



## **INDEPENDENT CONTRACTOR'S AGREEMENT**

**THIS AGREEMENT** is made by and between Anesthesia Providers, Inc., a Florida corporation (herein referred to as the "Corporation"), and the party named on the preceding Independent Contractor's Information Sheet, (herein referred to as the "Contractor").

### **WITNESSETH:**

**WHEREAS**, the Corporation provides anesthesia services to various medical providers (the "Provider(s)") throughout Florida (the "Corporation's Business"); and

**WHEREAS**, Contractor represents that Contractor provides licensed nursing anesthesia care services in the State of Florida.

**NOW, THEREFORE**, in consideration of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which is acknowledged by the parties, the Corporation and Contractor agree as follows:

**1. TERM:** The Corporation agrees to employ Contractor, and the Contractor agrees to be so employed for a term of one (1) year, commencing on the start date set forth on the preceding Independent Contractor's Information Sheet. This additional one (1) year term unless either (i) the Contractor is in default hereunder; or (ii) either the Corporation or Contractor sends the other party written notice of non-renewal at least sixty (60) days prior to the end of any term, by certified mail, return receipt requested, or by hand delivery to the addresses set forth below, as to the Corporation, and to the addresses set forth on the Independent Contractor's Information Sheet.

**2. DUTIES:** Contractor agrees to provide nurse anesthesia services for the Corporation in the Corporation's Business and to perform all duties customarily associated with that position. The Corporation and Contractor acknowledge that Contractor may not be simultaneously employed elsewhere and that Contractor will be required to devote Contractor's full time and attention to the performance of the foregoing Corporation's Business. The Corporation may have other employees performing the Corporation's Business in the same facilities as Contractor. Contractor shall perform those services with those Providers which the Corporation directs Contractor to serve. Contractor shall perform Contractor's duties in accordance with guidelines established from time to time by the Corporation.

**3. COMPENSATION:** As compensation for all professional services rendered by Contractor to the Corporation, Contractor shall receive the amount(s) set forth in the preceding Independent Contractor's Information Sheet and may vary at each surgical center.

**4. AUTHORITY TO CONTRACT:** The Contractor shall have no authority to enter into any contract or contracts for or on behalf of the Corporation without the written consent of the Corporation. In addition Contractor shall not hire, license or retain any third party to provide any services to a Provider without the prior written consent of the Corporation. If a Contractor seeks to hire, license or retain any third party to provide any services to a Patient, the

Contractor shall submit written information regarding any proposed third party, including, but not limited to, qualifications, proof of insurance and the relationship between the Contractor and the third party.

**5. NON-COMPETITION:** 5.1 During the period of Contractor's employment with the Corporation and for a period of two (2) years thereafter, Contractor agrees not to render professional services as a Certified Registered Nurse Anesthetist with any Provider or in direct competition with the Corporation or during the period of Contractor's employment with the Corporation for a period of three (3) years thereafter to directly or indirectly acquire or own any interest in any person, firm, the Corporation, partnership, or other entity which renders professional services similar and in direct competition to the Corporation's Business within the geographic areas of Palm Beach and Martin County, and as to any Provider, in any area within the state of Florida. Notwithstanding the foregoing, Contractor may work for another agency or provider so long as such employment does not (i) interfere with the work to be performed under this Agreement; (ii) does not directly compete with the Corporation; (iii) that no proprietary information (including client, doctor and procedure information) is given to the third party agency or provider.

5.2 Contractor also agrees to refrain from soliciting or otherwise calling upon such patients or physicians serviced by the Corporation for a period of two (2) years immediately following termination of this Agreement.

5.3 Contractor further agrees to refrain from using or concealing, directly or indirectly, any patient list or confidential information of the Corporation or any Provider and agrees to refrain from interfering with the relationship of Contractor with any Provider or any owner, administrator, or employee of a Provider on behalf of which the Corporation conducts the Corporation's business.

5.4 Contractor and Corporation acknowledge that any breach, violation, of evasion by Contractor of the terms of this agreement will result in immediate and irreparable injury and harm to the Corporation, and will cause damage to Corporation in amounts difficult to ascertain. Accordingly, the Corporation shall be entitled to the remedies of injunction and specific performance, in addition to all other legal or equitable remedies to which the Corporation may be entitled, including, without limitation, termination of this Agreement.

**6. SEVERABILITY:** All of the clauses in the Agreement are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion thereof.

**7. TERMINATION:** 7.1 the Corporation shall have the right to terminate this agreement upon any of the following occurrences: (I) breach of any agreement, obligation, covenant, representation, or warranty of Contractor, (ii) misconduct, malfeasance, or misfeasance by Contractor in connection with the performance of his duties, (iii) if Contractor suffers an incapacity or illness which, in the sole discretion of the Corporation, substantially disables Contractor from performing Contractor's duties hereunder, (iv) willful or knowing refusal by Contractor to perform his duties under this agreement, (v) if in the discretion of the Corporation,

Contractor fails to meet recognized professional standards of care, (vi) fraud, embezzlement, breach of trust or any criminal act, or (vii) failure to (a) maintain professional liability insurance in the limits and types as designated by the Corporation, 9b) maintain proper licensure as a nurse in the State of Florida, or (c) supply the Corporation, upon demand, of proof of insurance or licensure. This agreement shall automatically terminate upon the death of the Contractor. The provisions of the Section shall survive the termination of this Agreement.

7.2 The Corporation shall have the right to terminate this agreement without cause upon thirty (30) days notice.

**8. ASSIGNMENT:** The Corporation may assign its rights and delegate its responsibilities under this agreement to any affiliated company or to any the Corporation which acquires all or substantially all of the operating assets of Contractor by merger, consolidation, dissolution, liquidation, combination, sale, or transfer of assets or otherwise. The Contractor may not assign any rights or delegate any obligations under this agreement without the written consent of the Corporation.

**9. INDEMNIFICATION:** Contractor agrees to indemnify the Corporation from any and all costs and claims growing out of or arising from a breach of this agreement or any representation, covenant, or warranty of employee contained in this agreement, and to defend and to save and hold harmless Contractor from any and all liability, claims, losses, or damages the Corporation may suffer as a result of such claims, losses, or damages which are or may at any time be made against the Corporation, including, but not limited to claims, demands, costs, or judgments against Contractor resulting from litigation or threatened litigation and counsel fees incurred by Contractor.

**10. COVENANTS, WARRANTIES AND REPRESENTATIONS OF CONTRACTOR:** Contractor represents, covenants, and warrants as follows:

- 10.1 Contractor is certified or licensed to practice nurse anesthesia in the State of Florida as applicable.
- 10.2 Entering into this Agreement does not constitute a breach of any other agreement to which Contractor is a party.
- 10.3 Contractor shall not engage in any practice which is prohibited under any state or federal law, either as an independent contractor on behalf of the Corporation or otherwise.

**11. NOTICE:** Any notice required or permitted to be given under this Agreement shall be in writing, and shall be sent by United States certified mail, postage prepaid, return receipt requested.

**12. MUTUAL RELEASES FOR PRIOR SERVICES:** Any and all agreements heretofore entered into between the Corporation and Contractor are hereby terminated, and each of the parties hereby releases and discharges the other from any and all obligations and liabilities

heretofore or now existing under or by reason of any such agreements, it being the intention of the Corporation and Contractor that this Agreement shall supersede and be in lieu of any and all prior agreements or understandings between them.

**13: INDEPENDENT CONTRACTOR'S STATUS:** 13.1 The Corporation and Contractor hereby expressly agree and acknowledge that Contractor is an Independent Contractor and not an employee of the Corporation, and that Contractor shall, among other things, be fully responsible for paying all required payroll and other employment income related taxes. Moreover, Contractor acknowledges and agrees that as an independent contractor, Contractor shall not be entitled to any benefits typically or occasionally afforded to an "employee" and to the extent Contractor wishes to have any such benefits, including, but not limited to, disability or health insurance coverages, Contractor shall make their own arrangements therefore at his own expense.

13.2 Contractor is retained and employed by the Corporation only for the purposes and to the extent set forth in this Agreement, and Contractor's relationship to the Corporation and its subsidiary companies, if any, shall, during the period or periods of Contractor's employment and services hereunder, be that of an independent contractor and practitioner. Contractor shall be free to dispose of such portion of his entire time, energy, and skill during regular business hours as Contractor is not obligated to devote hereunder to the Corporation and its subsidiaries in such manner as Contractor sees fit and to such persons, firms, or the Corporation as Contractor deems advisable. Contractor shall not be considered as having an employee status or as being entitled to participate in any insurance programs, plans, arrangements, or distributions by the Corporation or its subsidiary companies pertaining to or in connection with any pension, stock, bonus, profit-sharing, or similar benefits for their regular employees.

**14. EXPENSES:** It is expressly understood and agreed by Contractor that any expenses incurred by Contractor in connection with performing his duties and providing the services contemplated hereunder shall be the sole and exclusive responsibility and obligation of Contractor, including but not limited to expenses relating to travel, automobile use, telephone and equipment needs (if any) and insurance requirements or needs. The Corporation may, but is not obligated to, furnish Contractor with any medical equipment and office equipment. The furnishing of these items shall be for the convenience of the Corporation, and any cost associated with the use, maintenance or repair thereof, while in the possession of Contractor shall be paid by Contractor.

**15. INSURANCE AND INDEMNITY:** Contractor agrees that Contractor will obtain at Contractor's sole cost and expense malpractice insurance in connection with the performance of any services hereunder. Contractor shall provide written evidence of such insurance to the Corporation. The Corporation shall not be liable for any damages to persons arising out of Contractor's nurse anesthesia practice in connection with rendering any services or performing any duties pursuant to this Agreement, and Contractor agrees to indemnify and hold the Corporation harmless from any claims, loss, or damage, including any costs and attorney's fees (at either the trial or appellate level, and whether suit be brought to not) arising either directly or indirectly out of such services.

**16. MISCELLANEOUS PROVISIONS:** 16.1 In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred including, but not limited to, its reasonable attorney's fees at all trial, bankruptcy court and appellate levels and post-judgment proceedings.

16.2 This Agreement shall be governed and controlled by and enforced and construed under the laws of the State of Florida. Venue for any action or proceeding brought hereunder or pursuant hereto shall be exclusively in Palm Beach County, Florida, except as same may be in contravention of applicable law.

16.3 Whenever the context so requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

16.4 This Agreement shall be binding upon the parties hereto and their respective successors and/or assigns.

16.5 This instrument contains the entire agreement of the parties regarding employment. This agreement may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

16.6 The waiver of a breach of any provision of this agreement shall not operate nor be construed as a waiver of any subsequent breach.

16.7 This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall be deemed to constitute one instrument.

Executed as of the day and date set forth above.

Corporation:

Contractor:

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

\_\_\_\_\_

(Corporate Seal)

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

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

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