PROFESSIONAL SERVICES AGREEMENT

This Agreement (the “Agreement”) is entered into by and between The Texas A&M University Health Science Center (hereinafter referred to as “TAMHSC”), a member of The Texas A&M University System, an agency of the State of Texas, on behalf of the A&M Rural and Community Health Institute (hereinafter referred to as “HSC-ARCHI”), and Wilbarger County Hospital District (hereinafter referred to as “FACILITY”) for the purpose of conducting and managing the Peer Review Program (TAMHSC and FACILITY are each a “Party” and collectively, the “Parties”).

WHEREAS, FACILITY desires to utilize the Peer Review services of HSC-ARCHI,

NOW THEREFORE, the Parties agree as follows:

I. PEER REVIEW PROGRAM

A. Responsibilities of HSC-ARCHI. HSC-ARCHI agrees to perform all services reasonably necessary for providing assistance to FACILITY as assigned, including:
   1. Conducting and coordinating an internal Peer Review Program for the following medical specialties: Family Medicine, Obstetrics and Gynecology, General Surgery, Internal Medicine, Pediatrics, Emergency Medicine and Orthopedics. Other specialties will be added as adequate numbers of physicians become available.
   2. Providing a review of up to eight (8) medical records per month.
   3. Providing minutes following each Peer Review Committee meeting.
   4. Providing written feedback specific to the case reviewed following the Peer Review Committee meeting.
   5. Providing reports trending and benchmarking peer review findings.
   6. Maintaining the confidentiality of information and regulatory protections of peer review.
   7. Providing policies and procedures for the Peer Review Program.
   8. RCHI may arrange for Special Peer Review services for specialties not listed above for an additional charge, but shall obtain Facility’s prior written approval.

B. Responsibilities of FACILITY. FACILITY agrees to provide the following to assist HSC-RCHI in rendering the services under this Agreement:
   1. Enroll in the Peer Review Program.
   2. Provide Physician Committee members for each specialty to be reviewed.
   3. Communicate regularly with HSC-RCHI staff.
   4. Ensure Medical Staff Bylaws are current and provide for HSC-RCHI’s participation in the internal peer review process.
   5. Ensure review of Peer Review final reports by the appropriate medical staff committee and the physician(s) whose care was reviewed. If the care was provided by a Physician Assistant (PA), the report should be shared with the supervising physician.

II. CONTRACT AMOUNT

In consideration of Peer Review services herein, FACILITY agrees to pay a contract amount of Eight Thousand Five Hundred Twenty Five Dollars and Eighty Five cents ($8,525.85) per year. The term of this contract is for two (2) years totaling Seventeen Thousand Fifty-One Dollars and seventy cents ($17,051.70).

III. PAYMENT FOR SERVICES

For each year of this Agreement, FACILITY shall pay TAMHSC the sum of Eight Thousand Five Hundred Twenty Five Dollars and Eighty Five cents ($8,525.85) to be paid in equal quarterly installments of Two Thousand One Hundred Thirty One Dollars and Forty Six cents ($2,131.46) within thirty (30) days of receipt of an invoice from TAMHSC. A twenty percent (20%) non-participation fee will be assessed at the end of each quarter if physicians have not participated in fifty percent (50%) of the applicable committees. Payment shall be made in accordance with the State of Texas procurement guidelines.

OGC Approved 09.11
IV. TERM OF CONTRACT

This contract is effective from April 1, 2018 and ending at midnight on March 31, 2020. Either Party may cancel this Agreement by giving ninety (90) days written notice.

V. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, Texas Government Code, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by TAMHSC and FACILITY to attempt to resolve any claim for breach of contract made by FACILITY that cannot be resolved in the ordinary course of business. FACILITY shall submit written notice of a claim of breach of contract under this Chapter to the Vice President for Finance and Administration of TAMHSC, who shall examine FACILITY’s claim and any counterclaim and negotiate with FACILITY in an effort to resolve the claim.

VI. COMPLIANCE WITH FEDERAL LAW

FACILITY will comply with all applicable federal, state and local laws, ordinances, rules and regulations; and certify such compliance upon request by TAMHSC.

In compliance with federal law, including provisions of Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, TAMHSC and FACILITY will not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability or military service in their administration of policies, programs, or activities, admission policies, other programs and employment.

VII. INDEMNIFICATION

TAMHSC, to the extent authorized by the Constitution and laws of the State of Texas, and FACILITY each agree to indemnify and hold the other harmless from and against any and all losses, claims, demands, damages, liabilities and costs directly or indirectly arising from or related to such indemnifying party’s negligence or willful misconduct or that of its officers, employees, affiliates, contractors and agents, except in all cases to the extent arising from the negligence or intentional misconduct of the indemnified party or their respective officers, employees, affiliates, contractors or agents. Under no circumstances shall either Party be liable to the other Party for any special, indirect or consequential damages, including without limitation lost profits or cost of capital.

VIII. INDEPENDENT CONTRACTORS

The Parties hereby acknowledge that they are independent contractors, and neither of the Parties nor any of their respective agents, representatives, students or employees shall be construed to be the agent, representative, student or employee of the other Party. In no event shall this Agreement be construed as establishing a partnership, joint venture joint enterprise or similar relationship between the Parties. FACILITY shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes or benefits of its employees.

IX. NOTICES

Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email (to the extent a facsimile number or an email address is set forth below) or other commercially reasonably means and will be effective when actually received (provided that in the event of a facsimile or email, concurrently therewith a copy is mailed by certified mail, return receipt requested). Each Party can change their respective notice address by sending to the other Party a notice of the new address. Notices should be addressed as follows:

For HSC-ARCHI:
Nancy W. Dickey, MD
Executive Director A&M Rural and Community Health Institute
Crystal Park Plaza

For FACILITY:
Claudia A. Eisenmann, MBA, FACHE
Chief Executive Officer
Wilbarger County Hospital District
dba Wilbarger General Hospital

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X. CONFIDENTIAL INFORMATION

FACILITY agrees that HSC-RCHI may also use information contained in materials provided by FACILITY for the purposes of analysis, statistical correlations and other related activities (collectively referred to herein as “Studies”), provided that in each instance such information will be aggregated with similar information from other participating facilities and will be redacted so that the identity of FACILITY, any patient and any physician will not be available to the investigators, and the results of any such Studies will be published in a format that will not permit or allow the identity of FACILITY, any other facility, physician or patient to be determinable.

XI. GENERAL PROVISIONS

A. NON-WAIVER. FACILITY expressly acknowledges that TAMHSC is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMHSC of its right to claim such exemptions, privileges, and immunities as may be provided by law.

B. PUBLIC INFORMATION ACT. FACILITY acknowledges that TAMHSC is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, responding to any request for public information pertaining to this Agreement.

C. GOVERNING LAW. This Agreement shall be construed under and in accordance with the laws of the State of Texas, without reference to the conflicts of laws principles thereof.

D. VENUE. This Agreement is performable in Brazos County, Texas. Pursuant to Section 85.18, Texas Education Code, venue for any suit filed against TAMHSC shall be in the County in which the primary office of the chief executive officer of TAMHSC is located. At the execution of this Agreement such county is Brazos County, Texas.

E. FORCE MAJEURE. Neither Party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably with the control of such Party and which by due diligence it is unable to prevent or overcome.

F. EXECUTION AND MODIFICATION. This Agreement is binding only when signed by both Parties. Any modifications or amendments must be in writing and signed by both Parties.

G. SEVERABILITY. If any of the provisions of this Agreement in the application thereof to any person or circumstance is rendered or declared illegal for any reason, or shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.
H. ASSIGNMENT. This Agreement, with the rights and privileges it creates, is assignable only with the written consent of both Parties.

I. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties and supersedes any prior agreement or understanding, written or oral, between the Parties with regard to the subject matter covered by this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed to be effective as of the date and year set forth above by their authorized representatives.

The Texas A&M University System
Health Science Center

By: ___________________________  By: ___________________________
Steve Brown, MD  Name: Claudia A. Eisenmann
Associate Vice President for Clinical Strategy & Chief Clinical Officer  Title: Chief Executive Officer

Date: ___________________________  ___________________________