

CLINIC MANAGEMENT SERVICES AGREEMENT

This Clinic Management Services Agreement (this "Agreement") is made and entered into this 1st day of July, 2015, by and between IMWell Health, LLC, an Arkansas limited liability company (the "IMWell"), and City of Broken Arrow ("CITY OF BROKEN ARROW")

RECITALS

- A. CITY OF BROKEN ARROW maintains operations in Oklahoma.
- B. CITY OF BROKEN ARROW plans to access the primary care clinic (the "Clinic") for the benefit of CITY OF BROKEN ARROW eligible participants (collectively, "Eligible Persons").
- C. CITY OF BROKEN ARROW desires to contract with IMWell to provide services at the Clinic.
- D. CITY OF BROKEN ARROW and IMWell desire to enter into this Agreement to provide a full statement of their respective rights and responsibilities with regard to management of the Clinic.

Now, therefore, in consideration of the foregoing recitals and the mutual promises and covenants contained herein, the parties agree as follows:

AGREEMENT

Section 1. Management Services. IMWell will provide the following management functions for the Clinic:

- (a) *Services and Hours of Operation.*
 - (i) IMWell shall arrange for the provision of primary care services to Eligible Persons at the Clinic. Clinical personnel are not available to provide care outside normal business hours or to provide emergency care at any time. In the event of a patient presenting to the Clinic during its hours of operation in need of emergency care, Clinic personnel will call 9-1-1 and will take steps to provide appropriate interim care within the confines of the available resources until the arrival of emergency personnel..
- (b) *Personnel.* IMWell will arrange for the provision of duly licensed and qualified professional personnel to staff the Clinic through either direct employment or on an independent contractor basis. CITY OF BROKEN ARROW acknowledges and agrees that IMWell does not engage in the practice of medicine and that any and all physicians providing services in the Clinic will have control over the provision of patient care without interference with their professional judgment from IMWell or CITY OF BROKEN ARROW. IMWell will ensure that any professional medical provider

providing services to Eligible Persons at the Clinic has and maintains a current and valid license to practice his or her profession in the state of Oklahoma.

(c) *Patient Records.* Physicians and other professional personnel staffing the Clinic shall maintain appropriate and legally required clinical records for each patient seen or treated at the Clinic. IMWell shall ensure that clinical records are safeguarded against loss or unauthorized use and shall comply with all applicable laws and regulations governing the privacy and security of such records. As required by applicable laws and regulations, IMWell will provide CITY OF BROKEN ARROW with only the minimum amount of information necessary in order to obtain payment. Only the personnel listed on Schedule 1 attached hereto are authorized to obtain such information on CITY OF BROKEN ARROW behalf.

(d) *Policies and Procedures.* IMWell, in consultation with Clinic physicians and other professional personnel, as appropriate, will develop and implement written policies and procedures related to the operation of the Clinic, to include, without limitation, policies and procedures regarding Clinic services, patient consents, and medical record privacy and security. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that no Clinic policies and procedures shall interfere, in any way, with Clinic physicians' relationships with Eligible Persons.

(e) *Equipment and Supplies.* IMWell shall obtain, or cause to be obtained, and maintain all medical and office equipment and supplies, including computer equipment, necessary for the operation of the Clinic.

(f) *Reports.* Subject to the confidentiality requirements of Section 1(c) above, IMWell will provide periodic reports to CITY OF BROKEN ARROW, as reasonably requested by CITY OF BROKEN ARROW, regarding the operation of the Clinic.

(g) *Compliance.* IMWell shall provide primary care services hereunder in accordance with applicable laws, regulations and professional standards. IMWell shall require independent contractor physicians and other clinical personnel to provide services to Eligible Persons in compliance with all applicable laws, regulations and professional and ethical standards.

Section 2. Eligible Persons. CITY OF BROKEN ARROW will provide each Eligible Person with a medical benefits identification card. IMWell and its independent contractor medical practitioners are entitled to rely on the patient's identification card as proof of his or her status as an Eligible Person. Furthermore, IMWell will verify coverage with CITY OF BROKEN ARROW third party administrator. Notwithstanding anything herein to the contrary, CITY OF BROKEN ARROW acknowledges and agrees that when an Eligible Person requests services at the Clinic, the decision as to whether that person satisfies appropriate clinical criteria for acceptance and treatment at the Clinic will be made by qualified and licensed professional staff.

Section 3. CITY OF BROKEN ARROW Obligations.

(a) CITY OF BROKEN ARROW will allow IMWell to prepare and distribute Clinic information to its' Eligible Persons. CITY OF BROKEN ARROW will approve such material prior to distribution. Such approval will not be unreasonably withheld.

(b) *Clinic Operations.* CITY OF BROKEN ARROW shall: (i) provide a patient identification card to each Eligible Person, as set forth in Section 2 above; (ii) designate authorized personnel to receive information regarding Eligible Persons as set forth in Section 1(c) above; (iii) identify a liaison who will be available as the primary contact for IMWell during the term of this Agreement for the purpose of answering questions and providing information and assistance; and (iv) provide a contact list to IMWell indicating other key contacts at CITY OF BROKEN ARROW. Neither CITY OF BROKEN ARROW nor any CITY OF BROKEN ARROW personnel shall have a role in or responsibility for management of the Clinic.

Section 4. Financial Arrangement.

(a) *No Insurance Billing and Claims Submission.* IMWell shall not be responsible for billing individual claims with any third parties for the services provided at the Clinic or for determining whether any source of payment other than CITY OF BROKEN ARROW may be liable for the services provided to an Eligible Person. IMWell will submit a list billing for payment either to CITY OF BROKEN ARROW or CITY OF BROKEN ARROW authorized agent.

(b) *Service Fees.* IMWell shall be compensated for professional primary care services as set forth on 2 attached hereto and fully incorporated herein. IMWell will invoice CITY OF BROKEN ARROW weekly for fees due and owing under this Section 4, along with any supporting documentation, and CITY OF BROKEN ARROW shall pay IMWell within thirty (30) days of the date of the invoice.

Section 5. Insurance.

(a) *IMWell's Insurance.* IMWell shall maintain and require that each of its contractors maintain, at their sole expense, the following insurance: (i) professional liability insurance coverage in the minimum amounts of \$1,000,000 per occurrence and \$3,000,000 annual aggregate; (ii) commercial general liability insurance coverage in the minimum amounts of \$1,000,000 per occurrence and \$3,000,000 annual aggregate; (iii) worker's compensation insurance as required by applicable law; and (iv) property casualty coverage for the Clinic Space, IMWell's equipment and other personal property in the Clinic Space.

Section 6. Term and Termination.

(a) *Term.* This Agreement will be for a term of one year beginning on July 1, 2015 (the "Effective Date") and ending on June 30, 2016 (the "Initial Term"). Thereafter, it shall automatically renew for successive one (1) year terms (each an "Extended Term"), unless terminated in writing by either party within 90 days of the Initial Term or at least ninety (90) days prior to the end of an applicable Extended Term.

(b) *Termination With Cause.* Either party shall have the right to terminate this Agreement, for cause, upon thirty (30) days written notice to the other party. Any such notice shall specify the cause upon which it is based. The violating party shall have thirty (30) days to rectify the cause specified in the notice of termination, and if such cause is not rectified within such thirty (30) day period, this Agreement shall thereupon automatically terminate; provided, however, that if such cause cannot reasonably be rectified within such thirty (30) day period, this Agreement shall not automatically terminate so long as the violating party has commenced to rectify the cause within such thirty (30) day period and thereafter diligently and continuously proceeds to rectify such cause.

Section 7. Non-Solicitation. Each of the parties agree that during the term of this Agreement and for a period of two (2) years after the termination hereof, neither of them shall engage or hire as an employee, independent contractor, partner, co-venturer, investor, agent or otherwise – either directly or indirectly through any third party rendering services on behalf of such party – any person who is or has been an employee, independent contractor or other agent of the other party during the term of this Agreement. Each party agrees that the other does not have an adequate remedy at law to protect its rights under this section, and therefore, each party will have the right to injunctive relief from any violation or threatened violation of this Section.

Section 8. General Terms.

(a) *Independent Contractor.* In the performance of its obligations under this Agreement, it is mutually understood and agreed that IMWell is at all times acting and performing as an independent contractor with respect to CITY OF BROKEN ARROW. Further, both IMWell and CITY OF BROKEN ARROW acknowledge and agree that any physicians providing services at the Clinic are independent contractors with respect to IMWell and CITY OF BROKEN ARROW and such physicians must exercise at all times their independent judgment and shall not be subject to the direction or control of IMWell or CITY OF BROKEN ARROW in the performance of professional services. Nothing in this Agreement is intended nor shall be construed to create a CITY OF BROKEN ARROW /IMWell employee relationship, partnership or joint venture relationship.

(b) *Cumulation of Remedies.* Except as expressly provided herein, the various rights, options, elections, powers, and remedies of the respective parties hereto contained in, granted, or reserved by this Agreement, are in addition to any others that said parties may be entitled to by law, shall be construed as cumulative, and no one of them is exclusive of any of the others, or of any right or priority allowed by law.

(c) *Notices.* All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been delivered to a party upon personal delivery to that party or: (i) one (1) business day following deposit for overnight delivery with a bonded courier holding itself out to the public as providing such services, with charges prepaid; or (ii) three (3) business days following deposit with the United States Postal Service, postage prepaid, and in any case

addressed to the party's address set forth below, or to any other address that the party provides by notice, in accordance with this Section, to the other party:

If to CITY OF BROKEN ARROW : 220 S. 1st St, Broken Arrow, OK 74012 ^{lam}

If to IMWell: Dan Parker, 616 S. 17th St, Fort Smith, AR 72901

(d) *Assignment.* Neither party shall have the right or the power to assign this Agreement or any of the rights or obligations inuring to or imposed upon it herein without the written consent of the other party, and any attempted or purported assignment shall be null and void and of no effect. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties here to and their respective heirs, personal representatives, successors, and permissible assigns.

(e) *No Third Party Rights.* Nothing in this Agreement shall be construed as creating or giving rise to any rights in any third parties or any persons other than the parties hereto.

(f) *Waiver.* Any waiver of any term or condition of this Agreement must be in writing and signed by the parties. No delay or failure by either party to exercise any right or remedy it may have under this Agreement shall operate as a continuing waiver of such right or remedy, or prejudice such party's right to insist upon full compliance by the other party of the terms of this Agreement.

(g) *Headings.* The headings contained in this Agreement are for convenience of reference only and shall in no way be held or deemed to be a part of or affect the interpretation of this Agreement.

(h) *Schedules.* All schedules referred to in this Agreement are incorporated herein by reference.

(i) *Severability.* The provisions of this Agreement shall be deemed severable and if any portion shall be held invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties.

(j) *Entire Agreement.* This Agreement contains the sole and entire agreement between the parties regarding the subject matter hereof, and supersedes any and all prior agreements between the parties.

(k) *Amendments.* This Agreement may be amended at any time by mutual agreement of the parties without additional consideration, provided that before any amendment shall become effective, it shall be reduced to writing and signed by each of the parties.

(l) *Governing Law.* The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without regard to the state's conflict of laws rules.

(m) *Signatures.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement. Facsimile signatures shall be acceptable as originals. Any individual signing this Agreement on behalf of an entity hereby represents and warrants in his individual capacity that he has full authority to do so on behalf of such entity.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed..

IMWELL HEALTH, LLC

By: 

Dan L. Parker, Chief Executive Officer

CITY OF BROKEN ARROW

By: 

Russell M. Gale, Acting City Manager

APPROVED AS TO FORM:



ASSISTANT CITY ATTORNEY

Schedule 1
Authorized CITY OF BROKEN ARROW Personnel

Schedule 2

Financial Arrangement

CITY OF BROKEN ARROW will pay to IMWell the following rates:

All services are billed at 120% of the 2013 Medicare rates for Oklahoma without any deductibles, copays, coinsurance, pre-existing, COB, or other benefit limitations.

Onsite dispensing of drugs will be at actual ingredient cost plus \$7 per prescription. IMWell will comply will state medical and pharmacy board regulations.