.maricopa.gov)) as amended from time to time. All other disputes, notwithstanding anything to the contrary provided elsewhere in this Contract, shall be resolved pursuant to the Alternative Dispute Resolution process ("ADR") provided for in "Attachment B." ADR shall be the exclusive means for resolving claims or disputes arising under, relating to or touching upon the Contract, the interpretation thereof or the performance or breach by any party thereto, including but not limited to original claims or disputes, asserted cross claims, counterclaims, setoff, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.

12.5.1. ADR shall not be available to any Party for a termination pursuant to Sections 12.1.1, 12.1.2, 12.1.3, and 12.3 of this Contract.

**13. AMENDMENTS**

13.1. **By the Parties.** The Parties may amend this Contract only in a writing signed by both Parties.

13.2. **By County.** County may change the general scope of this Contract by a written amendment delivered to Contractor. County may invoke such an amendment for any reason, including but not limited to action by a state agency, federal department, county government or any other agency, payer, political subdivision, or instrumentality that suspends, decreases, or terminates funding relating to County's performance under this Contract or any other applicable Payer Contract.

13.2.1. Contractor shall sign and return the amendment or written notice of Contractor's refusal to sign the amendment within 60 days from the date the amendment was delivered to Contractor. Contractor shall be bound by the amendment as if Contractor had signed and delivered the amendment if Contractor does not return the amendment or written notice of refusal to sign the amendment within the 60-day period.

13.2.2. County may invoke the applicable ADR or Termination provisions of this Contract in the event Contractor refuses to sign the amendment.

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- 13.2.3. In the event the amendment increases or decreases the cost of or time required for any performance under this Contract, either Party may seek an equitable adjustment in compensation under this Contract. A Party must assert its right to an adjustment in a writing delivered to the other Party within 30 days from the date of delivery of the change notice.

**14. MISCELLANEOUS****14.1. Non-discrimination.**

14.1.1. Contractor shall not in any way discriminate against a Patient on the grounds of race, color, religion, sex, national origin, age, disability, health status and genetics, political affiliation or belief and shall comply with all applicable provisions of the Americans with Disabilities Act of 1990. Contractor shall include a clause to this effect in all its pertinent subcontracts.

14.1.2. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex national origin, age or disability. Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor will, to the extent such provisions apply, comply with Title VI and VII of the Federal Civil Rights Act; the Federal Rehabilitation Act; the Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990; the Immigration Reform and Control Act (IRCA) of 1986; and Arizona Executive Order 99-4 which mandates that all persons shall have equal access to employment opportunities.

14.2. **No Waiver of Strict Compliance.** Acceptance by HCM/CHS of a performance not in strict compliance with the terms hereof shall not be deemed to waive the requirement of strict compliance for all future performance obligations.

14.3. **Severability.** A finding by competent authority that a provision of this Contract is invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and remaining provisions shall remain in full force and effect.

14.4. **Lobbying Prohibited.** Contractor may not use, directly or indirectly, any of the monies received pursuant to the terms of this Contract for purposes of lobbying, influencing, or attempting to influence, any governmental entity, public official or member of any state, county, or local governmental entity, with regard to any grant, contract or loan.

14.5. **Use of Other Party's Name, Symbols and Service Marks.** Each Party may use the other Party's address, photograph, telephone number, and description of services in its regulatory documentation. A Party may not use the other Party's name, symbols or trademarks, or any proprietary information for any other purpose without prior written approval of the other Party.

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- 14.6. **No Third Party Beneficiary Rights.** The obligation of each party under this Contract is intended to solely benefit the other party. No other person shall be a third party beneficiary of this Contract, nor have any rights under this Contract.