

SECOND AMENDMENT TO MEDICAL CARE PROVIDER AGREEMENT

THIS SECOND AMENDMENT TO MEDICAL CARE PROVIDER AGREEMENT (this “Amendment”) is entered into by and between **JET MEDICAL CENTER, LLC**, a Florida limited liability company, 2221 SW 19th Avenue Rd., Ocala, FL 3441, FEIN 45-2948259) (hereinafter referred to as “ASSIGNOR”), **CONCENTRA HEALTH SERVICES, INC.**, a Nevada corporation, 5080 Spectrum Drive, Suite 1200, Addison, TX 75001, FEIN 75-2510547 (hereinafter referred to as “MANAGER”) and **OCCUPATIONAL HEALTH CENTERS OF THE SOUTHWEST, P.A.**, a Texas professional association, 5080 Spectrum Drive, Suite 1200, Addison, TX 75001, FEIN 75-2014828, hereinafter referred to as “ASSIGNEE”), and **MARION COUNTY**, a political subdivision of the State of Florida (hereinafter referred to as “CLIENT”).

NOW THEREFORE, for and in consideration of the mutual covenants and conditions contained herein the parties agree as follows:

SECTION 1. THE AGREEMENT, THIS AMENDMENT, THE CLIENT.

A. **The Agreement.**

ASSIGNOR and CLIENT entered into a Medical Care Provider Agreement on May 15, 2018, as amended by that First Amendment to Medical Care Provider Agreement on August 20, 2019, as amended by this Amendment (collectively the “Agreement”).

B. **This Amendment.**

This Amendment shall be deemed to amend and become part of the Agreement in accordance with the project 18P-095, (the “Project”). It is agreed by the parties that this Amendment modifies every provision of the underlying contracts and no provisions remain enforceable or in effect.

C. **“CLIENT” Defined.**

Any and all references throughout the Agreement to “Marion County Board of County Commissioners” shall mean “CLIENT” as defined above.

D. **“MANAGER” Defined.**

Any and all references throughout this Amendment to “MANAGER” shall mean **CONCENTRA HEALTH SERVICES, INC.**, as defined above. MANAGER has a management contract with ASSIGNEE by which it locates and manages business opportunities for ASSIGNEE. Once business opportunities are entered and ASSIGNEE’s medical practice is established in a new location, MANAGER operates the non-medical aspects of ASSIGNEE’s practice. One such business opportunity is the “Sale” more fully set forth in Section “3” below.

E. **“PROVIDER” Defined.**

Any and all references throughout this Amendment to “PROVIDER” shall mean the party bound to perform the Agreement providing services to CLIENT. PROVIDER shall be defined as ASSIGNOR should the Sale (more fully set forth in Section “3” below) fail to timely occur. PROVIDER shall be defined as ASSIGNEE should the Sale timely occur.

SECTION 2. TERM AND RENEWAL.

A. **Term.**

This Amendment renews the Agreement, effective September 1, 2020 through September 30, 2021, (the “Term”) and may be renewed each year thereafter with approval of the Board of County Commissioners of Marion County, Florida.

SECTION 3. ASSIGNOR IS BOUND TO PERFORM; THE SALE; ASSIGNEE TO PERFORM CONTINGENT UPON SALE; ASSIGNOR CONTINUES TO BE BOUND.

A. **ASSIGNOR to Perform.**

ASSIGNOR is bound to perform the Agreement for the Term subject to the Sale and assignment set forth in subsection “B” below.

B. **The Sale.**

ASSIGNOR, the original holder of the Agreement, has entered into a sale and purchase contract with MANAGER, whereby MANAGER shall acquire the assets of ASSIGNOR (the “Sale”). The Sale is set to close no later than September 1, 2020.

C. **ASSIGNEE to Perform Contingent Upon Sale.**

Should the Sale timely occur, this Amendment serves to transfer the obligations and benefits of the Agreement from ASSIGNOR to ASSIGNEE effective September 1, 2020. Thereafter, contingent solely upon the Sale timely occurring, ASSIGNEE shall be bound to perform the Agreement with no interruption in the continuity of service to CLIENT. ASSIGNEE shall perform for and bill CLIENT in ASSIGNEE’s own name. MANAGER shall operate the non-medical aspects of the assigned practice for ASSIGNEE. This non-medical management is a material representation upon which CLIENT relies for seamless transition of services from ASSIGNOR to ASSIGNEE.

D. **ASSIGNOR Continues to Be Bound.**

Should the Sale fail to timely occur, ASSIGNOR shall continue to be bound by the terms of the Agreement and shall perform the obligations thereunder with no interruption in the continuity of service to CLIENT.

SECTION 4. TERMINATION AND RETURN OF RECORDS.

- A. **Termination With or Without Cause.**
The Agreement may be terminated upon ninety (90) days' written notice to the other party.
- B. **ASSIGNEE Termination Should Sale Not Occur.**
The parties agree that the obligations of ASSIGNEE and MANAGER under the Agreement automatically terminate should the Sale fail to timely occur but such termination is only effective upon receipt of notice by ASSIGNEE and MANAGER to CLIENT and ASSIGNOR no later than September 10, 2020.
- C. **ASSIGNOR Termination Upon Sale.**
The parties agree that ASSIGNOR's obligations under the Agreement automatically terminate upon the timely Sale but such termination is only effective upon receipt of notice by ASSIGNOR to CLIENT, ASSIGNEE and MANAGER no later than September 10, 2020.
- D. **Return of Records.**
Upon any termination of the Agreement:
1. PROVIDER, ASSIGNOR, ASSIGNEE, and/or MANAGER shall return or provide all CLIENT employee medical data records to CLIENT in a mutually agreed upon format.
 2. CLIENT shall make available for return all PROVIDER, ASSIGNOR, ASSIGNEE, and/or MANAGER owned equipment.

SECTION 5. PROVIDER DUTIES AND OBLIGATIONS.

- A. PROVIDER will comply with all provisions of the Agreement at all times indicated herein. In the event that PROVIDER cannot meet the provisions herein, CLIENT retains the right to take whatever steps deemed necessary to resolve the deficiency to CLIENT's satisfaction and may recover any reasonably associated costs from PROVIDER.
- B. PROVIDER agrees to provide the services of a Mid-level Medical Practitioner duly licensed in the State of Florida, with knowledge and experience in Workers' Compensation, at CLIENT's onsite Clinic Facility. He/she shall be qualified to the maximum extent permitted under a Mid-level Medical Practitioner license, including the prescribing of medicines. The Mid-level Medical Practitioner shall be supervised by a Florida-licensed Medical Doctor located at PROVIDER's main location of operations, 2221 SW 19TH Avenue Road, Suite 100 Ocala, FL 34471, during all hours of Mid-level Medical Practitioner work and as required by the terms of the Mid-level Medical Practitioner license. Regardless of any other rule or regulation to the contrary, the Supervising Medical Doctor will be present in the Ocala geographic area at least seventy five percent (75%) of the operational hours identified in the Agreement. The placement of all Mid-level Medical Practitioners, and any other staff, substitutes or replacements shall require the approval of CLIENT.
- C. The Mid-Level Medical Practitioner will be present during open hours at CLIENT's Clinic Facility, except for those days officially recognized by the Board of County Commissioners

- of Marion County, Florida, as legal holidays. Open hours may vary and shall be agreed upon by both parties.
- D. The Mid-level Medical Practitioner will remain at CLIENT's Clinic Facility during the entire time outlined in the Agreement. The practitioner will not be transferred to another facility without the written (email acceptable) consent of either CLIENT's clinical RN or Risk and Benefits Manager at least one (1) day or more in advance of the requested transfer.
 - E. Should PROVIDER become unable to complete the contracted services within the hours of service indicated, PROVIDER agrees to increase the hours of service sufficiently to complete the work in a manner agreeable to the Agreement administrator.
 - F. PROVIDER agrees to provide for and install any applicable computer equipment, printer and internet service for the Mid-level Medical Practitioner at CLIENT's Clinic Facility.
 - G. CLIENT's employees (full-time, part-time, volunteers) may be seen at PROVIDER's facility either by referral or when CLIENT Clinic Facility is closed or otherwise unavailable. If an employee is evaluated or treated at PROVIDER's facility during Monday through Friday's normal business hours, no additional fees shall be incurred except as otherwise identified in this document. Should CLIENT's employees require medical care for work related injuries on Saturday or Sunday all applicable services shall be billed under the Workers' Compensation Fee schedule to CLIENT's Workers' Compensation Third Party Claims Administrator.
 - H. PROVIDER agrees to initiate medical care within twenty (20) minutes of the patient's presentation to PROVIDER's facility.
 - I. PROVIDER agrees to provide a substitute Mid-level Medical Practitioner to work all contracted hours that the primary Mid-level Medical Practitioner is unable to work whether due to illness, vacation, or other absence. This practitioner must be approved by CLIENT. Utilization of a substitute will not generate an additional charge to CLIENT.
 - J. PROVIDER agrees to provide after-hours drug testing at PROVIDER's facility or coordinate with the appropriate hospital(s) or other facilities for CLIENT employees. Cost for after-hours drug testing shall be billed to CLIENT Clinic Facility.
 - K. PROVIDER agrees to produce electronic medical records and provide access for appropriate authorized CLIENT staff to access the medical records on line.
 - L. PROVIDER agrees to assign a Staff Administrator to act as "liaison" between PROVIDER and CLIENT. This person will be expected to help to resolve any issues or differences between CLIENT and PROVIDER. This person will be available to CLIENT administrators by phone and/or email at all times. If there is dissatisfaction by CLIENT in the services of the Mid-Level Medical Practitioner, PROVIDER agrees to work with CLIENT to address any service issues. If the service issues cannot be resolved, PROVIDER agrees to assign another Mid-Level Medical Practitioner within ninety (90) days.
 - M. PROVIDER will maintain patient counts for each type of service provided (Worker's Compensation Initial visit, Worker's Compensation Follow Up visit, Post Offer Physical Examinations, Annual Physical Examinations, Fitness for Duty Physical Examinations, Blood, Breath or Urine Drug Screens, etc.) and will report these numbers to the Risk and Benefits Services department for each month of service within one week of the end of the month.

- N. PROVIDER agrees to provide other additional reports as requested and mutually agreed upon.

SECTION 6. WORKERS' COMPENSATION.

A. **Administrator.**

Administrator for the Workers' Compensation portion of the Agreement will be CLIENT's Risk and Benefits Manager or his/her designee.

B. **Initial and Follow-up Medical Evaluation and Treatment of Injured Workers.**

1. PROVIDER will perform the initial evaluation of injuries and wounds, suturing, splinting, bandaging, ocular foreign body removal, or other such service as may be medically indicated. PROVIDER shall provide all equipment and supplies necessary to perform these services (excluding gauze pads, applicators, tongue depressors, and band-aids, which will be supplied by CLIENT). PROVIDER will complete CLIENT's medical documentation forms (to include Family Medical Leave Act "FMLA" forms, animal bite forms, etc.) in addition to any proprietary forms.
2. The CLIENT's authorized staff will have access to the medical records generated in the course of this service. Any records generated at PROVIDER facility will be sent electronically to CLIENT immediately after patient contact. All records must be available to CLIENT's staff during normal hours of operation.
3. PROVIDER will continue the medical management of an employee's injuries or illness until the employee is medically released.
4. PROVIDER will provide and supply appropriate Durable Medical Equipment (DME) such as boots, braces, crutches, for nature of injury and this DME will be billed separately to CLIENT or CLIENT'S Third Party Workers' Compensation Claims Administrator and outside of the Agreement.

C. **Referral of Employees for Specialty Care.**

PROVIDER will make all medically indicated referrals to orthopedic, ophthalmologic, surgical, neurological, chiropractic, or physical therapy Specialty Providers. PROVIDER will insure that adequate communication exists between the patient, PROVIDER, CLIENT, and the Specialty Provider to facilitate the employees' medical progress.

D. **Medical Case Management of Injured Workers.**

PROVIDER will coordinate all necessary specialty providers, as well as long term medical management of injured employees. This will include periodic re-evaluation of injured employees to insure proper medical care is being provided and the completion of required forms and filings. PROVIDER will provide medical case management until the patient is medically released from care.

E. **X-Ray Imaging.**

1. PROVIDER will perform any basic imaging necessary for diagnosis of injury or

illness. (This service can be provided offsite). X-ray imaging will be included in the cost of service and will not be billed separately. In the case that PROVIDER should become temporarily or permanently unable to provide these services during the term of the Agreement (such as equipment breakdown or maintenance downtime, personnel shortage, etc.), PROVIDER will be responsible for any charges and fees associated with provision of the services through alternate sources. This does not include CT Scans or other tomography, Magnetic Resonance Imaging, fluoroscopy, or other advanced procedures.

2. The quality of all imaging performed by PROVIDER must meet all industry standards. Should any imaging originally provided by PROVIDER, be found unusable by any physician involved in the care of a CLIENT's patient, PROVIDER will be responsible for all costs associated with a repeat imaging study of the same type which will be performed by another facility.

F. **Protocol Development.**

PROVIDER will be expected, in cooperation with CLIENTS staff, to develop and implement medical treatment and /or monitoring protocols as may be required by circumstance, governmental or industry standards. This may include but not be limited to blood borne pathogen exposure, or chemical exposures as may be encountered in the workplace.

SECTION 7. NON WORKERS COMPENSATION CARE – MARION COUNTY.

A. **Administrator.**

Administrator for this section of the Agreement will be the Marion County Director of Human Resources or his/her designee.

B. **X-Rays and Imaging Services.**

All chest x-rays or other basic x-rays called for in the Agreement are to be considered part of the Agreement cost and will not be billed separately. Advanced imaging procedures (tomography, magnetic resonance, etc.) are excluded and will be billed to CLIENT by the provider of the service. In the case that PROVIDER should become temporarily or permanently unable to provide chest x-rays or other basic x-rays during the term of the Agreement (such as equipment breakdown or maintenance downtime, personnel shortage, etc.) PROVIDER will be responsible for charges and fees associated with provision of the services through alternate sources. The quality of all imaging performed by PROVIDER must meet all industry standards. Should any imaging originally provided by PROVIDER, be found by another medical PROVIDER to be unusable, PROVIDER will be responsible for all costs associated with a repeat imaging study of the same type which will be performed by another facility.

C. **Medical Review Officer For Urine Drug Screens.**

1. PROVIDER will act as the Medical Review Officer (MRO) for all urine drug screens performed on behalf of CLIENT. This may include, but not be limited to

Pre-employment, Reasonable Suspicion, Random or Post-accident, or any other legitimate protocol. PROVIDER will abide by any and all applicable standards (including reporting requirements) in the execution of this duty.

2. Results of the aforementioned testing will be reported to the Clinic Manager as the designated Employer Representative in an appropriate time frame. This shall typically be the same day of receipt by MRO (if negative), or in compliance with applicable standards if positive. Results will be provided in writing (electronic/facsimile delivery accepted) but may also be disclosed orally by telephone to the Clinic Manager.
3. PROVIDER will make arrangements for the collection of blood, breath, urine specimens or hair sample testing in accordance with established testing protocols, during the work day hours and/or when CLIENT's Clinic and/or PROVIDER's facility is closed or unavailable. Mid-Level Medical Practitioner will be certified as a Breath Alcohol technician and Drug Screen Collector. Any alternative arrangements must be approved by the appropriate Agreement administrator.

D. Post-Offer Physical Examinations ("POPE").

1. Performed at CLIENT's Clinic Facility.
2. PROVIDER will perform post offer physical examinations of all prospective employees. These examinations will be scheduled with advance notice whenever possible but this is not guaranteed. PROVIDER may be required to perform venipuncture for collection of blood specimens or may be required to apply a tuberculin test (PPD) at no additional fee to CLIENT. The actual laboratory testing will be performed by an independent laboratory under separate agreement with CLIENT.
3. Post-Offer Physical Examinations will consist of the parameters set forth in the schedule (POPE – MARION COUNTY) attached as **Exhibit "A."** These parameters may be amended by agreement between the Director of Human Resources or their designee, and PROVIDER, so long as no additional charge is incurred. Any modification of the cost of the services rendered under the Agreement requires approval of the Board of County Commissioners of Marion County, Florida.

E. Annual Physical Examinations.

1. Performed at CLIENT's Clinic Facility.
2. PROVIDER will perform annual physicals on all Firefighters and other select personnel (employees that wear respirators in the course of performing their job duties). These examinations will be scheduled with advance notice whenever possible but may arise on shorter notice. PROVIDER may be required to perform venipuncture for collection of blood specimens. The actual laboratory testing is performed by an independent laboratory under separate agreement with CLIENT.

3. Physical Examinations will consist of the parameters set forth in the attached schedule. These parameters may be amended by agreement between the Director of Human Resources or their designee, and PROVIDER, so long as no additional charge is incurred. Any modification of the cost of the services rendered under the Agreement requires approval of the Board of County Commissioners of Marion County, Florida.

F. **Fitness For Duty Examinations.**

1. PROVIDER will perform FITNESS for DUTY EXAMINATIONS when required by CLIENT. The parameters of the examinations will be determined by PROVIDER, in agreement with the Director of Human Resources or his/her designee, based upon the facts of each case.
2. PROVIDER will not charge a separate fee for the FITNESS for DUTY EXAMINATION. Fees associated with any laboratory testing, imaging, or consultations required for the examination are not the responsibility of PROVIDER.

G. **Clinic Medical Director.**

PROVIDER will act as CLIENT's Clinic Medical Director. PROVIDER will work with CLIENT's Clinic staff to develop medical standing orders and protocols. PROVIDER will insure that all PROVIDER staff follow these protocols and will monitor CLIENT's staff compliance. Any non-compliance identified in PROVIDER staff will be corrected by PROVIDER. Any non-compliance identified in CLIENT's staff will be reported to the Director of Human Resources or their designee for correction. Administrative and operational duties of CLIENT's Clinic and of CLIENT's Clinic staff will be overseen by the Director of Human Resources and CLIENT's Clinic Supervisor.

H. **FMLA Certification Review.**

PROVIDER will review for compliance, upon request of CLIENT any Family Medical Leave Act (FMLA) applications.

SECTION 8. MEDICAL SERVICE FEES; EMR COSTS AND EMR FEES; INVOICES, PAYMENT; ADVANCED PROCEDURES; COST INCREASE NOTICE.

A. **Medical Service Fee.**

The parties hereto agree that the fees paid to PROVIDER for all medical services described above shall be as follows:

Annual Medical Service Fee October 1, 2020 through September 30, 2021:	
Workers' Compensation Care:	\$ 158,000.00
Non Workers' Compensation Care:	<u>\$ 68,000.00</u>
	<u>\$ 226,000.00</u>

Monthly Installment of Annual Medical Service Fee:

\$226,000.00 per year ÷ 12 months = \$18,833.33 per month.

CLIENT shall pay this monthly installment amount for all 13 months of this Agreement, i.e. first payment due Sept. 1, 2020 = \$18,833.33.

B. **Medical Service Fee Monthly Installments.**

Payment of the Annual Medical Service Fee by CLIENT to PROVIDER shall be on a monthly basis due on the 1st day of each month, invoiced to CLIENT in twelve (12) equal installments. If the Agreement is canceled or terminated as provided herein, both parties agree that the fee will be prorated to date of to the date of cancellation or termination.

C. **Electronic Medical Records System Costs and Fees.**

1. **Start-up MR Costs and EMR Fees Defined.**

Should the Sale timely occur and ASSIGNEE were to become PROVIDER as contemplated under Section "1(E)" *supra.*, and after receipt of the notice required from ASSIGNOR to CLIENT, ASSIGNEE and MANAGER, set forth in Section "4(C)" *supra.*, CLIENT agrees to pay ASSIGNEE as PROVIDER a one-time payment of fifty percent (50%) of the Electronic Medical Records (EMR) System Costs and Fees ("Start-up EMR Costs and EMR Fees") outlined in the table below to install and maintain PROVIDER's electronic medical records system.

Electronic Medical Records System, Start-up EMR Costs and EMR Fees	
Marion County	
Start-up EMR Costs	One Time Cost
Network (Aruba RAP)	\$600
Data Feed	\$2,500
EMR Installation & Training	\$12,900
TOTAL START-UP EMR COSTS	\$16,000
Ongoing Fixed EMR Fees	Annual Fee
Internet Network	As Incurred
Hardware Use Fee	\$4,200
Software Fee	\$4,600
TOTAL ONGOING FIXED EMR FEES	\$8,800

2. **Start-up EMR Costs and EMR Fees Amount.**

The parties agree that contingent upon the occurrence of Section “8(C)(1)” above, CLIENT shall pay Start-up EMR Costs and EMR Fees for the Term in the sum of Twelve Thousand Four Hundred and No/100 Dollars (\$12,400.00), broken down as:

Start-up EMR Costs	Calculated as	\$16,000.00 x 50% =	\$ 8,000.00
Plus(Ongoing Fixed) EMR Fees	Calculated at	\$ 8,800.00 x 50% =	\$ 4,400.00
		Total	\$12,400.00

3. **Start-up EMR Costs and EMR Fees Payable Within 30 Days of Invoice.**

Contingent upon the occurrence of Section “8(C)(1)” above, CLIENT shall remit its payment of Start-up EMR Costs and EMR Fees to ASSIGNEE as PROVIDER within thirty (30) days of receiving an undisputed invoice and no earlier than September 1, 2020.

4. **EMR Fees Only on Future Renewals.**

Contingent upon the occurrence of Section “8(C)(1)” above and any renewal of this Agreement, the parties agree that the Start-up EMR Costs outlined in the table above will not be required of CLIENT as same is a one-time cost. However, ongoing fixed EMR Fees shall be recurring on any successive renewal of this Agreement to be negotiated by the parties at each renewal.

D. **Invoices; Payment.**

Invoices will be sent in care of Risk and Benefits Services, 521 SE 26th Ct, Ocala, Florida 34471. CLIENT shall make payment to PROVIDER via ACH fund transfer or paper check, as mutually agreed upon by PROVIDER and CLIENT.

E. **Advanced Procedures.**

Any advanced procedures that would normally not be considered part of the standard "Office Visit" as defined in the Florida Workers' Compensation Fee Schedule, and would be qualified for separate billing under the Florida Workers' Compensation Fee Schedule, can be billed separately to CLIENT Risk and Benefits Services Third Party Claims Administrator in a manner consistent with the Florida Workers' Compensation Fee Schedule. This does not include suturing of wounds, as this is included in Section "6(B)," of this Amendment.

E. **Cost Increase.**

Any cost increase requires at least one hundred twenty (120) days' written notice to CLIENT and would become effective upon the anniversary date of the new Agreement period.

SECTION 9. INDEMNIFICATION/INSURANCE.

A. PROVIDER agrees to carry Commercial General Liability Insurance, and Professional Liability/Medical Malpractice Insurance covering all medical providers involved with PROVIDER's execution of this Amendment, in a sum of at least One Million Dollars per occurrence and Three Million Dollars in the annual aggregate. PROVIDER will deliver Certificates of Insurance to the Risk and Benefits Services department, evidencing the specified insurances prior to commencement of services hereunder. The insurance must be written by an insurer authorized to do business in the State of Florida, and must have an A.M. Best's rating of at least A-. The Commercial General Liability insurance must show CLIENT as an additional insured and must contain a severability of interests/cross liability clause. If the policy is written on a claims made basis, PROVIDER agrees to maintain this insurance for at least four (4) years beyond the end of the Agreement. The CLIENT does not in any way represent that this type of insurance is sufficient or adequate to protect CLIENT's interest or liabilities, but are merely minimums and does not in any way waive or reduce the limit amount of PROVIDERS liability.

B. PROVIDER shall indemnify and hold harmless CLIENT and their elected officials, employees and volunteers from and against all claims, losses and expenses, including legal costs, arising out of or resulting from, the performance of the Agreement, provided that any such claims, damage, loss or expenses is attributed to bodily injury, sickness, disease, personal injury or death, or to injury to or destruction of tangible property including the loss or loss of use resulting there from and is caused in whole or in part by any negligent or gross negligent act or omission of PROVIDER in the performance of its duties under the Agreement. PROVIDER shall not be responsible for any losses or damages caused by the negligent acts or omissions or willful misconduct of CLIENT or its agents and employees.

SECTION 10. AMENDMENTS.

- A. The Agreement contains all of the terms and conditions agreed to by the parties. Any changes to said terms and conditions must be agreed to by all parties in writing as an amendment to the Agreement except as noted elsewhere in the Agreement.

SECTION 11. ADDITIONAL TERMS.

A. **Relationship of Parties.**

Neither the Agreement, nor any term, provision, payment or right hereunder shall in any way or for any purpose constitute or cause CLIENT to become or be deemed a partner of PROVIDER in the conduct of its business, or otherwise, or to cause CLIENT to become or be deemed a joint adventurer or a member of a joint enterprise with PROVIDER, as PROVIDER is and shall remain an Independent Contractor by reason of the Agreement.

B. **Attorneys' Fees.**

If any civil action, arbitration or other legal proceeding is brought for the enforcement of the Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of the Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges billed by the attorney to the prevailing party.

C. **Jury Waiver.**

IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THE AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

D. **Assignment.**

The Agreement shall not be assigned by either PROVIDER or CLIENT without the prior written consent of the other party.

E. **Reference to Parties.**

Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.

F. **Public Records.**

If, under the Agreement, PROVIDER is providing services and is acting on behalf of CLIENT as provided under section 119.011(2), Florida Statutes, PROVIDER, shall:

1. Keep and maintain public records required by CLIENT to perform the service;
2. Upon request from CLIENT's custodian of records, provide CLIENT with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if PROVIDER does not transfer the records to CLIENT; and,
4. Upon completion of the Agreement, transfer, at no cost, to CLIENT, all public records in possession of PROVIDER or keep and maintain public records required by CLIENT to perform the service. If PROVIDER transfers all public records to CLIENT upon completion of the Agreement, PROVIDER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If PROVIDER keeps and maintains public records upon completion of the Agreement, PROVIDER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to CLIENT upon request from CLIENT's custodian of public records in a format that is compatible with the information technology systems of CLIENT.

G. **IF PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Public Relations,
601 SE 25th Avenue, Ocala, FL 34471
Phone: 352-438-2300 Fax: 352-438-2309 Email:
PublicRelations@MarionCountyFL.org**

H. **Waiver.**

The failure or delay of any party at any time to require performance by another party of any provision of the Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of the Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under the Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.

I. **Governing Law.**

The Agreement is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.

J. **Jurisdiction and Venue.**

The parties acknowledge that a majority of the negotiations, anticipated performance and execution of the Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to the Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the venue of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court or the right to bring an action or proceeding in any other court. Service of any court paper may be affected on such party by mail, as provided in the Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.

K. **Rights of Third Parties.**

Nothing in the Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of the Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in the Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to the Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to the Agreement.

L. **No Construction Against Drafting Party.**

All parties to this Amendment have contributed to the drafting of the Agreement and hence it shall not be construed against either party by the courts when attempting to interpret its provisions.

M. **Severability of Illegal Provisions.**

Wherever possible, each provision of the Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of the Agreement

be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of the Agreement.

N. **Section Headings.**

The section headings herein are included for convenience only and shall not be deemed to be a part of the Agreement.

O. **Entire Agreement.**

The Agreement, including exhibits, (if any) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the parties, except to the extent reference is made thereto in the Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of the Agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to determine the meaning of the Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to make objection. No representations, understandings, or agreements have been made or relied upon in the making of the Agreement other than those specifically set forth herein.

[This portion of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the parties have entered this Amendment on the date of the last signature below.

ATTEST:

MARION COUNTY, a political subdivision
of the State of Florida

David R. Ellspermann
Clerk of Court

By: _____
Kathy Bryant, Chairman
Board of County Commissioners

Date: _____

For Use and Reliance of Marion
County Only, Approved as to
Form and Legal Sufficiency

Matthew Minter
County Attorney

CONCENTRA HEALTH SERVICES, INC.

**OCCUPATIONAL HEALTH CENTERS
OF THE SOUTHWEST, P.A.**

By: _____
John F. Duggan
Senior Vice President

By: _____
Robert G. Hassett, DO, MPH
President, Treasure, and Secretary

Date: _____

Date: _____

JET MEDICAL CENTER, LLC

By: _____
Samer R. Choksi
CEO/Manager

Date: _____

EXHIBIT “A”
MARION COUNTY
ATTACHMENTS to MEDICAL PROVIDER AGREEMENT
POST-OFFER PHYSICAL EXAMINATIONS (“POPE”)

Examinations will consist of the following tests and measurements:

General Employee (full-time, part-time, volunteer):

- Complete Vital Signs including height and weight.
- Medical Body system examination with back exercises.
- Review of Job Description and employee to determine ability to perform essential duties in a safe manner.
- Visual Acuity.
- EKG if medically indicated (equipment onsite for provider use).
- Audiogram (equipment onsite for provider use).
- Spirometry (equipment onsite for provider use).
- Medical History Review.
- Occupation History Review with emphasis on injury history.
- Urine Drug Screen.

Firefighters (full-time, trainees, volunteers):

- Collection and review of cardiac stress test results (performed under separate agreement).
- Collection and review of Comprehensive Blood Chemistry and Hepatitis B Immunity Status.
- Review of Tuberculosis Screen (If prior positive, a chest x-ray will be done by provider as part of Agreement.)
- Complete Vital Signs including height and weight and medical examination w/ review of heart, lungs, eyes and ears. Back exercises.
- Review of Job Description and employee to determine ability to perform essential duties in a safe manner.
- Determination of compliance with applicable NFPA and Respiratory Protection Standards (copies provided by Marion County).
- Visual Acuity with peripheral vision and color perception assessment.
- EKG (equipment onsite for provider use).
- Audiogram (equipment onsite for provider use).
- Spirometry (equipment onsite for provider use).
- Medical history review.
- Occupation History Review with emphasis on injury history.
- Urine Drug Screen.

Constitutional Officer Employee (full-time, part-time, volunteers)

- Review of Comprehensive Blood Chemistry.
- Review of Tuberculosis Screen (If prior positive, a chest x-ray will be done by provider as part of Agreement.)
- Complete medical examination to include review of the heart, lungs, eyes and ears, back exercises, vital signs, height and weight.
- Review of Job Description and employee to determine ability to perform essential duties in a safe manner.
- Determination of compliance with applicable FDLE and Respiratory Protection Standards (copies provided by Marion County).
- Visual Acuity with peripheral vision and color perception assessment
- EKG (equipment onsite for provider use).
- Audiogram (equipment onsite for provider use).
- Spirometry (equipment onsite for provider use).
- Medical history review.
- Occupation History Review with emphasis on injury history.
- Urine Drug Screen.
- Hepatitis and Flu Shots.

Annual Physical Examination

Examinations will consist of the following tests and measurements:

Firefighters and other select Personnel (full-time, part-time, volunteers):

- Review of Comprehensive Blood Chemistry
- Review of Tuberculosis Screen (If prior positive, a chest x-ray will be done by provider as part of Agreement.)
- Complete Vital Signs including height and weight
- Medical Body system examination with back exercises.
- Review of Job Description and employee to determine ability to perform essential duties in a safe manner.
- Determination of compliance with applicable NFPA and Respiratory Protection Standards (copies provided by Marion County)
- Visual Acuity with peripheral vision and color perception assessment
- Review of Cardiac Stress Test (dependent upon age and medical history)
- EKG (equipment onsite for provider use)
- Audiogram (equipment onsite for provider use)
- Spirometry (equipment onsite for provider use)
- CXR done at age 40 and dependent upon age and medical history.
- Urine Drug Screen and urine dipstick testing.
- Review of medical history since last exam.