

**MANAGEMENT SERVICES AND HEALTHCARE ACCESSIBILITY AGREEMENT BETWEEN SOMERVELL COUNTY HOSPITAL DISTRICT AND GLEN ROSE HEALTHCARE, INC.**

THIS MANAGEMENT SERVICES AND HEALTHCARE ACCESSIBILITY AGREEMENT (this "Agreement") is entered into to be effective as of the 1<sup>st</sup> day of January, 2015 (the "Effective Date") by and between GLEN ROSE HEALTHCARE, INC. ("Physician Group") and SOMERVELL COUNTY HOSPITAL DISTRICT D/B/A GLEN ROSE MEDICAL CENTER ("District").

**RECITALS**

- A. District is a hospital district established pursuant to Chapter 286 of the Texas Health & Safety Code, which operates an acute-care hospital located in Glen Rose, Texas (the "Hospital").
- B. Physician Group is a non-profit organization organized to deliver physician services.
- C. Physician Group desires to engage District to furnish certain management, administrative and support services for Physician Group, and District is willing to be engaged in such capacity.
- D. District desires to facilitate coverage of the Hospital by physicians in order to maintain access to healthcare in Somervell County.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions contained herein, the parties hereto, intending to be legally bound, hereby contract and agree as follows:

**Article I**  
**OBLIGATIONS OF DISTRICT**

- 1.01 Services of District.** District will provide to Physician Group the services ("Services") listed on Schedule A attached hereto and made a part hereof. The Services will be provided by District beginning upon the Effective Date of the Agreement. District is granted the authority and powers necessary to perform the Services as required under this Agreement; provided, however, that such authority and powers are subject to the terms and conditions set forth herein and subject to approval by Physician Group's Board of Trustees. District will apply reasonable business judgment in making decisions regarding the Services. Such Services shall be rendered in return for the fees set forth in Schedule B attached hereto and made a part hereof.
- 1.02 Time and Attention to Duties/Subcontracts.** District will devote the time and attention of its personnel to the faithful performance of its duties under this Agreement as will be reasonably necessary. District may, at its expense and in its sole and reasonable discretion, subcontract with, engage, hire or retain any other person or entity, including independent contractors, to perform any or all of the Services; however, notwithstanding the foregoing, District will retain full responsibility for the faithful performance of the Services hereunder.
- 1.03 Medical Decisions.** District covenants and agrees that it will not at any time engage in making decisions related to the treatment of patients, utilization management, ethics, or other medical or medically-related professional decisions, and that those functions will remain the sole responsibility of Physician Group and the respective physicians rendering services at Physician Group. Physician Group and such physicians will be solely and exclusively in control of all aspects of the practice of medicine.

- 1.04 Books and Records.** All books and records of District relating to Physician Group and the Services Performed by District pursuant to this Agreement will be available to Physician Group and its duly authorized agents for examination, inspection, and copying during normal business hours. District will maintain such records relating to the Services as District deems necessary or desirable, in its discretion, and may, subject to Section 9.12 hereof, from time to time in its discretion and in accordance with applicable law, dispose of such records if Physician Group has not directed District in writing to retain such records.
- 1.05 Insurance.** District will maintain appropriate general business and liability insurance and demonstrate the enforcement of such policies upon the request of Physician Group.
- 1.06 Assistance to Maintain Healthcare Accessibility.** To maintain access to physicians at the hospital, the District agrees to assist the Physician Group, to the extent of funds specifically budgeted by the District to do so, in periods where the revenues of the Physician Group are insufficient to meet the Physician Group's operational requirements, including its employment contracts with physicians. The terms and conditions of this commitment are contained in Schedule C attached hereto, which is incorporated herein.

## **Article II**

### **FEES**

- 2.01 Service Fees.** Physician Group will pay to District the services fee ("Services Fee") in accordance with Schedule B subject to automatic adjustments to account for inflation based on the Consumer Price Index for Urban Consumers, as set forth in Schedule B. The Services Fee shall be subordinated to all other financial obligations of the Physician Group and shall not be paid unless Physician Group experiences a positive cash flow. Unpaid fees shall accrue, and shall be paid during periods of positive cash flow.
- 2.02 Annual Fee Adjustment.** No more than once in any twelve (12) month period, the parties may, upon mutual written consent, increase or decrease the Services Fee.
- 2.03 Expenses and Costs.** Physician Group will reimburse District at actual cost for direct, out-of-pocket costs and expenses paid by District to unrelated parties that are reasonable and necessary and directly attributable to the Services provided by District under this Agreement ("Expenses") and provided that any individual expense in excess of Three Hundred Dollars (\$300.00) is approved by Physician Group in writing prior to such expense being incurred. Such reimbursement will only be made upon presentation to Physician Group of vouchers or other statements itemizing such Expenses in reasonable detail and in a timely manner.
- 2.04 Invoices.** District will invoice Physician Group on a monthly basis for the Services Fees and Expenses due and payable hereunder.
- 2.05 Taxes.** Physician Group assumes exclusive liability for, and will pay before delinquency, all applicable sales, use, excise and other taxes, charges or contributions of any kind now or hereafter imposed on, with respect to, or measured by the Services, except for franchise taxes and taxes based on the net income of District. If state or local sales taxes are imposed upon any fee or charge specified in this Agreement, Physician Group will pay such tax in addition to the fees.

## **Article III**

### **PARTIES' INTENTION/QUARTERLY MEETING**

- 3.01 No Sharing of Medical Fees.** Payment of the fees described herein is not intended to be and will not be interpreted or applied as permitting District to share in Physician Group's fees for medical services or any other services. Rather, such payment is acknowledged as the parties' negotiated agreement as to the reasonable fair market value of the management and administrative oversight services provided, coordinated, arranged for or otherwise facilitated by District pursuant to this Agreement as well as for the personnel services and covenants of District provided herein, considering the nature and extent of the services required of District.
- 3.02 No Payment for Referrals.** Nothing contained in this Agreement will require (directly or indirectly, explicitly or implicitly) either party or its affiliates to refer any patients to the other party or its affiliates as a precondition to receiving the benefits set forth herein.
- 3.03 Quarterly Meeting.** Representatives of Physician Group and District will meet on at least a quarterly basis to discuss the status of the Services provided hereunder and the ongoing operations of Physician Group's inpatient and outpatient surgical facilities.

#### **Article IV** **OBLIGATIONS OF PHYSICIAN GROUP**

- 4.01 Coverage.** Physician Group agrees that its physicians shall provide healthcare services at the Hospital operated by the District. Billings for such services shall be made by the Physician Group directly to the patient or applicable payer.
- 4.02 Quality of Care.** Physician Group is ultimately responsible for the quality of care and provision of medical and health care services rendered by Physician Group and, therefore, Physician Group retains ultimate authority concerning matters of professional judgment. District and Physician Group will perform their obligations under this Agreement in a manner consistent with Physician Group's responsibility for quality medical care. District is not responsible for the provision of medical care or services, but is operating as an independent contractor for the provision of management and administrative services. Physician Group will ensure that professional services provided by Physician Group, and by the physicians and other health care providers providing services on behalf of Physician Group, are at all times provided in accordance with professional, ethical, and applicable legal standards.
- 4.03 Cooperation.** Physician Group will cooperate with District in taking steps to resolve any administrative issues that arise in connection with the performance of Services under this Agreement.
- 4.04 Fee Payments.** As described in Section 2.04 hereof, District will invoice Physician Group on a monthly basis for all Services Fees and Expenses due and payable under this Agreement. All charges under this Agreement will be due and payable within fifteen (15) business days after the invoice date. Any such Services Fees and Expenses not paid within thirty (30) days after the invoice date will bear interest until paid at a rate equal to the lesser of one-half percent (0.5%) per month or the maximum interest rate allowed under applicable law.

**Article V**  
**CHANGES IN LAW**

- 5.01** The parties hereby acknowledge and agree that the respective rights, powers, duties, and responsibilities of District and Physician Group may be limited by changes to applicable federal, state, and local laws and regulations (whether by changes to the interpretation or application thereof) affecting the relationship established by this Agreement and the services to be provided by District. District and Physician Group agree to comply fully with all applicable laws and regulations in the performance of their responsibilities. The parties acknowledge that the structure, terms, and requirements of management agreements for persons engaged in the provision of health care services may be reviewed periodically by the Office of Inspector General or other regulatory agencies and that, to comply with such regulations, changes to this Agreement may be required. Both parties covenant and agree to negotiate in good faith to implement any necessary changes with the goal of maintaining the basic structure of this Agreement and the rights and duties established by this Agreement.

**Article VI**  
**DISTRICT COVENANTS**

- 6.01** **Legal and Regulatory Compliance.** In performing the Services, District will at all times comply with all applicable federal, state, and local laws, regulations, rules, ordinances and guidelines including, but not limited to, those of the Medicare and Medicaid programs. District represents and warrants that District is not aware of any investigation of District by the Medicare or Medicaid programs and that neither District, nor its owners, officers, or directors have been indicted or convicted of crimes related to Medicare or Medicaid programs for the delivery of healthcare services and are not "excluded" or "sanctioned" persons or entities under the Medicare or Medicaid programs. In addition, District represents and warrants that to its knowledge, it and they are in compliance with and will continue to comply with all applicable federal, state and local laws, regulations, rules, ordinances, and guidelines.
- 6.02** **Compliance with Physician Group's Policies and Mission.** In performing the Services, District will at all times comply with Physician Group's policies, procedures, and mission.
- 6.03** **No Conflict.** District represents and warrants to Physician Group that the execution and performance of this Agreement does not conflict with or violate any agreement, contract, or other document to which District is a party and there are no actions, suits, claims, litigation, administrative or other proceedings pending or threatened or injunctions or orders entered pending or threatened against District to restrain or prohibit the execution of this Agreement or the actions contemplated herein.

**Article VII**  
**TERM AND TERMINATION**

- 7.01** **Term.** Unless terminated earlier pursuant to the terms of this Article VII, this Agreement will remain in full force and effect for the term of five (5) years (the "Term") from and after the Effective Date.
- 7.02** **Termination for Cause.** If Physician Group materially defaults in its performance under this Agreement and fails to either cure such default within thirty (30) days after receiving written notice specifying the default or, for those defaults that cannot reasonably be cured within thirty

(30) days, promptly commence curing such default and thereafter proceed with all due diligence substantially to cure the default, then District, in its sole discretion, may terminate this Agreement by written notice to Physician Group. If District materially defaults in its performance under this Agreement and fails to either cure such default within thirty (30) days after receiving written notice specifying the default or, for those defaults that cannot reasonably be cured within thirty (30) days, promptly commence curing such default and thereafter proceed with all due diligence substantially to cure the default, then Physician Group may terminate this Agreement by written notice to District.

- 7.03 Termination for Insolvency.** If either party (i) voluntarily suspends transaction of business; (ii) becomes insolvent or unable to pay any indebtedness as it matures; (iii) commences a voluntary case in bankruptcy or a voluntary petition seeking reorganization or to effect a plan or other arrangement with creditors; (iv) makes an assignment for the benefit of creditors; (v) applies for or consents to the appointment of a receiver or trustee for it or for any substantial portion of its property; (vi) makes an assignment to an agent authorized to liquidate any substantial part of its assets; (vii) has an involuntary case commenced against it with any court or other authority seeking liquidation, reorganization or a creditor's arrangement; (viii) by an order of any court or other authority, has appointed any receiver or trustee for it or for any substantial portion of its property; or (ix) has a writ or warrant of attachment or any similar process issued by any court or other authority against any substantial portion of its property and such involuntary petition seeking liquidation, reorganization, or a creditor's arrangement or such order appointing a receiver or trustee is not vacated or stayed, or such writ, warrant of attachment or similar process is not vacated, released or bonded off within thirty (30) days after its entry or levy, then the other party may, by giving written notice thereof to the other party, terminate this Agreement as of a date specified in such notice of termination.
- 7.04 Termination Upon Mutual Agreement.** This Agreement may be terminated upon the mutual written agreement to such termination by Physician Group and District.
- 7.05 Transition Upon Termination.** If this Agreement expires or terminates for any reason except a default by Physician Group or for the insolvency of Physician Group, District agrees to provide termination assistance to Physician Group if requested to do so in writing by Physician Group. District will provide reasonable assistance to Physician Group to facilitate the orderly transfer of the Services to Physician Group or its designee for a period of time not to exceed ninety (90) days following the termination or expiration of this Agreement. Physician Group agrees to compensate District for the Services provided by District during such transition period in an amount equal to the Services Fee set forth in Schedule B of this Agreement. Payment of such Services Fee will be in addition to other Services Fee payments, if any, made pursuant to the provisions of this Agreement.
- 7.06 Incorporation of Schedule C.** The provisions of C-7 of Schedule C are incorporated herein.

## **Article VIII**

### **PRIVACY OF PROTECTED HEALTH INFORMATION**

If District receives any Protected Health Information ("PHI", as that term is defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Privacy Rule implementing HIPAA, or creates such PHI in the course of its performance under this Agreement, District will maintain the security and confidentiality of such PHI as required by applicable laws and regulations, including the State of Texas' privacy laws and HIPAA. Without limiting the foregoing, District agrees to the following:

**8.01 Use of PHI.** District will not use PHI other than as expressly permitted by this Agreement, or as required by law. However, District may use PHI for the purposes of managing its internal business processes relating to its responsibilities under this Agreement.

**8.02 Disclosure of PHI.**

1. *Disclosure of Third Parties.* District will not disclose PHI to any other person (other than members of District's workforce) unless disclosure is required by law; and as approved by Physician Group, in writing. Any such disclosure will be made only upon the written agreement of the third party to be bound by the provision of this Agreement. To the extent that District discloses PHI to a third party, District must obtain, prior to making any disclosure:
  - a. reasonable assurances from such third party that PHI will be held confidential as provided in this Agreement, and only disclosed as required by law or for the purposes for which it was disclosed to such third party; and
  - b. an agreement from such third party to immediately notify Physician Group of any breaches of the confidentiality of PHI, to the extent it has obtained knowledge of such breach.
2. *Disclosure to Workforce.* District will not disclose PHI to any member of its workforce unless District has advised such person of his or her obligations under this Agreement, and of the consequences for such person and for District of violating them. District will take appropriate disciplinary action against any member of its workforce who uses or discloses PHI in contravention of this Agreement.

**8.03 Safeguards.** District will implement all appropriate safeguards to prevent use or disclosure of PHI other than as permitted by this Agreement.

**8.04 Accounting of Disclosures.**

1. District will maintain a record of all PHI disclosures made other than for the purposes of this Agreement, including the date of disclosure, the name and, if known, the address of the recipient of PHI, a brief description of the PHI disclosed, and the purposes of the disclosures.
2. Within ten (10) days of notice that Physician Group has received a request for an accounting of disclosures of PHI regarding an individual, District will make such information available to Physician Group.

**8.05 Reporting of Disclosures of Protected Health Information.** District will, within five (5) days of becoming aware of a disclosure of PHI in violation of this Agreement report such disclosure to Physician Group and the remedial action taken or proposed to be taken with respect to such use or disclosure.

**8.06 Disclosure to U.S. Department of Health and Human Services.** District will make its internal practices, books, and records relating to the use and disclosures of PHI available to the Secretary of the United States Department of Health and Human Services, for purposes of determining compliance with HIPAA.

- 8.07 Access by Individuals.** Within fifteen (15) days of receipt of a request, District will permit any individual whose PHI is maintained by District to have access to and to copy his or her PHI, in the format requested, unless it is not readily producible in such format, in which case it will be produced in hard copy format. In the event any individual requests access to PHI directly from District, District will, within two (2) days, forward such request to Physician Group. Any denial of access to the PHI requested will be the responsibility of District.
- 8.08 Correction of PHI.** District agrees to amend PHI it maintains in such manner as Physician Group may from time to time request.
- 8.09 Amendment.** Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the United States or this State relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, Physician Group may, by written notice to District, amend this Agreement as necessary to comply with such law or regulation.
- 8.10 Procedure Upon Termination.** Upon termination of this Agreement, if feasible, District will return or destroy all PHI that District maintains in any form, and will retain no copies of such information; or, if the parties agree that return or destruction is not feasible, it will continue to extend the protections of this Agreement to such information, and limit further use of the information to those purposes that make the return or destruction of the information feasible.

**Article IX**  
**MISCELLANEOUS**

- 9.01 Force Majeure.** Neither party will be liable or be deemed in default of this Agreement for any delay or failure to perform caused by Acts of God, war, disasters, strikes, or any similar cause beyond the control of either party.
- 9.02 Relationship of Parties.** District, in providing the Services hereunder, is acting as an independent contractor and does not undertake by this Agreement or otherwise to perform any regulatory or contractual obligation of Physician Group, or to assume any liability for Physician Group's business or operations.
- 9.03 Governing Law.** This Agreement will be enforced in accordance with the laws of the State of Texas. All payments due hereunder will be due and payable in Somervell County, Texas.
- 9.04 Binding Effect.** This Agreement will be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.
- 9.05 Notices.** All notices or other communications permitted or required pursuant to this Agreement will be made in writing and will be delivered in person, sent by certified or registered mail, return receipt requested, overnight delivery service, addressed as follows:

To District:  
Somervell County Hospital District  
Attn: Board Chairperson  
P. O. Box 2099  
Glen Rose, Texas 76043

To Physician Group:  
Glen Rose HealthCare, Inc.  
Attn: Board President  
P. O. Box 2099  
Glen Rose, Texas 76043

or to such other addresses and to such other persons as either party may from time to time designate by notice given as herein provided. Such notices or communications will be deemed to have been given upon receipt if personally delivered, three (3) days after deposit in the United States mail, if sent by registered or certified mail, postage prepaid, and one (1) day after delivery to an overnight delivery service.

- 9.06 Waiver.** No delay or omission by either party to exercise any right or remedy under this Agreement will be construed to be either acquiescence or the waiver of the ability to exercise any right or remedy in the future.
- 9.07 Severability.** In the event any part or parts of this Agreement are held to be unenforceable, the remainder of this Agreement will continue in effect.
- 9.08 Third Party Beneficiaries.** There are no third parties intended to be beneficiaries of any obligation or right assumed by District or Physician Group under this Agreement.
- 9.09 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party; provided, however, (a) the rights and obligations of this Agreement may be assigned by Physician Group without District's prior written consent to any part that (i) merges with Physician Group, (ii) acquires Physician Group, or (iii) is controlled by, controls, or under common control with Physician Group, and (b) this provision will not be construed to limit District's ability to subcontract with, engage, hire, or retain another person or entity as set forth in Section 1.02 hereof.
- 9.10 Amendment.** No amendment, alteration, or modification of this Agreement will be binding unless made in writing and signed by both parties.
- 9.11 Remedies Cumulative.** Any and all remedies given a party in this Agreement and those provided by law will be cumulative, and the exercise of any such remedy will not preclude the exercise of any other remedy.
- 9.12 Access to Records.** Each party will keep, and all the other party reasonable access to, full and accurate books and records of all services rendered hereunder. Further, to the extent required by Section 1395x(v)(1)(I) of Title 42 of the United States Code, until the expiration of four (4) years after the termination of this Agreement, each party will, upon written request, make available to the Secretary of the United States Department of Health and Human Services, or to the Comptroller General of the United States General Accounting Office, or to any of their duly authorized representatives, a copy of this Agreement and such books, documents, and records as are necessary to certify the nature and extent of the costs of the Services provided by District under this Agreement.
- 9.13 Confidentiality of Agreement.** All parties agree to keep this Agreement and its contents confidential and not to disclose this Agreement or its contents to any third party, except (i) to that

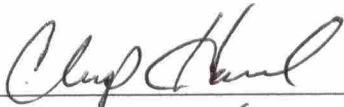
party's professional advisors, (ii) as required by law, or (iii) with the written consent of the other party.


- 9.14 **Survival of Representations.** The representations and warranties set forth in this Agreement will be continuing and will survive the termination of this Agreement.
- 9.15 **Further Acts.** The parties each agree to cooperate fully with the other party to take such further action and execute such other documents or instruments as necessary or appropriate to implement this Agreement.
- 9.16 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute but one and the same instrument.
- 9.17 **Non Disparagement.** The parties agree that, during the term of this Agreement and after the effective date of termination of this Agreement, the parties will make no disparaging remarks about the other. This section will survive termination of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

SOMERVELL COUNTY HOSPITAL DISTRICT

GLEN ROSE HEALTHCARE, INC.

By:   
Chip Harrison  
(Printed Name)  
Board President  
(Title)

By:   
Alex Tseng  
(Printed Name)  
  
(Title)

**SCHEDULE A**  
**SERVICES**

Pursuant to the terms of Section 1.01 of this Agreement, District will provide the following Services on behalf of Physician Group:

1. **Budgets and Evaluations.** District will advise and assist Physician Group in (i) the preparation of an annual budget for Physician Group, and (ii) the preparation of Physician Group's periodic evaluation of income and expense for comparison with the annual budget. In addition, District and Physician Group will discuss any issues regarding such income and expenses on at least a quarterly basis.
2. **Equipment and Supplies.** District will advise Physician Group with respect to the acquisition, installation, and maintenance of all equipment and supplies reasonably necessary or appropriate for the proper and efficient operation of Physician Group. Physician Group will be responsible for supplying and maintaining in good repair and operating condition any of such equipment and supplies necessary or appropriate for its proper and efficient operation.
3. **Advertising and Marketing.** District will advise Physician Group, and Physician Group will consult with District, regarding all advertising and marketing of Physician Group. District will assist Physician Group in implementing the marketing strategies chosen by Physician Group. District will not on its own provide or arrange to provide any advertising or marketing of Physician Group.
4. **Utilization Review.** District will advise and assist Physician Group in developing and implementing utilization review programs for Physician Group as necessary to ensure Physician Group's compliance with regulatory and insurance requirements.
5. **Risk Management.** District will advise and assist Physician Group in developing and implementing risk management programs for Physician Group as necessary to ensure Physician Group's compliance with regulatory, accreditation, and insurance requirements.
6. **Contracts with Third Party Payors.** District will advise Physician Group, and Physician Group will consult with District, regarding contracts between Physician Group and third party payors including, but not limited to, health maintenance organizations, governmental entities, employers, and insurance companies. District will not on its own negotiate or enter into any contracts on Physician Group's behalf for the provision or services with any third party payors. Physician Group shall perform its own patient billing functions. The District will provide advice and recommendations where appropriate regarding the billing function and collections.
7. **General Assistance in Coordination of Services.** District will work with the Physician Group to facilitate the coordination of the Physician Group's practice with the medical and administrative operations of the Hospital.
8. **Assistance in Development of Operational Policies.** District will assist the Physician Group in the development of operational policies if requested.

**SCHEDULE B**  
**SERVICE FEES**

Pursuant to the provisions of Article II of this Agreement, for the Services set forth in Schedule A provided by District, Physician Group will pay District a Services Fee of One Thousand Dollars (\$1,000.00) per month. Physician Group and District acknowledge and agree that such fee is the reasonable fair market value for the Services to be provided by District hereunder and for the covenants made by District hereunder.

The monthly Services Fee will be automatically adjusted to account for inflation by multiplying the monthly rate set forth herein by a fraction; the numerator of which will be the index (as defined below) for the nearest calendar month preceding the first day of the monthly anniversary, and the denominator of which will be the Index for the nearest calendar month preceding the Effective Date of this Agreement. The term "Index," as used herein, will mean the Consumer Price Index for Urban Consumers (all items), for the applicable area published by the United States Department of Labor, Bureau of Labor Statistics ([www.bls.gov](http://www.bls.gov)).

## SCHEDULE C

C.1. The ultimate objectives of the Somervell County Hospital District ("District") and Somervell County ("County") are to preserve and maintain the operation of the hospital and to assure access to healthcare services to the County's citizens. In order to meet these goals it is understood that there must be the ability to recruit and maintain physicians committed to practicing medicine at the hospital. However, this requires that there be the financial ability to compensate physicians and maintain the Physician Group's operations even during periods where the Physician Group's revenues are not sufficient to meet these obligations.

C.2. In order to meet the goals set forth above, the District understands that it may be necessary during periods of negative cash flow for the District to provide Operational Support Assistance ("OSA") to the Physician Group. OSA may ONLY be used to pay necessary and reasonable operational expenses of the Physician Group. OSA payments by the District to the Physician Group are not a gift or gratuity to the Physician Group, but rather, the Physician Group agrees that its physicians will provide medical services at the hospital. This arrangement serves a public purpose of the District and the County.

C.3. To the extent of funds specifically budgeted by the District for OSA to the Physician Group, the District will provide OSA to the Physician Group as set forth herein.

C.4. If during any particular month the Physician Group does not have available cash to meet the operating cash requirements of Physician Group, such as payroll, accounts payable or other operating needs, and no other source of non-debt funds exist from which the Physician Group can make up the cash shortfall, the Physician Group may make a request to District for OSA ("OSA Request"). An OSA Request/Transfer Form will be generated by the District Chief Financial Officer (CFO) identifying the amount of the OSA Request and the reason for the request (i.e., payroll, accounts payable, other operating needs, etc.). The OSA Request/Transfer Form will be reviewed by the District Chief Executive Officer (CEO) and approved or modified by CEO. The approved or modified OSA Request/Transfer Form will be returned to the CFO for proper implementation.

All OSA Request/Transfer Forms, identifying the amount of the transfers, the reason for the transfer and proper documentation and authorization will be maintained in the District's Accounting Office. A copy of the OSA Request/Transfer Form and back-up documentation will be included in the financial packet that is provided to the Budget and Finance Committee at its monthly meeting.

If during the course of operations, the Physician Group generates sufficient positive cash flow to allow a repayment of prior OSA transfers by Physician Group to District, the same OSA Request/Transfer Form will be utilized by the CFO and approved or modified by the CEO. Such OSA Request/Transfer Form shall document the reason for the transfer and CEO approval. The OSA Request/Transfer Form and supporting documentation will be provided to the Budget and Finance Committee at its monthly meeting.

OSA Requests may be approved by the CEO only up to the total budgeted annual net income (loss) of Physician Group. Any OSA Request in excess of Physician Group's budgeted net income (loss) must receive specific Hospital District Board approval before any OSA transfer can be made.

C.5. A record of the running balance of the OSA provided to the Physician Group by the District shall be maintained in each month and year during the term of this Agreement. At the end of any fiscal year of the Physician Group, if the Physician Group has income for the year, that income will be used as follows:

1. First, to the Physician Group's operational account to achieve a beginning cash balance agreed to by the Physician Group and the District;
2. Next, to the establishment (or supplementation) of a reserve fund by the Physician Group to be used solely to help cover expenses during period of negative cash flow. The reserve fund shall be funded in an amount agreed to by the District and the Physician Group;
3. Next, to the payment of any accrued but unpaid Serves Fee owed to the District;
4. Next, as a credit against the OSA balance existing at that date, and paid to the District; and
5. The remainder, if any, placed in the reserve account.

C.6. The District's provision of OSA hereunder is subject to the availability of funds to the District to provide such assistance. Nothing herein shall be construed to create a debt of the District. The District's promises herein are subject to annual appropriation by the District in its budget. Should the District not appropriate funds (or not appropriate adequate funds) to provide OSA to the Physician Group in any fiscal year, the Physician Group's sole remedy shall be termination of this Agreement, and the District shall have no liability and suffer no penalty for non-appropriation.

C.7. If Physician Group terminates this Agreement for other than the District's material, uncured breach of contract, it must:

1. Tender the amount of any accrued but unpaid Services Fees to the District with the notice of termination; and
2. Must either pay or, to the extent of inability to pay, give a promissory note to the District for the then current OSA balance.

C.8. Nothing herein is intended to or shall be construed to create an employment, joint venture, partnership or similar arrangement between the Authority and the Physician Group.