

**AGREEMENT FOR PROVISION OF CHARTERED SURGICAL  
FACILITY SERVICES**

**THIS SERVICES AGREEMENT** is made effective as of the 25<sup>th</sup> day of October, 2023 (the “**Effective Date**”).

**BETWEEN:**

**ALBERTA HEALTH SERVICES  
 (“AHS”)**

- and –

**JEFF SOPARLO PROFESSIONAL CORPORATION  
 (the “**Service Provider**”)  
 (collectively, the “**Parties**” and each of them, a “**Party**”),**

**WHEREAS:**

- A. AHS wishes to retain the Service Provider to perform the Services and the Service Provider desires to perform the Services, in each case in accordance with, and subject to, the terms and conditions of this Agreement; and
- B. The Parties wish to define and clarify their respective rights and obligations with respect to the provision of the Services.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual promises and respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is irrevocably acknowledged, the Parties agree as follows:

**ARTICLE 1  
DEFINITIONS AND PRINCIPLES OF INTERPRETATION**

**1.1 Definitions**

In this Agreement including its preamble and Schedules, unless something in the context is inconsistent therewith, capitalized terms have the meaning as set out in Schedule “A”.

**1.2 Certain Rules of Interpretation**

(a) **Business Day**

Where any time period limited by this Agreement expires on a day other than a Business Day, the time period is extended to the next succeeding Business Day.

(b) **Currency**

Unless otherwise specified, all references to money amounts are to the lawful currency of Canada.

(c) **Extended Meanings**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and *vice versa* and words importing gender include all genders. Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.

(d) **Governing Law**

This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable in the Province of Alberta and each Party submits to the exclusive jurisdiction of any Alberta courts sitting in Calgary or Edmonton (at the option of AHS).

(e) **Headings**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. Unless something in the context is inconsistent therewith, references to Articles, Sections and Schedules are to Articles, Sections of and Schedules to this Agreement.

(f) **Severability**

In the event any of the terms or conditions of this Agreement or their application to any Party or circumstance other than the obligations to perform the Services or pay the Service Fees shall be held invalid by any court or other authority having jurisdiction, the remainder of this Agreement and the application to the Parties or circumstances shall not be affected, unless to do so would negate the intended purpose of this Agreement.

(g) **Statutory References**

Any reference to a statute includes and is deemed to be a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto and in force, from time to time, and to any statute or regulation that may be passed which has the effect of supplementing, succeeding or superseding the statutes referred to or the regulations made pursuant thereto.

(h) **Time**

Time shall be, in all respects of this Agreement, of the essence.

### 1.3 Acting Reasonably

- (a) With respect to the Service Provider, any requirement set forth in this Agreement for the Service Provider to act reasonably, use reasonable efforts, or any variation thereof, shall mean the use of all reasonable commercial efforts having regard to the surrounding circumstances, unless specifically specified otherwise.
- (b) With respect to AHS, any requirement set forth in this Agreement for AHS to act reasonably, use reasonable efforts, or any variations thereof, shall not require AHS to act in a manner that is contrary to, or inconsistent with, any policies, directives, executive decisions, ministerial orders, or legislation applicable to AHS. In addition, unless something in the context is inconsistent therewith, the Service Provider acknowledges and confirms that nothing contained in this Agreement shall be construed or otherwise interpreted in any manner that would or could cause AHS to fetter its discretion.

### 1.4 Incorporation of Schedules

The following attached Schedules are incorporated in this Agreement and are deemed to be part of this Agreement and any references to this Agreement shall mean this Agreement including such Schedules:

Schedule "A" Definitions

Schedule "B" Term, Representatives, Frequency of Meetings, Description of Services and Service Fees

Schedule "C" Incident Reporting Process

Schedule "D" Infection Prevention and Control

Schedule "E" Patient Concerns Resolution Process

Schedule "F" Reporting Requirements

Schedule "G" Applicable Policies

## ARTICLE 2 SERVICES

### 2.1 Engagement

During the Term and subject to the terms and conditions of this Agreement, the Service Provider shall perform the Services.

### 2.2 Conditions Precedent to Commence Services

Notwithstanding the Term, the Service Provider shall not commence Services until the following express conditions are satisfied:

- (a) the Minister has delivered written approval of this Agreement to AHS; and
- (b) the Facility is Designated by the Minister as required pursuant to the *HFA* and the Service Provider has delivered evidence of same to AHS to AHS' satisfaction.

If these conditions are not fulfilled as at the commencement of the Term then, notwithstanding any other provision to the contrary, this Agreement shall not come into effect unless and until the Minister's said approval and Designation is granted and neither Party shall have rights or obligations relative to this Agreement until that time. If these conditions are not fulfilled by the Effective Date, either Party may terminate this Agreement immediately upon notice to the other at any time thereafter without costs or further payment provided to the Service Provider.

### **2.3 No Guaranteed Minimums or Exclusivity**

Unless expressly provided for in Schedule "B", AHS does not guarantee to the Service Provider:

- (a) any minimum quantity of Services or Service Fees; or
- (b) any right of exclusivity for provision of services of the nature and type of the Services in the Province of Alberta or any part thereof.

### **2.4 Monetary Limit on Services**

The Service Provider will not perform Services either which are in excess of the maximum volume(s) contemplated in Schedule "B" or which would result in exceeding the Service Fees maximum in accordance with Section 4.3

### **2.5 Implied Inclusion in Services**

The Services include any services, functions or responsibilities that are inherent, necessary or customarily performed as part of services similar in the nature and scope to the Services or which are reasonably required for the proper performance of Services and all hardware, software, systems, equipment, facilities, personnel or other resources used or required to be used in order to perform the Services, whether or not expressly described in this Agreement. AHS will not provide equipment, instruments, medications and appropriate means of administration, or any other goods used in the proper performance of the Services.

### **2.6 Performance**

The Service Provider shall diligently, expeditiously and efficiently perform the Services in a conscientious, professional and workmanlike manner, with reasonable skill, care and diligence, all in accordance with industry standards and otherwise in accordance with this Agreement.

## 2.7 Representatives

- (a) The Service Provider's representative (as identified in Schedule "B") shall be AHS's primary contact at the Service Provider and AHS's representative (as identified in Schedule "B") shall be the Service Provider's primary contact at AHS for the purposes of all day to day communication in respect of the Services or this Agreement.
- (b) Where the Service Provider or a member of its staff also has a contractor or employee position with AHS, the Service Provider shall ensure that the person shall at times:
  - (i) act impartially in carrying out their duties;
  - (ii) not act in self-interest or further their private interests by virtue of their position or duties as an AHS representative;
  - (iii) shall take steps to avoid real, apparent, and potential conflicts of interest, whenever possible; and
  - (iv) shall disclose and manage all real, apparent, and potential conflicts of interests in accordance with AHS' Conflict of Interest Bylaw.

## ARTICLE 3 TERM AND TERMINATION

### 3.1 Term of Agreement

Subject to earlier termination as contemplated in this Agreement, this Agreement shall come into force and effect on the Effective Date and continues in effect until the end of the term as detailed in Schedule "B" (the "**Initial Term**").

### 3.2 Renewal

AHS may renew the Initial Term for the periods detailed in Schedule "B" (each a "**Renewal Term**"). Each Renewal Term shall be exercisable by AHS delivering a written notice to the Service Provider no later than sixty (60) days prior to the expiry of the Initial Term or first Renewal term (if any), as the case may be, such written notice to include any revisions to the fee schedule for the Renewal Term, if applicable. Upon AHS providing notice to the Service Provider that it wishes to renew the Initial Term, the Service Provider shall, within thirty (30) days of receipt of the notice, provide AHS with a written response indicating acceptance or rejection of the renewal of the Agreement for the Renewal Term. Failure to provide such written response may result in the termination of the Agreement. Other than revisions to the fee schedule, if any, all terms and conditions of the Agreement shall continue to apply for the Renewal Term.

Where the Minister fails to approve any renewal by the proposed commencement date of such Renewal Term, this Agreement shall terminate on the expiry of the then-current Term.

### 3.3 Default and Termination

- (a) In the event that either Party (the “**Non-defaulting Party**”) determines that the other Party (the “**Defaulting Party**”) is in breach of any term or condition of this Agreement, unless the breach is a Substantial Breach, the Non-defaulting Party shall give the Defaulting Party fourteen (14) days from the day of written notification of the breach for the Defaulting Party to remedy the breach or if the breach cannot reasonably be cured within such period, provided the Defaulting Party proceeds to diligently remedy the default, such additional period of time as is reasonably required to remedy the breach, as determined by the Non-defaulting Party, acting reasonably.
- (b) In the event that:
- (i) the Non-defaulting Party determines that the Defaulting Party is in breach pursuant to Section 3.3(a); and
  - (ii) the breach was not a Substantial Breach at the time such breach occurred; and
  - (iii) the Defaulting Party disputes the determination of the breach made by the Non-defaulting Party,
- the Parties shall resolve any such dispute in accordance with the dispute resolution mechanism as set out in Section 9.3 of this Agreement.
- (c) In the event of a Substantial Breach, the Non-defaulting Party shall, without limiting any other rights it may have in law or equity, have the right to terminate this Agreement without cost, penalty, or process of law with a minimum of forty-eight (48) hours prior written notice to the Defaulting Party.
- (d) If the Service Provider materially defaults in the observation or performance of any term or condition of this Agreement, and fails to remedy such default within the period provided for herein, AHS shall be entitled, but not obligated, to take such steps as may be available or desirable to remedy such default, and all costs of AHS in that regard shall be paid by the Service Provider to AHS on demand.
- (e) The rights and remedies of the Parties as set forth in this Agreement are cumulative and shall in no way be deemed to limit any of the other provisions of this Agreement or otherwise to deny the Parties any other remedy at law or in equity which the Parties may have under any law in effect at the date hereof or which may hereinafter be enacted or become effective, it being the intent hereof that such rights and remedies of the Parties shall supplement or be in addition to or in aid of the other provisions of this Agreement and of any right or remedy at law or in equity which the Parties may possess.
- (f) Termination for Convenience

- (i) AHS shall have the right to terminate for its convenience this Agreement for any reason on one hundred eighty (180) days' advance written notice to the Service Provider (the "**Termination Notice**"). On the date of termination stated in the Termination Notice, the Service Provider shall discontinue all work pertaining to this Agreement;
- (ii) Termination payment to the Service Provider or refund to AHS, if any, shall be promptly and mutually agreed to by AHS and the Service Provider, based on:
  - 1. that portion of the Services satisfactorily performed to the date of the cancellation in accordance with the terms of this Agreement; and
  - 2. reasonable and necessary expenses directly resulting from the termination, all as substantiated by documentation satisfactory to and verified by AHS.
- (iii) In the event the Parties are unable to agree as to the termination payment within sixty (60) days of delivery of the Termination Notice, the matter shall be determined through arbitration in accordance with the *Arbitration Act* (Alberta).
- (iv) The Service Provider shall not be entitled to any loss of prospective profits, contribution to overhead or incidental, consequential or other damages because of such termination.

### 3.4 Other Remedies

In addition to the remedies and rights of termination set forth above, AHS is entitled to exercise one or more of the following remedies where the Service Provider has breached any one or more of its obligations under this Agreement:

- (a) impose any further and additional term, condition or requirement on the provision of Services that AHS, acting reasonably, deems necessary or appropriate;
- (b) procure or otherwise obtain alternative services from any person in replacement or substitution of the affected Services during any period of time that the Service Provider is in breach of its obligations under this Agreement and for a reasonable period of time thereafter, which includes setting off any amounts payable to such other person against Service Fees otherwise payable to the Service Provider;
- (c) in respect of any breach by the Service Provider which, in the reasonable opinion of AHS, jeopardizes the care, safety or health of any Client:
  - (i) immediately assume management and control of the Services, or delegate such responsibility to an alternate Service Provider, during the continuance of any breach and receive and apply the revenues

from AHS payable under this Agreement and recover all incremental costs associated with assuming management and control of the Services; or

- (ii) relocate or redirect Clients during the continuance of any breach and AHS will be entitled to receive and apply the revenues from AHS generated under this Agreement and recover all incremental costs associated with relocating or redirecting Clients;
- (d) withhold and suspend payment of any amount otherwise payable by AHS in respect of the Services while a breach by the Service Provider remains uncured, in which case the Service Provider may receive all suspended and withheld payments upon the breach being waived or remedied to the satisfaction of AHS; or
- (e) cancel the payment of any amount otherwise payable by AHS to the Service Provider in respect of the Services while a breach by the Service Provider remains uncured; and if the breach substantially deprives AHS or the Clients of the benefit of the Services, the Service Provider will conclusively forfeit any entitlement to the applicable Service Fees.

#### **ARTICLE 4 CONSIDERATION AND PAYMENT**

##### **4.1 Amounts Payable**

- (a) The Service Provider shall deliver to AHS sufficient supporting documentation (as determined by AHS in its discretion) detailing the Services performed on a monthly basis ("**Supporting Documentation**"). The Supporting Documentation must be delivered to AHS no later than fifteen (15) days after the end of the month in which the Services were performed. AHS has the right to refuse payment where AHS receives the Supporting Documentation more than sixty (60) days after the end of the month in which the Services were performed in accordance with this Agreement. AHS shall provide prompt notice to the Service Provider if the Supporting Documentation is not acceptable together with details regarding the deficiency and the Service Provider shall correct the deficiency promptly.
- (b) Provided AHS has received the Supporting Documentation in accordance with Section 4.1(a) and subject to Section 4.1(c), AHS shall pay the Service Provider the Service Fees for that portion of the Services performed within forty-five (45) Business Days after the month in which Services performed.
- (c) After the receipt of the Supporting Documentation from the Service Provider pursuant to Section 4.1(a), if AHS intends to dispute any Service Fees payable to the Service Provider, AHS shall, within fifteen (15) Business Days, provide the Service Provider with a written notice of the specific amounts which it disputes and rationale for disputing such Service Fees. Failure by AHS to give notice of such dispute, or payment by AHS of an amount under this Agreement, shall not affect AHS's right to later initiate



a dispute with respect to such amount. The Parties agree that AHS shall not:

- (i) withhold or delay the payment of the undisputed Service Fees submitted on the Service Provider's Supporting Documentation; or
- (ii) be obligated to pay any disputed amounts until the Parties have resolved the dispute in accordance with the dispute resolutions provisions detailed in Section 9.3 of this Agreement.

#### **4.2 Right to Withhold Payment**

AHS reserves the right to withhold payment of Service Fees if the Service Provider fails to comply with the Deliverables.

#### **4.3 Maximum Service Fees**

The maximum Service Fees payable by AHS, both per procedure and in the aggregate, are set out in Schedule "B". Notwithstanding any other provision in this Agreement, AHS has no obligation to pay for Services performed where the Service Fees exceed this maximum amount in a year. AHS requires ninety (90) days' advanced written notice if the Service Provider believes Service Fee will exceed this maximum value in a year. The Service Provider will give AHS written notice when Service Fees payable reach this maximum amount. Upon written notice to the other party, a Party may immediately cease the Services and Service Fees where the maximum annual Service Fees are due and paid or payable in a year.

#### **4.4 Third Party Income**

Separate from this Agreement, the Service Provider or its Staff may bill and retain all amounts applicable under the Alberta Health Care Insurance Plan (AHCIP) or other public health care plans ("**Third Party Income**") for the Services performed. The Service Fees are not affected by Third Party Income. This Agreement does not create or in any way cause AHS to be responsible for the payment of Third Party Income.

#### **4.5 Set-Off**

The Service Provider expressly acknowledges and agrees that AHS shall have a right to set-off against any damages incurred or any damages reasonably expected to be incurred or any amounts owed to AHS by the Service Provider as a consequence of the Service Provider's breach of this Agreement, from any monies or amounts otherwise owing to the Service Provider under this Agreement.

#### 4.6 Taxes

- (a) Subject to the provisions of the *Excise Tax Act* (Canada), the Service Provider shall not charge AHS the Goods and Services Tax in respect of the Services on the basis that the Services received hereby are being received and shall continue to be received by AHS, which is on the Alberta Government's "Goods and Services Tax-Free" entity list. AHS's GST Registration Number is 124072513. In the event AHS's GST exempt status changes, such that it is subject to the payment of GST, the Service Provider may amend its invoices accordingly.
- (b) Unless otherwise specifically provided, the Service Provider assumes exclusive liability for, and shall pay before delinquency, all taxes and assessments with respect to, or measured by the articles sold or material, Services and work furnished hereunder or the wages, salaries, or other remuneration paid to Staff employed in connection with the performance of the Services pursuant to this Agreement. For greater certainty, the Service Provider is responsible and liable for all employment insurance, Canada pension plan and income tax payments due or in respect of the Service Provider and its Staff, arising as a result of this Agreement. The Service Provider indemnifies and holds AHS harmless against all liability or expense incurred due to the Service Provider's failure to pay such taxes or assessments.

### ARTICLE 5 REPRESENTATIONS AND WARRANTIES

#### 5.1 Mutual Representations and Warranties

Each Party represents and warrants to the other Party that as of the Effective Date and at all times during the Term:

- (a) the Party is duly constituted, in good standing and validly existing under the laws in force in the Province of Alberta;
- (b) the Party has all necessary corporate power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement;
- (c) the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of the Party; and
- (d) the Party it is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement, obligation, instrument, chart, by-law, order, judgment, decree, licence, law (including regulations) or governmental authorization that would be violated, breached by, or under which default would occur or an encumbrance would, or with the notice or the passage of time would, be created as a result of the execution and delivery of, or performance of obligations under, this Agreement or any other agreement to be entered into under the terms of this Agreement.

## 5.2 Service Provider Representations, Warranties and Covenants

The Service Provider represents, warrants and covenants to AHS that as of the Effective Date and at all times during the Term:

- (a) there is no action, proceeding or investigation pending or, to its knowledge, threatened against the Service Provider before or by any court, governmental department, commission, board, agency, person or domestic or foreign corporate body that may result in a material adverse change in the business condition, financial or otherwise, of the Service Provider, or that questions the validity of this Agreement, or any action taken or to be taken pursuant to or in connection with this Agreement;
- (b) in respect of the Services to which the Workers Compensation legislation in the jurisdiction in which the Service Provider provides the Services applies, it is registered and in good standing in accordance with such legislation;
- (c) it has the Rights to any and all Intellectual Property used or to be used to perform the Services and it shall undertake all necessary and prudent Intellectual Property and other searches and shall make any other reasonable inquiries that are necessary to ensure that the Services provided to AHS shall not infringe or violate any Intellectual Property Rights of any third party and shall not otherwise breach Applicable Laws;
- (d) this Agreement constitutes a legal, valid and binding obligation of the Service Provider enforceable against it in accordance with its terms;
- (e) the Service Provider, its agents and representatives have not offered gratuities (in the form of entertainment, gifts (monetary and non-monetary) or other inducements) to any officer, director, employee or contractor of AHS, or any other person connected to AHS, with a view toward securing this Agreement or securing favourable treatment with respect to the awarding or amending, or the making of any determinations with respect to this Agreement, nor has the Service Provider directly or indirectly, paid any contingency fee for the solicitation, negotiation or obtaining of this Agreement to any person other than an employee of the Service Provider acting in the normal course of the employee's duties;
- (f) that the Service Provider has the experience, skill, ability and capacity to perform the Services;
- (g) the Deliverables are and shall be free of all encumbrances, liens, Claims, demands, security interests, restrictions, options or adverse Claims of any kind or character whatsoever;
- (h) the Service Provider has the absolute right to make the assignments of the right, title and interest in and to the Deliverables contemplated in this Agreement; and
- (i) the Services shall be:

- (i) provided in a conscientious, professional and workmanlike manner, with reasonable skill, care and diligence, all in accordance with industry standards and otherwise in accordance with this Agreement;
  - (ii) provided by Staff who are qualified and competent and have the appropriate skills and experience to perform the duties assigned to them;
  - (iii) performed using equipment which is in good condition, suitable for the use being made, and which has received such approvals and licenses as are required for proper operation in accordance with Applicable Laws, regulatory authorities and the manufacturer, where applicable; and
- (j) the Service Provider will, at all times, comply with Article 7, Compliance and Clinical Requirements.

## ARTICLE 6

### CONFIDENTIALITY, INTELLECTUAL PROPERTY AND PUBLIC RELATIONS

#### 6.1 Confidentiality Obligation

The Service Provider agrees that the Confidential Information is highly confidential and of strategic importance to AHS. The Service Provider acknowledges that it is essential that the Confidential Information remain the sole and exclusive property of AHS and that any unauthorized use or disclosure of the Confidential Information by the Service Provider could cause serious harm to AHS.

- (a) Except with AHS's prior written consent, which consent may be arbitrarily and unreasonably withheld, the Service Provider shall:
  - (i) hold, and shall cause its Staff to hold, all Confidential Information in strict confidence;
  - (ii) not collect, access, retain, use or disclose the Confidential Information other than for the performance of the Services;
  - (iii) not disclose the Confidential Information of AHS to anyone other than the Service Provider's Staff and then only to the extent that such Confidential Information of AHS is directly required to be disclosed in order for the Service Provider to properly perform the Services; and
  - (iv) except as otherwise permitted under this Section 6.1(a), not disclose the Confidential Information of AHS to the Service Provider's Staff or any third party during or after the Term.
- (b) Except for any health information as defined in the HIA and personal information as defined in FOIPP, the obligations of confidentiality set out in Section 6.1(a) do not apply to any Confidential Information which:

- (i) is known to the public through no act of the Service Provider at the time of the acquisition thereof by the Service Provider;
  - (ii) after the acquisition thereof by the Service Provider, becomes known to the public through no act of the Service Provider;
  - (iii) is already known to the Service Provider at the time of disclosure and is not known by the Service Provider to be subject to any obligation of confidence of any kind; or
  - (iv) is lawfully received by the Service Provider from a third party who is lawfully in possession of such Confidential Information.
- (c) Notwithstanding Sections 6.1(a) and 6.1(b), the Service Provider shall at all times comply with the applicable provisions of all privacy laws (including, the HIA and FOIPP), regulations, policies and directives issued by Alberta's Commissioner of Information and Privacy relating to privacy and information security which are now, or at anytime in the future become, applicable to the Service Provider or the Confidential Information.
- (d) The Service Provider shall keep all Confidential Information separate from all of its other records and databases.
- (e) The Service Provider shall not disclose Confidential Information under any non-Canadian law, rule order, or document and shall immediately notify AHS if it receives any subpoena, warrant, order, demand or request issued by a non-Canadian court or other foreign authority for the disclosure of Confidential Information. Notwithstanding the foregoing, if any non-Canadian law or other authority prohibits the Service Provider from notifying AHS of such order, the Service Provider shall take the following actions:
- (i) specifically ask the court, government agency or other appropriate authority for permission to notify AHS of such order so AHS may seek a protective order or other such remedy; and
  - (ii) if the foreign authority denies the Service Provider's request, the Service Provider shall vigorously and in good faith challenge such order through all legal means available to modify or overturn such order in order to eliminate or minimize any disclosure of Confidential Information.
- (f) If the Service Provider or its Staff is or becomes legally compelled, by oral questions, interrogatories, requests for Confidential Information, subpoena, civil investigative demand or similar legal process, to disclose any of the Confidential Information, the Service Provider or other party to whom the request was made or who is legally compelled hereunder shall provide AHS with prompt written notice of same so that AHS may seek a protective order or other appropriate remedy. The Service Provider shall fully cooperate with AHS in the event AHS seeks a protective order or other remedy as herein described, which shall include, without limitation, providing AHS with

such information as it reasonably requires to obtain such an order or remedy.

If such protective order or remedy is not obtained, the Service Provider shall:

- (i) furnish only that portion of the Confidential Information which is legally required;
  - (ii) exercise its best efforts to obtain reliable assurances that the Confidential Information shall be accorded confidential treatment; and
  - (iii) promptly provide to AHS copies of the Confidential Information that was disclosed.
- (g) The Service Provider shall, before disclosing any Confidential Information to any of its Staff, ensure that the terms and conditions of this Agreement relating to Confidential Information are and shall be fully complied with at all times by any such Staff. The Service Provider agrees that it shall be liable and responsible for any breach of this Agreement by its Staff.
- (h) At any time upon the written request of AHS, the Service Provider shall immediately return to AHS or destroy any Confidential Information in whatever form it may be held by the Service Provider or its Staff. In the event the Confidential Information is destroyed, an officer of the Service Provider shall promptly provide a certificate to AHS confirming that the destruction has taken place.
- (i) If the Service Provider directly accesses any Confidential Information in performance of the Services, the following provisions shall apply:
- (i) for electronic access, the Service Provider shall keep an audit trail or other log of its Staff's access to Confidential Information, and shall provide this log to AHS upon request. Such log must record the identity of the Staff, a description of the Confidential Information accessed, whether such Confidential Information was modified and the time and date of such access; and
  - (ii) the Service Provider shall obtain a confidentiality agreement obligating Staff to keep Confidential Information in strict confidence and to be bound by all terms and conditions of this Agreement in respect thereof. At the request of AHS, the Service Provider agrees to provide AHS with a list of all Staff to whom Confidential Information has been provided and evidence that such Staff have agreed to be bound by the confidentiality obligations set out in this Agreement.

## 6.2 Privacy and Security

- (a) The Service Provider shall not transmit or store any AHS data outside the borders of Canada, nor transmit any AHS data in Canada to any party not specifically contemplated in this Agreement, without AHS's prior written consent to each such data transmittal, which consent may be arbitrarily and unreasonably withheld.
- (b) If the Service Provider receives any request by a third party for any information related to, or gathered in respect of the Confidential Information, it shall immediately refer such request to AHS and shall reasonably cooperate with AHS's response to such request.
- (c) To the extent required by HIA and FOIPP, the Service Provider shall protect personal information and health information in its possession by taking reasonable administrative, technical and physical security precautions against such risks as unauthorized access, collection, use, disclosure alteration or disposal. Such precautions must be no less than those precautions undertaken by AHS. Any records created, obtained and maintained in the delivery of the Services that the Service Provider intends to destroy must be destroyed in accordance with HIA and/or FOIPP and AHS's records management policies.
- (d) The Service Provider shall notify AHS immediately upon discovery by the Service Provider that Confidential Information could be, or has been, released to an unauthorized third party, or of any breach of this Article 6 resulting from the conduct of the Service Provider and, if appropriate, take reasonable steps to remedy the breach. The Service Provider shall cooperate with AHS's investigation of any such disclosure or breach and AHS's efforts to recover the Confidential Information. Notwithstanding any notification by the Service Provider to AHS under this Section 6.2, all obligations of the Service Provider with respect to the Confidential Information shall survive and continue to bind the Service Provider. The Service Provider shall not intimidate, punish, terminate, penalize or otherwise harass any Staff if such Staff notifies AHS of any breach of this Agreement.

### 6.3 Intellectual Property and Intellectual Property Infringement

- (a) Title to all working papers, materials, reports, work-in-progress, discovery, invention, process, program, software, system, method or device created, developed or performed, by the Service Provider during the course of providing the Services, the Deliverables and any other direct or indirect results of the Services (individually or collectively, the "**Work Product**") shall be exclusively owned by AHS, effective at the time each is created. The Service Provider quitclaims and irrevocably assigns to AHS all right, title and interest in and to the Work Product and waives any moral rights thereto, and to the extent that it may be deemed that any quitclaim, assignment or grant of right under this Agreement cannot be made until after the relevant Work Product is in existence, the Service Provider shall execute and deliver to AHS an irrevocable quitclaim and assignment of the Service Provider's right, title and interest in, and waiver of moral rights to, such Work Product, in such form as may be requested by AHS.

- (b) The Service Provider agrees to cooperate fully with AHS and to ensure the Staff cooperates fully with AHS, both during the Term and after the termination of this Agreement, with respect to signing further documents and doing such acts and things reasonably required by AHS to confirm the transfer of ownership of the Work Product and the waiver of moral rights therein. The Service Provider shall not receive any consideration or royalties in respect of such transfer of ownership, beyond the Service Fees, provided that, subject to other terms of this Agreement, the expense of obtaining or enforcing Intellectual Property Rights in and to the Work Product shall be borne by AHS.
- (c) The assignment of the rights to the Work Product set out in Sections 6.3(a) and 6.3(b) do not apply to the Service Provider's pre-existing Intellectual Property. The Service Provider hereby grants to AHS and to AHS's Affiliates an irrevocable, perpetual, and royalty free license to use, distribute, transmit, broadcast, produce, reproduce, perform, publish, support and modify the Service Provider's pre-existing Intellectual Property solely in connection with the Work Product and provision of health services in the Province of Alberta.
- (d) The Service Provider shall pay all royalties and licence fees relating to any Intellectual Property Rights in the Services performed by the Service Provider and shall ensure that AHS is entitled to enjoy the benefits of the Services, free of any Claims by any third party.
- (e) The Service Provider shall defend or settle, indemnify and hold harmless AHS from and against any and all loss, liability or expense by reason of any Claim for alleged infringement of any Intellectual Property Right in and to the Work Product, and shall defend any such Claim and pay all costs and expenses incidental thereto; provided, however, that AHS shall have the right, at its option, to participate in the defence of any such Claim at the Service Provider's cost and expense as aforesaid without relieving the Service Provider of any obligations hereunder. If an application for an injunction ensues as a result of any such Claim, the Service Provider agrees, at its expense and its option, to:
- (i) procure for itself and for AHS the right to continue using the allegedly infringing material as contemplated in this Agreement;
  - (ii) replace the allegedly infringing material with non-infringing material of comparable functionality and performance; or
  - (iii) modify the allegedly infringing equipment, service or software so they become non-infringing.

If despite the Service Provider's best efforts, none of the foregoing options are available, then AHS shall have the right to terminate this Agreement as if the Service Provider had committed a Substantial Breach.

#### **6.4 Communications**



- (a) Neither party shall publicize the existence or scope of this Agreement without the prior written consent of the other party hereto. In particular, but without limiting the foregoing, the Service Provider shall not, without the prior written consent of AHS make any public announcement or communicate with any news media with respect to any aspect of this Agreement and, except as required to perform its obligations hereunder, the Service Provider shall not use the name of AHS in relation to its business without the prior written consent of AHS. Notwithstanding the foregoing, AHS may publicize or disclose such information of the Service Provider, the Services or this Agreement to third parties, as may be required by Applicable Laws or pursuant to procurement related trade agreements. In addition to the foregoing, AHS may publicize the existence of the Agreement, the name of the Service Provider, AHS' departments receiving the Services, the description of the Services, the Term and the overall or aggregate dollar amount paid to Service Provider to such third parties and in such circumstances as determined by AHS, in its sole discretion. AHS may also share information regarding this Agreement, including the Services and Staff performing the Services, with the applicable College and other professional or regulatory governing bodies pertaining to the Staff, as determined by AHS in its sole discretion. The Service Provider also acknowledges that AHS must respond to requests to access information under FOIPP and agrees that AHS may be required to release information regarding the Service Provider or this Agreement as required by FOIPP.
- (b) The Service Provider shall not, without the prior written consent of AHS, make any public announcement or communicate with any news media with respect to any aspect of the Services. Except as required to perform the Services, the Service Provider shall not use the name of AHS in relation to its business without the prior written consent of AHS. The Parties shall:
- (i) designate communication contacts to deal with matters relating to this Agreement, the Services (including performance thereof) or items of interest in relation to the Services; and
  - (ii) establish processes to handle:
  - (iii) public communications; and
  - (iv) complaints or concerns regarding the Services.

## **6.5 Client Designation**

Clients who receive Services by the Service Provider are patients of the Service Provider and/or the Practitioners directly engaged in providing the Services.

## **6.1 Control for HIA/FOIPP Purposes**

Notwithstanding anything to the contrary herein contained, this Agreement and all documents compiled and prepared by the Service Provider in the performance of the Services or other documents referenced in this Agreement are subject to the

provisions of HIA or FOIPP, as applicable, by which AHS is bound and shall remain under AHS's control and be subject to AHS's direction for the purpose of FOIPP. To the extent that there is any conflict or inconsistency between the requirements under FOIPP or HIA and the terms of this Agreement, FOIPP and HIA shall prevail.

## **ARTICLE 7 COMPLIANCE AND CLINICAL REQUIREMENTS**

### **7.1 Compliance Commitment**

In the performance of the Services, the Service Provider shall, at its sole cost and expense, comply with and take all such steps and do all such things as may be necessary to ensure the compliance by all Staff with all of the following:

- (a) all Applicable Laws, orders, rules, regulations, directives and bylaws in force and applicable to the Services or the Service Provider including without limitation, the IPC Standards;
- (b) without limiting the obligations of the Service Provider under the HIA, perform with the following related to the collection and use of Client-related health information:
  - (i) when requesting personal health numbers, advise the individual involved that such number will be provided to AHS acting in its capacity as a regional health authority;
  - (ii) when collecting information which will be provided to AHS, use forms or wording approved by AHS (where applicable) to inform the individual providing the information as to the purpose for which AHS is collecting the information, its authority to collect the information and a contact (title, business address and business telephone number) who will be available to answer that individual's questions about the collection on behalf of AHS; and
  - (iii) provide to AHS copies of those policies and procedures and any privacy impact assessments established or carried out from time to time by the Service Provider in compliance with the HIA;
- (c) the requirements of all permits, licences, certificates and approvals applicable to the Service Provider and its Staff, the Services or the Facility;
- (d) all directives, rules, policies, standards, performance expectations, clinical requirements and guidelines established from time to time by AHS, the College or any other Professional Governing Body having jurisdiction, or the Minister in relation to the provision of the Services, including without limitation the Service Level Expectations;
- (e) all rules, regulations, policies and directions of AHS provided to the Service Provider from time to time, including the Applicable Policies, and compliance with the Medical Staff Bylaws by Practitioners performing Services; and

- (f) Section 6.1 of this Agreement, Confidentiality Obligations.

## **7.2 Staffing, Medical Staff Appointments and Clinical Privileges**

- (a) In arranging for Practitioners and other Staff to provide the Services, the Service Provider shall use all reasonable efforts to ensure that the pool of Practitioners and other health care professionals required by AHS or other hospital service providers to provide clinical services within publicly funded hospitals operated in the Province of Alberta is not materially adversely impacted. For the purposes of implementing this provision, the Service Provider will, prior to recruiting any Practitioner or other health care professional then practicing in any hospital in the Province of Alberta, consult with AHS as to the impact such recruitment would have on the ability of AHS (or the party generally operating the hospital, as the case may be) to meet the expected needs of Clients. Where any recruitment by the Service Provider can reasonably be expected to materially adversely impact the then current clinical staff at a publicly funded hospital in the Province of Alberta, the Service Provider shall not proceed with the recruitment.
- (b) Subject to Section 7.2(d), Practitioners engaged in performing the Services must be members of the Medical Staff, with a Medical Staff Appointment and Clinical Privileges, entitling them to perform surgical services of the type and character of the Services. The Medical Staff Appointment and Clinical Privileges must be located in the same AHS Zone as the Facility. Where applicable, such Medical Staff Appointment shall have a start and end date. The Medical Staff Appointment must be in the Active Staff category unless otherwise pre-approved in writing by AHS.
- (c) The Service Provider shall immediately notify AHS if any Practitioner's status under the Medical Staff Bylaws or Clinical Privileges change.
- (d) Where a Medical Staff Appointment and Clinical Privilege is not possible or practicable for any Practitioner who provides the Services, that Practitioner may still provide the Services at the Facility if and only so long as the following conditions are fulfilled:
- (i) that Practitioner submits all information, prior to performing Services, to AHS' Medical Affairs Office as would be required for a physician to become entitled to become or to remain a member of the Medical Staff in the geographic area where the Facility is located with Clinical Privileges applicable to the Services, together with an undertaking to be bound by the Medical Staff Bylaws insofar as the provision of the Services;
  - (ii) AHS provides prior approval of the Practitioner providing the Services, such approval to be granted or withheld in a manner consistent with the Medical Staff Bylaws; AHS' determination is made under the process for exceptional and urgent situations under the Medical Staff Bylaws, and this Agreement does not

obligate AHS to approve the Practitioner to provide Services without an AHS Medical Staff Appointment and Clinical Privileges;

- (iii) that Practitioner complies with all requirements of the Medical Staff Bylaws to the same extent as if he or she were a member of the Medical Staff; and
- (iv) that Practitioner provides Services on a short term basis as determined in AHS' discretion.

### **7.3 Ownership and Control of the Service Provider and Facility**

The Service Provider shall comply with the following provisions:

- (a) the Service Provider will advise AHS of any proposed changes in the ownership or control of either the Service Provider or the Facility during the Term whenever and as frequently as such changes occur, such notice to be provided not less than sixty (60) days prior to the proposed effective date of the change;
- (b) the Service Provider shall not permit a change in either the ownership or control of either the Service Provider or the Facility during the Term, without the prior written consent of the Minister. For the purposes of this Agreement a change in ownership or control shall be deemed to occur if and whenever the same would occur pursuant to the *HFA* and regulations; and
- (c) where any change in ownership or control occurs and is approved by the Minister, the Service Provider shall update the requested ownership information provided to AHS and the Minister. No change in the ownership or control of either the Service Provider or the Facility shall occur until all approvals of the Minister or Professional Governing Body required pursuant to Applicable Laws have been obtained. The Service Provider shall provide AHS with copies of any applications for the Minister's approval to any change in ownership or control submitted by the Service Provider and, when issued, copies of all responses or approvals by the Minister to such applications.

### **7.4 Location and Accreditation Restrictions**

- (a) The Facility shall be Accredited and Designated at all times during the Term.
- (b) The Services will only be provided within the Facility and only if and so long as the Facility remains properly Accredited and Designated.
- (c) If and whenever the Facility ceases to be properly Accredited or Designated for the provision of any or all of the Services:
  - (i) the Service Provider will immediately advise AHS and cease performing the Services (or those of the Services impacted by the cessation where not all of the Services are so impacted) to be

performed so long as the lack of Accreditation or Designation continues; and

- (ii) Upon notice to the Service Provider, AHS shall have the right to terminate this Agreement Service Provider in whole, or with respect to that portion of Services affected where the cessation of being Accredited or Designated impacts only a portion of the Services.
- (d) If and whenever the Facility is placed under conditional or probationary status or becomes subject to a directive, requirement or limitation imposed by either the College or the Minister or any other Professional Governing Body having jurisdiction (as applicable), the Service Provider will immediately advise AHS of the directive, requirement or limitation and shall immediately and fully take such steps as are required to either remove the conditional or probationary status or to comply with the directive, requirement or limitation, as the case may be. Failure to remove the conditional or probationary status or to comply with the directive, requirement or limitation, as the case may be, constitutes a Substantial Breach of this Agreement.

#### **7.5 No Right to Re-locate**

- (a) The Service Provider shall not use any location for the performance of the Services other than the Facility without the prior written approval of AHS and the Minister.
- (b) Where the Service Provider desires to provide the Services at a location other than the Facility, the Service Provider shall provide AHS and the Minister with reasonable details of the location and equipping of the proposed site and evidence of its being Accredited and Designated to the extent required under Applicable Laws, such notice to be submitted to AHS and the Minister not less than ninety (90) days in advance of the proposed effective date of the re-location or the addition of the new location. The Service Provider shall also provide AHS' and the Minister's representatives a reasonable opportunity to inspect the proposed site prior to AHS or the Minister approving such change.
- (c) The Service Provider has no right to relocate the Facility without AHS and Minister's approval.

#### **7.6 Clinical Requirements**

In providing access to Clients to the Services and without limiting any other provisions in this Agreement, the Service Provider will comply in all respects with the provisions of the *Canada Health Act* and the HFA. Without limiting the generality of the foregoing:

- (a) the Service Provider is an "Operator" as that term is defined under the HFA;
- (b) all Clients obtaining Services from the Service Provider shall receive the Services on a fair, equal and consistent basis to the extent clinically

appropriate in accordance with the clinical standards generally in use within the Province of Alberta. Without limiting the generality of the foregoing, the Service Provider shall not favour Clients with less complicated clinical concerns over those with more complicated clinical concerns;

- (c) the Service Provider shall neither deprive any Client of access to the Services nor give any Client requiring or requesting the Services priority over any other Client requiring or requesting the Services where such access or priority is in any way preferentially-based on, or related to, the Service Provider receiving money or other valuable consideration or the Service Provider receiving payment for Enhanced Medical Goods or Services or non-medical goods or services or the Service Provider having the opportunity to provide services which are not Insured;
- (d) the Service Provider shall not charge any Client or other person or entity (other than AHS in accordance with Schedule "B") any amount relative to the provision of the Facility or Services provided by the Service Provider pursuant to this Agreement;
- (e) the Service Provider shall strictly comply with the requirements of the HFA (and regulations thereunder), including without limitation all requirements related to the provision of any Enhanced Medical Goods or Services or non-medical goods or services, and will provide to AHS copies of all documentation provided to, or executed by, Clients related to any such goods or services provided in the Facility in the course of providing the Services; and
- (f) the Service Provider shall not:
  - (i) Require non-medical goods or services to be sold as a condition of selling Enhanced Medical Goods and Services; or
  - (ii) "Bundle" charges for Enhanced Medical Goods and Services with charges for non-medical goods or services; as both of these are expressly prohibited under this Agreement.
- (g) Enhanced Medical Goods or Services may only be charged for if the items supplied are listed in, or otherwise able to be supplied in compliance with, the HFA and Regulations and all consents and requirements of the HFA and Regulations related to the supply are met.

## **7.7 Client Safety and Security**

- (a) The Service Provider shall take reasonable precautions to ensure that any Staff member who may come into contact with Clients served under this Agreement does not pose a risk to any Client served under this Agreement.
- (b) The Service Provider shall, at its sole cost and expense, ensure that any Staff providing Services under this Agreement has a clear criminal records check, which includes a vulnerable sector search, prior to the Term of this Agreement, provided the check is not dated earlier than ninety (90) days of

the date the Services are commenced, and every three years after the initial check during the Term.

- (c) The Service Provider shall ensure that any Staff providing Services to a child aged 18 years or younger under this Agreement has a satisfactory child intervention records check prior to the Term of this Agreement, provided the check is not dated earlier than ninety (90) days of the date the Services are commenced, and every three years after the initial check during the Term.
- (d) The Service Provider shall obtain from its Staff all authorizations required to complete the background checks referred to in this Section 7.7, shall review each of these background checks, shall document those reviews in writing and shall retain the authorizations, documented reviews and background checks on file, to be provided to AHS upon request.

## 7.8 Complaint, Incident, Consent and Mediation Processes

- (a) Client Complaints. The Service Provider will comply with the Client concerns resolution process described in Schedule "E".
- (b) Incident Reporting Process. If an incident occurs in respect of a Client, the Service Provider shall promptly report the matter to AHS and shall thereafter comply with all requirements of AHS in accordance with the Incident Reporting Process set out in Schedule "C".
- (c) The Service Provider will report all concerns raised regarding clinical or non-clinical practices by persons engaged in performance of the Services to both the College (or any other Professional Governing Body having jurisdiction) and AHS' appropriate clinical administrators as soon as is practicable in the circumstances.
- (d) The Service Provider hereby authorizes the College and any other Professional Governing Body (as applicable) involved in reviewing any reportable incident or clinical practices to provide to AHS any information related thereto in the College's or other Professional Governing Body's possession.

## ARTICLE 8 PERFORMANCE REVIEW AND REPORTING

### 8.1 Performance Reporting Requirements

The Service Provider shall provide AHS with the performance reports and updates with respect to the Services described in Schedule "F" (the "**Performance Reports**").

### 8.2 Records, Right to Inspect and Audit

- (a) The Service Provider shall keep detailed, proper and accurate books, records, time sheets, accounts, computer files and documents related the

Services, including Client information (the "Records"). The Records shall at no time during or after the Term be co-mingled with other records or documents of the Service Provider and shall at all times be maintained and held in one location.

- (b) The Service Provider shall undertake all reasonable requests from AHS or the Minister to provide any part, or the entirety, of the Records or the Performance Reports to AHS, AHS's designated representative or the Minister, as may be required to allow AHS or the Minister to determine whether the Service Provider is in compliance with the provisions of this Agreement.
- (c) During the Term and for two (2) years following the Term, AHS shall and the Minister have the right to:
  - (i) inspect and audit the equipment, facilities, and Records (including the right to copy any such Records) related to the Services;
  - (ii) interview any Staff member or supplier of the Service Provider for the purpose of determining whether the Service Provider is in compliance with the requirements of this Agreement; and
  - (iii) observe the Service Provider and its Staff in the conduct of providing the Services, no matter where such conduct takes place.

AHS or the Minister shall provide the Service Provider with three (3) days' prior notice of its intent to exercise its rights under this Section 8.2(c), except for audits related to the privacy and security of Confidential Information which shall not require advance notice.

- (d) Where an audit of the Records reveals that the Service Provider has charged AHS amounts for which Service Fees were not payable at the time when the Service Fees were payable, the Service Provider shall, within thirty (30) days from the receipt of a written statement of overcharges from AHS, pay to AHS an amount equal to one hundred (100%) percent of the overcharged amount in addition to all reasonable costs incurred by AHS in the inspection or audit, unless otherwise expressly agreed to in writing by AHS.
- (e) The Service Provider shall not charge AHS any administrative fee or similar charge for the maintenance or provision of the Records in connection with the exercise of rights by AHS under this Section 8.2 and shall assist AHS as reasonably requested by AHS to facilitate the exercise of AHS's rights pursuant to this Section 8.2.
- (f) This Section 8.2 shall survive the expiration or early termination of this Agreement and shall continue for thirty-nine (39) months thereafter.



**ARTICLE 9  
INDEMNITY, INSURANCE AND DISPUTE RESOLUTION**

**9.1 Indemnity and Limitation to Liability**

- (a) Notwithstanding any other provision of the Agreement to the contrary, the Service Provider shall be liable to AHS for, and indemnify and hold harmless AHS and its members, officers, directors, agents, employees, licensees and invitees ("**Others**") from and against, any and all Claims, whether or not arising due to third party Claims, which may be made or brought against AHS or Others, or which AHS or Others may suffer or incur, directly or indirectly, including Claims arising as a result of or in connection with or relating to:
- (i) any non-fulfilment or breach of any covenant or agreement on the part of the Service Provider contained in this Agreement or in any other document furnished by or on behalf of the Service Provider pursuant to this Agreement;
  - (ii) any misrepresentation or any incorrectness in or breach of any representation or warranty of the Service Provider contained in this Agreement or any other document furnished by or on behalf of the Service Provider pursuant to this Agreement;
  - (iii) bodily injury or death of persons whomsoever (including employees of either Party) arising directly or indirectly, as a result of or in connection with or relating to this Agreement or the Service Provider's performance of this Agreement or out of any acts or omissions of the Service Provider;
  - (iv) damage to, loss of or destruction of property (whether that of the Service Provider, AHS or a third party) arising directly or indirectly, as a result of or in connection with or relating to this Agreement or the Service Provider's performance of this Agreement or out of any acts or omissions of the Service Provider;
  - (v) contamination, pollution, or public or private nuisance, arising directly or indirectly out of provision of the Services or out of any acts or omissions by the Service Provider;
  - (vi) any amounts (including taxes) assessed against AHS which are the obligations of the Service Provider; and
  - (vii) any action, inaction or negligence of the Staff in connection with the foregoing,
- except to the extent arising out of the gross negligence or wilful misconduct of AHS.
- (b) As between the Parties, neither Party shall be liable to the other in connection with any Claim for any special, incidental, indirect, exemplary, punitive, or

consequential loss or damages even if the Party has been advised of the possibility of such loss or damage in advance, provided that this Section 9.1(b) shall not apply to limit the liability of the Service Provider under Sections 6.1 and 6.2.

## 9.2 Insurance

- (a) The Service Provider shall, at its sole cost and expense, obtain and maintain in force insurance of the following types, with limits not less than those set forth below:
- (i) Workers' Compensation Insurance, including occupational illness or disease coverage, in accordance with the laws of the nation, state, territory or province having jurisdiction over the Staff or Employer's Liability Insurance with a minimum limit of one million dollars (\$1,000,000.00) per accident and, for bodily injury by disease, one million dollars (\$1,000,000.00) per employee. The Service Provider shall not utilize occupation accident or health insurance policies, or the equivalent, in lieu of mandatory Workers' Compensation Insurance, or otherwise attempt to opt out of the statutory Workers' Compensation system;
  - (ii) Commercial General Liability Insurance insuring the Services provided under this Agreement, with a minimum combined single limit of liability of five million dollars (\$5,000,000.00) per occurrence covering bodily injury, property damage, personal injury, advertising injury, products and completed operations liability. Such policy shall have a general aggregate limit of not less than ten million dollars (\$10,000,000.00) and shall name AHS as an additional insured and contain severability of interests and cross liability provisions;
  - (iii) Automobile Liability Insurance covering use of all owned, non-owned and hired vehicles used in the provision of the Services, with a minimum combined single limit of liability for bodily injury and property damage of two million dollars (\$2,000,000.00) per accident;
  - (iv) Professional liability insurance or errors and omissions liability insurance covering the Service Provider and all Staff providing Services under this Agreement but excluding Practitioners, including coverage for bodily injury with a limit of not less than five million dollars (\$5,000,000) per occurrence and an annual aggregate limit of not less than ten million dollars (\$10,000,000),
  - (v) Errors and omissions liability insurance with a minimum combined single limit of liability of five million dollars (\$5,000,000.00) per occurrence, if the Service Provider provides training, clinical or otherwise, in connection with the Services;

If any of the above policies are written on a claims-made basis, they shall be maintained for a period of thirty-nine (39) months following the

termination or expiry of this Agreement. Such policies shall name AHS as an additional insured with respect to General Liability only and shall contain cross liability and severability of interests clauses.

- (b) Each Practitioner who is Staff shall obtain, provide proof of and maintain during the Term,
  - (i) membership in the Canadian Medical Protective Association and his/her membership fees will be paid in full before delinquency during the Term, or
  - (ii) have suitable malpractice insurance to the satisfaction of AHS.

The Service Provider shall ensure each Practitioner does all things necessary to entitle such Practitioner to all defence and indemnification services offered by his/her respective association, or its equivalent, with respect to all losses or costs arising from Services provided under this Agreement.

- (c) If the Service Provider utilizes tools or equipment in the performance of the Services under this Agreement, the Service Provider shall, at its sole cost and expense, obtain and maintain in force during the Term, Equipment Floater Insurance (Tools and Equipment Insurance) covering physical damage to or loss of all major tools and equipment, construction office trailers and their contents, and vehicles for which the Service Provider is responsible.
- (d) Unless such losses or Claims are the result of the negligence of AHS, the Service Provider hereby releases AHS, including its respective Affiliates, officers, directors, employees and contractors for losses or Claims for bodily injury, property damage or other Claims arising out of the Service Provider's performance of this Agreement and shall cause the Service Provider's insurers to waive any rights of subrogation against such released parties.
- (e) Certificates of insurance in form satisfactory to AHS shall be supplied to AHS evidencing that the above referenced insurance is in force, that not less than thirty (30) days written notice shall be given AHS prior to any cancellation or restrictive modification of the policies and that the waivers of subrogation are in force. At AHS's request, the Service Provider shall provide a certified copy of each insurance policy required under this Agreement.
- (f) The foregoing insurance coverage shall be primary and non-contributing with respect to any other insurance or self insurance which may be maintained by AHS. The fact that the Service Provider has obtained the insurance required in this Section 9.2 shall in no manner lessen nor affect the Service Provider's other obligations or liabilities set forth in this Agreement.

### **9.3 Dispute Resolution**

- (a) In the event of a dispute, upon the written request of either Party, senior managers from each of the Parties shall meet and negotiate in good faith without the necessity of any formal proceedings. The Parties agree to utilize all reasonable efforts to resolve any dispute, whether arising during the Term or at any time after the expiration or termination of this Agreement, which touches upon the validity, construction, meaning, performance or effect of this Agreement or the rights or liabilities of the Parties or any matter arising out of, or in connection with this Agreement, promptly and in a professional and amicable manner.
- (b) If a dispute remains unresolved after twenty (20) Business Days of being referred to the senior management of the Parties for negotiation or resolution, then either Party may initiate arbitration of the dispute pursuant to the terms hereof. Subject to any matters or issues specifically excluded from arbitration pursuant to the provisions of Section 9.3(c) of this Agreement, any dispute that has proceeded through senior management without resolution shall be submitted for arbitration in accordance with the following requirements:
- (i) The arbitration process shall be commenced by one Party to the dispute providing a written notice to the other Party to the effect that the notifying Party wishes to have the dispute resolved by binding arbitration. The arbitration shall be conducted in the City of Calgary or Edmonton, at the option of AHS, by a single arbitrator with suitable expertise to be agreed upon by the Parties. If the Parties cannot agree on an arbitrator within ten (10) days of the written notice being delivered, either Party may apply to a judge of the Court of Queens Bench to appoint an arbitrator in accordance with the *Arbitration Act* (Alberta), with written notice to the other Party.
  - (ii) The arbitrator shall not be bound by the rules of evidence or of civil procedure, but rather may consider such writings and oral presentations as reasonable business people would use in the conduct of their day-to-day affairs, and may require the Parties make some or all of their submissions in writing or in any other manner which the arbitrator considers appropriate. The Parties intend to limit live testimony and cross-examinations to the extent necessary to ensure a fair hearing on material issues.
  - (iii) The arbitrator shall issue a written decision within thirty (30) days of the arbitration. The written decision of the arbitrator shall contain a brief statement of each dispute, the decision of the arbitrator with respect to such dispute, the reasons for such decision and an apportionment of costs for the arbitration process. The arbitrator's decisions in the dispute shall be final and binding, with no recourse to appeal.
  - (iv) The Parties desire that the arbitration shall be conducted in strict confidence and that there shall be no disclosure to any person (other than as necessary to carry out the arbitration) of the existence of the dispute or any aspect of the dispute.

- (v) Except as modified by this Section 9.3, the provisions of the Arbitration Act (Alberta), shall govern the arbitration process.
  - (vi) The Parties shall continue the performance of their respective obligations during the resolution of any dispute or disagreement, including during any period of arbitration, unless and until the Agreement is terminated or expires in accordance with its terms and conditions.
- (c) Exceptions from Dispute Resolution

Disputes on any of the following matters are expressly excluded from the provisions of Section 9.3 and accordingly the action(s) or decision(s) of the Party entitled to take the subject action(s) or make the subject decision(s) is final and binding unless the Parties mutually agree otherwise in writing:

- (i) any action by either Party not to renew or extend the Term of this Agreement;
- (ii) any Claims governed under the express terms of any insurance policies required to be provided pursuant to this Agreement; and
- (iii) any decision made to terminate this Agreement for convenience.

(d) Injunctive Relief

In addition to the remedies provided elsewhere in this Agreement, in the event that any of the obligations of either Party set forth in this Agreement are breached, the other Party shall, if appropriate, have the right to seek injunctive relief to prevent the ongoing breach of such obligations.

**ARTICLE 10  
NOTICE**

**10.1 Address and Form**

Any notice, request, consent, acceptance, waiver or other communication required or permitted to be given under this Agreement shall be in writing and shall be given by personal delivery, prepaid registered mail or written electronic communication which results in a written or printed notice being given, to the applicable address set forth below:

If to AHS (AHS Contract Manager):

Contracting, Procurement & Supply Management  
Seventh Street Plaza  
10030 107 St NW  
Edmonton, AB T5J 3E4  
Attention: Director, Direct Patient Care and General Services Contracting

Concurrent notices shall be addressed to:

Legal Services  
 10301 Southport Lane SW  
 Calgary, Alberta T2W 1S7  
 Attention: General Counsel  
 Email: Legal@albertahealthservices.ca

If to the Service Provider:

Dr. Jeff Soparlo  
 Position: Owner  
 Address: 11029 – Groat Road  
 Edmonton, AB T5M 3J9  
 Attention: Jeff Soparlo  
 Fax Number: 780-451-0881

A Party may change its address for notice by notifying the other Party to this Agreement, in writing, in the manner permitted in this Agreement.

**10.2 Time of Delivery**

Any demand, notice or communication made or given by personal delivery during normal business hours at the place of receipt on a Business Day shall be deemed to have been made or given at the time of actual delivery or, if given by registered mail, on the fifth (5<sup>th</sup>) Business Day following the deposit thereof in the mail, or if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient, and on the Business Day during which such normal business hours next occur if not given during such hours on any day. Email transmittal is only valid where the recipient's email address is set out in this Article 10 (either expressly above or pursuant to a notice delivered in the manner set out in this Agreement) and the sender receives a delivery receipt confirming the email was delivered to the recipient.

**ARTICLE 11  
 GENERAL PROVISIONS**

**11.1 Assignment and Fundamental Change**

- (a) AHS may assign this Agreement in whole or in part or without the prior written consent of the Service Provider.
- (b) The Service Provider shall not assign this Agreement in whole or in part or without the prior written consent of AHS, which may be arbitrarily and unreasonably withheld. Any Fundamental Change by the Service Provider shall be deemed to be an assignment of this Agreement by the Service Provider.

**11.2 Subcontracting**

The Service Provider shall not subcontract all or any portion of the Services without AHS's prior written consent, which may be arbitrarily and unreasonably withheld.

Any purported assignment or subcontracting by the Service Provider without AHS's prior written consent shall be void and of no force or effect.

### **11.3 Independence**

Nothing contained in this Agreement shall be deemed or construed by the Parties to create the relationship of partnership or joint venture or a relationship of principal and agent, employer-employee, master-servant, or franchisor-franchisee between or among the Parties and no provision contained in this Agreement shall be deemed to construe the role of the Service Provider other than an independent contractor. Except as specifically authorized in this Agreement, the Service Provider shall not have any authority of any kind to act on behalf of AHS and shall not purport to do so. The Service Provider shall be responsible for the actions or omissions of its Staff.

### **11.4 Non-Exclusivity**

The Service Provider may provide medical services outside this Agreement. Any services provided by the Service Provider at the Facility which are not part of the Services are not and shall not be deemed to be subject to the terms of this Agreement. The Service Provider agrees to manage the Facility in a manner which reasonably ensures that the provision of services other than the Services do not limit or otherwise compromise the provision of the Services as contemplated by this Agreement or unreasonably inconvenience Clients.

### **11.5 Force Majeure**

- (a) Delay in, or failure of, a Party to carry out the duties, undertakings or obligations imposed on that Party pursuant to this Agreement shall not be deemed to be a breach under this Agreement if such delay or failure results from an event of Force Majeure.
- (b) The Party alleging a Force Majeure event shall notify the other Party in writing within three (3) days of obtaining knowledge of the occurrence of the Force Majeure circumstance. If the event of Force Majeure may have a negative impact on Client care, notice shall be provided as soon as the event of Force Majeure is known to the Service Provider. The notice shall include a report containing particulars of the Force Majeure including the anticipated duration thereof and assurances that reasonable action is, or shall be, taken to avoid or minimise its effects and the obligations under this Agreement that will be affected by the event.
- (c) In every case the Party alleging a Force Majeure event shall take reasonable action and undertake reasonably necessary measures to resume as soon as reasonably possible, the performance of its duties, undertakings and obligations under this Agreement affected by the Force Majeure event.
- (d) Neither Party shall be liable for failure to perform any of its obligations under this Agreement, if and to the extent its performance is prevented, hindered or delayed by a Force Majeure event. The occurrence of a Force Majeure

event shall not release the affected Party from its obligations hereunder, but shall merely suspend the performance of any obligation so prevented, hindered or delayed during the period of continuance of the Force Majeure event.

- (e) If a Force Majeure event results in the Service Provider being unable to perform the Services for a period of time that AHS considers, in its sole discretion, to be unreasonable given the nature of the Services, AHS shall have the right to terminate this Agreement on twenty-four (24) hours notice without any cost, penalty or process of law.

#### **11.6 Amendment; Waiver**

- (a) Subject to 11.6(b), this Agreement may not be amended or supplemented except by written instrument that is signed by a duly authorised representative of the Parties and expressly states that it is intended to amend or supplement, as the case may be, this Agreement.
- (b) AHS may amend the report forms, electronic data submission methods and Supporting Documents/invoicing structure, at any time to ensure that Services are delivered in a manner that AHS determines appropriate. AHS will provide the Service Provider with reasonable notice, which will not be less than thirty (30) calendar days, prior to any changes taking effect.
- (c) No indulgence or forbearance by any Party shall be deemed to constitute a waiver of its rights to insist on performance in full and in a timely manner of all covenants of the other Party and any such waiver, in order to be binding upon a Party, must be expressed in writing and signed by such Party and then such waiver shall only be effective in the specific instance and for the specific purpose for which it is given.

#### **11.7 Survival**

Neither the expiration nor the earlier termination of this Agreement will release either Party from any obligation or liability which accrued prior to such expiration or termination. The Parties agree that the provisions of this Agreement requiring performance or fulfillment after the expiration or early termination of this Agreement, including provisions set out in Sections 5.1, 5.2, and 8.2, Article 6, Article 7, and Article 9 and such other provisions as are necessary for the interpretation thereof, the nature and intent of which is to survive termination or expiration of this Agreement, shall survive the expiration or earlier termination of this Agreement.

#### **11.8 Whole Agreement**

This Agreement shall, when duly executed, supersede and replace all other existing agreements, understandings or negotiations between the Parties with respect to the subject matter of this Agreement. There are no representations, warranties or agreements, either written or oral, which are binding on the Parties and which are not contained, or referred to, in this Agreement.



### **11.9 Enurement**

This Agreement enures to the benefit of and is binding upon the Parties and their respective successors (including successors by reason of a Fundamental Change of any Party) and permitted assigns or, if the Service Provider is an individual, this Agreement enures to the benefit of and is binding upon its heirs, attorneys, guardians, estate trustees, executors, trustees and permitted assigns.

### **11.10 Further Assurances**

Each of the Parties shall execute and deliver all such further documents and do such other things as the other Party may reasonably request to give full effect to, better evidence or perfect the full intent and meaning of this Agreement.

### **11.11 Effective Date**

This Agreement is the written memorandum and documentation of a verbal agreement entered into between the Parties on and as of the Effective Date. Notwithstanding the date on which this Agreement has been signed, the Parties agree that the terms and conditions of this Agreement have operated as between them and been effective as of the Effective Date.

### **11.12 Execution and Delivery**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to this Agreement by any Party by electronic transmission will be as effective as delivery of a manually executed copy thereof by such Party.

**IN WITNESS WHEREOF** each of the Parties has executed this Agreement for the Provision of Chartered Surgical Facility Services as of the respective date indicated below.

**ALBERTA HEALTH SERVICES**

Per: \_\_\_\_\_ Original Signed \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_ Original Signed \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

**JEFF SOPARLO PROFESSIONAL CORPORATION**

Per: \_\_\_\_\_ Original Signed \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

CPSM COPY

## SCHEDULE "A" DEFINITIONS

Each of the words and phrases used herein that are not otherwise defined shall, when capitalised, have the following meaning ascribed to it.

**"Accredited"** or **"Accreditation"** means, in respect of any proposed use of a facility, that the facility is approved for such use by the College and by any other Professional Governing Body having any jurisdiction to do so.

**"Affiliate"** has the meaning ascribed to it in the *Business Corporation Act* (Canada).

**"Agreement"** means this agreement entitled "Agreement for Provision of Chartered Surgical Facility Services" and all Schedules annexed to this Agreement and otherwise incorporated in the Agreement.

**"AHS"** has the meaning ascribed to it in the preamble of this Agreement.

**"AHS Contract Manager"** means the AHS representative set out in Section 10.1 of this Agreement;

**"Applicable Laws"** means FOIPP, HIA, HFA and all relevant regulations thereto, together with all other federal, provincial and municipal laws, rules, orders, regulations, by-laws in force and applicable to the provision of the Services, the Facility and the Service Provider.

**"Applicable Policies"** means the policies, bylaws, directives, regulations, guidelines, codes of conduct, rules, systems and procedures of AHS listed in Schedule "G" attached.

**"Business Day"** means any day, other than Saturday, Sunday or any statutory holiday in the Province of Alberta.

**"Canadian GAAP"** means Generally Accepted Accounting Principles as provided in the Handbook of the Canadian Institute of Chartered Accountants.

**"Claims"** includes claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions, information or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages, or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, known or unknown, including loss of value, professional fees, including fees and disbursements of legal counsel on a solicitor-AHS basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

**"Client"** means any Alberta resident with a current valid Alberta Personal Health Card who receives or attempts to receive the benefit of the Services.

**"Clinical Privileges"** has the meaning as set out in the AHS Medical Staff Bylaws, and generally means the delineation of the procedures that may be performed by a Practitioner, the sites of clinical activity in which a Practitioner may perform procedures or provide care to clients, and the AHS programs and professional services that are available to a Practitioner in order to provide care to Clients.

“**CSF**” means chartered surgical facility.

“**College**” means the College of Physicians and Surgeons of Alberta or the Alberta Dental Association and College, as applicable.

“**Confidential Information**” means:

- (a) any AHS related information, material, documents, data, trade secrets in whatever form and whether given directly or indirectly, in writing or orally or by inspection of processes and including but not limited to information, knowledge or data of an intellectual, technical, scientific, commercial or industrial nature, or of a financial, cost, pricing, security or marketing nature, relating to AHS’s past, present and future suppliers, or relating to the business or operations of AHS including the terms and conditions of this Agreement; and
- (b) all personal information as defined in FOIPP and health information as defined in the HIA, disclosed to, or observed by, the Service Provider or the Staff.

“**Defaulting Party**” has the meaning ascribed to it in Section 3.3(a) of this Agreement.

“**Deliverables**” means any and all content, documentation, material, or data, in any form or notation to be provided by the Service Provider to AHS in connection with the Services.

“**Designated**” means, in respect of any proposed use of a facility, that the facility has been designated for that use by the Minister to the extent required pursuant to the HFA.

“**Effective Date**” has the meaning ascribed to it on the first page of this Agreement.

“**Enhanced Medical Goods or Services**” has the meaning set out under the HFA.

“**Facility**” means the Service Provider’s facility located at 11029 Groat Road, Edmonton, AB T5M 3J9.

“**FOIPP**” means *Freedom of Information and Protection of Privacy Act* (Alberta).

“**Force Majeure**” means circumstances and conditions beyond the control of the Party affected which render it impossible for that Party to fulfill its obligations under this Agreement or which will delay such fulfillment. Force Majeure shall include, but not be limited to, war, acts of God, a foreign enemy, civil war, earthquake, flood, fire or other natural physical disaster, change in government policy or legislation or other matters similar in nature or severity to the herein mentioned. Without limiting the generality of the foregoing, an event of Force Majeure does not include a pandemic or similar form of epidemic or, for greater certainty, financial hardship, a change in government policy, legislation or administration that simply makes the performance of the affected Party’s obligations under this Agreement more difficult but does not render it impossible for that Party to fulfill its obligations under this Agreement or substantially delay such fulfillment.

“**Fundamental Change**” means any change to a corporation as set out in Part 14 of the *Business Corporations Act* (Alberta).

“**HFA**” means the *Health Facility Act* (Alberta).

“**HIA**” means the *Health Information Act* (Alberta).

“**Initial Term**” has the meaning ascribed to it in Section 3.1 of this Agreement.

“**Insured**” means, in relation to the provision of any service, that such service is provided in circumstances under which a benefit is payable under the *Alberta Health Care Insurance Act*.

“**Intellectual Property**” means all tangible and intangible intellectual, proprietary, and industrial property, trade secrets, know-how or information howsoever created and wherever located including without limitation trade secrets, trade names, slogans, official marks or logos, copyrights, moral rights and other works of authorship, industrial designs, patents, patentable and non-patentable inventions, innovations, processes, information, trade secrets, know-how, whether registered or unregistered and all applications for registration.

“**IPC**” means infection prevention and control.

“**IPC Standards**” means the Infection Prevention and Control Standards set out in Schedule “D”, as amended from time to time.

“**Medical Staff**” means Practitioners appointed to the AHS medical staff pursuant to the Medical Staff Bylaws.

“**Medical Staff Appointment**” means the admission of a Practitioner to the AHS Medical Staff.

“**Medical Staff Bylaws**” means those medical staff bylaws which have been established from time to time by AHS or its predecessors and approved by the Minister and which are applicable to Practitioners practicing in hospitals or other health care facilities operating under its jurisdiction in the area in which the Facility is located.

“**Minister**” means the Minister of Health for the Province of Alberta.

“**Net Debt**” is calculated by adding short-term and long-term debt and subtracting cash and liquid assets.

“**Net Debt to Total Equity Ratio**” means the quotient calculated by dividing Net Debt by total equity.

“**Non-Defaulting Party**” has the meaning ascribed to it in Section 3.3(a) of this Agreement.

“**Others**” has the meaning ascribed to it in Section 9.1(a) of this Agreement.

“**Party**” means AHS or the Service Provider and “**Parties**” means AHS and the Service Provider and their respective successors and permitted assigns.

“**Performance Reports**” means the reports to be submitted to AHS referred to in Section 8.1 of this Agreement.

“**Practitioner**” means a physician (including anesthesiologists), dentist, oral & maxillofacial surgeon, podiatrist, or other specialist regulated by the by the *Health*

*Professions Act (Alberta)* and licensed for independent practice within the Province of Alberta.

**“Professional Governing Body”** means any governing body having legislative authority to admit, control or regulate any of the persons engaged in performance of the Services and includes without limitation and where applicable, the College.

**“Records”** has the meaning ascribed to it in Section 8.2 of this Agreement.

**“Reportable Incident”** means a situation in which a Client has suffered harm or experienced a close call or any hazard that could lead to Client harm, all in accordance with Schedule “C”.

**“Renewal Term”** has the meaning ascribed to it in Section 3.2 of this Agreement.

**“Rights”** means any and all proprietary rights available at common law, equity and statute in respect of the Intellectual Property.

**“Services”** means the services to be performed by the Service Provider as more particularly set out in Schedule “B” hereto. Services also include any Deliverables.

**“Service Fees”** means the fees payable by AHS to the Service Provider for the performance of the Services as more particularly set out in Schedule “B” hereto.

**“Service Level Expectations”** means the requirements to be met and satisfied by the Service Provider in the performance of the Services as set forth in Schedule “B” attached hereto, as updated or amended from time to time.

**“Service Provider”** has the meaning ascribed to it in the preamble of this Agreement.

**“Staff”** means all individuals employed or otherwise retained by the Service Provider for any purpose related to the provision of the Services including the Service Provider’s employees, officers, directors, volunteers, agents and all other third party service providers retained by the Service Provider.

**“Substantial Breach”** means the following:

- (a) where the Service Provider makes a general assignment for the benefit of its creditors or a proposal under applicable bankruptcy legislation, or if a bankruptcy petition is filed and presented against the Service Provider or a custodian or receiver/manager or any other office with similar powers is appointed in respect of the Supplier or its respective properties, or any substantial portion thereof,
- (b) a breach of any confidentiality provision of this Agreement;
- (c) the Service Provider abandons the performance of all or any part of the Services;
- (d) the Service Provider takes an action or fails to take an action which results in substantial harm or disrepute to the status and reputation of AHS;
- (e) a breach of this Agreement not remedied in accordance with Section 3.3(a);

- (f) a breach of any of the terms of Article 5, Article 6, Article 7, Section 8.2, Section 9.2, Section 11.1 or Section 11.2 of this Agreement;
- (g) in the case of the Service Provider, a breach that in the opinion of AHS, acting reasonably, could affect the health or safety of Clients; or
- (h) an otherwise incurable breach of this Agreement.

**“Supporting Documentation”** has the meaning ascribed to it in section 4.1(a) of this Agreement.

**“Term”** means the Initial Term and the Renewal Term.

**“Termination Notice”** has the meaning ascribed to in Section 3.3(f) of this Agreement.

**“Work Product”** has the meaning ascribed to in Section 6.3(a) of this Agreement.

CPSM COPY

**SCHEDULE "B"**  
**TERM, REPRESENTATIVES, FREQUENCY OF MEETINGS, DESCRIPTION OF SERVICES AND SERVICE FEES**

**1.1 Term**

Subject to earlier termination as contemplated in this Agreement, the Service Provider shall commence the Services on October 25<sup>th</sup>, 2023, and shall complete the Services on or before June 30, 2024.

**1.2 Service Provider Representative**

Name: Tracey Gill  
 Position: Office Manager  
 Address: 11029 – Groat Road, Edmonton, Alberta T5M 3J9  
 Tel: 780-452-7090  
 EM: tracey.g@groatoralsurgery.com

**1.3 AHS Representative**

Name: Heather Carew  
 Position: Executive Director, RAH Operative Services, EZ Centralized Programming  
 Tel: 780-735-4147/ 780-399-0934  
 EM: Heather.Carew@albertahealthservices.ca

**1.4 Description of Services**

I. Alberta Health Services (AHS) requires the services of the Operator for facility services related to the provision of insured oral and maxillofacial surgical procedures under the Alberta Health Care Insurance Plan. Oral and maxillofacial surgical procedures performed in Chartered Surgical Facilities are limited to the type approved by the College of Physicians and Surgeons of Alberta.

II. **Service Fees**

*Pricing and procedure details provided in the original signed agreement.*

III. **Supplies**

*Pricing and procedure details provided in the original signed agreement.*

IV. **Maximum Facility Fee, Anaesthetic Fee and Supplies Reimbursement Payable**

The funding below represents the aggregate possible funding to be shared amongst all of the Edmonton Zone Oral and Maxillofacial Facility Operators contracting with AHS for the provision of Facility Services relating to Oral and Maxillofacial Surgery.

The estimated total contract value, including Service Fees and Supplies payable by AHS to the Operator (the "**Estimated Total Contract Value**") in each of the contract years April 1, 2021 to March 31, 2022, April 1, 2022 to March 31, 2023, April 1, 2023



to March 31, 2024, April 1, 2024 to June 30, 2024 (each a “**Contract Year**”) will be calculated as follows:

- (a) For the Contract Year April 1, 2022 to March 31, 2023, the Estimated Total Contract Value shall be **\$2,443,709.31**, plus a 30% contingency amount of **\$733,112.79**, for a Maximum Contract Value (defined below) of **\$3,176,822.10**. No portion of the 30% contingency may be billed for without prior written approval from AHS for use of the contingency. Contingency funding is for extenuating purposes only.
- (b) For all remaining Contract Years of the Term, Estimated Total Contract Value per Contract Year may be calculated using the previous Contract Year Estimated Total Contract Value multiplied by the lesser of Section IV(b)(i) and (ii) below.
  - i. the CPI indicator “Alberta All-Items excluding food” for the previous Contract Year, following the guiding principles defined by the Statistics Canada methodology, provided that if such CPI is negative, it shall be treated as zero (0%) percent; and
  - ii. the inflationary budget increase provided to AHS by Alberta Health to cover the cost of the operations of AHS in respect of the Services for the applicable Contract Year.
- (c) AHS reserves the right to add a 30% contingency to the Estimated Total Contract Values for any Contract Year of the Term (the Estimated Total Contract Value plus the 30% contingency is hereinafter referred to as the “Maximum Contract Value”). No portion of the 30% contingency may be billed for without prior written approval from AHS for use of the contingency. Contingency funding is for extenuating purposes only

CPI shall be calculated as per Appendix 1 to Schedule “B” CPI calculation

**THE ESTIMATED TOTAL CONTRACT VALUE INDICATED ABOVE SHOULD IN NO WAY BE TAKEN TO BE A REPRESENTATION, WARRANTY OR GUARANTEE BY AHS THAT THE OPERATOR WILL HAVE SUFFICIENT INSURED PROCEDURES TO ACHIEVE THE STATED MAXIMUM ANNUAL FUNDING PAYABLE DURING THE TERM OF THIS AGREEMENT. IN ACCORDANCE WITH SECTION 3.5 OF THIS AGREEMENT, AHS DOES NOT GUARANTEE THAT ANY MINIMUM NUMBER OF PROCEDURES WILL BE PERFORMED IN THE FACILITY, OR THAT ANY MINIMUM AMOUNT OF SERVICE FEES WILL BE PAYABLE TO THE OPERATOR DURING THE TERM OF THIS AGREEMENT.**

**SCHEDULE "C"**  
**INCIDENT REPORTING PROCESS**

Process

Service Providers are required to report all situations where Clients have suffered harm or experienced close calls and any hazards that could lead to Client harm in accordance with the following grid:

Event	When to Report	How to Contact AHS
Hospital Transfers	To be reported immediately, and quarterly reporting of aggregate data, irrespective of level of Harm	<p><b>During Business Hours:</b> Submit incident via AHS' online reporting tool.</p> <p><b>During non-business hours:</b> AHS Admin on Call 403-282-8223 pager# 08888</p>
Severe Harm (critical incident)	To be reported immediately, and quarterly reporting of aggregate data, in reasonable detail, with follow up report in complete detail to be submitted within 24 hours of event	<p><b>During Business Hours:</b> Submit incident via AHS' online reporting tool.</p> <p><b>During non-business hours:</b> AHS Admin on Call 403-282-8223 pager# 08888</p>
Moderate and Minimal Harm	To be reported in complete detail within 72 hours of event and quarterly reporting of aggregate data	<p><b>During Business Hours:</b> Submit incident via AHS' online reporting tool.</p> <p><b>During non-business hours:</b> AHS Admin on Call 403-282-8223 pager# 08888</p>
No Apparent Harm, Hazards and Close Calls	To be reported in complete detail within 30 days of event and quarterly reporting of aggregate data	<p><b>During Business Hours:</b> Submit incident via AHS' online reporting tool.</p> <p><b>During non-business hours:</b> AHS Admin on Call 403-282-8223 pager# 08888</p>

**Definitions**

“Close Call” means a situation where a Client was nearly Harmed, but for one or more reasons, the Client was ‘saved’ from Harm.

“Harm” means an unexpected or normally avoidable outcome relating to the Service Providers’ Services that negatively affects a Client’s health and/or quality of life and occurs while the Client is at the Facility or within ten (10) days of the Client’s visit, including but not limited to:

- Severe Harm (critical incident) - Client attempts suicide, suffers death, complete loss of limb or organ function or requires intervention to sustain life.
- Moderate Harm - Client suffers partial loss of limb or organ function.
- Minimal Harm - Client suffers any form of harm that is less extensive and does not involve death, loss of limb or organ function, and may include clusters of infections among Clients treated in the Facility.
- No Apparent Harm – at the time of the event or reporting of the event, the Client does not appear to suffer any harm, but could do so in the future.

“Hazard” means something that has the potential to contribute to harm or something that could harm an individual and includes any circumstance not described herein and considered a “reportable incident” at any time by the College, any other Professional Governing Body having jurisdiction or under any applicable laws.

**SCHEDULE "D"**  
**INFECTION PREVENTION AND CONTROL**

1.1 Standards

The IPC Standards in force on the Effective Date include, but are not limited to, the following, all as amended, published or adopted by the applicable regulating body after the Effective Date:

- (a) the Alberta Health Infection Prevention and Control standards, which, at the Effective Date, include
  - (i) Standards for Infection Prevention and Control Accountability and Reporting (May 12, 2011);
  - (ii) Standards for Single-Use Medical Devices (September 1, 2019);
- (b) the Alberta Health letter to Regulatory Body Registrars dated April 17, 2008, which specifies that: "Reusable medical devices may only be distributed or imported by a body that holds an Establishment License issued by Health Canada."

1.2 Service Provider Obligations

- (a) The Service Provider shall obtain copies of the IPC Standards described in Section 1.1(a) of this Schedule from time to time during the Term from the Minister's website at <https://www.alberta.ca/infection-prevention-and-control.aspx>
- (b) The Service Provider shall obtain information about the approval and licensing of reusable medical devices under Section 1.1(b) of this Schedule from Health Canada or by consulting Health Canada's website at: [www.hc-sc.gc.ca/dhp-mps/legislation/md-im\\_e.html](http://www.hc-sc.gc.ca/dhp-mps/legislation/md-im_e.html)
- (c) The Service Provider shall ensure Canadian Standards Association Guidelines are followed:
  - (i) Canadian Health Care Facilities CSA Z8000
  - (ii) Canadian medical device reprocessing CAN/CSA Z314
  - (iii) Infection Control During Construction, Renovation and Maintenance of Health Care Facilities CAN/CSA Z317.13
  - (iv) Special requirements for heating, ventilation, and air-conditioning (HVAC) systems in health care facilities CSA Z317.2

Any exceptions to these standards would require rationale provided and be at the discretion of AHS for approval of acceptance.
- (d) The Service Provider shall ensure Canadian Standards Association Guidelines are followed:

Medical Device Reprocessing Certifications:

- i. Canadian Standards Association (CSA) Certified Medical Device Reprocessing Supervisor (CMDRS) Personnel Certification [Certified Medical Device Reprocessing Supervisor \(CMDRS\)](#)
- ii. Canadian Standards Association (CSA) Certified Medical Device Reprocessing Technician (CMDRT) Personnel Certification [Certified Medical Device Reprocessing Technician \(CMDRT\)](#)
- iii. Healthcare Sterile Processing Association (HSPA) (formerly IAHCMM) Certifications <https://myhspa.org/certification/get-certified.html>

- (e) The Service Provider shall obtain membership and stay current with Infection Prevention and Control Canada (IPAC) and completion of an endorsed novice IPC course.

### 1.3 Infection Prevention and Control (IPC) Reporting

The Service Provider shall provide AHS with a report on IPC related indicators from time to time upon request by AHS and in any event, no less than 30 days of each Fiscal Year of the Term.

**SCHEDULE "E"**  
**PATIENT CONCERNS RESOLUTION PROCESS**

The following is a summary of the requirements for managing patient concerns.

1. The Service Provider shall develop a process for managing concerns that:
  - (a) Recognizes that all Albertans are entitled to express concerns regarding their health care experience;
  - (b) Is consistent with, and adheres to relevant legislation including the *Patient Concerns Resolution Process Regulation (124/2006) (Alberta)*, together with all other federal and provincial laws, regulations, orders, standards and directives in force and applicable to patient concerns under this Agreement; and
  - (c) Aligns with the Alberta Health Services Patient Concerns Resolution Process.
  
2. The resolution of concerns/complaints should occur as close to the point of service as possible and involve the appropriate people within its organization, regardless of where the feedback is received.
  
3. The Service Provider shall:
  - (a) Develop a process to address concerns which defines the following:
    - (i) How complainants may express a concern within the organization; and
    - (ii) How concerns will be reviewed, addressed and responded to.
  - (b) Develop public messaging which describes how to bring forward a concern and includes references to the Patient Concerns Officer (PCO).
  - (c) Collaborate with the PCO to:
    - (i) address concerns involving both the Service Provider and AHS to ensure a seamless process for the complainant;
    - (ii) address concerns brought directly to the PCO; and
    - (iii) address recommendations for improvement of concerns management as identified through reviewing a concern.

**SCHEDULE "F"**  
**REPORTING REQUIREMENTS**

Ambulatory Care Classification System and Billing Information Reporting Requirements are appended here as **Appendix 1**

**General Duty to Report**

The Service Provider will provide AHS or the Minister with such information related to the performance of the Services from time to time as may be requested by AHS or required by Applicable Laws including any information or report required by this Agreement. Any information provided to AHS may be provided to the Minister.

Notwithstanding anything else in this Agreement, the Parties agree that they will work together, in good faith, to incorporate amendments to this Agreement to reflect AHS' quality reporting requirements when such reporting requirements have been formally adopted.

**Specific Reporting Requirements**

The Service Provider will provide the following specific reporting and any supporting documentation where necessary:

INFORMATION	REPORTING FREQUENCY	FORMAT	REPORTING TO:
<b>Supporting Documents to Required to Commence Services</b>			
Certificate of incorporation/amalgamation, constating documents (e.g. articles of incorporation, bylaws, memorandum of association, etc.), Alberta Health facility ID, and Canada Revenue Agency charitable number, if applicable	Prior to or concurrent with the execution of this Agreement and immediately upon any changes or updates to documentation	Format as required by AHS	AHS
Certified Declaration by the Service Provider confirming the ownership and control regarding the Service Provider and Facility contemplated by the HFA and regulations			
Copies of all applicable applications and Accreditations obtained			
Certificate evidencing the Service Provider's registration and good standing with Alberta Worker's Compensation Board or a copy of the letter of exemption from the Alberta			

Workers' Compensation Board if the Service Provider is exempt from the requirements of the <i>Worker's Compensation Act</i> (Alberta)			
Contact information for the CEO (or equivalent) and the Medical Director for the organization. Include: Title, First Name/Last Name, Phone, and Email			
List of clinical and nonclinical staff (referred to as "Concurrent Staff") engaged in the delivery of insured services to clients within the facility. Confirm current certification, professional licensing, and registration where required			
Service Provider's Business Continuity and Disaster Recovery Plans			
<b>Client / Procedure Information</b>			
Complications (intra-operative and postoperative, including mortality rates and nosocomial infections, reported by procedure type)	Immediate reporting of individual incident; and quarterly reporting of aggregate data	Format as required by AHS	AHS
Unplanned hospital admissions from Facility to AHS acute care facility	Immediate reporting of individual incident; quarterly reporting of aggregate data	Standard format provided by AHS, per Schedule C	AHS and Alberta Health (Government of Alberta)
Post operative hospital emergency department visits and/or admissions	Immediate reporting of individual incident; quarterly reporting of aggregate data	Standard format provided by AHS, per Schedule C	AHS and Alberta Health (Government of Alberta)
Reportable Incidents	Immediate reporting of individual	In accordance with process described in Schedule C	AHS and Alberta Health



	incident; quarterly reporting of aggregate data		(Government of Alberta)
National Ambulatory Care Reporting System (NACRS) and Billing Information Requirements	Monthly within 15 days after month-end	As set out in Schedule "F", Appendix 1 Submission method and standard format as defined by AHS	AHS Health Records (NACRS)
Copy of the patient chart including each anesthetic record, operating room nursing record and recovery room record during the Term.	Upon AHS request	Format as required by AHS	AHS
Submission of pre-operative criteria and process for selection	Annually	Format as required by AHS	AHS
Reporting required regarding enhanced medical goods and services	Annually	Format as required under the Health Facilities Regulation	AHS
<b>Financial Information</b>			
Financial Reports (specifics set out below this table, entitled "Financial Reports")	Annually (Within 90 days of the Service Provider's Fiscal Year end)	Format as required by AHS and contact information for Finance Director (BAS) provided by AHS	AHS
<b>Quality</b>			
Report on: 1. Procedure volume completed per fiscal year quarter, cumulative for the fiscal year, against the contracted amount. 2. Projection of volume to be completed for the next quarter. 3. Indicate if the Service Provider is on-track, behind, or ahead of contracted amounts to be completed for the fiscal year. 4. Wait times (Decision to Treat/Ready to Treat to OR date)	Quarterly	Format as required by AHS	AHS

<b>5. Operating room utilization</b>			
Report on quality metrics, which must include:  1. Transfers to Acute Care from CSF via EMS 2. Code 66/Code Blue cases 3. Transfusions 4. Infections within 30 days 5. Re-admissions within 30 days 6. Return to OR within 30 days a) Admission to hospital b) Emergency visits 7. Mortality within 30 days 8. Fees by Service Provider to AHS	Annually or as required by AHS	Format as required by AHS	AHS
Any further Key Performance Indicators (KPI) and Quality metrics as defined by AHS	As required by AHS	90 days notification will be provided for any changes or additions to quality metric reporting	AHS
<b>Other</b>			
Submission of procedure volume completed per day per contracted service for the reporting week	Weekly	Format as required by AHS	AHS
Reports of CPSA Accreditation reviews, or changes to Accreditation status	Immediately and Annually	Format as required by AHS	AHS
Change of Ownership or Control	Immediately and Annually	Format as required by AHS	AHS
Conflicts of Interest	Immediately and Annually	Written Notification	AHS
An updated list of the Service Provider's board of directors and organizational chart provided forthwith and again at any time a change in the membership occurs during the Term	Immediately and Annually	Written Notification	AHS
List of clinical and nonclinical staff (referred to as "Concurrent Staff") engaged in the delivery of insured services to clients within the facility. Confirm current certification, professional licensing, and registration where required	Immediately and Annually	Format as required by AHS	AHS

Any actual or potential material change to the business, ownership, financial condition, operations or conduct of the Service Provider, including:  (a) any actual or proposed change that would result in an increase to the Net Debt to Total Equity Ratio in excess of 5%; or  (b) any actual or potential actions, suits or proceedings relating to the Service Provider, its business or assets.	Immediately and Annually	Written Notification by AHS	AHS
Potential Breach of this Agreement (specifics set out below this table, entitled "Potential Breach of this Agreement")	Immediately and quarterly reporting of aggregate data	Written Notification	AHS
Copies of all inquiries, applications, results of reviews, renewals or replacements relating to the Services provided under this Agreement, as it concerns maintaining all such Accreditations and Designations	Immediately	Format as required by AHS	AHS
Evidence of policies, designation of responsibilities, compliance of employee safety programs and Workplace Hazardous Materials Information Systems	Annually	Written Notification	AHS

Submission method must be in accordance with the security standards of AHS and the HIA.

**Potential Breach of this Agreement**

(a) The Service Provider shall promptly:

- (i) advise AHS in writing, giving reasonable details, of any circumstance of which it becomes aware, with respect to an existing or potential breach of any of the provisions of this Agreement; and

- (ii) report to AHS and all interested Professional Governing Bodies any circumstances of which it becomes aware which could involve a breach of ethical requirements by it or any such Practitioner;

### **Financial Reports**

The Service Provider covenants and agrees to:

- (a) generate and submit to AHS, no later than one hundred and eighty (180) days following the Service Provider's fiscal year end, all consolidated audited financial statements for financial review, prepared in accordance with Canadian GAAP. In the alternative, and with AHS' prior written approval, if audited financial statements are not available, financial statements prepared in accordance with Canadian GAAP, as provided and reviewed in accordance with the generally accepted auditing standards of the Institute of Chartered Accountants, Society of Certified General Accountants or the Society of Certified Management Accountants, may be submitted as a substitute;
- (b) provide to AHS interim financial statements prepared in accordance with Canadian GAAP upon ten (10) days written notice from AHS, acting reasonably; and
- (c) provide to AHS, upon request, acting reasonably, any information regarding the operations and the financial condition of the Service Provider that AHS may request from time to time in its sole discretion.

All statements provided under this Financial Reports Section shall be delivered by electronic format and/or hand, courier, or registered mail in a sealed envelope, as directed by AHS.

**Schedule “F”  
Appendix 1**

**National Ambulatory Care Reporting System (NACRS)  
For Mandatory Reporting to Alberta Health**

**Clinic Identifying Information**

• Delivery organization	
• Program number	As defined by AHS

**Client Identifying Information**

• Client name	Optional – Not Reported beyond AHS
• AB Personal Health Number (PHN)	9 digit number
• Unique Lifetime Identifier (ULI)	Assigned by Alberta Health
• Clinic chart number	Unique identifier established by clinic
• Postal code	
• Birth date	YYYYMMDD
• Gender	

**Service Information**

• Service Visit Date	
• Mode of service	Face-to face, telephone, etc.
• Responsibility for payment	Used to exclude federal govt., WCB, etc.
• Main and secondary diagnoses	ICD10-CA codes
• Main and other interventions and attributes	CCI procedure codes and attributes
• Type of Anesthetic	Identifies the type used for interventions (general, spinal, local, etc.)
• Provider types	NACRS code assigned to provider type (MD, Dentist, RN, etc.)
• Doctor name and identifier	Practitioner specific information
• Admit via Ambulance	Used if a Client is brought to the service delivery site by ambulance
• Institution from and institution to	Used when a Client is transferred from or to another acute care facility
• Visit disposition	Discharged, admitted, left without being seen, etc.
• Gestational Age for Therapeutic Abortion Cases (applicable to pregnancy termination only)	-Gestational age reported in weeks.

**Schedule “F”  
Appendix 2**

**Additional Elements Required for  
Data Management (EDW)**

**Client Identifying Information**

<ul style="list-style-type: none"><li>Province</li></ul>	Client’s Home Province AB, BC, SK, MB, NL, PE, NS, NB, QC, ON, NT, YT, NU, US, OC (Other Country), NR (Unsp. Non-resident)
--	---

**Service Information**

<ul style="list-style-type: none"><li>Facility Code</li></ul>	AHS provided code that indicates service being provided.
<ul style="list-style-type: none"><li>Facility Fee</li></ul>	Dollar value of service being provided
<ul style="list-style-type: none"><li>Alberta Health Practitioner Fee Billing Code</li></ul>	Alberta Health Practitioner Service Fee code that further defines facility code

Regional standard format and submission method remains as is via excel file and email.

**NOTE:** Submission method may be adjusted in accordance with security standards of AHS.

**Schedule “G”**  
**Applicable Policies**

Alberta Health Services is established and governed by a range of documents including legislation, bylaws, guidelines, directives and policies. Clinical policies of the applicable former regional health authority remain in effect until replaced by equivalent AHS Policies. The AHS Policies applying specifically to the contracted Service Provider are listed and briefly explained below. The Service Provider must, at a minimum, be familiar with the governance documents listed and must comply, or develop policies that are consistent with, the requirements contained therein.

The Service Provider can obtain the AHS Policies electronically at the following AHS website link; <http://www.albertahealthservices.ca/210.asp>,

**1. Alberta Health Services Bylaws**

- Conflict of Interest Bylaw

Promotes a standard of conduct to preserve and enhance public confidence in the integrity, objectivity, and impartiality of AHS’ decision-making processes, and assist persons acting on behalf of AHS to avoid, mitigate or manage Conflict of Interest situations.

- Code of Conduct

Clearly states the common principles that guide behavior and decision-making on a day to day basis. In following these principles, the public can be assured that AHS and its contractors are acting with integrity and are committed to providing the highest quality health services to patients. As well, when these principles are followed the work environment is characterized by trust and respect and the integrity of the health care system is maintained.

**2. Alberta Health Services Policies:**

Document #	Title	Description
<b>Corporate Accountability and Financial Stewardship</b>		
1106	Communications (Internal and External)	Outlines the process for internal and external communications on behalf of AHS
1122	Travel, Hospitality, and Working Session Expenses - Approval, Reimbursement, and Disclosure	Sets out framework of accountability and rules for reimbursement of travel expenses, hospitality expenses, and working session expenses
<b>Employee &amp; Associate Relationships</b>		
1116	Recruitment and Employment Practices	Outlines AHS recruitment and employment standards.
<b>Ethical Conduct</b>		

1101	Safe Disclosure/Whistleblower	This policy provides clear guidance for the safe disclosure of any improper activity within AHS. Individuals reporting improper activities within AHS in good faith are protected from retaliation by the provisions of the policy.
<b>Facilities Management</b>		
1132	Emergency Response Codes	Outlines standardized emergency response code.
<b>Information and Technology Management</b>		
1105	Access to Information (Physical, Electronic, Remote)	Sets out requirements and responsibilities for physical, administrative and technical access controls at all AHS facilities containing information and storage, IT resources, information, and information systems. The purpose of the controls is to protect the security of AHS IT resources, facilities, and to safeguard health and personal information.
1107	Contractor Requirements for Security and Privacy of Information and Information Technology Resources*	Outlines to contractors and individuals negotiating, or managing contracts on behalf of AHS the security requirements for using or accessing AHS Information or IT resources.
1113	Transmission of Information by Facsimile or Electronic Mail	Outlines the conditions by which information in the custody or control of AHS may be transmitted by facsimile or electronic mail.
1108	Delegation of Authority and Responsibilities for Compliance with FOIPP and the HIA	Sets out the delegation of authority and responsibilities to ensure the collection, use, access and disclosure of personal information and health information in the custody or control of AHS complies with applicable legislation.
1112	Collection, Access, Use, and Disclosure of Information	Outlines the requirements for the collection, access, use or disclosure of personal and health information in the control or custody of AHS in compliance with applicable legislation.
1109	Information Technology Acceptable Use	Sets out acceptable use of AHS IT resources. All users are required to comply with applicable AHS policies and



		procedures regarding information and IT resource security, access and use, and privacy, and confidentiality.
<b>Supportive Work Environment</b>		
1115	Workplace Violence: Prevention and Response (Formally Workplace Abuse and Harassment)	The policy outlines the process for reporting and investigating workplace violence allegations.
1121	Workplace Health & Safety	This policy outlines the requirements for compliance with the Alberta Occupational Health and Safety Act.

### 3. Alberta Health Services Directives:

Document #	Title	Description
<b>Directives</b>		
PS-10	Duties And Reporting Under the Protection For Persons In Care Act	The Directive sets out the duties and reporting requirements in the new Protection for Persons in Care Act (Alberta) to ensure persons acting on behalf of AHS comply with the Act.
AHS-14-01	Obtaining Consent for Health Care From Adults Under the Adult Guardianship and Trusteeship Act	The Directive responds to changes to the Adult Guardianship and Trusteeship Act (Alberta) by clarifying who can provide consent when an adult needs assistance or requires a substitute decision-maker.
PS-11-01	Restrictions on the Sale of Pharmaceuticals to External Entities	This Directive was approved to ensure compliance with federal and provincial legislation regarding the sale of pharmaceuticals by AHS pharmacies. Except in the case of an emergency, AHS is restricted from selling pharmaceuticals to external entities.

**Schedule “H”**  
**Contract Management**

*The provisions of Schedule “H” do not in any way limit any other rights and obligations the Parties may have under this Agreement and by entering into the below contract management process, AHS is not waiving its right to insist on performance in full at any time or its right to rely on the default provisions within this Agreement.*

**1. Contract Query**

- (a) In the event that AHS has a query in relation to the performance or non-performance by the Service Provider of any obligation on its part under this Agreement (a “**Contract Query**”), it may issue a written notice to the Service Provider setting out in reasonable detail the nature of the Contract Query (the “**Contract Query Notice**”).
- (b) In the event that the Service Provider believes that the Contract Query is unfounded, the Service Provider may issue a written notice demonstrating in reasonable detail its compliance with the Agreement (the “**Excusing Notice**”) to AHS within 5 Business Days of the date of the Contract Query Notice.
- (c) If AHS accepts the explanation set out in the Excusing Notice, it must withdraw the Contract Query Notice in writing within 10 Business Days following the date of the Contract Query Notice.

**2. Contract Management Meeting**

- (a) Unless the Contract Query Notice has been withdrawn, the Parties must meet to discuss the Contract Query and any related Excusing Notice within 15 Business Days following the date of the Contract Query Notice.
- (b) At the Contract Management Meeting the Parties may agree either:
  - (i) that the Contract Query Notice is withdrawn; or
  - (ii) to implement an appropriate plan to rectify the matters referred to in the Contract Query Notice, specifying performance targets and timelines within which those targets must be achieved (a “**Remedial Action Plan**”).;

**3. Remedial Action Plan**

- (a) If a Remedial Action Plan is to be implemented, the Parties must agree upon the contents of the Remedial Action Plan within 5 Business Days following the Contract Management Meeting.
- (b) The Remedial Action Plan must set out:

- (i) milestones for performance to be remedied;
  - (ii) the date by which each milestone must be completed; and
  - (iii) the consequences for failing to meet each milestone by the specified date.
- (c) The Service Provider must implement or meet the milestones applicable to it within the timeframes set out in the Remedial Action Plan.
- (d) The Service Provider must record progress made or developments under the Remedial Action Plan in accordance with its terms.
- (e) If the Parties cannot agree on a Remedial Action Plan within the relevant period specified under this Schedule "H", then the Parties shall resolve any such dispute in accordance with the dispute resolution mechanism as set out in Section 9.4.
- (f) If following implementation of a Remedial Action Plan:
- (i) the matters that gave rise to the relevant Contract Query Notice have been resolved, it shall be agreed upon between the Parties that the Remedial Action Plan has been completed;
  - (ii) any matter that gave rise to the relevant Contract Query Notice remains in the reasonable opinion AHS unresolved, AHS may issue a further Contract Query Notice in respect of that matter.

#### **4. Breach of Remedial Action Plan**

- (a) In the event that AHS determines that the Service Provider is in breach of any term or condition of the Remedial Action Plan or fails to implement such plan, such breach or failure to implement shall be deemed to be a breach under this Agreement and the Parties shall follow the default provisions in accordance with Article 3 of this Agreement.