

SERVICES AGREEMENT

This Services Agreement ("Agreement") dated _____ is made by and between [INSERT CONTRACTOR'S NAME AND ADDRESS] (hereinafter called "**Contractor**"), and UMass Memorial Medical Center, Inc., Worcester, MA (hereinafter called "**Medical Center**"), a not for profit corporation organized under the laws of the Commonwealth of Massachusetts. Medical Center desires to enter into an agreement for services, and Contractor represents itself as competent and qualified to accomplish the specific requirements of this Agreement, therefore this Agreement is entered into under the following terms and conditions:

1. **Scope of Services.** Contractor agrees to perform the services described in **Attachment A**, "Scope of Services" attached hereto and made a part hereof.
2. **Term.** This Agreement will commence _____ and expire _____.
3. **Designated Representatives.** Medical Center and Contractor hereby designate the following representatives to be responsible for oversight of the respective party's obligations under this Agreement. Each party will promptly notify the other if the name of the Designated Representative changes.

Medical Center Representative: _____
Name and Title

Contractor Representative: _____
Name and Title

4. **Service Fees.** Medical Center shall compensate Contractor for the services as set forth in **Attachment B**, "Service Fees." Except as otherwise set forth in Attachment B, Contractor shall bill for services monthly in accordance with Attachment B.
5. **Contractor's Certification.** Contractor certifies the following: (a) that it has the requisite authority, skill and experience to perform the services hereunder in accordance with applicable professional standards and has obtained all requisite licenses and permits to perform those services; (b) that it has complied with all Massachusetts laws relating to contributions and payment in lieu of contributions to the Employment Security System and with all laws relating to Worker's Compensation (M.G.L. c. 152); (c) that neither it nor any of its directors, officers, agents or employees (i) are currently or have ever been excluded, suspended or debarred from, have been declared ineligible to participate in, or are currently a party to an action or proceeding seeking to exclude, suspend or debar them from or to declare them ineligible to participate in, the Medicare or Medicaid programs or any other federal or state program, or (ii) have been convicted under federal or state law of a criminal offense related to the neglect or abuse of a patient, or the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under the Medicare or Medicaid Programs. If at any time during the term of this Agreement there is a change in circumstances such that Contractor is unable to make all of the certifications set forth in this Section 5, then Contractor will immediately notify Medical Center in writing, whereupon Medical Center may terminate this Agreement by providing Contractor with thirty (30) days prior written notice.

SERVICES AGREEMENT

6. **Termination.** This Agreement may be terminated without cause by either party by giving written notice to the other at least thirty (30) calendar days prior to the effective date of termination stated in said notice. If Contractor fails to fulfill its obligations, Medical Center may terminate this Agreement by giving written notice to Contractor at least seven (7) calendar days before the effective date of termination stated in the notice. The notice shall state the circumstances of the alleged breach and may state a period during which the alleged breach may be cured, which cure shall be subject to approval by Medical Center.
7. **Obligations in Event of Termination.** Upon termination, all finished or unfinished documents, data, computer software, studies, and reports made, developed and/or prepared by Contractor pursuant to this Agreement shall become the property of Medical Center. Medical Center shall pay Contractor for all services performed to the effective date of termination, subject to any indemnification provisions of this Agreement and subject to offset of sums due Contractor against sums owed by Contractor to Medical Center.
8. **Recordkeeping, Audit, and Inspection of Records.** Contractor shall maintain books, records and other compilations of data pertaining to the requirements of this Agreement to the extent and in such detail as shall properly substantiate claims for payment hereunder. All such records shall be kept for a period of six (6) years or for such longer period as is specified herein. All retention periods start on the first day after final payment owed by Medical Center under this Agreement is made to Contractor. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues, or until the end of the applicable retention period, whichever is later. Medical Center, or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy the books, records, and other compilations of data of Contractor that pertain to the provisions and requirements of this Agreement wherever such data is located. If Contractor provides services to Medical Center for compensation of more than \$10,000.00 within a twelve (12) month period, Contractor hereby consents to grant the Federal Controller General or Health and Human Services or the Centers for Medicare and Medicaid Services or their agents access to Contractor's books, documents or records in accordance with the Omnibus Reconciliation Act of 1980.
9. **Treatment of Assets.** Title to all property furnished by Medical Center shall remain with Medical Center. Title to all property purchased by Contractor from funds provided under this Agreement shall vest with Medical Center. Any property of Medical Center furnished to Contractor shall be used only for the performance of this Agreement. Contractor shall be responsible for any loss or damage to Medical Center property caused by Contractor's willful misconduct, negligence, lack of good faith, or failure to maintain or administer the property in accordance with sound management practices. Contractor will immediately notify the Designated Medical Center Representative of any loss or damage to Medical Center property. Prior to or upon termination of this Agreement, Contractor will return Medical Center's property in like condition as it was furnished to Contractor. All reference to Contractor under this clause shall include any of Contractor's employees, agents, or subcontractors.

SERVICES AGREEMENT

10. **Safeguarding of Patient and Medical Center Information.**

(a) Contractor will (i) comply with all applicable Federal, state and local laws and regulations, and (ii) in receiving, reviewing, processing, storing or otherwise dealing with any medical record, including medical records that document or reflect the provision of substance abuse treatment by UMass Memorial or UMass Memorial Members to any identified patient, be bound by the provisions of 42 U.S.C. Section 290dd-2 and any accompanying regulations, as amended.

(b) Contractor acknowledges that in the performance of this Agreement, Contractor may acquire or have access to medical records or confidential medical information about patients and/or employees. Contractor shall comply with all applicable Massachusetts laws and regulations (including M.G.L. c. 93H and 93I) and federal laws and regulations relating to patient confidentiality, privacy and security (including the federal law known as HIPAA, and all implementing regulations relating thereto) and with all Medical Center policies and procedures regarding medical records and information. If Contractor is a "Business Associate" and receives "Protected Health Information" (as those terms are defined under HIPAA) from Medical Center pursuant to this Agreement, then Contractor shall execute and be bound by Medical Center's Business Associate policy, and a Business Associate Addendum ("BAA") shall be attached hereto as Attachment C. In the event of any conflict between the terms of the BAA and this Section, the BAA will control. Contractor shall at all times recognize Medical Center's ownership of medical records and the exclusive right and jurisdiction of Medical Center and Medical Center patients to control the use of medical records and information. The use or disclosure of any part of any information concerning a patient of Medical Center, its subsidiaries or affiliates, for any purpose not directly connected with the services under this Agreement is prohibited. Contractor shall notify Medical Center orally and in writing within twenty-four (24) hours of its discovery that any medical data in its possession or control has been improperly used, copied or removed by anyone except an authorized representative of Medical Center. Contractor shall cooperate with Medical Center in taking such steps as Medical Center deems appropriate to enjoin the misuse, regain possession of the data, and otherwise protect Medical Center and the patient's rights and privacy.

Contractor agrees to comply with the requirements of Massachusetts General Law Chapter 93I for the disposing of records containing personal information and shall implement and monitor compliance with policies and procedures that prohibit unauthorized access to or acquisition of or use of personal information during the collection, transportation and disposal of personal information and further agrees to indemnify and hold harmless Medical Center, its affiliates, agents, officers and employees against any and all liability, loss, damages, penalties, costs or expenses resulting from, arising out of, or in connection with a breach of this provision by Contractor, its agents, officers, employees or subcontractors.

(c) Contractor shall take all reasonable steps to assure the security of medical data and other confidential information in its possession, including, but not limited to: alarm systems, locked files, guards or other devices reasonably calculated to prevent unauthorized access to electronically or mechanically held data, limited terminal access, encryption, limited access to input documents and outputs documents, and design provisions that avoid unnecessary use of names or other identifying characteristics of patients. Medical Center shall have access at all times to any medical record data or information maintained pursuant to this Agreement without the consent of the patient. All agents, employees, or subcontractors of Contractor who shall have access to medical records or information shall sign Medical Center's applicable confidentiality agreement. Contractor agrees to instruct each of its employees, agents, and subcontractors having access to medical records or information of their obligations under this Agreement.

(d) Contractor shall also hold in strict confidence and not release to any third party, without the

SERVICES AGREEMENT

written approval of Medical Center, any information provided to Contractor by Medical Center or its affiliates or their agents and employees which is identified as confidential or proprietary, or which Contractor knows or has good reason to know is confidential or proprietary, including without limitation all pricing information, information relating to third party rates of reimbursement and information about Medical Center finances or strategies.

(e) Any failure of Contractor to comply with these requirements shall be deemed a material breach by Contractor.

11. **Assignment and Subcontracting.** Contractor will not assign or in any way transfer any interest in this Agreement, nor shall it subcontract any services hereunder, without Medical Center's prior written approval, and in the event Contractor assigns, transfers, or subcontracts all or part of this Agreement, Contractor shall ensure that the assignee, transferee and/or subcontractor will jointly and severally assume responsibility along with Contractor for all applicable certifications and obligations of Contractor set forth herein including, without limitation, the obligations in Section 16. Medical Center may assign this Agreement to UMass Memorial Health Care, Inc. or any of its subsidiaries, and Medical Center will provide Contractor with notice of any such assignment.
12. **Nondiscrimination in Employment.** Contractor agrees to comply with all applicable federal and state statutes, rules and regulations prohibiting discrimination in employment including, but not limited to: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and M.G.L. c.151B.
13. **Choice of Law.** This Agreement shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The parties agree to bring any legal proceedings arising under this Agreement in a state court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any other legal rights of the parties.
14. **Force Majeure.** Neither party shall be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, government orders, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.
15. **Compliance with Laws and Medical Center Policies.** Contractor shall comply with all applicable laws, rules, regulations, ordinances, orders or requirements of any governmental authority, as well as all applicable bylaws, policies and rules and regulation of Medical Center, relating to the delivery of the services specified in this Agreement. Medical Center has the right to require Contractor to pay fines, penalties, and damages that may arise out of or may be imposed because of, Contractor's breach or failure to comply with the provisions of this Agreement.
16. **Insurance and Indemnification.** Contractor will maintain insurance policies sufficient to cover its responsibilities under this Agreement including, but not limited to, professional and general liability, automobile, and/or property liability as appropriate. Within thirty (30) days of commencement of work, Contractor shall provide the Medical Center with properly executed Certificates of Insurance evidencing such coverage, and provide that such coverage shall not be canceled except on thirty (30) days prior written notice to Medical Center. Coverage should be placed with an A-rated carrier qualified to do business in Massachusetts unless Medical Center otherwise consents in writing.

SERVICES AGREEMENT

Contractor shall indemnify and hold harmless Medical Center, its Affiliates, agents, officers and employees against any and all liability, loss, damages, penalties, costs or expenses for personal injury or damage to real or tangible personal property which Medical Center may sustain, incur or be required to pay, resulting from, arising out of, or in connection with the services performed or delivered under this Agreement by reason of negligence, reckless or intentional misconduct of Contractor, its agents, officers, employees or subcontractors; provided that Contractor is notified of any claim within a reasonable time after Medical Center becomes aware of it, and Contractor is afforded an opportunity to participate in the defense of such claim. In such event, no negotiated settlement agreement shall be binding on a party without that party's concurrence, which shall not be unreasonably withheld.

- 17. **Waivers.** All conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party.
- 18. **Notice.** Unless otherwise specified in an Attachment hereto, any notice hereunder shall be in writing addressed to the persons and addresses indicated below.

To: UMass Memorial Medical Center, Inc.:

With a required copy to:

**UMass Memorial Health Care
Office of the General Counsel
370 Main Street
Worcester, MA 01608-1779**

To: Contractor:

- 19. **Independent Contractor.** Contractor shall perform all services hereunder as an independent contractor. Contractor, its employees, agents, or subcontractors, are not employees or agents of Medical Center, and shall not hold themselves out as, nor claim to be, officers or employees of Medical Center and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of Medical Center including, but not limited to, worker's compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.
- 20. **Approval of Contractor's Personnel.** Medical Center shall have the right to approve all personnel assigned to this Agreement before such personnel begin performance under this Agreement, and the right at any time with reasonable notice to Contractor, to require Contractor to replace any person assigned by Contractor to provide services under this Agreement.
- 21. **Health Monitoring of Contractor Personnel.** In accordance with Medical Center's policy No. 5007,

SERVICES AGREEMENT

Health Clearance Requirements for Outside Vendors, Contract Workers and other Professionals, Medical Center may require that Contractor’s personnel undergo physical examination and/or laboratory testing before providing services at Medical Center’s health care facilities, if Medical Center determines that such examinations and/or testing is reasonably necessary to protect the health and safety of Medical Center patients, Medical Center may also require Contractor to ensure that such personnel have had the appropriate examinations, tests, immunizations and other screening required by Medical Center or by state, federal, or local laws and regulations. Contractor shall retain and if requested provide certification that such examinations, tests or other requirements have been met.

- 22. **Medical Center Tax Exemption.** Any material or equipment provided to Medical Center purchased under this Agreement is exempt from Massachusetts Sales Tax (Massachusetts Sales Tax Exemption No. 043-358-564).
- 23. **Quality.** Contractor represents that all services provided pursuant to this Agreement will be rendered in accordance with the ethical and professional standards of The Joint Commission and/or the following accreditation organization(s):

(insert name of other accrediting organization if applicable)

- 24. **Amendments.** No amendment to this Agreement shall be effective unless it is signed by authorized representatives of both parties and complies with all other regulations and requirements of law.
- 25. **Headings.** The section headings of this Agreement are made for reference only, and shall not be construed to define or limit the scope or intent of the terms and conditions herein.
- 26. **Entire Agreement.** The parties understand and agree that this Agreement and Attachments (if any) supersede all other oral and written agreements and negotiations by the parties relating to the services under this Agreement. This Agreement shall not be binding against either party unless both parties have signed below.

IN WITNESS WHEREOF, the parties hereto set their hands as of the date first written above:

**UMASS MEMORIAL
MEDICAL CENTER, INC.**

CONTRACTOR

By: _____

By: _____

Print Name:
Title:

Print Name:
Title:
FEIN# or SS#:

SERVICES AGREEMENT

ATTACHMENT A: SCOPE OF SERVICES

[INSERT DETAILED DESCRIPTION OF SERVICES]

SERVICES AGREEMENT

ATTACHMENT B: SERVICE FEES

[INSERT LISTING OF SERVICE FEES]

SERVICES AGREEMENT

ATTACHMENT C: BUSINESS ASSOCIATE AGREEMENT

[ATTACH IF APPLICABLE]