

**HOSPITALIST SERVICES AGREEMENT  
BETWEEN  
THE CLINTON HOSPITAL AUTHORITY  
AND  
CLINTON ER LLC**

THIS HOSPITALIST SERVICES AGREEMENT ("Agreement") is entered into by and between **The Clinton Hospital Authority**, an Oklahoma public trust ("Hospital"), and **Clinton ER LLC**, an Oklahoma limited liability company ("Contractor"), effective October 30, 2023 ("Effective Date").

**RECITALS**

- A. Hospital operates an acute care hospital located primarily at 100 North 30<sup>th</sup> Street, Clinton, OK 73601.
- B. As the only acute care facility in Clinton Oklahoma, Hospital needs provide hospitalist coverage for admission and management of hospital patients.
- C. Contractor has employed or contracted with Providers who are duly qualified and licensed in the State of Oklahoma to provide hospitalist services.
- D. The parties desire to enter into this Agreement pursuant to which Contractor will provide hospitalist services to Hospital as described more fully in this Agreement.

NOW, THEREFORE, for and in consideration of the recitals above and the mutual covenants and conditions herein contained, Hospital and Contractor desire to enter into this Agreement to provide a full statement of their respective responsibilities in connection with this Agreement.

**ARTICLE I**  
**CONTRACTOR RIGHTS AND RESPONSIBILITIES**

1.01 **Appointment and Professional Services.** Hospital hereby retains Contractor as an independent contractor, and Contractor accepts such retention to provide services pursuant to this Agreement. Contractor shall provide the hospitalist services ("Services") set forth in this Agreement through qualified Providers approved in advance by the Hospital.

1.02 **Contractor Coverage Requirements.** Contractor shall provide hospitalist services twenty-four hours per day, seven days per week, fifty-two weeks per year. At a minimum, Contractor will ensure that one (1) Physician will be on duty at all times. A Physician will round on hospital in-patients daily. If the Physician cannot complete the rounds due to patients needing to be seen in the emergency department, the Physician will complete the rounds as soon as possible. All coverage and the frequency and manner of Services and reports shall be provided by Contractor and the Providers in accordance with practice standards, laws, bylaws, rules and regulations applicable to the practice of medicine within the State of Oklahoma and the Hospital.

1.03 **Standards of Patient Care.** Contractor shall adhere, and shall ensure that Physicians adhere, to the following standards and procedures in connection with Services rendered:

(a) Contractor, through Providers, shall medically screen, evaluate and treat patients in compliance with the Emergency Medical Treatment and Active Labor Act, codified at 42 U.S.C. 1395dd, and all rules promulgated thereunder ("EMTALA"), all applicable laws and regulations, including all federal and state antidiscrimination laws and regulations. Further, Contractor, through Providers, will (i) provide patient admission, patient management and/or consultative services within their scope of practice to other members of the Hospital's medical staff and their patients, which services shall be exclusively based on direct communication by the referring physician to Contractor; and (ii) provide coverage for and admission to the Hospital and management of patients, within their scope of practice, referred by any Oklahoma-licensed physician to the Hospital for inpatient services.

(b) Providers with admitting privileges shall admit patients to the Hospital as medically appropriate. The admitting Provider will be responsible for the patient if and until a Medical Staff member with admitting privileges affirmatively assumes responsibility for the care and treatment of the patient.

(c) In all cases where major follow-up care is indicated, the Providers will encourage the patient to see his or her personal physician. Minor follow-up care may be provided by Contractor.

(d) Contractor and the Providers may call in consultants and/or specialists when in the best interest of the patient, which consultants and/or specialists shall charge separately for their services.

(e) Contractor and the Providers shall perform Services in a manner designated to best meet the needs of patients, and shall at all times strive for courtesy, efficiency or timeliness of care and compassion in the delivery of Services.

(f) Contractor and the Providers shall perform Services in a high quality manner consistent with the standards of the Clinton area for the delivery of emergency medical services and in compliance with all laws.

(g) When a patient has no private physician or at the request of his or her private physician, Contractor, through the Providers permitted by law to do so, shall be available to pronounce patient deaths. Such activities shall be done in a timely basis with necessary consultation to family members and consistent with approved policies of Hospital.

(h) In the event of a life-threatening situation or potentially serious situation, Contractor, through the Providers, shall respond to any patient when requested by the administrative representative or nursing supervisor.

1.04 **Medical Screening and Fees.** Contractor agrees to cooperate, and ensure the Providers cooperate, with the Hospital and to support its policies and procedures relating to

financial obligations of the patient, including co-payment required upon determination by medical screening exams that patient is non-emergent. However, no Hospital policy will interfere with the emergency therapeutic process.

1.05 **Exclusions and Sanctions.** Contractor represents that neither it or any Provider have been excluded from any government payment program (e.g. Medicare, Medicaid, CHAMPUS) and have not been sanctioned by the Department of Health and Human Services' Office of Inspector General, the Centers for Medicare and Medicaid Services, the Oklahoma Health Care Authority, or any other government agency, for any reason whatsoever. This shall be an ongoing representation and warranty during the term of the Agreement, and Contractor shall immediately notify Hospital of any change in status of the representation and warranty set forth in this section.

1.06 **Staff Membership and Certificates.** The Providers must, prior to performing any Services, obtain appointment to the Medical or Allied Health Staff of the Hospital, whichever is applicable, and must be granted appropriate clinical privileges in accordance with applicable bylaws, rules and regulations, and established procedures and policies of the Hospital and the Medical or Allied Health Staff. Minimum educational and experience qualifications shall be: The completion of three years of postgraduate training. A Provider shall have, and maintain, a current and unrestricted license to practice in the State of Oklahoma issued by the applicable licensure board. Such requirements must be met throughout the term of this Agreement. Providers shall be required to meet the continuing education requirements of his/her State of Oklahoma licensing board. In addition, Providers, shall maintain Advanced Cardiac Life Support certification.

1.07 **Compliance with Regulations, Policies and Procedures.** Contractor and Providers are required to observe, comply and be bound by all regulations, policies and procedures of general application as may be adopted and/or amended from time to time by Hospital or Medical Staff during the term of this Agreement, which regulations, policies and procedures may address administrative matter, patient care matters, Compliance Plan matters and other matters pertinent to Contractor's obligations.

1.08 **HIPAA Requirements.** Contractor, as the non-hospital party to this Agreement (hereinafter "Business Associate"), agrees to comply, and ensure that Providers comply, with the applicable provisions of the administrative simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C §§ 1320d through d-8 ("HIPAA"), and the requirements of any regulations promulgated there under, including without limitation the federal privacy regulations as contained in 45 C.F.R. Part 164 (the "Federal Privacy Regulations"). Business Associate agrees not to use or further disclose any protected health information, as defined in 45 C.F.R. § 164.501, or individually identifiable health information, as defined in 42 U.S.C. § 1320d (collectively, the "Protected Health Information"), concerning a patient other than as permitted by this Agreement and the requirements of HIPAA or regulations promulgated under HIPAA, including without limitation the Federal Privacy Regulations and the Federal Security Regulations, promulgated at 45 C.F.R. Part 142. Business Associate will implement appropriate safeguards to prevent the use or disclosure of a patient's Protected Health Information other than as provided for by this Agreement. Business Associate will promptly report to the Hospital any use or disclosure of a patient's Protected Health Information not provided for

by this Agreement or in violation of HIPAA, the Federal Privacy Regulations, or the Federal Security Regulations of which Business Associate becomes aware. Upon termination of this Agreement, Business Associate shall destroy or promptly return to the Hospital any Protected Health Information received in order to fulfill the requirements under this Agreement. Notwithstanding the foregoing, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by Business Associates for the Hospital by virtue of this section.

1.09 **Professional Liability Insurance.** Contractor will obtain and maintain on behalf of Providers, or ensure that Providers obtain and maintain, professional liability insurance in at least amounts of \$1 million per occurrence and \$3 million in the aggregate or in such amounts required by Hospital's Medical Staff Bylaws or policies and procedures applicable to the medical staff. Contractor will provide Hospital with certificates of insurance to verify such coverage upon execution of this Agreement and as requested by Hospital thereafter.

1.10 **Standards of Performance.** In performing Services under this Agreement, Contractor will ensure that Providers:

- (a) perform Services in accordance with customary and reasonable professional and ethical standards of the medical profession;
- (b) use diligent efforts and professional skill and judgment;
- (c) comply with all applicable provisions of law and other rules and regulations of any and all governmental authorities relating to licensure and regulation of physicians; and
- (d) comply with applicable Hospital policies and procedures.

1.11 **Indemnification.** Contractor agrees to indemnify and hold Hospital harmless from any occurrence, liability, judgment, claim, award, cost of defense (including attorneys' fees) expense or other responsibility or cost of any nature whatsoever arising out of any intentional act, negligence, medical or professional malpractice or other act or omission of Contractor or Providers in connection with the fulfillment of Contractor's obligations under this Agreement.

## **ARTICLE II** **ADMINISTRATIVE SERVICES**

### 2.01 **Designation of Director of Emergency Services**

Contractor, through a leadership structure acceptable to Hospital, shall designate one physician as Director of Inpatient Services ("Director").

### 2.02 **Duties of Director**

The Director shall perform the following administrative services:

- a. Supervise the professional services of the Hospital's inpatient department in accordance with the bylaws, rules, regulations and administrative policies of the Hospital and the Medical Staff Bylaws.
- b. Assist in developing policies and procedures for professional services and related services at Hospital;
- c. Assist in providing peer review and retrospective evaluation of Providers and submit written reports in accordance with applicable Hospital and Medical Staff policies;
- d. Review and assist as necessary in responding to the inquiries and reports of governmental and other authorized inspecting agencies;
- e. Provide recommendations, as necessary, to Hospital regarding a need for additional equipment, supplies and or space in the Med-Surg area; and
- f. Participate, at the Hospital's request, in strategic planning activities to make existing services more efficient and to consider the implementation of new services.

#### 2.03 **Removal of Provider**

Upon a written request from Hospital to the Director for the cessation of the professional services by a Provider at Hospital, the Director shall not schedule for professional services the Provider whose services were requested by Hospital to cease. Hospital may request such cessation of service in the event of:

- a. the limitation, suspension or revocation of a Provider's license to practice in the State of Oklahoma or his/her DEA (or applicable state) registration;
- b. the reduction, suspension or termination of a Provider's Medical Staff or Allied Health Staff Membership at the Hospital;
- c. the ineligibility of a Provider to participate in the reimbursement programs of Medicare, Medicaid or any private payer with which the Hospital contracts;
- d. the dissatisfaction of Hospital with the quality or general performance of the services rendered at Hospital by a Provider, as documented by quality assurance data, physician complaints or risk management reports;
- e. the unprofessional or disruptive behavior or the inability of a Provider to work cooperatively with physicians, patients, staff or administrators,
- f. the cancellation of a Provider's medical negligence insurance or the inability to obtain and maintain such insurance;

- g. the failure to perform administrative duties required by this Agreement or to complete and maintain appropriate medical and billing records;
- h. the commission by a Provider of an act or omission constituting willful misconduct, dishonesty, fraud or other illegal or improper act; or
- i. the breach by a Provider of a term or condition of this Agreement.

### **ARTICLE III** **HOSPITAL RESPONSIBILITIES**

#### **3.01 Equipment.**

Hospital shall provide and maintain, consistent with Hospital policies, accrediting and regulatory requirements and financial constraints, such equipment, materials, supplies and space as is necessary for the effective operation of the Hospital's emergency department, urgent care center and inpatient services. Contractor shall make recommendations to Hospital concerning the equipment, supplies and space needs of the emergency department, but the final decisions with respect to all such matters shall remain the sole responsibility of the Hospital.

#### **3.02 Personnel.**

Hospital shall provide, in accordance with regulatory requirements and financial constraints, such personnel, including nurses, technicians, aides and other personnel, as necessary for the proper operation of the emergency department, urgent care center and inpatient services. Contractor shall make recommendations to Hospital concerning the personnel needs of the emergency department, but final decisions with respect to all such matters shall remain the sole responsibility of the Hospital.

### **ARTICLE IV** **COMPENSATION, BILLING AND COLLECTION**

4.01 **Compensation.** For the Services provided pursuant to this Agreement, Hospital will pay to Contractor Sixty Two Thousand and Fifty (\$62,050.00) per month. Hospital will remit this amount to Contractor by the 15<sup>th</sup> day of each month

4.02 **Billing and Collection.** Hospital will bill for any reimbursable Services provided by Contractor and the Providers pursuant to this Agreement and will be entitled to retain all amounts collected for such Services. Contractor agrees not to submit any claims for Services provided pursuant to this Agreement.

4.03 **Billing and Coding Documentation.** Contractor agrees to execute, and require Providers to execute, any documents required to reassign claims for Services to Hospital and to provide to Hospital timely and accurate CPT codes and billing support documentation on a

medium acceptable to Hospital. Any billing and coding information provided by Contractor to Hospital will be accurate and consistent with all applicable billing and coding guidelines for government and private payers and will be sufficient to permit Hospital to accurately prepare and collect its claims for the Services provided by Contractor.

## **ARTICLE V TERM AND TERMINATION**

5.01 **Term.** This Agreement shall be for a term of one (1) year from the Effective Date subject to the termination provisions set forth below. Unless a party gives written notice of non-renewal to the other party thirty (30) days prior to the end of the initial term or of any renewal term, this Agreement shall be automatically renewed for additional periods of one (1) year each.

5.02 **Termination of Agreement.** This Agreement may be terminated by either party, with or without cause, upon thirty (30) days written notice to the other party. It may be terminated at any time upon the written agreement of the parties.

5.03 **Immediate Termination.** This Agreement may be terminated immediately by the Hospital by providing written notice to the Contractor in any of the following circumstances: (i) Hospital is unable to reopen for any reason by March 1, 2024; (ii) Hospital's license or the professional license of any Physician is suspended or revoked for any reason; (iii) the Hospital is damaged by a natural disaster or fire and is unable to treat patients in its emergency department; or (iv) Hospital's, Contractor's or any Physician's participation in Medicare and/or Medicaid is terminated.

5.04 **Effect of Termination.** If this Agreement is terminated for any reason, Contractor will be entitled to receive only that compensation earned prior to the effective date of the termination.

## **ARTICLE VI INDEPENDENT CONTRACTOR STATUS**

6.01 **Status of Contractor.** It is expressly acknowledged by the parties hereto that Contractor, and its Providers, are "independent contractors" and nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship, or a lease or landlord/tenant relationship between Contractor, any Provider, and Hospital or to allow Hospital to exercise control or direction over the manner or method by which Contractor, or the Providers, performs Services; provided always that the Services to be provided hereunder by Contractor and the Providers will be provided in a manner consistent with the standards governing such Services and the provisions of this Agreement. Contractor, and the Providers, understand and agree that (i) Hospital will not withhold on behalf of Contractor or the Providers pursuant to this Agreement any sums for income tax, unemployment insurance, social security, or any other withholding pursuant to any law or requirement of any governmental body relating to Contractor or Providers; (ii) all of such payments and withholdings, if any, are the sole responsibility of Contractor or the Providers, and (iii) Contractor will indemnify and hold Hospital harmless from any and all loss or liability arising with respect to such payments, withholdings, and

benefits, if any. In the event the Internal Revenue Service should question or challenge the independent contractor status of Contractor or the Providers. The parties hereto mutually agree that both Contractor and Hospital shall have the right to participate in any discussion or negotiation occurring with the Internal Revenue Service, irrespective of whom or by whom such discussions or negotiations are initiated.

6.02 **No Benefits.** Contractor and Providers recognize that because Contractor and Providers are not employees of Hospital, neither Contractor or any Providers will be entitled to participate in any pension plan or other health or welfare benefit plan for employees or be entitled to any fringe benefits of Hospital employees.

6.03 **Provider Acknowledgement**

Contractor will obtain a Provider Acknowledgment, executed by each Provider, pursuant to which a Provider acknowledges that he/she has obtained a copy of this Agreement, had a chance to review it and ask questions, and agrees to be bound by its terms.

**ARTICLE VII**  
**GENERAL**

7.01 **Access to Books and Records.** To the extent applicable, Contractor agrees to comply with the requirements of Social Security Act Sec. 1861(v)(1)(I), including the requirement that this Agreement and Contractor's books and records be made available to the Secretary of Health and Human Services and the Controller General upon written request to permit verification of the costs of the contract for Medicare reimbursement purposes.

7.02 **Supervening Law.** The parties recognize that this Agreement at all times is to be subject to applicable state, local, and federal law and regulation. The parties further recognize that the Agreement shall be subject to amendments in such laws and regulations and to new legislation and/or interpretation of such laws. Any provisions or interpretations of laws or regulations which invalidate or otherwise are inconsistent with the terms of this Agreement or that would cause one or all of the parties to be in violation of law, shall be deemed to have superseded the terms of this Agreement, provided, however, that the parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law.

7.03 **Applicable Law.** This Agreement shall be construed and all the rights, powers and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Oklahoma, without giving effect to its conflict of laws provisions. Venue shall be in a court of competent jurisdiction in Custer County, Oklahoma. In the event of any litigation hereunder, the prevailing party shall be entitled to recover the reasonable costs of pursuing the lawsuit, including reasonable attorneys' fees. This Agreement contains the whole understanding of the parties and supersedes all prior oral or written representations and statements between the parties. There are no intended third party beneficiaries to this Agreement.

7.04 **Assignment.** This Agreement may not be assigned except by Hospital to a subsidiary or successor corporation. Subject to the foregoing limitation upon assignment, this Agreement shall be binding upon and inure to the benefit of the permitted successors, assigns, heirs and legal representatives of the parties.

7.05 **Notices.** All notices and other communications required or permitted under this Agreement shall be deemed given and received if delivered in person, by e-mail or facsimile or by first class United States mail, postage prepaid, and either registered or certified, and directed to the address, e-mail or telephone number or fax listed in the signature block of this Agreement.

7.06 **Records.** All records created or generated by or at the request of a Contractor pursuant to services rendered by him or her in connection with this Agreement shall be and remain the sole and separate property of Hospital; provided, however, that Contractor shall be entitled to reasonable access to such records and copies of such records at Contractor's expense (at the maximum price under applicable Oklahoma law at the time), to the extent permitted by applicable laws and regulations.

7.07 **Compliance With Laws and Relations.** In the event any party to this Agreement, in consultation with counsel, develops a good faith concern that any provision of this Agreement or any activity of any other party is in violation of any applicable federal, state or local laws or any regulation order or policy issued under any such laws, or threatens the tax-exempt status or tax-exempt financing of a party, such party shall immediately notify the other party, in writing, of such concern and the specific activities giving rise to such concern and the reasons therefor. If an agreement on a method for resolving such concern is not reached within ten (10) days of such written notice, the activities described in the notice will cease or be appropriately altered until the concern is resolved. If the parties cannot agree on a method of resolving the concern the matter shall be submitted to mandatory, binding arbitration by a single arbitrator pursuant to the Rules of Procedure for Arbitration of the American Health Lawyers Association Alternative Dispute Resolution Service, who shall (a) make a determination of the legality of the provision of the Agreement or activity in question and (b) if the provision or activity is determined to be illegal, either (i) structure an amendment to the Agreement to eliminate the illegal provision or activity and leave the parties as nearly as possible in the same economic positions they would have been in under the original terms of the Agreement; or (ii) if the illegal provision or activity is so fundamental that revision and continuation of the Agreement is not feasible, structure a termination of the Agreement that will return the parties as nearly as possible to the economic position they would have been in had they not entered into the Agreement without altering, in a material way, the economic benefits realized during the period the Agreement was in effect.

7.08 **Binding Effect.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective permitted successors and assigns.

7.09 **Compliance with Terms.** Failure to insist upon strict compliance with any of the terms herein by any of the parties hereto shall not be deemed to be a continuous waiver in the event of any future breach or waiver of any condition hereunder.

7.10 **Execution.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which shall constitute but one Agreement.

7.11 **Survival.** The following provisions will survive termination of this Agreement: Section 1.08, HIPAA Requirements; Section 1.11, Indemnification; Section 5.03, Effect of Termination; Section 6.01, Status of Contractor; Section 7.01, Access to Books and Records; and this Section 7.11.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) given below.

**"HOSPITAL"**

**THE CLINTON HOSPITAL AUTHORITY**

By: \_\_\_\_\_

Name:

Notice Address:  
100 North 30<sup>th</sup> Street, Clinton, OK 73601

**"CONTRACTOR"**

**CLINTON ER LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Notice Address:

Draft  
9.13.23

**PROVIDER ACKNOWLEDGEMENT**

I, \_\_\_\_\_, have been given a copy of the Hospitalist Services Agreement between The Clinton Hospital Authority and Clinton ER LLC (“Contractor”). As an employee or independent contractor of Contractor, I acknowledge and agree to comply with the terms of the Agreement that are applicable to individual providers.

\_\_\_\_\_

Date: \_\_\_\_\_